

CITY OF ONTARIO
CITY COUNCIL AND HOUSING AUTHORITY
AGENDA
DECEMBER 4, 2012

Paul S. Leon
Mayor

Sheila Mautz
Mayor pro Tem

Alan D. Wapner
Council Member

Jim W. Bowman
Council Member

Debra Dorst-Porada
Council Member



Chris Hughes
City Manager

John E. Brown
City Attorney

Mary E. Wirtes, MMC
City Clerk

James R. Milhiser
Treasurer

WELCOME to a meeting of the Ontario City Council.

- All documents for public review are on file with the Records Management/City Clerk's Department located at 303 East B Street, Ontario, CA 91764.
- Anyone wishing to speak during public comment or on a particular item will be required to fill out a blue slip. Blue slips must be turned in prior to public comment beginning or before an agenda item is taken up. The Clerk will not accept blue slips after that time.
- Comments will be limited to 3 minutes. Speakers will be alerted when they have 1 minute remaining and when their time is up. Speakers are then to return to their seats and no further comments will be permitted.
- In accordance with State Law, remarks during public comment are to be limited to subjects within Council's jurisdiction. Remarks on other agenda items will be limited to those items.
- Remarks from those seated or standing in the back of chambers will not be permitted. All those wishing to speak including Council and Staff need to be recognized by the Chair before speaking.

ORDER OF BUSINESS: The regular City Council and Housing Authority meeting begins with Closed Session and Closed Session Comment at 6:00 p.m., Public Comment at 6:30 p.m. immediately followed by the Regular Meeting and Public Hearings. No agenda item will be introduced for consideration after 10:00 p.m. except by majority vote of the City Council.

(EQUIPMENT FOR THE HEARING IMPAIRED AVAILABLE IN THE RECORDS MANAGEMENT OFFICE)

CALL TO ORDER (*OPEN SESSION*)

6:00 p.m.

ROLL CALL

Mautz, Wapner, Bowman, Dorst-Porada, Mayor/Chairman Leon

CLOSED SESSION PUBLIC COMMENT The Closed Session Public Comment portion of the Council/Housing Authority meeting is limited to a maximum of 3 minutes for each speaker and comments will be limited to matters appearing on the Closed Session. Additional opportunities for further Public Comment will be given during and at the end of the meeting.

CLOSED SESSION

- GC 54956.9 (b), CONFERENCE WITH LEGAL COUNSEL, ANTICIPATED LITIGATION:
One (1) or more cases: City of Los Angeles/Los Angeles World Airports (LAWA).

In attendance: Mautz, Wapner, Bowman, Dorst-Porada, Mayor/Chairman Leon

PLEDGE OF ALLEGIANCE

Council Member Bowman

INVOCATION

Bishop Andy Dobler, Church of Jesus Christ of Latter Day Saints

REPORT ON CLOSED SESSION

City Attorney

PUBLIC COMMENTS

6:30 p.m.

The Public Comment portion of the Council/Housing Authority meeting is limited to 30 minutes with each speaker given a maximum of 3 minutes. An opportunity for further Public Comment may be given at the end of the meeting. Under provisions of the Brown Act, Council is prohibited from taking action on oral requests.

As previously noted -- if you wish to address the Council, fill out one of the blue slips at the rear of the chambers and give it to the City Clerk.

AGENDA REVIEW/ANNOUNCEMENTS: The City Manager will go over all updated materials and correspondence received after the agenda was distributed to ensure Council Members have received them. He will also make any necessary recommendations regarding Agenda modifications or announcements regarding Agenda items to be considered.

SPECIAL CEREMONIES

RECOGNITION OF MAYOR PRO TEM SHEILA MAUTZ

CONSENT CALENDAR

All matters listed under CONSENT CALENDAR will be enacted by one motion in the form listed below – there will be no separate discussion on these items prior to the time Council votes on them, unless a member of the Council requests a specific item be removed from the Consent Calendar for a separate vote.

Each member of the public wishing to address the City Council on items listed on the Consent Calendar will be given a total of 3 minutes.

1. APPROVAL OF MINUTES

Minutes for the regular meeting of the City Council and Housing Authority of October 16, November 6 and November 20, 2012, and the Special Meeting of the City Council and Housing Authority on November 13, 2012, and approving same as on file in the Records Management Department.

2. BILLS/PAYROLL

Bills October 7, 2012 through November 3, 2012 and **Payroll** October 7, 2012 through November 3, 2012, when audited by the Finance Committee.

3. CANVASS OF GENERAL MUNICIPAL ELECTION ON NOVEMBER 6, 2012

That the City Council adopt a resolution certifying the results of the General Municipal Election which was consolidated with the Statewide Election on November 6, 2012.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, RECITING THE FACTS OF THE GENERAL MUNICIPAL ELECTION HELD ON NOVEMBER 6, 2012, DECLARING THE RESULT AND SUCH OTHER MATTERS AS PROVIDED BY LAW.

4. AGREEMENT FOR OUTSIDE PERSONNEL CONSULTING SERVICES/NORMAN A. TRAUB ASSOCIATES

That the City Council authorize the City Manager to execute a letter of agreement with Norman A. Traub Associates, of Yorba Linda, California, for on-going consulting services on an as-needed basis related to personnel matters for an initial term of three years; and authorize, at the City's discretion, an extension of the agreement for up to two one-year periods.

5. AMENDMENT NUMBER 3 TO THE JOINT EXERCISE OF POWERS AGREEMENT WITH METRO GOLD LINE PHASE II JOINT POWERS AUTHORITY

That the City Council approve and authorize the execution of the Metro Gold Line Phase II Joint Powers Authority Joint Exercise of Powers Agreement Amendment Number 3 endorsing the City of Montclair's membership request.

6. MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF ONTARIO AND SOUTHERN CALIFORNIA EDISON REGARDING THE TEHACHAPI RENEWABLE TRANSMISSION PROJECT

That the City Council approve a memorandum of understanding (on file in the Records Management Department) between the City of Ontario and Southern California Edison (SCE) regarding the Tehachapi Renewable Transmission Project (TRTP) within the New Model Colony (NMC); and authorize the City Manager to execute said MOU, related documents and all future term extensions.

7. A RESOLUTION ORDERING THE SUMMARY VACATION OF A PORTION OF A PUBLIC SEWER EASEMENT ON THE PROPOSED WALMART SITE WITHIN THE MOUNTAIN VILLAGE SPECIFIC PLAN AREA

That the City Council adopt a resolution ordering the summary vacation of a portion of a public sewer easement on the proposed Walmart site generally located at the northwest corner of Mountain Avenue and Fifth Street in the Mountain Village Specific Plan area.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, ORDERING THE SUMMARY VACATION OF A PORTION OF A PUBLIC SEWER EASEMENT ON THE PROPOSED WALMART SITE WITHIN THE MOUNTAIN VILLAGE SPECIFIC PLAN AREA.

8. A RESOLUTION EXTENDING DEVELOPMENT IMPACT FEE DEFERRAL PROGRAMS

That the City Council adopt a resolution to extend the Residential and Non-Residential Development Impact Fee Deferral Programs through December 31, 2013.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, TO EXTEND THE DIF DEFERRAL – ECONOMIC STIMULUS PROGRAMS FOR AN ADDITIONAL ONE YEAR PERIOD ENDING DECEMBER 31, 2013.

9. FISCAL YEAR 2012-13 FIRST QUARTER BUDGET REPORT

That the City Council approve the budget adjustments and recommendations as listed in the Fiscal Year 2012-13 First Quarter Budget Report.

10. ACCEPTANCE OF A GRANT AWARD FROM THE U.S. DEPARTMENT OF HOMELAND SECURITY AND THE CALIFORNIA EMERGENCY MANAGEMENT AGENCY PROVIDED THROUGH THE FY2012 HOMELAND SECURITY GRANT PROGRAM

That the City Council authorize the City Manager to execute all documents necessary to accept a grant award in the amount of \$64,043 from the U.S. Department of Homeland Security (DHS) and the California Emergency Management Agency provided through the FY2012 Homeland Security Grant Program (HSGP).

11. ACQUISITION OF POLICE DEPARTMENT FRONTLINE PATROL EQUIPMENT/PHOENIX DISTRIBUTORS

That the City Council authorize the purchase of new and replacement equipment, including select firearms, from Phoenix Distributors of Feasterville, Pennsylvania, for frontline police personnel utilizing a combination of State and Federal grant programs and narcotics asset forfeiture funds for up to \$250,000.

12. AWARD OF BIDS FOR THE PURCHASE OF REPLACEMENT FLEET VEHICLES AND EQUIPMENT

That the City Council take the following actions:

(A) Bid No. 276

1. Reject the bid submitted by AA Equipment of Montclair, California, as being non- responsive;
2. Award to Jacobson West of Corona, California, in the amount of \$109,219 for the purchase and delivery of four (4) pieces of golf course maintenance equipment;
3. Award to Turf-Star of Brea, California, in the amount of \$141,252 for the purchase and delivery of five (5) pieces of golf course maintenance equipment;

(B) Bid No. 277

1. Award to Raceway Ford of Riverside, California, in the amount of \$101,946 for the purchase and delivery of one (1) Ford Explorer SUV and four (4) Ford Escape SUVs;
2. Authorize the purchase and delivery of one (1) Chevrolet Tahoe SUV from Mark Christopher of Ontario, California, in the amount of \$45,207;
3. Authorize the purchase and delivery of six (6) Compressed Natural Gas (CNG) Honda Civic Sedans from Penske Honda of Ontario, California, in the amount of \$174,841;
4. Authorize the purchase and delivery of four (4) Chevrolet Colorado Trucks from Mark Christopher of Ontario, California, in the amount of \$86,503; and

- (C)** Authorize the purchase and delivery of one (1) John Deere 410G Backhoe-Loader from John Deere Construction Retail Sales of Moline, Illinois, in the amount of \$113,464 consistent with the terms and condition of the National Joint Powers Alliance Contract (NJPA) Invitation for Bids (IFB) No. 060311-JDC.

13. REVISED AMENDMENT NO. 1 TO THE CHINO BASIN DESALTER AUTHORITY OPERATION AND MAINTENANCE AGREEMENT

That the City Council approve revised Amendment No. 1 (on file with Records Management Department) to the Chino Basin Desalter Authority (CDA) Operation and Maintenance (O&M) Agreement, subject to non-substantive changes; and authorize the City Manager to execute the amendment.

14. A RESOLUTION APPROVING AMENDMENT NO. 5 TO THE CHINO BASIN DESALTER AUTHORITY JOINT EXERCISE OF POWERS AGREEMENT

That the City Council adopt a resolution approving Amendment No. 5 (on file with Records Management Department) to the Joint Exercise of Powers Agreement (JPA) with the Chino Basin Desalter Authority (CDA), subject to non-substantive changes and approval by all CDA member agencies; and authorize the City Manager to execute the amendment.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING AN AMENDMENT NO. 5 TO JOINT EXERCISE OF POWERS AGREEMENT CREATING THE CHINO BASIN DESALTER AUTHORITY.

15. A GRANT OF EASEMENT TO THE CHINO BASIN DESALTER AUTHORITY FOR THE MILLIKEN BOOSTER STATION

That the City Council authorize the City Manager to complete and execute a Grant of Easement (on file with Records Management Department) for the construction, operation and maintenance of the Chino Basin Desalter Authority (CDA) Milliken Booster Station Facility located at Milliken Avenue and the I-10 Freeway.

16. RESOLUTIONS APPROVING A MITIGATED NEGATIVE DECLARATION FOR THE MASTER PLAN OF DRAINAGE, WATER MASTER PLAN, RECYCLED WATER MASTER PLAN, AND SEWER MASTER PLAN, APPROVING AN ADDENDUM TO THE ONTARIO PLAN FINAL ENVIRONMENTAL IMPACT REPORT FOR THE MASTER PLAN OF STREETS, AND APPROVING THE CITY-WIDE MASTER PLAN OF STREETS, SEWER MASTER PLAN, MASTER PLAN OF DRAINAGE, WATER MASTER PLAN, AND RECYCLED WATER MASTER PLAN

That the City Council

- (A) Adopt a resolution approving a Mitigated Negative Declaration for the Master Plan of Drainage, Water Master Plan, Recycled Water Master Plan, and Sewer Master Plan;
- (B) Adopt a resolution approving an Addendum to The Ontario Plan ("TOP") Final Environmental Impact Report ("EIR") for the Master Plan of Streets pursuant to CEQA Section 15164; and
- (C) Adopt a resolution approving the Master Plan of Streets, Master Plan of Drainage, Water Master Plan, Recycled Water Master Plan, and Sewer Master Plan.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, ADOPTING AN ADDENDUM TO THE ONTARIO PLAN ENVIRONMENTAL IMPACT REPORT FOR THE MASTER PLAN OF STREETS, FOR WHICH AN INITIAL STUDY WAS PREPARED, ALL IN ACCORDANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, AS AMENDED, AND MAKING FINDINGS IN SUPPORT THEREOF.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, ADOPTING A MITIGATED NEGATIVE DECLARATION, FOR WHICH AN INITIAL STUDY WAS PREPARED, ALL IN ACCORDANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, AS AMENDED, AND ADOPTING A RELATED MITIGATION MONITORING AND REPORTING PROGRAM FOR THE CITY OF ONTARIO OLD MODEL COLONY AND NEW MODEL COLONY SEWER MASTER PLAN UPDATE, MASTER PLAN OF DRAINAGE, WATER MASTER PLAN, AND RECYCLED WATER MASTER PLAN.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING THE CITY OF ONTARIO OLD MODEL COLONY AND NEW MODEL COLONY SEWER MASTER PLAN UPDATE, MASTER PLAN OF DRAINAGE, MASTER PLAN OF STREETS, WATER MASTER PLAN, AND RECYCLED WATER MASTER PLAN, AND MAKING FINDINGS IN SUPPORT THEREOF.

PUBLIC HEARINGS

Pursuant to Government Code Section 65009, if you challenge the City's zoning, planning or any other decision in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the City Council at, or prior to the public hearing.

17. A PUBLIC HEARING TO CONSIDER ADOPTION OF A RESOLUTION UPDATING AND MODIFYING DEVELOPMENT IMPACT FEES AND IMPLEMENTING POLICIES

That the City Council consider and adopt a resolution to update and modify Development Impact Fees and related implementation policies.

Notice of public hearing has been duly given and affidavits of compliance are on file in the Records Management Department.

Written communication.

Oral presentation.

Public hearing closed.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, UPDATING AND MODIFYING DEVELOPMENT IMPACT FEES.

18. AN ORDINANCE AMENDING CHAPTER 6 OF TITLE 4 OF THE ONTARIO MUNICIPAL CODE PERTAINING TO THE PLACEMENT OF OFFICIAL TRAFFIC CONTROL DEVICES

That the City Council introduce and waive further reading of an ordinance amending Chapter 6 of Title 4 of the Ontario Municipal Code (OMC) related to the placement of official traffic control devices.

Notice of public hearing has been duly given and affidavits of compliance are on file in the Records Management Department.

Written communication.

Oral presentation.

Public hearing closed.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
ONTARIO, CALIFORNIA, AMENDING CHAPTER 6, OF TITLE 4 OF
THE ONTARIO MUNICIPAL CODE RELATED TO TRAFFIC.

19. CONSIDERATION OF RESOLUTIONS OF NECESSITY FOR THE ACQUISITION OF FEE AND EASEMENT INTERESTS IN PORTIONS OF CERTAIN REAL PROPERTY

That the City Council conduct a public hearing to:

- (A) Consider the adoption of Resolutions of Necessity and provide all parties interested in the affected properties, their attorneys or representatives, an opportunity to be heard on the issues relevant to the Resolutions of Necessity;
- (B) Make the following findings as hereinafter described in this report:
 - (1) The public interest and necessity require the proposed project;
 - (2) The project is planned or located in a manner that will be most compatible with the greatest public good and the least private injury;
 - (3) The real property to be acquired is necessary for the project; and
 - (4) The offers of just compensation have been made to the property owners; and
- (C) Adopt Resolutions of Necessity declaring that the acquisition of fee and easement interests in certain real property, more particularly described as APNs 0238-152-33, 0238-152-34, 0211-321-10, 1083-352-02, 0211-312-04, 1083-351-05, 1083-351-06, 1083-351-07 and 1083-351-08 (all located in San Bernardino County) and 156-020-044 (located in Riverside County) by eminent domain is necessary for public right-of-way and the construction of the South Milliken Avenue Grade Separation Project and related public infrastructure improvements in the City of Ontario, San Bernardino County, California.

Notice of public hearing has been duly given and affidavits of compliance are on file in the Records Management Department.

Written communication.

Oral presentation.

Public hearing closed.

RESOLUTION NO. _____

A RESOLUTION OF NECESSITY OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, FOR THE ACQUISITION OF FEE, EASEMENT AND TEMPORARY CONSTRUCTION EASEMENT INTERESTS IN PORTIONS OF CERTAIN REAL PROPERTY LOCATED AT OR NEAR THE INTERSECTION OF MISSION BOULEVARD, PHILADELPHIA STREET AND THE UNION PACIFIC RAILROAD CROSSING, AND MORE PARTICULARLY DESCRIBED AS ASSESSOR PARCEL NO. 1083-351-08, BY EMINENT DOMAIN, IS NECESSARY FOR PUBLIC RIGHT-OF-WAY FOR THE CONSTRUCTION OF THE SOUTH MILLIKEN AVENUE GRADE SEPARATION PROJECT AND RELATED PUBLIC INFRASTRUCTURE IMPROVEMENTS IN THE CITY OF ONTARIO, SAN BERNARDINO COUNTY, CALIFORNIA.

RESOLUTION NO. _____

A RESOLUTION OF NECESSITY OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, FOR THE ACQUISITION OF FEE, EASEMENT AND TEMPORARY CONSTRUCTION EASEMENT INTERESTS IN PORTIONS OF CERTAIN REAL PROPERTY LOCATED AT OR NEAR THE INTERSECTION OF MISSION BOULEVARD, PHILADELPHIA STREET AND THE UNION PACIFIC RAILROAD CROSSING, AND MORE PARTICULARLY DESCRIBED AS ASSESSOR PARCEL NO. 156-020-044 BY EMINENT DOMAIN, IS NECESSARY FOR PUBLIC RIGHT-OF-WAY FOR THE CONSTRUCTION OF THE SOUTH MILLIKEN AVENUE GRADE SEPARATION PROJECT AND RELATED PUBLIC INFRASTRUCTURE IMPROVEMENTS IN THE CITY OF ONTARIO, SAN BERNARDINO COUNTY, CALIFORNIA.

RESOLUTION NO. _____

A RESOLUTION OF NECESSITY OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, FOR THE ACQUISITION OF A TEMPORARY CONSTRUCTION EASEMENT INTEREST IN A PORTION OF CERTAIN REAL PROPERTY LOCATED AT OR NEAR THE INTERSECTION OF MISSION BOULEVARD, PHILADELPHIA STREET AND THE UNION PACIFIC RAILROAD CROSSING, AND MORE PARTICULARLY DESCRIBED AS ASSESSOR PARCEL NO. 0283-152-33, BY EMINENT DOMAIN, IS NECESSARY FOR PUBLIC RIGHT-OF-WAY FOR THE CONSTRUCTION OF THE SOUTH MILLIKEN AVENUE GRADE SEPARATION PROJECT AND RELATED PUBLIC INFRASTRUCTURE IMPROVEMENTS IN THE CITY OF ONTARIO, SAN BERNARDINO COUNTY, CALIFORNIA.

RESOLUTION NO. _____

A RESOLUTION OF NECESSITY OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, FOR THE ACQUISITION OF FEE, EASEMENT AND TEMPORARY CONSTRUCTION EASEMENT INTERESTS IN PORTIONS OF CERTAIN REAL PROPERTY LOCATED AT OR NEAR THE INTERSECTION OF MISSION BOULEVARD, PHILADELPHIA STREET AND THE UNION PACIFIC RAILROAD CROSSING, AND MORE PARTICULARLY DESCRIBED AS ASSESSOR PARCEL NOS. 0211-321-10 AND 1083-352-02, BY EMINENT DOMAIN, IS NECESSARY FOR PUBLIC RIGHT-OF-WAY FOR THE CONSTRUCTION OF THE SOUTH MILLIKEN AVENUE GRADE SEPARATION PROJECT AND RELATED PUBLIC INFRASTRUCTURE IMPROVEMENTS IN THE CITY OF ONTARIO, SAN BERNARDINO COUNTY, CALIFORNIA.

RESOLUTION NO. _____

A RESOLUTION OF NECESSITY OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, FOR THE ACQUISITION OF FEE AND TEMPORARY CONSTRUCTION EASEMENT INTERESTS IN PORTIONS OF CERTAIN REAL PROPERTY LOCATED AT OR NEAR THE INTERSECTION OF MISSION BOULEVARD, PHILADELPHIA STREET AND THE UNION PACIFIC RAILROAD CROSSING, AND MORE PARTICULARLY DESCRIBED AS ASSESSOR PARCEL NO. 0238-152-34, BY EMINENT DOMAIN, IS NECESSARY FOR PUBLIC RIGHT-OF-WAY FOR THE CONSTRUCTION OF THE SOUTH MILLIKEN AVENUE GRADE SEPARATION PROJECT AND RELATED PUBLIC INFRASTRUCTURE IMPROVEMENTS IN THE CITY OF ONTARIO, SAN BERNARDINO COUNTY, CALIFORNIA.

RESOLUTION NO. _____

A RESOLUTION OF NECESSITY OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, FOR THE ACQUISITION OF FEE, EASEMENT AND TEMPORARY CONSTRUCTION EASEMENT INTERESTS IN PORTIONS OF CERTAIN REAL PROPERTY LOCATED AT OR NEAR THE INTERSECTION OF MISSION BOULEVARD, PHILADELPHIA STREET AND THE UNION PACIFIC RAILROAD CROSSING, AND MORE PARTICULARLY DESCRIBED AS ASSESSOR PARCEL NO. 1083-351-06, BY EMINENT DOMAIN, IS NECESSARY FOR PUBLIC RIGHT-OF-WAY FOR THE CONSTRUCTION OF THE SOUTH MILLIKEN AVENUE GRADE SEPARATION PROJECT AND RELATED PUBLIC INFRASTRUCTURE IMPROVEMENTS IN THE CITY OF ONTARIO, SAN BERNARDINO COUNTY, CALIFORNIA.

RESOLUTION NO. _____

A RESOLUTION OF NECESSITY OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, FOR THE ACQUISITION OF FEE, EASEMENT AND TEMPORARY CONSTRUCTION EASEMENT INTERESTS IN PORTIONS OF CERTAIN REAL PROPERTY LOCATED AT OR NEAR THE INTERSECTION OF MISSION BOULEVARD, PHILADELPHIA STREET AND THE UNION PACIFIC RAILROAD CROSSING, AND MORE PARTICULARLY DESCRIBED AS ASSESSOR PARCEL NO. 1083-351-07, BY EMINENT DOMAIN, IS NECESSARY FOR PUBLIC RIGHT-OF-WAY FOR THE CONSTRUCTION OF THE SOUTH MILLIKEN AVENUE GRADE SEPARATION PROJECT AND RELATED PUBLIC INFRASTRUCTURE IMPROVEMENTS IN THE CITY OF ONTARIO, SAN BERNARDINO COUNTY, CALIFORNIA.

RESOLUTION NO. _____

A RESOLUTION OF NECESSITY OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, FOR THE ACQUISITION OF AN EASEMENT INTEREST IN A PORTION OF CERTAIN REAL PROPERTY LOCATED AT OR NEAR THE INTERSECTION OF MISSION BOULEVARD, PHILADELPHIA STREET AND THE UNION PACIFIC RAILROAD CROSSING, AND MORE PARTICULARLY DESCRIBED AS ASSESSOR PARCEL NOS. 1083 351-05 AND 0211-312-04, BY EMINENT DOMAIN, IS NECESSARY FOR PUBLIC RIGHT-OF-WAY FOR THE CONSTRUCTION OF THE SOUTH MILLIKEN AVENUE GRADE SEPARATION PROJECT AND RELATED PUBLIC INFRASTRUCTURE IMPROVEMENTS IN THE CITY OF ONTARIO, SAN BERNARDINO COUNTY, CALIFORNIA.

20. CONSIDERATION OF RESOLUTIONS OF NECESSITY FOR THE ACQUISITION OF FEE AND EASEMENT INTERESTS IN PORTIONS OF CERTAIN REAL PROPERTY

That the City Council conduct a public hearing to:

- (A) Consider the adoption of Resolutions of Necessity and provide all parties interested in the affected properties, their attorneys or representatives, an opportunity to be heard on the issues relevant to the Resolutions of Necessity;
- (B) Make the following findings as hereinafter described in this report:
 - (1) The public interest and necessity require the proposed project;
The project is planned or located in a manner that will be most compatible with the greatest public good and the least private injury;
 - (2) The real property to be acquired is necessary for the project; and
 - (3) The offers of just compensation have been made to the property owners; and

- (C) Adopt Resolutions of Necessity declaring that the acquisition of fee and easement interests in certain real property, more particularly described as APNs 0110-092-04, 0110-101-03, 0110-101-12, 0110-321-39 and 0110-321-40 by eminent domain is necessary for public right-of-way and the construction of the North Vineyard Avenue Grade Separation Project and related public infrastructure improvements in the City of Ontario, San Bernardino County, California.

Notice of public hearing has been duly given and affidavits of compliance are on file in the Records Management Department.

Written communication.

Oral presentation.

Public hearing closed.

RESOLUTION NO. _____

A RESOLUTION OF NECESSITY OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, FOR THE ACQUISITION OF FEE, SIDEWALK AND TEMPORARY CONSTRUCTION EASEMENT INTERESTS IN PORTIONS OF CERTAIN REAL PROPERTY LOCATED AT OR NEAR THE INTERSECTION OF VINEYARD AVENUE, HOLT BOULEVARD AND THE UNION PACIFIC RAILROAD CROSSING, AND MORE PARTICULARLY DESCRIBED AS ASSESSOR PARCEL NO. 0110-092-04, BY EMINENT DOMAIN, ARE NECESSARY FOR PUBLIC RIGHT-OF-WAY FOR THE CONSTRUCTION OF THE NORTH VINEYARD AVENUE GRADE SEPARATION PROJECT AND RELATED PUBLIC INFRASTRUCTURE IMPROVEMENTS IN THE CITY OF ONTARIO, SAN BERNARDINO COUNTY, CALIFORNIA.

RESOLUTION NO. _____

A RESOLUTION OF NECESSITY OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, FOR THE ACQUISITION OF FEE, SIDEWALK AND TEMPORARY CONSTRUCTION EASEMENT INTERESTS IN PORTIONS OF CERTAIN REAL PROPERTY LOCATED AT OR NEAR THE INTERSECTION OF VINEYARD AVENUE, HOLT BOULEVARD AND THE UNION PACIFIC RAILROAD CROSSING, AND MORE PARTICULARLY DESCRIBED AS ASSESSOR PARCEL NOS. 0110-321-39 AND 0110-321-40, BY EMINENT DOMAIN, ARE NECESSARY FOR PUBLIC RIGHT-OF-WAY FOR THE CONSTRUCTION OF THE NORTH VINEYARD AVENUE GRADE SEPARATION PROJECT AND RELATED PUBLIC INFRASTRUCTURE IMPROVEMENTS IN THE CITY OF ONTARIO, SAN BERNARDINO COUNTY, CALIFORNIA.

RESOLUTION NO. _____

A RESOLUTION OF NECESSITY OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, FOR THE ACQUISITION OF SEWER AND TEMPORARY CONSTRUCTION EASEMENT INTERESTS IN PORTIONS OF CERTAIN REAL PROPERTY LOCATED AT OR NEAR THE INTERSECTION OF VINEYARD AVENUE, HOLT BOULEVARD AND THE UNION PACIFIC RAILROAD CROSSING, AND MORE PARTICULARLY DESCRIBED AS ASSESSOR PARCEL NO. 0110-101-12, BY EMINENT DOMAIN, ARE NECESSARY FOR PUBLIC RIGHT-OF-WAY FOR THE CONSTRUCTION OF THE NORTH VINEYARD AVENUE GRADE SEPARATION PROJECT AND RELATED PUBLIC INFRASTRUCTURE IMPROVEMENTS IN THE CITY OF ONTARIO, SAN BERNARDINO COUNTY, CALIFORNIA.

RESOLUTION NO. _____

A RESOLUTION OF NECESSITY OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, FOR THE ACQUISITION OF SEWER AND TEMPORARY CONSTRUCTION EASEMENT INTERESTS IN PORTIONS OF CERTAIN REAL PROPERTY LOCATED AT OR NEAR THE INTERSECTION OF VINEYARD AVENUE, HOLT BOULEVARD AND THE UNION PACIFIC RAILROAD CROSSING, AND MORE PARTICULARLY DESCRIBED AS ASSESSOR PARCEL NO. 0110-101-03, BY EMINENT DOMAIN, ARE NECESSARY FOR PUBLIC RIGHT-OF-WAY FOR THE CONSTRUCTION OF THE NORTH VINEYARD AVENUE GRADE SEPARATION PROJECT AND RELATED PUBLIC INFRASTRUCTURE IMPROVEMENTS IN THE CITY OF ONTARIO, SAN BERNARDINO COUNTY, CALIFORNIA.

ADMINISTRATIVE REPORTS/DISCUSSION/ACTION

21. AN ACTUARIAL ANALYSIS FOR THE MODIFICATION TO RETIREE MEDICAL CONTRIBUTIONS FOR SAFETY EMPLOYEE GROUPS PURSUANT TO THE PUBLIC EMPLOYEES' MEDICAL AND HOSPITAL CARE ACT (PEMHCA) AND EXISTING LABOR AGREEMENTS

That the City Council receive an actuarial analysis related to agreed-upon modifications to the retiree medical contributions for safety employee groups in accordance with existing labor agreements; and authorize the City Manager to take necessary actions through CalPERS to implement the modifications.

COUNCIL MATTERS

DISCUSSION AND APPOINTMENT OF MAYOR PRO TEM

Mayor Leon
Council Member Wapner
Council Member Bowman
Council Member Dorst-Porada
Council Member Avila

STAFF MATTERS

City Manager Hughes

ADJOURNMENT

**CITY OF ONTARIO
CLOSED SESSION REPORT**
City Council / / Housing Authority / / Other / / (GC 54957.1)
December 4, 2012

ROLL CALL: Mautz __, Wapner __, Bowman __, Dorst-Porada __
Mayor / Chairman Leon __.

STAFF: City Manager / Executive Director __, City Attorney __

In attendance: Mautz __, Wapner __, Bowman __, Dorst-Porada __, Mayor / Chairman Leon __

- GC 54956.9 (b), CONFERENCE WITH LEGAL COUNSEL, ANTICIPATED LITIGATION:
One (1) or more cases: City of Los Angeles/Los Angeles World Airports (LAWA).

No Reportable Action	Continue	Approved
/ /	/ /	/ /

Disposition: _____

Reported by: _____
City Attorney / City Manager / Executive Director

CITY OF ONTARIO

Agenda Report
December 4, 2012

SECTION:
CONSENT CALENDAR

SUBJECT: CANVASS OF GENERAL MUNICIPAL ELECTION ON NOVEMBER 6, 2012

RECOMMENDATION: That the City Council adopt a resolution certifying the results of the General Municipal Election which was consolidated with the Statewide Election on November 6, 2012.

COUNCIL GOALS: Develop Strategies and Take Actions, Including Regaining Local Control of the Ontario International Airport, to Minimize the Negative Impacts of the Global Financial Downturn on Ontario's Economy and the City's Fiscal Health
Operate in a Businesslike Manner

FISCAL IMPACT: None.

BACKGROUND: In accordance with Ontario's status as a general law city, elections are held every two years. In 1988 the City Council approved the consolidation of the City's Municipal Elections with those of San Bernardino County. The 2012 General Municipal Election required positions be filled for two City Council Members for the full term of four years; City Clerk for the full term of four years; and City Treasurer for the full term of four years.

The County Registrar of Voters conducted the elections at the City's request; has completed a canvass of the votes; and has provided certification of those results which is included as Exhibit "A" to the resolution.

Based upon the County's certified election results, Paul Vincent Avila was elected as Member of the City Council for the full term of four years; Debra Porada was elected as Member of the City Council for the full term of four years; Mary Wirtes was elected as City Clerk for the full term of four years; and James R. Milhiser was elected as City Treasurer for the full term of four years.

STAFF MEMBER PRESENTING: Al C. Boling, Deputy City Manager

Prepared by: Vicki Kasad
Department: City Clerk/Records Management

Submitted to Council/O.H.A.

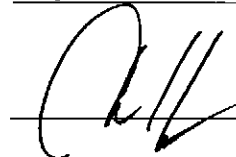
12/04/2012

Approved: _____

Continued to: _____

Denied: _____

City Manager
Approval: _____



3

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, RECITING THE FACTS OF THE GENERAL MUNICIPAL ELECTION HELD ON NOVEMBER 6, 2012, DECLARING THE RESULT AND SUCH OTHER MATTERS AS PROVIDED BY LAW.

WHEREAS, a General Municipal Election was held and conducted in the City of Ontario, California, on Tuesday, November 6, 2012, as required by law; and

WHEREAS, notice of the election was given in time, form and manner as provided by law; that voting precincts were properly established; that election officers were appointed and that in all respects the election was held and conducted and the votes were cast, received and canvassed and the returns made and declared in time, form and manner as required by the provisions of the Elections Code of the State of California for the holding of elections in general law cities; and

WHEREAS, pursuant to Resolution No. 2012-045 adopted on June 19, 2012, the Registrar of Voters canvassed the returns of the election and has certified the results to this City Council, the results are received and the appropriate sections are attached and made a part hereof as Exhibit "A".

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, DOES RESOLVE, DECLARE, DETERMINE AND ORDER AS FOLLOWS:

SECTION 1. That the whole number of votes cast in the precincts and Vote by Mail ballots are as detailed in the attached Official Canvass (Exhibit "A").

SECTION 2. That the names of persons voted for at the election for Council are as follows:

Paul Vincent Avila
Robert Tippin
Ruben Valencia
Paul C. Mim Mack
Sheila Mautz
Chaudhry Muhammad
John B. Lira
Josie S. Estrada
Debra Porada

That the names of persons voted for at the election for City Clerk are as follows:

Mary Wirtes
Yolanda Garcia

That the name of the person voted for at the election for City Treasurer was as follows:

James R. Milhiser

SECTION 3. That the number of votes given at each precinct and the number of votes given in the City to each of the persons above named for the respective offices for which the persons were candidates are listed in Exhibit "A" attached.

SECTION 4. The City Council does declare and determine that Paul Vincent Avila was elected as Member of the City Council for the full term of four years; Debra Porada was elected as Member of the City Council for the full term of four years; that Mary Wirtes was elected as City Clerk for the full term of four years; and that James R. Milhiser was elected as City Treasurer for the full term of four years.

SECTION 5. The City Clerk shall enter on the records of the City Council of the City, a statement of the result of the election, showing: (1) The whole number of votes cast in the City; (2) The names of the persons voted for; (3) For what office each person was voted; (4) The number of votes given at each precinct to each person; and (5) The total number of votes given to each person.

SECTION 6. That the City Clerk shall immediately make and deliver to each of the persons so elected a Certificate of Election signed by the City Clerk and authenticated; that the City Clerk shall also administer to each person elected the Oath of Office prescribed in the Constitution of the State of California and shall have them subscribe to it and file it in the office of the City Clerk. Each and all of the persons so elected shall then be inducted into the respective office to which they have been elected.

SECTION 7. That the City Clerk shall certify to the passage and adoption of this resolution and enter it into the book of original resolutions.

PASSED, APPROVED, AND ADOPTED this 4th day of December 2012.

PAUL S. LEON, MAYOR

ATTEST:

MARY E. WIRTES, MMC, CITY CLERK

APPROVED AS TO LEGAL FORM:

BEST BEST & KRIEGER LLP
CITY ATTORNEY

STATE OF CALIFORNIA)
COUNTY OF SAN BERNARDINO)
CITY OF ONTARIO)

I, MARY E. WIRTES, City Clerk of the City of Ontario, DO HEREBY CERTIFY that foregoing Resolution No. 2012- was duly passed and adopted by the City Council of the City of Ontario at their regular meeting held December 4, 2012 by the following roll call vote, to wit:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

MARY E. WIRTES, MMC, CITY CLERK

(SEAL)

The foregoing is the original of Resolution No. 2012- duly passed and adopted by the Ontario City Council at their regular meeting held December 4, 2012.

MARY E. WIRTES, MMC, CITY CLERK

(SEAL)

EXHIBIT "A"

CITY OF ONTARIO

Agenda Report
December 4, 2012

**SECTION:
CONSENT CALENDAR**

SUBJECT: AGREEMENT FOR OUTSIDE PERSONNEL CONSULTING SERVICES

RECOMMENDATION: That the City Council authorize the City Manager to execute a letter of agreement with Norman A. Traub Associates, of Yorba Linda, California, for on-going consulting services on an as-needed basis related to personnel matters for an initial term of three years; and authorize, at the City's discretion, an extension of the agreement for up to two one-year periods.

COUNCIL GOALS: Develop Strategies and Take Actions, Including Regaining Local Control of the Ontario International Airport, to Minimize the Negative Impacts of the Global Financial Downturn on Ontario's Economy and the City's Fiscal Health
Operate in a Businesslike Manner

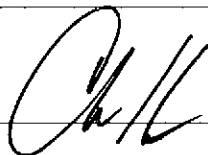
FISCAL IMPACT: The recommended agreement with Norman A. Traub Associates will begin January 1, 2013 and have an initial term through December 31, 2015, with the option of two successive one-year extensions. Terms of the agreement include fixed hourly billing rates (\$130 per hour less a 5% discount) which reflect no change to the current billing rates. The specific services to be provided and the associated costs will be dependent upon the type, nature, and extent of use of this consulting firm in supplementing City staff's efforts in addressing confidential and sensitive personnel matters in all City departments. The services will be provided on an as-needed basis with actual expenditures limited to budget appropriations as approved by the City Council for the respective fiscal years.

BACKGROUND: Norman A. Traub Associates has provided outside consulting services to the City relating to confidential personnel matters and other sensitive employee relations issues since 2004. During this time, the firm has established an excellent rapport with City departments and a reputation for responsiveness, professionalism as well as quality work. Norman A. Traub Associates provides selection from several consultants to best suit the City's needs for each personnel matter. In addition, Norman A. Traub Associates is recommended by the City's employee relations attorney firm Liebert Cassidy Whitmore.

STAFF MEMBER PRESENTING: Linda Matthews, Human Resources Director

Prepared by: Stacey Cue
Department: Human Resources

City Manager
Approval: _____



Submitted to Council/O.H.A. 12/04/2012

Approved: _____

Continued to: _____

Denied: _____

4

CITY OF ONTARIO

Agenda Report
December 4, 2012

SECTION:
CONSENT CALENDAR

SUBJECT: AMENDMENT NUMBER 3 TO THE JOINT EXERCISE OF POWERS AGREEMENT WITH METRO GOLD LINE PHASE II JOINT POWERS AUTHORITY

RECOMMENDATION: That the City Council approve and authorize the execution of the Metro Gold Line Phase II Joint Powers Authority Joint Exercise of Powers Agreement Amendment Number 3 endorsing the City of Montclair's membership request.

COUNCIL GOALS: Develop Strategies and Take Actions, Including Regaining Local Control of the Ontario International Airport, to Minimize the Negative Impacts of the Global Financial Downturn on Ontario's Economy and the City's Fiscal Health
Pursue City's Goals and Objectives by Working with Other Governmental Agencies

FISCAL IMPACT: Approval of this JPA amendment would endorse the membership of the City of Montclair into the JPA and has no immediate, direct fiscal impact to Ontario.

BACKGROUND: The Metro Gold Line Joint Powers Authority Board (JPA) currently has fourteen member agencies including Arcadia, Azusa, Claremont, Duarte, Glendora, Irwindale, La Verne, Monrovia, Ontario, Pasadena, Pomona, SANBAG, San Dimas and South Pasadena. On April 14, 2011 the JPA unanimously voted to extend membership invitations to the cities of Montclair, Upland and Rancho Cucamonga. Upland and Rancho Cucamonga have declined.

The City of Montclair accepted the invitation of membership by action of their City Council on August 16, 2011. The Joint Exercise of Powers Agreement requires that all governing bodies of JPA member organizations approve an amendment before another agency's request or invitation to become a member is approved.

STAFF MEMBER PRESENTING: Louis Abi-younes, City Engineer

Prepared by: Tom Danna
Department: Engineering

City Manager
Approval: 

Submitted to Council/O.H.A. 12/04/2012
Approved: _____
Continued to: _____
Denied: _____

5

CITY OF ONTARIO

Agenda Report
December 4, 2012

**SECTION:
CONSENT CALENDAR**

SUBJECT: MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF ONTARIO AND SOUTHERN CALIFORNIA EDISON REGARDING THE TEHACHAPI RENEWABLE TRANSMISSION PROJECT

RECOMMENDATION: That the City Council approve a memorandum of understanding (on file in the Records Management Department) between the City of Ontario and Southern California Edison (SCE) regarding the Tehachapi Renewable Transmission Project (TRTP) within the New Model Colony (NMC); and authorize the City Manager to execute said MOU, related documents and all future term extensions.

COUNCIL GOALS: Develop Strategies and Take Actions, Including Regaining Local Control of the Ontario International Airport, to Minimize the Negative Impacts of the Global Financial Downturn on Ontario's Economy and the City's Fiscal Health
Invest in the City's Infrastructure (Water, Streets, Sewers, Parks, Storm Drains and Public Facilities)

FISCAL IMPACT: Provisions of this MOU will allow the City to construct future public improvements based on reduced setback requirements, potentially saving the City millions of dollars in transmission tower relocation costs.

BACKGROUND: The SCE TRTP project is a regional renewable energy project that involves the construction of new and upgraded transmission facilities in San Bernardino and other counties. A portion of the project includes the construction of high voltage transmission towers within the NMC. Although the TRTP is not subject to local land use requirements, staff was able to negotiate with SCE to minimize the TRTP's potential impact to the City's future master planned roadways. This MOU establishes reduced setback requirements for the future public improvements from the SCE facilities and identifies the procedures by which City will be allowed to construct its future roadways across SCE's right-of-way.

The MOU has been reviewed and approved as to form by the City Attorney.

STAFF MEMBER PRESENTING: Louis Abi-younes, P.E., City Engineer

Prepared by: Khoi Do, P.E.
Department: Engineering Department

City Manager
Approval: 

Submitted to Council/O.H.A. 12/04/2012

Approved: _____

Continued to: _____

Denied: _____

CITY OF ONTARIO

Agenda Report
December 4, 2012

SECTION:
CONSENT CALENDAR

SUBJECT: A RESOLUTION ORDERING THE SUMMARY VACATION OF A PORTION OF A PUBLIC SEWER EASEMENT ON THE PROPOSED WALMART SITE WITHIN THE MOUNTAIN VILLAGE SPECIFIC PLAN AREA

RECOMMENDATION: That the City Council adopt a resolution ordering the summary vacation of a portion of a public sewer easement on the proposed Walmart site generally located at the northwest corner of Mountain Avenue and Fifth Street in the Mountain Village Specific Plan area.

COUNCIL GOALS: Develop Strategies and Take Actions, Including Regaining Local Control of the Ontario International Airport, to Minimize the Negative Impacts of the Global Financial Downturn on Ontario's Economy and the City's Fiscal Health
Focus Resources in Ontario's Commercial and Residential Neighborhoods

FISCAL IMPACT: None. The City did not pay for acquiring the subject easement and will not incur any cost by vacating a portion of it. The applicant has paid the applicable processing fees to defray the City's cost to process this request.

BACKGROUND: The property owner, Walmart, of Bentonville, Arkansas, has requested that the City vacate a portion of the existing public sewer easement on their property, generally located at the northwest corner of Mountain Avenue and Fifth Street as described in Exhibit "A" and depicted on Exhibit "B" of the proposed resolution. The public sewer facilities located within the portion of the easement to be vacated have been relocated. Therefore, the said easement to be vacated is not needed for present or future sewer purposes.

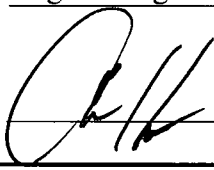
Sections 8330 & 8333 of the California Streets and Highways Code authorize the City to summarily vacate (by resolution with no public hearing) a public service easement that has been superseded by relocation or determined to be excess and there are no other public facilities located within the easement.

STAFF MEMBER PRESENTING: Louis Abi-younes, P.E., City Engineer

Prepared by: Dean Williams

Department: Engineering

City Manager

Approval: 

Submitted to Council/O.H.A. 12/04/2012

Approved: _____

Continued to: _____

Denied: _____

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, ORDERING THE SUMMARY VACATION OF A PORTION OF A PUBLIC SEWER EASEMENT ON THE PROPOSED WALMART SITE WITHIN THE MOUNTAIN VILLAGE SPECIFIC PLAN AREA.

WHEREAS, the City Council of the City of Ontario, California, pursuant to Division 9, Part 3, Chapter 4, of the Streets and Highways Code, may summarily vacate an easement under certain conditions specified therein; and

WHEREAS, a portion of the public sewer easement lying within Lot 748 of Map of Ontario, as recorded in book 11 of maps, page 6, records of San Bernardino County and located on the site, generally located at the northwest corner of Mountain Avenue and Fifth Street, has no public sewer facilities due to the relocation of the public sewer facilities and is not needed for present or future sewer purposes; and

WHEREAS, Sections 8330 & 8333 of the California Streets and Highways Code authorize the City to summarily vacate (by resolution with no public hearing) a public service easement that has been superseded by relocation or determined to be excess and there are no other public facilities located within the easement; and

WHEREAS, the property owner has requested a vacation of said easement.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Ontario, California:

1. That the above recitals are true and correct.
2. That title to the above-described portion of said easement more specifically described in Exhibit "A" and depicted on Exhibit "B" shall be vacated.

The City Clerk of the City of Ontario shall certify as to the adoption of this Resolution.

PASSED, APPROVED, AND ADOPTED this 4th day of December 2012.

PAUL S. LEON, MAYOR

ATTEST:

MARY E. WIRTES, MMC, CITY CLERK

APPROVED AS TO LEGAL FORM:

BEST BEST & KRIEGER LLP
CITY ATTORNEY

STATE OF CALIFORNIA)
COUNTY OF SAN BERNARDINO)
CITY OF ONTARIO)

I, MARY E. WIRTES, City Clerk of the City of Ontario, DO HEREBY CERTIFY that foregoing Resolution No. 2012- was duly passed and adopted by the City Council of the City of Ontario at their regular meeting held December 4, 2012 by the following roll call vote, to wit:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

MARY E. WIRTES, MMC, CITY CLERK

(SEAL)

The foregoing is the original of Resolution No. 2012- duly passed and adopted by the Ontario City Council at their regular meeting held December 4, 2012.

MARY E. WIRTES, MMC, CITY CLERK

(SEAL)

EXHIBIT "A"

**LEGAL DESCRIPTION
PROPOSED VACATION OF A PORTION OF
EXISTING PUBLIC SEWER EASEMENT
(APN 1008-431-03)**

THAT PORTION OF LOTS 741 AND 748, IN THE CITY OF ONTARIO, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, AS SHOWN ON THE MAP OF ONTARIO, FILED IN BOOK 11, PAGE 6, OF MAPS, RECORDS OF SAID COUNTY, BEING ALSO A PORTION OF PARCEL 1 AS SHOWN ON A MAP FILED IN BOOK 22, PAGE 29, OF RECORDS OF SURVEY OF SAID COUNTY, DESCRIBED AS FOLLOWS:

A STRIP OF LAND, 10 FEET WIDE, THE CENTELINE OF WHICH BEING DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT IN THE CENTERLINE OF FIFTH STREET, (66 FEET WIDE), A DISTANCE OF 373 FEET WEST OF THE CENTERLINE OF MOUNTAIN AVENUE, (100 FEET WIDE); THENCE NORTH, PARALLEL WITH THE SAID CENTERLINE OF MOUNTAIN AVE, A DISTANCE OF 278.48 FEET, TO A POINT OF TERMINATION OF THE HEREIN DESCRIBED CENTERLINE.

SAID STRIP OF LAND TO BE PROLONGED OR SHORTENED AS NECESSARY SO AS TO TERMINATE AT THE ANGLE OR INTERSECTION POINTS OF SAID BOUNDARY LINES,
AND

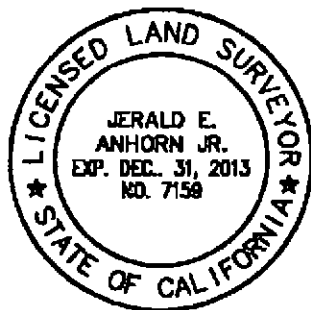
EXCEPTING THEREFROM THAT PORTION THEREOF WITHIN SAID FIFTH STREET; AND
ALSO,

EXCEPTING THEREFROM THAT PORTION THEREOF WITHIN THE SEWER EASEMENT DESCRIBED IN THE DOCUMENT RECORDED OCTOBER 29, 2012, AS DOCUMENT NUMBER 2012-0447772, RECORDS OF SAID COUNTY.

THIS DESCRIPTION ASSUMES THE BEARING OF MOUNTAIN AVENUE AS NORTH AS SHOWN ON THE LAND SURVEYOR'S PLAT RECORDED IN BOOK 22 OF RECORDS OF SURVEY, PAGE 29, RECORDS OF SAID COUNTY.

CONTAINING 2341 SQUARE FEET OR 0.537 ACRES, MORE OR LESS.

EXHIBIT "B" ATTACHED HERETO AND BY THIS REFERENCE MADE A PART HEREOF.



THIS DESCRIPTION WAS PREPARED
BY ME OR UNDER MY DIRECTION:

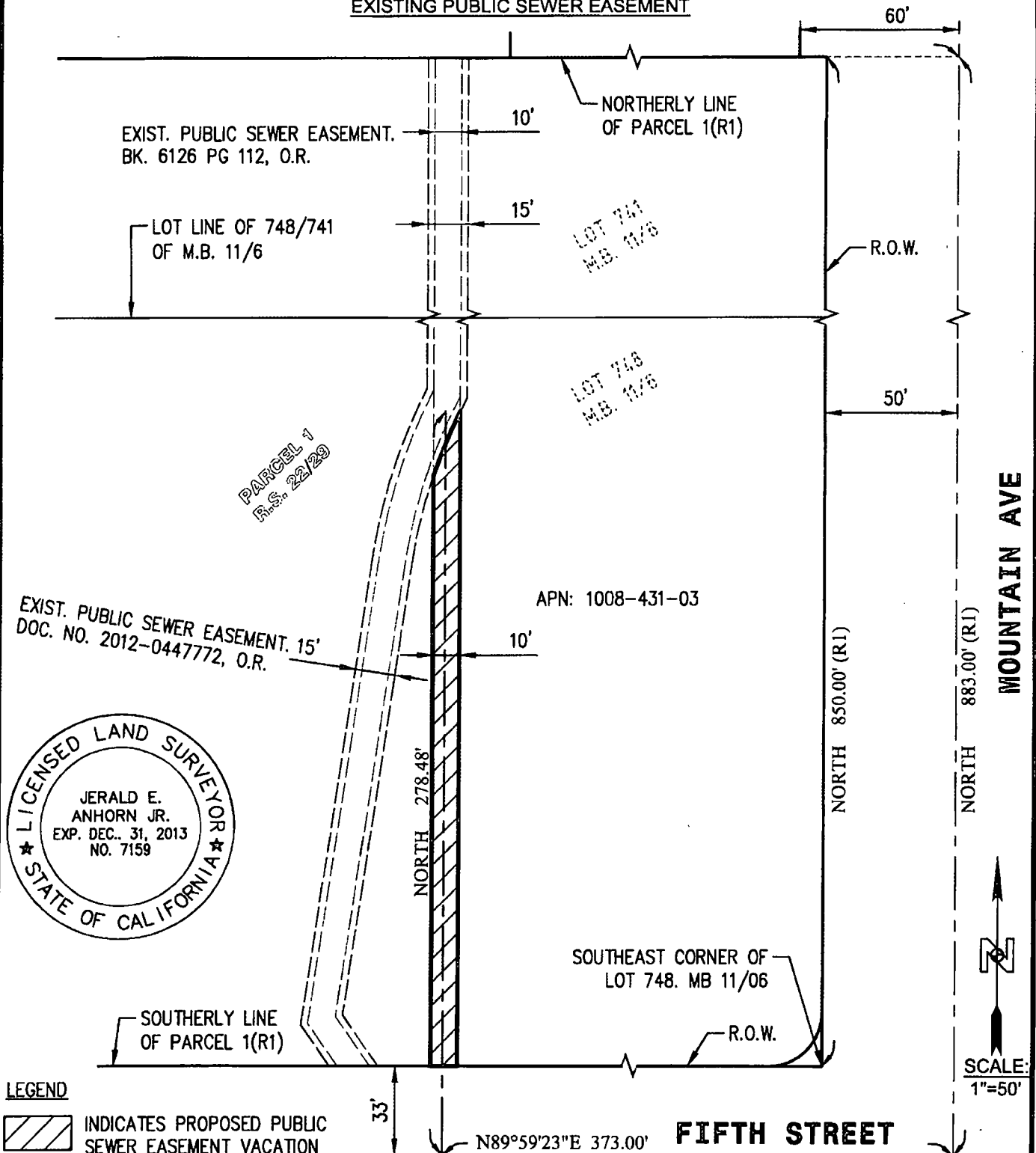

JERALD E. ANHORN JR., L.S. 7159
EXPIRES 12-31-13

2012-11-05
DATE

EXHIBIT "B"

2012-11-05

**PLAT TO ACCOMPANY LEGAL DESCRIPTION FOR
PROPOSED VACATION OF A PORTION OF
EXISTING PUBLIC SEWER EASEMENT**

**IDS Civil Engineers**

1 PETERS CANYON ROAD, SUITE 130
IRVINE, CA. 92606

TEL: 949-387-8500, FAX: 949-387-0800

CITY OF ONTARIO

Agenda Report
December 4, 2012

SECTION:
CONSENT CALENDAR

SUBJECT: A RESOLUTION EXTENDING DEVELOPMENT IMPACT FEE DEFERRAL PROGRAMS

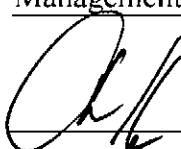
RECOMMENDATION: That the City Council adopt a resolution to extend the Residential and Non-Residential Development Impact Fee Deferral Programs through December 31, 2013.

COUNCIL GOALS: Develop Strategies and Take Actions, Including Regaining Local Control of the Ontario International Airport, to Minimize the Negative Impacts of the Global Financial Downturn in Ontario's Economy and the City's Fiscal Health
Invest in the Growth and Evolution of the City's Economy
Operate in a Businesslike Manner
Invest in the City's Infrastructure (Water, Streets, Sewers, Parks, Storm Drains and Public Facilities)

FISCAL IMPACT: The extension of the DIF deferral programs will continue the deferral of the payment of most Development Impact Fees (DIF) from the time of building permit issuance to the time of final inspection for residential and non-residential projects that enter into a DIF Deferral Agreement with the City. This will impact the potential earnings the City would have received during the period of fee deferral (up to one year). The loss of earnings does not impact General Fund revenues as interest earnings on Development Impact fees must be segregated from other City revenues and remain in the Development Impact Fee program accounts.

BACKGROUND: On May 6, 2008, the City Council approved a temporary DIF Deferral Program for residential development. The initial period for the program was 8 months through December 31, 2008. The DIF Deferral Program for residential development was extended in August 2008 for an additional 12 months through December 31, 2009. In May 2009, the DIF Deferral Program was expanded to include non-residential development and both of the DIF Deferral Programs were extended through December 31, 2010. In December 2010, both programs were extended through December 31, 2011, and in November 2011, both programs were extended through December 31, 2012.

STAFF MEMBER PRESENTING: Otto Kroutil, Development Director

Prepared by: Bob Chandler
Department: Management Services
City Manager Approval: 

Submitted to Council/O.H.A.

Approved: _____

Continued to: _____

Denied: _____

12/04/2012

8

The DIF Deferral Programs for residential and non-residential development allow developers to enter into an agreement with the City to defer the payment of most DIF from the time of building permit issuance until final inspection. If the DIF Deferral Programs are not extended by Council action, they will end effective December 31, 2012. The proposed resolution extends the DIF Deferral Programs for both residential and non-residential developers for an additional one-year period under the terms and conditions previously established by the City Council.

Staff has notified the Building Industry Association (BIA) of the proposed extension of the DIF Deferral Programs. The resolution extending the DIF Deferral Programs is proposed to be effective upon adoption.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, TO EXTEND THE DIF DEFERRAL – ECONOMIC STIMULUS PROGRAMS FOR AN ADDITIONAL ONE YEAR PERIOD ENDING DECEMBER 31, 2013.

WHEREAS, the nation is continuing to experience an economic downturn that has seriously impacted the construction industry; and

WHEREAS, the Southern California region, including the City of Ontario, has been particularly impacted by the significant reductions in the number of new home purchases and this has consequently curtailed residential construction; and

WHEREAS, the Southern California region, including the City of Ontario, has also been impacted by the significant reduction in commercial and industrial development; and

WHEREAS, one of the costs of development is the development impact fee obligation that is imposed on new development; and

WHEREAS, the City Council recognizes the importance of encouraging continuing investment in the City's residential, commercial and industrial development, including development in the New Model Colony, and the City's role in providing relief, when needed during such economic downturns; and

WHEREAS, at the same time, the City Council recognizes the importance of providing for needed infrastructure that is made necessary by new development; and

WHEREAS, weighing the needs of private development and the needs of public infrastructure, the City Council determines that deferring the timing of development impact fee payments to the time of request for final inspection adequately accomplishes the needs of obtaining funding for needed public infrastructure, while at the same time alleviating the burden imposed on development of having to pay those development impact fees at the building permit stage; and

WHEREAS, the City Council desires to extend the temporary period for the DIF Deferral Programs for an additional twelve months, beginning January 1, 2013 and ending December 31, 2013, during which time the City will provide an option for a developer of a qualifying project to temporarily defer the payment of certain Development Impact Fees.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ONTARIO:

SECTION 1. The temporary period during which a developer of multiple residential units may elect to temporarily defer the payment of Development Impact Fees for all fee categories (except the Species, Habitat Conservation and Open Space Mitigation fee) on a phase of construction of residential units is hereby extended for an additional twelve (12) months ending December 31, 2013.

SECTION 2. The temporary period during which a developer of a qualifying project may elect to temporarily defer the payment of Development Impact Fees for all fee categories (except the Species, Habitat Conservation and Open Space Mitigation fee) on a non-residential development project is hereby extended for an additional twelve (12) months ending December 31, 2013.

SECTION 3. All other requirements of the DIF Deferral Programs for residential and non-residential development shall remain unchanged, including the requirement that the developer shall enter into a standardized agreement with the City acknowledging that Development Impact Fees that are otherwise due and payable upon the issuance of a building permit are being deferred until the developer requests a final inspection of the first completed unit of the phase of development, or until twelve months have elapsed since the issuance of the first building permit, whichever comes first. Such agreements may require the developer to provide security in the amount of the deferred fees. The City Manager shall be authorized to execute such standardized agreement, without further action of the City Council. Such agreement shall provide that the developer agrees to indemnify, defend and hold harmless the City and its officials, officers, agents, and employees for any claims, causes of action or damages/costs arising from the City's temporary deferral of said fees.

SECTION 4. This extension of the Development Impact Fee deferral option shall be available to qualified developers that obtain building permits prior to December 31, 2013 only. Thereafter, the fee deferral option shall no longer be available, unless the period is further extended by action of the City Council.

SECTION 5. A processing and administration fee continues to be authorized to be collected at the time a deferral agreement is executed. This fee will be based upon the City's estimated costs to process and administer the individual agreements between the City and the participating developer, and the costs of tracking and eventual collection of the deferred fees.

The City Clerk of the City of Ontario shall certify as to the adoption of this Resolution.

PASSED, APPROVED, AND ADOPTED this 4th day of December 2012.

PAUL S. LEON, MAYOR

ATTEST:

MARY E. WIRTES, MMC, CITY CLERK

APPROVED AS TO LEGAL FORM:

BEST BEST & KRIEGER LLP
CITY ATTORNEY

STATE OF CALIFORNIA)
COUNTY OF SAN BERNARDINO)
CITY OF ONTARIO)

I, MARY E. WIRTES, City Clerk of the City of Ontario, DO HEREBY CERTIFY that foregoing Resolution No. 2012- was duly passed and adopted by the City Council of the City of Ontario at their regular meeting held December 4, 2012 by the following roll call vote, to wit:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

MARY E. WIRTES, MMC, CITY CLERK

(SEAL)

The foregoing is the original of Resolution No. 2012- duly passed and adopted by the Ontario City Council at their regular meeting held December 4, 2012.

MARY E. WIRTES, MMC, CITY CLERK

(SEAL)

CITY OF ONTARIO

Agenda Report
December 4, 2012

SECTION:
CONSENT CALENDAR

SUBJECT: FISCAL YEAR 2012-13 FIRST QUARTER BUDGET REPORT

RECOMMENDATION: That the City Council approve the budget adjustments and recommendations as listed in the Fiscal Year 2012-13 First Quarter Budget Report.

COUNCIL GOALS: Develop Strategies and Take Actions, Including Regaining Local Control of the Ontario International Airport, to Minimize the Negative Impacts of the Global Financial Downturn on Ontario's Economy and the City's Fiscal Health
Operate in a Businesslike Manner

FISCAL IMPACT: The recommended actions will affect several fund budgets as outlined in the FY 2012-13 First Quarter Budget Report and supporting schedules.

BACKGROUND: This first quarterly budget report for Fiscal Year 2012-13 reflects the Administrative Services Agency's continued efforts to provide timely, accurate, and understandable financial information to assist the City Council with decision making and achieve their core goals. All funds have been reviewed in preparing this report. The emphasis of this report is on the General Fund, which funds most of the government services such as public safety, recreation, library, museum, parks, building, planning, etc. This report also discusses prior year results, budget trends, and the economic outlook that may impact the City's resources.


The primary purposes of this report are to:

- Provide a reconciliation of budgeted-to-actual financial data from the prior fiscal year;
- Address annual carryforward appropriations across all funds;
- Recognize budgetary carryforward amounts for prior year approved Capital Improvement Projects which are ongoing;
- Revise the City's budget to reflect the City Council's actions taken since the beginning of the current fiscal year;
- Recommend personnel and organizational changes to enhance program operations and efficiency;

STAFF MEMBER PRESENTING: Grant D. Yee, Administrative Services/Finance Director

Prepared by: Doreen M. Nunes
Department: Fiscal Services Director

City Manager
Approval: _____



Submitted to Council/O.H.A. 12/04/2012

Approved: _____

Continued to: _____

Denied: _____

9

- Recommend budget changes to align the budget with projected year-end results;
- Recommend budget adjustments that are consistent with City Council goals and objectives; and
- Comment on significant budget trends which may impact next fiscal year's budget development.

Fiscal Year 2011-12 Results

The General Fund activity for the year resulted in a deficit of (\$2,999,358). This amount is less than the deficit projection of (\$4,614,843) included in the Adopted Budget for Fiscal Year 2011-12. The structural deficit is expected to continue through the end of this current fiscal year. The remaining balance of the Economic Uncertainty Reserve (\$19.1 million) will allow the City additional time for revenues to grow in future periods, and eventually eliminate the structural deficit.

First Quarter Budget Recommendations

First Quarter Budget recommendations are routine in nature and comprised predominately by City Council actions taken since the beginning of the fiscal year, encumbrance carryforward items to rollover purchase orders that have not yet been expended, and Capital Improvement Program (CIP) carryforward items to rollover budget from approved projects that have not yet been completed. For the General Fund, these actions will bring the General Fund estimated ending unreserved fund balance to \$35,375,216 or 21.9 percent of the General Fund operating budget. This amount achieves the 18 percent goal set by City Council. Major items proposed for the First Quarter in the General Fund are: \$250,000 of grant funding for the Mill Creek Wetlands inspection and testing services; and \$33,000 of funding from the San Bernardino County Board of Supervisors for library equipment and supplies.

Noteworthy budget adjustments in Other Funds include: \$66,000,000 for the South Milliken Avenue grade separation project (funding from SANBAG and savings from the North Milliken project); \$53,000,000 for the North Vineyard Avenue grade separation project (funding from SANBAG and internal borrowing of other Development Impact Fees funds); \$1,228,200 for the previously approved Vesta and Hollowell multi-family rehabilitation projects (funding provided by the U.S. Department of Housing and Urban Development (HUD) Neighborhood Stabilization Program 3 (NSP3) and HOME Investment Partnership Program); \$1,065,206 for various Police grants previously approved by Council, including the "Avoid the 25" DUI Awareness Program (\$360,000), "Selective Traffic Enforcement Grant" (\$322,000), and "Sobriety Checkpoint Grant Program" (\$303,700); and \$993,694 for the Urban Greening for Sustainable Communities Program grant for the Town Square Plaza project.

Quarterly budget reports also present recommendations for current personnel and organizational changes necessary to enhance program operations and efficiency. Current recommendations include: two additional positions in Code Enforcement for the Weed Abatement Program (the cost is offset by revenue generated from this program); addition of one position in the Recreation Department; and organizational changes in the Administrative Services Agency which results in zero position changes. These recommendations will add \$12,716 to the General Fund Budget.

Economic Outlook

The local economy is showing signs of improvement, as evidenced by the decline in the unemployment rate and stronger gains reported in sales tax revenues. The unemployment rate for the City of Ontario continues to decline with a rate of 11.8 percent in September 2012, down from 13.7 percent reported a year ago. Sales Tax revenues for the second quarter of 2012 reported gains of approximately 6 percent compared to the same period in 2011. The Consumer Confidence Index for the month of October 2012 is at 72.2. The jump back up to the 70s in October indicates that consumers are more optimistic on the short term outlook, expecting businesses, the job market, and income to improve. The housing market has improved, with the median price of existing single-family homes for September 2012 at \$198,270,

which was 16.2 percent higher than a year ago. This improvement in housing is due to the Federal Reserve's action to lower mortgage interest rates to the 3 percent range.

Although the economy is improving, there are still concerns regarding the continued progress. The decline of the Ontario International Airport is of the upmost concern for the City. Over the last three years the Airport has lost over 35 percent of passenger traffic, which equates to a loss of approximately \$500 million dollars of economic impact and 9,200 local jobs. The transfer of the Ontario Airport management decisions to local control is in the best interest for the region to regain its status as an economic engine for the Inland Empire and to ensure there is sufficient airport capacity in the long-range for Southern California.

In addition to the decline at the Ontario International Airport, the local economy faces other serious headwinds and challenges ahead. If the Federal Government cannot reach an agreement to raise the debt ceiling and balance the budget, automatic budget cuts will begin. In addition, higher tax rates will result from the Bush tax cuts expiring and the end of the payroll tax holiday for Social Security. This "fiscal cliff" may negatively impact the U.S. economy in the first half of 2013. Due to inflationary pressures, weak job growth, reduced government stimulus and spending, and the ongoing financial crisis in Europe, the economic recovery over the past year may be unsustainable and stall in the forthcoming months. Also, if mortgage rates start to rise, then the housing recovery that is just beginning may stall. The continuation of the economic recovery will be dependent upon the actions of the Federal Reserve to keep interest rates low and the Federal Government's ability to balance their budget while promoting job growth in the private sector.

CalPERS

The California State Public Employees Retirement System (CalPERS) is considerably underfunded, primarily due to lower projected earning rates combined with significant investment losses incurred during the Great Recession. All of this has contributed to dramatic increases to the City's CalPERS contribution rates. Prior to the actuarial rate change in March 2012 from 7.75 percent to 7.50 percent, CalPERS estimated rates for Safety Police, Safety Fire, and Miscellaneous Plans to increase to 33.3, 27.4, and 13.9 percent respectively by Fiscal Year 2016-17. CalPERS estimated that the lowered discount rate will increase the City's CalPERS contribution rates by an additional 2.0 percent for the Miscellaneous plan and 3.0 percent for the Safety plans. These rates are dependent upon CalPERS earning a 7.50 percent return on their investments in the future. For 2012, CalPERS investments earned only 1.0 percent as its stock portfolio underperformed – significantly less than the 7.50 percent rate CalPERS relies on for its actuarial assumptions.

Conclusion

In summary, while the City is experiencing improvement in the economic recovery, serious challenges still remain. The economy will struggle to expand over the next couple of years due to a continued weak job market, expiration of the Federal stimulus program, increased energy and commodity prices, the ongoing financial crisis in Europe, and the potential negative impact of addressing the federal deficit.

Although the City is currently on schedule with its Five-Year Budget Action Plan, there remains a General Fund structural deficit. This deficit is expected to continue through the end of this current fiscal year due to higher CalPERS costs, lower property tax revenues, and slower economic recovery than originally anticipated. Therefore, it is recommended that the City maintain its conservative fiscal approach with the budget and consider the need to take further actions in the future to reduce costs should economic growth slow or decline beyond current expectations.

The Adopted Operating Budget for FY 2012-13, as modified through the First Quarter Budget Report, continues to reflect the City Council's commitment to foster steady, controlled growth and to provide the highest level of service to the community within the City's fiscal constraints. With the City Council's leadership and their prudent fiscal policies, the City's longer-term fiscal health will further solidify its standing as the economic leader in the Inland Empire and a formidable player in California and the nation.

CITY OF ONTARIO

Agenda Report
December 4, 2012

SECTION:
CONSENT CALENDAR

SUBJECT: ACCEPTANCE OF A GRANT AWARD FROM THE U.S. DEPARTMENT OF HOMELAND SECURITY AND THE CALIFORNIA EMERGENCY MANAGEMENT AGENCY PROVIDED THROUGH THE FY2012 HOMELAND SECURITY GRANT PROGRAM


RECOMMENDATION: That the City Council authorize the City Manager to execute all documents necessary to accept a grant award in the amount of \$64,043 from the U.S. Department of Homeland Security (DHS) and the California Emergency Management Agency provided through the FY2012 Homeland Security Grant Program (HSGP).

COUNCIL GOALS: Develop Strategies and Take Actions, Including Regaining Local Control of the Ontario International Airport, to Minimize the Negative Impacts of the Global Financial Downturn on Ontario's Economy and the City's Fiscal Health
Maintain the Current High Level of Public Safety
Pursue City's Goals and Objectives by Working with Other Governmental Agencies

FISCAL IMPACT: The San Bernardino County Board of Supervisors, through the California Emergency Management Agency (pass-through for the Department of Homeland Security), is responsible for disbursing the FY2012 Homeland Security Grant Program (HSGP) funds. The City has been approved to receive \$64,043 and is not required to provide matching funds for this reimbursable grant. Future recurring costs are estimated at less than \$2,500 per year for the annual maintenance and service costs for the portable sanitation unit. The associated grant revenue and expenditure adjustments will be presented in the next Quarterly Budget Report presented to the City Council.

BACKGROUND: The grant award, totaling \$64,043, allows for the purchase of supplemental law enforcement equipment which will include a portable sanitation unit (\$27,720) and equipment to provide secure data, image and audio relay capability between key assets and personnel (\$36,323).

STAFF MEMBER PRESENTING: Eric Hopley, Chief of Police

Prepared by: Darryl Polk
Department: Police Department
City Manager Approval: 

Submitted to Council/O.H.A. 12/04/2012
Approved: _____
Continued to: _____
Denied: _____

CITY OF ONTARIO

Agenda Report
December 4, 2012

SECTION:
CONSENT CALENDAR

SUBJECT: ACQUISITION OF POLICE DEPARTMENT FRONTLINE PATROL EQUIPMENT

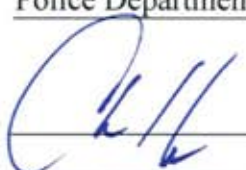
RECOMMENDATION: That the City Council authorize the purchase of new and replacement equipment, including select firearms, from Phoenix Distributors of Feasterville, Pennsylvania, for frontline police personnel utilizing a combination of State and Federal grant programs and narcotics asset forfeiture funds for up to \$250,000.

COUNCIL GOALS: Develop Strategies and Take Actions, Including Regaining Local Control of the Ontario International Airport, to Minimize the Negative Impacts of the Global Financial Downturn on Ontario's Economy and the City's Fiscal Health
Maintain the Current High Level of Public Safety
Pursue City's Goals and Objectives by Working with Other Governmental Agencies

FISCAL IMPACT: Funding for the recommended equipment is provided through \$198,000 in previously awarded State and Federal grants and a requested appropriation of \$52,000 from narcotics asset forfeiture funds which is included in the FY2012-13 First Quarter Budget Report for City Council consideration. Specific grant awards to be used are the Supplemental Law Enforcement Services (SLESF)/ Citizens Option for Public Safety (COPS) grant (\$143,500) and the FY 2012 Byrne Justice Assistance Grant (JAG) in the amount of \$54,500.

BACKGROUND: This acquisition will update the Police Department's firearms inventory and enhance the readiness of frontline police personnel to respond to elevated threats to the community. Sufficient specialized equipment will be provided to ensure all patrol field personnel have adequate access to departmental approved supplemental firearms. Due to the "law enforcement only" specifications related to the selected firearms, staff recommends the City Council recognize and award the purchase to Phoenix Distributors as the sole-source distributor of the firearms requested.

STAFF MEMBER PRESENTING: Eric Hopley, Chief of Police

Prepared by: Darryl Polk
Department: Police Department
City Manager Approval: 
Approval: _____

Submitted to Council/O.H.A. 12/04/2012
Approved: _____
Continued to: _____
Denied: _____

CITY OF ONTARIO

Agenda Report
December 4, 2012

SECTION: CONSENT CALENDAR

SUBJECT: AWARD OF BIDS FOR THE PURCHASE OF REPLACEMENT FLEET VEHICLES AND EQUIPMENT

RECOMMENDATION: That the City Council take the following actions:

(A) Bid No. 276

1. Reject the bid submitted by AA Equipment of Montclair, California, as being non-responsive;
2. Award to Jacobson West of Corona, California, in the amount of \$109,219 for the purchase and delivery of four (4) pieces of golf course maintenance equipment;
3. Award to Turf-Star of Brea, California, in the amount of \$141,252 for the purchase and delivery of five (5) pieces of golf course maintenance equipment;

(B) Bid No. 277

1. Award to Raceway Ford of Riverside, California, in the amount of \$101,946 for the purchase and delivery of one (1) Ford Explorer SUV and four (4) Ford Escape SUVs;
2. Authorize the purchase and delivery of one (1) Chevrolet Tahoe SUV from Mark Christopher of Ontario, California, in the amount of \$45,207;
3. Authorize the purchase and delivery of six (6) Compressed Natural Gas (CNG) Honda Civic Sedans from Penske Honda of Ontario, California, in the amount of \$174,841;
4. Authorize the purchase and delivery of four (4) Chevrolet Colorado Trucks from Mark Christopher of Ontario, California, in the amount of \$86,503; and

- (C)** Authorize the purchase and delivery of one (1) John Deere 410G Backhoe-Loader from John Deere Construction Retail Sales of Moline, Illinois, in the amount of \$113,464 consistent with the terms and condition of the National Joint Powers Alliance Contract (NJPA) Invitation for Bids (IFB) No. 060311-JDC.

STAFF MEMBER PRESENTING: Scott Burton, Utilities General Manager

Prepared by: Victor Moraga
Department: MU/Fleet Services

City Manager
Approval: 

Submitted to Council/O.H.A. 12/04/2012
Approved: _____
Continued to: _____
Denied: _____

12

COUNCIL GOALS: Develop Strategies and Take Actions, Including Regaining Local Control of the Ontario International Airport, to Minimize the Negative Impacts of the Global Financial Downturn on Ontario's Economy and the City's Fiscal Health
Maintain the Current High Level of Public Safety
Operate in a Businesslike Manner

FISCAL IMPACT: The Fiscal Year 2012-13 Adopted Budget includes appropriations in the amount of \$812,500 for the purchase of the replacement vehicles and equipment listed above. The total cost of the vehicles and equipment recommended for purchase is \$772,432.

BACKGROUND: The vehicles and equipment recommended for replacement in this action have outlived their useful life, and it is no longer cost effective to maintain them. They are scheduled for replacement pursuant to ongoing efforts to reduce expenses, maximize useful life expectancy and extend replacement cycles of fleet equipment while ensuring safe and reliable operation.

(A) Bid No. 276: Nine (9) Pieces of Golf Course Maintenance Equipment for Parks and Maintenance Department

In September 2012, the City solicited bids and received three (3) responses. Staff recommends rejecting as non-responsive the bid from AA Equipment of Montclair, California, because it is incomplete. A summary of the bid results follows:

<u>GOLF COURSE MAINTENANCE EQUIPMENT</u>		
<u>Jacobsen AR522 Mower</u>		
<u>Supplier</u>	<u>Location</u>	<u>Bid Amount</u>
Jacobsen West	Corona, CA	\$46,683
Turf-Star, Inc.	Brea, CA	\$60,600
<u>ReelMaster 5510 Mower</u>		
Turf-Star, Inc.	Brea, CA	\$47,175
Jacobsen West	Corona, CA	\$47,195
<u>Workman Heavy Duty Utility Vehicle</u>		
Turf-Star, Inc.	Brea, CA	\$17,003
Jacobsen West	Corona, CA	\$19,955
<u>Pro Core Aerator</u>		
Turf-Star, Inc.	Brea, CA	\$23,275
Jacobsen West	Corona, CA	\$30,170
<u>Multi-Pro Sprayer</u>		
Turf-Star, Inc.	Brea, CA	\$24,566
Jacobsen West	Corona, CA	\$26,059
<u>SmithCo SuperStar LE Bunker Rake</u>		
Jacobsen West	Corona, CA	\$10,557
Turf-Star, Inc.	Brea, CA	\$11,603
<u>Jacobsen GP400 11- Blade Mower</u>		
Jacobsen West	Corona, CA	\$25,934
Turf-Star, Inc.	Brea, CA	\$27,548

<u>Supplier</u>	<u>Location</u>	<u>Bid Amount</u>
Jacobsen GP400 8- Blade Mower		
Jacobsen West	Corona, CA	\$26,044
Turf-Star, Inc.	Brea, CA	\$27,185
Reel Master 3100-D Mower		
Turf-Star, Inc.	Brea, CA	\$29,233
Jacobsen West	Corona, CA	\$30,383

Staff recommends award to Jacobsen West, located in Corona, California, in the amount of \$109,219 for the purchase and delivery of the following replacement equipment: Jacobsen AR522 Mower, SmithCo Superstar LE Bunker Rake and two (2) Jacobsen GP400 (11 and 8 Blade) Mowers; and award to Turf-Star Inc., located in Brea, California, for the amount of \$141,251 for the purchase and delivery of the following replacement equipment: ReelMaster 5510 Mower, Workman Heavy Duty Utility Truck, Pro Core 648 Aerator, Multi-Pro 1200 Sprayer and ReelMaster 3100-D Mower.

(B) Bid No. 277: Various Replacement Vehicles

In October 2012, the City solicited bids for various replacement vehicles and only received one (1) response from Raceway Ford, located in Riverside, California, for a mid-size SUV and three compact SUVs. No other bids were received pertaining to any of the other vehicles included in the bid. In the event no bids are received, Public Contract Code Section 20166 allows for direct negotiations with potential vendors. Pursuant to these provisions, staff requested pricing from local dealers and a summary of the results follow:

1. One (1) Mid-Size and Three (3) Compact SUV's for Fire and Engineering

The City received a response from Raceway Ford for two bid items, a mid-size SUV, and compact SUVs as follows:

<u>Supplier</u>	<u>Location</u>	<u>Bid Amount</u>
Raceway Ford – Explorer	Riverside, CA	\$31,731
Raceway Ford – Escape	Riverside, CA	\$70,215

Staff recommends award of bid to Raceway Ford of Riverside, California, in the amount of \$101,946.

2. One (1) Chevrolet Tahoe for Fleet Services

Pursuant to the Ontario Municipal Code and the Public Contract Code, since no bids were received for this replacement vehicle, staff requested quotes from local dealers and a summary follows:

<u>Supplier</u>	<u>Location</u>	<u>Amount</u>
Mark Christopher Chevrolet	Ontario, CA	\$45,207
Rotolo Chevrolet	Fontana, CA	\$46,428
M.K. Smith Chevrolet	Chino	\$48,721

Staff recommends acceptance of the quote for the purchase and delivery of this vehicle from Mark Christopher Chevrolet, located in Ontario, California, in the amount of \$45,207.

3. Six (6) CNG Honda Civics for Code Enforcement and Fleet Services

Pursuant to the Ontario Municipal Code and the Public Contract Code, since no bids were received for these vehicles, staff requested quotes from local dealers and received the following quote from Penske Honda of Ontario.

<u>Supplier</u>	<u>Location</u>	<u>Amount</u>
Penske Honda	Ontario, CA	\$174,841

Staff recommends acceptance of the quote for the purchase and delivery of these replacement vehicles from Penske Honda, located in Ontario, California, for the amount of \$174,841.

4. Four (4) Compact Trucks for Utilities & Parks and Maintenance

Pursuant to the Ontario Municipal Code and the Public Contract Code, since no bids were received for these vehicles, staff requested quotes from local dealers and a summary follows:

<u>Supplier</u>	<u>Location</u>	<u>Amount</u>
Mark Christopher Chevrolet	Ontario, CA	\$86,503
Rotolo Chevrolet	Fontana, CA	\$91,762

Staff recommends acceptance of the quote for the purchase and delivery of these replacement vehicles from Mark Christopher Chevrolet, located in Ontario, California, for the amount of \$86,503.

(C) One (1) Backhoe Loader for Parks and Maintenance

Staff recommends the purchase and delivery of one (1) John Deere 410G Backhoe-Loader from John Deere Construction Retail Sales of Moline, Illinois, in the amount of \$113,464 through a Cooperative Purchasing Agreement consistent with the terms and condition of the National Joint Powers Alliance Contract (NJPA) Invitation for Bids (IFB) No. 060311-JDC. City of Ontario Municipal Code Section 2-6.11 (b)(3) allows for the purchase of supplies and equipment through cooperative purchasing when another governmental agency generally follows the provisions of California Government Code Sections 54201 through 54204. Cooperative purchasing allows the City to pool its procurement power with other public agencies to obtain prices lower than would otherwise be possible. The recommended John Deere 410K Backhoe Loader replaces a similar piece of equipment that is 19 years old.

<u>Supplier</u>	<u>Location</u>	<u>Amount</u>
John Deere Construction Retail Sales	Moline, IL	\$113,464

CITY OF ONTARIO

Agenda Report
December 4, 2012

SECTION: CONSENT CALENDAR

**SUBJECT: REVISED AMENDMENT NO. 1 TO THE CHINO BASIN DESALTER
AUTHORITY OPERATION AND MAINTENANCE AGREEMENT**

RECOMMENDATION: That the City Council approve revised Amendment No. 1 (on file with Records Management Department) to the Chino Basin Desalter Authority (CDA) Operation and Maintenance (O&M) Agreement, subject to non-substantive changes; and authorize the City Manager to execute the amendment.

COUNCIL GOALS: Develop Strategies and Take Actions, Including Regaining Local Control of the Ontario International Airport, to Minimize the Negative Impacts of the Global Financial Downturn on Ontario's Economy and the City's Fiscal Health
Invest in the City's Infrastructure (Water, Sewers, Parks, Storm Drains and Public Facilities)

FISCAL IMPACT: The revised Amendment No. 1 to the existing Chino Basin Desalter Authority O&M Agreement does not change any of the existing financial terms of the CDA, and the subject O&M costs are included in the current CDA budget as well as the adopted operating budget of Ontario as a member agency. There is no impact to the General Fund.

BACKGROUND: The City is a member of the CDA, which jointly exercises powers to own, operate and maintain water desalting facilities (Chino I and II Desalters). Other current members of the CDA include the Jurupa Community Services District (JCSD), Inland Empire Utilities Agency (IEUA), Western Municipal Water District (WMWD), Santa Ana River Water Company (SARWC), and the cities of Chino, Chino Hills, and Norco. The CDA facilities include two treatment plants, twenty-one groundwater wells, over thirty miles of pipeline and various product water distribution facilities (booster stations, reservoirs and interconnections).

The existing O&M Agreement (dated January 1, 2002) assigns operation and maintenance responsibility to IEUA and JCSD. IEUA has responsibility for the operation and maintenance of the Chino I Desalter

STAFF MEMBER PRESENTING: Scott Burton, Utilities General Manager

Prepared by: Tom O'Neill
Department: MU/Operations

City Manager
Approval: 

Submitted to Council/O.H.A. 12/04/2012
Approved: _____
Continued to: _____
Denied: _____

13

Facilities, and JCSD has responsibility for the operation and maintenance of the Chino II Desalter Facilities.

Each of the individual product water distribution facilities are dedicated to deliver water to a single member agency, they are integrated into that member agency's water distribution system, and they fall within the jurisdictional boundary of the member agency receiving product water. For this reason, the operation and maintenance of product water distribution facilities can be more efficiently and cost effectively preformed by the recipient agency. This is the current practice of the CDA and its member agencies.

On January 4, 2007, the CDA Board approved Amendment No. 1 (Amendment) to the Chino Basin Desalter Authority O&M Agreement, which then had to be approved by all member agencies. Ontario (approved by City Council on May 1, 2007) and Santa Ana River Water Company were the only member agencies that approved the Amendment. Subsequently, the Amendment was never fully ratified even though the O&M was being performed by the member agencies.

On October 4, 2012, the CDA approved a revised Amendment No. 1 to the Chino Basin Desalter Authority O&M Agreement. The revised Amendment includes the provisions of the original Amendment by assigning the O&M responsibility of each product water distribution facility to the respective member agency receiving water, and it also assigns O&M responsibility for the new product water distribution facilities associated with the Phase 3 Expansion Project. Ontario currently maintains the CDA/Ontario and CDA/Archibald Booster Stations, the 42-inch CDA waterline in Milliken Avenue, and with the Phase 3 Expansion Project will maintain the Milliken Booster Station.

CITY OF ONTARIO

Agenda Report
December 4, 2012

SECTION: CONSENT CALENDAR

SUBJECT: A RESOLUTION APPROVING AMENDMENT NO. 5 TO THE CHINO BASIN DESALTER AUTHORITY JOINT EXERCISE OF POWERS AGREEMENT

RECOMMENDATION: That the City Council adopt a resolution approving Amendment No. 5 (on file with Records Management Department) to the Joint Exercise of Powers Agreement (JPA) with the Chino Basin Desalter Authority (CDA), subject to non-substantive changes and approval by all CDA member agencies; and authorize the City Manager to execute the amendment.

COUNCIL GOALS: Develop Strategies and Take Actions, Including Regaining Local Control of the Ontario International Airport, to Minimize the Negative Impacts of the Global Financial Downturn on Ontario's Economy and the City's Fiscal Health
Invest in the City's Infrastructure (Water, Sewers, Parks, Storm Drains and Public Facilities)

FISCAL IMPACT: The IEUA Treasurer and staff have performed the duties of the CDA Treasurer/Auditor since the formation of the CDA. If approved, this action will authorize the CDA to hire and retain a Treasurer/Auditor. The cost of the Treasurer/Auditor position is included in the current CDA budget as well as the adopted operating budget of Ontario as a member agency. There is no impact to the General Fund.

BACKGROUND: The City is a member of the CDA, which jointly exercises powers to own, operate and maintain water desalting facilities (Chino I and II Desalters). Other current members of the CDA include the Jurupa Community Services District (JCSD), Inland Empire Utilities Agency (IEUA), Western Municipal Water District (WMWD), Santa Ana River Water Company (SARWC), and the cities of Chino, Chino Hills, and Norco. The CDA facilities include two treatment plants, twenty-one groundwater wells, over thirty miles of pipeline and various product water distribution facilities (booster stations, reservoirs and interconnections).

Historically, the operations, maintenance and management activities of the CDA have primarily been conducted by IEUA, JCSD and Ontario under contract with the CDA. In 2008, the CDA Board and the

STAFF MEMBER PRESENTING: Scott Burton, Utilities General Manager

Prepared by: Tom O'Neill
Department: MU/Operations

City Manager Approval: 

Submitted to Council/O.H.A. 12/04/2012

Approved: _____

Continued to: _____

Denied: _____

14

member agencies authorized Amendment No. 2 to the JPA which provides for the CDA to hire and retain its own dedicated staff. The CDA Board, with the support of the Technical Advisory Committee (TAC), has recently moved in this direction with the addition of a General Manager and several other staff positions to perform necessary management functions. The Treasurer/Auditor duties include preparing the CDA budget, processing accounts receivable and accounts payable transactions, preparing regular financial reports for the CDA Finance Committee and CDA Board, managing the investments of the CDA pursuant to the adopted Investment Policy, and functioning as the authority's auditor.

On November 1, 2012, the CDA Board of Directors approved proposed Amendment No. 5 to the JPA to hire and retain a Treasurer/Auditor. The governing bodies of each of the member agencies must now approve Amendment No. 5 by resolution of their respective agencies in order for it to become effective.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING AN AMENDMENT NO. 5 TO JOINT EXERCISE OF POWERS AGREEMENT CREATING THE CHINO BASIN DESALTER AUTHORITY.

WHEREAS, a Joint Exercise of Powers Agreement ("Original Agreement") creating the Chino Basin Desalter Authority ("CDA") was made and entered into as of the 25th day of September, 2001 by and among the Jurupa Community Services District ("JCSD"), the Santa Ana River Water Company ("SARWC"), the cities of Chino ("Chino"), Chino Hills ("Chino Hills"), Norco ("Norco") and Ontario ("Ontario") and the Inland Empire Utilities Agency ("IEUA") (collectively the "Original Members" and individually, an "Original Member"); and

WHEREAS, Amendment No. 1 to the Original Agreement ("Amendment No. 1") was entered into by the Original Members as of December 11, 2001; and

WHEREAS, Amendment No. 2 to the Original Agreement ("Amendment No. 2"), dated as of October 30, 2008, was entered into by the Original Members and Western Municipal Water District, a California water district ("WMWD"; the Original Members and WMWD are collectively referred to herein as the "Members"); and

WHEREAS, the Members entered into Amendment No. 3 to the Original Agreement ("Amendment No. 3"), dated as of April 6, 2010; and

WHEREAS, the Members entered into Amendment No. 4 to the Original Agreement ("Amendment No. 4"), dated as of February 7, 2012; and

WHEREAS, the Original Agreement, as amended by Amendment No. 1, Amendment No. 2, Amendment No. 3, and Amendment No. 4 is referred to herein as the "Agreement"; and

WHEREAS, the Agreement designates that the Treasurer of CDA shall be the Treasurer of IEUA; and

WHEREAS, the Members desire to enter into Amendment No. 5 to permit CDA to hire or appoint a Treasurer without requiring that the Treasurer of CDA be the Treasurer of IEUA.

NOW, THEREFORE, BE IT RESOLVED, the City Council of the City of Ontario hereby declares, finds, and determines as follows:

SECTION 1. The recitals set forth above are true and correct.

SECTION 2. Amendment No. 5 is hereby approved in substantially the form on file with CDA and is made a part hereof as though set forth in full herein. Upon approval of Amendment No. 5 by resolution of each of the Parties, the City Manager is hereby authorized and directed to make such nonsubstantive revisions to Amendment No. 5 as they deem appropriate and to execute and deliver Amendment No. 5 with such changes, insertions and omissions as may be approved by the officers executing the same, said execution being conclusive evidence of such approval.

SECTION 3. The City Manager is hereby authorized and directed to execute and deliver any and all documents and instruments and to do and cause to be done any and all acts and things necessary or proper for carrying out the transactions contemplated by Amendment No. 5 and this Resolution.

SECTION 4. Unless the context otherwise clearly requires, all terms used herein and not otherwise defined shall have the meanings given such terms in Amendment No. 5.

SECTION 5. This Resolution shall take effect immediately.

SECTION 6. The City Clerk of the City of Ontario shall certify as to the adoption of this Resolution.

PASSED, APPROVED, AND ADOPTED this 4th day of December 2012.

PAUL S. LEON, MAYOR

ATTEST:

MARY E. WIRTES, MMC, CITY CLERK

APPROVED AS TO LEGAL FORM:

BEST BEST & KRIEGER LLP
CITY ATTORNEY

STATE OF CALIFORNIA)
COUNTY OF SAN BERNARDINO)
CITY OF ONTARIO)

I, MARY E. WIRTES, City Clerk of the City of Ontario, DO HEREBY CERTIFY that foregoing Resolution No. 2012- was duly passed and adopted by the City Council of the City of Ontario at their regular meeting held December 4, 2012 by the following roll call vote, to wit:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

MARY E. WIRTES, MMC, CITY CLERK

(SEAL)

The foregoing is the original of Resolution No. 2012- duly passed and adopted by the Ontario City Council at their regular meeting held December 4, 2012.

MARY E. WIRTES, MMC, CITY CLERK

(SEAL)

CITY OF ONTARIO

Agenda Report
December 4, 2012

SECTION: CONSENT CALENDAR

**SUBJECT: A GRANT OF EASEMENT TO THE CHINO BASIN DESALTER AUTHORITY
FOR THE MILLIKEN BOOSTER STATION**

RECOMMENDATION: That the City Council authorize the City Manager to complete and execute a Grant of Easement (on file with Records Management Department) for the construction, operation and maintenance of the Chino Basin Desalter Authority (CDA) Milliken Booster Station Facility located at Milliken Avenue and the I-10 Freeway.

COUNCIL GOALS: Develop Strategies and Take Actions, Including Regaining Local Control of the Ontario International Airport, to Minimize the Negative Impacts of the Global Financial Downturn on Ontario's Economy and the City's Fiscal Health
Invest in the City's Infrastructure (Water, Sewers, Parks, Storm Drains and Public Facilities)

FISCAL IMPACT: The Milliken Booster Station is one of the facilities being constructed as part of the CDA Phase 3 Expansion Project. The City's cost for this project is included in the current Water Capital Improvement Program budget. There is no impact to the General Fund.

BACKGROUND: The City is a member of the CDA, which jointly exercises powers to own, operate and maintain water desalting facilities (Chino I and II Desalters). Other current members of the CDA include the Jurupa Community Services District (JCSD), Inland Empire Utilities Agency (IEUA), Western Municipal Water District (WMWD), Santa Ana River Water Company (SARWC), and the cities of Chino, Chino Hills, and Norco. The CDA facilities include two treatment plants, twenty-one groundwater wells, over thirty miles of pipeline and various product water distribution facilities (pump stations, reservoirs and interconnections). The Desalter is being expanded by 10,600 acre-feet per year. Ontario's existing CDA water supply of 5,000 acre-feet per year will increase to 8,533 acre-feet per year with completion of the Desalter Phase 3 Expansion Project.

The Milliken Booster Station will boost this additional water to the City's existing users in the 1212' pressure zone. The booster station is being constructed on the City's reservoir site at the southeast corner

STAFF MEMBER PRESENTING: Scott Burton, Utilities General Manager

Prepared by: Tom O'Neill
Department: MU/Operations

City Manager
Approval: 

Submitted to Council/O.H.A. 12/04/2012
Approved: _____
Continued to: _____
Denied: _____

15

of Milliken Avenue and the I-10 freeway. The CDA requires an easement over a portion of City property for the construction, operation, maintenance and access to the booster station facility.

CITY OF ONTARIO

Agenda Report
December 4, 2012

SECTION:
CONSENT CALENDAR

SUBJECT: RESOLUTIONS APPROVING A MITIGATED NEGATIVE DECLARATION FOR THE MASTER PLAN OF DRAINAGE, WATER MASTER PLAN, RECYCLED WATER MASTER PLAN, AND SEWER MASTER PLAN, APPROVING AN ADDENDUM TO THE ONTARIO PLAN FINAL ENVIRONMENTAL IMPACT REPORT FOR THE MASTER PLAN OF STREETS, AND APPROVING THE CITY-WIDE MASTER PLAN OF STREETS, SEWER MASTER PLAN, MASTER PLAN OF DRAINAGE, WATER MASTER PLAN, AND RECYCLED WATER MASTER PLAN

RECOMMENDATION: That the City Council

- (A) Adopt a resolution approving a Mitigated Negative Declaration for the Master Plan of Drainage, Water Master Plan, Recycled Water Master Plan, and Sewer Master Plan;
- (B) Adopt a resolution approving an Addendum to The Ontario Plan ("TOP") Final Environmental Impact Report ("EIR") for the Master Plan of Streets pursuant to CEQA Section 15164; and
- (C) Adopt a resolution approving the Master Plan of Streets, Master Plan of Drainage, Water Master Plan, Recycled Water Master Plan, and Sewer Master Plan.

COUNCIL GOALS: Develop Strategies and Take Actions , Including Regaining Local Control of the Ontario International Airport, to Minimize the Negative Impacts of the Global Financial Downturn on Ontario's Economy and the City's Fiscal Health
Invest in the Growth and Evolution of the City's Economy
Operate in a Businesslike Manner
Invest in the City's Infrastructure (Water, Streets, Sewers, Parks, Storm Drains and Public Facilities)
Ensure the Development of a Well Planned, Balanced, and Self-Sustaining Community in the New Model Colony

FISCAL IMPACT: None. The Master Plans establish the improvements necessary to serve development within the City of Ontario consistent with TOP. The improvements will be installed by

STAFF MEMBER PRESENTING: Jerry L. Blum, Planning Director


Prepared by: Scott Murphy
Department: Planning

Submitted to Council/O.H.A. 12/04/2012

Approved: _____

Continued to: _____

Denied: _____

City Manager
Approval: 

16

developers as conditions of approval or by the City installing improvements paid for through the collection of development impact fees previously paid to the City.

BACKGROUND: In 2002, the City Council approved the New Model Colony Master Plan of Drainage, the New Model Colony Transportation Program Implementation Plan, the NMC Sewer Master Plan, and the City of Ontario Water Master Plan. The Master Plans identified the size, width, and/or general location of improvements necessary to serve the City, with an emphasis on the New Model Colony due to its complete lack of improvements necessary to serve the anticipated development.

In January 2010, the City Council approved The Ontario Plan ("TOP"), resulting in changes in land use and increased development densities/intensities within several strategic locations of the city. As a result of these changes, the Master Plans need to be updated to reflect the current land use plan and address gaps in the existing systems. Additionally, the Master Plans form the basis of the Development Impact Fees charged by the City for new development. The cost estimate is prepared for each project within the master plan and that cost is spread over the anticipated development.

The Master Plans have been updated and the major changes to the Master Plans are as follows:

- 1) Master Plan of Drainage – The Master Plan of Drainage identifies all storm drain facilities to meet the needs of the City. The Master Plan prioritizes the drainage areas and related storm drain facilities into three categories – a) storm drain facilities that will relieve flooding in areas without any current storm drain facilities (Original Model Colony – "OMC"); b) storm drains that will mitigate impacts of additional development and improve drainage on City streets, based on City flood protection goals (Original Model Colony); and c) storm drains to serve future development (New Model Colony – "NMC"). While there are sufficient development opportunities in the NMC to fund the infrastructure, the cost of providing all necessary pipes in the OMC is prohibitive. As a result, the priorities noted above would be used in determining storm drain installation.
- 2) Master Plan of Streets – TOP Mobility Element, approved in January 2010, included a "Functional Roadway Classification Plan" which identifies the number of lanes required for each major street to maintain a level of service "D" or better. The Master Plan of Streets takes that lane information and provides more detail on street geometry and lane configurations for each street.
- 3) Water Master Plan – The most significant change in the Water Master Plan is the demand factors used in determining pipe sizes. Based on review of existing developments in the City and similar developments in the City of Chino, the demand factors previously used have been revised downward. The net effect is that, while densities/intensities have increased under the adopted TOP, the water pipe sizes have remained virtually unchanged. In addition to the new service for the NMC, the Master Plan identifies the need to replace aging and undersized water lines in the OMC, primarily in the western portion.
- 4) Recycled Water Master Plan – The Recycled Water Master Plan represents a significant expansion in the anticipated use of recycled water. As new sources of potable water become scarce and the cost of delivering potable water becomes more expensive, the use of recycled water becomes more important to the City. Additionally, TOP densification/intensification places an increased demand on potable water supply. In order to meet these demands, recycled water for landscape and agricultural irrigation will free up potable water for domestic use. The

proposed Master Plan assumes approximately 20% of total water demand would be met through the use of recycled water. The Master Plan proposes extensive use of recycled water in the NMC as well as retrofit opportunities for schools and parks in the OMC.

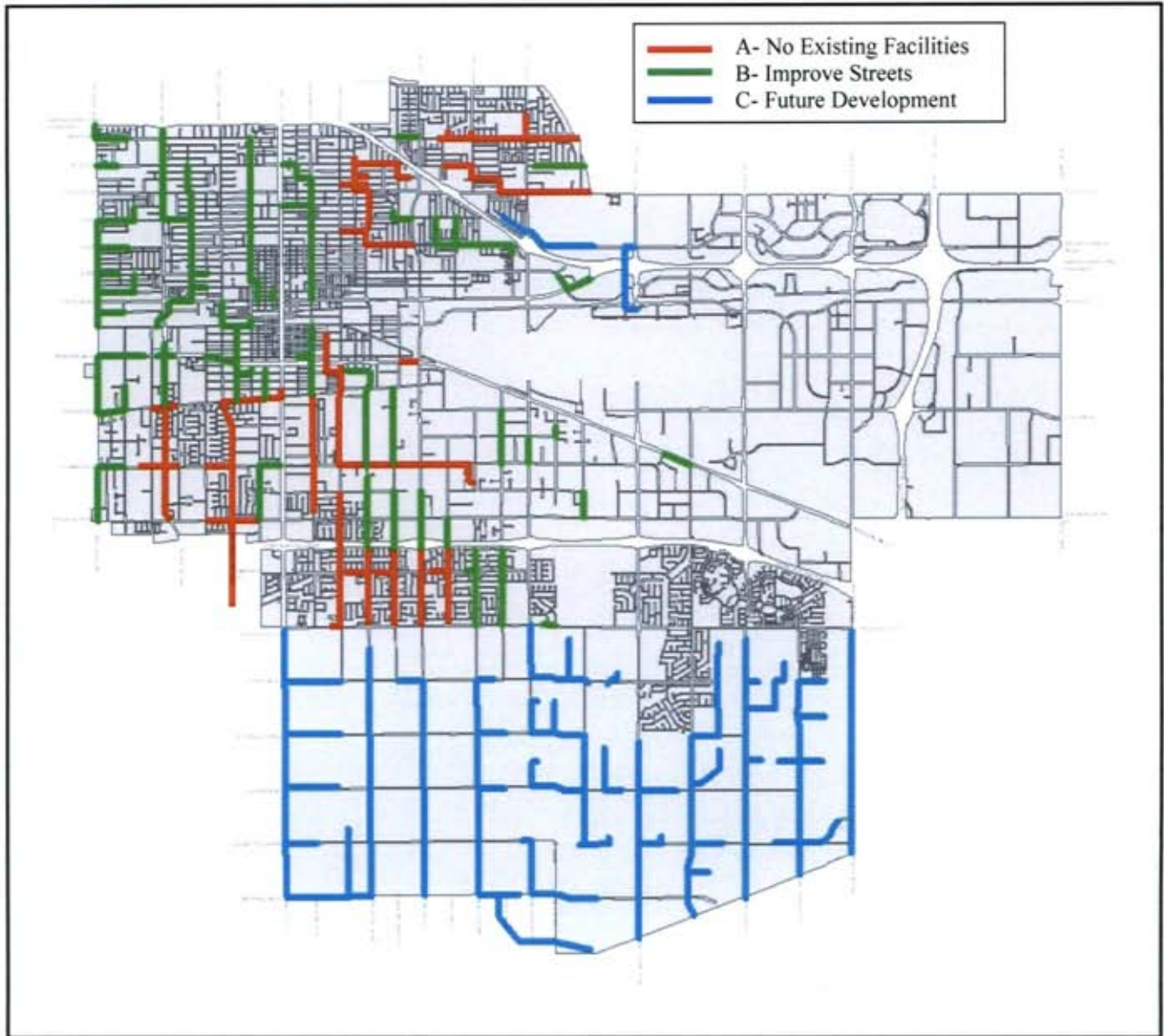
- 5) Sewer Master Plan Update –Similar to the Water Master Plan, the most significant change in the Sewer Master Plan is the reduction in the demand factors. This reduction is based on review of existing developments in the City, similar developments in the City of Chino, and coordination with the Inland Empire Utility Agency. As a result, the sewer pipe sizes have remained virtually unchanged, even after considering the increased land use densities/intensities. In addition to the new service for the New Model Colony, the Master Plan identifies several projects in the Original Model Colony necessary to relieve “pinch points” in the system.

ENVIRONMENTAL REVIEW: Pursuant to CEQA section 21166 and sections 15162 and 15163 of the CEQA Guidelines, an addendum to the Ontario Plan EIR was prepared by the City with regard to the Master Plan of Streets (“Addendum”). The Addendum incorporates, by reference, the analysis contained in the Ontario Plan EIR, and addresses only those issues specific to the Master Plan of Streets. The City proposes to approve a resolution as an activity within the TOP, as the activity proposed under the resolution is within the scope of TOP, and, as described in the Addendum and the Initial Study, the TOP EIR adequately describes the activity proposed under the resolution for the purposes of CEQA. The Addendum concludes that the Project will not result in new, or substantially more adverse, significant environmental impacts than those disclosed in the Ontario Plan EIR.

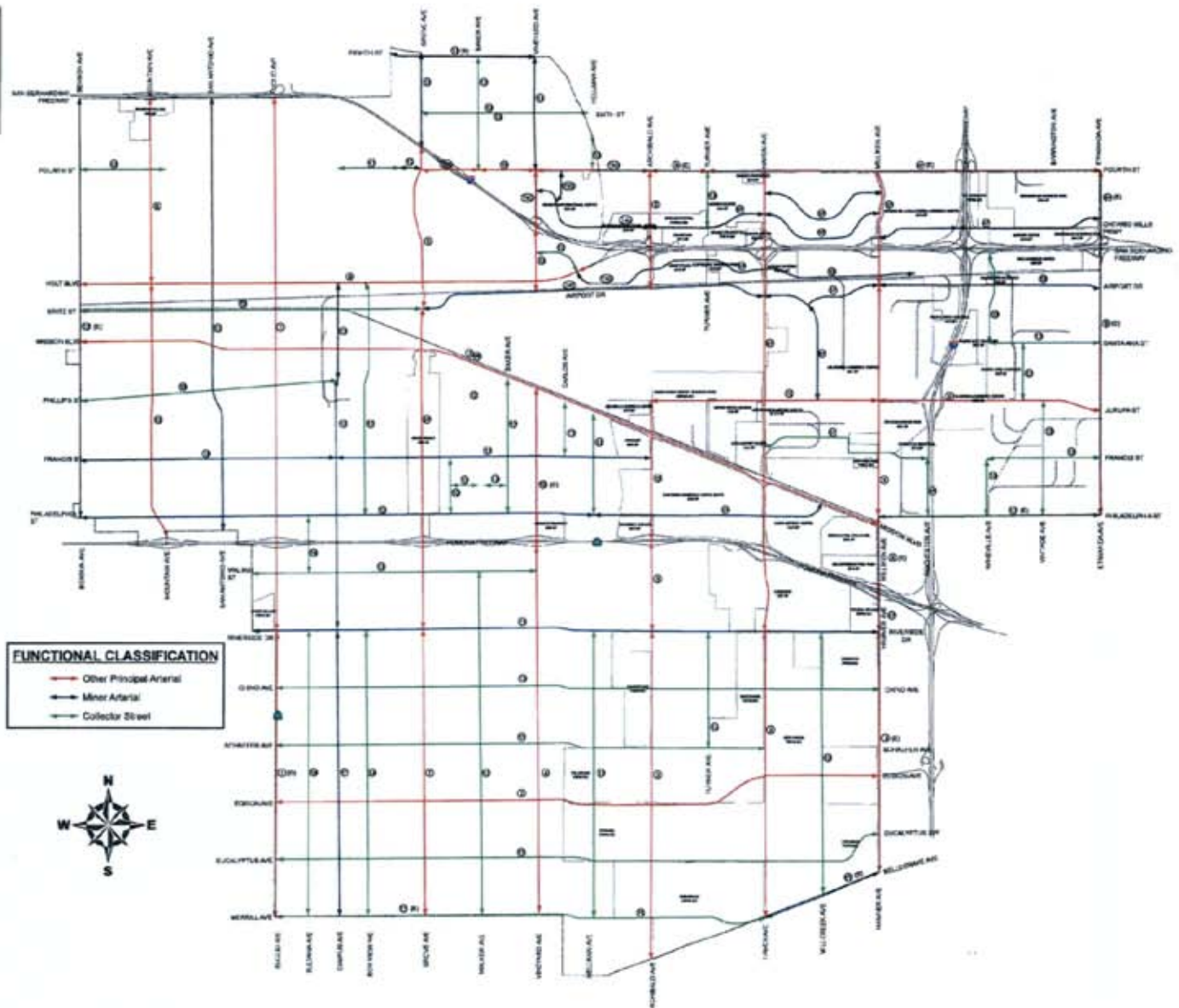
In reviewing the Drainage, Water, Recycled Water, and Sewer Master Plans, staff determined that the Master Plans are a project pursuant to the California Environmental Quality Act (Public Resources Code Section 21000 et seq.) (“CEQA”) and an Initial Study has been prepared to determine possible environmental impacts. On the basis of the Initial Study, which indicated that all potential environmental impacts from the Project were less than significant or could be mitigated to a level of insignificance, a Mitigated Negative Declaration was prepared pursuant to CEQA, the State CEQA Guidelines and the City of Ontario Local CEQA Guidelines. To ensure that all of the mitigation measures proposed in the Mitigated Negative Declaration are implemented, a Mitigation Monitoring Plan has been prepared for the Project pursuant to CEQA Guidelines Section 15097, which specifies responsible agencies/departments, monitoring frequency, timing and method of verification and possible sanctions for non-compliance with mitigation measures.

Copies of the Addendum, Mitigated Negative Declaration, and supporting documents are available for review at the Records Management Department and the Ontario Planning Department.

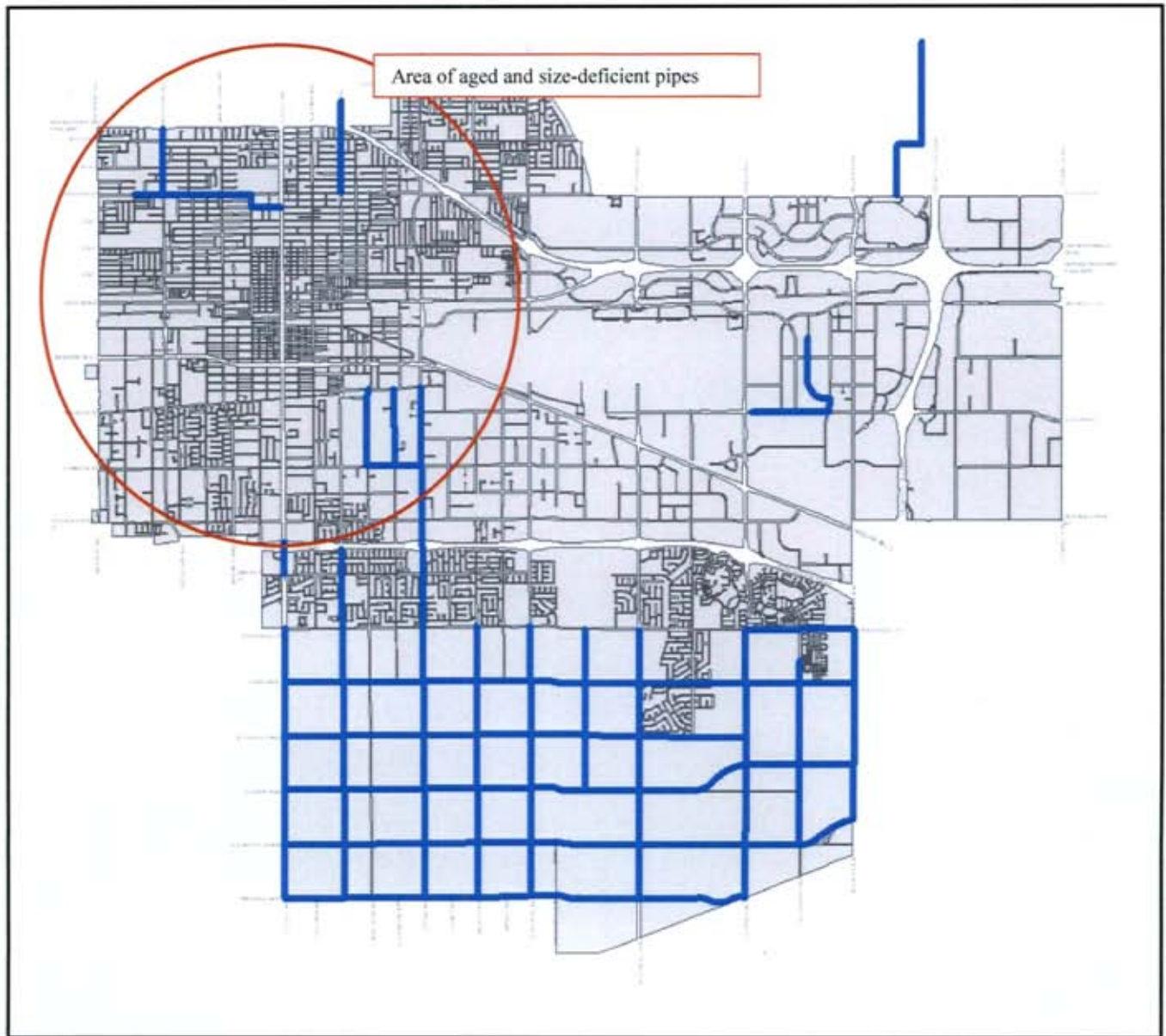
Proposed Storm Drain Facilities



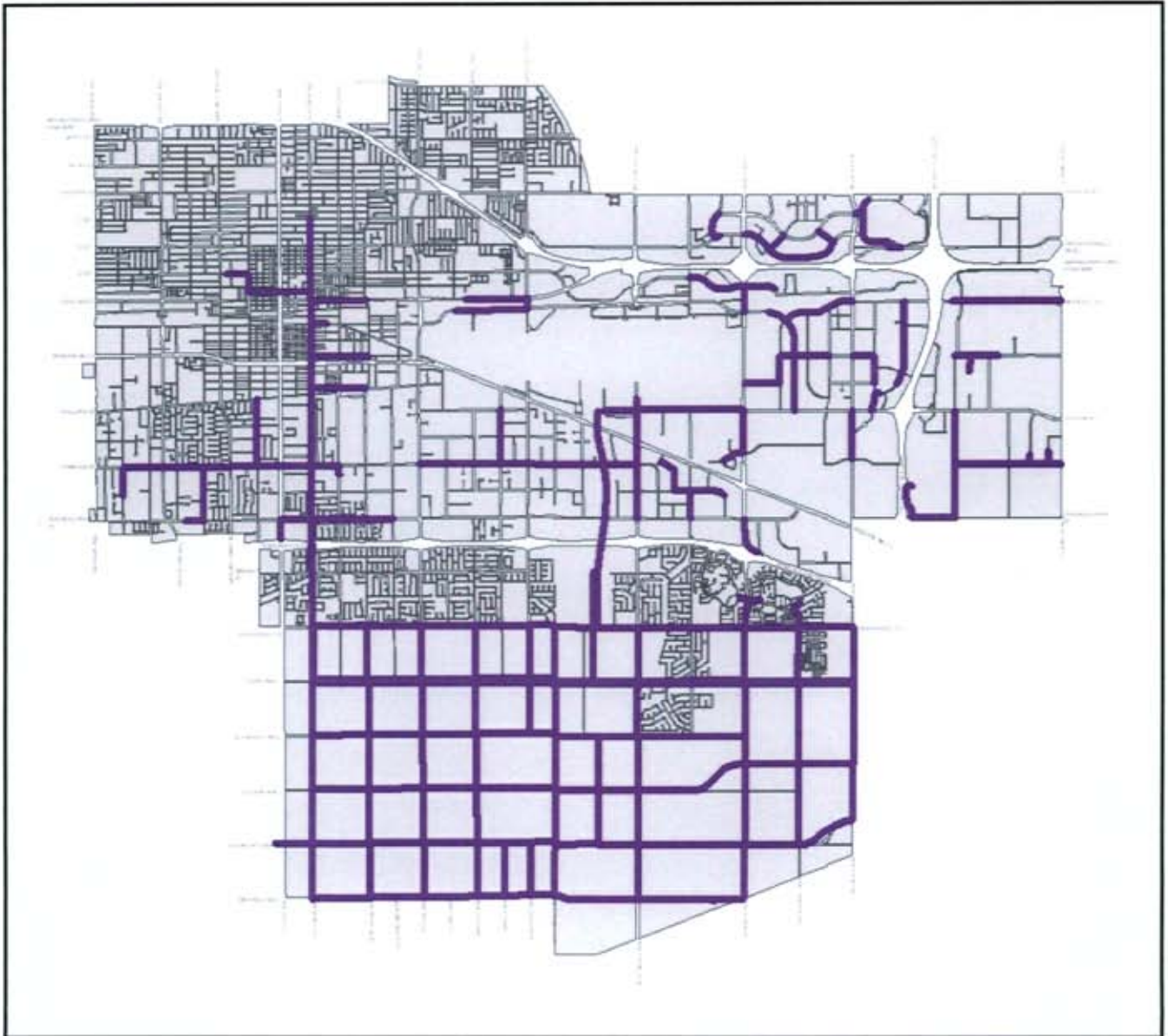
Master Plan of Streets



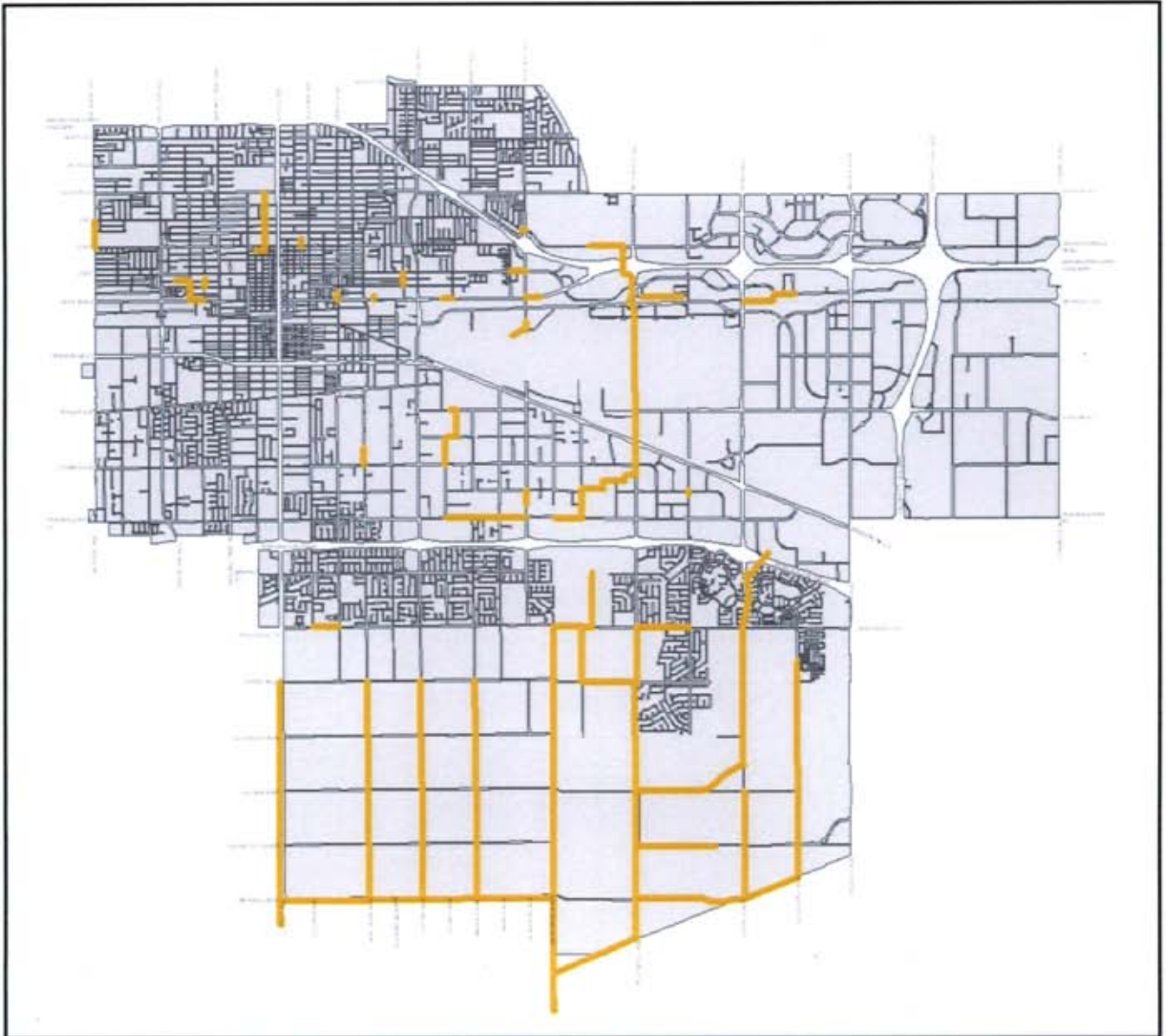
Proposed Potable Water Lines



Proposed Recycled Water Lines



Proposed Sewer Lines





PLANNING COMMISSION STAFF REPORT

July 24, 2012

SUBJECT: Consideration of the City-wide Streets Master Plan; Sewer Master Plan; Storm Drain Master Plan; and, Water/Recycled Water Master Plan.

APPLICANT: City of Ontario

RECOMMENDED ACTION: That the Planning Commission recommend approval of the Master Plans to the City Council, pursuant to the facts and reasons contained in the staff report and attached resolutions.

BACKGROUND: In 2002, the Planning Commission and City Council approved the master plans for:

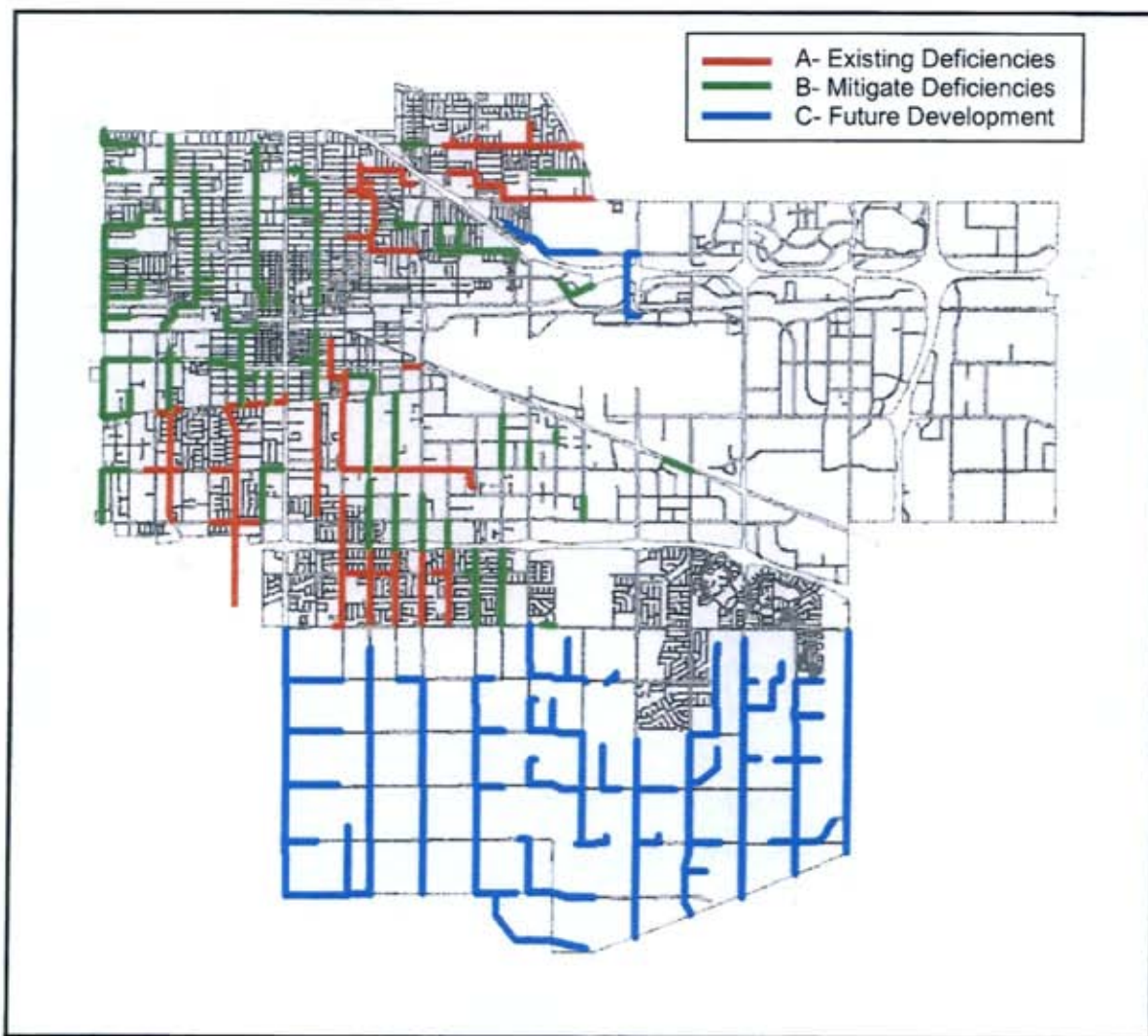
- 1) NMC Master Plan of Drainage – Storm drain facilities were located and sized to intercept flows from the Old Model Colony and to convey New Model Colony flows to regional facilities. The improvements generally consist of north-south storm drains at half-mile spacing;
- 2) NMC Transportation Program Implementation Plan - The plan addressed transportation improvements within the New Model Colony and improvements outside the New Model Colony that will be necessitated by traffic generated within the New model Colony;
- 3) City of Ontario Water Master Plan – A Water Master Plan for the entire City service area, Original and New Model Colony. The plan reviewed the existing system, identified existing deficiencies and plans replacement and new facilities to serve the current population and new development. The plan provides for an integrated system to provide water to the entire service area; and
- 4) NMC Sewer Master Plan: A Sewer Master Plan for the New Model Colony area was prepared by AKM Engineering in 2001. Sewer flows were projected and a backbone sewer collection system for the New Model Colony was laid out. The master plan system includes collection pipes, lift station phase-out and interconnections to the regional wastewater treatment system operated by the Inland Empire Utilities Agency.

PROJECT ANALYSIS: The adoption of The Ontario Plan ("TOP") in January 2010 resulted in changes in land use and increased development densities/intensities within several strategic locations of the city. As a result, the master plans need to be updated to reflect the current land use plan and address gaps in the existing systems.

Case Planner: Scott Murphy, Asst. Plng. Director	Hearing Body	Date	Decision	Action
Planning Director	DAB			
Approval: <i>[Signature]</i>	ZA			
Submittal Date: <i>[Signature]</i>	PC	7/24/12	Approved	Recommend
Hearing Deadline: <i>[Signature]</i>	CC			Final

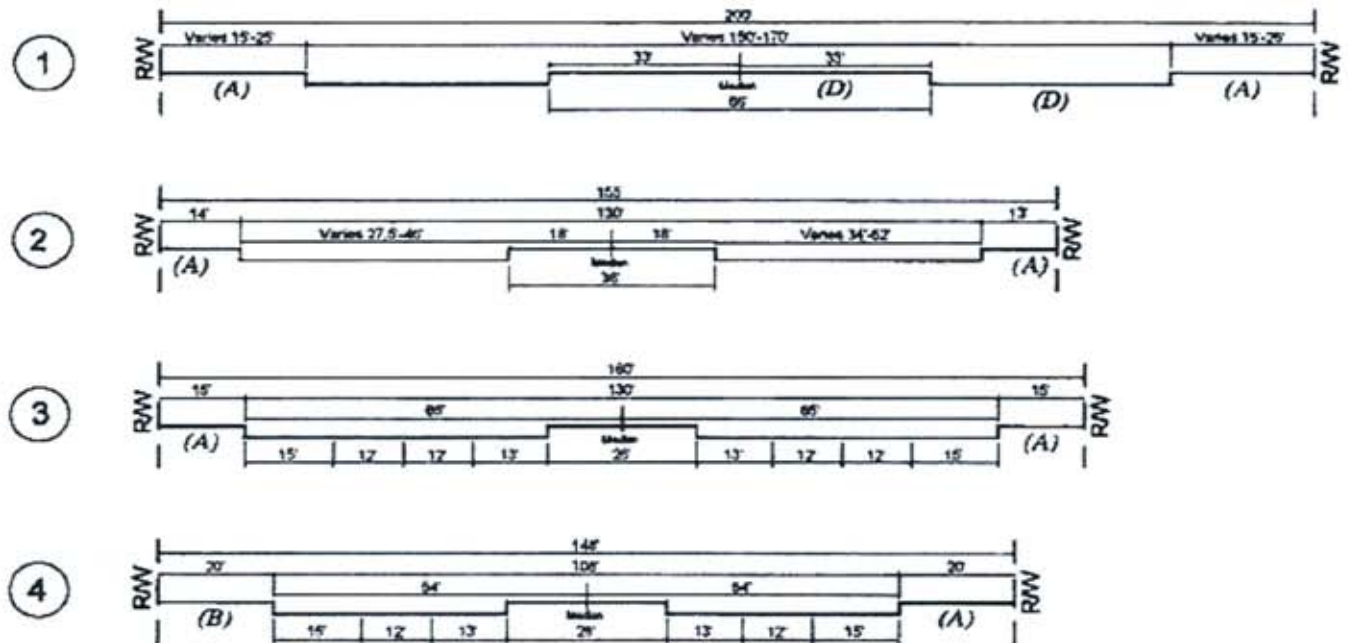
Additionally, the master plans form the basis of the Development Impact Fees charged by the City for new development. The cost estimate is prepared for each project within the master plan and that cost is spread over the anticipated development. The major changes in the master plans are as follows:

Master Plan of Drainage— The Master Plan of Drainage identifies all storm drain facilities to meet the needs of the City. The Master Plan prioritizes the drainage areas and related storm drain facilities into three categories – a) storm drains to serve areas with existing drainage deficiencies (Original Model Colony – “OMC”); b) storm drains and/or extensions to existing or proposed storm drains to mitigate deficiencies in City streets, based on flood protection goals (Original Model Colony); and c) storm drains to serve future development (New Model Colony – “NMC”). While there are sufficient development opportunities in the NMC to fund the infrastructure, the cost of providing all necessary pipes in the OMC is prohibitive. As a result, the priorities noted above would be used in determining storm drain installation.



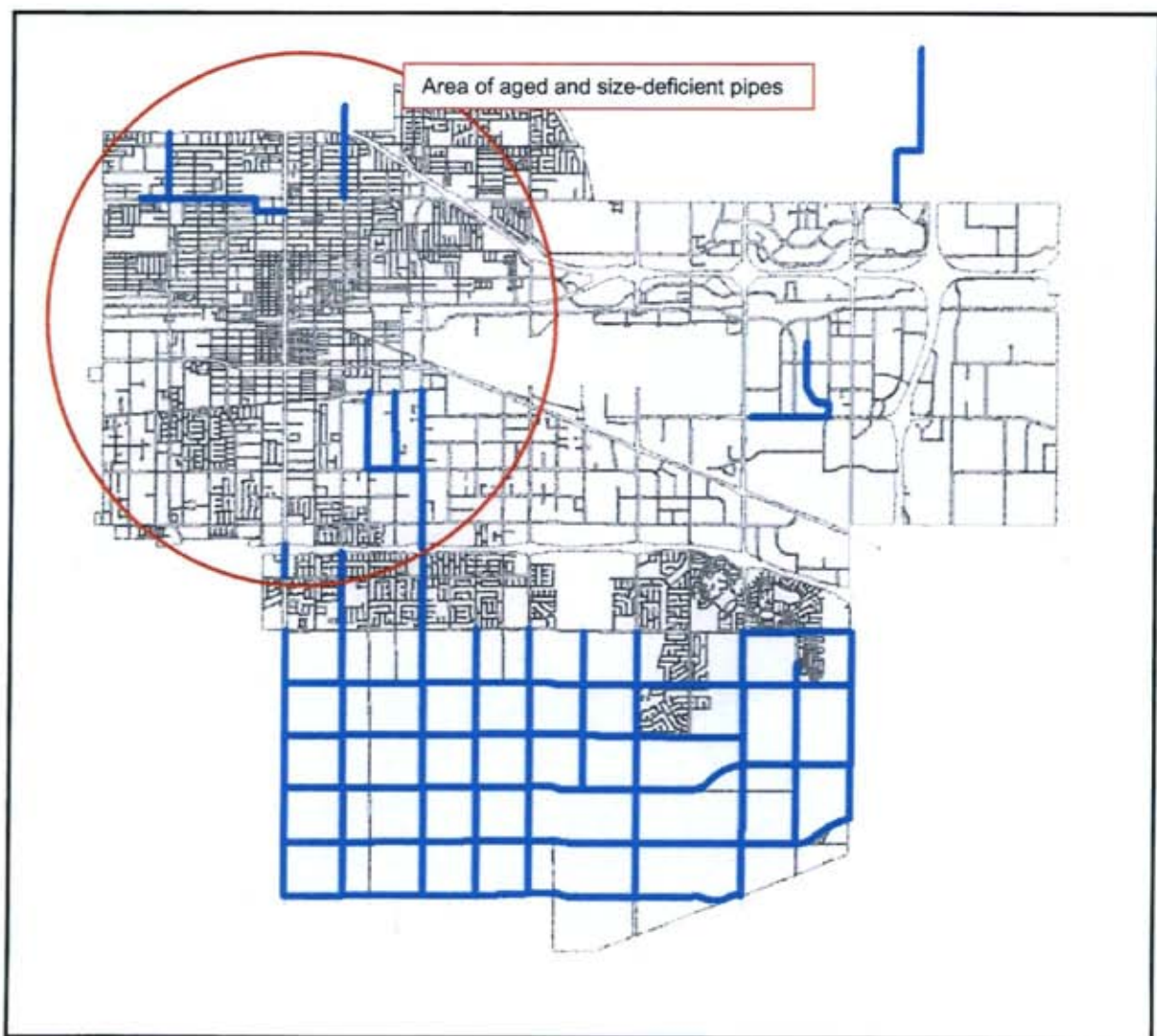
Proposed Storm Drain Facilities





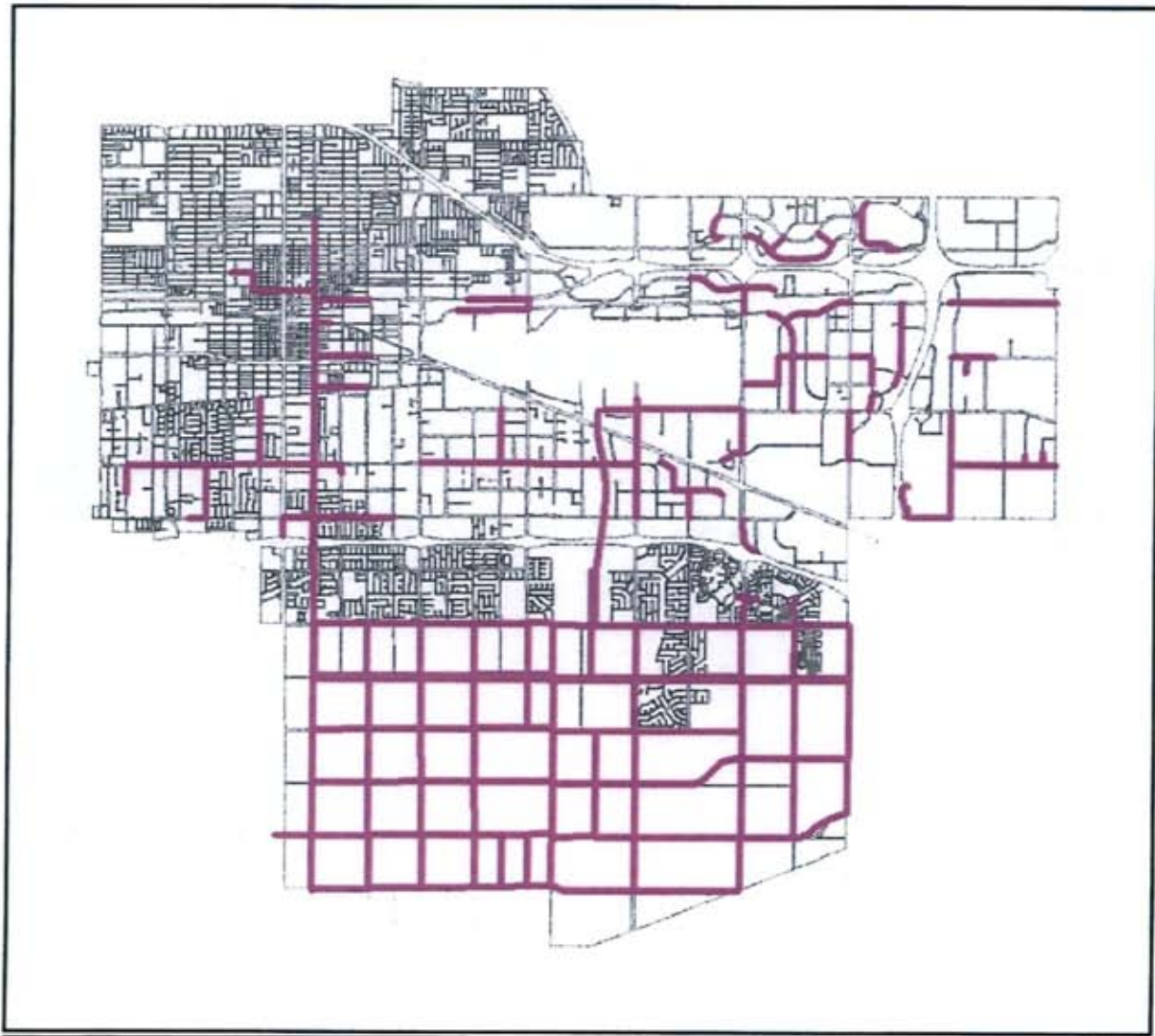
Master Plan of Streets and Highways Section Examples

Water Master Plan—The most significant change in the Water Master Plan is the demand factors used in determining pipe sizes. Based on review of existing developments in the City and similar developments in the City of Chino, the demand factors previously used have been revised downward. The net effect is that, while densities/intensities have increased, the water pipe sizes have remained virtually unchanged. In addition to the new service for the NMC, the Master Plan identifies the need to replace aging and undersized water lines in the OMC, primarily in the western portion.



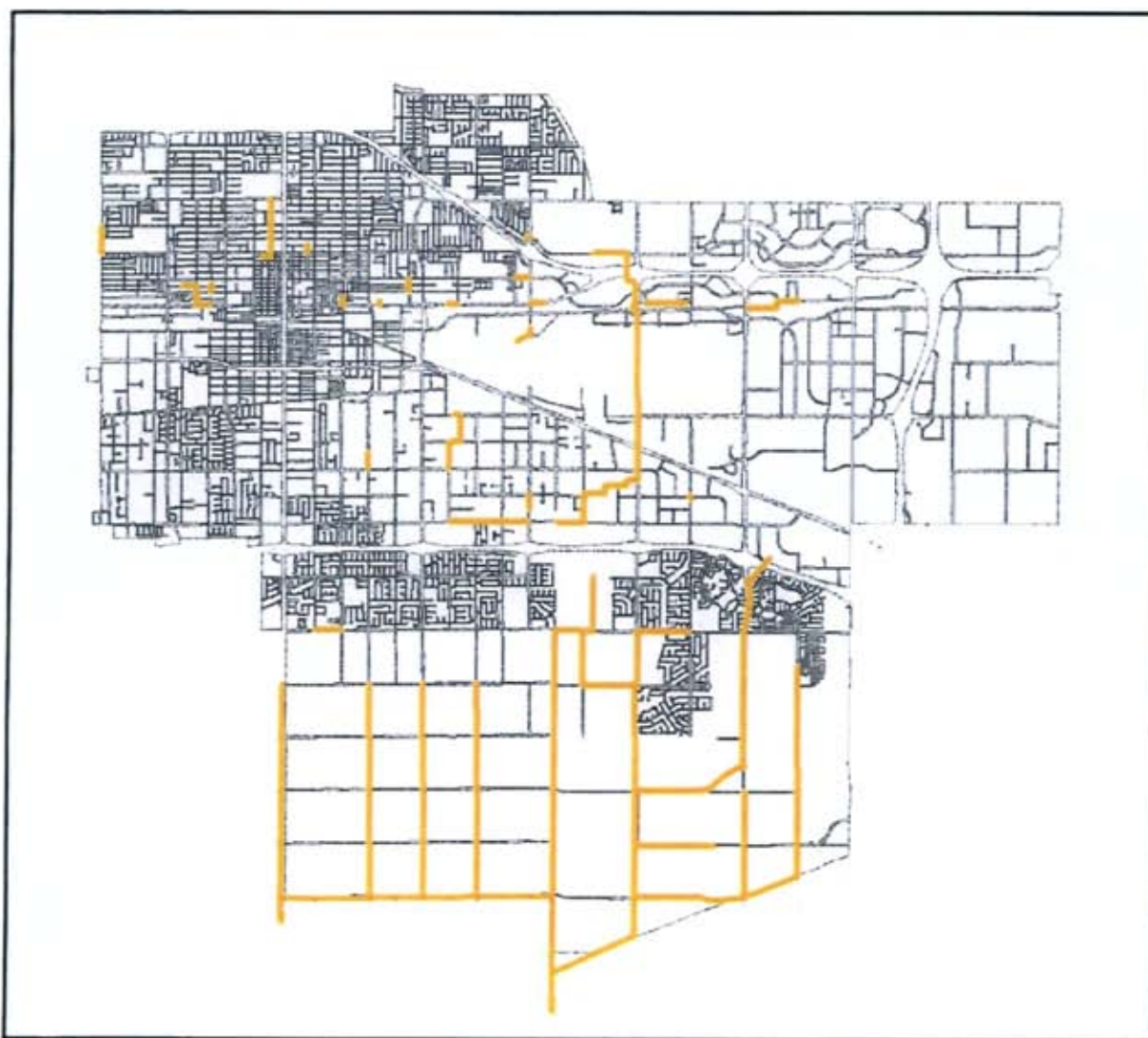
Proposed Potable Water Lines

Recycled Water Master Plan—The Recycled Water Master Plan represents a significant expansion in the anticipated use of recycled water. As new sources of potable water become scarce and the cost of delivering potable water becomes more expensive, the use of recycled water becomes more important to the City. Additionally, TOP densification/intensification places an increased demand on potable water supply. In order to meet these demands, recycled water for landscape and agricultural irrigation will free up potable water for domestic use. The proposed Master Plan assumes approximately 20% of total water demand would be met through the use of recycled water. The Master Plan proposes extensive use of recycled water in the NMC as well as retrofit opportunities for schools and parks in the OMC.



Proposed Recycled Water Lines

Sewer Master Plan Update— Similar to the Water Master Plan, the most significant change in the Sewer Master Plan is the reduction in the demand factors. This reduction is based on review of existing developments in the City, similar developments in the City of Chino, and coordination with the Inland Empire Utility Agency. As a result, the sewer pipe sizes have remained virtually unchanged, even after considering the increased land use densities/intensities. In addition to the new service for the New Model Colony, the Master Plan identifies several projects in the Original Model Colony necessary to relieve "pinch points" in the system.



Proposed Sewer Lines

COMPLIANCE WITH THE ONTARIO PLAN: The proposed project is consistent with the principles, goals and policies contained within the six components that make up The Ontario Plan (TOP), including: (1) Vision, (2) Governance, (3) Policy Plan (General Plan), (4) City Council Priorities, (5) Implementation and (6) Tracking and Feedback, as follows:

Vision

Distinctive Development/Infrastructure –

- Infrastructure systems that are properly sized to support approved land uses and their occupancy and are maintained in a timely fashion through funding by user groups.
- A comprehensive water supply system that provides affordable and dependable volume and quality of water despite unprecedented pressures on the region's water sources.

Governance

G3-6 *Monitoring Development and City Master Plans.* We monitor development to ensure that it is consistent with City Master Plans (e.g., Water, Parks, Energy, Climate Action Plan, etc.) and The Ontario Plan. The Policy Plan in particular will incorporate changes to Master Plans as they are updated periodically.

Policy Plan

LU4-3 *Infrastructure Timing.* We require that the necessary infrastructure and services be in place prior to or concurrently with development.

ER1 A reliable and cost effective system that permits the City to manage its diverse water resources and needs.

ER1-1 *Local Water Supply.* We increase local water supplies to reduce our dependence on imported water.

ER1-2 *Matching Supply to Use.* We match water supply and quality to the appropriate use.

ER1-3 *Conservation.* We require conservation strategies that reduce water usage.

ER1-4 *Supply-Demand Balance.* We require that available water supply and demands be balanced

S2 Minimized risk of injury, loss of life, property damage and economic and social disruption caused by flooding and inundation hazards.

- S2-5 *Storm Drain System.* We maintain and improve the storm drain system to minimize flooding.
- M1 A system of roadways that meets the mobility needs of a dynamic and prosperous Ontario
- M1-1 *Roadway Design and Maintenance.* We require our roadways to:
- Comply with federal, state and local design and safety standards.
 - Meet the needs of multiple transportation modes and users.
 - Handle the capacity envisioned in the Functional Roadway Classification Plan.
 - Maintain a peak hour Level of Service (LOS) E or better at all intersections.
 - Be compatible with the streetscape and surrounding land uses.
 - Be maintained in accordance with best practices and our Right-of-Way Management Plan.
- M1-2 *Mitigation of Impacts.* We require development to mitigate its traffic impacts.
- CD3-1 *Design.* We require that pedestrian, vehicular, bicycle and equestrian circulation on both public and private property be coordinated and designed to maximize safety, comfort and aesthetics.

City Council Priorities

PRIMARY GOAL

Develop Strategies and Take Actions, including Regaining Local Control of the Ontario International Airport, to Minimize the Negative Impacts of the Global Financial Downturn on Ontario's Economy and the City's Fiscal Health

SUPPORTING GOALS

- Invest in the Growth and Evolution of the City's Economy
- Operate in a Businesslike Manner
- Invest in the City's Infrastructure (Water, Streets, Sewers, Parks, Storm Drains and Public Facilities)

- Encourage. Provide or Support Enhanced Recreational, Educational, Cultural and Healthy City Programs, Policies and Activities
- Ensure the Development of a Well Planned, Balanced, and Self-Sustaining Community in the New Model Colony

COMPLIANCE WITH THE AIRPORT LAND USE COMPATIBILITY PLAN: The project site is located within the Airport Influence Area of LA/Ontario International Airport and has been found to be consistent with the policies and criteria set forth within the LA/Ontario International Airport Land Use Compatibility Plan (ALUCP).

RESOLUTION NO. PC12-046

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING THE CITY OF ONTARIO OLD MODEL COLONY AND NEW MODEL COLONY SEWER MASTER PLAN UPDATE, MASTER PLAN OF DRAINAGE, MASTER PLAN OF STREETS, WATER MASTER PLAN, AND RECYCLED WATER MASTER PLAN, AND MAKING FINDINGS IN SUPPORT THEREOF

WHEREAS, the City of Ontario has prepared the City of Ontario Old Model Colony and New Model Colony Sewer Master Plan Update; the Master Plan of Drainage; the Master Plan of Streets; the Water Master Plan; and, the Recycled Water Master Plan. Collectively, these Master Plans are referred to as the "Application" or the "Master Plans"; and

WHEREAS, the Master Plans identify the backbone infrastructure necessary to serve the City of Ontario over the build-out of the City; and

WHEREAS, the Master Plans were developed taking into account the densification/intensification identified in The Ontario Plan ("TOP"); and

WHEREAS, the Master Plans provide the general location and size of improvements needed to serve potential development in the City; and

WHEREAS, the precise location and size of the infrastructure will be determined based on site-specific conditions identified during the Specific Plan process and/or the preparation of improvement plans for the backbone infrastructure; and

WHEREAS, on July 24, 2012, the Planning Commission of the City of Ontario conducted a hearing to consider the Project, and concluded said hearing on that date; and

WHEREAS, all legal prerequisites to the adoption of this Resolution have occurred.

NOW, THEREFORE, IT IS HEREBY FOUND, DETERMINED, AND RESOLVED by the Planning Commission of the City of Ontario, as follows:

SECTION 1. Based upon the substantial evidence presented to the Planning Commission during the above-referenced hearing and upon the specific findings set forth above, the Planning Commission hereby finds that the proposed Master Plans are consist with the land use plan of TOP and are adequate to serve the anticipated growth of the City over its build-out.

SECTION 2. Based upon the findings and conclusions set forth in Sections 1 above, the Planning Commission hereby recommends the City Council approve the Project.

SECTION 3. The Applicant shall agree to defend, indemnify and hold harmless, the City of Ontario or its agents, officers, and employees from any claim, action or proceeding against the City of Ontario or its agents, officers or employees to attack, set aside, void or annul this approval. The City of Ontario shall promptly notify the applicant of any such claim, action or proceeding, and the City of Ontario shall cooperate fully in the defense.

SECTION 4. The documents and materials that constitute the record of proceedings on which these findings have been based are located at the City of Ontario City Hall, 303 East "B" Street, Ontario, California 91764. The custodian for these records is the City Clerk of the City of Ontario.

SECTION 5. The Secretary shall certify to the adoption of the Resolution.

The Secretary Pro Tempore for the Planning Commission of the City of Ontario shall certify as to the adoption of this Resolution.

I hereby certify that the foregoing Resolution was duly and regularly introduced, passed and adopted by the Planning Commission of the City of Ontario at a regular meeting thereof held on the 24th day of July 2012, and the foregoing is a full, true and correct copy of said Resolution, and has not been amended or repealed.



Richard Delman, Planning Commission
Chairman

ATTEST:



Jerry L. Blum, Planning Director/
Secretary of Planning Commission

STATE OF CALIFORNIA)
COUNTY OF SAN BERNARDINO)
CITY OF ONTARIO)

I, Jeanina Govea, Secretary Pro Tempore of the Planning Commission of the City of Ontario, DO HEREBY CERTIFY that foregoing Resolution No. PC12-046 was duly passed and adopted by the Planning Commission of the City of Ontario at their regular meeting held on **, 2012 by the following roll call vote, to wit:

AYES: Downs, Gage, Gregorek, Hartley, Reyes, Willoughby, and Delman

NOES: None

ABSENT: None

ABSTAIN: None


Jeanina Govea, Secretary Pro Tempore

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, ADOPTING AN ADDENDUM TO THE ONTARIO PLAN ENVIRONMENTAL IMPACT REPORT FOR THE MASTER PLAN OF STREETS, FOR WHICH AN INITIAL STUDY WAS PREPARED, ALL IN ACCORDANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, AS AMENDED, AND MAKING FINDINGS IN SUPPORT THEREOF.

WHEREAS, prior to the adoption of this Resolution, the Planning Director of the City of Ontario prepared an Initial Study and approved for circulation an Addendum for the Master Plan of Streets (the "Addendum"), all in accordance with the requirements of the California Environmental Quality Act of 1970, together with state and local guidelines implementing said Act, all as amended to date (collectively "CEQA"); and

WHEREAS, The Master Plan of Streets (the "Project") analyzed under the Addendum consists of a taking the "Functional Roadway Classification" general lane information from The Ontario Plan ("TOP") Mobility Element, approved in January 2010, and provide more detail on street geometry and lane configurations for each street; and

WHEREAS, the Application is a Project pursuant to the California Environmental Quality Act (Public Resources Code Section 21000 et seq.) ("CEQA"); and

WHEREAS, in January 2010, the City Council certified The Ontario Plan ("TOP") Final Environmental Impact Report ("EIR") (SCH # 2008101140), adopted an update of the Ontario General Plan and the Preferred Land Use Plan, made Mitigation Findings and adopted a Statement of Overriding Considerations pursuant to CEQA; and

WHEREAS, the TOP EIR contains an analysis of the environmental setting of the entire City at the time of its certification and also analyzes the environmental impact of build-out of the land use and the associated roadway network necessary to achieve the TOP Vision and evaluates and analyzes the principles, goals and policies enumerated in the Addendum that are furthered and carried out by the Project; and

WHEREAS, the City proposes to approve the Project as an activity within the TOP, and to rely on the certified TOP EIR for CEQA compliance because the activity proposed under the Resolution is within the scope of the TOP and the TOP EIR adequately describes the activity for the purposes of CEQA.

WHEREAS, pursuant to CEQA Section 21166 and Sections 15162 and 15163 of the CEQA Guidelines, an Addendum to The Ontario Plan EIR was prepared by the City with regard to the Project ("Addendum"). The Addendum incorporates, by reference, the analysis contained in The Ontario Plan EIR, and addresses only those issues specific to the Project. The Addendum concludes that the Project will not result in new, or substantially more adverse, significant environmental impacts than those disclosed in The Ontario Plan EIR.

WHEREAS, the City of Ontario is the lead agency on the Project, and the City Council is the decision-making body for the proposed approval to construct and otherwise undertake the Project; and

WHEREAS, the City Council has reviewed and considered the Addendum for the Project and the TOP EIR, and intends to take actions on the Project in compliance with CEQA, and state and local guidelines implementing CEQA; and

WHEREAS, the Addendum for the Project and the TOP EIR is on file in the Planning Department, located at 303 East B Street, Ontario, CA 91764, is available for inspection by any interested person at that location and is, by this reference, incorporated into this Resolution as if fully set forth herein.

NOW THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ONTARIO AS FOLLOWS:

SECTION 1. THAT THE CITY COUNCIL does hereby make the following findings: (1) it has independently reviewed and analyzed the Addendum/Initial Study and other information in the record and has considered the information contained therein, prior to acting upon or approving the Project, (2) the Addendum prepared for the Project has been completed in compliance with CEQA and is consistent with state and local guidelines implementing CEQA, and (3) the Addendum represents the independent judgment and analysis of the City of Ontario, as lead agency for the Project.

SECTION 2. THAT THE CITY COUNCIL does hereby find that based upon the entire record of proceedings before it and all information received that there is no substantial evidence that the Project will have a significant effect on the environment and does hereby approve the Addendum prepared for the Project and find, pursuant to CEQA Guideline sections 15162 and 15164, that the Project will not result in any new, increased or substantially different impacts, other than those previously considered and addressed in the TOP EIR and that no changes or additions to the TOP EIR analyses are necessary, nor is there a need for any additional mitigation measures (Planning File No. PDCA12-001).

SECTION 3. The documents and materials that constitute the record of proceedings on which these findings have been based upon are located at the City of Ontario City Hall 303 East B Street Ontario California 91764. The custodian for these records is the City Clerk of the City of Ontario

The City Clerk of the City of Ontario shall certify as to the adoption of this Resolution.

PASSED, APPROVED, AND ADOPTED this 4th day of December 2012.

PAUL S. LEON, MAYOR

ATTEST:

MARY E. WIRTES, MMC, CITY CLERK

APPROVED AS TO LEGAL FORM:

BEST BEST & KRIEGER LLP
CITY ATTORNEY

STATE OF CALIFORNIA)
COUNTY OF SAN BERNARDINO)
CITY OF ONTARIO)

I, MARY E. WIRTES, City Clerk of the City of Ontario, DO HEREBY CERTIFY that foregoing Resolution No. 2012- was duly passed and adopted by the City Council of the City of Ontario at their regular meeting held December 4, 2012 by the following roll call vote, to wit:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

MARY E. WIRTES, MMC, CITY CLERK

(SEAL)

The foregoing is the original of Resolution No. 2012- duly passed and adopted by the Ontario City Council at their regular meeting held December 4, 2012.

MARY E. WIRTES, MMC, CITY CLERK

(SEAL)

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, ADOPTING A MITIGATED NEGATIVE DECLARATION, FOR WHICH AN INITIAL STUDY WAS PREPARED, ALL IN ACCORDANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, AS AMENDED, AND ADOPTING A RELATED MITIGATION MONITORING AND REPORTING PROGRAM FOR THE CITY OF ONTARIO OLD MODEL COLONY AND NEW MODEL COLONY SEWER MASTER PLAN UPDATE, MASTER PLAN OF DRAINAGE, WATER MASTER PLAN, AND RECYCLED WATER MASTER PLAN.

WHEREAS, prior to the adoption of this Resolution, the Planning Director of the City of Ontario prepared an Initial Study and approved for circulation a Mitigated Negative Declaration for the City of Ontario Old Model Colony and New Model Colony Sewer Master Plan Update, Master Plan of Drainage, Water Master Plan, and Recycled Water Master Plan (the "Initial Study/Mitigated Negative Declaration"), all in accordance with the requirements of the California Environmental Quality Act of 1970, together with state and local guidelines implementing said Act, all as amended to date (collectively "CEQA"); and

WHEREAS, the City of Ontario Old Model Colony and New Model Colony Sewer Master Plan Update, Master Plan of Drainage, Water Master Plan, and Recycled Water Master Plan analyzed under the Initial Study/Mitigated Negative Declaration consists identification of the general locations and sizes of underground ("wet") infrastructure necessary to serve the anticipated development in the City, including land uses changes approved as part of TOP; and

WHEREAS, the Initial Study/Mitigated Negative Declaration concluded that implementation of the Project could result in a number of significant effects on the environment and identified mitigation measures that would reduce each of those significant effects to a less-than-significant level; and

WHEREAS, in connection with the approval of a project involving the preparation of an initial study/mitigated negative declaration that identifies one or more significant environmental effects, CEQA requires the decision-making body of the lead agency to incorporate feasible mitigation measures that would reduce those significant environment effects to a less-than-significant level; and

WHEREAS, whenever a lead agency approves a project requiring the implementation of measures to mitigate or avoid significant effects on the environment, CEQA also requires a lead agency to adopt a mitigation monitoring and reporting program to ensure compliance with the mitigation measures during project implementation, and such a mitigation monitoring and reporting program has been prepared for the Project for consideration by the decision-maker of the City of Ontario as lead agency for the Project ("MMRP"); and

WHEREAS, the City of Ontario is the lead agency on the Project, and the City Council is the decision-making body for the proposed approval to construct and otherwise undertake the Project; and

WHEREAS, the City Council has reviewed and considered the Initial Study/Mitigated Negative Declaration and related MMRP for the Project and intends to take actions on the Project in compliance with CEQA and state and local guidelines implementing CEQA; and

WHEREAS, the Initial Study/Mitigated Negative Declaration and related Mitigation Monitoring and Reporting Program for the Project are on file in the Planning Department, located at 303 East B Street, Ontario, CA 91764, are available for inspection by any interested person at that location and are, by this reference, incorporated into this Resolution as if fully set forth herein.

NOW THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ONTARIO AS FOLLOWS:

SECTION 1. The City Council hereby concludes as follows:

a. The approving body has independently reviewed and analyzed the Initial Study/Mitigated Negative Declaration and other information in the record and has considered the information contained therein, prior to acting upon or approving the Project; and

b. The Initial Study/Mitigated Negative Declaration prepared for the Project has been completed in compliance with CEQA and is consistent with state and local guidelines implementing CEQA; and

c. The Initial Study/Mitigated Negative Declaration represents the independent judgment and analysis of the City of Ontario, as lead agency for the Project. The City Council designates the Planning Department, located at 303 East B Street, Ontario, CA 91764, as the custodian of documents and records of proceedings on which this decision is based.

SECTION 2. The City Council does hereby find that, based upon the entire record of proceedings before it and all information received, there is no substantial evidence that the Project will have a significant effect on the environment and does hereby approve adoption of the Mitigated Negative Declaration and related Mitigation Monitoring and Reporting Program.

SECTION 3. The documents and materials that constitute the record of proceedings on which these findings have been based are located at the City of Ontario City Hall, 303 East "B" Street, Ontario, California 91764. The custodian for these records is the City Clerk of the City of Ontario.

SECTION 4. The City Clerk shall certify to the adoption of the Resolution.

PASSED, APPROVED, AND ADOPTED this 4th day of December 2012.

PAUL S. LEON, MAYOR

ATTEST:

MARY E. WIRTES, MMC, CITY CLERK

APPROVED AS TO LEGAL FORM:

BEST BEST & KRIEGER LLP
CITY ATTORNEY

STATE OF CALIFORNIA)
COUNTY OF SAN BERNARDINO)
CITY OF ONTARIO)

I, MARY E. WIRTES, City Clerk of the City of Ontario, DO HEREBY CERTIFY that foregoing Resolution No. 2012- was duly passed and adopted by the City Council of the City of Ontario at their regular meeting held December 4, 2012 by the following roll call vote, to wit:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

MARY E. WIRTES, MMC, CITY CLERK

(SEAL)

The foregoing is the original of Resolution No. 2012- duly passed and adopted by the Ontario City Council at their regular meeting held December 4, 2012.

MARY E. WIRTES, MMC, CITY CLERK

(SEAL)

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING THE CITY OF ONTARIO OLD MODEL COLONY AND NEW MODEL COLONY SEWER MASTER PLAN UPDATE, MASTER PLAN OF DRAINAGE, MASTER PLAN OF STREETS, WATER MASTER PLAN, AND RECYCLED WATER MASTER PLAN, AND MAKING FINDINGS IN SUPPORT THEREOF.

WHEREAS, the City of Ontario has prepared the City of Ontario Old Model Colony and New Model Colony Sewer Master Plan Update; the Master Plan of Drainage; the Master Plan of Streets; the Water Master Plan; and, the Recycled Water Master Plan. Collectively, these Master Plans are referred to as the "Application" or the "Master Plans"; and

WHEREAS, the Master Plans identify the backbone infrastructure necessary to serve the City of Ontario over the build-out of the City; and

WHEREAS, the Master Plans were developed taking into account the densification/intensification identified in The Ontario Plan ("TOP"); and

WHEREAS, the Master Plans provide the general location and size of improvements needed to serve potential development in the City; and

WHEREAS, The Master Plan of Drainage identifies all storm drain facilities to meet the needs of the City. The Master Plan prioritizes the drainage areas and related storm drain facilities into three categories – a) storm drain facilities that will relieve flooding in areas without any current storm drain facilities (Original Model Colony – "OMC"); b) storm drains that will mitigate impacts of additional development and improve drainage on City streets, based on City flood protection goals (Original Model Colony); and c) storm drains to serve future development (New Model Colony – "NMC"), and

WHEREAS, TOP Mobility Element, approved in January 2010, included a "Functional Roadway Classification Plan" which identifies the number of lanes required for each major street to maintain a level of service "D" or better. The Master Plan of Streets takes that lane information and provides more detail on street geometry and lane configurations for each street; and

WHEREAS, the Water Master Plan identifies potable water pipe general locations and sizes to serve the anticipated development in the City, including land uses changes approved as part of TOP. In addition to the new service for the NMC, the Master Plan identifies the need to replace aging and undersized water lines in the OMC, primarily in the western portion; and

WHEREAS, the Recycled Water Master Plan identifies recycled water pipe general locations and sizes to serve the anticipated development in the City, including land uses changes approved as part of TOP. In order to meet these demands, recycled water for landscape and agricultural irrigation will free up potable water for domestic use. The proposed Master Plan assumes approximately 20% of total water demand would be met through the use of recycled water. The Master Plan proposes extensive use of recycled water in the NMC as well as retrofit opportunities for schools and parks in the OMC; and

WHEREAS, the City of Ontario Old Model Colony and New Model Colony Sewer Master Plan Update identifies sewer pipe general locations and sizes to serve the anticipated development in the City, including land uses changes approved as part of TOP. In addition to the new service for the New Model Colony, the Master Plan identifies several projects in the Original Model Colony necessary to relieve "pinch points" in the system; and

WHEREAS, the precise location and size of the infrastructure will be determined based on site-specific conditions identified during the Specific Plan process and/or the preparation of improvement plans for the backbone infrastructure; and

WHEREAS, the Application is a project pursuant to the California Environmental Quality Act (Public Resources Code Section 21000 et seq.) ("CEQA"); and

WHEREAS, as the first action on the Project, the Ontario Council adopted a Resolution approving an Addendum to The Ontario Plan ("TOP") Final Environmental Impact Report ("EIR"), previously certified by the Ontario City Council on December 16, 1980 along with a Statement of Overriding Considerations, for the Master Plan of Streets. The Addendum finds that the proposed Master Plan of Streets introduces no new or substantially more severe significant environmental impacts as compared to those previously identified by TOP EIR, and all previously adopted mitigation measures are to be a condition of project approval, and are incorporated into the Project by reference; and

WHEREAS, as the second action on the project, the Ontario City Council adopted a Resolution approving a Mitigated Negative Declaration for the Master Plan of Drainage, the Water Master Plan, The Recycled Water Master Plan, and the Sewer Master Plan.

WHEREAS, on July 24, 2012, the Planning Commission of the City of Ontario conducted a hearing to consider the Project and, after concluding said hearing, voted unanimously to recommend approval of the Master Plans to the City Council; and

WHEREAS, on December 4, 2012, the City Council of the City of Ontario conducted a hearing to consider the Project and concluded said hearing on that date; and

WHEREAS, all legal prerequisites to the adoption of this Resolution have occurred.

NOW, THEREFORE, IT IS HEREBY FOUND, DETERMINED, AND RESOLVED by the City Council of the City of Ontario, as follows:

SECTION 1. Based upon the substantial evidence presented to the City Council during the above-referenced hearing and upon the specific findings set forth above, the City Council hereby finds that the proposed Master Plans are consist with the land use plan of TOP and are adequate to serve the anticipated growth of the City over its build-out.

SECTION 2. Based upon the findings and conclusions set forth in Sections 1 above, the City Council hereby approves the Project.

SECTION 3. The Applicant shall agree to defend, indemnify and hold harmless, the City of Ontario or its agents, officers, and employees from any claim, action or proceeding against the City of Ontario or its agents, officers or employees to attack, set aside, void or annul this approval. The City of Ontario shall promptly notify the applicant of any such claim, action or proceeding, and the City of Ontario shall cooperate fully in the defense.

SECTION 4. The documents and materials that constitute the record of proceedings on which these findings have been based are located at the City of Ontario City Hall, 303 East "B" Street, Ontario, California 91764. The custodian for these records is the City Clerk of the City of Ontario.

SECTION 5. The City Clerk shall certify to the adoption of the Resolution.

PASSED, APPROVED, AND ADOPTED this 4th day of December 2012.

PAUL S. LEON, MAYOR

ATTEST:

MARY E. WIRTES, MMC, CITY CLERK

APPROVED AS TO LEGAL FORM:

BEST BEST & KRIEGER LLP
CITY ATTORNEY

STATE OF CALIFORNIA)
COUNTY OF SAN BERNARDINO)
CITY OF ONTARIO)

I, MARY E. WIRTES, City Clerk of the City of Ontario, DO HEREBY CERTIFY that foregoing Resolution No. 2012- was duly passed and adopted by the City Council of the City of Ontario at their regular meeting held December 4, 2012 by the following roll call vote, to wit:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

MARY E. WIRTES, MMC, CITY CLERK

(SEAL)

The foregoing is the original of Resolution No. 2012- duly passed and adopted by the Ontario City Council at their regular meeting held December 4, 2012.

MARY E. WIRTES, MMC, CITY CLERK

(SEAL)

CITY OF ONTARIO

Agenda Report
December 4, 2012

SECTION: PUBLIC HEARINGS

**SUBJECT: A PUBLIC HEARING TO CONSIDER ADOPTION OF A RESOLUTION
UPDATING AND MODIFYING DEVELOPMENT IMPACT FEES AND
IMPLEMENTING POLICIES**

RECOMMENDATION: That the City Council consider and adopt a resolution to update and modify Development Impact Fees and related implementation policies.

**COUNCIL GOALS: Develop Strategies and Take Actions, Including Regaining Local Control of
the Ontario International Airport, to Minimize the Negative Impacts of the Global Financial
Downturn on Ontario's Economy and the City's Fiscal Health**
Invest in the Growth and Evolution of the City's Economy
Operate in a Businesslike Manner
Invest in the City's Infrastructure (Water, Streets, Sewers, Parks, Storm Drains and Public Facilities)
**Ensure the Development of a Well Planned Balanced and Self-Sustaining Community in the New
Model Colony**

FISCAL IMPACT: The proposed update of the Development Impact Fees (DIF) continues to reflect the City Council's direction that new development pay its fair share of the costs for infrastructure, and that costs of development in the New Model Colony should not impact current residents. The proposed update of the DIF reflects the completion of a comprehensive update to the DIF Program. The last comprehensive update to the DIF Program was approved by the Council in January 2005. The proposed fees are calculated to collect the funds necessary (at current cost estimates) to provide for the infrastructure needed to accommodate anticipated future development.

BACKGROUND: On July 1, 2003, the City Council adopted Ordinance Nos. 2779 and 2780 to approve Development Impact Fees for the City. A comprehensive update of the DIF Program, including the application of various indexes to DIF project costs estimates, was approved in January 2005. The DIF have been updated periodically since 2005 and were last modified in March 2011. However, since the adoption of the DIF in 2003, no update has included adjustments to the land use database. The

STAFF MEMBER PRESENTING: Otto Kroutil, Development Director

Prepared by: Bob Chandler
Department: Management Services

City Manager
Approval: 

Submitted to Council/O.H.A. 12/04/2012
Approved: _____
Continued to: _____
Denied: _____

17

adoption in 2010 of The Ontario Plan, a comprehensive update to the City's General Plan that included significant land use changes - in terms of both characteristics and densities - necessitated material revisions to the City's hard infrastructure (Streets, Storm Drains, Water and Sewer) Master Plans, and the DIF Program. Accordingly, the modifications in the proposed update represent a comprehensive revision of the DIF Program, and include the following:

- An updated land use database that conforms to The Ontario Plan;
- Updated and new land use categories to better reflect the land use components in The Ontario Plan; and
- The separation of Development Impact Fees into Regional and Local Adjacent fee amounts for the Streets, Signals and Bridges, Storm Drain Facilities, Water Distribution, Sewer Collection and Fiber Optic Communications infrastructure categories.

In support of the revised DIF amounts, Revenue & Cost Specialists, LLC prepared comprehensive updates to the Master Facilities Plan and the Development Impact Fee calculation report. The completed Development Impact Fee Report, composed of the "Development Impact Fee Calculation and Nexus Report for the City of Ontario, California, September 24, 2012" and "Master Facilities Plan for the City of Ontario, California, September 24, 2012" is on file with the Records Management Department. The Report includes a detailed description of the changes reflected in the update, detailed individual DIF project descriptions and the schedules used in the calculation of the updated DIF amounts.

Exhibit A of the resolution specifies the updated DIF amounts for the New Model Colony area and the balance of the City (Old Model Colony). The following table is a summary of the current and updated DIF amounts for the Old Model Colony and the New Model Colony, and includes the new land use designations introduced in the update.

Land Use Category	Current Old Model Colony	Proposed Old Model Colony	Increase/ (Decrease)	Current New Model Colony	Proposed New Model Colony	Increase/ (Decrease)
Detached Dwellings	\$ 24,596 per Unit	\$ 22,945 per Unit	(6.7%)	\$ 36,533 per Unit	\$ 30,740 per Unit	(15.9%)
Attached Dwellings	\$ 15,575 per Unit	\$ 16,353 per Unit	5.0%	\$ 21,566 per Unit	\$ 18,983 per Unit	(12.0%)
High Density Dwellings	New Category	\$ 11,952 per Unit	N/A	New Category	\$13,579 per Unit	N/A
Mobile Homes	\$ 13,160 per Unit	\$ 15,875 per Unit	20.6%	--	--	--
Commercial Lodging	\$ 3,671 per Unit	\$ 3,929 per Unit	7.0%	\$ 8,038 per Unit	\$7,338 per Unit	(8.7%)
Retail/Service Uses	\$12,666 per S.F.	\$ 7,185 per S.F.	(43.3%)	\$ 20,660 per S.F.	\$14,759 per S.F.	(28.6%)
Office Uses	\$ 5,939 per S.F.	\$ 5,700 per S.F.	(4.0%)	\$ 13,396 per S.F.	\$10,545 per S.F.	(21.3%)
Business Park Uses	New Category	\$ 5,960 per S.F.	N/A	New Category	\$10,199 per S.F.	N/A
Industrial Uses	\$ 2,972 per S.F.	\$ 3,188 per S.F.	7.2%	\$ 7,246 per S.F.	\$6,374 per S.F.	(12.0%)
Institutional Uses	New Category	\$ 5,905 per S.F.	N/A	New Category	\$9,968 per S.F.	N/A

Impacts of The Ontario Plan on DIF

As noted above, many of the DIF amounts are decreasing as compared to the current DIF amounts. This is generally due to the increased land use densities approved in The Ontario Plan. The increased development densities also increased the need for additional capacity within most of the infrastructure categories, as also identified in the Master Plan updates. However, for the most part, the increases in infrastructure capacity costs were more than offset by the respective increases in the number of residential units and non-residential square footages and/or changes in demand factors. This has resulted in generally more efficient usage of infrastructure, and lower impact fees.

Updated Land Use Categories and Definitions

As noted, the land use designations in the proposed DIF update have been modified to better conform to the land use categories in The Ontario Plan. The new land use categories are: High Density Dwellings, Business Park Uses and Institutional Uses. These new land use categories were determined to have sufficiently distinct and differing impacts on infrastructure needs in one or more infrastructure categories. The High Density Dwellings category will be used for residential land uses with densities greater than 25 units per acre. The Business Park uses category will be applied to commercial uses or multi-tenant/flex space buildings within the Business Park land use designation. The Institutional Uses category is established for non-residential buildings, such as, private schools, private meeting places, churches, and other institutional uses that frequently may be constructed within any land use designation. Previously, such facilities were either categorized as commercial uses or industrial uses, and issues periodically arose regarding whether such facilities were appropriately classified. The development of a separate category for institutional uses will hopefully prevent future issues arising over the proper application of the DIF on these types of facilities.

Modifications of New Model Colony and Old Model Colony Policies

Previously adopted resolutions have included various DIF related implementation policies which have served as the foundation for the development of the design and construction agreements with NMC Builders, LLC, and the development agreements with various individual developers in the New Model Colony. However, the evolution of those agreements, along with the recent adoption of the First Amended Construction Agreement between the City and NMC Builders, Inc. has resulted in the need to update and refine these policies so that they conform to the most recent agreements. Accordingly, accompanying the proposed DIF Program update are updated DIF and general infrastructure-related implementing policies (detailed in Exhibits B and C of the recommended resolution). These policies are largely intended to encourage developers to construct the Master Planned infrastructure to serve their respective developments in both the Old Model Colony and the New Model Colony, but especially in the New Model Colony where little public infrastructure currently exists. The updated policies are designed to define the common and consistent policies for implementing agreements between developers and the City for the construction of infrastructure and the administration of DIF Credits and Reimbursements. The updated policies for the New Model Colony are in conformance with the provisions of the First Amended Construction Agreement with NMC Builders, Inc. The updated policies for the Old Model Colony also reflect revisions that are consistent with recent agreements between the City and other developers.

In June 2012, the City presented the preliminary results of its comprehensive DIF update to representatives of the Building Industry Association (BIA) and NMC Builders, Inc. Over the following several months, City staff members and representatives of NMC Builders, Inc. met on numerous occasions to review DIF cost estimates, assumptions and methodologies; and NMC Builders provided the City with alternative project cost estimates and calculation methodologies. As a result of these meetings and the open exchange of ideas between the City and developers, modifications were made in several fee categories, including Sewer, Streets and Parks. NMC Builders, Inc. has expressed its gratitude for the process and its support for the fees as proposed, and the BIA has offered its appreciation for the collaborative dialogue, and indicated no additional comment on the revised fees. Letters from both agencies regarding the proposed update are on file with the Records Management Department, and both organizations have been provided with a copy of the proposed final DIF Report.

In addition to the notifications provided to the BIA and NMC Builders, Inc., since June 2012, a copy of the draft DIF Report has been available for public review at the Records Management Department, and the City's website has publicized the DIF update along with contact information for obtaining update documents.

Under State law, updated fee increases cannot become effective any sooner than 60 days after adoption by the legislative body. Accordingly, since some of the proposed updated fees represent increases, it is recommended that the updated fees become effective March 1, 2013.



Baldy View Chapter

Building Industry Association
of Southern California, Inc.

8711 Monroe Court, Suite B
Rancho Cucamonga,
California 91730
ph 909.945.1884
fx 909.948.9631
www.biabuild.com

November 27, 2012

Mr. Otto Kroutil
Development Agency Director
CITY OF ONTARIO

SUBJECT: CITY OF ONTARIO MASTER PLAND AND DEVELOPMENT IMPACT FEE PROGRAM

Dear Mr. Kroutil,

The BIA Baldy View Chapter would like to thank the City Council, Planning Commission, and City Staff for proactively working with our BIA membership, particularly those associated with New Model Colonies, on the infrastructure Master Plans and associated DIF fees over the past several months. We appreciate the collaborative dialogue and efforts to clarify the assumptions and cost estimates associated with the nexus methodology.

We have no further comment at this time on the proposed fees and recognize the city's ongoing commitment to keep the program costs updated in the future. Please contact me or my colleague John Heimann at 909-945-1884 if you have any questions on this matter.

Sincerely,

Carlos Rodriguez
Chief Executive Officer, BIA Baldy View Chapter

CC: Chris Hughes
Bob Chandler
Bob Heitzman

NMC Builders, LLC

c/o SC Ontario Development Company, LLC
1156 North Mountain Avenue • Upland, California 91785-0670
Phone 909.985.0971 • Fax 909.931.5516



November 14, 2012

Mr. Otto Kroutil
Development Agency Director
City of Ontario
303 East B Street
Ontario, CA 91764

Subject: City of Ontario Master Plan and Development Impact Fee Program

Dear Mr. Kroutil,

On behalf of NMC Builders, LLC, I would like to express our support for the City of Ontario's Master Plan and related Development Impact Fee (DIF) programs as proposed.


Over the last several months we have had the privilege to work with City staff and various City consultants to gain a better understanding of the master plan and DIF program.

We now have a thorough understanding of the programs and support programs and fees as proposed, as well as the City's commitment to keep the program costs updated.

Please contact me at (714)637-4405x107 should you have any questions or require anything further from NMC Builders on this matter.

NMC Builders, LLC
a California limited liability company

By: _____


Richard Cisakowski
Acting Executive

Cc: Chris Hughes
Bob Chandler
Bob Heitzman

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO,
CALIFORNIA, UPDATING AND MODIFYING DEVELOPMENT IMPACT
FEES.

WHEREAS, on July 1, 2003, the City Council of the City of Ontario (the "City Council") adopted Ordinance Nos. 2779 and 2780 to implement new and modified Development Impact Fees in recognition of the need to finance adequate infrastructure and other public improvements and facilities made necessary by new development in the City of Ontario ("City"); and

WHEREAS, the City Council previously adopted Resolution No. 2003-039 to establish policies for the implementation of the new and modified Development Impact Fees; Resolution No. 2003-070 to establish additional definitions and policies for the application of Development Impact Fees; and Resolution Nos. 2005-005, 2005-099, 2007-023 and 2007-150 and 2011-011 to update and modify Development Impact Fee amounts; and

WHEREAS, the City Council has previously approved an update to the General Plan, known as, "The Ontario Plan," and The Ontario Plan included changes to land uses and other modifications; and

WHEREAS, the City Council has previously approved an update to the General Plan, known as, "The Ontario Plan," and The Ontario Plan included changes to land uses and other modifications that required a full and comprehensive update of infrastructure Master Plans and the Development Impact Fee Program for the City of Ontario; and

WHEREAS, infrastructure Master Plans for the City of Ontario have been updated based on The Ontario Plan and are proposed for approval by the City Council; and

WHEREAS, City staff and Revenue and Costs Specialists LLC, have reviewed the Development Impact Fee program and the updated infrastructure Master Plans and Revenue and Costs Specialists LLC has produced an updated Development Impact Fees report, entitled "Development Impact Fee Calculation and Nexus Report for the City of Ontario, California", dated September 24, 2012, which includes recommendations and support for updated Development Impact Fee amounts; and

WHEREAS, the Development Impact Fee Calculation and Nexus Report, referenced above, complies with Government Code Section 66001 by establishing the basis for the imposition of fees, and the fee amounts for new development. In particular, the Development Impact Fee Calculation and Nexus Report:

1. Identifies the purpose of each development fee;
2. Identifies the use to which the fee will be put;

3. Shows a reasonable relationship between the fee's use and the type of development project upon which the fee is imposed;
4. Shows a reasonable relationship between the need for the public facility and the type of development project upon which the fee is imposed; and
5. Shows a reasonable relationship between the amount of the fee and the costs of the public facility or portion of the public facility that is attributed to the development upon which the fee is imposed.

WHEREAS, in accordance with Government Code Section 66000, et seq., a copy of the above referenced Development Impact Fee Calculation and Nexus Report has been made available for inspection by the public at Ontario City Hall for 10 days prior to the adoption of this Resolution; and

WHEREAS, the previously-adopted Ordinance No. 2779 stated that "The Fee Schedule may be amended from time to time by resolution of the City Council, in compliance with the Mitigation Fee Act, Government Code Section 66000, et seq."

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ONTARIO:

SECTION 1. The above recitals are true and correct.

SECTION 2. Previous Resolution No. 2003-039 and other previous resolutions, relating to the definitions for Land Use categories and other definitions for the City of Ontario Development Impact Fee Program, shall be repealed and replaced by the following:

"Detached Dwelling Unit" – shall mean any residential building containing one dwelling unit on one parcel of land, including a single family residence, single family residential condominium or detached townhome, and a manufactured unit on an individual lot.

"Attached Dwelling Unit" – shall mean apartments, townhomes condominiums or any other residential unit that is attached to any other residential unit; usually corresponding to an allowable land use designation of Low Medium Density Residential (LMDR) and Medium Density Residential (MDR) or Mixed Use (MU).

"High Density Residential" – shall mean any residential units with densities greater than 25 units per acre; usually corresponding to an allowable land use designation of High Density Residential (HDR) or Mixed Use (MU).

"Mobile Home" – (Old Model Colony only) shall mean additional spaces developed at an existing Mobile Home park or the spaces developed on an undeveloped parcel zoned for Mobile Home use where a structure designed for human habitation and for being moved on a street or highway will be located.

"Commercial Lodging" – shall mean a building with the primary use as either a hotel, motel or residence inn or a building containing six (6) or more rooms intended to be used for sleeping purposes by guests.

"Retail/Services Uses" – shall mean any building with a primary use of general retail sales and/or services; usually corresponding to uses in the Neighborhood Commercial (NC), General Commercial (GC), Office Commercial (OC) land use designations and, in some cases, the Hospitality (HOS) and Mixed Use designations.

"Commercial Restaurants" – (for the purpose of adjusting the Development Impact Fee for Solid Waste Collection) shall mean a building or portion of a building where the establishment is engaged in the cooking and preparation of food for on-site consumption; excluding establishments where food is prepared for take-out only (e.g. sandwich shops, coffee houses, ice cream stores, etc.).

"Office Uses" – shall mean a building with primarily office uses. This includes office uses, such as banks, other financial institutions, professional and medical offices; usually corresponding to uses in the General Commercial (GC), Office Commercial (OC), and Mixed Use (MU) land use designations.

"Business Park Uses" – shall mean primarily office or commercial uses or multi-tenant/flex space buildings within the Business Park land use designation.

"Industrial/Manufacturing Uses" – shall mean a building with the primary use of warehouse, manufacturing, storage, or distribution, including multi-tenant buildings designed for industrial uses within the Industrial land use designation.

"Institutional Uses" – shall mean buildings used as private schools, private meeting places, churches and other places of worship; occurring in any land use designation.

SECTION 3. The Development Impact Fee Amounts contained in "Exhibit A" of the previous Resolution are hereby updated and modified in accordance with "Exhibit A" of this Resolution. The provisions of this Resolution are supplemental to the provisions of previous Resolution Nos. 2003-039, 2003-070, 2005-005, 2005-099, 2007-023, 2007-150 and 2011-011. The "Exhibit A" of previous Resolution No. 2011-011 shall be repealed and replaced by "Exhibit A" of this Resolution.

SECTION 4. The attached "Exhibit B" incorporates revised and restated City of Ontario Development Impact Fee Policies for the New Model Colony. Said Exhibit B is hereby incorporated into this resolution and shall be effective as of the adoption of this Resolution. Previous New Model Colony Development Impact Fee Policies contained in "Exhibit B" of previous resolutions shall be repealed and replaced by "Exhibit B" of this Resolution.

SECTION 5. The attached "Exhibit C" incorporates revised and restated City of Ontario Development Impact Fee Policies for the Old Model Colony areas of the City. Said "Exhibit C" is hereby incorporated into this Resolution and shall be effective as of the adoption of this Resolution. Previous Old Model Colony Development Impact Fee Policies contained in "Exhibit C" of previous resolutions shall be repealed and replaced by "Exhibit C" of this Resolution.

SECTION 6. The attached "Exhibit A" provides for the separation of the Development Impact Fees for the Streets, Signals and Bridges, Storm Drain Facilities, Water Distribution, Sewer Collection and Fiber Optic Communications infrastructure categories into separate amounts for Regional and Local Adjacent infrastructure projects. Such Fee amounts are developed in accordance with, and for the uses described within, the City of Ontario Development Impact Fee Policies for the New Model Colony and Old Model Colony areas of the City, "Exhibit B" and "Exhibit C", respectively.

SECTION 7. This Resolution, including the updated fee amounts contained in "Exhibit A" attached hereto and incorporated herein, shall be effective for all building permits, and grading permits, when applicable, on March 1, 2013.

SECTION 8. The remaining provisions of Resolution No. 2003-039 and previous resolutions shall not be affected and shall remain in effect to the extent not inconsistent herewith.

PASSED, APPROVED, AND ADOPTED this 4th day of December 2012.

PAUL S. LEON, MAYOR

ATTEST:

MARY E. WIRTES, MMC, CITY CLERK

APPROVED AS TO FORM:

JOHN E. BROWN, CITY ATTORNEY

STATE OF CALIFORNIA)
COUNTY OF SAN BERNARDINO)
CITY OF ONTARIO)

I, MARY E. WIRTES, City Clerk of the City of Ontario, DO HEREBY CERTIFY that foregoing Resolution No. 2012- was duly passed and adopted by the City Council of the City of Ontario at their regular meeting held December 4, 2012 by the following roll call vote, to wit:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

MARY E. WIRTES, MMC, CITY CLERK

(SEAL)

The foregoing is the original of Resolution No. 2012- duly passed and adopted by the Ontario City Council at their regular meeting held December 4, 2012.

MARY E. WIRTES, MMC, CITY CLERK

(SEAL)

"EXHIBIT A"

City of Ontario
Development Impact Fee Schedule

**Old Model Colony – Maximum Law Enforcement
Development Impact Fees by Land Use**

Proposed Land Use	Impact Fee Per Unit or S.F.
Detached Dwellings	\$373/Unit
Attached Dwellings	\$334/Unit
High Density Dwellings	\$334/Unit
Mobile Home Dwellings	\$179/Unit
Commercial Lodging Units	\$138/Unit
Retail/Services Uses	\$.517/S.F.
Office Uses	\$.690/S.F.
Business Park Uses	\$.221/S.F.
Industrial Uses	\$.013/S.F.
Institutional Uses	\$.094/S.F.

**Old Model Colony – Maximum Fire Suppression Facilities,
Vehicles and Equipment Development Impact Fees by Land Use**

Proposed Land Use	Impact Fee Per Unit or S.F.
Detached Dwellings	\$258/Unit
Attached Dwellings	\$216/Unit
High Density Dwellings	\$216/Unit
Mobile Home Dwellings	\$226/Unit
Commercial Lodging Units	\$110/Unit
Retail/Services Uses	\$.227/S.F.
Office Uses	\$.922/Unit
Business Park Uses	\$.141/S.F.
Industrial Uses	\$.010/S.F.
Institutional Uses	\$.068/S.F.

**Old Model Colony – Maximum Regional Streets, Signals and Bridges
Development Impact Fees by Land Use**

Proposed Land Use	Impact Fee per Unit or S.F.
Detached Dwellings	\$1,689/Unit
Attached Dwellings	\$1,128/Unit
High Density Dwellings	\$698/Unit
Mobile Home Dwellings	\$879/Unit
Commercial Lodging Units	\$891/Unit
Retail/Services Uses	\$3.413/S.F.
Office Uses	\$1.951/S.F.
Business Park Uses	\$2.029/S.F.
Industrial Uses	\$1.046/S.F.
Institutional Uses	\$2.229/S.F.

"EXHIBIT A"

Old Model Colony – Maximum Local Adjacent Streets, Signals and Bridges Development Impact Fees by Land Use

Proposed Land Use	Impact Fee per Unit or S.F.
Detached Dwellings	\$724/Unit
Attached Dwellings	\$483/Unit
High Density Dwellings	\$299/Unit
Mobile Home Dwellings	\$377/Unit
Commercial Lodging Units	\$382/Unit
Retail/Services Uses	\$1.463/S.F.
Office Uses	\$.836/S.F.
Business Park Uses	\$.870/S.F.
Industrial Uses	\$.448/S.F.
Institutional Uses	\$.955/S.F.

Old Model Colony – Maximum Regional Storm Drainage Facilities Development Impact Fees by Land Use

Proposed Land Use	Fee Per Unit or S.F.	Fee Per Acre (NOTE)
Detached Dwellings	\$169/Unit	-
Attached Dwellings	\$54/Unit	-
High Density Dwellings	\$25/Unit	-
Mobile Home Dwellings	\$72/Unit	-
Commercial Lodging Units	\$10/Unit	-
Retail/Services Uses	\$.053/S.F.	\$1,054/Acre
Office Uses	\$.020/S.F.	\$1,054/Acre
Business Park Uses	\$.054/S.F.	\$1,025/Acre
Industrial Uses	\$.050/S.F.	\$1,113/Acre
Institutional Uses	\$.051/S.F.	\$1,113/Acre

NOTE: The fee will be based on the per acre amount when the square feet per acre is less than 19,974 for Retail/Service Uses; 53,712 for Office Uses; 18,888 for Business Park Uses; 22,349 for Industrial Uses; and 21,780 for Institutional Uses.

"EXHIBIT A"

**Old Model Colony – Maximum Local Adjacent Storm Drainage Facilities
Development Impact Fees by Land Use**

Proposed Land Use	Fee Per Unit or S.F.	Fee Per Acre (NOTE)
Detached Dwellings	\$3,215/Unit	-
Attached Dwellings	\$1,033/Unit	-
High Density Dwellings	\$480/Unit	-
Mobile Home Dwellings	\$1,368/Unit	-
Commercial Lodging Units	\$180/Unit	-
Retail/Services Uses	\$1.003/S.F.	\$20,030/Acre
Office Uses	\$.373/S.F.	\$20,030/Acre
Business Park Uses	\$1.031/S.F.	\$19,473/Acre
Industrial Uses	\$.946/S.F.	\$21,142/Acre
Institutional Uses	\$.971/S.F.	\$21,142/Acre

NOTE: The fee will be based on the per acre amount when the square feet per acre is less than 19,974 for Retail/Service Uses; 53,712 for Office Uses; 18,888 for Business Park Uses; 22,349 for Industrial Uses; and 21,780 for Institutional Uses.

**Old Model Colony – Maximum Regional Water Distribution
Development Impact Fees by Land Use**

Proposed Land Use	Impact Fee per Unit or S.F.
Detached Dwellings	\$3,990/Unit
Attached Dwellings	\$2,728/Unit
High Density Dwellings	\$1,841/Unit
Mobile Home Dwellings	\$2,728/Unit
Commercial Lodging Units	\$1,100/Unit
Retail/Services Uses	\$.202/S.F.
Office Uses	\$.426/S.F.
Business Park Uses	\$.793/S.F.
Industrial Uses	\$.294/S.F.
Institutional Uses	\$.741/S.F.

"EXHIBIT A"

Old Model Colony – Maximum Local Adjacent Water Distribution Development Impact Fees by Land Use

Proposed Land Use	Impact Fee per Unit or S.F.
Detached Dwellings	\$998/Unit
Attached Dwellings	\$682/Unit
High Density Dwellings	\$460/Unit
Mobile Home Dwellings	\$682/Unit
Commercial Lodging Units	\$275/Unit
Retail/Services Uses	\$.051/S.F.
Office Uses	\$.106/S.F.
Business Park Uses	\$.198/S.F.
Industrial Uses	\$.074/S.F.
Institutional Uses	\$.185/S.F.

Old Model Colony – Maximum Regional Sewer Collection Development Impact Fees by Land Use

Proposed Land Use	Impact Fee per Unit or S.F.
Detached Dwellings	\$423/Unit
Attached Dwellings	\$370/Unit
High Density Dwellings	\$318/Unit
Mobile Home Dwellings	\$371/Unit
Commercial Lodging Units	\$247/Unit
Retail/Services Uses	\$.020/S.F.
Office Uses	\$.090/S.F.
Business Park Uses	\$.104/S.F.
Industrial Uses	\$.057/S.F.
Institutional Uses	\$.120/S.F.

Old Model Colony - Maximum Local Adjacent Sewer Collection Development Impact Fees by Land Use

Proposed Land Use	Impact Fee per Unit or S.F.
Detached Dwellings	\$635/Unit
Attached Dwellings	\$556/Unit
High Density Dwellings	\$476/Unit
Mobile Home Dwellings	\$556/Unit
Commercial Lodging Units	\$370/Unit
Retail/Services Uses	\$.030/S.F.
Office Uses	\$.136/S.F.
Business Park Uses	\$.156/S.F.
Industrial Uses	\$.085/S.F.
Institutional Uses	\$.179/S.F.

"EXHIBIT A"

**Old Model Colony - Maximum Solid Waste Collection
Development Impact Fees by Land Use**

Proposed Land Use	Impact Fee per Unit or S.F.
Detached Dwellings	\$630/Unit
Attached Dwellings	\$434/Unit
High Density Dwellings	\$217/Unit
Mobile Home Dwellings	\$434/Unit
Commercial Lodging Units	\$145/Unit
Retail/Services Uses	\$.107/S.F.
Office Uses	\$.072/S.F.
Commercial/Restaurants	\$.495/S.F.
Business Park Uses	\$.188/S.F.
Industrial Uses	\$.085/S.F.
Institutional Uses	\$.150/S.F.

**Old Model Colony - Maximum General Facilities, Vehicles
and Equipment Development Impact Fees by Land Use**

Proposed Land Use	Impact Fee Per Unit or S.F.
Detached Dwellings	\$572/Unit
Attached Dwellings	\$119/Unit
High Density Dwellings	\$87/Unit
Mobile Home Dwellings	\$271/Unit
Commercial Lodging Units	\$81/Unit
Retail/Services Uses	\$.099/S.F.
Office Uses	\$.078/S.F.
Business Park Uses	\$.175/S.F.
Industrial Uses	\$.080/S.F.
Institutional Uses	\$.162/S.F.

**Old Model Colony - Maximum Library Facilities and Collection
Development Impact Fees by Land Use**

Proposed Residential Land Use	Impact Fee Per Unit
Detached Dwellings	\$1,045/Unit
Attached Dwellings	\$927/Unit
High Density Dwellings	\$733/Unit
Mobile Home Dwellings	\$872/Unit

"EXHIBIT A"

**Old Model Colony - Maximum Public Meeting
Facilities Development Impact Fees by Land Use**

Proposed Residential Land Use	Impact Fee Per Unit
Detached Dwellings	\$1,108/Unit
Attached Dwellings	\$982/Unit
High Density Dwellings	\$777/Unit
Mobile Home Dwellings	\$924/Unit

**Old Model Colony - Maximum Aquatics Facilities
Development Impact Fees by Land Use**

Proposed Residential Land Use	Impact Fee Per Unit
Detached Dwellings	\$77/Unit
Attached Dwellings	\$69/Unit
High Density Dwellings	\$55/Unit
Mobile Home Dwellings	\$65/Unit

**Old Model Colony - Maximum Park
Development Impact Fees by Land Use**

Residential Land Use	Impact Fee Per Unit
Detached Dwellings	\$7,039/Unit
Attached Dwellings	\$6,238/Unit
High Density Dwellings	\$4,936/Unit
Mobile Home Dwellings	\$5,871/Unit

"EXHIBIT A"

**New Model Colony - Law Enforcement
Development Impact Fees by Land Use**

Land Use	Impact Fee Per Unit or S.F.
Detached Dwellings	\$373/Unit
Attached Dwellings	\$334/Unit
High Density Dwellings	\$334/Unit
Commercial Lodging Units	\$138/Unit
Retail/Services Uses	\$.517/S.F.
Office Uses	\$.690/S.F.
Business Park Uses	\$.221/S.F.
Industrial Uses	\$.013/S.F.
Institutional Uses	\$.094/S.F.

**New Model Colony - Fire Suppression Facilities, Vehicles
and Equipment Development Impact Fees by Land Use**

Proposed Land Use	Impact Fee per Unit or S.F.
Detached Dwellings	\$541/Unit
Attached Dwellings	\$454/Unit
High Density Dwellings	\$454/Unit
Commercial Lodging Units	\$226/Unit
Retail/Services Uses	\$.476/S.F.
Office Uses	\$1.937/S.F.
Business Park Uses	\$.297/S.F.
Industrial Uses	\$.022/S.F.
Institutional Uses	\$.142/S.F.

**New Model Colony – Regional Streets, Signals and Bridges
Development Impact Fees by Land Use**

Proposed Land Use	Impact Fee per Unit or S.F.
Detached Dwellings	\$2,122/Unit
Attached Dwellings	\$1,417/Unit
High Density Dwellings	\$877/Unit
Commercial Lodging Units	\$1,119/Unit
Retail/Services Uses	\$4.287/S.F.
Office Uses	\$2.450/S.F.
Business Park Uses	\$2.549/S.F.
Industrial Uses	\$1.314/S.F.
Institutional Uses	\$2.800/S.F.

"EXHIBIT A"

New Model Colony – Local Adjacent Streets, Signals and Bridges Development Impact Fees by Land Use

Proposed Land Use	Impact Fee per Unit or S.F.
Detached Dwellings	\$1,736/Unit
Attached Dwellings	\$1,159/Unit
High Density Dwellings	\$717/Unit
Commercial Lodging Units	\$916/Unit
Retail/Services Uses	\$3.508/S.F.
Office Uses	\$2.005/S.F.
Business Park Uses	\$2.086/S.F.
Industrial Uses	\$1.075/S.F.
Institutional Uses	\$2.291/S.F.

New Model Colony – Regional Storm Drainage Impact Fees by Land Use

Proposed Land Use	Fee Per Unit or S.F.	Fee Per Acre (NOTE)
Detached Dwellings	\$2,032/Unit	-
Attached Dwellings	\$461/Unit	-
High Density Dwellings	\$376/Unit	-
Commercial Lodging Units	\$328/Unit	-
Retail/Services Uses	\$.827/S.F.	\$14,452/Acre
Office Uses	\$.434/S.F.	\$14,452/Acre
Business Park Uses	\$.699/S.F.	\$14,051/Acre
Industrial Uses	\$.553/S.F.	\$15,255/Acre
Institutional Uses	\$.700/S.F.	\$15,255/Acre

NOTE: The fee will be based on the per acre amount when the square feet per acre is less than 17,474 for Retail/Service Uses; 33,287 for Office Uses; 20,094 for Business Park Uses; 27,608 for Industrial Uses; and 21,780 for Institutional Uses.

New Model Colony – Local Adjacent Storm Drainage Impact Fees by Land Use

Proposed Land Use	Fee Per Unit or S.F.	Fee Per Acre (NOTE)
Detached Dwellings	\$3,775/Unit	-
Attached Dwellings	\$857/Unit	-
High Density Dwellings	\$699/Unit	-
Commercial Lodging Units	\$610/Unit	-
Retail/Services Uses	\$1.536/S.F.	\$26,840/Acre
Office Uses	\$.806/S.F.	\$26,840/Acre
Business Park Uses	\$1.299/S.F.	\$26,094/Acre
Industrial Uses	\$1.026/S.F.	\$28,331/Acre
Institutional Uses	\$1.301/S.F.	\$28,331/Acre

NOTE: The fee will be based on the per acre amount when the square feet per acre is less than 17,474 for Retail/Service Uses; 33,287 for Office Uses; 20,094 for Business Park Uses; 27,608 for Industrial Uses; and 21,780 for Institutional Uses.

"EXHIBIT A"

**New Model Colony – Regional Water Distribution
Development Impact Fees by Land Use**

Proposed Land Use	Impact Fee per Unit or S.F.
Detached Dwellings	\$5,333/Unit
Attached Dwellings	\$2,928/Unit
High Density Dwellings	\$1,553/Unit
Commercial Lodging Units	\$2,241/Unit
Retail/Services Uses	\$2.066/S.F.
Office Uses	\$1.114/S.F.
Business Park Uses	\$1.578/S.F.
Industrial Uses	\$1.297/S.F.
Institutional Uses	\$1.284/S.F.

**New Model Colony – Local Adjacent Water Distribution
Development Impact Fees by Land Use**

Proposed Land Use	Impact Fee per Unit or S.F.
Detached Dwellings	\$2,285/Unit
Attached Dwellings	\$1,255/Unit
High Density Dwellings	\$666/Unit
Commercial Lodging Units	\$960/Unit
Retail/Services Uses	\$.885/S.F.
Office Uses	\$.477/S.F.
Business Park Uses	\$.676/S.F.
Industrial Uses	\$.556/S.F.
Institutional Uses	\$.551/S.F.

**New Model Colony – Regional Sewer Collection
Development Impact Fees by Land Use**

Proposed Land Use	Impact Fee per Unit or S.F.
Detached Dwellings	\$281/Unit
Attached Dwellings	\$213/Unit
High Density Dwellings	\$129/Unit
Commercial Lodging Units	\$164/Unit
Retail/Services Uses	\$.060/S.F.
Office Uses	\$.106/S.F.
Business Park Uses	\$.070/S.F.
Industrial Uses	\$.068/S.F.
Institutional Uses	\$.082/S.F.

"EXHIBIT A"

**New Model Colony – Local Adjacent Sewer Collection
Development Impact Fees by Land Use**

Proposed Land Use	Impact Fee per Unit or S.F.
Detached Dwellings	\$422/Unit
Attached Dwellings	\$320/Unit
High Density Dwellings	\$193/Unit
Commercial Lodging Units	\$246/Unit
Retail/Services Uses	\$.091/S.F.
Office Uses	\$.158/S.F.
Business Park Uses	\$.105/S.F.
Industrial Uses	\$.102/S.F.
Institutional Uses	\$.122/S.F.

**New Model Colony - Solid Waste Collection
Development Impact Fees by Land Use**

Proposed Land Use	Impact Fee per Unit or S.F.
Detached Dwellings	\$630/Unit
Attached Dwellings	\$434/Unit
High Density Dwellings	\$217/Unit
Commercial Lodging Units	\$145/Unit
Retail/Services Uses	\$.107/S.F.
Office Uses	\$.072/S.F.
Commercial/Restaurants	\$.495/S.F.
Business Park Uses	\$.188/S.F.
Industrial Uses	\$.085/S.F.
Institutional Uses	\$.150/S.F.

**New Model Colony - General Facilities, Vehicles and Equipment
Development Impact Fees by Land Use**

Proposed Land Use	Impact Fee Per Unit or S.F.
Detached Dwellings	\$572/Unit
Attached Dwellings	\$119/Unit
High Density Dwellings	\$87/Unit
Commercial Lodging Units	\$81/Unit
Retail/Services Uses	\$.099/S.F.
Office Uses	\$.078/S.F.
Business Park Uses	\$.175/S.F.
Industrial Uses	\$.080/S.F.
Institutional Uses	\$.162/S.F.

"EXHIBIT A"

**New Model Colony - Library Facilities and Collection
Development Impact Fees by Land Use**

Residential Land Use	Impact Fee Per Unit
Detached Dwellings	\$1,045/Unit
Attached Dwellings	\$927/Unit
High Density Dwellings	\$733/Unit

**New Model Colony - Public Meeting Facilities
Development Impact Fees by Land Use**

Residential Land Use	Impact Fee Per Unit
Detached Dwellings	\$1,108/Unit
Attached Dwellings	\$982/Unit
High Density Dwellings	\$777/Unit

**New Model Colony - Aquatics Facilities
Development Impact Fees by Land Use**

Residential Land Use	Impact Fee Per Unit
Detached Dwellings	\$77/Unit
Attached Dwellings	\$69/Unit
High Density Dwellings	\$55/Unit

New Model Colony - Park Development Impact Fees by Land Use

Residential Land Use	Impact Fee Per Unit
Detached Dwellings	\$7,039/Unit
Attached Dwellings	\$6,238/Unit
High Density Dwellings	\$4,936/Unit

"EXHIBIT A"

**New Model Colony Only – Species, Habitat Conservation and Open Space
Mitigation**

**Development Impact Fees, per Acre
(TO BE PAID BY DEVELOPER AS A CONDITION OF
ISSUANCE OF GRADING PERMIT)**

Proposed Land Use	Mitigation Impact Fee per Acre
Detached Dwellings	\$4,320/Acre
Attached Dwellings	\$4,320/Acre
High Density Dwellings	\$4,320/Acre
Commercial Lodging Units	\$4,320/Acre
Retail/Services Uses	\$4,320/Acre
Office Uses	\$4,320/Acre
Business Park Uses	\$4,320/Acre
Industrial Uses	\$4,320/Acre
Institutional Uses	\$4,320/Acre

**New Model Colony Only – Regional Fiber Optic Communication System
Development Impact Fees**

Proposed Land Use	Impact Fee per Unit or S.F.
Detached Dwellings	\$199/Unit
Attached Dwellings	\$199/Unit
High Density Dwellings	\$199/Unit
Commercial Lodging Units	\$20/Unit
Retail/Services Uses	\$.016/S.F.
Office Uses	\$.026/S.F.
Business Park Uses	\$.012/S.F.
Industrial Uses	\$.008/S.F.
Institutional Uses	\$.027/S.F.

**New Model Colony Only – Local Adjacent Fiber Optic Communication System
Development Impact Fees**

Proposed Land Use	Impact Fee per Unit or S.F.
Detached Dwellings	\$464/Unit
Attached Dwellings	\$464/Unit
High Density Dwellings	\$464/Unit
Commercial Lodging Units	\$46/Unit
Retail/Services Uses	\$.037/S.F.
Office Uses	\$.062/S.F.
Business Park Uses	\$.029/S.F.
Industrial Uses	\$.019/S.F.
Institutional Uses	\$.064/S.F.

"EXHIBIT B"

City of Ontario

New Model Colony Development Impact Fee Policies

Infrastructure Requirements not Included in the Development Impact Fee Program

The Fee Study and the resulting Development Impact Fee amounts do not include the costs of construction for standard public infrastructure that are considered to be project specific. This would include residential (in-tract) streets, curbs and sidewalks, sewer and water mains, telecommunications systems and most other utility-related infrastructure. This also includes the curb-adjacent lane, and the curbs and sidewalks on major streets. Developers will be conditioned to construct these improvements and dedicate these improvements to the City and/or other appropriate utility upon completion. These dedications will include the necessary rights-of-way and easements. No DIF Credit will be available for the costs associated with the construction of these improvements or property dedications.

In addition, the Fee Study and the resulting Development Impact Fee amounts do not include the costs for acquisition or construction of parks that are project specific or for landscaping or other improvements that may be required on any utility easements, including Southern California Edison property and/or those adjacent to flood control facilities. This includes: all parkway and perimeter landscaping; trails improvements; and parks of less than five (5) acres in size and all related improvements.

Construction of Major Regional Infrastructure Improvements and Construction of Local Adjacent Infrastructure Improvements

Projects in the Master Facilities Plan in certain infrastructure categories have been separated into two types: 1) Infrastructure Projects that serve a local area, and 2) Infrastructure Projects that serve a larger regional area. Projects of the first type are designated as "Local Adjacent" Projects and Projects of the second type are designated as "Regional Projects." The following infrastructure categories have designated local adjacent projects and regional projects:

Circulation Facilities (Streets, Bridges and Signals)
Storm Drainage Facilities
Water Distribution Facilities
Sewer Collection Facilities
Fiber Communications Facilities

Separate and distinct Regional and Local Adjacent DIF amounts have been established based on the estimated project costs for the Regional infrastructure projects and the Local Adjacent infrastructure projects in these infrastructure categories. The amounts have been determined using the following allocation percentages:

"EXHIBIT B"

DIF Infrastructure Category	Regional Percentage	Local Adjacent Percentage
Circulation Facilities (Streets, Bridges and Signals)	55%	45%
Storm Drainage Facilities	35%	65%
Water Distribution Facilities	70%	30%
Sewer Collection Facilities	40%	60%
Fiber Communications Facilities	30%	70%

DIF Credit or DIF Reimbursement issued to Developers in these DIF infrastructure categories will be designated as either Regional DIF Credit or Local Adjacent DIF Credit, or Regional Reimbursement or Local Adjacent DIF Reimbursement. In these infrastructure categories, it is likely that individual Developers will be required to construct DIF infrastructure projects that are designated as Local Adjacent.

The Master Facilities Plan for Circulation Facilities (Streets, Bridges and Signals) includes several major infrastructure projects that are required based upon the impacts of new development on the regional transportation system. Such regional transportation infrastructure improvements include freeway interchange improvements and other projects included in the SanBAG regional transportation plan.

Construction In-Lieu of Payment of Development Impact Fees

Developers are encouraged to construct the infrastructure projects identified in the various Master Plans and the Master Facilities Plan that will serve their projects. In accordance with the provisions of Ordinance No. 2807, agreements between the City and the Developer will be required for the financing of, and the construction of public infrastructure prior to obtaining an allocation of the water made available by the construction of water infrastructure for the New Model Colony area. Such agreements will provide for the timely construction of the public infrastructure through either direct payments to the City for the design and construction of identified improvements or by the design and construction of public infrastructure by the Developer for acceptance by the City. In recognition of payments made to the City for the design and construction of public infrastructure and/or the design and construction of public infrastructure by the Developer, the City will issue DIF credit or DIF reimbursement (Reimbursements are provided from DIF paid in the future by other developers) to the Developer for the eligible costs to construct Master-planned public infrastructure.

The construction of DIF Projects by Developers will be subject to prevailing wage requirements. Additional requirements of the Public Contracts Code regarding bidding and contracting procedures are also applicable to the construction of DIF Projects.

A Developer will only be eligible to receive DIF Credit or DIF Reimbursement after the completion of construction and acceptance of all or a portion of a DIF Project. The amount of the DIF Credit and/or DIF Reimbursement will be based upon the verified eligible costs of the DIF Project or portion of the DIF Project. Issued DIF Credits and/or DIF Reimbursements shall specify the DIF Credit infrastructure category and whether the DIF Credit and/or DIF Reimbursement is for construction of a Regional or Local Adjacent DIF Project.

"EXHIBIT B"

The maximum amount of DIF Credit to be issued by City will be limited to the amount of the DIF Program Costs for the improvement (for the completed portion of the DIF Project). The DIF Program Costs identified in the City's DIF Program shall be subject to change, from time to time, as part of the continuing update of the City's DIF Program. The DIF Program Costs for an improvement (or completed portion of the improvement) shall be those in effect at the time the improvement is completed and accepted by the City.

The total amount of DIF Credit to be issued to a Developer for completion of construction of all DIF Projects within the Regional or Local Adjacent portion of a DIF Infrastructure Category shall be limited to the Developer's total respective Regional or Local Adjacent DIF obligation within that DIF Infrastructure Category. A Developer shall only be eligible to receive DIF Reimbursement when the total DIF Program costs for all DIF Projects completed by the Developer within the Regional or Local Adjacent DIF category exceed the Developer's total DIF Obligation for the Regional or Local Adjacent portion of the respective DIF category. If any amount of DIF Reimbursement is issued, the amount and nature of the DIF Reimbursement shall be subject to a DIF Reimbursement agreement between the City and the Developer. Any DIF Reimbursement amount paid to a Developer will be paid solely from the DIF Fees collected by the City and designated for the cost of construction of Master-planned DIF Projects, and the City shall not be obligated to pay the reimbursement amount except from DIF amounts collected and held by the City.

The eligible costs identified in the DIF Program generally do not include the acquisition costs for street rights-of-way or adjacent utility easements. DIF Credit or DIF Reimbursement will not be provided for the costs of dedicating property or obtaining property for rights-of-way or adjacent utility easements. Additionally, the costs for Projects in the Streets, Signals and Bridges category do not include the costs for construction for the "first" traffic lane (considered adjacent to the development). DIF Credit or DIF Reimbursement will not be available for the costs of this construction.

Eligible costs typically include: the costs for the construction (including grading); costs directly related to the construction, such as costs of payment, performance and/or maintenance bonds; the professional costs of material testing; the costs incurred in preparing bid documents; related costs of geotechnical and environmental evaluations; fees paid to governmental agencies to obtain permits or other governmental approvals; project management, administration and supervision; and professional costs, such as engineering, accounting, inspection, construction staking, and similar professional services. Eligible costs for professional services and/ or construction management services will generally be limited to 15% of the construction amount in the DIF Program.

DIF Credit and/or Reimbursement for Parkland Dedication and Park Development

Developers will be required to dedicate land for parks and recreation facilities and to construct park improvements. DIF Credit for the dedication for, and/or construction of Park facilities will not be available for parkland dedications and park construction for local parks that are less than five (5) net acres. During the development application process, the Developer will submit plans for the park locations and type of park

"EXHIBIT B"

improvements to be constructed. The City will review the submitted plans and the results of this review will determine if the Developer will be eligible for DIF credit for the parkland dedications and park construction.

The location of a large Great Park has been designated in The Ontario Plan (General Plan) for the New Model Colony. It is a priority of the City to pursue the acquisition of land and the development of the Great Park in the New Model Colony. The specific locations for other park facility needs identified in the General Plan, such as, neighborhood parks, community parks, and sports parks have not been determined. DIF Credit for the dedication of land and/or construction in-lieu of Park Development Impact Fees may be provided when a Developer dedicates and/or constructs a portion of the Great Park or other larger regional park facilities.

Pursuant to the GPA Goal 12.0, Objective 12.1, Policy 12.1.3 (requiring each specific plan to define a park acquisition and improvement financing plan to ensure the achievement of a park standard of 5 acres of parkland per 1,000 residents) developers in the New Model Colony will be required to provide improved parks, developed in accordance with the City's park standards in an amount equal to two (2) acres per 1,000 of projected population without DIF credit, DIF reimbursement, or other consideration from the City. A portion of this requirement (up to 50%) may be satisfied through the development of non-public recreation facilities such as private recreational clubhouses or pool facilities. If a Developer does not provide dedicated and developed park acreage equal to two (2) acres per 1,000 projected population then the Developer will pay a fee in-lieu equal to the per acre estimated costs of acquisition and development of parkland in the City's DIF Program. Such in-lieu fee will be calculated based upon the amount of shortfall in acreage and will be due at the time that the first building permit issued for the development.

Parkland dedications and construction that exceeds the two (2) acres per thousand, and developed in accordance with the City's park standards and open to the public generally, will be credited toward the Developer's DIF obligations under the DIF Program.

If the Developer's project includes the dedication of land and/or construction of Park facilities, the specific acreage eligible for DIF credit will be determined based upon the provisions of a Development Agreement between the City and the Developer.

Development Impact Fee Construction In-Lieu Agreements

Ordinance No. 2807 specifies that Agreements between the Developer and the City will be required for the timely design and construction of public infrastructure prior to the issuance of building permits within the New Model Colony. The terms of such Agreements will be in a separate agreement using a standardized form prepared by the City and/or will be incorporated into a Development Agreement between the City and the Developer. The terms will specify the Project(s), or defined portions of the Project(s) to be constructed by the Developer in each Fee category and an estimate of the maximum DIF Credit and/or DIF Reimbursement that may be applied to Local Adjacent or Regional Development Impact Fee for each DIF category.

"EXHIBIT B"

Subject to the provisions and limitations of such Agreements, when a Developer completes, and the City accepts, the construction of all or a defined portion of a Local Adjacent or Regional project identified in the Master Facilities Plan, the City will provide either Local Adjacent or Regional DIF Credit, respectively, that the Developer may utilize to satisfy the payment of the Developer's Local Adjacent or Regional DIF obligations.

Reimbursements for Construction of Improvements that Exceed Developer's DIF Infrastructure Obligations

When the terms of a Development Agreement or other agreement between the City and a Developer require the Developer to construct a Local Adjacent or Regional Project or a defined portion of a Local or Regional DIF Project, and the eligible construction costs exceed the Developer's Local Adjacent or Regional DIF obligation in the respective DIF Category, a Reimbursement Agreement will be executed between the City and the Developer.

The terms of a Reimbursement Agreement will include reimbursements from DIF for the eligible costs of the DIF Project(s) that exceeded the Developer's DIF obligation for a specific category of Local Adjacent or Regional DIF Projects. The eligible costs to be included in a Reimbursement Agreement will be limited to the total DIF Program costs of the DIF Project(s) or defined portions of DIF Project(s) constructed by the Developer.

Reimbursements will be from the payment of DIF by other developers in the New Model Colony area that benefit from the Developer's constructed Local Adjacent or Regional DIF Projects and only from the DIF collected within the Regional or Local Adjacent portion of the category for which the DIF Reimbursement was issued. No DIF Reimbursement shall be available from DIF payments from development that does not benefit from the Developer's constructed Local Adjacent or Regional DIF Program Projects, or from DIF payments received for other DIF Program categories.

To determine if DIF payments have been received that may be used to reimburse a Developer, the City will conduct an annual review. The City will perform a review of the amount of DIF that has been received for the applicable Regional or Local Adjacent portion of the DIF category. The City's review will determine if DIF has been received from other developments that are also served by the DIF Projects for which the DIF Reimbursement was issued. No interest will be credited on any outstanding DIF Reimbursement amounts. A Developer will be entitled to receive DIF reimbursement for a period not to exceed ten (10) years from the date of completion of all of the Projects covered by the terms of a Reimbursement Agreement. No further reimbursement amounts will be paid after the end of the term of the Reimbursement Agreement.

When it is determined by the City that funds are available for reimbursement, the priority for reimbursement shall be based upon the date of completion of the DIF Project(s) for which Developer was issued DIF Reimbursement. The DIF Project(s) for which DIF Reimbursement was issued first will be reimbursed first.

"EXHIBIT B"

A Reimbursement Agreement will specify the amount that is subject to reimbursement from the City to the Developer for each Local Adjacent or Regional Project, group of projects, or defined portions of projects, constructed by the Developer.

Alternative Method for the Determination of Storm Drain Facilities Fee Amount

The Development Impact Fee amounts in the Storm Drain Facilities category are initially calculated based on the size of the development site in acres. The per acre fee amount in each land use category is also converted to another measure of the quantity of development. For the residential development categories and the Commercial Lodging category, the per acre fee amount is converted to a fee amount for each residential (or lodging) unit. For the Retail/Service, Office, Business Park, Industrial and Institutional land use categories, the per acre fee amount is converted to a fee for each square foot. These conversions are based upon the average number of units (for residential and Commercial Lodging) or the average number of square feet per acre (for Retail/Service, Office, Business Park, Industrial and Institutional).

The average number of units, or square feet, used in the conversion is consistent with The Ontario Plan. In the Retail/Service, Office, Business Park, Industrial and Institutional land use development categories, there is a potential that some developments will have building square footages that are significantly lower than the average number of square feet used to calculate the conversion. There is much less potential for such variances in the residential use categories. For the Retail/Service, Office, Business Park, Industrial and Institutional land uses, with building footprints significantly above or below the average, the per acre fee amount must be used to calculate the fee amount to more accurately reflect the actual impact of the development on the Storm Drain infrastructure.

For example, the Retail/Service Uses category uses an average of 17,474 square feet per acre. A gas station use, however, would generally have a small building footprint (likely less than 4,000 square feet per acre), and yet would generate significant storm drain run-off impacts.

The averages used in the conversion by use Category for the New Model Colony are as follows:

Retail/Service Uses	17,474 Square Feet per Acre
Office Uses	33,287 Square Feet per Acre
Business Park Uses	20,094 Square Feet per Acre
Industrial Uses	27,608 Square Feet per Acre
Institutional Uses	21,780 Square Feet per Acre

In these land use development categories, the Storm Drainage Facilities fee amount will be based upon the per acre fee amounts if the square feet per acre of the proposed development is less than the above averages.

"EXHIBIT B"

Timing of Payment of Development Impact Fees

All Development Impact Fees will be due at the time that building permits are issued. The exception is the fee for the New Model Colony – Species, Habitat Conservation, and Open Space Mitigation. This fee will be paid at the time a grading permit is issued. Development Impact Fees may not be paid in advance.

Development Agreements

New Model Colony developers are strongly encouraged to obtain a Development Agreement, which will include provisions to address specific issues related to the payment of fees and the construction of public facility infrastructure needed for their specific projects. The City has adopted procedures for the consideration of Development Agreements. The application for a Development Agreement will be accompanied by a document setting forth the business terms proposed by the applicant.

Development Agreements will address specific conditions relating to: the phasing and timing of construction; payment of Development Impact fees; payment of other fees or the construction of other public improvements to increase the public benefit of the development; formation of one or more Homeowner's Associations to provide continuing maintenance of development amenities, and requirements for the provision of, or payment of fees for, affordable housing.

Development Agreements may include a wide variety of other negotiated provisions. Development Agreements are subject to Planning Commission review and City Council approval. Development within the New Model Colony that is not covered by a Development Agreement will be conditioned to provide affordable housing.

Funding of City Services for New Model Colony Development

Due to the comparatively high level of residential development in the New Model Colony area, and the lower general tax revenues that are associated with residential development, the City will experience an operational shortfall of funding for ongoing City services. To address this, the City will form a Community Services District (CFD) to levy a CFD tax rate sufficient for the support of the City's Operations and Maintenance (O&M) responsibilities in the New Model Colony area.

Since there is an expected timing gap between the receipt of sufficient revenue from the formation of the Operation and Maintenance CFD and the City's projected expenditures for essential City services, a "Public Services Funding Fee" will be required from developers in the New Model Colony. Such fee will be calculated based upon the estimated revenue/expenditure gap and applied per residential dwelling unit. The Public Services Funding Fee may be paid in installments during the period of time from entitlement approvals until issuance of building permits.

It is also expected that development in the New Model Colony area will require the formation of Homeowners' Associations (HOA's). Such HOA's will be responsible for the ongoing maintenance of certain improvements that primarily benefit the local area, but

"EXHIBIT B"

may be available and used by the public. Such maintenance responsibilities may include: 1) graffiti removal; 2) sidewalk maintenance; 3) landscaping maintenance of parkways, paseos; maintenance of street trees; 4) lake maintenance; 5) maintenance of small park areas; and 6) maintenance of utility easements.

Financing of Infrastructure through Community Facilities Districts (CFD's)

The City may cooperate with developers in the New Model Colony in the formation of a CFD, or CFDs, to provide a financing mechanism for the costs of public infrastructure pursuant to a Construction Agreement or Development Agreement. The City will be the sole and exclusive lead agency in the formation of any CFD, assessment district or other public financing mechanism within the New Model Colony. The formation of any CFD, assessment district or other public financing mechanism within the New Model Colony shall be subject to the City's ability to make all findings required by applicable law and complying with all applicable legal procedures and requirements including, the City's "Local Goals and Policies" for Community Facilities Districts as amended on June 6, 2006, and as may be amended in the future. Nothing contained in these policies should be construed as requiring the City to form any such district or to issue and sell bonds.

Schools Obligations

Developers in the New Model Colony will be required to satisfy their new school obligations by a combination of the following, as agreed upon by Developer and the applicable school district: (1) designating and dedicating school sites; (2) paying school impact fees; and/or (3) entering into a mitigation agreement with the applicable school district. If a Developer fails or refuses to satisfy its new school obligations, the City may use any and all remedies available to it, including, without limitation, the right of the City to withhold building permits, certificates of occupancy, or discretionary approvals.

Separation of Development Impact Fee Revenues

Development Impact Fees that are received will be separated from other City revenues. Separate accounts will be established for each Fee Category. Interest earnings, if any, will be allocated to each account. On an annual basis, in conjunction with the preparation of the City's Comprehensive Annual Financial Report (CAFR), a review will be conducted of the Fee amounts that have been received for each Fee Category.

All construction related costs incurred by the City for the construction of the Projects identified in the Master Facilities Plan will be expended from the appropriate Fee Category account. To facilitate the construction of Projects identified in the Master Facilities Plan, fees may be borrowed between fee accounts. Any borrowed funds shall be repaid to the appropriate account as fees are received.

"EXHIBIT B"

Review of Fee Study Assumptions and Fee Amounts

On a periodic basis, no longer than every two years, a review will be conducted of the estimated costs of the Projects identified in the Master Facilities Plan. If necessary, Development Impact Fees will be modified to reflect changes due to changes to the projected costs of the Projects in the Master Facilities Plan, or changes due to the addition or deletion of projects from the Master Facilities Plan. Changes in Project costs will be based on: 1) actual construction costs; or 2) changes in projected costs based on recent experience; or 3) changes in projected costs based on changes in the relevant Cost Indexes for the Southern California area.

Optional Temporary Deferral of Other Development Impact Fees

For an interim time period, as defined by resolution of the City Council, and to respond to economic conditions that have negatively impacted the availability and cost of capital for the residential building industry, the City's Development Impact Fee program will provide an option for the deferral of certain DIF fees for qualifying residential and non-residential projects. During the time period that the DIF fee deferral policy is applicable, a Developer may elect to defer the payment of DIF fees (except the Species, Habitat Conservation, and Open Space Mitigation fee) on a phase of construction until final inspection is requested or a maximum period of 12 months has elapsed. In order to qualify for this DIF fee deferral program, a Developer must pay a non-refundable processing fee of \$5,500, and enter into a standardized agreement with the City acknowledging that the fees are being deferred until the Developer requests a final inspection or a maximum of 12 calendar months has passed. If a Developer requests to defer Development Impact fees for a phase of development that exceeds 35 units, the City may require that the developer provide an acceptable form of security for the deferred fees amount.

"EXHIBIT C"

City of Ontario

Old Model Colony Development Impact Fee Policies

For Projects in the Existing City

Infrastructure Requirements not Included in the Development Impact Fee Program

The Fee Study and the resulting Development Impact Fee amounts do not include the costs of construction for standard public infrastructure that are considered to be project specific. This would include residential (in-tract) streets, curbs and sidewalks, sewer and water mains, telecommunications systems and most other utility-related infrastructure. This also includes the curb-adjacent lane, and the curbs and sidewalks on major streets. Developers will be conditioned to construct these improvements and dedicate these improvements to the City and/or other appropriate utility upon completion. These dedications will include the necessary rights-of-way and easements. No DIF Credit will be available for the costs associated with the construction of these improvements or property dedications.

In addition, the Fee Study and the resulting Development Impact Fee amounts do not include the costs for acquisition or construction of some parks that are project specific or for landscaping or other improvements that may be required on any utility easements, including Southern California Edison property and/or those adjacent to flood control facilities. This includes: all parkway and perimeter landscaping; trails improvements; and all related improvements. Developers may be conditioned to construct these improvements.

Construction of Major Regional Infrastructure Improvements and Construction of Local Adjacent Infrastructure Improvements

Projects in the Master Facilities Plan in certain infrastructure categories have been separated into two types: 1) Infrastructure Projects that serve a local area, and 2) Infrastructure Projects that serve a larger regional area. Projects of the first type are designated as "Local Adjacent" Projects and Projects of the second type are designated as "Regional Projects." The following infrastructure categories have designated local adjacent projects and regional projects.

- Circulation Facilities (Streets, Bridges and Signals)
- Storm Drainage Facilities
- Water Distribution Facilities
- Sewer Collection Facilities

Separate and distinct Regional and Local Adjacent DIF amounts have been established based on the estimated project costs for the Regional infrastructure projects and the Local Adjacent infrastructure projects in these infrastructure categories. The amounts have been determined using the following allocation percentages:

"EXHIBIT C"

DIF Infrastructure Category	Regional Percentage	Local Adjacent Percentage
Circulation Facilities (Streets, Bridges and Signals)	70%	30%
Storm Drainage Facilities	5%	95%
Water Distribution Facilities	80%	20%
Sewer Collection Facilities	40%	60%

DIF Credit or DIF Reimbursement issued to Developers in these DIF infrastructure categories will be designated as either Regional DIF Credit or Local Adjacent DIF Credit or Regional or Local Adjacent DIF Reimbursement. Developers are much more likely to be required to construct DIF infrastructure projects that are designated as Local Adjacent.

In order to accumulate DIF funding for the construction of regional facilities, no reimbursements will be made to Developers from the DIF paid by other developers for the respective portion of the DIF reserved for regional projects.

The Master Facilities Plan for Circulation Facilities (Streets, Bridges and Signals) includes several major infrastructure projects that are required based upon the impacts of new development on the regional transportation system. Such regional transportation infrastructure improvements include freeway interchange improvements and other projects included in the SanBAG regional transportation plan.

Construction In-Lieu of Payment of Development Impact Fees

In-lieu of paying Development Impact Fees (DIF), Developers are encouraged to construct the infrastructure projects that will serve their projects as identified in the various City Master Plans and the Master Facilities Plan. Construction and dedication of an identified public facility infrastructure to the City may result in issuance by the City of a credit (DIF Credit) towards the payment of DIF for the category of infrastructure constructed or dedicated, or a future reimbursement to the Developer from DIF paid by others. The amount of DIF Credit or DIF Reimbursement that may be issued will be limited to the estimated costs of design and construction identified in the Master Facilities Plan. These estimated costs are termed "DIF Program Costs."

DIF Projects will be subject to prevailing wage requirements. Other additional requirements of the Public Contracts Code regarding bidding and contracting procedures are also applicable to the construction of DIF Projects.

A Developer will only be eligible to receive DIF Credit or DIF Reimbursement after the completion of construction and acceptance of all or a portion of a DIF Project. The amount of the DIF Credit and/or DIF Reimbursement will be based upon the verified eligible costs of the DIF Project or portion of the DIF Project. Issued DIF Credits and/or DIF Reimbursements shall specify the DIF Credit infrastructure category and whether the DIF Credit and/or DIF Reimbursement is for construction of a Regional or Local Adjacent DIF Project.

"EXHIBIT C"

The maximum amount of DIF Credit to be issued by City will be limited to the amount of the DIF Program Costs for the improvement (or the completed portion of the DIF Project). The DIF Program Costs identified in the City's DIF Program shall be subject to change, from time to time, as part of the continuing update of the City's DIF Program. The DIF Program Costs for an improvement (or completed portion of an improvement) shall be those in effect at the time the improvement is completed and accepted by the City.

The total amount of DIF Credit to be issued to a Developer for completion of construction of all DIF Projects within the Regional or Local Adjacent portion of a DIF Infrastructure Category shall be limited to the Developer's total respective Regional or Local Adjacent DIF obligation within that DIF Infrastructure Category. A Developer shall only be eligible to receive DIF Reimbursement when the total DIF Program costs for all DIF Projects completed by the Developer within the Regional or Local Adjacent DIF category exceed the Developer's total DIF Obligation for the Regional or Local Adjacent portion of the respective DIF category. If any amount of DIF Reimbursement is issued, the amount and nature of the DIF Reimbursement shall be subject to a DIF Reimbursement agreement between the City and the Developer. Any DIF Reimbursement amount paid to a Developer will be paid solely from the DIF Fees collected by the City and designated for the cost of construction of Master-planned DIF Projects, and the City shall not be obligated to pay the reimbursement amount except from DIF amounts collected and held by the City.

The eligible costs identified in the DIF Program generally do not include the acquisition costs for street rights-of-way or adjacent utility easements. DIF Credit or DIF Reimbursement will not be provided for the costs of dedicating property or obtaining property for rights-of-way or adjacent utility easements. Additionally, the costs for Projects in the Streets, Signals and Bridges category do not include the costs for construction for the "first" traffic lane (considered adjacent to the development). DIF Credit or DIF Reimbursement will not be available for the costs of this construction.

Eligible costs include: the costs for the construction (including grading); costs directly related to the construction, such as costs of payment, performance and/or maintenance bonds; the professional costs of material testing; the costs incurred in preparing bid documents; related costs of geotechnical and environmental evaluations; fees paid to governmental agencies to obtain permits or other governmental approvals; project management, administration and supervision; and professional costs, such as engineering, accounting, inspection, construction staking, and similar professional services. Eligible costs for professional services and/ or construction management services will generally be limited to 15% of the construction amount in the DIF Program.

Construction In-Lieu of the Payment of Park Development Impact Fees

Developers are encouraged to dedicate land for parks and recreation facilities and construct park improvements in-lieu of the payment of Park Development Impact Fees. DIF Credit for the dedication for, and/or construction of Park facilities will not exceed the total amount of the Park Development Fees. The maximum amount of DIF Credit to be provided for dedication of land and/or construction of Park facilities will be determined

"EXHIBIT C"

on a case-by-case basis. A development project that will include a public park or other public open space may be eligible for DIF Credit for the fair market value of the property and the construction costs of the improvements. The project entitlement application should identify the specific location of the land to be dedicated for Park use and the type of improvements to be constructed. The City will conduct a review with the Developer regarding the suitability of the proposed location for park development and the types of Park facilities that may be constructed at the proposed location. The results of this review will determine if the Developer will be able to receive any DIF Credit that may be applied to the Park Development Impact Fee obligation.

Development Impact Fee Construction In-Lieu Agreements

Construction in-lieu of the payment of Development Impact Fees (and/or the dedication of land for Parks) will require that the Developer and the City enter into a Development Agreement and/or an "Agreement for Construction of Development Impact Fee Program Infrastructure." The terms of such Agreements will be in a separate agreement using a standardized form prepared by the City and/or will be incorporated into a Development Agreement between the City and the Developer. The terms will specify the Project(s), or defined portions of the Project(s) to be constructed by the Developer in each Fee category and an estimate of the maximum DIF Credit and/or DIF Reimbursement that may be applied to Local Adjacent or Regional Development Impact Fee for each DIF category.

Subject to the provisions and limitations of such Agreements, when a Developer completes, and the City accepts, the construction of all or a defined portion of a Local Adjacent or Regional project identified in the Master Facilities Plan, the City will provide either Local Adjacent or Regional DIF Credit, respectively, that the Developer may utilize to satisfy the payment of the Developer's Local Adjacent or Regional DIF obligations.

Agreements must be completed and executed prior to the recordation of the subdivision map or prior to issuance of any construction permit for non-subdivision projects.

Reimbursements for Construction of Improvements that Exceed Developer's DIF Infrastructure Obligations

When the terms of a Development Agreement or other agreement between the City and a Developer require the Developer to construct a Local Adjacent or Regional Project or a defined portion of a Local or Regional DIF Project, and the eligible construction costs exceed the Developer's Local Adjacent or Regional DIF obligation in the respective DIF Category, a Reimbursement Agreement will be executed between the City and the Developer.

The terms of a Reimbursement Agreement will include reimbursements from DIF for the eligible costs of the DIF Project(s) that exceeded the Developer's DIF obligation for a specific category of Local Adjacent or Regional DIF Projects. The eligible costs to be included in a Reimbursement Agreement will be limited to the total DIF Program costs of the DIF Project(s) or defined portions of DIF Project(s) constructed by the Developer.

"EXHIBIT C"

Reimbursements will be from the payment of DIF by other developers that benefit from the Developer's constructed Local Adjacent or Regional DIF Projects and only from the DIF collected within the Regional or Local Adjacent portion of the category for which the DIF Reimbursement was issued. No DIF Reimbursement shall be available from DIF payments from development that does not benefit from the Developer's constructed Local Adjacent or Regional DIF Program Projects, or from DIF payments received for other DIF Program categories.

To determine if DIF payments have been received that may be used to reimburse a Developer, the City will conduct an annual review. The City will perform a review of the amount of DIF that has been received for the applicable Regional or Local Adjacent portion of the DIF category. The City's review will determine if DIF has been received from other developments that are also served by the DIF Projects for which the DIF Reimbursement was issued. No interest will be credited on any outstanding DIF Reimbursement amounts. A Developer will be entitled to receive DIF reimbursement for a period not to exceed ten (10) years from the date of completion of all of the Projects covered by the terms of a Reimbursement Agreement. No further reimbursement amounts will be paid after the end of the term of the Reimbursement Agreement.

When it is determined by the City that funds are available for reimbursement, the priority for reimbursement shall be based upon the date of completion of the DIF Project(s) for which Developer was issued DIF Reimbursement. The DIF Project(s) for which DIF Reimbursement was issued first will be reimbursed first.

A Reimbursement Agreement will specify the amount that is subject to reimbursement from the City to the Developer for each Local Adjacent or Regional Project, group of projects, or defined portions of projects, constructed by the Developer.

Timing of Payment of Development Impact Fees

Unless otherwise stipulated in a Development Agreement, the Development Impact Fee amounts will be paid at the time building permits are issued, and will be determined based upon the DIF in effect at that time. Development Impact Fees may not be paid in advance.

Alternative Method for the Determination of Storm Drain Facilities Fee Amount

The Development Impact Fee amounts in the Storm Drain Facilities category are initially calculated based on the size of the development site in acres. The per acre fee amount in each land use category is also converted to another measure of the quantity of development. For the residential development categories and the Commercial Lodging category, the per acre fee amount is converted to a fee amount for each residential (or lodging) unit. For the Retail/Service, Office, Business Park, Industrial and Institutional land use categories, the per acre fee amount is converted to a fee for each square foot. These conversions are based upon the average number of units (for residential and Commercial Lodging) or the average number of square feet per acre (for Retail/Service, Office, Business Park, Industrial and Institutional).

"EXHIBIT C"

The average number of units, or square feet, used in the conversion is consistent with The Ontario Plan. In the Retail/Service, Office, Business Park, Industrial and Institutional land use development categories, there is a potential that some developments will have building square footages that are significantly lower than the average number of square feet used to calculate the conversion. There is much less potential for such variances in the residential use categories. For the Retail/Service, Office, Business Park, Industrial and Institutional land uses, with building footprints significantly above or below the average, the per acre fee amount must be used to calculate the fee amount to more accurately reflect the actual impact of the development on the Storm Drain infrastructure.

For example, the Retail/Service Uses category uses an average of 19,974 square feet per acre. A gas station use, however, would generally have a small building footprint (likely less than 4,000 square feet per acre), and yet would generate significant storm drain run-off impacts.

The averages used in the conversion by use Category are as follows:

Retail/Service Uses	19,974 Square Feet per Acre
Office Uses	53,712 Square Feet per Acre
Business Park Uses	18,888 Square Feet per Acre
Industrial Uses	22,349 Square Feet per Acre
Institutional Uses	21,780 Square Feet per Acre

In these development categories, the Storm Drainage Facilities fee amount will be based upon the per acre fee amounts if the square feet per acre of the proposed development is less than the above averages.

Segregation of Development Impact Fee Revenues

Development Impact Fees that are received will be segregated from other City revenues. Separate accounts will be established for each fee category. Interest earnings, if any will be allocated to each account. On an annual basis, in conjunction with the preparation of the City's Comprehensive Annual Financial Report (CAFR), a review will be conducted of the fee amounts that have been received for each fee category.

All construction related costs incurred by the City for the construction of the projects identified in the Master Facilities Plan will be expended from the appropriate fee category account. To facilitate the construction of projects by the City identified in the Master Facilities Plan, fees may be borrowed between fee accounts. Fees will not be borrowed between funds for the purpose of repayment of Reimbursement Agreement obligations. Any borrowed funds shall be repaid to the appropriate account as fees are received. Borrowed funds shall be repaid prior to the allocation of any reimbursements to developers based on Reimbursement Agreements.

"EXHIBIT C"

Review of Fee Study Assumptions and Fee Amounts

On a periodic basis, no longer than every two years, a review will be conducted of the estimated costs of the Projects identified in the Master Facilities Plan. If necessary, Development Impact Fees will be modified to reflect changes due to changes to the projected costs of the Projects in the Master Facilities Plan, or changes due to the addition or deletion of projects from the Master Facilities Plan. Changes in Project costs will be based on: 1) actual construction costs; or 2) changes in projected costs based on recent experience; or 3) changes in projected costs based on changes in the relevant Cost Indexes for the Southern California area.

Optional Temporary Deferral of Other Development Impact Fees

For an interim time period, as defined by resolution of the City Council, and to respond to economic conditions that have negatively impacted the availability and cost of capital for the residential building industry, the City's Development Impact Fee program will provide an option for the deferral of certain DIF fees for qualifying residential and non-residential projects. During the time period that the DIF fee deferral policy is applicable, a Developer may elect to defer the payment of DIF fees (except the Species, Habitat Conservation, and Open Space Mitigation fee) on a phase of construction until final inspection is requested or a maximum period of 12 months has elapsed. In order to qualify for this DIF fee deferral program, a Developer must pay a non-refundable processing fee of \$5,500, and enter into a standardized agreement with the City acknowledging that the fees are being deferred until the Developer requests a final inspection or a maximum of 12 calendar months has passed. If a Developer requests to defer Development Impact fees for a phase of development that exceeds 35 units, the City may require that the developer provide an acceptable form of security for the deferred fees amount.

CITY OF ONTARIO

Agenda Report
December 4, 2012

SECTION:
PUBLIC HEARINGS

SUBJECT: AN ORDINANCE AMENDING CHAPTER 6 OF TITLE 4 OF THE ONTARIO MUNICIPAL CODE PERTAINING TO THE PLACEMENT OF OFFICIAL TRAFFIC CONTROL DEVICES

RECOMMENDATION: That the City Council introduce and waive further reading of an ordinance amending Chapter 6 of Title 4 of the Ontario Municipal Code (OMC) related to the placement of official traffic control devices.

COUNCIL GOALS: Develop Strategies and Take Actions, Including Regaining Local Control of the Ontario International Airport, to Minimize the Negative Impacts of the Global Financial Downturn on Ontario's Economy and the City's Fiscal Health

FISCAL IMPACT: Adoption of this ordinance has no fiscal impact.

BACKGROUND: The placement of official traffic control devices is regulated by the California Manual on Uniform Traffic Control Devices, the California Vehicle Code and the Ontario Municipal Code. The purpose of this ordinance is to further define and clarify the powers and duties of the City Traffic Engineer with regards to the determination of the placement of certain traffic control devices.

Based upon a previous organizational structure of City operations, the Ontario Municipal Code specifies the City Traffic Engineer as being appointed by the Director of Public Works. In actuality, the City's Traffic and Transportation Manager functions as the City Traffic Engineer and is assigned to the Development Agency. The Municipal Code also directs the City Traffic Engineer to erect and maintain stop signs at locations pursuant to adoption of a City Council ordinance or resolution.

The proposed ordinance, if adopted by the City Council, will correct the organizational inconsistency between the City Traffic Engineer and City Traffic and Transportation Manager; establish provisions allowing the City Traffic Engineer to conduct engineering analyses by means of modern traffic engineering methods to evaluate and determine the need and placement of stop signs on city roadways; and allow the City Traffic Engineer to ascertain and designate locations where stop signs are required.

STAFF MEMBER PRESENTING: Louis Abi-younes, P.E., City Engineer

Prepared by: Mauricio Diaz
Department: Engineering

City Manager
Approval: 

Submitted to Council/O.H.A. 12/04/2012

Approved: _____

Continued to: _____

Denied: _____

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO,
CALIFORNIA, AMENDING CHAPTER 6, OF TITLE 4 OF THE ONTARIO
MUNICIPAL CODE RELATED TO TRAFFIC.

WHEREAS, Article 2. Administration, of Chapter 6, Title 4, of the Ontario Municipal Code states that the City Traffic Engineer may conduct engineering analyses to ascertain the locations to install stop signs, and

WHEREAS, California Vehicle Code Section 21101 allows local authorities to adopt rules and regulations pertaining to the installation of stop signs which includes designating stop sign locations, and

WHEREAS, it is in the City's best interest to establish rules and regulations so designating the City Traffic Engineer to install and maintain stop signs, and

WHEREAS, Article 2, Administration, of Chapter 6, Title 4, of the Ontario Municipal Code has outdated references to the City Traffic Engineer being appointed by the Director of Public Works which is no longer valid under the City's current organizational structure.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF ONTARIO,
CALIFORNIA, DOES ORDAIN AS FOLLOWS:

SECTION 1. OMC Sections 4-6.206 and 4-6.207 are hereby amended to read as follows:

Article 2. Administration

Section 4-6-206. City Traffic Engineer: Office Established.

The office of City Traffic Engineer is hereby established. The City Traffic Engineer shall exercise the powers and duties as provided in this chapter and other traffic laws of the City. The City's Traffic and Transportation Manager shall assume the duties of the City Traffic Engineer.

Section 4-6.207. City Traffic Engineer: Powers and Duties.

- (a) Traffic control devices. Whenever the City Traffic Engineer is required or authorized to place or maintain official traffic control devices, he may cause such devices to be placed or maintained.
- (b) General duties. The City Traffic Engineer shall have the following general duties:

- (1) To use modern traffic engineering methods to determine and plan the location and application of traffic control devices;
 - (2) To conduct engineering analyses of traffic accidents and to devise remedial measures;
 - (3) To conduct engineering and traffic investigations of traffic conditions;
 - (4) To cooperate with other City officers in the development of ways and means to improve traffic conditions; and
 - (5) To carry out the additional powers and duties imposed by the laws of the City.
- (c) Delegation of powers and duties. Whenever, by the provisions of this chapter, a power is granted to the City Traffic Engineer or a duty is imposed upon him, the power may be exercised or the duty performed by the City Engineer.

SECTION 2. OMC Sections 4-6.701 and 4-6.702 are hereby amended to read as follows:

Article 7. Stops Required

Section 4-6.701. Authority to Place Stop Signs.

- (a) The City Traffic Engineer is hereby directed to install and maintain stop signs on every street intersecting a through street, as described and designated as such by an ordinance or resolution of the City, at any other intersection at which vehicles are required to stop at one or more entrances thereto, and at any railroad grade crossing at which vehicles are required to stop. Every such sign shall conform with, and be placed as provided in, the California Vehicle Code.
- (b) The City Traffic Engineer shall ascertain and determine the locations where such stop signs are required by field investigations, traffic counts, and other traffic information as may be pertinent, and his determinations there from shall be made in accordance with the California Vehicle Code and accepted traffic engineering standards.
- (c) Whenever the City Traffic Engineer installs and maintains a stop sign at any intersection, he shall likewise erect and maintain at such intersections street name signs clearly visible to traffic approaching from all directions unless such street name signs have previously been placed and are maintained at such intersection.

Section 4-6.702. Reserved

SECTION 3. The Mayor shall sign this Ordinance and the City Clerk shall certify as to the adoption and shall cause a summary thereof to be published at least once, in a newspaper of general circulation in the City of Ontario, California within fifteen (15) days of the adoption. The City Clerk shall post a certified copy of this ordinance, including the vote for and against the same, in the Office of the City Clerk, in accordance with Government Code Section 36933.

PASSED, APPROVED, AND ADOPTED this _____ day of _____ 2012.

PAUL S. LEON, MAYOR

ATTEST:

MARY E. WIRTES, MMC, CITY CLERK

APPROVED AS TO FORM:

BEST BEST & KRIEGER LLP
CITY ATTORNEY

STATE OF CALIFORNIA)
COUNTY OF SAN BERNARDINO)
CITY OF ONTARIO)

I, MARY E. WIRTES, City Clerk of the City of Ontario, DO HEREBY CERTIFY that foregoing Ordinance No. _____ was duly introduced at a regular meeting of the City Council of the City of Ontario held December 4, 2012 and adopted at the regular meeting held _____, 2012 by the following roll call vote, to wit:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

MARY E. WIRTES, MMC, CITY CLERK

(SEAL)

I hereby certify that the foregoing is the original of Ordinance No. _____ duly passed and adopted by the Ontario City Council at their regular meeting held _____ and that Summaries of the Ordinance were published on _____ and _____, in the Inland Valley Daily Bulletin newspaper.

MARY E. WIRTES, MMC, CITY CLERK

(SEAL)

CITY OF ONTARIO

Agenda Report
December 4, 2012

SECTION: PUBLIC HEARINGS

SUBJECT: CONSIDERATION OF RESOLUTIONS OF NECESSITY FOR THE ACQUISITION OF FEE AND EASEMENT INTERESTS IN PORTIONS OF CERTAIN REAL PROPERTY

RECOMMENDATION: That the City Council conduct a public hearing to:

- (A) Consider the adoption of Resolutions of Necessity and provide all parties interested in the affected properties, their attorneys or representatives, an opportunity to be heard on the issues relevant to the Resolutions of Necessity;
- (B) Make the following findings as hereinafter described in this report:
 - (1) The public interest and necessity require the proposed project;
 - (2) The project is planned or located in a manner that will be most compatible with the greatest public good and the least private injury;
 - (3) The real property to be acquired is necessary for the project; and
 - (4) The offers of just compensation have been made to the property owners; and
- (C) Adopt Resolutions of Necessity declaring that the acquisition of fee and easement interests in certain real property, more particularly described as APNs 0238-152-33, 0238-152-34, 0211-321-10, 1083-352-02, 0211-312-04, 1083-351-05, 1083-351-06, 1083-351-07 and 1083-351-08 (all located in San Bernardino County) and 156-020-044 (located in Riverside County) by eminent domain is necessary for public right-of-way and the construction of the South Milliken Avenue Grade Separation Project and related public infrastructure improvements in the City of Ontario, San Bernardino County, California.

COUNCIL GOALS: Develop Strategies and Take Actions, Including Regaining Local Control of the Ontario International Airport, to Minimize the Negative Impacts of the Global Financial Downturn on Ontario's Economy and the City's Fiscal Health
Invest in the City's Infrastructure (Water, Streets, Sewers, Parks, Storm Drains and Public Facilities)

FISCAL IMPACT: The adopted budget includes appropriations for the right of way phase of the South Milliken Avenue Grade Separation Project. Per the cooperative funding agreement with

STAFF MEMBER PRESENTING: Louis Abi-younes, P.E., City Engineer

Prepared by: Jay Bautista
Department: Engineering

City Manager
Approval:



Submitted to Council/O.H.A.

Approved:

Continued to:

Denied:

12/04/2012

19

SANBAG, the City's share is 20% of the actual expenses. Deposits to file the Resolutions of Necessity total \$1,935,000 with the City's share of \$387,000 coming from Development Impact Fee funds. The funding split is in accordance with the City's adopted DIF Program and SANBAG's approved Measure I Nexus Study.

BACKGROUND: The South Milliken Avenue Grade Separation Project and related public infrastructure improvements are required for and will benefit the community by eliminating potential conflicts between vehicular and train traffic, increasing travel reliability on Mission Boulevard and Milliken Avenue, enhancing the flow of truck traffic and improving air quality.

The City obtained appraisals of the affected properties from Integra Realty Resources. Offers of just compensation were made to the property owners pursuant to California Government Code Section 7267.2. The consulting firm of Overland, Pacific & Cutler, Inc. has been negotiating on behalf of the City to purchase the properties, but no agreement has been reached with the owners. Preliminary title reports were ordered to determine and confirm the identities of the record owners. Following standard public records and due diligence searches for ownership information, a notice of this public hearing was mailed to the property owners.

Since agreement has not been reached with the property owners, it may become necessary to acquire the properties by the eminent domain process to meet critical project deadlines or the City faces the loss of Trade Corridors Improvement Fund (TCIF) and State Local Partnership Program (SLPP) funding. The eminent domain process begins with the adoption of a Resolution of Necessity declaring intent to acquire fee and easement interests in portions of real property through eminent domain proceedings for public right-of-way and the construction of the South Milliken Avenue Grade Separation Project and related public infrastructure improvements. Adoption of the Resolutions of Necessity should not affect any negotiations or agreements reached with the property owners.

DESCRIPTION OF PROPERTY TO BE ACQUIRED:

The affected properties are located on both sides of Milliken Avenue from 600' north of Philadelphia Street to 1200' south of Mission Boulevard, the south side of Mission Boulevard from 1500' west of Milliken Avenue to 1200' east of Milliken Avenue, and along both sides of Philadelphia Street 550' east of Milliken Avenue (Exhibits "A" through "H").

HEARINGS AND REQUIRED FINDINGS:

The recommended actions of the City Council pertain to the acquisition of fee and easement interests in portions of real property from the property owners listed below:

Assessor Parcel No.: 0238-152-33
Miller-Kanin LLC

Assessor Parcel No.: 1083-351-06
Prologis California I LLC

Assessor Parcel No.: 0238-152-34
Philadelphia Associates LLC

Assessor Parcel No.: 1083-351-07
Sample Real Estate LLC

Assessor Parcel No.: 0211-321-10, 1083-352-02
National Metal & Steel Corp

Assessor Parcel No.: 1083-351-08
Burggraf Family 1991 Trust 7/29/91

Assessor Parcel No.: 0211-312-04, 1083-351-05
Sumitomo Bank Leasing and Finance, Inc.

Assessor Parcel No.: 156-020-044
JW Mitchell Company LLC

The property owned by JW Mitchell Company LLC, identified as APN 156-020-044, is located in Eastvale, in Riverside County, California. The City of Ontario is authorized to acquire this property by the Cooperative Agreement executed on April 1, 2012 between the City of Eastvale and the City of Ontario (Exhibit "I").

California eminent domain law provides that a public entity may not commence an eminent domain proceeding until its governing body has adopted a Resolution of Necessity, which resolution may only be adopted after the governing body has given each party with an interest in the affected property or their representatives a reasonable opportunity to appear and be heard on the following matters:

1. The public interest and necessity require the proposed project.
2. The project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury.
3. The real property to be acquired is necessary for the project.
4. The offer of just compensation has been made to the property owner.

A notice of hearing was mailed on November 19, 2012 by first class mail to the property owner in accordance with Section 1245.235 of the California Code of Civil Procedure.

The above four required findings are addressed as follows:

1. The Public Interest and Necessity Require the Proposed Project

The South Milliken Avenue Grade Separation in San Bernardino County, California will eliminate the at-grade crossing; and will improve motorist and pedestrian safety, eliminate delays to motorists, reduce noise in the area and improve air quality.

2. The Project is Planned or Located in a Manner that will be Most Compatible with the Greatest Public Good and the Least Private Injury

The proposed improvement elevates Milliken Avenue over the Union Pacific Railroad with an overpass configuration and includes earth filled retaining walls for ramps. The project provides a superior intersection level of service and traffic circulation by separating the Mission Boulevard thru traffic movements from the intersection traffic compared to other alternatives. This was the lowest cost alternative with the shortest construction time, thus significantly reducing the short term impacts and detours to commercial businesses in the area.

3. The Real Property to be Acquired is Necessary for the Proposed Project

The properties described in Exhibit "A" through "H", portions of APNs 0238-152-33, 0238-152-34, 0211-321-10, 1083-352-02, 0211-312-04, 1083-351-05, 1083-351-06, 1083-351-07 and 1083-351-08 (all located in San Bernardino County) and 156-020-044 (located in Riverside County) are necessary for the project. The right of way is necessary to construct the bridge and retaining walls, widen Milliken Avenue and Mission Boulevard and utility relocation.

4. The Offer of Just Compensation Has Been Made

Appraisals were prepared by Integra Realty Resources to establish the fair market value of the real property the City is seeking to acquire. Offers of just compensation were made to the property owners to purchase the fee and easement interests as established by the approved

appraisal and as required by Section 7267.2 of the California Government Code. Although a negotiated settlement may still be possible for the real properties cited above, it would be appropriate to commence the procedures to acquire the property through eminent domain, to ensure that the City has possession of the real property, which is necessary in order for the City to begin construction of the project.

ENVIRONMENTAL ANALYSIS:

Compliance with the California Environmental Quality Act (CEQA) has been satisfied by Statutory Exemption – Section 21080.13 filed with the County of San Bernardino on May 4, 2010.

RESOLUTION NO. _____

A RESOLUTION OF NECESSITY OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, FOR THE ACQUISITION OF FEE, EASEMENT AND TEMPORARY CONSTRUCTION EASEMENT INTERESTS IN PORTIONS OF CERTAIN REAL PROPERTY LOCATED AT OR NEAR THE INTERSECTION OF MISSION BOULEVARD, PHILADELPHIA STREET AND THE UNION PACIFIC RAILROAD CROSSING, AND MORE PARTICULARLY DESCRIBED AS ASSESSOR PARCEL NO. 1083-351-08, BY EMINENT DOMAIN, IS NECESSARY FOR PUBLIC RIGHT-OF-WAY FOR THE CONSTRUCTION OF THE SOUTH MILLIKEN AVENUE GRADE SEPARATION PROJECT AND RELATED PUBLIC INFRASTRUCTURE IMPROVEMENTS IN THE CITY OF ONTARIO, SAN BERNARDINO COUNTY, CALIFORNIA.

WHEREAS, the City of Ontario (the "City") proposes to acquire fee, easement and temporary construction easement interests in portions of certain real property located at or near the intersection of Mission Boulevard, Philadelphia Street and the Union Pacific Railroad crossing, and more particularly described as Assessor Parcel No. 1083-351-08, for public right-of-way purposes and the construction of the South Milliken Avenue Grade Separation Project and related public infrastructure improvements, in the City of Ontario, California, pursuant to the authority granted to it by Section 37350.5 of the California Government Code; and

WHEREAS, pursuant to section 1245.235 of the California Code of Civil Procedure, the City scheduled a public hearing for Tuesday, December 4, 2012, at 6:30 p.m. at the Ontario City Hall, Council Chambers, 303 East "B" Street, Ontario, California, and gave to each person whose property is to be acquired and whose name and address appeared on the last equalized county assessment roll, notice and a reasonable opportunity to appear at said hearing and be heard on the matters referred to in Section 1240.030 of the California Code of Civil Procedure; and

WHEREAS, said hearing has been held by the City and each person whose property is to be acquired by eminent domain was afforded an opportunity to be heard on said matters; and

WHEREAS, the City may now adopt a Resolution of Necessity pursuant to Section 1240.040 of the California Code of Civil Procedure.

NOW, THEREFORE, THE CITY DOES HEREBY RESOLVE AND DECLARE AS FOLLOWS:

SECTION 1. Compliance with California Code of Civil Procedure and California Environmental Quality Act. There has been compliance by the City with the requirements of Section 1245.235 of the California Code of Civil Procedure and the California Environmental Quality Act.

SECTION 2. Public Use. The public use for which the real property is to be acquired is for public right-of-way purposes and the construction of the South Milliken Avenue Grade Separation Project and related public infrastructure improvements, in San Bernardino County, California. Section 37350.5 of the California Government Code authorizes the City to acquire by eminent domain real property necessary for such purposes.

SECTION 3. Description of Property. Attached and marked as Exhibit "A" is the legal description and depiction of the real property to be acquired by the City, which describes the general location and extent of the property to be acquired with sufficient detail for reasonable identification.

SECTION 4. Findings. The City hereby finds and determines each of the following:

- (a) The public interest and necessity require the proposed project;
- (b) The proposed project is planned or located in the manner that will be most compatible with the greatest public good and least private injury;
- (c) The real property described in Exhibit "A" are necessary for the proposed project;
- (d) The offer required by Section 7267.2 of the California Government Code was made.

SECTION 5. Use Not Unreasonably Interfering with Existing Public Use(s). Some or all of the real property to be acquired is subject to easements and rights-of-way appropriated to existing public uses. The legal descriptions of these easements and rights-of-way are on file with the City and describe the general location and extent of the easements and rights-of-way with sufficient detail for reasonable identification. In the event the herein described use or uses will not unreasonably interfere with or impair the continuance of the public use as it now exists or may reasonably be expected to exist in the future, counsel for the City is authorized to acquire the real property subject to such existing public use(s) pursuant to Section 1240.510 of the California Code of Civil Procedure.

SECTION 6. More Necessary Public Use. Some or all of the real property to be acquired is subject to easements and rights-of-way appropriated to existing public uses. To the extent that the herein described use or uses will unreasonably interfere with or impair the continuance of the public use as it now exists or may reasonably be expected to exist in the future, the City finds and determines that the herein described use or uses are more necessary than said existing public use. Counsel for the City is authorized to acquire the real property appropriated to such existing public use(s) pursuant to Section 1240.610 of the California Code of Civil Procedure. Staff is further authorized to make such improvements to the real property being acquired that it determines is reasonably necessary to mitigate any adverse impact upon the existing public use.

SECTION 7. Further Activities. Counsel for the City is hereby authorized to file legal proceedings necessary to acquire the hereinabove described real property in the name of and on behalf of the City by eminent domain, and counsel is authorized to institute and prosecute such legal proceedings as may be required in connection therewith. Legal counsel is further authorized to take such steps as may be authorized and required by law, and to make such security deposits as may be required by order of court, to permit the City to take possession of and use said real property at the earliest possible time. Counsel is further authorized to correct any errors or to make or agree to non-material changes in the legal description of the real property that are deemed necessary for the conduct of the condemnation action or other proceedings or transaction required to acquire the subject real property. Counsel is further authorized to reduce or modify the extent of the interests or property to be acquired so as to reduce the compensation payable in the action where such change would not substantially impair the construction and operation for the project for which the real property is being acquired.

SECTION 8. Effective Date. This Resolution shall take effect upon adoption.

The City Clerk of the City of Ontario shall certify as to the adoption of this Resolution.

PASSED, APPROVED, AND ADOPTED this 4th day of December 2012.

PAUL S. LEON, MAYOR

ATTEST:

MARY E. WIRTES, MMC, CITY CLERK

APPROVED AS TO LEGAL FORM:

BEST BEST & KRIEGER LLP
CITY ATTORNEY

STATE OF CALIFORNIA)
COUNTY OF SAN BERNARDINO)
CITY OF ONTARIO)

I, MARY E. WIRTES, City Clerk of the City of Ontario, DO HEREBY CERTIFY that foregoing Resolution No. 2012- was duly passed and adopted by the City Council of the City of Ontario at their regular meeting held December 4, 2012 by the following roll call vote, to wit:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

MARY E. WIRTES, MMC, CITY CLERK

(SEAL)

The foregoing is the original of Resolution No. 2012- duly passed and adopted by the Ontario City Council at their regular meeting held December 4, 2012.

MARY E. WIRTES, MMC, CITY CLERK

(SEAL)

Legal Definitions of Property to be Acquired

The following is a list of definitions of legal rights to be acquired by the City of Ontario:

"Fee Acquisition" also known as fee simple or fee simple absolute, refers to complete or absolute ownership of the property in the City of Ontario (the "City"), County of San Bernardino, State of California.

"Temporary Construction Easement" or "TCE" refers to the right of the City, its successors, and assigns, to engage in construction and related activities related to the South Milliken Grade Separation Project, together with all necessary rights of ingress and egress to the non-exclusive easement area in connection with such construction and related activities.

The TCE shall commence after the owner is provided 5 calendar days advanced written notice by the City of the City's intent to utilize the TCE area. The use of the TCE area shall not exceed 4 months; provided however, that the term of the TCE may be extended upon payment by the City to the Property Owner of an amount equal to \$1,092.46 a month, prorated to the actual date upon which the City's use of the Property terminates.

Property Owner shall not cause, directly, indirectly or negligently, any interference with or harm to the rights conveyed hereunder.

"Public Utility Easement" refers to a non-exclusive permanent easement in favor of the City, the definition of which includes its successors, and assigns, including the right to enter upon the property herein described at any time that it may see fit to construct, reconstruct, maintain, repair, replace, and operate underground facilities for any purpose, including the conveyance of facilities through and under the property, together with the right to excavate and fill ditches and trenches for the location and construction of said facilities and the further right to remove trees, bushes, undergrowth, crops and other obstructions interfering with the construction, maintenance, repair, replacement and operation of said City facilities.

Except in emergencies, the City shall notify the overlying property owner prior to performing any work within the easement including removing trees, bushes, undergrowth, crops or other obstructions. If the City determines that an emergency requiring immediate corrective action exists, the City may proceed immediately with the corrective action and notify the overlying property owner as soon as reasonably possible. The City shall replace any improvements removed, by the City, for maintenance of the facilities, which have been installed with the City's approval.

The owner, its lessees, assigns and successors will not allow any change in surface or subsurface conditions including but not limited to placing fences, trees, walls, buildings, structures earth fills, excavations, construction of loading surcharge on or over the City's facilities or hinder the City's access to said facilities without approval of the City. The City will not unreasonably withhold or delay approval of changes in surface conditions if those changes will not interfere with the access, construction, maintenance, repair, replacement, operating integrity or structural integrity of said City facilities.

The non-exclusive easement rights shall also include the right of the City over, upon, under, and across the property together with the right to access, maintain, improve, alter, relocate, inspect, construct, reconstruct, install, replace, and remove public improvements and facilities, including those in the public right of way, and public utilities, including water and sewer lines, as determined necessary by the City, together with all necessary rights incidental thereto.

No other easements shall be granted on, under or over the easement without the prior written consent of the City, its successors and assigns.

The existing ground elevations upon completion of construction shall not be further increased or decreased without the prior written consent of the City.

EXHIBIT "A"
LEGAL DESCRIPTION
RIGHT OF WAY

THAT PORTION OF PARCEL C OF LOT LINE ADJUSTMENT NO. LL-99-27, IN THE CITY OF ONTARIO, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, AS RECORDED JUNE 19, 2000 AS INSTRUMENT NO. 20000217781, OFFICIAL RECORDS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE NORTHERLY LINE OF SAID PARCEL C AND THE WESTERLY RIGHT OF WAY LINE OF MILLIKEN AVENUE (60 FEET HALF WIDTH); THENCE ALONG SAID WESTERLY RIGHT OF WAY LINE OF MILLIKEN AVENUE, SOUTH 00°45'02" EAST 260.94 FEET; THENCE LEAVING SAID WESTERLY RIGHT OF WAY LINE, NORTH 02°14'41" WEST 261.02 FEET TO THE NORTHERLY LINE OF SAID PARCEL C; THENCE ALONG SAID NORTHERLY LINE NORTH 89°14'56" EAST 6.81 FEET TO THE POINT OF BEGINNING.

CONTAINING 888 SQUARE FEET, MORE OR LESS.

ALL AS MORE PARTICULARLY SHOWN ON EXHIBIT "B" ATTACHED HERETO AND MADE A PART HEREOF.

DATED THIS 27TH DAY OF FEBRUARY, 2012.

Gwen-Vera del Castillo

GWEN-VERA DEL CASTILLO, PLS 5108



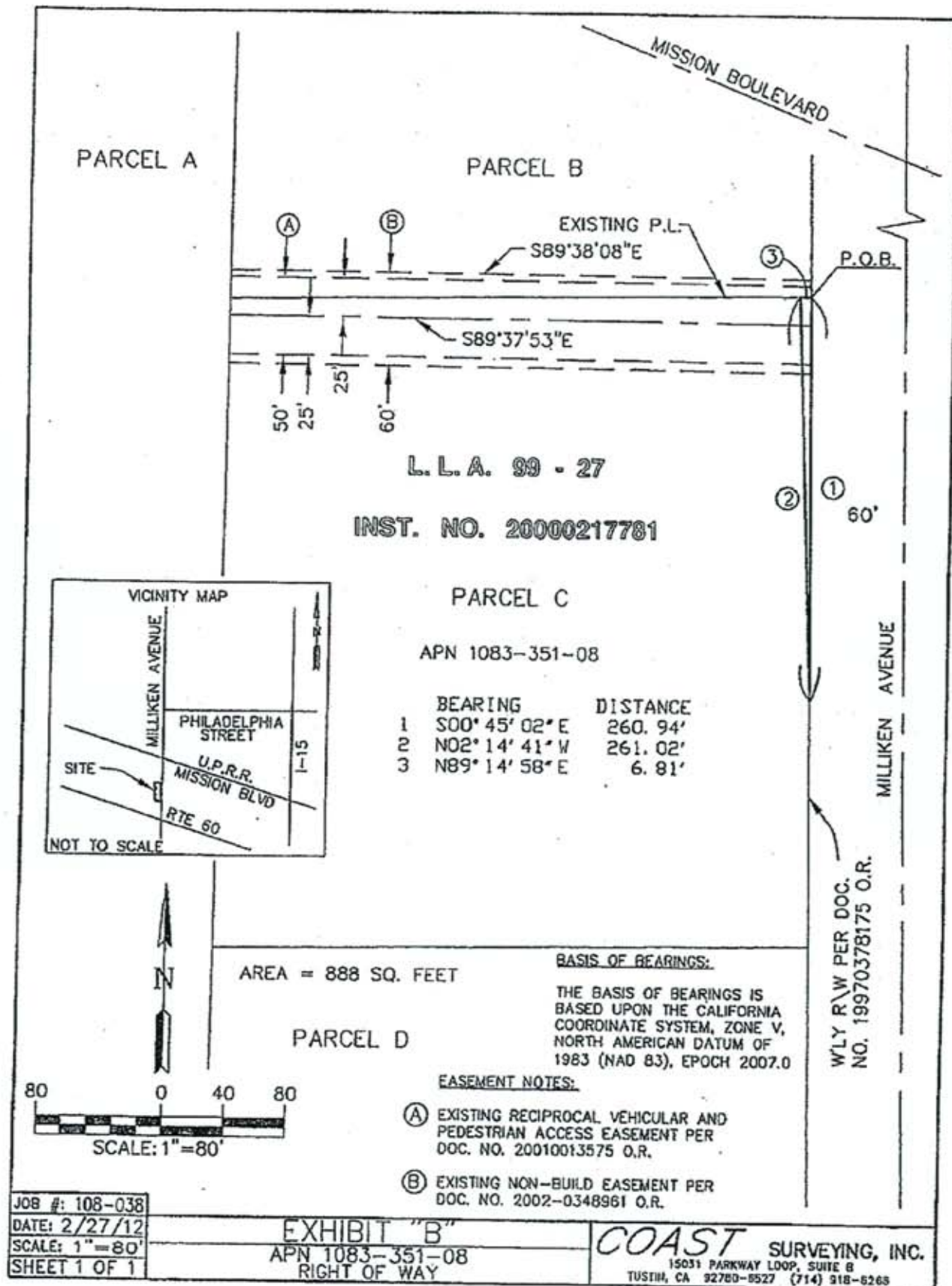


EXHIBIT "A"
LEGAL DESCRIPTION
UTILITY EASEMENT

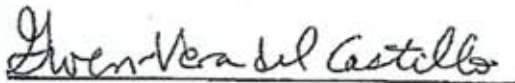
THAT PORTION OF PARCEL C OF LOT LINE ADJUSTMENT NO. LL-99-27, IN THE CITY OF ONTARIO, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, AS RECORDED JUNE 19, 2000 AS INSTRUMENT NO. 20000217781, OFFICIAL RECORDS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE SOUTHERLY LINE OF SAID PARCEL C AND THE WESTERLY RIGHT OF WAY LINE OF MILLIKEN AVENUE (60 FEET HALF WIDTH); THENCE ALONG THE SOUTHERLY LINE OF SAID PARCEL C, SOUTH 89°14'58" WEST 48.14 FEET; THENCE LEAVING SAID SOUTHERLY LINE, NORTH 00°55'42" WEST 421.72 FEET TO THE NORTHERLY LINE OF SAID PARCEL C; THENCE ALONG SAID NORTHERLY LINE, NORTH 89°14'58" EAST 42.84 FEET; THENCE LEAVING SAID NORTHERLY LINE, SOUTH 02°14'41" EAST 261.02 FEET TO SAID WESTERLY RIGHT OF WAY LINE OF MILLIKEN AVENUE; THENCE ALONG SAID WESTERLY RIGHT OF WAY LINE, SOUTH 00°45'02" EAST 160.78 FEET TO THE POINT OF BEGINNING.

CONTAINING 19,691 SQUARE FEET, MORE OR LESS.

ALL AS MORE PARTICULARLY SHOWN ON EXHIBIT "B" ATTACHED HERETO AND MADE A PART HEREOF.

DATED THIS 27TH DAY OF FEBRUARY, 2012.



GWEN-VERA DEL CASTILLO, PLS 5108



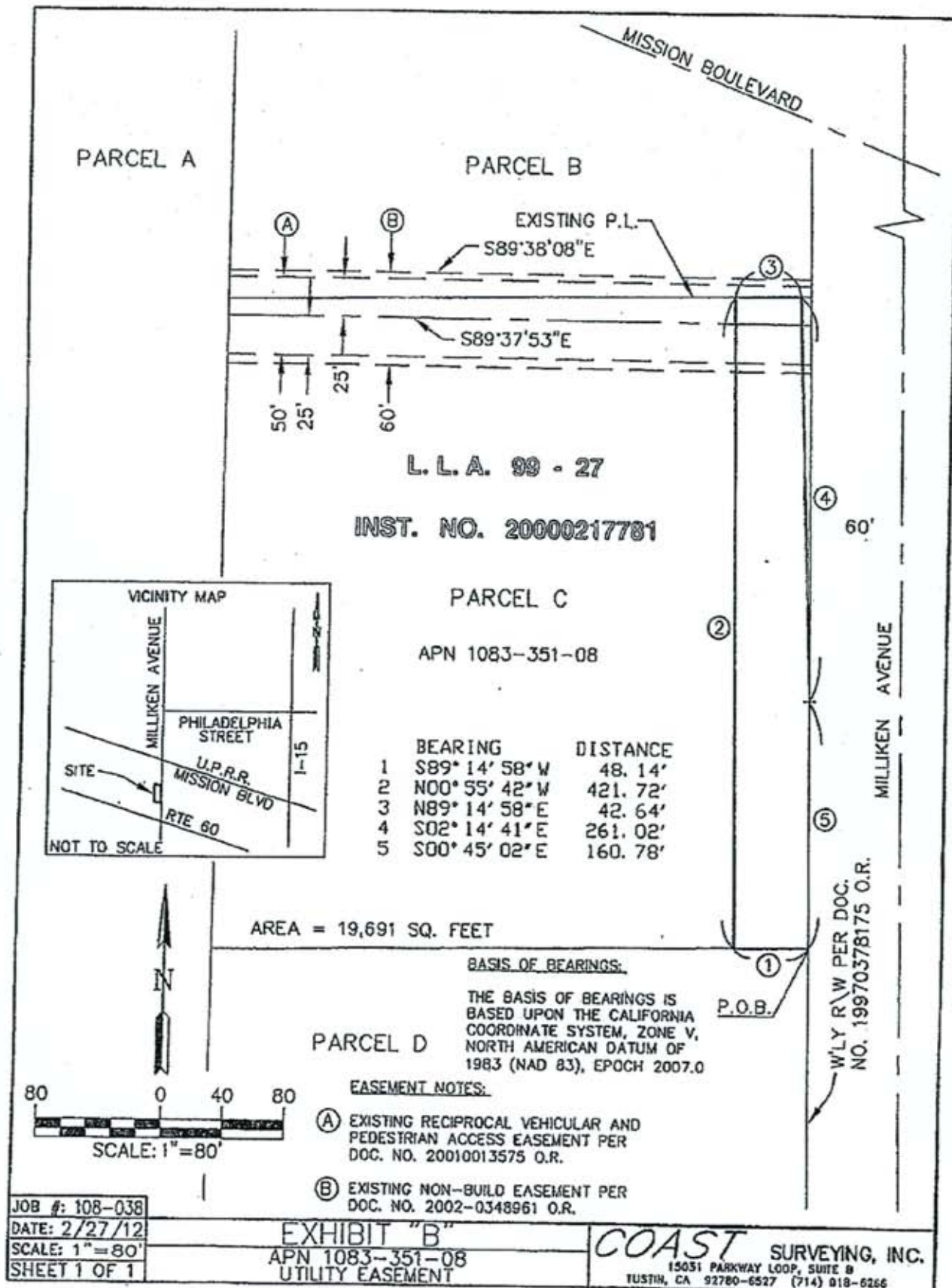


EXHIBIT "A"
LEGAL DESCRIPTION
TEMPORARY CONSTRUCTION EASEMENT

THAT PORTION OF PARCEL C OF LOT LINE ADJUSTMENT NO. LL-99-27, IN THE CITY OF ONTARIO, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, AS RECORDED JUNE 19, 2000 AS INSTRUMENT NO. 20000217781, OFFICIAL RECORDS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, DESCRIBED AS FOLLOWS:

COMMENCING AT THE INTERSECTION OF THE SOUTHERLY LINE OF SAID PARCEL C AND THE WESTERLY RIGHT OF WAY LINE OF MILLIKEN AVENUE (60 FEET HALF WIDTH); THENCE ALONG THE SOUTHERLY LINE OF SAID PARCEL C SOUTH 89°14'58" WEST 48.14 FEET TO THE TRUE POINT OF BEGINNING; THENCE CONTINUING ALONG SAID SOUTHERLY LINE, SOUTH 89°14'58" WEST 10.00 FEET; THENCE LEAVING SAID SOUTHERLY LINE, NORTH 00°55'42" WEST 211.50 FEET; THENCE SOUTH 89°54'58" WEST 12.56 FEET; THENCE NORTH 00°20'15" EAST 118.79 FEET; THENCE NORTH 88°08'35" EAST 4.01 FEET; THENCE NORTH 00°15'31" EAST 15.51 FEET; THENCE NORTH 89°42'24" WEST 7.81 FEET; THENCE NORTH 00°15'21" EAST 20.16 FEET; THENCE NORTH 89°44'27" WEST 19.90 FEET; THENCE NORTH 00°17'11" EAST 8.00 FEET; THENCE NORTH 89°44'38" WEST 15.63 FEET; THENCE SOUTH 00°17'24" WEST 7.90 FEET; THENCE NORTH 89°43'17" WEST 61.42 FEET; THENCE NORTH 00°07'02" EAST 38.59 FEET TO A LINE PARALLEL WITH AND 15.00 FEET SOUTHERLY OF THE NORTHERLY LINE OF SAID PARCEL C; THENCE ALONG SAID PARALLEL LINE SOUTH 89°14'58" WEST 144.75 FEET; THENCE SOUTH 45°21'48" WEST 95.14 FEET TO THE WESTERLY LINE OF SAID PARCEL C; THENCE ALONG SAID WESTERLY LINE NORTH 00°21'48" EAST 21.21 FEET TO A LINE PARALLEL WITH AND 15.00 FEET NORTHWESTERLY OF THE ABOVE MENTIONED COURSE "SOUTH 45°21'48" WEST 95.14 FEET"; THENCE ALONG SAID PARALLEL LINE NORTH 45°21'48" EAST 86.19 FEET TO THE NORTHERLY LINE OF SAID PARCEL C; THENCE ALONG SAID NORTHERLY LINE, NORTH 89°14'58" EAST 289.97 FEET; THENCE LEAVING SAID NORTHERLY LINE SOUTH 00°55'42" EAST 421.72 FEET TO THE TRUE POINT OF BEGINNING.

CONTAINING 15,341 SQUARE FEET, MORE OR LESS.

ALL AS MORE PARTICULARLY SHOWN ON EXHIBIT "B" ATTACHED HERETO AND MADE A PART HEREOF.

DATED THIS 25TH DAY OF MAY, 2012.

Gwen Vera del Castillo

GWEN-VERA DEL CASTILLO, PLS 5108



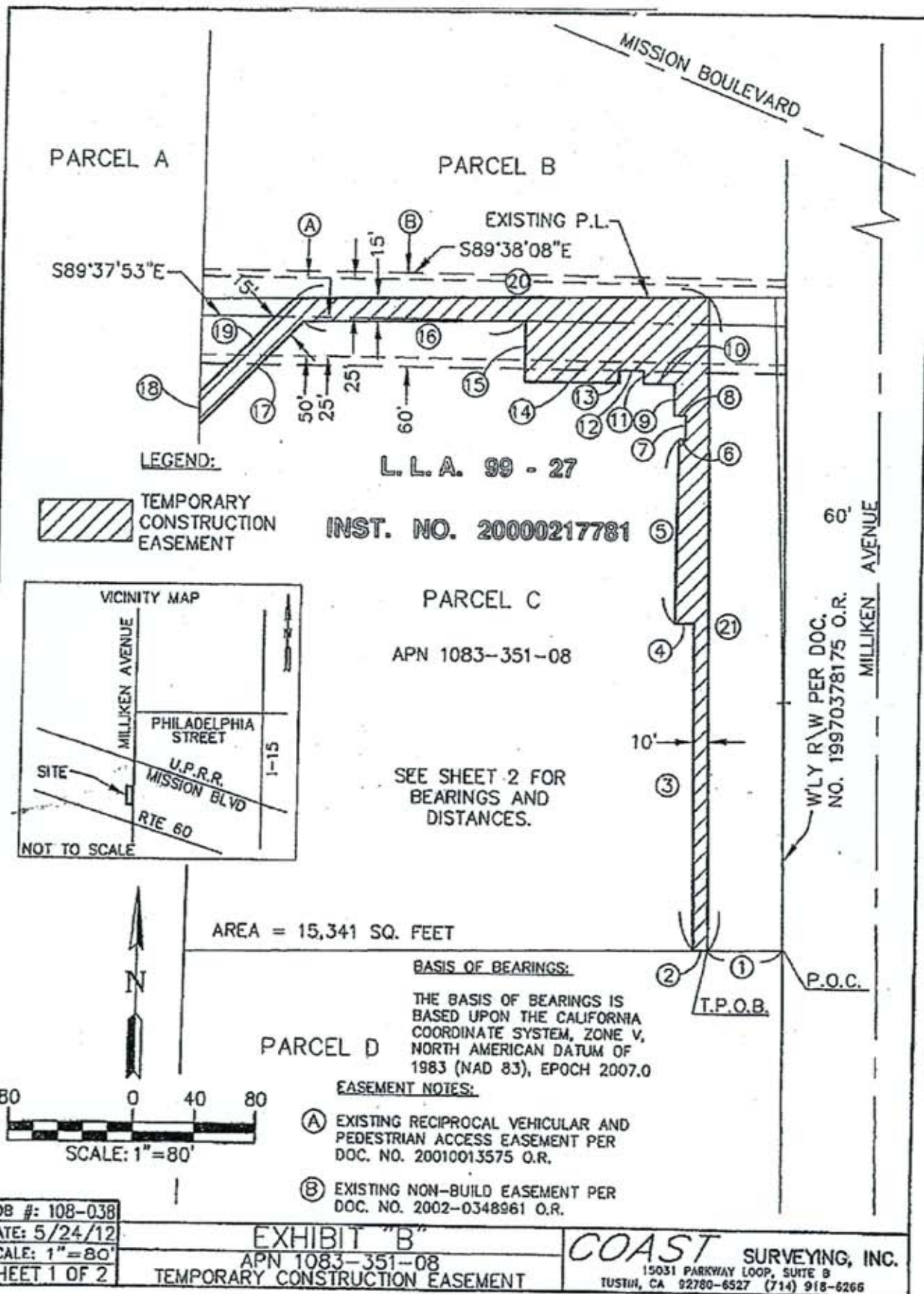


EXHIBIT "A"
LEGAL DESCRIPTION
TEMPORARY CONSTRUCTION EASEMENT

THAT PORTION OF PARCEL B OF LOT LINE ADJUSTMENT NO. LL-99-27, IN THE CITY OF ONTARIO, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, AS RECORDED JUNE 19, 2000 AS INSTRUMENT NO. 20000217781, OFFICIAL RECORDS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, DESCRIBED AS FOLLOWS:

COMMENCING AT THE INTERSECTION OF THE SOUTHERLY LINE OF SAID PARCEL B AND THE WESTERLY RIGHT OF WAY LINE OF MILLIKEN AVENUE (60 FEET HALF WIDTH); THENCE ALONG THE SOUTHERLY LINE OF SAID PARCEL B SOUTH 89°14'58" WEST 49.45 FEET TO THE TRUE POINT OF BEGINNING; THENCE CONTINUING ALONG SAID SOUTHERLY LINE SOUTH 89°14'58" WEST 118.95 FEET; THENCE LEAVING SAID SOUTHERLY LINE NORTH 00°07'02" EAST 28.01 FEET; THENCE SOUTH 89°36'08" EAST 61.79 FEET; THENCE NORTH 00°26'01" WEST 61.22 FEET; THENCE SOUTH 89°36'09" EAST 34.70 FEET; THENCE NORTH 00°23'51" EAST 48.15 FEET; THENCE NORTH 89°14'58" EAST 20.33 FEET; THENCE SOUTH 00°55'42" EAST 135.43 FEET TO THE TRUE POINT OF BEGINNING.

CONTAINING 7,648 SQUARE FEET, MORE OR LESS.

ALL AS MORE PARTICULARLY SHOWN ON EXHIBIT "B" ATTACHED HERETO AND MADE A PART HEREOF.

DATED THIS 25TH DAY OF MAY, 2012.

Gwen Vera del Castillo

GWEN-VERA DEL CASTILLO, PLS 5108





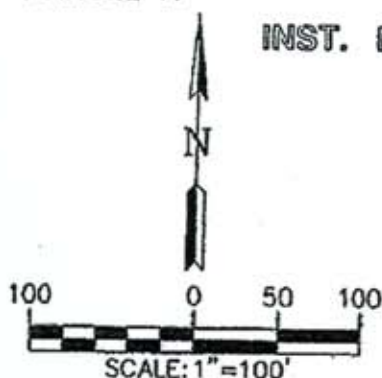
PARCEL A

L. L. A. 99 - 27

PARCEL B

INST. NO. 20000217781

APN 1083-351-07



BASIS OF BEARINGS:

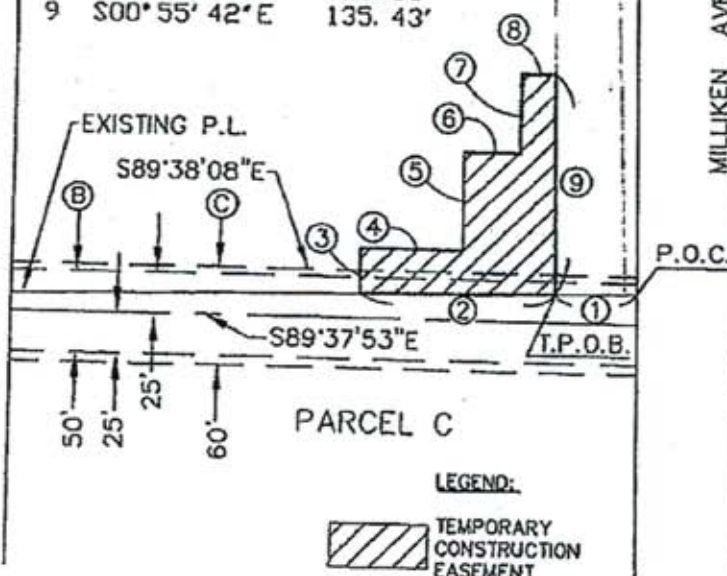
THE BASIS OF BEARINGS IS BASED UPON THE CALIFORNIA COORDINATE SYSTEM, ZONE V, NORTH AMERICAN DATUM OF 1983 (NAD 83), EPOCH 2007.0

EASEMENT NOTES:

- (A) EXISTING ENTRY MONUMENT AREA EASEMENT PER P.M.B. 186/67-68
- (B) EXISTING RECIPROCAL VEHICULAR AND PEDESTRIAN ACCESS EASEMENT PER DOC. NO. 20010013575 O.R.
- (C) EXISTING NON-BUILD EASEMENT PER DOC. NO. 2002-0348961 O.R.

AREA = 7,648 SQ. FEET

	BEARING	DISTANCE
1	S89°14'58"W	49.45'
2	S89°14'58"W	118.95'
3	N00°07'02"E	28.01'
4	S89°36'08"E	61.79'
5	N00°26'01"W	61.22'
6	S89°36'09"E	34.70'
7	N00°23'51"E	48.15'
8	N89°14'58"E	20.33'
9	S00°55'42"E	135.43'



JOB #: 108-038
DATE: 5/24/12
SCALE: 1"=100'
SHEET 1 OF 1

EXHIBIT "B"
APN 1083-351-07
TEMPORARY CONSTRUCTION EASEMENT

COAST SURVEYING, INC.
15031 PARKWAY LOOP, SUITE B
TUSTIN, CA 92780-6527 (714) 918-6206

RESOLUTION NO. _____

A RESOLUTION OF NECESSITY OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, FOR THE ACQUISITION OF FEE, EASEMENT AND TEMPORARY CONSTRUCTION EASEMENT INTERESTS IN PORTIONS OF CERTAIN REAL PROPERTY LOCATED AT OR NEAR THE INTERSECTION OF MISSION BOULEVARD, PHILADELPHIA STREET AND THE UNION PACIFIC RAILROAD CROSSING, AND MORE PARTICULARLY DESCRIBED AS ASSESSOR PARCEL NO. 156-020-044 BY EMINENT DOMAIN, IS NECESSARY FOR PUBLIC RIGHT-OF-WAY FOR THE CONSTRUCTION OF THE SOUTH MILLIKEN AVENUE GRADE SEPARATION PROJECT AND RELATED PUBLIC INFRASTRUCTURE IMPROVEMENTS IN THE CITY OF ONTARIO, SAN BERNARDINO COUNTY, CALIFORNIA.

WHEREAS, the City of Ontario (the "City") proposes to acquire fee, easement and temporary construction easement interests in portions of certain real property located at or near the intersection of Mission Boulevard, Philadelphia Street and the Union Pacific Railroad crossing, and more particularly described as Assessor Parcel No. 156-020-044 (located in Riverside County), for public right-of-way purposes and the construction of the South Milliken Avenue Grade Separation Project and related public infrastructure improvements, in the City of Ontario, California, pursuant to the authority granted to it by Section 37350.5 of the California Government Code; and

WHEREAS, pursuant to Section 1245.235 of the California Code of Civil Procedure, the City scheduled a public hearing for Tuesday, December 4, 2012, at 6:30 p.m. at the Ontario City Hall, Council Chambers, 303 East "B" Street, Ontario, California, and gave to each person whose property is to be acquired and whose name and address appeared on the last equalized county assessment roll, notice and a reasonable opportunity to appear at said hearing and be heard on the matters referred to in Section 1240.030 of the California Code of Civil Procedure; and

WHEREAS, said hearing has been held by the City and each person whose property is to be acquired by eminent domain was afforded an opportunity to be heard on said matters; and

WHEREAS, the City may now adopt a Resolution of Necessity pursuant to Section 1240.040 of the California Code of Civil Procedure.

WHEREAS, the City has the power to condemn property located in the City of Eastvale, pursuant to an agreement between the City of Ontario and the City of Eastvale.

NOW, THEREFORE, THE CITY DOES HEREBY RESOLVE AND DECLARE AS FOLLOWS:

SECTION 1. Compliance with California Code of Civil Procedure and California Environmental Quality Act. There has been compliance by the City with the requirements of Section 1245.235 of the California Code of Civil Procedure and the California Environmental Quality Act.

SECTION 2. Public Use. The public use for which the real property is to be acquired is for public right-of-way purposes and the construction of the South Milliken Avenue Grade Separation Project and related public infrastructure improvements, in San Bernardino County, California. Section 37350.5 of the California Government Code authorizes the City to acquire by eminent domain real property necessary for such purposes.

SECTION 3. Description of Property. Attached and marked as Exhibit "A" is the legal description and depiction of the real property to be acquired by the City, which describes the general location and extent of the property to be acquired with sufficient detail for reasonable identification.

SECTION 4. Findings. The City hereby finds and determines each of the following:

- (a) The public interest and necessity require the proposed project;
- (b) The proposed project is planned or located in the manner that will be most compatible with the greatest public good and least private injury;
- (c) The real property described in Exhibit "A" are necessary for the proposed project;
- (d) The offer required by Section 7267.2 of the California Government Code was made.

SECTION 5. Use Not Unreasonably Interfering with Existing Public Use(s). Some or all of the real property to be acquired is subject to easements and rights-of-way appropriated to existing public uses. The legal descriptions of these easements and rights-of-way are on file with the City and describe the general location and extent of the easements and rights-of-way with sufficient detail for reasonable identification. In the event the herein described use or uses will not unreasonably interfere with or impair the continuance of the public use as it now exists or may reasonably be expected to exist in the future, counsel for the City is authorized to acquire the real property subject to such existing public use(s) pursuant to Section 1240.510 of the California Code of Civil Procedure.

SECTION 6. More Necessary Public Use. Some or all of the real property to be acquired is subject to easements and rights-of-way appropriated to existing public uses. To the extent that the herein described use or uses will unreasonably interfere with or impair the continuance of the public use as it now exists or may reasonably be expected to exist in the future, the City finds and determines that the herein described use or uses are more necessary than said existing public use. Counsel for the City is authorized to acquire the real property appropriated to such existing public use(s) pursuant to Section 1240.610 of the California Code of Civil Procedure. Staff is further

authorized to make such improvements to the real property being acquired that it determines is reasonably necessary to mitigate any adverse impact upon the existing public use.

SECTION 7. Further Activities. Counsel for the City is hereby authorized to file legal proceedings necessary to acquire the hereinabove described real property in the name of and on behalf of the City by eminent domain, and counsel is authorized to institute and prosecute such legal proceedings as may be required in connection therewith. Legal counsel is further authorized to take such steps as may be authorized and required by law, and to make such security deposits as may be required by order of court, to permit the City to take possession of and use said real property at the earliest possible time. Counsel is further authorized to correct any errors or to make or agree to non-material changes in the legal description of the real property that are deemed necessary for the conduct of the condemnation action or other proceedings or transaction required to acquire the subject real property. Counsel is further authorized to reduce or modify the extent of the interests or property to be acquired so as to reduce the compensation payable in the action where such change would not substantially impair the construction and operation for the project for which the real property is being acquired.

SECTION 8. Effective Date. This Resolution shall take effect upon adoption.

The City Clerk of the City of Ontario shall certify as to the adoption of this Resolution.

PASSED, APPROVED, AND ADOPTED this 4th day of December 2012.

PAUL S. LEON, MAYOR

ATTEST:

MARY E. WIRTES, MMC, CITY CLERK

APPROVED AS TO LEGAL FORM:

BEST BEST & KRIEGER LLP
CITY ATTORNEY

STATE OF CALIFORNIA)
COUNTY OF SAN BERNARDINO)
CITY OF ONTARIO)

I, MARY E. WIRTES, City Clerk of the City of Ontario, DO HEREBY CERTIFY that foregoing Resolution No. 2012- was duly passed and adopted by the City Council of the City of Ontario at their regular meeting held December 4, 2012 by the following roll call vote, to wit:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

MARY E. WIRTES, MMC, CITY CLERK

(SEAL)

The foregoing is the original of Resolution No. 2012- duly passed and adopted by the Ontario City Council at their regular meeting held December 4, 2012.

MARY E. WIRTES, MMC, CITY CLERK

(SEAL)

Legal Definitions of Property to be Acquired

The following is a list of definitions of legal rights to be acquired by the City of Ontario:

“Fee Acquisition” also known as fee simple or fee simple absolute, refers to complete or absolute ownership of the property in the City of Eastvale, County of Riverside, State of California.

“Temporary Construction Easement” or **“TCE”** refers to the right of the City, its successors, and assigns, to engage in construction and related activities related to the South Milliken Grade Separation Project, together with all necessary rights of ingress and egress to the non- exclusive easement area in connection with such construction and related activities.

The TCE shall commence after the owner is provided 5 calendar days advanced written notice by the City of the City’s intent to utilize the TCE area. The use of the TCE area shall not exceed 6 months; provided however, that the term of the TCE may be extended upon payment by the City to the Property Owner of an amount equal to \$3,502.21 a month, prorated to the actual date upon which the City’s use of the Property terminates.

Property Owner shall not cause, directly, indirectly or negligently, any interference with or harm to the rights conveyed hereunder.

“Access Easement” refers to an non-exclusive permanent and perpetual easement and right of way in favor of the City, its successors and assigns, together with the right to construct, reconstruct, repair, extend, maintain and traverse an access way to access City owned facilities and/or construction site, as determined necessary by the City, together with all necessary rights incidental thereto, on, over, under and across the property in connection with the exercise of any easement rights described herein.

Property Owner shall not erect or construct, or permit to be erected or constructed, any building, structure or improvement on, over, or under any portion of the easement, or plant trees or any other vegetation on any portion of the easement except with the prior written consent of the City, its successors and assigns.

The City shall have the right to trim, cut or clear away any trees, brush, or other vegetation from time to time as determined in its sole discretion, without payment of additional compensation.

No other easements shall be granted on, under or over the easement without the prior written consent of the City, its successors and assigns.

The existing ground elevations upon completion of construction shall not be further increased or decreased without the prior written consent of the City.

Property Owner shall not cause, directly, indirectly or negligently, any interference with or harm to the rights conveyed hereunder.

EXHIBIT "A"
LEGAL DESCRIPTION
RIGHT OF WAY

THOSE PORTIONS OF THE WEST HALF OF THE NORTHWEST QUARTER OF SECTION 6, TOWNSHIP 2 SOUTH, RANGE 6 WEST, SAN BERNARDINO MERIDIAN, IN THE CITY OF EASTVALE, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, ACCORDING TO THE OFFICIAL PLAT THEREOF, DESCRIBED AS FOLLOWS:

PARCEL 1

BEGINNING AT A NORTHWEST CORNER OF PARCEL 1 AS DESCRIBED IN THE GRANT DEED TO J.W. MITCHELL COMPANY, LLC, RECORDED JANUARY 10, 2002 AS DOCUMENT NO. 2002-017019 OFFICIAL RECORDS IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, SAID POINT ALSO BEING ON THE SOUTHWESTERLY RIGHT OF WAY LINE OF MISSION BOULEVARD; THENCE ALONG THE NORTHEASTERLY LINE OF SAID PARCELS 1 AND 2 AS DESCRIBED IN SAID GRANT DEED, SAID LINE ALSO BEING THE SOUTHWESTERLY RIGHT OF WAY LINE OF MISSION BOULEVARD (150 FEET WIDE), SOUTH $68^{\circ}24'43''$ EAST 326.67 FEET TO THE BEGINNING OF A CURVE CONCAVE SOUTHWESTERLY HAVING A RADIUS OF 5536.27 FEET; THENCE SOUTHEASTERLY 364.58 FEET ALONG SAID CURVE AND ALONG SAID NORTHEASTERLY DEED LINE THROUGH A CENTRAL ANGLE OF $03^{\circ}46'23''$; THENCE LEAVING SAID NORTHEASTERLY LINE NONTANGENT NORTH $68^{\circ}24'25''$ WEST 701.01 FEET TO THE NORTHWESTERLY LINE OF SAID GRANT DEED; THENCE ALONG SAID NORTHWESTERLY LINE NORTH $61^{\circ}30'45''$ EAST 15.61 FEET TO THE POINT OF BEGINNING.

CONTAINING 6,895 SQUARE FEET, MORE OR LESS.

PARCEL 2

BEGINNING AT THE NORTHEAST CORNER OF PARCEL 1 AS DESCRIBED IN THE EASEMENT DEED TO THE COUNTY OF RIVERSIDE, RECORDED SEPTEMBER 22, 1998 AS INSTRUMENT NO. 1998-402636 OFFICIAL RECORDS AND RE-RECORDED OCTOBER 18, 1999 AS INSTRUMENT NO. 99-459100 OFFICIAL RECORDS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, SAID POINT ALSO BEING ON THE SOUTHWESTERLY RIGHT OF WAY LINE OF MISSION BOULEVARD; THENCE ALONG SAID SOUTHWESTERLY RIGHT OF WAY LINE NORTH $61^{\circ}30'45''$ EAST 9.34 FEET TO A LINE PARALLEL AND/OR CONCENTRIC WITH AND 8.00 FEET EASTERLY OF THE EASTERLY RIGHT OF WAY LINE OF MILLIKEN AVENUE AS DESCRIBED IN SAID EASEMENT DEED; THENCE ALONG SAID PARALLEL AND/OR CONCENTRIC LINE THE FOLLOWING THREE COURSES:

1. SOUTH $02^{\circ}37'26''$ WEST 47.81 FEET TO THE BEGINNING OF A CURVE CONCAVE SOUTHEASTERLY HAVING A RADIUS OF 1425.00 FEET;
2. SOUTHERLY 83.93 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF $03^{\circ}22'28''$;
3. SOUTH $00^{\circ}45'02''$ EAST 90.39 FEET TO THE NORTHERLY LINE OF PARCEL 3 AS DESCRIBED IN SAID EASEMENT DEED;

THENCE ALONG SAID NORTHERLY LINE NORTH $38^{\circ}19'00''$ WEST 13.12 FEET TO THE NORTHWEST CORNER OF SAID PARCEL 3; THENCE ALONG THE EASTERLY RIGHT OF WAY LINE OF MILLIKEN AVENUE NORTH $00^{\circ}45'02''$ WEST 79.99 FEET TO THE BEGINNING OF A CURVE CONCAVE EASTERLY HAVING A RADIUS OF 1433.00 FEET; THENCE NORTHEASTERLY 84.40 FEET ALONG SAID CURVE AND ALONG SAID EASTERLY RIGHT OF WAY LINE THROUGH A CENTRAL ANGLE OF $03^{\circ}22'28''$; THENCE CONTINUING ALONG SAID EASTERLY RIGHT OF WAY LINE NORTH $02^{\circ}37'26''$ EAST 42.98 FEET TO THE POINT OF BEGINNING.

JN 108038 AP 0156-020-44 RW

CONTAINING 1,717 SQUARE FEET, MORE OR LESS.

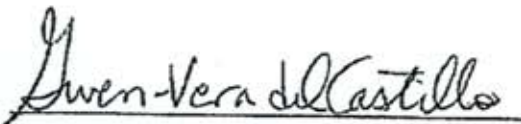
PARCEL 3

BEGINNING AT THE SOUTHWEST CORNER OF PARCEL 3 AS DESCRIBED IN THE EASEMENT DEED TO THE COUNTY OF RIVERSIDE, RECORDED SEPTEMBER 22, 1998 AS INSTRUMENT NO. 1998-402836 OFFICIAL RECORDS AND RE-RECORDED OCTOBER 18, 1999 AS INSTRUMENT NO. 99-459100 OFFICIAL RECORDS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, SAID POINT ALSO BEING ON THE EASTERLY RIGHT OF WAY LINE OF MILLIKEN AVENUE; THENCE ALONG THE SOUTHERLY LINE OF SAID PARCEL 3 NORTH 36°49'05" EAST 13.12 FEET TO A LINE PARALLEL WITH AND 8.00 FEET EASTERLY OF THE EASTERLY RIGHT OF WAY LINE OF SAID MILLIKEN AVENUE; THENCE ALONG SAID PARALLEL LINE SOUTH 00°45'02" EAST 95.58 FEET; THENCE LEAVING SAID PARALLEL LINE SOUTH 89°14'58" WEST 8.00 FEET TO THE EASTERLY RIGHT OF WAY LINE OF MILLIKEN AVENUE; THENCE ALONG SAID EASTERLY LINE NORTH 00°45'02" WEST 85.18 FEET TO THE POINT OF BEGINNING.

CONTAINING 723 SQUARE FEET, MORE OR LESS.

ALL AS MORE PARTICULARLY SHOWN ON EXHIBIT "B" ATTACHED HERETO AND MADE A PART HEREOF.

DATED THIS 29TH DAY OF AUGUST, 2012.



GWEN-VERA DEL CASTILLO, PLS 5108



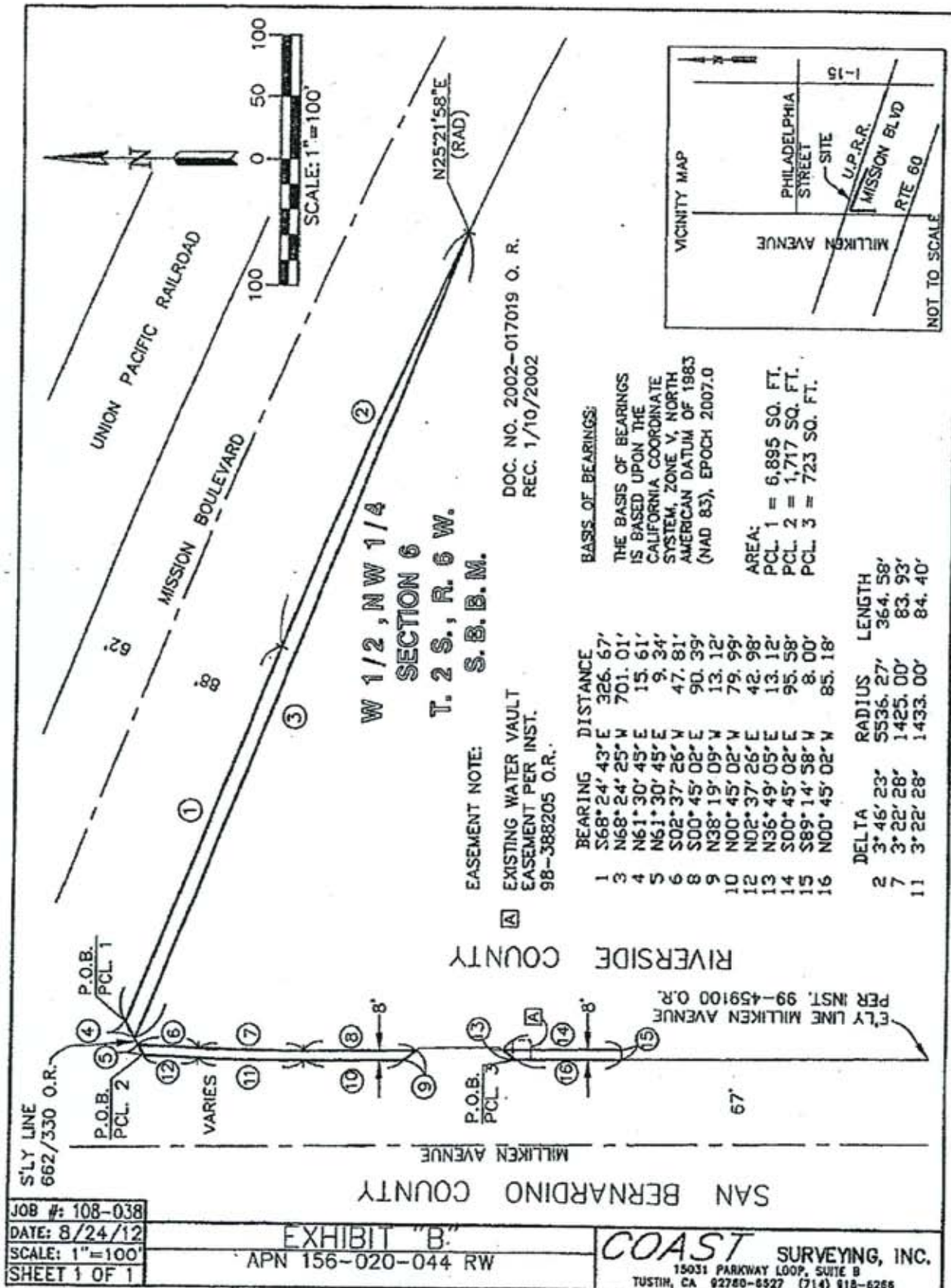


EXHIBIT "A"
LEGAL DESCRIPTION
ACCESS EASEMENT

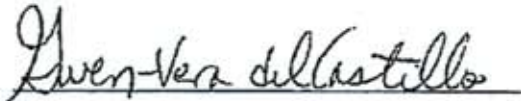
THAT PORTION OF THE WEST HALF OF THE NORTHWEST QUARTER OF SECTION 6, TOWNSHIP 2 SOUTH, RANGE 6 WEST, SAN BERNARDINO MERIDIAN, IN THE CITY OF EASTVALE, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, ACCORDING TO THE OFFICAL PLAT THEREOF, DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF PARCEL 3 AS DESCRIBED IN THE EASEMENT DEED TO THE COUNTY OF RIVERSIDE, RECORDED SEPTEMBER 22, 1998 AS INSTRUMENT NO. 1998-402638 OFFICIAL RECORDS AND RE-RECORDED OCTOBER 18, 1999 AS INSTRUMENT NO. 99-459100 OFFICIAL RECORDS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY; THENCE ALONG SAID EASTERLY LINE OF SAID PARCEL 3 SOUTH 00°45'02" EAST 19.26 FEET TO THE TRUE POINT OF BEGINNING; THENCE LEAVING SAID EASTERLY LINE NORTH 89°14'58" EAST 30.00 FEET; THENCE SOUTH 00°45'02" EAST 25.00 FEET; THENCE SOUTH 89°14'58" WEST 30.00 FEET TO SAID EASTERLY LINE; THENCE ALONG SAID EASTERLY LINE NORTH 00°45'02" WEST 25.00 FEET TO THE TRUE POINT OF BEGINNING.

CONTAINING 750 SQUARE FEET, MORE OR LESS.

ALL AS MORE PARTICULARLY SHOWN ON EXHIBIT "B" ATTACHED HERETO AND MADE A PART HEREOF.

DATED THIS 27TH DAY OF AUGUST, 2012.



GWEN-VERA DEL CASTILLO, PLS 5108



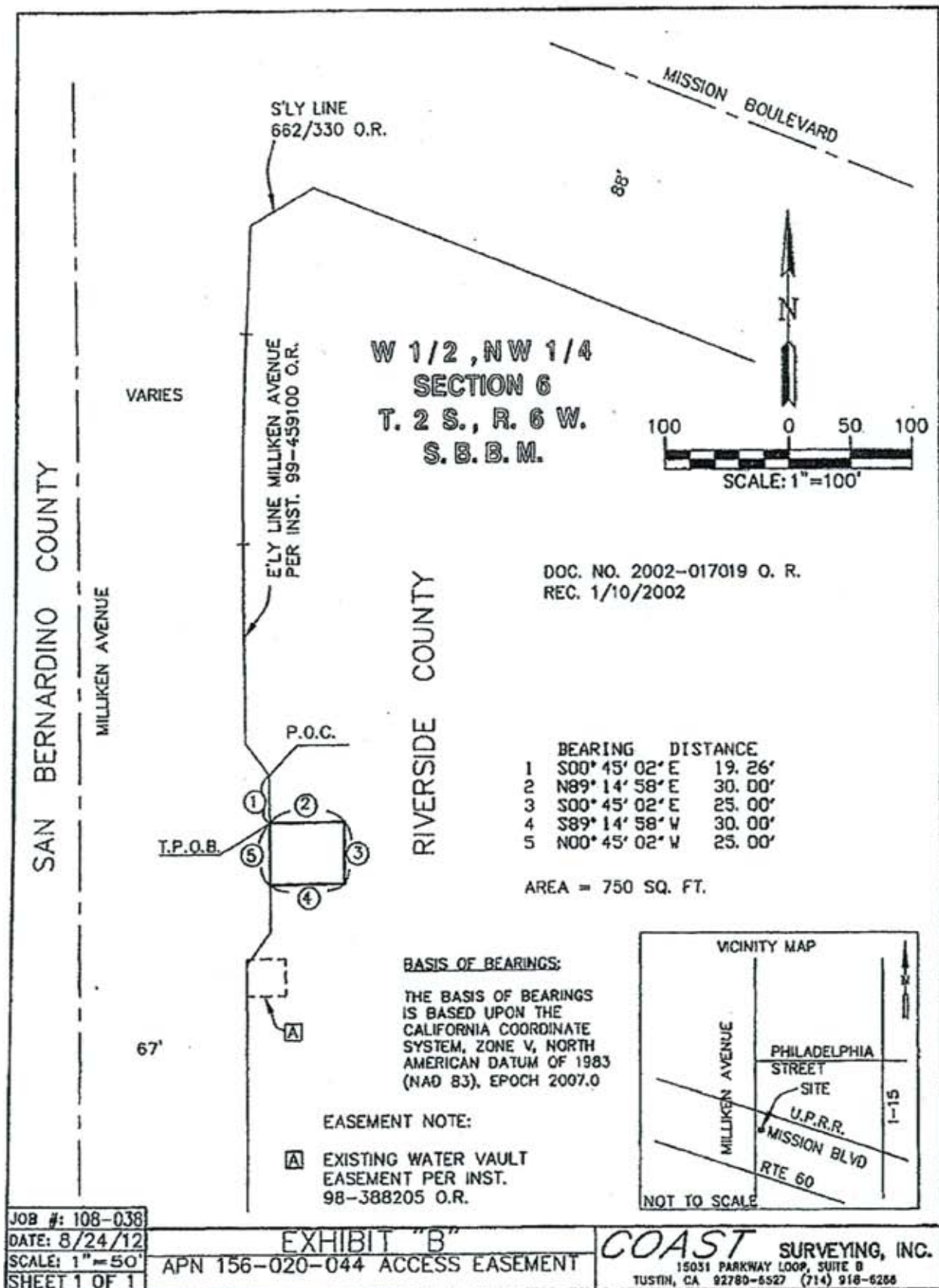


EXHIBIT "A"
LEGAL DESCRIPTION
TEMPORARY CONSTRUCTION EASEMENT

THAT PORTION OF THE WEST HALF OF THE NORTHWEST QUARTER OF SECTION 6, TOWNSHIP 2 SOUTH, RANGE 6 WEST, SAN BERNARDINO MERIDIAN, IN THE CITY OF EASTVALE, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, ACCORDING TO THE OFFICAL PLAT THEREOF, DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF PARCEL 1 AS DESCRIBED IN THE GRANT DEED TO J.W. MITCHELL COMPANY, LLC, RECORDED JANUARY 10, 2002 AS DOCUMENT NO. 2002-017019 OFFICIAL RECORDS IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, SAID POINT ALSO BEING ON THE SOUTHWESTERLY RIGHT OF WAY LINE OF MISSION BOULEVARD; THENCE ALONG THE NORTHEASTERLY LINE OF SAID PARCELS 1 AND 2 AS DESCRIBED IN SAID GRANT DEED, SAID LINE ALSO BEING THE SOUTHWESTERLY RIGHT OF WAY LINE OF MISSION BOULEVARD (150 FEET WIDE), SOUTH 88°24'43" EAST 326.67 FEET TO THE BEGINNING OF A CURVE CONCAVE SOUTHWESTERLY HAVING A RADIUS OF 5536.27 FEET; THENCE SOUTHEASTERLY 364.68 FEET ALONG SAID CURVE AND ALONG SAID NORTHEASTERLY DEED LINE THROUGH A CENTRAL ANGLE OF 03°46'23" TO THE TRUE POINT OF BEGINNING, A RADIAL BEARING TO SAID POINT BEARS NORTH 25°21'58" EAST; THENCE CONTINUING ALONG SAID CURVE AND SAID NORTHEASTERLY LINE SOUTHEASTERLY 132.97 FEET THROUGH A CENTRAL ANGLE OF 01°22'34"; THENCE LEAVING SAID NORTHEASTERLY LINE NONTANGENT SOUTH 26°44'32" WEST 18.00 FEET TO THE BEGINNING OF A NONTANGENT CURVE CONCAVE SOUTHWESTERLY HAVING A RADIUS OF 5518.27 FEET, A RADIAL BEARING TO SAID POINT BEARS NORTH 26°44'32" EAST; THENCE NORTHWESTERLY 495.93 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 05°08'57"; THENCE NORTH 68°24'25" WEST 110.09 FEET; THENCE SOUTH 05°23'24" WEST 88.80 FEET; THENCE SOUTH 37°12'48" WEST 47.60 FEET; THENCE NORTH 80°00'00" WEST 31.56 FEET; THENCE SOUTH 49°29'56" WEST 39.15 FEET; THENCE NORTH 90°00'00" WEST 18.16 FEET; THENCE NORTH 00°36'46" EAST 39.75 FEET; THENCE SOUTH 88°45'07" WEST 29.76 FEET; THENCE NORTH 29°50'34" WEST 54.01 FEET; THENCE NORTH 00°00'00" WEST 128.38 FEET; THENCE NORTH 87°22'34" WEST 17.08 FEET TO THE BEGINNING OF A NONTANGENT CURVE CONCAVE SOUTHEASTERLY HAVING A RADIUS OF 75.00 FEET, A RADIAL BEARING TO SAID CURVE BEARS NORTH 39°39'44" WEST; THENCE SOUTHWESTERLY 84.08 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 48°57'25" TO THE BEGINNING OF A COMPOUND CURVE CONCAVE SOUTHEASTERLY HAVING A RADIUS OF 1423.00 FEET, A RADIAL BEARING TO SAID POINT BEARS NORTH 88°37'09" WEST; THENCE SOUTHERLY 52.94 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 02°07'53"; THENCE SOUTH 00°45'02" EAST 45.15 FEET; THENCE NORTH 89°14'58" EAST 3.00 FEET; THENCE SOUTH 00°45'02" EAST 210.02 FEET; THENCE SOUTH 89°14'58" WEST 3.00 FEET TO A LINE PARALLEL WITH AND 10.00 FEET EASTERLY OF THE EASTERLY RIGHT OF WAY LINE OF MILLIKEN AVENUE; THENCE ALONG SAID PARALLEL LINE SOUTH 00°45'02" EAST 381.00 FEET; THENCE LEAVING SAID PARALLEL LINE SOUTH 89°14'58" WEST 10.00 FEET TO SAID EASTERLY RIGHT OF WAY LINE; THENCE ALONG SAID EASTERLY RIGHT OF WAY LINE NORTH 00°45'02" WEST 381.00 FEET; THENCE LEAVING SAID EASTERLY RIGHT OF WAY LINE NORTH 89°14'58" EAST 8.00 FEET; THENCE NORTH 00°45'02" WEST 95.58 FEET TO THE SOUTHEASTERLY LINE OF PARCEL 3 AS DESCRIBED IN THE EASEMENT DEED TO THE COUNTY OF RIVERSIDE, RECORDED SEPTEMBER 22, 1998 AS INSTRUMENT NO. 1998-402636 OFFICIAL RECORDS AND

JN 108038 AP 0156-020-44 TCE

RE-RECORDED OCTOBER 18, 1999 AS INSTRUMENT NO. 99-459100 OFFICIAL RECORDS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY; THENCE ALONG SAID SOUTHEASTERLY LINE NORTH 38°49'05" EAST 3.28 FEET TO THE SOUTHEAST CORNER OF SAID PARCEL 3; THENCE ALONG THE EASTERLY LINE OF SAID PARCEL 3 NORTH 00°45'02" WEST 64.00 FEET TO THE NORTHEASTERLY CORNER OF SAID PARCEL 3; THENCE ALONG THE NORTHEASTERLY LINE OF SAID PARCEL 3 NORTH 38°19'09" WEST 3.28 FEET; THENCE LEAVING SAID NORTHEASTERLY LINE NORTH 00°45'02" WEST 90.39 FEET TO THE BEGINNING OF A CURVE CONCAVE SOUTHEASTERLY HAVING A RADIUS OF 1425.00 FEET; THENCE NORTHERLY 83.93 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 03°22'28"; THENCE NORTH 02°37'26" EAST 47.81 FEET TO THE NORTHWESTERLY LINE OF THE DESCRIBED IN SAID GRANT DEED TO J.W. MITCHELL COMPANY, LLC; THENCE ALONG SAID NORTHWESTERLY LINE NORTH 61°30'45" EAST 5.95 FEET; THENCE LEAVING SAID NORTHWESTERLY LINE SOUTH 68°24'25" EAST 701.01 FEET TO THE TRUE POINT OF BEGINNING.

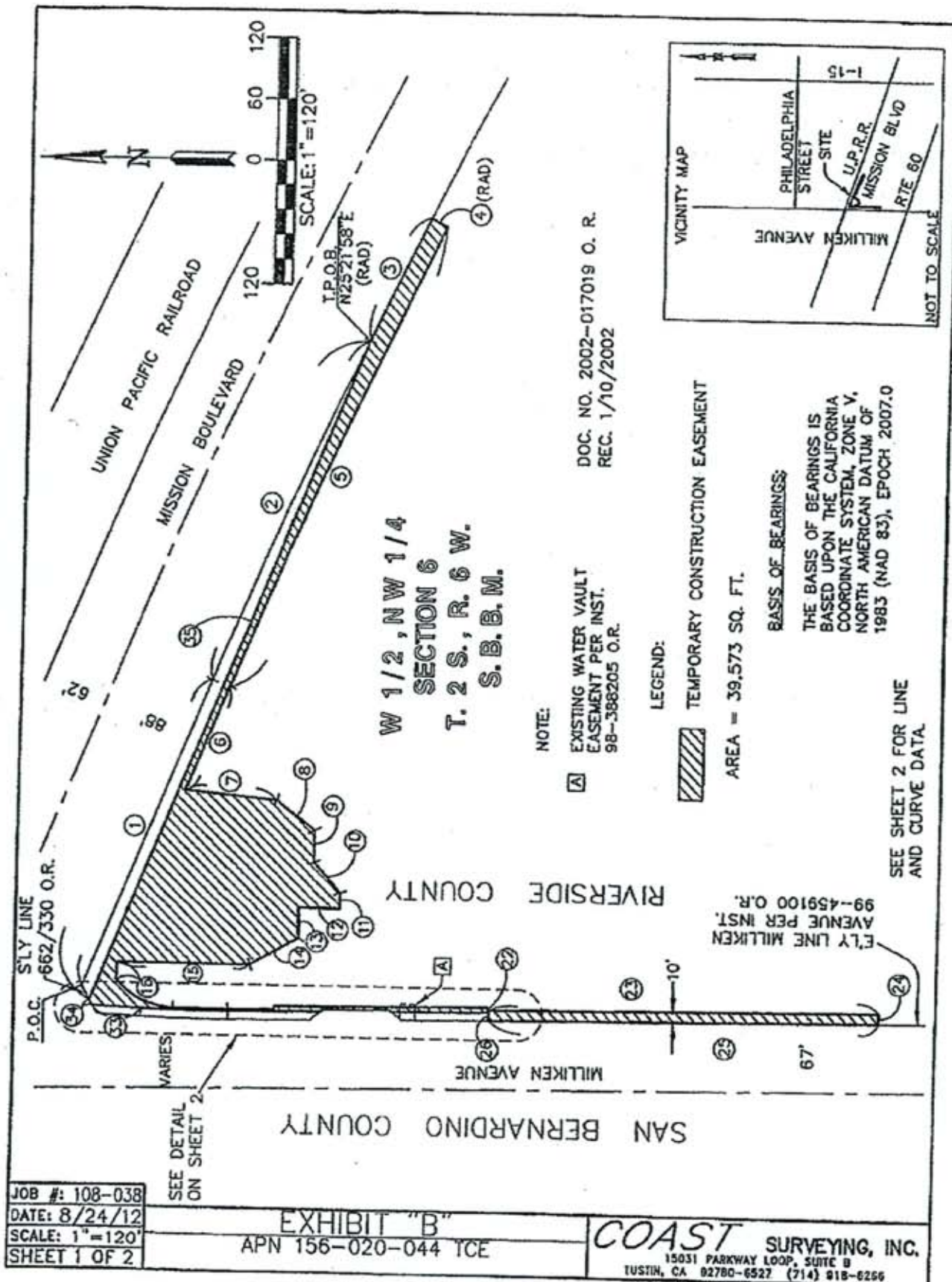
CONTAINING 39,673 SQUARE FEET, MORE OR LESS.

ALL AS MORE PARTICULARLY SHOWN ON EXHIBIT "B" ATTACHED HERETO AND MADE A PART HEREOF.

DATED THIS 29TH DAY OF AUGUST, 2012.


GWEN-VERA DEL CASTILLO, PLS 5108





SAN BERNARDINO COUNTY

MILLIKEN AVENUE

RIVERSIDE COUNTY

S'LY LINE
662/330 O.R.

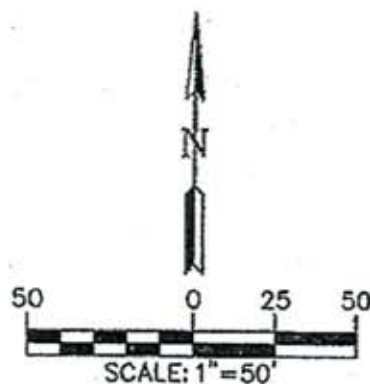
P.O.C.

VARIES

E'LY LINE MILLIKEN AVENUE
PER INST. 99-459100 O.R.

N88°37'09"W
(RAD PCC)

N39°39'44"W
(RAD)



	BEARING	DISTANCE
1	S68°24'43"E	326.67'
4	S26°44'32"W	18.00'
6	N68°24'25"W	110.09'
7	S05°23'24"W	88.80'
8	S37°12'48"W	47.60'
9	N90°00'00"W	31.56'
10	S49°29'56"W	39.15'
11	N90°00'00"W	16.16'
12	N00°36'46"E	39.75'
13	S88°45'07"W	29.76'
14	N29°50'34"W	54.01'
15	N00°00'00"W	128.38'
16	N87°22'34"W	17.08'
19	S00°45'02"E	45.15'
20	N89°14'58"E	3.00'
21	S00°45'02"E	210.02'
22	S89°14'58"W	3.00'
23	S00°45'02"E	381.00'
24	S89°14'58"W	10.00'
25	N00°45'02"W	381.00'
26	N89°14'58"E	8.00'
27	N00°45'02"W	95.58'
28	N36°49'05"E	3.28'
29	N00°45'02"W	64.00'
30	N38°19'09"W	3.28'
31	N00°45'02"W	90.39'
33	N02°37'26"E	47.81'
34	N61°30'45"E	5.95'
35	S68°24'25"E	701.01'

	DELTA	RADIUS	LENGTH
2	3°46'23"	5536.27'	364.58'
3	1°22'34"	5536.27'	132.97'
5	5°08'57"	5518.27'	495.93'
17	48°57'25"	75.00'	64.08'
18	2°07'53"	1423.00'	52.94'
32	3°22'28"	1425.00'	83.93'

LEGEND:



TEMPORARY CONSTRUCTION EASEMENT

JOB #: 108-038
DATE: 8/24/12
SCALE: 1"=50'
SHEET 2 OF 2

EXHIBIT "B"
APN 156-020-044 TCE

COAST SURVEYING, INC.
15031 PARKWAY LOOP, SUITE B
TUSTIN, CA 92780-6527 (714) 918-6266

RESOLUTION NO. _____

A RESOLUTION OF NECESSITY OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, FOR THE ACQUISITION OF A TEMPORARY CONSTRUCTION EASEMENT INTEREST IN A PORTION OF CERTAIN REAL PROPERTY LOCATED AT OR NEAR THE INTERSECTION OF MISSION BOULEVARD, PHILADELPHIA STREET AND THE UNION PACIFIC RAILROAD CROSSING, AND MORE PARTICULARLY DESCRIBED AS ASSESSOR PARCEL NO. 0283-152-33, BY EMINENT DOMAIN, IS NECESSARY FOR PUBLIC RIGHT-OF-WAY FOR THE CONSTRUCTION OF THE SOUTH MILLIKEN AVENUE GRADE SEPARATION PROJECT AND RELATED PUBLIC INFRASTRUCTURE IMPROVEMENTS IN THE CITY OF ONTARIO, SAN BERNARDINO COUNTY, CALIFORNIA.

WHEREAS, the City of Ontario (the "City") proposes to acquire a temporary construction easement interest in a portion of certain real property located at or near the intersection of Mission Boulevard, Philadelphia Street and the Union Pacific Railroad crossing, and more particularly described as Assessor Parcel No. 0238-152-33, for public right-of-way purposes and the construction of the South Milliken Avenue Grade Separation Project and related public infrastructure improvements, in the City of Ontario, California, pursuant to the authority granted to it by Section 37350.5 of the California Government Code; and

WHEREAS, pursuant to Section 1245.235 of the California Code of Civil Procedure, the City scheduled a public hearing for Tuesday, December 4, 2012, at 6:30 p.m. at the Ontario City Hall, Council Chambers, 303 East "B" Street, Ontario, California, and gave to each person whose property is to be acquired and whose name and address appeared on the last equalized county assessment roll, notice and a reasonable opportunity to appear at said hearing and be heard on the matters referred to in Section 1240.030 of the California Code of Civil Procedure; and

WHEREAS, said hearing has been held by the City and each person whose property is to be acquired by eminent domain was afforded an opportunity to be heard on said matters; and

WHEREAS, the City may now adopt a Resolution of Necessity pursuant to Section 1240.040 of the California Code of Civil Procedure.

NOW, THEREFORE, THE CITY DOES HEREBY RESOLVE AND DECLARE AS FOLLOWS:

SECTION 1. Compliance with California Code of Civil Procedure and California Environmental Quality Act. There has been compliance by the City with the requirements of Section 1245.235 of the California Code of Civil Procedure and the California Environmental Quality Act.

SECTION 2. Public Use. The public use for which the real property is to be acquired is for public right-of-way purposes and the construction of the South Milliken Avenue Grade Separation Project and related public infrastructure improvements, in San Bernardino County, California. Section 37350.5 of the California Government Code authorizes the City to acquire by eminent domain real property necessary for such purposes.

SECTION 3. Description of Property. Attached and marked as Exhibit "A" is the legal description and depiction of the real property to be acquired by the City, which describes the general location and extent of the property to be acquired with sufficient detail for reasonable identification.

SECTION 4. Findings. The City hereby finds and determines each of the following:

- (a) The public interest and necessity require the proposed project;
- (b) The proposed project is planned or located in the manner that will be most compatible with the greatest public good and least private injury;
- (c) The real property described in Exhibit "A" are necessary for the proposed project;
- (d) The offer required by section 7267.2 of the California Government Code was made.

SECTION 5. Use Not Unreasonably Interfering with Existing Public Use(s). Some or all of the real property to be acquired is subject to easements and rights-of-way appropriated to existing public uses. The legal descriptions of these easements and rights-of-way are on file with the City and describe the general location and extent of the easements and rights-of-way with sufficient detail for reasonable identification. In the event the herein described use or uses will not unreasonably interfere with or impair the continuance of the public use as it now exists or may reasonably be expected to exist in the future, counsel for the City is authorized to acquire the real property subject to such existing public use(s) pursuant to Section 1240.510 of the California Code of Civil Procedure.

SECTION 6. More Necessary Public Use. Some or all of the real property to be acquired is subject to easements and rights-of-way appropriated to existing public uses. To the extent that the herein described use or uses will unreasonably interfere with or impair the continuance of the public use as it now exists or may reasonably be expected to exist in the future, the City finds and determines that the herein described use or uses are more necessary than said existing public use. Counsel for the City is authorized to acquire the real property appropriated to such existing public use(s) pursuant to Section 1240.610 of the California Code of Civil Procedure. Staff is further authorized to make such improvements to the real property being acquired that it determines is reasonably necessary to mitigate any adverse impact upon the existing public use.

SECTION 7. Further Activities. Counsel for the City is hereby authorized to file legal proceedings necessary to acquire the hereinabove described real property in the name of and on behalf of the City by eminent domain, and counsel is authorized to institute and prosecute such legal proceedings as may be required in connection therewith. Legal counsel is further authorized to take such steps as may be authorized and required by law, and to make such security deposits as may be required by order of court, to permit the City to take possession of and use said real property at the earliest possible time. Counsel is further authorized to correct any errors or to make or agree to non-material changes in the legal description of the real property that are deemed necessary for the conduct of the condemnation action or other proceedings or transaction required to acquire the subject real property. Counsel is further authorized to reduce or modify the extent of the interests or property to be acquired so as to reduce the compensation payable in the action where such change would not substantially impair the construction and operation for the project for which the real property is being acquired.

SECTION 8. Effective Date. This Resolution shall take effect upon adoption.

The City Clerk of the City of Ontario shall certify as to the adoption of this Resolution.

PASSED, APPROVED, AND ADOPTED this 4th day of December 2012.

PAUL S. LEON, MAYOR

ATTEST:

MARY E. WIRTES, MMC, CITY CLERK

APPROVED AS TO LEGAL FORM:

BEST BEST & KRIEGER LLP
CITY ATTORNEY

STATE OF CALIFORNIA)
COUNTY OF SAN BERNARDINO)
CITY OF ONTARIO)

I, MARY E. WIRTES, City Clerk of the City of Ontario, DO HEREBY CERTIFY that foregoing Resolution No. 2012- was duly passed and adopted by the City Council of the City of Ontario at their regular meeting held December 4, 2012 by the following roll call vote, to wit:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

MARY E. WIRTES, MMC, CITY CLERK

(SEAL)

The foregoing is the original of Resolution No. 2012- duly passed and adopted by the Ontario City Council at their regular meeting held December 4, 2012.

MARY E. WIRTES, MMC, CITY CLERK

(SEAL)

Legal Definitions of Property to be Acquired

The following is a list of definitions of legal rights to be acquired by the City of Ontario:

"Temporary Construction Easement" or "TCE" refers to the right of the City, its successors, and assigns, to engage in construction and related activities related to the South Milliken Grade Separation Project, together with all necessary rights of ingress and egress to the non-exclusive easement area in connection with such construction and related activities.

The TCE shall commence after the owner is provided 5 calendar days advanced written notice by the City of the City's intent to utilize the TCE area. The use of the TCE area shall not exceed two (2) months; provided however, that the term of the TCE may be extended upon payment by the City to the Property Owner of an amount equal to \$120.08 a month, prorated to the actual date upon which the City's use of the Property terminates.

Property Owner shall not cause, directly, indirectly or negligently, any interference with or harm to the rights conveyed hereunder.

EXHIBIT "A"
LEGAL DESCRIPTION
TEMPORARY CONSTRUCTION EASEMENT

THAT PORTION OF PARCEL 1 OF PARCEL MAP NO. 17414, IN THE CITY OF ONTARIO, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 216, PAGES 99 AND 100 OF PARCEL MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF SAID PARCEL 1; THENCE ALONG THE NORTHERLY LINE OF SAID PARCEL NORTH 89°39'52" EAST 30.00 FEET; THENCE LEAVING SAID NORTHERLY LINE SOUTH 00°01'13" WEST 40.00 FEET; THENCE SOUTH 89°39'52" WEST 30.00 FEET TO THE WESTERLY LINE OF SAID PARCEL, SAID LINE ALSO BEING THE EASTERLY RIGHT OF WAY LINE OF MILLIKEN AVENUE (130 FEET WIDE); THENCE ALONG SAID WESTERLY LINE NORTH 00°01'13" EAST 40.00 FEET TO THE POINT OF BEGINNING.

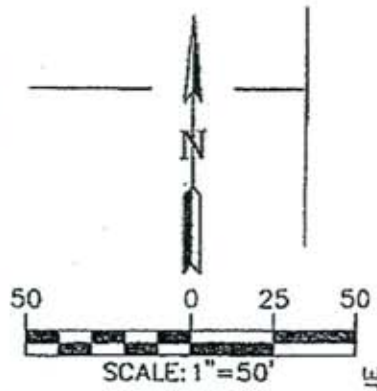
CONTAINING 1,200 SQUARE FEET, MORE OR LESS.

ALL AS MORE PARTICULARLY SHOWN ON EXHIBIT "B" ATTACHED HERETO AND MADE A PART HEREOF.

DATED THIS 1ST DAY OF FEBRUARY, 2012.


GWEN-VERA DEL CASTILLO, PLS 5108

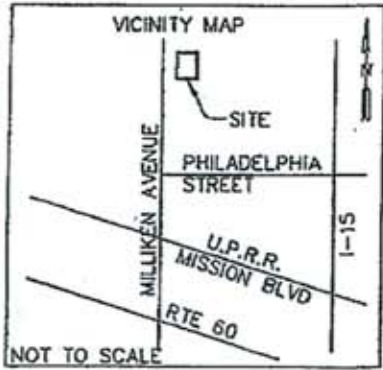




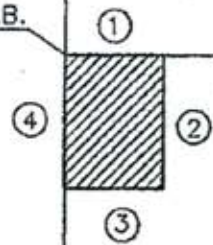
BASIS OF BEARINGS:
 THE BASIS OF BEARINGS
 IS BASED UPON THE
 CALIFORNIA COORDINATE
 SYSTEM, ZONE V, NORTH
 AMERICAN DATUM OF 1983
 (NAD83), EPOCH 2007.0

LEGEND:
 TEMPORARY
 CONSTRUCTION
 EASEMENT

AREA = 1,200 SQ. FEET



P.O.B.



PARCEL 1
PARCEL MAP NO. 17414
P. M. B. 216 / 99 - 100

W. 1/2, S.W. 1/4,
SEC. 31
T. 1 S., R. 6 W.,
S.B.M.

	BEARING	DISTANCE
1	N89° 39' 52" E	30.00'
2	S00° 01' 13" W	40.00'
3	S89° 39' 52" W	30.00'
4	N00° 01' 13" E	40.00'

PHILADELPHIA STREET

JOB #: 108-038
 DATE: 1/25/12
 SCALE: 1"=50'
 SHEET 1 OF 1

EXHIBIT "B"
 APN 0238-152-33
 TEMPORARY CONSTRUCTION EASEMENT

COAST SURVEYING, INC.
 15031 PARKWAY LOOP, SUITE B
 TUSTIN, CA 92780-6527 (714) 918-6266

RESOLUTION NO. _____

A RESOLUTION OF NECESSITY OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, FOR THE ACQUISITION OF FEE, EASEMENT AND TEMPORARY CONSTRUCTION EASEMENT INTERESTS IN PORTIONS OF CERTAIN REAL PROPERTY LOCATED AT OR NEAR THE INTERSECTION OF MISSION BOULEVARD, PHILADELPHIA STREET AND THE UNION PACIFIC RAILROAD CROSSING, AND MORE PARTICULARLY DESCRIBED AS ASSESSOR PARCEL NOS. 0211-321-10 AND 1083-352-02, BY EMINENT DOMAIN, IS NECESSARY FOR PUBLIC RIGHT-OF-WAY FOR THE CONSTRUCTION OF THE SOUTH MILLIKEN AVENUE GRADE SEPARATION PROJECT AND RELATED PUBLIC INFRASTRUCTURE IMPROVEMENTS IN THE CITY OF ONTARIO, SAN BERNARDINO COUNTY, CALIFORNIA.

WHEREAS, the City of Ontario (the "City") proposes to acquire fee, easement and temporary construction easement interests in portions of certain real property located at or near the intersection of Mission Boulevard, Philadelphia Street and the Union Pacific Railroad crossing, and more particularly described as Assessor Parcel Nos. 0211-321-10 and 1083-352-02, for public right-of-way purposes and the construction of the South Milliken Avenue Grade Separation Project and related public infrastructure improvements, in the City of Ontario, California, pursuant to the authority granted to it by Section 37350.5 of the California Government Code; and

WHEREAS, pursuant to Section 1245.235 of the California Code of Civil Procedure, the City scheduled a public hearing for Tuesday, December 4, 2012, at 6:30 p.m. at the Ontario City Hall, Council Chambers, 303 East "B" Street, Ontario, California, and gave to each person whose property is to be acquired and whose name and address appeared on the last equalized county assessment roll, notice and a reasonable opportunity to appear at said hearing and be heard on the matters referred to in Section 1240.030 of the California Code of Civil Procedure; and

WHEREAS, said hearing has been held by the City and each person whose property is to be acquired by eminent domain was afforded an opportunity to be heard on said matters; and

WHEREAS, the City may now adopt a Resolution of Necessity pursuant to Section 1240.040 of the California Code of Civil Procedure.

NOW, THEREFORE, THE CITY DOES HEREBY RESOLVE AND DECLARE AS FOLLOWS:

SECTION 1. Compliance with California Code of Civil Procedure and California Environmental Quality Act. There has been compliance by the City with the requirements of Section 1245.235 of the California Code of Civil Procedure and the California Environmental Quality Act.

SECTION 2. Public Use. The public use for which the real property is to be acquired is for public right-of-way purposes and the construction of the South Milliken Avenue Grade Separation Project and related public infrastructure improvements, in San Bernardino County, California. Section 37350.5 of the California Government Code authorizes the City to acquire by eminent domain real property necessary for such purposes.

SECTION 3. Description of Property. Attached and marked as Exhibit "A" is the legal description and depiction of the real property to be acquired by the City, which describes the general location and extent of the property to be acquired with sufficient detail for reasonable identification.

SECTION 4. Findings. The City hereby finds and determines each of the following:

- (a) The public interest and necessity require the proposed project;
- (b) The proposed project is planned or located in the manner that will be most compatible with the greatest public good and least private injury;
- (c) The real property described in Exhibit "A" are necessary for the proposed project;
- (d) The offer required by section 7267.2 of the California Government Code was made.

SECTION 5. Use Not Unreasonably Interfering with Existing Public Use(s). Some or all of the real property to be acquired is subject to easements and rights-of-way appropriated to existing public uses. The legal descriptions of these easements and rights-of-way are on file with the City and describe the general location and extent of the easements and rights-of-way with sufficient detail for reasonable identification. In the event the herein described use or uses will not unreasonably interfere with or impair the continuance of the public use as it now exists or may reasonably be expected to exist in the future, counsel for the City is authorized to acquire the real property subject to such existing public use(s) pursuant to Section 1240.510 of the California Code of Civil Procedure.

SECTION 6. More Necessary Public Use. Some or all of the real property to be acquired is subject to easements and rights-of-way appropriated to existing public uses. To the extent that the herein described use or uses will unreasonably interfere with or impair the continuance of the public use as it now exists or may reasonably be expected to exist in the future, the City finds and determines that the herein described use or uses are more necessary than said existing public use. Counsel for the City is authorized to acquire the real property appropriated to such existing public use(s) pursuant to Section 1240.610 of the California Code of Civil Procedure. Staff is further authorized to make such improvements to the real property being acquired that it determines is reasonably necessary to mitigate any adverse impact upon the existing public use.

SECTION 7. Further Activities. Counsel for the City is hereby authorized to file legal proceedings necessary to acquire the hereinabove described real property in the name of and on behalf of the City by eminent domain, and counsel is authorized to institute and prosecute such legal proceedings as may be required in connection therewith. Legal counsel is further authorized to take such steps as may be authorized and required by law, and to make such security deposits as may be required by order of court, to permit the City to take possession of and use said real property at the earliest possible time. Counsel is further authorized to correct any errors or to make or agree to non-material changes in the legal description of the real property that are deemed necessary for the conduct of the condemnation action or other proceedings or transaction required to acquire the subject real property. Counsel is further authorized to reduce or modify the extent of the interests or property to be acquired so as to reduce the compensation payable in the action where such change would not substantially impair the construction and operation for the project for which the real property is being acquired.

SECTION 8. Effective Date. This Resolution shall take effect upon adoption.

The City Clerk of the City of Ontario shall certify as to the adoption of this Resolution.

PASSED, APPROVED, AND ADOPTED this 4th day of December 2012.

PAUL S. LEON, MAYOR

ATTEST:

MARY E. WIRTES, MMC, CITY CLERK

APPROVED AS TO LEGAL FORM:

BEST BEST & KRIEGER LLP
CITY ATTORNEY

STATE OF CALIFORNIA)
COUNTY OF SAN BERNARDINO)
CITY OF ONTARIO)

I, MARY E. WIRTES, City Clerk of the City of Ontario, DO HEREBY CERTIFY that foregoing Resolution No. 2012- was duly passed and adopted by the City Council of the City of Ontario at their regular meeting held December 4, 2012 by the following roll call vote, to wit:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

MARY E. WIRTES, MMC, CITY CLERK

(SEAL)

The foregoing is the original of Resolution No. 2012- duly passed and adopted by the Ontario City Council at their regular meeting held December 4, 2012.

MARY E. WIRTES, MMC, CITY CLERK

(SEAL)

Legal Definitions of Property to be Acquired

The following is a list of definitions of legal rights to be acquired by the City of Ontario:

"Fee Acquisition" also known as fee simple or fee simple absolute, refers to complete or absolute ownership of the property in the City of Ontario (the "City"), County of San Bernardino, State of California.

"Temporary Construction Easement" or **"TCE"** refers to the right of the City, its successors, and assigns, to engage in construction and related activities related to the South Milliken Grade Separation Project, together with all necessary rights of ingress and egress to the non-exclusive easement area in connection with such construction and related activities.

The TCE shall commence after the owner is provided 5 calendar days advanced written notice by the City of the City's intent to utilize the TCE area. The use of the TCE area shall not exceed 6 months; provided however, that the term of the TCE may be extended upon payment by the City to the Property Owner of an amount equal to \$758.04 a month, prorated to the actual date upon which the City's use of the Property terminates.

Property Owner shall not cause, directly, indirectly or negligently, any interference with or harm to the rights conveyed hereunder.

"Public Utility Easement" refers to a non-exclusive permanent easement in favor of the City, the definition of which includes its successors, and assigns, including the right to enter upon the property herein described at any time that it may see fit to construct, reconstruct, maintain, repair, replace, and operate underground facilities for any purpose, including the conveyance of facilities through and under the property, together with the right to excavate and fill ditches and trenches for the location and construction of said facilities and the further right to remove trees, bushes, undergrowth, crops and other obstructions interfering with the construction, maintenance, repair, replacement and operation of said City facilities.

Except in emergencies, the City shall notify the overlying property owner prior to performing any work within the easement including removing trees, bushes, undergrowth, crops or other obstructions. If the City determines that an emergency requiring immediate corrective action exists, the City may proceed immediately with the corrective action and notify the overlying property owner as soon as reasonably possible. The City shall replace any improvements removed, by the City, for maintenance of the facilities, which have been installed with the City's approval.

The owner, its lessees, assigns and successors will not allow any change in surface or subsurface conditions including but not limited to placing fences, trees, walls, buildings, structures earth fills, excavations, construction of loading surcharge on or over the City's facilities or hinder the City's access to said facilities without approval of the City. The City will not unreasonably withhold or delay approval of changes in surface conditions if those changes will not interfere with the access, construction, maintenance, repair, replacement, operating integrity or structural integrity of said City facilities.

The non-exclusive easement rights shall also include the right of the City over, upon, under, and across the property together with the right to access, maintain, improve, alter, relocate, inspect, construct, reconstruct, install, replace, and remove public improvements and facilities, including those in the public right of way, and public utilities, including water and sewer lines, as determined necessary by the City, together with all necessary rights incidental thereto.

No other easements shall be granted on, under or over the easement without the prior written consent of the City, its successors and assigns.

The existing ground elevations upon completion of construction shall not be further increased or decreased without the prior written consent of the City.

EXHIBIT "A"
LEGAL DESCRIPTION
RIGHT OF WAY

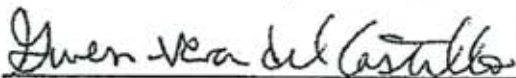
THAT PORTION OF THE SOUTHEAST $\frac{1}{4}$ OF SECTION 38, TOWNSHIP 1 SOUTH, RANGE 7 WEST, SAN BERNARDINO MERIDIAN, IN THE CITY OF ONTARIO, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, ACCORDING TO THE OFFICIAL PLAT THEREOF, AND THAT PORTION OF SECTION 1, TOWNSHIP 2 SOUTH, RANGE 7 WEST, SAN BERNARDINO MERIDIAN IN SAID CITY, COUNTY AND STATE, ACCORDING TO THE OFFICIAL PLAT THEREOF, DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF PARCEL 1 AS DESCRIBED IN THE GRANT DEED TO NATIONAL METAL & STEEL CORP., RECORDED JANUARY 31, 1985 AS INSTRUMENT NO. 85-023693 OFFICIAL RECORDS IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY; THENCE ALONG THE EAST LINE OF SAID PARCEL 1, SAID LINE ALSO BEING THE WESTERLY RIGHT OF WAY LINE OF MILLIKEN AVENUE (130 FEET WIDE), SOUTH $00^{\circ}01'13''$ WEST 621.50 FEET TO THE NORTHEASTERLY CORNER OF PARCEL 2 AS DESCRIBED IN SAID GRANT DEED; THENCE ALONG THE EAST LINE OF SAID PARCEL 2, SAID LINE ALSO BEING THE WESTERLY RIGHT OF WAY LINE OF MILLIKEN AVENUE (130 FEET WIDE), SOUTH $00^{\circ}45'02''$ EAST 187.89 FEET TO THE SOUTHEASTERLY CORNER OF SAID PARCEL 2; THENCE ALONG THE SOUTHWESTERLY LINE OF SAID PARCEL 2, ALSO BEING THE NORTHEASTERLY RIGHT OF WAY LINE OF THE PROPERTY CONVEYED TO SAN PEDRO, LOS ANGELES AND SALT LAKE RAILROAD COMPANY (100 FEET WIDE), NOW U.P.R.R. RIGHT OF WAY, NORTH $68^{\circ}24'25''$ WEST 33.97 FEET; THENCE LEAVING SAID SOUTHWESTERLY LINE NORTH $02^{\circ}06'39''$ EAST 188.39 FEET; THENCE NORTH $02^{\circ}02'13''$ EAST 35.94 FEET TO THE BEGINNING OF A NONTANGENT CURVE CONCAVE SOUTHEASTERLY HAVING A RADIUS OF 112.25 FEET, A RADIAL BEARING TO SAID POINT BEARS NORTH $88^{\circ}02'14''$ WEST; THENCE NORTHEASTERLY 21.79 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF $11^{\circ}07'11''$; THENCE NORTH $13^{\circ}04'58''$ EAST 11.73 FEET TO THE BEGINNING OF A CURVE CONCAVE NORTHWESTERLY HAVING A RADIUS OF 284.75 FEET; THENCE NORTHEASTERLY 87.10 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF $11^{\circ}29'22''$ TO THE BEGINNING OF A COMPOUND CURVE CONCAVE NORTHWESTERLY HAVING A RADIUS OF 13,937.08 FEET, A RADIAL BEARING TO SAID POINT BEARS SOUTH $88^{\circ}24'24''$ EAST; THENCE NORTHEASTERLY 382.66 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF $01^{\circ}34'23''$; THENCE NONTANGENT NORTH $00^{\circ}01'13''$ EAST 100.57 FEET TO THE NORTHERLY LINE OF SAID PARCEL 1; THENCE ALONG SAID NORTHERLY LINE SOUTH $89^{\circ}42'53''$ EAST 2.92 FEET TO THE POINT OF BEGINNING.

CONTAINING 9,316 SQUARE FEET, MORE OR LESS.

ALL AS MORE PARTICULARLY SHOWN ON EXHIBIT "B" ATTACHED HERETO AND MADE A PART HEREOF.

DATED THIS 15TH DAY OF FEBRUARY, 2012.



GWEN-VERA DEL CASTILLO, PLS 5108



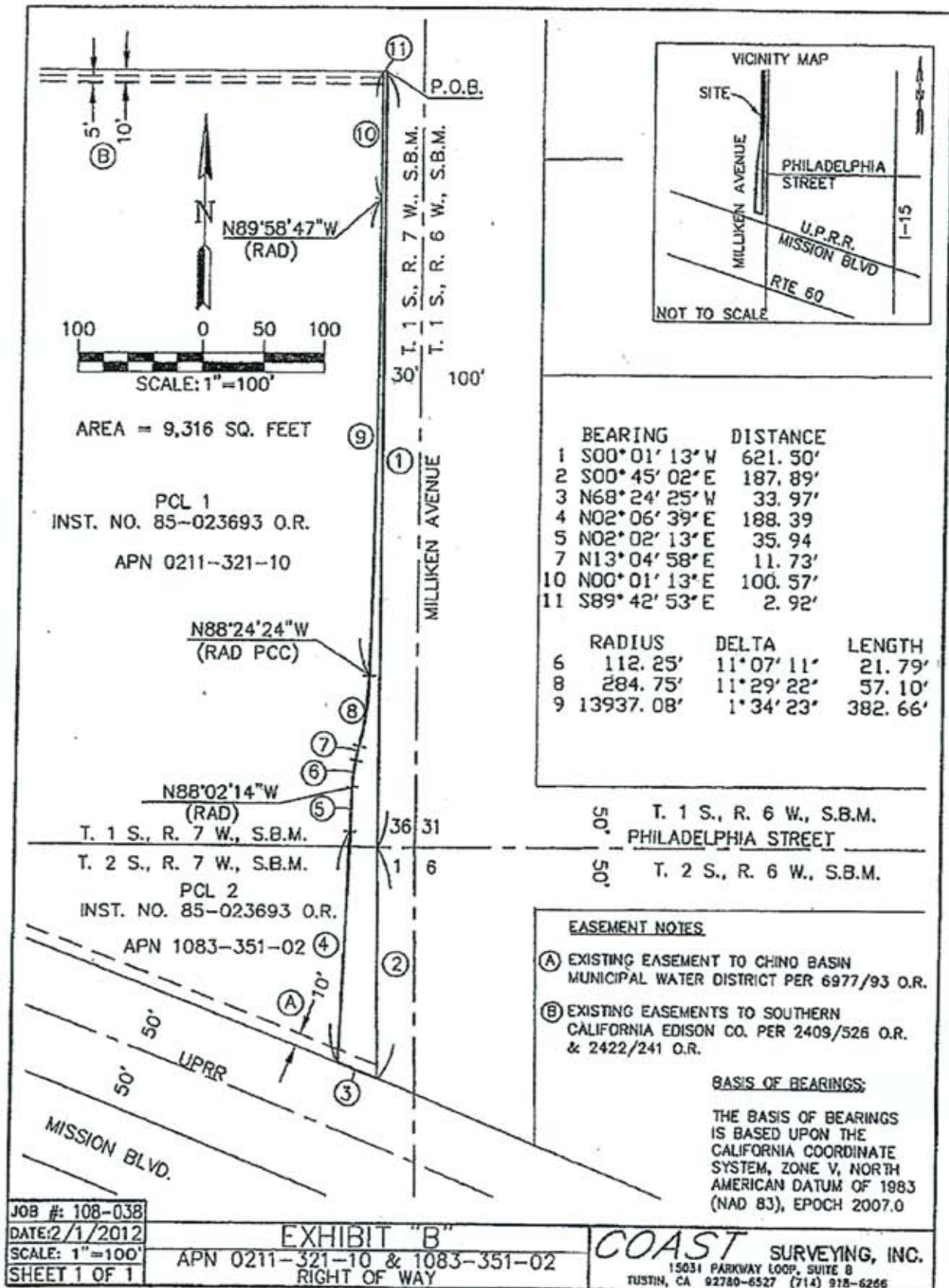


EXHIBIT "A"
LEGAL DESCRIPTION
UTILITY EASEMENT

THAT PORTION OF THE SOUTHEAST ¼ OF SECTION 36, TOWNSHIP 1 SOUTH, RANGE 7 WEST, SAN BERNARDINO MERIDIAN, IN THE CITY OF ONTARIO, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, ACCORDING TO THE OFFICIAL PLAT THEREOF, AND THAT PORTION OF SECTION 1, TOWNSHIP 2 SOUTH, RANGE 7 WEST, SAN BERNARDINO MERIDIAN IN SAID CITY, COUNTY AND STATE, ACCORDING TO THE OFFICIAL PLAT THEREOF, DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF PARCEL 1 AS DESCRIBED IN THE GRANT DEED TO NATIONAL METAL & STEEL CORP., RECORDED JANUARY 31, 1985 AS INSTRUMENT NO. 85-023693 OFFICIAL RECORDS IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY; THENCE ALONG THE NORTHERLY LINE OF SAID PARCEL NORTH 89°42'53" WEST 2.92 FEET TO THE TRUE POINT OF BEGINNING; THENCE LEAVING SAID NORTHERLY LINE SOUTH 00°01'13" WEST 100.57 FEET TO THE BEGINNING OF A NONTANGENT CURVE CONCAVE NORTHWESTERLY HAVING A RADIUS OF 13,937.08 FEET, A RADIAL BEARING TO SAID CURVE BEARS SOUTH 89°58'47" EAST; THENCE SOUTHWESTERLY 382.66 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 01°34'23" TO THE BEGINNING OF A COMPOUND CURVE CONCAVE NORTHWESTERLY HAVING A RADIUS OF 284.75 FEET, A RADIAL BEARING TO SAID POINT BEARS SOUTH 88°24'24" EAST; THENCE SOUTHWESTERLY 57.10 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 11°29'22"; THENCE SOUTH 13°04'58" WEST 11.73 FEET TO THE BEGINNING OF A CURVE CONCAVE SOUTHEASTERLY HAVING A RADIUS OF 112.25 FEET; THENCE SOUTHWESTERLY 21.79 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 11°07'11"; THENCE NONTANGENT SOUTH 02°02'13" WEST 35.94 FEET; THENCE SOUTH 02°06'39" WEST 188.39 FEET TO THE SOUTHWESTERLY LINE OF PARCEL 2 AS DESCRIBED IN SAID GRANT DEED; THENCE ALONG SAID SOUTHWESTERLY LINE, ALSO BEING THE NORTHEASTERLY RIGHT OF WAY LINE OF THE PROPERTY CONVEYED TO SAN PEDRO, LOS ANGELES AND SALT LAKE RAILROAD COMPANY (100 FEET WIDE), NOW U.P.R.R. RIGHT OF WAY, NORTH 68°24'25" WEST 53.48 FEET; THENCE LEAVING SAID SOUTHWESTERLY LINE NORTH 02°08'39" EAST 187.64 FEET; THENCE SOUTH 89°36'12" EAST 14.67 FEET; THENCE NORTH 02°39'17" EAST 198.25 FEET; THENCE NORTH 02°36'14" EAST 394.30 FEET TO THE NORTHERLY LINE OF SAID PARCEL 1; THENCE ALONG SAID NORTHERLY LINE SOUTH 89°42'53" EAST 27.56 FEET TO THE TRUE POINT OF BEGINNING.

CONTAINING 32,128 SQUARE FEET, MORE OR LESS.

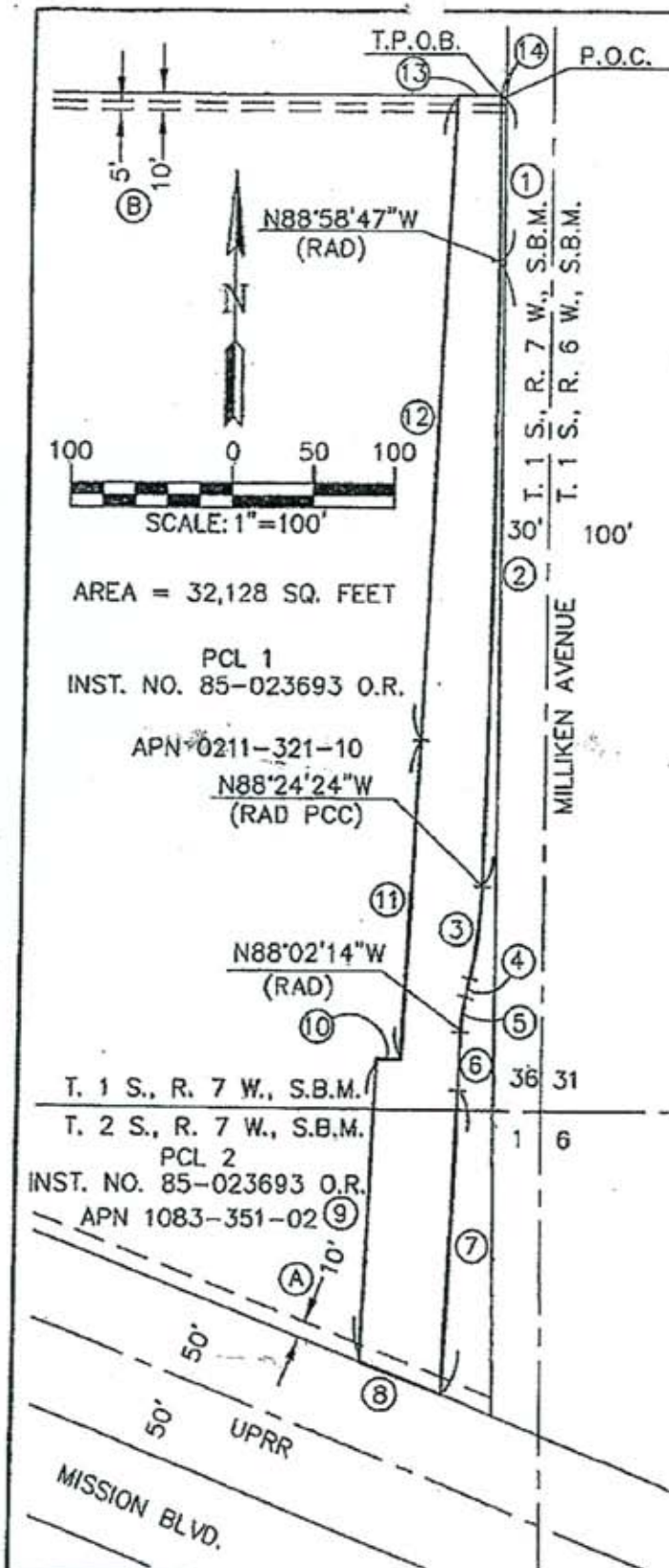
ALL AS MORE PARTICULARLY SHOWN ON EXHIBIT "B" ATTACHED HERETO AND MADE A PART HEREOF.

DATED THIS 16TH DAY OF FEBRUARY, 2012.

Gwen Vera del Castillo

GWEN-VERA DEL CASTILLO, PLS 5108





BEARING	DISTANCE
1 S00°01'13\"W	100.57'
4 S13°04'58\"W	11.73'
6 S02°02'13\"W	35.94'
7 S02°06'39\"W	188.39'
8 N68°24'25\"W	53.48'
9 N02°06'39\"E	187.64'
10 S89°36'12\"E	14.67'
11 N02°39'17\"E	196.25'
12 N02°36'14\"E	394.30'
13 S89°42'53\"E	27.56'
14 N89°42'53\"W	2.92'

RADIUS	DELTA	LENGTH
2 13937.08'	1°34'23\"	382.66'
3 284.75'	11°29'22\"	57.10'
5 112.25'	11°07'11\"	21.79'

T. 1 S., R. 6 W., S.B.M.
PHILADELPHIA STREET
T. 2 S., R. 6 W., S.B.M.

EASEMENT NOTES

- (A) EXISTING EASEMENT TO CHINO BASIN MUNICIPAL WATER DISTRICT PER 6977/93 O.R.
(B) EXISTING EASEMENTS TO SOUTHERN CALIFORNIA EDISON CO. PER 2409/526 O.R. & 2422/241 O.R.

BASIS OF BEARINGS:

THE BASIS OF BEARINGS IS BASED UPON THE CALIFORNIA COORDINATE SYSTEM, ZONE V, NORTH AMERICAN DATUM OF 1983 (NAD 83), EPOCH 2007.0

JOB #: 108-038
DATE: 2/1/2012
SCALE: 1\"=100'
SHEET 1 OF 1

EXHIBIT "B"

APN 0211-321-10 & 1083-351-02
UTILITY EASEMENT

COAST SURVEYING, INC.
15031 PARKWAY LOOP, SUITE 8
TUSTIN, CA 92780-6527 (714) 918-6266

EXHIBIT "A"
LEGAL DESCRIPTION
TEMPORARY CONSTRUCTION EASEMENT

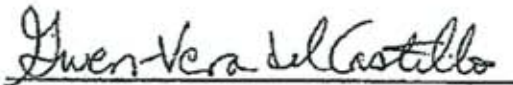
A STRIP OF LAND 10.00 FEET WIDE OVER THAT PORTION OF THE SOUTHEAST $\frac{1}{4}$ OF SECTION 36, TOWNSHIP 1 SOUTH, RANGE 7 WEST, SAN BERNARDINO MERIDIAN, IN THE CITY OF ONTARIO, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, ACCORDING TO THE OFFICIAL PLAT THEREOF, AND THAT PORTION OF SECTION 1, TOWNSHIP 2 SOUTH, RANGE 7 WEST, SAN BERNARDINO MERIDIAN IN SAID CITY, COUNTY AND STATE, ACCORDING TO THE OFFICIAL PLAT THEREOF, THE EASTERLY LINE OF WHICH IS DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF PARCEL 1 AS DESCRIBED IN THE GRANT DEED TO NATIONAL METAL & STEEL CORP., RECORDED JANUARY 31, 1985 AS INSTRUMENT NO. 85-023693 OFFICIAL RECORDS IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY; THENCE ALONG THE NORTHERLY LINE OF SAID PARCEL 1 NORTH $89^{\circ}42'53''$ WEST 30.48 FEET TO THE TRUE POINT OF BEGINNING; THENCE LEAVING SAID NORTHERLY LINE SOUTH $02^{\circ}36'14''$ WEST 394.30 FEET; THENCE SOUTH $02^{\circ}39'17''$ WEST 196.25 FEET; THENCE NORTH $89^{\circ}36'12''$ WEST 14.67 FEET; THENCE SOUTH $02^{\circ}06'39''$ WEST 187.64 FEET TO THE SOUTHWESTERLY LINE OF PARCEL 2 AS DESCRIBED IN SAID GRANT DEED, SAID LINE ALSO BEING THE NORTHEASTERLY RIGHT OF WAY LINE OF THE PROPERTY CONVEYED TO SAN PEDRO, LOS ANGELES AND SALT LAKE RAILROAD COMPANY (100 FEET WIDE), NOW U.P.R.R. RIGHT OF WAY.

CONTAINING 7,910 SQUARE FEET, MORE OR LESS.

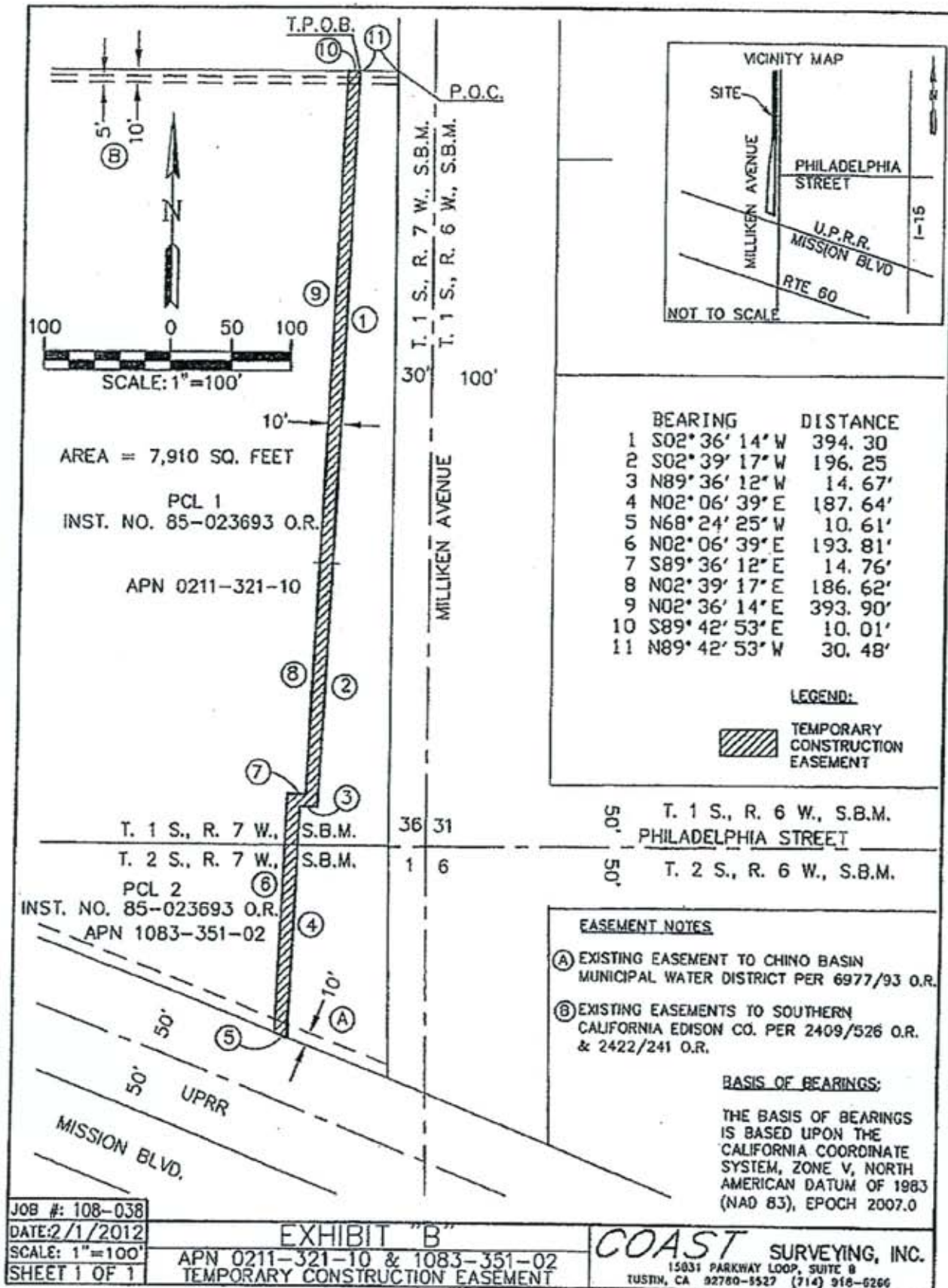
ALL AS MORE PARTICULARLY SHOWN ON EXHIBIT "B" ATTACHED HERETO AND MADE A PART HEREOF.

DATED THIS 16TH DAY OF FEBRUARY, 2012.



GWEN-VERA DEL CASTILLO, PLS 5108





RESOLUTION NO. _____

A RESOLUTION OF NECESSITY OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, FOR THE ACQUISITION OF FEE AND TEMPORARY CONSTRUCTION EASEMENT INTERESTS IN PORTIONS OF CERTAIN REAL PROPERTY LOCATED AT OR NEAR THE INTERSECTION OF MISSION BOULEVARD, PHILADELPHIA STREET AND THE UNION PACIFIC RAILROAD CROSSING, AND MORE PARTICULARLY DESCRIBED AS ASSESSOR PARCEL NO. 0238-152-34, BY EMINENT DOMAIN, IS NECESSARY FOR PUBLIC RIGHT-OF-WAY FOR THE CONSTRUCTION OF THE SOUTH MILLIKEN AVENUE GRADE SEPARATION PROJECT AND RELATED PUBLIC INFRASTRUCTURE IMPROVEMENTS IN THE CITY OF ONTARIO, SAN BERNARDINO COUNTY, CALIFORNIA.

WHEREAS, the City of Ontario (the "City") proposes to acquire fee and temporary construction easement interests in portions of certain real property located at or near the intersection of Mission Boulevard, Philadelphia Street and the Union Pacific Railroad crossing, and more particularly described as Assessor Parcel No. 0238-152-34, for public right-of-way purposes and the construction of the South Milliken Avenue Grade Separation Project and related public infrastructure improvements, in the City of Ontario, California, pursuant to the authority granted to it by Section 37350.5 of the California Government Code; and

WHEREAS, pursuant to Section 1245.235 of the California Code of Civil Procedure, the City scheduled a public hearing for Tuesday, December 4, 2012, at 6:30 p.m. at the Ontario City Hall, Council Chambers, 303 East "B" Street, Ontario, California, and gave to each person whose property is to be acquired and whose name and address appeared on the last equalized county assessment roll, notice and a reasonable opportunity to appear at said hearing and be heard on the matters referred to in Section 1240.030 of the California Code of Civil Procedure; and

WHEREAS, said hearing has been held by the City and each person whose property is to be acquired by eminent domain was afforded an opportunity to be heard on said matters; and

WHEREAS, the City may now adopt a Resolution of Necessity pursuant to Section 1240.040 of the California Code of Civil Procedure.

NOW, THEREFORE, THE CITY DOES HEREBY RESOLVE AND DECLARE AS FOLLOWS:

SECTION 1. Compliance with California Code of Civil Procedure and California Environmental Quality Act. There has been compliance by the City with the requirements of Section 1245.235 of the California Code of Civil Procedure and the California Environmental Quality Act.

SECTION 2. Public Use. The public use for which the real property is to be acquired is for public right-of-way purposes and the construction of the South Milliken Avenue Grade Separation Project and related public infrastructure improvements, in San Bernardino County, California. Section 37350.5 of the California Government Code authorizes the City to acquire by eminent domain real property necessary for such purposes.

SECTION 3. Description of Property. Attached and marked as Exhibit "A" is the legal description and depiction of the real property to be acquired by the City, which describes the general location and extent of the property to be acquired with sufficient detail for reasonable identification.

SECTION 4. Findings. The City hereby finds and determines each of the following:

- (a) The public interest and necessity require the proposed project;
- (b) The proposed project is planned or located in the manner that will be most compatible with the greatest public good and least private injury;
- (c) The real property described in Exhibit "A" are necessary for the proposed project;
- (d) The offer required by Section 7267.2 of the California Government Code was made.

SECTION 5. Use Not Unreasonably Interfering with Existing Public Use(s). Some or all of the real property to be acquired is subject to easements and rights-of-way appropriated to existing public uses. The legal descriptions of these easements and rights-of-way are on file with the City and describe the general location and extent of the easements and rights-of-way with sufficient detail for reasonable identification. In the event the herein described use or uses will not unreasonably interfere with or impair the continuance of the public use as it now exists or may reasonably be expected to exist in the future, counsel for the City is authorized to acquire the real property subject to such existing public use(s) pursuant to Section 1240.510 of the California Code of Civil Procedure.

SECTION 6. More Necessary Public Use. Some or all of the real property to be acquired is subject to easements and rights-of-way appropriated to existing public uses. To the extent that the herein described use or uses will unreasonably interfere with or impair the continuance of the public use as it now exists or may reasonably be expected to exist in the future, the City finds and determines that the herein described use or uses are more necessary than said existing public use. Counsel for the City is authorized to acquire the real property appropriated to such existing public use(s) pursuant to Section 1240.610 of the California Code of Civil Procedure. Staff is further authorized to make such improvements to the real property being acquired that it determines is reasonably necessary to mitigate any adverse impact upon the existing public use.

SECTION 7. Further Activities. Counsel for the City is hereby authorized to file legal proceedings necessary to acquire the hereinabove described real property in the name of and on behalf of the City by eminent domain, and counsel is authorized to institute and prosecute such legal proceedings as may be required in connection therewith. Legal counsel is further authorized to take such steps as may be authorized and required by law, and to make such security deposits as may be required by order of court, to permit the City to take possession of and use said real property at the earliest possible time. Counsel is further authorized to correct any errors or to make or agree to non-material changes in the legal description of the real property that are deemed necessary for the conduct of the condemnation action or other proceedings or transaction required to acquire the subject real property. Counsel is further authorized to reduce or modify the extent of the interests or property to be acquired so as to reduce the compensation payable in the action where such change would not substantially impair the construction and operation for the project for which the real property is being acquired.

SECTION 8. Effective Date. This Resolution shall take effect upon adoption. The City Clerk of the City of Ontario shall certify as to the adoption of this Resolution.

PASSED, APPROVED, AND ADOPTED this 4th day of December 2012.

PAUL S. LEON, MAYOR

ATTEST:

MARY E. WIRTES, MMC, CITY CLERK

APPROVED AS TO LEGAL FORM:

BEST BEST & KRIEGER LLP
CITY ATTORNEY

STATE OF CALIFORNIA)
COUNTY OF SAN BERNARDINO)
CITY OF ONTARIO)

I, MARY E. WIRTES, City Clerk of the City of Ontario, DO HEREBY CERTIFY that foregoing Resolution No. 2012- was duly passed and adopted by the City Council of the City of Ontario at their regular meeting held December 4, 2012 by the following roll call vote, to wit:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

MARY E. WIRTES, MMC, CITY CLERK

(SEAL)

The foregoing is the original of Resolution No. 2012- duly passed and adopted by the Ontario City Council at their regular meeting held December 4, 2012.

MARY E. WIRTES, MMC, CITY CLERK

(SEAL)

Legal Definitions of Property to be Acquired

The following is a list of definitions of legal rights to be acquired by the City of Ontario:

"Fee Acquisition" also known as fee simple or fee simple absolute, refers to complete or absolute ownership of the property in the City of Ontario (the "City"), County of San Bernardino, State of California.

"Temporary Construction Easement" or "TCE" refers to the right of the City, its successors, and assigns, to engage in construction and related activities related to the South Milliken Grade Separation Project, together with all necessary rights of ingress and egress to the non-exclusive easement area in connection with such construction and related activities.

The TCE shall commence after the owner is provided 5 calendar days advanced written notice by the City of the City's intent to utilize the TCE area. The use of the TCE area shall not exceed 24 months; provided however, that the term of the TCE may be extended upon payment by the City to the Property Owner of an amount equal to \$583.50 a month, prorated to the actual date upon which the City's use of the Property terminates.

Property Owner shall not cause, directly, indirectly or negligently, any interference with or harm to the rights conveyed hereunder.

EXHIBIT "A"
LEGAL DESCRIPTION
RIGHT OF WAY

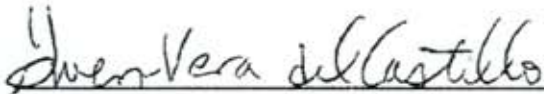
THAT PORTION OF PARCEL 2 OF PARCEL MAP NO. 17414, IN THE CITY OF ONTARIO, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 216, PAGES 99 AND 100 OF PARCEL MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF SAID PARCEL 2; THENCE ALONG THE SOUTHERLY LINE OF SAID PARCEL, SAID LINE ALSO BEING THE NORTHERLY RIGHT OF WAY LINE OF PHILADELPHIA STREET (100 FEET WIDE), NORTH 89°39'52" EAST 73.97 FEET TO THE BEGINNING OF A NONTANGENT CURVE CONCAVE NORTHEASTERLY HAVING A RADIUS OF 220.50 FEET, A RADIAL BEARING TO SAID CURVE BEARS SOUTH 17°25'02" WEST; THENCE LEAVING SAID SOUTHERLY LINE NORTHWESTERLY 84.59 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 21°58'51" TO THE WESTERLY LINE OF SAID PARCEL 2; THENCE NONTANGENT ALONG SAID WESTERLY LINE SOUTH 00°01'13" WEST 40.43 FEET TO THE POINT OF BEGINNING.

CONTAINING 1,268 SQUARE FEET, MORE OR LESS.

ALL AS MORE PARTICULARLY SHOWN ON EXHIBIT "B" ATTACHED HERETO AND MADE A PART HEREOF.

DATED THIS 1st DAY OF JUNE, 2012.



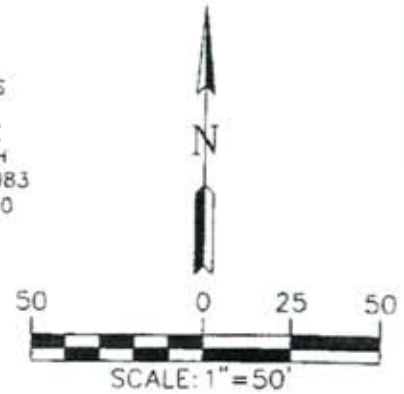
GWEN-VERA DEL CASTILLO, PLS 5108





BASIS OF BEARINGS

THE BASIS OF BEARINGS
IS BASED UPON THE
CALIFORNIA COORDINATE
SYSTEM, ZONE V, NORTH
AMERICAN DATUM OF 1983
(NAD 83), EPOCH 2007.0



AREA = 1,268 SQ. FEET

W. 1/2, S.W. 1/4,
SEC. 31
T. 1 S., R. 6 W.,
S.B.M.

	BEARING	DISTANCE
1	N89° 39' 52" E	73.97'
3	S00° 01' 13" W	40.43'

	RADIUS	DELTA	LENGTH
2	220.50'	21° 58' 51"	84.59'

PARCEL 2
PARCEL MAP NO. 17414
P. M. B. 216 / 99 - 100

MILLIKEN AVENUE

N39°23'53"E
(RAD)

③

②

APN 0238-152-34

P.O.B.

①

N17°25'02"E
(RAD)

50'

PHILADELPHIA STREET

50'

JOB #: 108-038
DATE: 1/25/12
SCALE: 1"=50'
SHEET 1 OF 1

EXHIBIT "B"
APN 0238-152-34
RIGHT OF WAY

COAST SURVEYING, INC.
15031 PARKWAY LOOP, SUITE B
TUSTIN, CA 92780-6527 (714) 918-5266

EXHIBIT "A"
LEGAL DESCRIPTION
TEMPORARY CONSTRUCTION EASEMENT

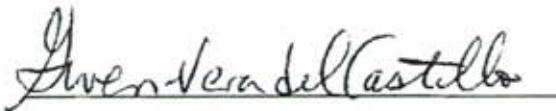
THAT PORTION OF PARCEL 2 OF PARCEL MAP NO. 17414, IN THE CITY OF ONTARIO, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 216, PAGES 99 AND 100 OF PARCEL MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID PARCEL 2; THENCE ALONG THE SOUTHERLY LINE OF SAID PARCEL, SAID LINE ALSO BEING THE NORTHERLY RIGHT OF WAY LINE OF PHILADELPHIA STREET (100 FEET WIDE), NORTH 89°39'52" EAST 73.97 FEET TO THE TRUE POINT OF BEGINNING, SAID POINT BEING THE BEGINNING OF A NONTANGENT CURVE CONCAVE NORTHEASTERLY HAVING A RADIUS OF 220.50 FEET, A RADIAL BEARING TO SAID CURVE BEARS SOUTH 17°25'02" WEST; THENCE LEAVING SAID SOUTHERLY LINE NORTHWESTERLY 84.59 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 21°58'51" TO THE WESTERLY LINE OF SAID PARCEL 2; THENCE NONTANGENT ALONG SAID WESTERLY LINE NORTH 00°01'13" EAST 69.22 FEET; THENCE LEAVING SAID WESTERLY LINE SOUTH 89°58'47" EAST 22.00 FEET; THENCE SOUTH 31°11'08" EAST 79.80 FEET; THENCE NORTH 89°39'52" EAST 51.37 FEET; THENCE SOUTH 00°20'08" EAST 41.00 FEET TO THE SOUTHERLY LINE OF SAID PARCEL, ALSO BEING THE NORTHERLY RIGHT OF WAY LINE OF PHILADELPHIA STREET; THENCE ALONG SAID SOUTHERLY LINE SOUTH 89°39'52" WEST 41.00 FEET TO THE TRUE POINT OF BEGINNING.

CONTAINING 6,365 SQUARE FEET, MORE OR LESS.

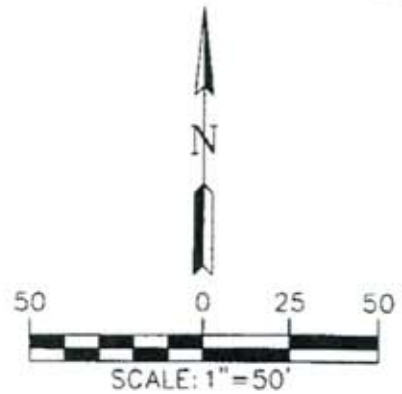
ALL AS MORE PARTICULARLY SHOWN ON EXHIBIT "B" ATTACHED HERETO AND MADE A PART HEREOF.

DATED THIS 1ST DAY OF JUNE, 2012.



GWEN-VERA DEL CASTILLO, PLS 5108





BASIS OF BEARINGS.

THE BASIS OF BEARINGS
IS BASED UPON THE
CALIFORNIA COORDINATE
SYSTEM, ZONE V, NORTH
AMERICAN DATUM OF 1983
(NAD 83), EPOCH 2007.0

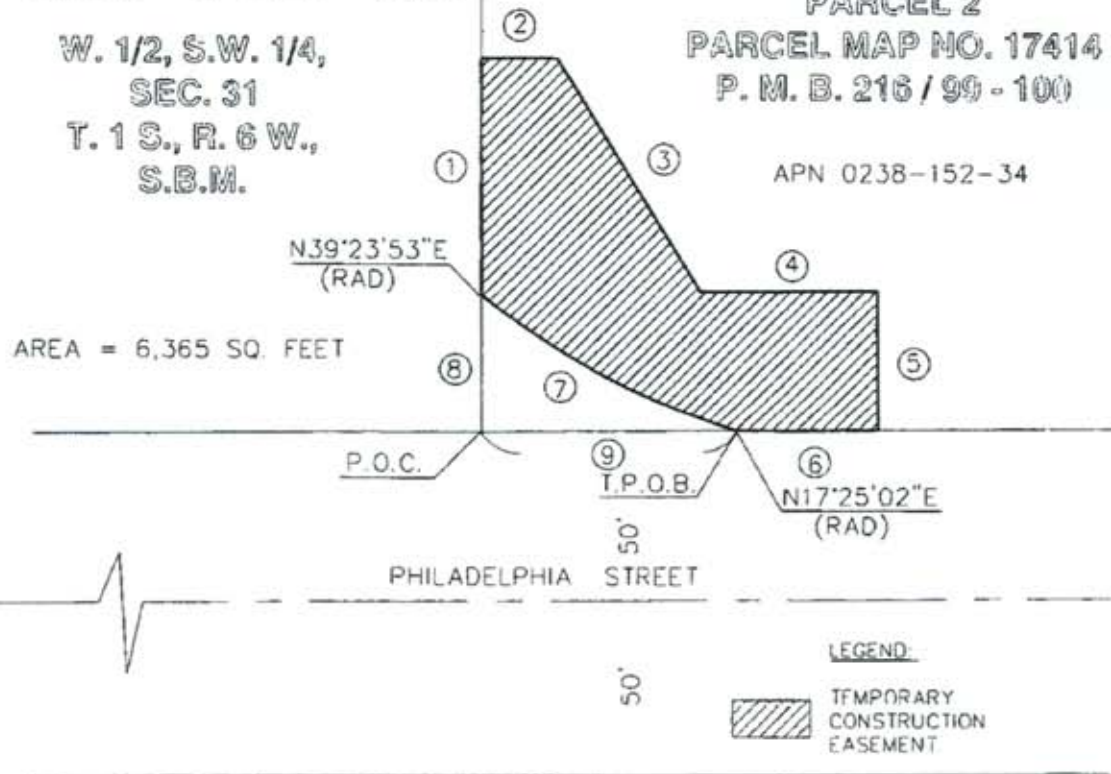
	BEARING	DISTANCE
1	N00°01'13"E	69.22'
2	S89°58'47"E	22.00'
3	S31°11'08"E	79.80'
4	N89°39'52"E	51.37'
5	S00°20'08"E	41.00'
6	S89°39'52"W	41.00'
8	N00°01'13"E	40.43'
9	N89°39'52"E	73.97'

	RADIUS	DELTA	LENGTH
7	220.50'	21°58'51"	84.59'

W. 1/2, S.W. 1/4,
SEC. 31
T. 1 S., R. 6 W.,
S.B.M.

PARCEL 2
PARCEL MAP NO. 17414
P. M. B. 216 / 99 - 100

APN 0238-152-34



JOB #: 108-038
DATE: 1/25/12
SCALE: 1"=50'
SHEET 1 OF 1

EXHIBIT "B"
APN 0238-152-34
TEMPORARY CONSTRUCTION EASEMENT

COAST SURVEYING, INC.
15031 PARKWAY LOOP, SUITE B
TUSTIN, CA 92780-5527 (714) 918-6266

RESOLUTION NO. _____

A RESOLUTION OF NECESSITY OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, FOR THE ACQUISITION OF FEE, EASEMENT AND TEMPORARY CONSTRUCTION EASEMENT INTERESTS IN PORTIONS OF CERTAIN REAL PROPERTY LOCATED AT OR NEAR THE INTERSECTION OF MISSION BOULEVARD, PHILADELPHIA STREET AND THE UNION PACIFIC RAILROAD CROSSING, AND MORE PARTICULARLY DESCRIBED AS ASSESSOR PARCEL NO. 1083-351-06, BY EMINENT DOMAIN, IS NECESSARY FOR PUBLIC RIGHT-OF-WAY FOR THE CONSTRUCTION OF THE SOUTH MILLIKEN AVENUE GRADE SEPARATION PROJECT AND RELATED PUBLIC INFRASTRUCTURE IMPROVEMENTS IN THE CITY OF ONTARIO, SAN BERNARDINO COUNTY, CALIFORNIA.

WHEREAS, the City of Ontario (the "City") proposes to acquire fee, easement and temporary construction easement interests in portions of certain real property located at or near the intersection of Mission Boulevard, Philadelphia Street and the Union Pacific Railroad crossing, and more particularly described as Assessor Parcel No. 1083-351-06, for public right-of-way purposes and the construction of the South Milliken Avenue Grade Separation Project and related public infrastructure improvements, in the City of Ontario, California, pursuant to the authority granted to it by Section 37350.5 of the California Government Code; and

WHEREAS, pursuant to Section 1245.235 of the California Code of Civil Procedure, the City scheduled a public hearing for Tuesday, December 4, 2012, at 6:30 p.m. at the Ontario City Hall, Council Chambers, 303 East "B" Street, Ontario, California, and gave to each person whose property is to be acquired and whose name and address appeared on the last equalized county assessment roll, notice and a reasonable opportunity to appear at said hearing and be heard on the matters referred to in Section 1240.030 of the California Code of Civil Procedure; and

WHEREAS, said hearing has been held by the City and each person whose property is to be acquired by eminent domain was afforded an opportunity to be heard on said matters; and

WHEREAS, the City may now adopt a Resolution of Necessity pursuant to Section 1240.040 of the California Code of Civil Procedure.

NOW, THEREFORE, THE CITY DOES HEREBY RESOLVE AND DECLARE AS FOLLOWS:

SECTION 1. Compliance with California Code of Civil Procedure and California Environmental Quality Act. There has been compliance by the City with the requirements of Section 1245.235 of the California Code of Civil Procedure and the California Environmental Quality Act.

SECTION 2. Public Use. The public use for which the real property is to be acquired is for public right-of-way purposes and the construction of the South Milliken Avenue Grade Separation Project and related public infrastructure improvements, in San Bernardino County, California. Section 37350.5 of the California Government Code authorizes the City to acquire by eminent domain real property necessary for such purposes.

SECTION 3. Description of Property. Attached and marked as Exhibit "A" is the legal description and depiction of the real property to be acquired by the City, which describes the general location and extent of the property to be acquired with sufficient detail for reasonable identification.

SECTION 4. Findings. The City hereby finds and determines each of the following:

- (a) The public interest and necessity require the proposed project;
- (b) The proposed project is planned or located in the manner that will be most compatible with the greatest public good and least private injury;
- (c) The real property described in Exhibit "A" are necessary for the proposed project;
- (d) The offer required by Section 7267.2 of the California Government Code was made.

SECTION 5. Use Not Unreasonably Interfering with Existing Public Use(s). Some or all of the real property to be acquired is subject to easements and rights-of-way appropriated to existing public uses. The legal descriptions of these easements and rights-of-way are on file with the City and describe the general location and extent of the easements and rights-of-way with sufficient detail for reasonable identification. In the event the herein described use or uses will not unreasonably interfere with or impair the continuance of the public use as it now exists or may reasonably be expected to exist in the future, counsel for the City is authorized to acquire the real property subject to such existing public use(s) pursuant to Section 1240.510 of the California Code of Civil Procedure.

SECTION 6. More Necessary Public Use. Some or all of the real property to be acquired is subject to easements and rights-of-way appropriated to existing public uses. To the extent that the herein described use or uses will unreasonably interfere with or impair the continuance of the public use as it now exists or may reasonably be expected to exist in the future, the City finds and determines that the herein described use or uses are more necessary than said existing public use. Counsel for the City is authorized to acquire the real property appropriated to such existing public use(s) pursuant to Section 1240.610 of the California Code of Civil Procedure. Staff is further authorized to make such improvements to the real property being acquired that it determines is reasonably necessary to mitigate any adverse impact upon the existing public use.

SECTION 7. Further Activities. Counsel for the City is hereby authorized to file legal proceedings necessary to acquire the hereinabove described real property in the name of and on behalf of the City by eminent domain, and counsel is authorized to institute and prosecute such legal proceedings as may be required in connection therewith. Legal counsel is further authorized to take such steps as may be authorized and required by law, and to make such security deposits as may be required by order of court, to permit the City to take possession of and use said real property at the earliest possible time. Counsel is further authorized to correct any errors or to make or agree to non-material changes in the legal description of the real property that are deemed necessary for the conduct of the condemnation action or other proceedings or transaction required to acquire the subject real property. Counsel is further authorized to reduce or modify the extent of the interests or property to be acquired so as to reduce the compensation payable in the action where such change would not substantially impair the construction and operation for the project for which the real property is being acquired.

SECTION 8. Effective Date. This Resolution shall take effect upon adoption.

The City Clerk of the City of Ontario shall certify as to the adoption of this Resolution.

PASSED, APPROVED, AND ADOPTED this 4th day of December 2012.

PAUL S. LEON, MAYOR

ATTEST:

MARY E. WIRTES, MMC, CITY CLERK

APPROVED AS TO LEGAL FORM:

BEST BEST & KRIEGER LLP
CITY ATTORNEY

STATE OF CALIFORNIA)
COUNTY OF SAN BERNARDINO)
CITY OF ONTARIO)

I, MARY E. WIRTES, City Clerk of the City of Ontario, DO HEREBY CERTIFY that foregoing Resolution No. 2012- was duly passed and adopted by the City Council of the City of Ontario at their regular meeting held December 4, 2012 by the following roll call vote, to wit:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

MARY E. WIRTES, MMC, CITY CLERK

(SEAL)

The foregoing is the original of Resolution No. 2012- duly passed and adopted by the Ontario City Council at their regular meeting held December 4, 2012.

MARY E. WIRTES, MMC, CITY CLERK

(SEAL)

Legal Definitions of Property to be Acquired

The following is a list of definitions of legal rights to be acquired by the City of Ontario:

"Fee Acquisition" also known as fee simple or fee simple absolute, refers to complete or absolute ownership of the property in the City of Ontario (the "City"), County of San Bernardino, State of California.

"Temporary Construction Easement" or "TCE" refers to the right of the City, its successors, and assigns, to engage in construction and related activities related to the South Milliken Grade Separation Project, together with all necessary rights of ingress and egress to the non-exclusive easement area in connection with such construction and related activities.

The TCE shall commence after the owner is provided 5 calendar days advanced written notice by the City of the City's intent to utilize the TCE area. The use of the TCE area shall not exceed 4 months; provided however, that the term of the TCE may be extended upon payment by the City to the Property Owner of an amount equal to \$382.38 a month, prorated to the actual date upon which the City's use of the Property terminates.

Property Owner shall not cause, directly, indirectly or negligently, any interference with or harm to the rights conveyed hereunder.

EXHIBIT "A"
LEGAL DESCRIPTION
RIGHT OF WAY

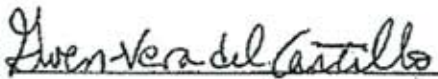
THAT PORTION OF PARCEL A OF LOT LINE ADJUSTMENT NO. LL-99-27, IN THE CITY OF ONTARIO, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, AS RECORDED JUNE 19, 2000 AS INSTRUMENT NO. 20000217781, OFFICIAL RECORDS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF SAID PARCEL A, SAID POINT BEING ON THE SOUTHWESTERLY RIGHT OF WAY LINE OF MISSION BOULEVARD (150 FEET WIDE); THENCE ALONG THE NORTHEASTERLY LINE OF SAID PARCEL A, ALSO BEING SAID SOUTHWESTERLY RIGHT OF WAY LINE SOUTH 68°24'25" EAST 792.22 FEET TO THE NORTHEASTERLY CORNER OF SAID PARCEL A; THENCE ALONG THE EASTERLY LINE OF SAID PARCEL A SOUTH 00°21'48" WEST 12.87 FEET TO A LINE PARALLEL WITH AND 12.00 FEET SOUTHWESTERLY OF THE SAID SOUTHWESTERLY RIGHT OF WAY LINE; THENCE ALONG SAID PARALLEL LINE NORTH 68°24'25" WEST 130.12 FEET; THENCE NORTH 67°27'17" WEST 549.70 FEET; THENCE NORTH 87°00'23" WEST 117.17 FEET TO THE POINT OF BEGINNING.

CONTAINING 5,786 SQUARE FEET, MORE OR LESS.

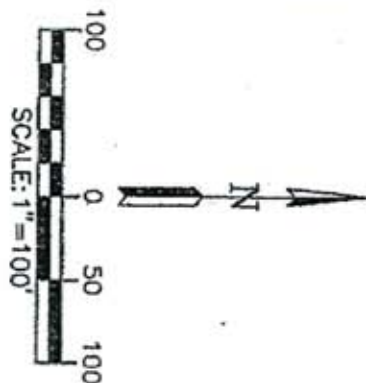
ALL AS MORE PARTICULARLY SHOWN ON EXHIBIT "B" ATTACHED HERETO AND MADE A PART HEREOF.

DATED THIS 27TH DAY OF FEBRUARY, 2012.



GWEN-VERA DEL CASTILLO, PLS 5108





BASIS OF BEARINGS:

THE BASIS OF BEARINGS IS BASED UPON THE CALIFORNIA COORDINATE SYSTEM, ZONE V, NORTH AMERICAN DATUM OF 1983 (NAD 83), EPOCH 2007.0

L.L.A. 99 - 27

INST. NO. 20000217781

PARCEL A

	BEARING	DISTANCE
1	S68°24'25"E	792.22'
2	S00°21'48"W	12.87'
3	N68°24'25"W	130.12'
4	N67°27'17"W	549.70'
5	N67°00'23"W	117.17'

EASEMENT NOTES:

- (A) EXISTING AGREEMENT TO ACCEPT DRAINAGE IN FAVOR OF CITY OF ONTARIO PER INST. NO. 1997-0378177 O.R.

AREA = 5,786 SQ. FEET

PARCEL B

MILLIKEN AVENUE

JOB #: 108-038
DATE: 2/27/12
SCALE: 1"=100'
SHEET 1 OF 1

EXHIBIT "B"
APN 1083-351-06
RIGHT OF WAY

COAST SURVEYING, INC.
15031 PARKWAY LOOP, SUITE B
TUSTIN, CA 92780-6527 (714) 918-6266

EXHIBIT "A"
LEGAL DESCRIPTION
TEMPORARY CONSTRUCTION EASEMENT

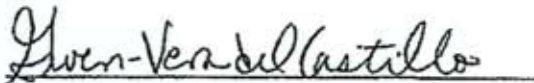
A STRIP OF LAND 5.00 FEET WIDE OVER THAT PORTION OF PARCEL A OF LOT LINE ADJUSTMENT NO. LL-99-27, IN THE CITY OF ONTARIO, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, AS RECORDED JUNE 19, 2000 AS INSTRUMENT NO. 20000217781, OFFICIAL RECORDS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, THE NORTHERLY LINE OF WHICH IS DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF SAID PARCEL A, SAID POINT BEING ON THE SOUTHWESTERLY RIGHT OF WAY LINE OF MISSION BOULEVARD (150 FEET WIDE); THENCE SOUTH 67°00'23" EAST 117.17 FEET; THENCE SOUTH 67°27'17" EAST 549.70 FEET; THENCE SOUTH 68°24'25" EAST 130.12 FEET TO THE EASTERLY LINE OF SAID PARCEL.

CONTAINING 3,990 SQUARE FEET, MORE OR LESS.

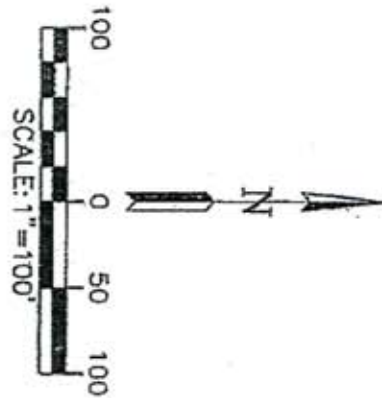
ALL AS MORE PARTICULARLY SHOWN ON EXHIBIT "B" ATTACHED HERETO AND MADE A PART HEREOF.

DATED THIS 27TH DAY OF FEBRUARY, 2012.



GWEN-VERA DEL CASTILLO, PLS 5108





BASIS OF BEARINGS:

THE BASIS OF BEARINGS IS BASED UPON THE CALIFORNIA COORDINATE SYSTEM, ZONE V, NORTH AMERICAN DATUM OF 1983 (NAD 83), EPOCH 2007.0

L. L. A. 99 - 27

INST. NO. 20000217781

	BEARING	DISTANCE
1	S67°00'23"E	117.17'
2	S67°27'17"E	549.70'
3	S68°24'25"E	130.12'
4	S00°21'48"W	5.36'
5	N68°24'25"W	132.11'
6	N67°27'17"W	549.76'
7	N67°00'23"W	117.07'
8	N21°35'35"E	5.00'

PARCEL A

EASEMENT NOTES:

- (A) EXISTING AGREEMENT TO ACCEPT DRAINAGE IN FAVOR OF CITY OF ONTARIO PER INST. NO. 1997-0378177 O.R.

AREA = 3,990 SQ. FEET

PARCEL B

MILLIKEN AVENUE



JOB #: 108-038
DATE: 2/27/12
SCALE: 1"=100'
SHEET 1 OF 1

EXHIBIT "B"
APN 1083-351-06
TEMPORARY CONSTRUCTION EASEMENT
EXHIBIT A, PAGE 5

COAST SURVEYING, INC.
15031 PARKWAY LOOP, SUITE B
TUSTIN, CA 92780-6527 (714) 918-8266

EXHIBIT "A"
LEGAL DESCRIPTION
TEMPORARY CONSTRUCTION EASEMENT

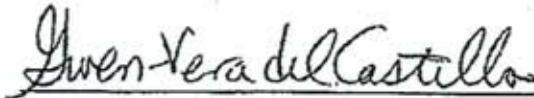
THAT PORTION OF PARCEL B OF LOT LINE ADJUSTMENT NO. LL-99-27, IN THE CITY OF ONTARIO, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, AS RECORDED JUNE 19, 2000 AS INSTRUMENT NO. 20000217781, OFFICIAL RECORDS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, DESCRIBED AS FOLLOWS:

COMMENCING AT THE INTERSECTION OF THE SOUTHERLY LINE OF SAID PARCEL B AND THE WESTERLY RIGHT OF WAY LINE OF MILLIKEN AVENUE (60 FEET HALF WIDTH); THENCE ALONG THE SOUTHERLY LINE OF SAID PARCEL B SOUTH 89°14'58" WEST 49.45 FEET TO THE TRUE POINT OF BEGINNING; THENCE CONTINUING ALONG SAID SOUTHERLY LINE SOUTH 89°14'58" WEST 118.95 FEET; THENCE LEAVING SAID SOUTHERLY LINE NORTH 00°07'02" EAST 28.01 FEET; THENCE SOUTH 89°36'08" EAST 61.79 FEET; THENCE NORTH 00°26'01" WEST 61.22 FEET; THENCE SOUTH 89°36'09" EAST 34.70 FEET; THENCE NORTH 00°23'51" EAST 48.15 FEET; THENCE NORTH 89°14'58" EAST 20.33 FEET; THENCE SOUTH 00°55'42" EAST 135.43 FEET TO THE TRUE POINT OF BEGINNING.

CONTAINING 7,848 SQUARE FEET, MORE OR LESS.

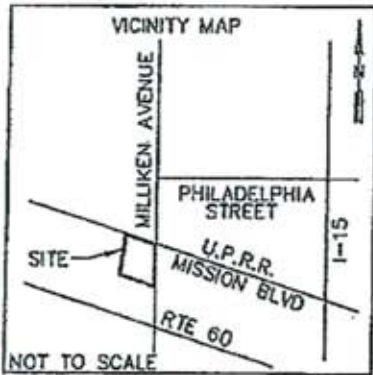
ALL AS MORE PARTICULARLY SHOWN ON EXHIBIT "B" ATTACHED HERETO AND MADE A PART HEREOF.

DATED THIS 25TH DAY OF MAY, 2012.



GWEN-VERA DEL CASTILLO, PLS 5108





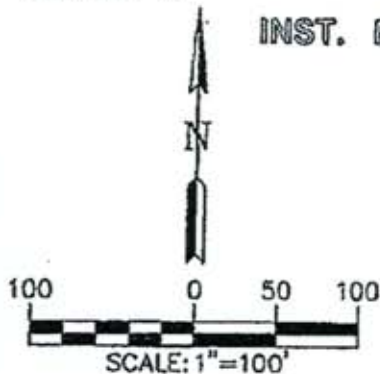
PARCEL A

L.L.A. 99 - 27

PARCEL B

INST. NO. 20000217781

APN 1083-351-07



BASIS OF BEARINGS:

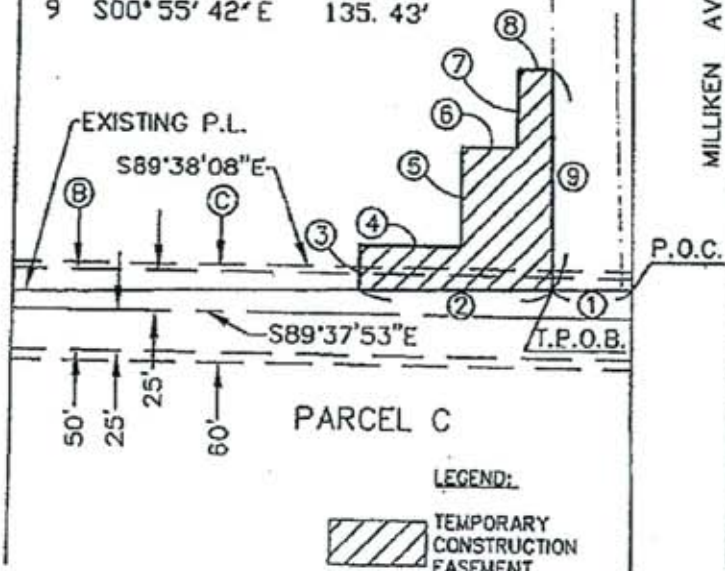
THE BASIS OF BEARINGS IS BASED UPON THE CALIFORNIA COORDINATE SYSTEM, ZONE V, NORTH AMERICAN DATUM OF 1983 (NAD 83), EPOCH 2007.0

EASEMENT NOTES:

- (A) EXISTING ENTRY MONUMENT AREA EASEMENT PER P.M.B. 186/67-68
- (B) EXISTING RECIPROCAL VEHICULAR AND PEDESTRIAN ACCESS EASEMENT PER DOC. NO. 20010013575 O.R.
- (C) EXISTING NON-BUILD EASEMENT PER DOC. NO. 2002-0348961 O.R.

AREA = 7,648 SQ. FEET

	BEARING	DISTANCE
1	S89°14'58"W	49.45'
2	S89°14'58"W	118.95'
3	N00°07'02"E	28.01'
4	S89°36'08"E	61.79'
5	N00°26'01"W	61.22'
6	S89°36'09"E	34.70'
7	N00°23'51"E	48.15'
8	N89°14'58"E	20.33'
9	S00°55'42"E	135.43'



LEGEND:



JOB #: 108-038
DATE: 5/24/12
SCALE: 1"=100'
SHEET 1 OF 1

EXHIBIT "B"
APN 1083-351-07
TEMPORARY CONSTRUCTION EASEMENT

COAST SURVEYING, INC.
15031 PARKWAY LOOP, SUITE B
TUSTIN, CA 92780-6527 (714) 918-6268

EXHIBIT "A"
LEGAL DESCRIPTION
TEMPORARY CONSTRUCTION EASEMENT

THAT PORTION OF PARCEL C OF LOT LINE ADJUSTMENT NO. LL-99-27, IN THE CITY OF ONTARIO, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, AS RECORDED JUNE 19, 2000 AS INSTRUMENT NO. 20000217781, OFFICIAL RECORDS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, DESCRIBED AS FOLLOWS:

COMMENCING AT THE INTERSECTION OF THE SOUTHERLY LINE OF SAID PARCEL C AND THE WESTERLY RIGHT OF WAY LINE OF MILLIKEN AVENUE (60 FEET HALF WIDTH); THENCE ALONG THE SOUTHERLY LINE OF SAID PARCEL C SOUTH 89°14'58" WEST 48.14 FEET TO THE TRUE POINT OF BEGINNING; THENCE CONTINUING ALONG SAID SOUTHERLY LINE, SOUTH 89°14'58" WEST 10.00 FEET; THENCE LEAVING SAID SOUTHERLY LINE, NORTH 00°55'42" WEST 211.50 FEET; THENCE SOUTH 89°54'58" WEST 12.56 FEET; THENCE NORTH 00°20'15" EAST 118.79 FEET; THENCE NORTH 88°08'35" EAST 4.01 FEET; THENCE NORTH 00°15'31" EAST 15.61 FEET; THENCE NORTH 89°42'24" WEST 7.81 FEET; THENCE NORTH 00°15'21" EAST 20.16 FEET; THENCE NORTH 89°44'27" WEST 19.90 FEET; THENCE NORTH 00°17'11" EAST 8.00 FEET; THENCE NORTH 89°44'36" WEST 15.63 FEET; THENCE SOUTH 00°17'24" WEST 7.90 FEET; THENCE NORTH 89°43'17" WEST 61.42 FEET; THENCE NORTH 00°07'02" EAST 38.59 FEET TO A LINE PARALLEL WITH AND 15.00 FEET SOUTHERLY OF THE NORTHERLY LINE OF SAID PARCEL C; THENCE ALONG SAID PARALLEL LINE SOUTH 89°14'58" WEST 144.75 FEET; THENCE SOUTH 45°21'48" WEST 95.14 FEET TO THE WESTERLY LINE OF SAID PARCEL C; THENCE ALONG SAID WESTERLY LINE NORTH 00°21'48" EAST 21.21 FEET TO A LINE PARALLEL WITH AND 15.00 FEET NORTHWESTERLY OF THE ABOVE MENTIONED COURSE "SOUTH 45°21'48" WEST 95.14 FEET"; THENCE ALONG SAID PARALLEL LINE NORTH 45°21'48" EAST 86.19 FEET TO THE NORTHERLY LINE OF SAID PARCEL C; THENCE ALONG SAID NORTHERLY LINE, NORTH 89°14'58" EAST 269.97 FEET; THENCE LEAVING SAID NORTHERLY LINE SOUTH 00°55'42" EAST 421.72 FEET TO THE TRUE POINT OF BEGINNING.

CONTAINING 15,341 SQUARE FEET, MORE OR LESS.

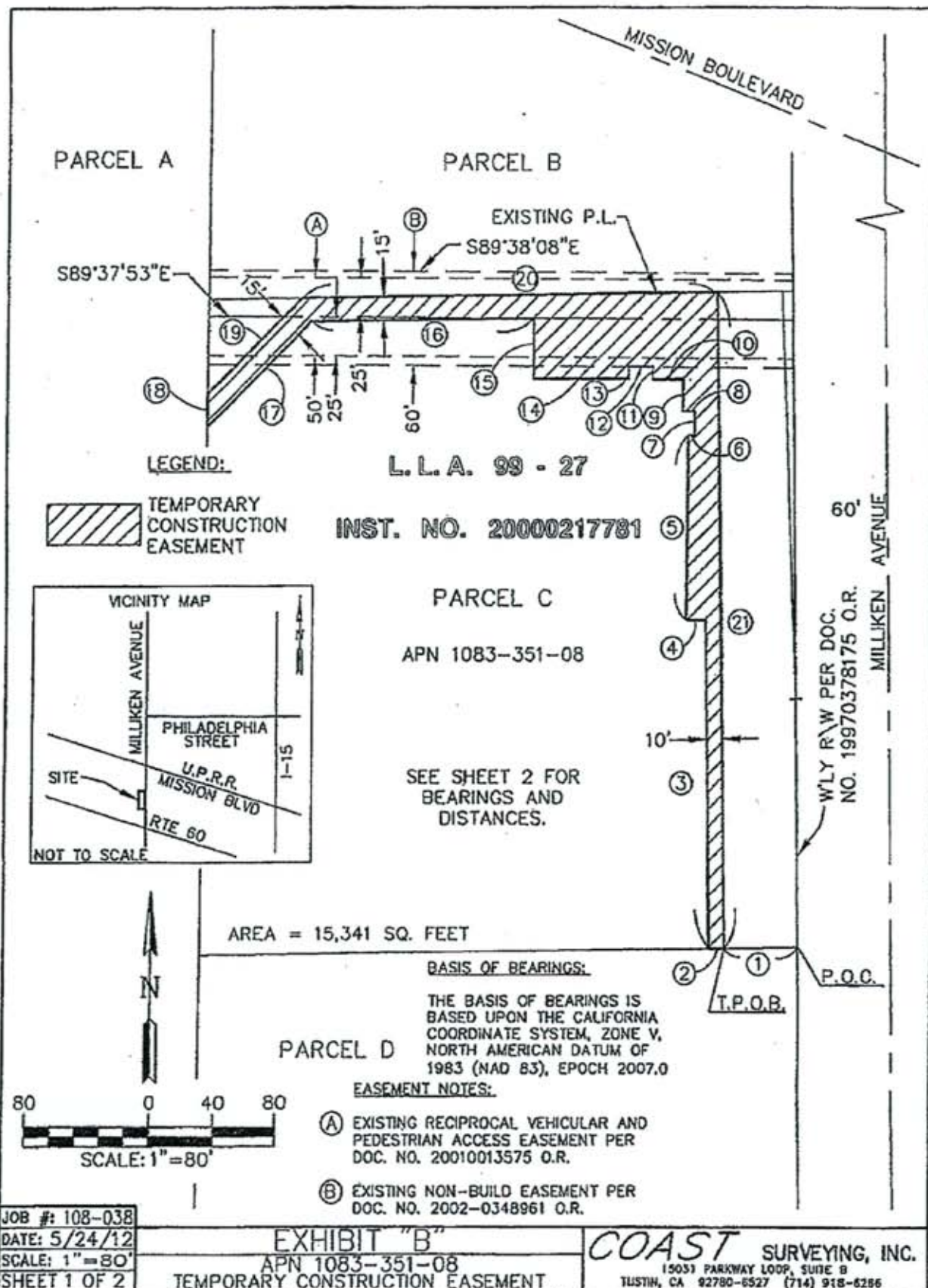
ALL AS MORE PARTICULARLY SHOWN ON EXHIBIT "B" ATTACHED HERETO AND MADE A PART HEREOF.

DATED THIS 25TH DAY OF MAY, 2012.

Gwen Vera del Castillo

GWEN-VERA DEL CASTILLO, PLS 5108





RESOLUTION NO. _____

A RESOLUTION OF NECESSITY OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, FOR THE ACQUISITION OF FEE, EASEMENT AND TEMPORARY CONSTRUCTION EASEMENT INTERESTS IN PORTIONS OF CERTAIN REAL PROPERTY LOCATED AT OR NEAR THE INTERSECTION OF MISSION BOULEVARD, PHILADELPHIA STREET AND THE UNION PACIFIC RAILROAD CROSSING, AND MORE PARTICULARLY DESCRIBED AS ASSESSOR PARCEL NO. 1083-351-07, BY EMINENT DOMAIN, IS NECESSARY FOR PUBLIC RIGHT-OF-WAY FOR THE CONSTRUCTION OF THE SOUTH MILLIKEN AVENUE GRADE SEPARATION PROJECT AND RELATED PUBLIC INFRASTRUCTURE IMPROVEMENTS IN THE CITY OF ONTARIO, SAN BERNARDINO COUNTY, CALIFORNIA.

WHEREAS, the City of Ontario (the "City") proposes to acquire fee, easement and temporary construction easement interests in portions of certain real property located at or near the intersection of Mission Boulevard, Philadelphia Street and the Union Pacific Railroad crossing, and more particularly described as Assessor Parcel No. 1083-351-07, for public right-of-way purposes and the construction of the South Milliken Avenue Grade Separation Project and related public infrastructure improvements, in the City of Ontario, California, pursuant to the authority granted to it by Section 37350.5 of the California Government Code; and

WHEREAS, pursuant to Section 1245.235 of the California Code of Civil Procedure, the City scheduled a public hearing for Tuesday, December 4, 2012, at 6:30 p.m. at the Ontario City Hall, Council Chambers, 303 East "B" Street, Ontario, California, and gave to each person whose property is to be acquired and whose name and address appeared on the last equalized county assessment roll, notice and a reasonable opportunity to appear at said hearing and be heard on the matters referred to in Section 1240.030 of the California Code of Civil Procedure; and

WHEREAS, said hearing has been held by the City and each person whose property is to be acquired by eminent domain was afforded an opportunity to be heard on said matters; and

WHEREAS, the City may now adopt a Resolution of Necessity pursuant to Section 1240.040 of the California Code of Civil Procedure.

NOW, THEREFORE, THE CITY DOES HEREBY RESOLVE AND DECLARE AS FOLLOWS:

SECTION 1. Compliance with California Code of Civil Procedure and California Environmental Quality Act. There has been compliance by the City with the requirements of Section 1245.235 of the California Code of Civil Procedure and the California Environmental Quality Act.

SECTION 2. Public Use. The public use for which the real property is to be acquired is for public right-of-way purposes and the construction of the South Milliken Avenue Grade Separation Project and related public infrastructure improvements, in San Bernardino County, California. Section 37350.5 of the California Government Code authorizes the City to acquire by eminent domain real property necessary for such purposes.

SECTION 3. Description of Property. Attached and marked as Exhibit "A" is the legal description and depiction of the real property to be acquired by the City, which describes the general location and extent of the property to be acquired with sufficient detail for reasonable identification.

SECTION 4. Findings. The City hereby finds and determines each of the following:

- (a) The public interest and necessity require the proposed project;
- (b) The proposed project is planned or located in the manner that will be most compatible with the greatest public good and least private injury;
- (c) The real property described in Exhibit "A" are necessary for the proposed project;
- (d) The offer required by Section 7267.2 of the California Government Code was made.

SECTION 5. Use Not Unreasonably Interfering with Existing Public Use(s). Some or all of the real property to be acquired is subject to easements and rights-of-way appropriated to existing public uses. The legal descriptions of these easements and rights-of-way are on file with the City and describe the general location and extent of the easements and rights-of-way with sufficient detail for reasonable identification. In the event the herein described use or uses will not unreasonably interfere with or impair the continuance of the public use as it now exists or may reasonably be expected to exist in the future, counsel for the City is authorized to acquire the real property subject to such existing public use(s) pursuant to Section 1240.510 of the California Code of Civil Procedure.

SECTION 6. More Necessary Public Use. Some or all of the real property to be acquired is subject to easements and rights-of-way appropriated to existing public uses. To the extent that the herein described use or uses will unreasonably interfere with or impair the continuance of the public use as it now exists or may reasonably be expected to exist in the future, the City finds and determines that the herein described use or uses are more necessary than said existing public use. Counsel for the City is authorized to acquire the real property appropriated to such existing public use(s) pursuant to Section 1240.610 of the California Code of Civil Procedure. Staff is further authorized to make such improvements to the real property being acquired that it determines is reasonably necessary to mitigate any adverse impact upon the existing public use.

SECTION 7. Further Activities. Counsel for the City is hereby authorized to file legal proceedings necessary to acquire the hereinabove described real property in the name of and on behalf of the City by eminent domain, and counsel is authorized to institute and prosecute such legal proceedings as may be required in connection therewith. Legal counsel is further authorized to take such steps as may be authorized and required by law, and to make such security deposits as may be required by order of court, to permit the City to take possession of and use said real property at the earliest possible time. Counsel is further authorized to correct any errors or to make or agree to non-material changes in the legal description of the real property that are deemed necessary for the conduct of the condemnation action or other proceedings or transaction required to acquire the subject real property. Counsel is further authorized to reduce or modify the extent of the interests or property to be acquired so as to reduce the compensation payable in the action where such change would not substantially impair the construction and operation for the project for which the real property is being acquired.

SECTION 8. Effective Date. This Resolution shall take effect upon adoption.

The City Clerk of the City of Ontario shall certify as to the adoption of this Resolution.

PASSED, APPROVED, AND ADOPTED this 4th day of December 2012.

PAUL S. LEON, MAYOR

ATTEST:

MARY E. WIRTES, MMC, CITY CLERK

APPROVED AS TO LEGAL FORM:

BEST BEST & KRIEGER LLP
CITY ATTORNEY

STATE OF CALIFORNIA)
COUNTY OF SAN BERNARDINO)
CITY OF ONTARIO)

I, MARY E. WIRTES, City Clerk of the City of Ontario, DO HEREBY CERTIFY that foregoing Resolution No. 2012- was duly passed and adopted by the City Council of the City of Ontario at their regular meeting held December 4, 2012 by the following roll call vote, to wit:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

MARY E. WIRTES, MMC, CITY CLERK

(SEAL)

The foregoing is the original of Resolution No. 2012- duly passed and adopted by the Ontario City Council at their regular meeting held December 4, 2012.

MARY E. WIRTES, MMC, CITY CLERK

(SEAL)

Legal Definitions of Property to be Acquired

The following is a list of definitions of legal rights to be acquired by the City of Ontario:

"Fee Acquisition" also known as fee simple or fee simple absolute, refers to complete or absolute ownership of the property in the City of Ontario (the "City"), County of San Bernardino, State of California.

"Temporary Construction Easement" or "TCE" refers to the right of the City, its successors, and assigns, to engage in construction and related activities related to the South Milliken Grade Separation Project, together with all necessary rights of ingress and egress to the non-exclusive easement area in connection with such construction and related activities.

The TCE shall commence after the owner is provided 5 calendar days advanced written notice by the City of the City's intent to utilize the TCE area. The use of the TCE area shall not exceed 4 months; provided however, that the term of the TCE may be extended upon payment by the City to the Property Owner of an amount equal to \$4,687.34 a month, prorated to the actual date upon which the City's use of the Property terminates.

Property Owner shall not cause, directly, indirectly or negligently, any interference with or harm to the rights conveyed hereunder.

"Public Utility Easement" refers to a non-exclusive permanent easement in favor of the City, its successors, and assigns, over, upon, under, and across the lands hereinafter described together with the right to access, maintain, improve, alter, relocate, inspect, construct, reconstruct, install, replace, and remove public improvements and facilities, including those in the public right of way, and public utilities, including water and sewer lines, as determined necessary by the City, together with all necessary rights incidental thereto.

Property Owner shall not erect or construct, or permit to be erected or constructed, any building, structure or improvement on, over, or under any portion of the easement, or plant trees or any other vegetation on any portion of the easement except with the prior written consent of the City, its successors and assigns.

The City shall have the right to trim, cut or clear away any trees, brush, or other vegetation from time to time as determined in its sole discretion, without payment of additional compensation.

No other easements shall be granted on, under or over the easement without the prior written consent of the City, its successors and assigns.

The existing ground elevations upon completion of construction shall not be further increased or decreased without the prior written consent of the City.

EXHIBIT "A"
LEGAL DESCRIPTION
RIGHT OF WAY

THAT PORTION OF PARCEL B OF LOT LINE ADJUSTMENT NO. LL-99-27, IN THE CITY OF ONTARIO, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, AS RECORDED JUNE 19, 2000 AS INSTRUMENT NO. 20000217781, OFFICIAL RECORDS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF SAID PARCEL B, SAID POINT BEING ON THE SOUTHWESTERLY RIGHT OF WAY LINE OF MISSION BOULEVARD (160 FEET WIDE); THENCE ALONG THE NORTHEASTERLY LINE OF SAID PARCEL B, ALSO BEING SAID SOUTHWESTERLY RIGHT OF WAY LINE SOUTH $68^{\circ}24'25''$ EAST 392.02 FEET TO THE BEGINNING OF A CURVE CONCAVE SOUTHWESTERLY HAVING A RADIUS OF 20.00 FEET; THENCE SOUTHEASTERLY 24.79 FEET ALONG SAID CURVE, ALSO BEING THE SOUTHWESTERLY RIGHT OF WAY LINE OF MILLIKEN AVENUE AS DESCRIBED IN THE EASEMENT DEED TO THE CITY OF ONTARIO RECORDED OCTOBER 15, 1997 AS DOCUMENT NO. 19970378175, OFFICIAL RECORDS, THROUGH A CENTRAL ANGLE OF $71^{\circ}01'51''$; THENCE ALONG THE WESTERLY RIGHT OF WAY LINE OF MILLIKEN AVENUE AS DESCRIBED IN SAID EASEMENT DEED THE FOLLOWING THREE COURSES:

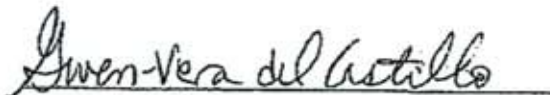
1. SOUTH $02^{\circ}37'26''$ WEST 97.59 FEET TO THE BEGINNING OF A CURVE CONCAVE EASTERLY HAVING A RADIUS OF 1560.00 FEET;
2. SOUTHERLY 91.88 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF $03^{\circ}22'28''$;
3. SOUTH $00^{\circ}45'02''$ EAST 355.94 FEET TO THE SOUTHERLY LINE OF SAID PARCEL B;

THENCE ALONG SAID SOUTHERLY LINE SOUTH $89^{\circ}14'58''$ WEST 6.81 FEET; THENCE LEAVING SAID SOUTHERLY LINE NORTH $02^{\circ}14'41''$ WEST 115.20 FEET TO THE BEGINNING OF A CURVE CONCAVE EASTERLY HAVING A RADIUS OF 6062.92 FEET; THENCE NORTHERLY 437.48 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF $04^{\circ}08'03''$ TO A LINE PARALLEL WITH AND 12.00 FEET SOUTHWESTERLY OF SAID SOUTHWESTERLY RIGHT OF WAY LINE OF MISSION BOULEVARD; THENCE NONTANGENT ALONG SAID PARALLEL LINE NORTH $68^{\circ}24'25''$ WEST 390.64 FEET TO THE WESTERLY LINE OF SAID PARCEL B; THENCE ALONG SAID WESTERLY LINE NORTH $00^{\circ}21'48''$ EAST 12.87 FEET TO THE POINT OF BEGINNING.

CONTAINING 10,925 SQUARE FEET, MORE OR LESS.

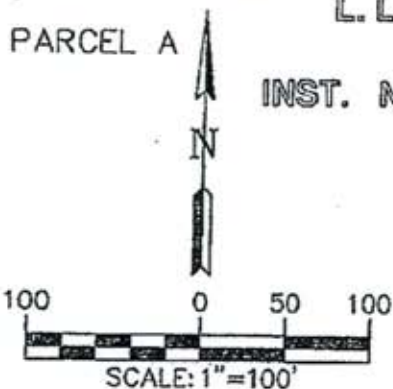
ALL AS MORE PARTICULARLY SHOWN ON EXHIBIT "B" ATTACHED HERETO AND MADE A PART HEREOF.

DATED THIS 27TH DAY OF FEBRUARY, 2012.



GWEN-VERA DEL CASTILLO, PLS 5108





BASIS OF BEARINGS:

THE BASIS OF BEARINGS IS BASED UPON THE CALIFORNIA COORDINATE SYSTEM, ZONE V, NORTH AMERICAN DATUM OF 1983 (NAD 83), EPOCH 2007.0

EASEMENT NOTES:

- (A) EXISTING ENTRY MONUMENT AREA EASEMENT PER P.M.B. 186/67-68
- (B) EXISTING RECIPROCAL VEHICULAR AND PEDESTRIAN ACCESS EASEMENT PER DOC. NO. 20010013575 O.R.
- (C) EXISTING NON-BUILD EASEMENT PER DOC. NO. 2002-0348961 O.R.

AREA = 10,925 SQ. FEET

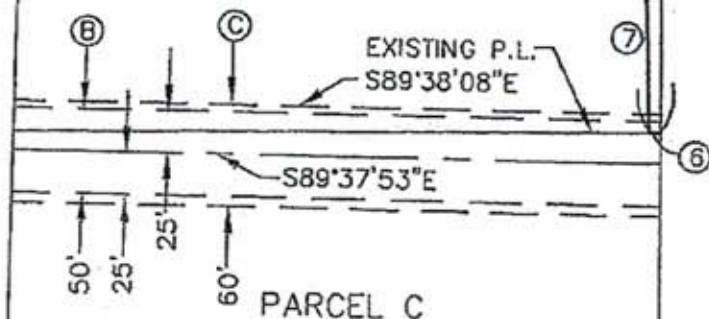
L.L.A. 99 - 27

INST. NO. 20000217781

APN 1083-351-07

	BEARING	DISTANCE
1	S68°24'25"E	392.02'
3	S02°37'26"W	97.59'
5	S00°45'02"E	355.94'
6	S89°14'58"W	6.81'
7	N02°14'41"W	115.20'
9	N68°24'25"W	390.64'
10	N00°21'48"E	12.87'

	RADIUS	DELTA	LENGTH
2	20.00'	71°01'51"	24.79'
4	1560.00'	3°22'28"	91.88'
8	6062.92'	4°08'03"	437.48'



JOB #: 108-038
DATE: 2/27/12
SCALE: 1"=100'
SHEET 1 OF 1

EXHIBIT "B"
APN 1083-351-07
RIGHT OF WAY

COAST SURVEYING, INC.
15031 PARKWAY LOOP, SUITE B
TUSTIN, CA 92780-6527 (714) 818-8266

EXHIBIT "A"
LEGAL DESCRIPTION
UTILITY EASEMENT

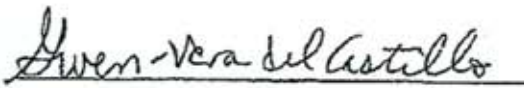
THAT PORTION OF PARCEL B OF LOT LINE ADJUSTMENT NO. LL-99-27, IN THE CITY OF ONTARIO, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, AS RECORDED JUNE 19, 2000 AS INSTRUMENT NO. 20000217781, OFFICIAL RECORDS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, DESCRIBED AS FOLLOWS:

COMMENCING AT THE INTERSECTION OF THE SOUTHERLY LINE OF SAID PARCEL B AND THE WESTERLY RIGHT OF WAY LINE OF MILLIKEN AVENUE (60 FEET HALF WIDTH); THENCE ALONG THE SOUTHERLY LINE OF SAID PARCEL B SOUTH 89°14'58" WEST 6.81 FEET TO THE TRUE POINT OF BEGINNING; THENCE CONTINUING ALONG SAID SOUTHERLY LINE SOUTH 89°14'58" WEST 42.84 FEET; THENCE LEAVING SAID SOUTHERLY LINE NORTH 00°55'42" WEST 339.78 FEET; THENCE NORTH 01°20'41" WEST 216.89 FEET; THENCE NORTH 02°06'39" EAST 15.02 FEET TO A LINE PARALLEL WITH AND 12.00 FEET SOUTHWESTERLY OF THE SOUTHWESTERLY RIGHT OF WAY LINE OF MISSION BOULEVARD (150 FEET WIDE); THENCE ALONG SAID PARALLEL LINE SOUTH 68°24'25" EAST 50.35 FEET TO THE BEGINNING OF A NONTANGENT CURVE CONCAVE SOUTHEASTERLY HAVING A RADIUS OF 6062.92 FEET, A RADIAL BEARING TO SAID CURVE BEARS NORTH 86°06'38" WEST; THENCE SOUTHERLY 437.48 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 04°08'03"; THENCE SOUTH 02°14'41" EAST 115.20 FEET TO THE TRUE POINT OF BEGINNING.

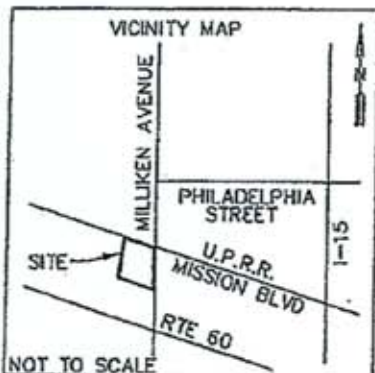
CONTAINING 22,974 SQUARE FEET, MORE OR LESS.

ALL AS MORE PARTICULARLY SHOWN ON EXHIBIT "B" ATTACHED HERETO AND MADE A PART HEREOF.

DATED THIS 27TH DAY OF FEBRUARY, 2012.


GWEN-VERA DEL CASTILLO, PLS 5108





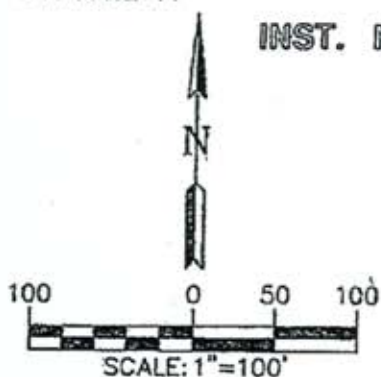
PARCEL A

L. L. A. 99 - 27

PARCEL B

INST. NO. 20000217781

APN 1083-351-07



BASIS OF BEARINGS:

THE BASIS OF BEARINGS IS BASED UPON THE CALIFORNIA COORDINATE SYSTEM, ZONE V, NORTH AMERICAN DATUM OF 1983 (NAD 83), EPOCH 2007.0

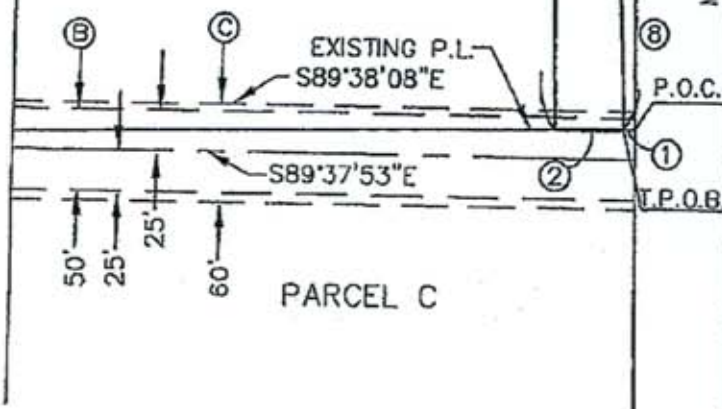
EASEMENT NOTES:

- (A) EXISTING ENTRY MONUMENT AREA EASEMENT PER P.M.B. 186/67-68
- (B) EXISTING RECIPROCAL VEHICULAR AND PEDESTRIAN ACCESS EASEMENT PER DOC. NO. 20010013575 O.R.
- (C) EXISTING NON-BUILD EASEMENT PER DOC. NO. 2002-0348961 O.R.

AREA = 22,974 SQ. FEET

	BEARING	DISTANCE
1	S89° 14' 58" W	6.81'
2	S89° 14' 58" W	42.64'
3	N00° 55' 42" W	339.78'
4	N01° 20' 41" W	216.89'
5	N02° 06' 39" E	15.02'
6	S68° 24' 25" E	50.35'
8	S02° 14' 41" E	115.20'

	RADIUS	DELTA	LENGTH
7	6062.92'	4° 08' 03"	437.48'



JOB #: 108-038
DATE: 2/27/12
SCALE: 1"=100'
SHEET 1 OF 1

EXHIBIT "B"
APN 1083-351-07
UTILITY EASEMENT

COAST SURVEYING, INC.
15031 PARKWAY LOOP, SUITE B
TUSTIN, CA 92780-6527 (714) 918-6266

EXHIBIT "A"
LEGAL DESCRIPTION
TEMPORARY CONSTRUCTION EASEMENT

THAT PORTION OF PARCEL B OF LOT LINE ADJUSTMENT NO. LL-99-27, IN THE CITY OF ONTARIO, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, AS RECORDED JUNE 19, 2000 AS INSTRUMENT NO. 20000217781, OFFICIAL RECORDS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID PARCEL B, SAID POINT BEING ON THE SOUTHWESTERLY RIGHT OF WAY LINE OF MISSION BOULEVARD (150 FEET WIDE); THENCE ALONG THE WESTERLY LINE OF SAID PARCEL B SOUTH 00°21'48" WEST 12.87 FEET TO A LINE PARALLEL WITH AND 12.00 FEET SOUTHWESTERLY OF THE SOUTHWESTERLY RIGHT OF WAY LINE OF MISSION BOULEVARD, BEING THE TRUE POINT OF BEGINNING; THENCE ALONG SAID PARALLEL LINE SOUTH 68°24'25" EAST 340.29 FEET; THENCE LEAVING SAID PARALLEL LINE SOUTH 02°06'39" WEST 15.02 FEET; THENCE SOUTH 01°20'41" EAST 90.75 FEET; THENCE NORTH 38°16'49" WEST 86.02 FEET; THENCE NORTH 68°24'25" WEST 50.44 FEET; THENCE SOUTH 21°35'35" WEST 33.60 FEET; THENCE NORTH 89°40'44" WEST 140.70 FEET; THENCE SOUTH 00°34'41" WEST 15.86 FEET; THENCE NORTH 89°25'19" WEST 68.21 FEET TO SAID WESTERLY LINE OF PARCEL B; THENCE ALONG SAID WESTERLY LINE NORTH 00°21'48" EAST 188.60 FEET TO THE TRUE POINT OF BEGINNING.

CONTAINING 36,215 SQUARE FEET, MORE OR LESS.

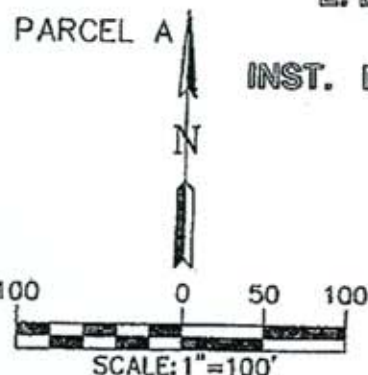
ALL AS MORE PARTICULARLY SHOWN ON EXHIBIT "B" ATTACHED HERETO AND MADE A PART HEREOF.

DATED THIS 27TH DAY OF FEBRUARY, 2012.

Gwen-Vera del Castillo

GWEN-VERA DEL CASTILLO, PLS 5108





BASIS OF BEARINGS:

THE BASIS OF BEARINGS IS BASED UPON THE CALIFORNIA COORDINATE SYSTEM, ZONE V, NORTH AMERICAN DATUM OF 1983 (NAD 83), EPOCH 2007.0

EASEMENT NOTES:

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AREA = 36,215 SQ. FEET

JOB #: 108-038
DATE: 2/27/12
SCALE: 1"=100'
SHEET 1 OF 1

EXHIBIT "B"
APN 1083-351-07
TEMPORARY CONSTRUCTION EASEMENT

COAST SURVEYING, INC.
15031 PARKWAY LOOP, SUITE B
TUSTIN, CA 92780-5527 (714) 918-6266

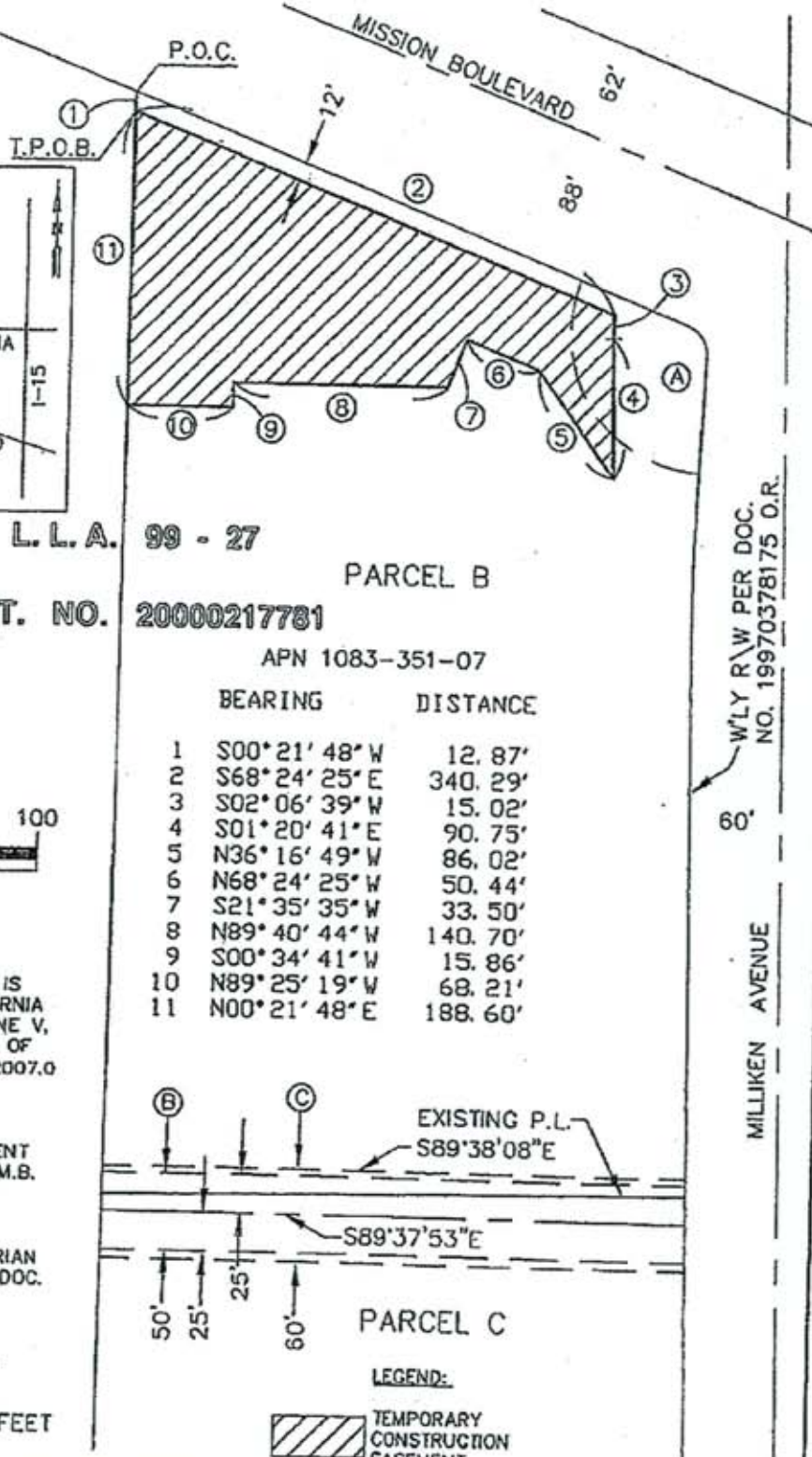


EXHIBIT "A"
LEGAL DESCRIPTION
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COMMENCING AT THE INTERSECTION OF THE SOUTHERLY LINE OF SAID PARCEL B AND THE WESTERLY RIGHT OF WAY LINE OF MILLIKEN AVENUE (60 FEET HALF WIDTH); THENCE ALONG THE SOUTHERLY LINE OF SAID PARCEL B SOUTH 89°14'58" WEST 49.45 FEET TO THE TRUE POINT OF BEGINNING; THENCE CONTINUING ALONG SAID SOUTHERLY LINE SOUTH 89°14'58" WEST 118.95 FEET; THENCE LEAVING SAID SOUTHERLY LINE NORTH 00°07'02" EAST 28.01 FEET; THENCE SOUTH 89°36'08" EAST 61.79 FEET; THENCE NORTH 00°26'01" WEST 61.22 FEET; THENCE SOUTH 89°36'09" EAST 34.70 FEET; THENCE NORTH 00°23'51" EAST 48.15 FEET; THENCE NORTH 89°14'58" EAST 20.33 FEET; THENCE SOUTH 00°55'42" EAST 135.43 FEET TO THE TRUE POINT OF BEGINNING.

CONTAINING 7,648 SQUARE FEET, MORE OR LESS.

ALL AS MORE PARTICULARLY SHOWN ON EXHIBIT "B" ATTACHED HERETO AND MADE A PART HEREOF.

DATED THIS 25TH DAY OF MAY, 2012.

Gwen Vera del Castillo

GWEN-VERA DEL CASTILLO, PLS 5108





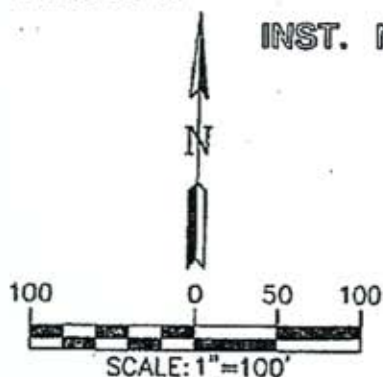
PARCEL A

L. L. A. 99 - 27

PARCEL B

INST. NO. 20000217781

APN 1083-351-07



BASIS OF BEARINGS:

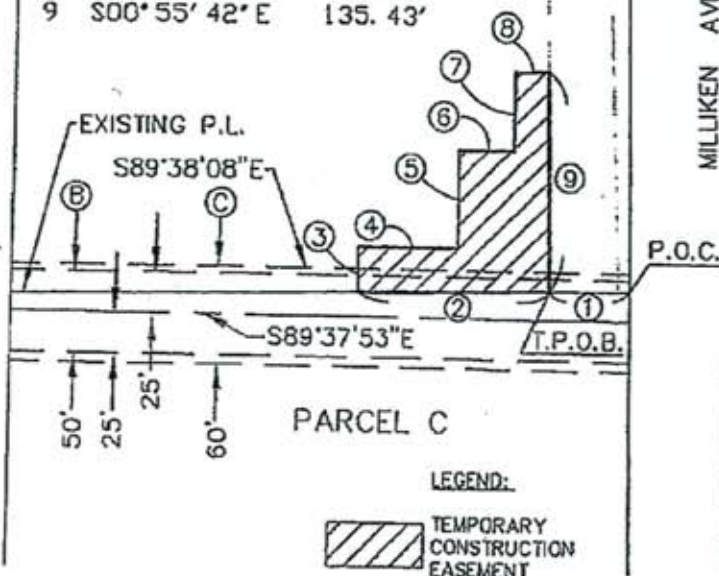
THE BASIS OF BEARINGS IS BASED UPON THE CALIFORNIA COORDINATE SYSTEM, ZONE V, NORTH AMERICAN DATUM OF 1983 (NAD 83); EPOCH 2007.0

EASEMENT NOTES:

- (A) EXISTING ENTRY MONUMENT AREA EASEMENT PER P.M.B. 186/87-88
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- (C) EXISTING NON-BUILD EASEMENT PER DOC. NO. 2002-0348961 O.R.

AREA = 7,648 SQ. FEET

	BEARING	DISTANCE
1	S89°14'58"W	49.45'
2	S89°14'58"W	118.95'
3	N00°07'02"E	28.01'
4	S89°36'08"E	61.79'
5	N00°26'01"W	61.22'
6	S89°36'09"E	34.70'
7	N00°23'51"E	48.15'
8	N89°14'58"E	20.33'
9	S00°55'42"E	135.43'



JOB #: 108-038
DATE: 5/24/12
SCALE: 1"=100'
SHEET 1 OF 1

EXHIBIT "B"
APN 1083-351-07
TEMPORARY CONSTRUCTION EASEMENT

COAST SURVEYING, INC.
15031 PARKWAY LOOP, SUITE B
FUSTIN, CA 92780-6527 (714) 918-6266

RESOLUTION NO. _____

A RESOLUTION OF NECESSITY OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, FOR THE ACQUISITION OF AN EASEMENT INTEREST IN A PORTION OF CERTAIN REAL PROPERTY LOCATED AT OR NEAR THE INTERSECTION OF MISSION BOULEVARD, PHILADELPHIA STREET AND THE UNION PACIFIC RAILROAD CROSSING, AND MORE PARTICULARLY DESCRIBED AS ASSESSOR PARCEL NOS. 1083-351-05 AND 0211-312-04, BY EMINENT DOMAIN, IS NECESSARY FOR PUBLIC RIGHT-OF-WAY FOR THE CONSTRUCTION OF THE SOUTH MILLIKEN AVENUE GRADE SEPARATION PROJECT AND RELATED PUBLIC INFRASTRUCTURE IMPROVEMENTS IN THE CITY OF ONTARIO, SAN BERNARDINO COUNTY, CALIFORNIA.

WHEREAS, the City of Ontario (the "City") proposes to acquire an easement interest in a portion of certain real property located at or near the intersection of Mission Boulevard, Philadelphia Street and the Union Pacific Railroad crossing, and more particularly described as Assessor Parcel Nos. 1083-351-05 and 0211-312-04, for public right-of-way purposes and the construction of the South Milliken Avenue Grade Separation Project and related public infrastructure improvements, in the City of Ontario, California, pursuant to the authority granted to it by Section 37350.5 of the California Government Code; and

WHEREAS, pursuant to Section 1245.235 of the California Code of Civil Procedure, the City scheduled a public hearing for Tuesday, December 4, 2012, at 6:30 p.m. at the Ontario City Hall, Council Chambers, 303 East "B" Street, Ontario, California, and gave to each person whose property is to be acquired and whose name and address appeared on the last equalized county assessment roll, notice and a reasonable opportunity to appear at said hearing and be heard on the matters referred to in Section 1240.030 of the California Code of Civil Procedure; and

WHEREAS, said hearing has been held by the City and each person whose property is to be acquired by eminent domain was afforded an opportunity to be heard on said matters; and

WHEREAS, the City may now adopt a Resolution of Necessity pursuant to Section 1240.040 of the California Code of Civil Procedure.

NOW, THEREFORE, THE CITY DOES HEREBY RESOLVE AND DECLARE AS FOLLOWS:

SECTION 1. Compliance with California Code of Civil Procedure and California Environmental Quality Act. There has been compliance by the City with the requirements of Section 1245.235 of the California Code of Civil Procedure and the California Environmental Quality Act.

SECTION 2. Public Use. The public use for which the real property is to be acquired is for public right-of-way purposes and the construction of the South Milliken Avenue Grade Separation Project and related public infrastructure improvements, in San Bernardino County, California. Section 37350.5 of the California Government Code authorizes the City to acquire by eminent domain real property necessary for such purposes.

SECTION 3. Description of Property. Attached and marked as Exhibit "A" is the legal description and depiction of the real property to be acquired by the City, which describes the general location and extent of the property to be acquired with sufficient detail for reasonable identification.

SECTION 4. Findings. The City hereby finds and determines each of the following:

- (a) The public interest and necessity require the proposed project;
- (b) The proposed project is planned or located in the manner that will be most compatible with the greatest public good and least private injury;
- (c) The real property described in Exhibit "A" are necessary for the proposed project;
- (d) The offer required by Section 7267.2 of the California Government Code was made.

SECTION 5. Use Not Unreasonably Interfering with Existing Public Use(s). Some or all of the real property to be acquired is subject to easements and rights-of-way appropriated to existing public uses. The legal descriptions of these easements and rights-of-way are on file with the City and describe the general location and extent of the easements and rights-of-way with sufficient detail for reasonable identification. In the event the herein described use or uses will not unreasonably interfere with or impair the continuance of the public use as it now exists or may reasonably be expected to exist in the future, counsel for the City is authorized to acquire the real property subject to such existing public use(s) pursuant to Section 1240.510 of the California Code of Civil Procedure.

SECTION 6. More Necessary Public Use. Some or all of the real property to be acquired is subject to easements and rights-of-way appropriated to existing public uses. To the extent that the herein described use or uses will unreasonably interfere with or impair the continuance of the public use as it now exists or may reasonably be expected to exist in the future, the City finds and determines that the herein described use or uses are more necessary than said existing public use. Counsel for the City is authorized to acquire the real property appropriated to such existing public use(s) pursuant to Section 1240.610 of the California Code of Civil Procedure. Staff is further authorized to make such improvements to the real property being acquired that it determines is reasonably necessary to mitigate any adverse impact upon the existing public use.

SECTION 7. Further Activities. Counsel for the City is hereby authorized to file legal proceedings necessary to acquire the hereinabove described real property in the name of and on behalf of the City by eminent domain, and counsel is authorized to institute and prosecute such legal proceedings as may be required in connection therewith. Legal counsel is further authorized to take such steps as may be authorized and required by law, and to make such security deposits as may be required by order of court, to permit the City to take possession of and use said real property at the earliest possible time. Counsel is further authorized to correct any errors or to make or agree to non-material changes in the legal description of the real property that are deemed necessary for the conduct of the condemnation action or other proceedings or transaction required to acquire the subject real property. Counsel is further authorized to reduce or modify the extent of the interests or property to be acquired so as to reduce the compensation payable in the action where such change would not substantially impair the construction and operation for the project for which the real property is being acquired.

SECTION 8. Effective Date. This Resolution shall take effect upon adoption.

The City Clerk of the City of Ontario shall certify as to the adoption of this Resolution.

PASSED, APPROVED, AND ADOPTED this 4th day of December 2012.

PAUL S. LEON, MAYOR

ATTEST:

MARY E. WIRTES, MMC, CITY CLERK

APPROVED AS TO LEGAL FORM:

BEST BEST & KRIEGER LLP
CITY ATTORNEY

STATE OF CALIFORNIA)
COUNTY OF SAN BERNARDINO)
CITY OF ONTARIO)

I, MARY E. WIRTES, City Clerk of the City of Ontario, DO HEREBY CERTIFY that foregoing Resolution No. 2012- was duly passed and adopted by the City Council of the City of Ontario at their regular meeting held December 4, 2012 by the following roll call vote, to wit:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

MARY E. WIRTES, MMC, CITY CLERK

(SEAL)

The foregoing is the original of Resolution No. 2012- duly passed and adopted by the Ontario City Council at their regular meeting held December 4, 2012.

MARY E. WIRTES, MMC, CITY CLERK

(SEAL)

Legal Definitions of Property to be Acquired

The following is a list of definitions of legal rights to be acquired by the City of Ontario:

"Access Easement" refers to an non-exclusive permanent and perpetual easement and right of way in favor of the City, its successors and assigns, together with the right to construct, reconstruct, repair, extend, maintain and traverse an access way to access City owned facilities and/or construction site, as determined necessary by the City, together with all necessary rights incidental thereto, on, over, under and across the property in connection with the exercise of any easement rights described herein.

Property Owner shall not erect or construct, or permit to be erected or constructed, any building, structure or improvement on, over, or under any portion of the easement, or plant trees or any other vegetation on any portion of the easement except with the prior written consent of the City, its successors and assigns.

The City shall have the right to trim, cut or clear away any trees, brush, or other vegetation from time to time as determined in its sole discretion, without payment of additional compensation.

No other easements shall be granted on, under or over the easement without the prior written consent of the City, its successors and assigns.

The existing ground elevations upon completion of construction shall not be further increased or decreased without the prior written consent of the City.

Property Owner shall not cause, directly, indirectly or negligently, any interference with or harm to the rights conveyed hereunder.

DRAFT

EASEMENT AREA

over the

Bridgestone / Firestone Property, Ontario, California

That portion of the Southeast one-quarter of Section 36, Township 1 South, Range 7 West, San Bernardino Base and Meridian, according to the official plat approved by the Surveyor General, dated September 18, 1858 and the North one-third of the East one-half of Section 1, Township 2 South, Range 7 West, San Bernardino Base and Meridian, according to the official plat of approved by the Surveyor General, dated April 18, 1857, lying within Parcel A of Lot Line Adjustment No. LL87-11, recorded July 14, 1997 as Instrument No. 247234, Official Records of San Bernardino County, California, being a strip of land 50.00 feet wide, the Southeastary line thereof being more particularly described as follows:

COMMENCING at the Southwesterly terminus of that certain line course along the Southeastary line of said Parcel A which bears N.35°45'00"E, a distance of 35.73 feet, said line also being along the Northwestary line of Parcel 1 of Parcel Map No. 15100 on file in Book 166 of Parcel Maps, Pages 67 through 68 thereof;

Thence N.35°45'00"E, along said Southeastary line of Parcel A and along said Northwestary line of Parcel 1, a distance of 11.73 feet, to the POINT OF BEGINNING;

Thence continuing N.35°45'00"E, along said Southeastary and Northwestary lines, a distance 25.00 feet;

Thence Northeastary continuing along said Southeastary and Northwestary lines, along a curve concave Northwestary, having a radius of 201.00 feet, through an angle of 13°55'55", an arc length of 48.05 feet;

Thence N.21°47'05"E, continuing along said Southeastary and Northwestary lines and the Northeastary prolongation thereof, a distance of 147.42 feet, to the Southwestary line of Mission Boulevard as shown by said Parcel Map No. 15100.

The Northwestary line of said strip of land shall be shortened as to terminate in said Southwestary line of Mission Boulevard.

The above described parcel of land contains 10,769 square feet, more or less.

KOT CONSULTANTS, INC.
Prepared under the supervision of:

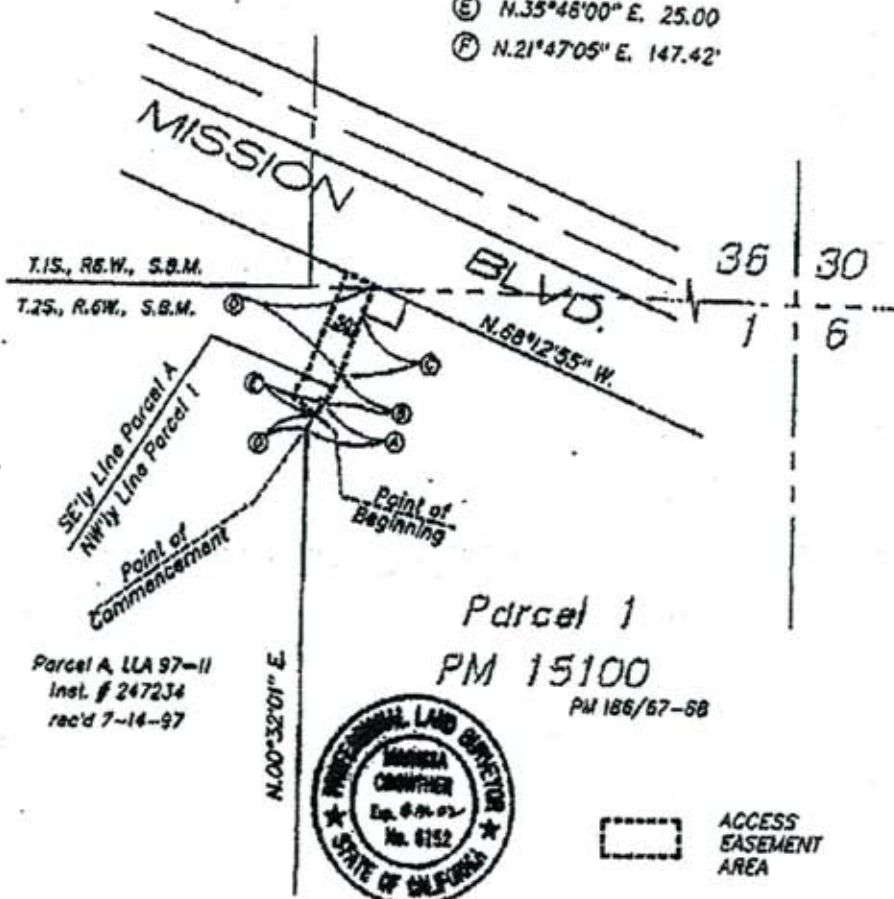
Marissa Crowther
Marissa Crowther PLB NO. 6152
Date: March 15, 1999



\\S:\OFFICE\Legal\98\Legal\1115-01 Agency Exam 01.doc



- (A) N.35°46'00" E. 38.73
- (B) R=201.00' Δ=13°58'55"
L=49.05' T=24.65'
- (C) N.21°47'05" E. 99.42'
- (D) N.35°46'00" E. 147.42'
- (E) N.35°46'00" E. 25.00
- (F) N.21°47'05" E. 147.42'



Parcel A, LLA 97-11
Inst. # 247234
rec'd 7-14-97

Parcel 1
PM 15100
PM 186/67-68



ACCESS
EASEMENT
AREA

Prepared under the supervision of: MARISSA CROWTHER, PLS 8142	ACCESS EASEMENT BRIDGESTONE / FIRESTONE KCT CONSULTANTS, INC. Civil Engineers - Surveyors - Planners 7000 Jamboree Circle, Suite 200 San Diego, CA 92121	EXHIBIT "B"
		Sheet 1 of 1
		Scale: 1"=200'
		March 1999
DATE		NO 1118-01

CITY OF ONTARIO

Agenda Report
December 4, 2012

SECTION: PUBLIC HEARINGS

SUBJECT: CONSIDERATION OF RESOLUTIONS OF NECESSITY FOR THE ACQUISITION OF FEE AND EASEMENT INTERESTS IN PORTIONS OF CERTAIN REAL PROPERTY

RECOMMENDATION: That the City Council conduct a public hearing to:

- (A) Consider the adoption of Resolutions of Necessity and provide all parties interested in the affected properties, their attorneys or representatives, an opportunity to be heard on the issues relevant to the Resolutions of Necessity;
- (B) Make the following findings as hereinafter described in this report:
 - (1) The public interest and necessity require the proposed project;
 - (2) The project is planned or located in a manner that will be most compatible with the greatest public good and the least private injury;
 - (3) The real property to be acquired is necessary for the project; and
 - (4) The offers of just compensation have been made to the property owners; and
- (C) Adopt Resolutions of Necessity declaring that the acquisition of fee and easement interests in certain real property, more particularly described as APNs 0110-092-04, 0110-101-03, 0110-101-12, 0110-321-39 and 0110-321-40 by eminent domain is necessary for public right-of-way and the construction of the North Vineyard Avenue Grade Separation Project and related public infrastructure improvements in the City of Ontario, San Bernardino County, California.

COUNCIL GOALS: Develop Strategies and Take Actions, Including Regaining Local Control of the Ontario International Airport, to Minimize the Negative Impacts of the Global Financial Downturn on Ontario's Economy and the City's Fiscal Health
Invest in the City's Infrastructure (Water, Streets, Sewers, Parks, Storm Drains and Public Facilities)

FISCAL IMPACT: The FY 2012-13 First Quarter Budget Adjustment includes appropriations for the right-of-way phase of the North Vineyard Avenue Grade Separation Project. Per the cooperative funding agreement with SANBAG, the City's share is 20% of the actual expenses. Deposits to file the

STAFF MEMBER PRESENTING: Louis Abi-younes, P.E., City Engineer

Prepared by: Jay Bautista
Department: Engineering

City Manager
Approval:



Submitted to Council/O.H.A.

Approved:

Continued to:

Denied:

12/04/2012

20

Resolutions of Necessity total \$177,600 with the City's share of \$35,520 coming from Development Impact Fee funds. The funding split is in accordance with the City's adopted DIF Program and SANBAG's approved Measure I Nexus Study.

BACKGROUND: The North Vineyard Avenue Grade Separation Project and related public infrastructure improvements are required for and will benefit the community by eliminating potential conflicts between vehicular and train traffic, increasing travel reliability on Vineyard Avenue, enhancing the flow of traffic and improving air quality.

The City obtained appraisals of the affected properties from Riggs & Riggs, Inc. Offers of just compensation were made to the property owners pursuant to California Government Code Section 7267.2. The consulting firm of HDR Engineering, Inc. has been negotiating on behalf of the City to purchase the properties. One agreement has been reached; however, the remaining are still in negotiations. Preliminary title reports were ordered to determine and confirm the identities of the record owners. Following standard public records and due diligence searches for ownership information, a notice of this public hearing was mailed to the property owners.

Since agreements have not been reached with the remaining property owners, it may become necessary to acquire the properties by the eminent domain process to meet critical project deadlines or the City faces the loss of Trade Corridors Improvement Fund (TCIF) and State Local Partnership Program (SLPP) funding. The eminent domain process begins with the adoption of a Resolution of Necessity declaring intent to acquire fee and easement interests in portions of real property through eminent domain proceedings for public right-of-way and the construction of the North Vineyard Avenue Grade Separation Project and related public infrastructure improvements. Adoption of the Resolutions of Necessity should not affect any negotiations or agreements reached with the property owners.

DESCRIPTION OF PROPERTY TO BE ACQUIRED:

The affected properties are located on both sides of Vineyard Avenue from 330' north of Holt Boulevard to Airport Drive at the Union Pacific Railroad Alhambra Subdivision rail crossing and along both sides of Holt Boulevard from 450' west of Vineyard Avenue to 750' east of Vineyard Avenue (Exhibits "A" through "H").

HEARINGS AND REQUIRED FINDINGS:

The recommended actions of the City Council pertain to the acquisition of fee and easement interests in portions of real property from the property owners listed below:

Assessor Parcel No.: 0110-092-04
Cruise Trust

Assessor Parcel No.: 0110-101-12
J. Gary Germann

Assessor Parcel No.: 0110-101-03
Tri-Lin Holdings, LLC

Assessor Parcel No.: 0110-321-39, 0110-321-40
HAGF Enterprises, LP

California eminent domain law provides that a public entity may not commence an eminent domain proceeding until its governing body has adopted a Resolution of Necessity, which resolution may only be adopted after the governing body has given each party with an interest in the affected property or their representatives a reasonable opportunity to appear and be heard on the following matters:

1. The public interest and necessity require the proposed project.
2. The project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury.

3. The real property to be acquired is necessary for the project.
4. The offer of just compensation has been made to the property owner.

A notice of hearing was mailed on November 19, 2012 by first class mail to the property owners in accordance with Section 1245.235 of the California Code of Civil Procedure.

The above four required findings are addressed as follows:

1. The Public Interest and Necessity Require the Proposed Project

The North Vineyard Avenue Grade Separation in San Bernardino County, California will eliminate the at-grade crossing; and will improve motorist and pedestrian safety, eliminate delays to motorists, reduce noise in the area and improve air quality.

2. The Project is Planned or Located in a Manner that will be Most Compatible with the Greatest Public Good and the Least Private Injury

The proposed improvement elevates the railroad approximately 4 feet and lowers Vineyard Avenue approximately 22 feet with an underpass configuration including a two-track bridge. This alternative utilizes the maximum track elevation rise allowed by the UPRR and allows for maintaining access to all of the existing businesses along Vineyard Avenue and Holt Boulevard. This alternative allows for maintaining the existing 96 inch storm drain without relocation and also allows for gravity draining all existing sewer and storm drains, therefore eliminating the need to build either a sewer or storm drain pump station.

3. The Real Property to be Acquired is Necessary for the Proposed Project

The properties described in Exhibit "A" through "D", portions of APNs 0110-092-04, 0110-101-03, 0110-101-12, 0110-321-39 and 0110-321-40 are necessary for the project. The right of way is necessary to construct the railroad bridge and retaining walls, widen Vineyard Avenue at the crossing and utility relocation.

4. The Offer of Just Compensation Has Been Made

Appraisals were prepared by Riggs & Riggs, Inc to establish the fair market value of the real property the City is seeking to acquire. Offers of just compensation were made to the property owners to purchase the fee and easement interests as established by the approved appraisal and as required by Section 7267.2 of the California Government Code. Although a negotiated settlement may still be possible for the real properties cited above, it would be appropriate to commence the procedures to acquire the property through eminent domain, to ensure that the City has possession of the real property, which is necessary in order for the City to begin construction of the project.

ENVIRONMENTAL ANALYSIS:

Compliance with the California Environmental Quality Act (CEQA) has been satisfied by Statutory Exemption – Section 21080.13 filed with the County of San Bernardino on May 4, 2010.

RESOLUTION NO. _____

A RESOLUTION OF NECESSITY OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, FOR THE ACQUISITION OF FEE, SIDEWALK AND TEMPORARY CONSTRUCTION EASEMENT INTERESTS IN PORTIONS OF CERTAIN REAL PROPERTY LOCATED AT OR NEAR THE INTERSECTION OF VINEYARD AVENUE, HOLT BOULEVARD AND THE UNION PACIFIC RAILROAD CROSSING, AND MORE PARTICULARLY DESCRIBED AS ASSESSOR PARCEL NO. 0110-092-04, BY EMINENT DOMAIN, ARE NECESSARY FOR PUBLIC RIGHT-OF-WAY FOR THE CONSTRUCTION OF THE NORTH VINEYARD AVENUE GRADE SEPARATION PROJECT AND RELATED PUBLIC INFRASTRUCTURE IMPROVEMENTS IN THE CITY OF ONTARIO, SAN BERNARDINO COUNTY, CALIFORNIA.

WHEREAS, the City of Ontario (the "City") proposes to acquire fee, sidewalk and temporary construction easement interests in portions of certain real property located at or near the intersection of Vineyard Avenue, Holt Boulevard and the Union Pacific Railroad crossing, and more particularly described as Assessor Parcel No. 0110-092-04, for public right-of-way purposes and the construction of the North Vineyard Avenue Grade Separation Project and related public infrastructure improvements, in the City of Ontario, California, pursuant to the authority granted to it by Section 37350.5 of the California Government Code; and

WHEREAS, pursuant to Section 1245.235 of the California Code of Civil Procedure, the City scheduled a public hearing for Tuesday, December 4, 2012, at 6:30 p.m. at the Ontario City Hall, Council Chambers, 303 East "B" Street, Ontario, California, and gave to each person whose property is to be acquired and whose name and address appeared on the last equalized county assessment roll, notice and a reasonable opportunity to appear at said hearing and be heard on the matters referred to in Section 1240.030 of the California Code of Civil Procedure; and

WHEREAS, said hearing has been held by the City and each person whose property is to be acquired by eminent domain was afforded an opportunity to be heard on said matters; and

WHEREAS, the City may now adopt a Resolution of Necessity pursuant to Section 1240.040 of the California Code of Civil Procedure.

NOW, THEREFORE, THE CITY DOES HEREBY RESOLVE AND DECLARE AS FOLLOWS:

SECTION 1. Compliance with California Code of Civil Procedure and California Environmental Quality Act. There has been compliance by the City with the requirements of Section 1245.235 of the California Code of Civil Procedure and the California Environmental Quality Act.

SECTION 2. Public Use. The public use for which the real property is to be acquired is for public right-of-way purposes and the construction of the North Vineyard Avenue Grade Separation Project and related public infrastructure improvements, in San Bernardino County, California. Section 37350.5 of the California Government Code authorizes the City to acquire by eminent domain real property necessary for such purposes.

SECTION 3. Description of Property. Attached and marked as Exhibit "A" are the legal descriptions and depictions of the real property to be acquired by the City, which describe the general location and extent of the property to be acquired with sufficient detail for reasonable identification.

SECTION 4. Findings. The City hereby finds and determines each of the following:

- (a) The public interest and necessity require the proposed project;
- (b) The proposed project is planned or located in the manner that will be most compatible with the greatest public good and least private injury;
- (c) The real property described in Exhibit "A" is necessary for the proposed project;
- (d) The offer required by Section 7267.2 of the California Government Code was made.

SECTION 5. Use Not Unreasonably Interfering with Existing Public Use(s). Some or all of the real property to be acquired is subject to easements and rights-of-way appropriated to existing public uses. The legal descriptions of these easements and rights-of-way are on file with the City and describe the general location and extent of the easements and rights-of-way with sufficient detail for reasonable identification. In the event the herein described use or uses will not unreasonably interfere with or impair the continuance of the public use as it now exists or may reasonably be expected to exist in the future, counsel for the City is authorized to acquire the real property subject to such existing public use(s) pursuant to Section 1240.510 of the California Code of Civil Procedure.

SECTION 6. More Necessary Public Use. Some or all of the real property to be acquired is subject to easements and rights-of-way appropriated to existing public uses. To the extent that the herein described use or uses will unreasonably interfere with or impair the continuance of the public use as it now exists or may reasonably be expected to exist in the future, the City finds and determines that the herein described use or uses are more necessary than said existing public use. Counsel for the City is authorized to acquire the real property appropriated to such existing public use(s) pursuant to Section 1240.610 of the California Code of Civil Procedure. Staff is further authorized to make such improvements to the real property being acquired that it determines is reasonably necessary to mitigate any adverse impact upon the existing public use.

SECTION 7. Further Activities. Counsel for the City is hereby authorized to file legal proceedings necessary to acquire the hereinabove described real property in the name of and on behalf of the City by eminent domain, and counsel is authorized to institute and prosecute such legal proceedings as may be required in connection therewith. Legal counsel is further authorized to take such steps as may be authorized and required by law, and to make such security deposits as may be required by order of court, to permit the City to take possession of and use said real property at the earliest possible time. Counsel is further authorized to correct any errors or to make or agree to non-material changes in the legal description of the real property that are deemed necessary for the conduct of the condemnation action or other proceedings or transaction required to acquire the subject real property. Counsel is further authorized to reduce or modify the extent of the interests or property to be acquired so as to reduce the compensation payable in the action where such change would not substantially impair the construction and operation for the project for which the real property is being acquired.

SECTION 8. Effective Date. This Resolution shall take effect upon adoption.

The City Clerk of the City of Ontario shall certify as to the adoption of this Resolution.

PASSED, APPROVED, AND ADOPTED this 4th day of December 2012.

PAUL S. LEON, MAYOR

ATTEST:

MARY E. WIRTES, MMC, CITY CLERK

APPROVED AS TO LEGAL FORM:

BEST BEST & KRIEGER LLP
CITY ATTORNEY

STATE OF CALIFORNIA)
COUNTY OF SAN BERNARDINO)
CITY OF ONTARIO)

I, MARY E. WIRTES, City Clerk of the City of Ontario, DO HEREBY CERTIFY that foregoing Resolution No. 2012- was duly passed and adopted by the City Council of the City of Ontario at their regular meeting held December 4, 2012 by the following roll call vote, to wit:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

MARY E. WIRTES, MMC, CITY CLERK

(SEAL)

The foregoing is the original of Resolution No. 2012- duly passed and adopted by the Ontario City Council at their regular meeting held December 4, 2012.

MARY E. WIRTES, MMC, CITY CLERK

(SEAL)

Legal Definitions of Property to be Acquired

The following is a list of definitions of legal rights to be acquired by the City of Ontario:

"Fee Acquisition" also known as fee simple or fee simple absolute, refers to complete or absolute ownership of the property in the City of Ontario (the "City"), County of San Bernardino, State of California.

"Temporary Construction Easement" or **"TCE"** refers to the right of the City, its successors, and assigns, to engage in construction and related activities related to the Vineyard Avenue Grade Separation Project, together with all necessary rights of ingress and egress to the non-exclusive easement area in connection with such construction and related activities.

The TCE shall commence on January 1, 2014 and extend to 11:59 P.M., December 31, 2015. The use of the TCE area shall not exceed 24 months; provided however, that the term of the TCE may be extended upon payment by the City to the Property Owner of an amount equal to \$950.79 a month, prorated to the actual date upon which the City's use of the Property terminates.

Property Owner shall not cause, directly, indirectly or negligently, any interference with or harm to the rights conveyed hereunder.

"Sidewalk Easement" refers to a non-exclusive permanent and perpetual easement and right of way in favor of the City, its successors and assigns, together with the right to construct, reconstruct, repair, extend, and maintain public sidewalks.

Property Owner shall not erect or construct, or permit to be erected or constructed, any building, structure or improvement on, over, or under any portion of the easement, or plant trees or any other vegetation on any portion of the easement except with the prior written consent of the City, its successors and assigns.

The City shall have the right to trim, cut or clear away any trees, brush, or other vegetation from time to time as determined in its sole discretion, without payment of additional compensation.

No other easements shall be granted on, under or over the easement without the prior written consent of the City, its successors and assigns.

The ground elevations of the easement upon completion of construction shall not be further increased or decreased without the prior written consent of the City.

Property Owner shall not cause, directly, indirectly or negligently, any interference with or harm to the rights conveyed hereunder.

**TEMPORARY CONSTRUCTION EASEMENT
ATTACHMENT TO LEGAL DESCRIPTION
APN: 0110-092-04**

The parcel of land described in Exhibit "A" is to be used for temporary construction purposes in connection with the construction of the North Vineyard Avenue Grade Separation Project. The right of usage acquired for the temporary construction easement parcel described in Exhibit "A" shall be for a period of forty-eight (24) months; said period to commence on January 1, 2014 and extend through December 31, 2015, 11:59 P.M.

EXHIBIT 'A'

TEMPORARY CONSTRUCTION EASEMENT

LEGAL DESCRIPTION

That portion of land as described in Deed recorded August 3, 1964, filed in Book 6202, of Deeds, page 812, Official Record of San Bernardino County, located in the City of Ontario, County of San Bernardino, State of California, more particularly described as follows;

Commencing at the intersection of westerly line of Vineyard Avenue (50.00 feet wide) as shown on Parcel Map No. 17983, filed in Book 220, pages 92 through 94, inclusive, of Parcel Maps, records of said County, with the northerly line of Holt Boulevard (width varies) as shown on said Parcel Map;

Thence along said northerly line South 85°59'51" West 20.10 feet to the **Point of Beginning**;

Thence continuing along said northerly line South 85°59'51" West 107.33 feet;

Thence North 03°19'31" West 19.80 feet;

Thence North 87°25'21" East 101.02 feet;

Thence North 42°43'43" East 17.93 feet to a line parallel with and distant 15.00 feet westerly from said westerly line of Vineyard Avenue;

Thence along said parallel line North 00°21'29" West 39.28 feet;

Thence North 87°43'40" West 10.61 feet;

Thence North 02°15'17" East 77.00 feet to the northerly line of said Deed;

Thence along said northerly line North 87°27'00" East 22.11 feet to said westerly line of Vineyard Avenue;

Thence along said westerly line South 00°21'29" East 15.85 feet;

R:\4H0R010500\SURVEY\LEGALS\DESCRIPTIONS\CRUISE TRUST\4H0R_CRUISE_TCE_0110-092-04.doc1

Thence South 89°38'31"West 3.00 feet to a line parallel with and distant 3.00 feet westerly from said westerly line;

Thence along said parallel line South 00°21'29"East 113.07 feet;

Thence South 42°12'47"West 25.22 feet to the **Point of Beginning**.

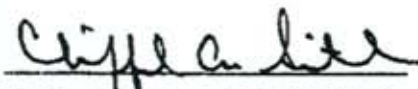
The above described parcel contains 4492.44 square feet (0.10 acres) more or less.

See Exhibit 'B' attached hereto and made a part hereof.

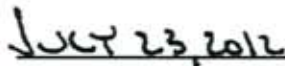
The Basis of Bearings for this survey are based upon the North American Datum of 1983 (NAD83) of the California Coordinate System of 1983 (CCS83), Zone V, 2002.00 Epoch.

This legal description is not intended for use in the division and/or conveyance of land in violation of the subdivision map act of the State of California.

Prepared under the direction of:



Clifford A. Simental, PLS 5022



Date



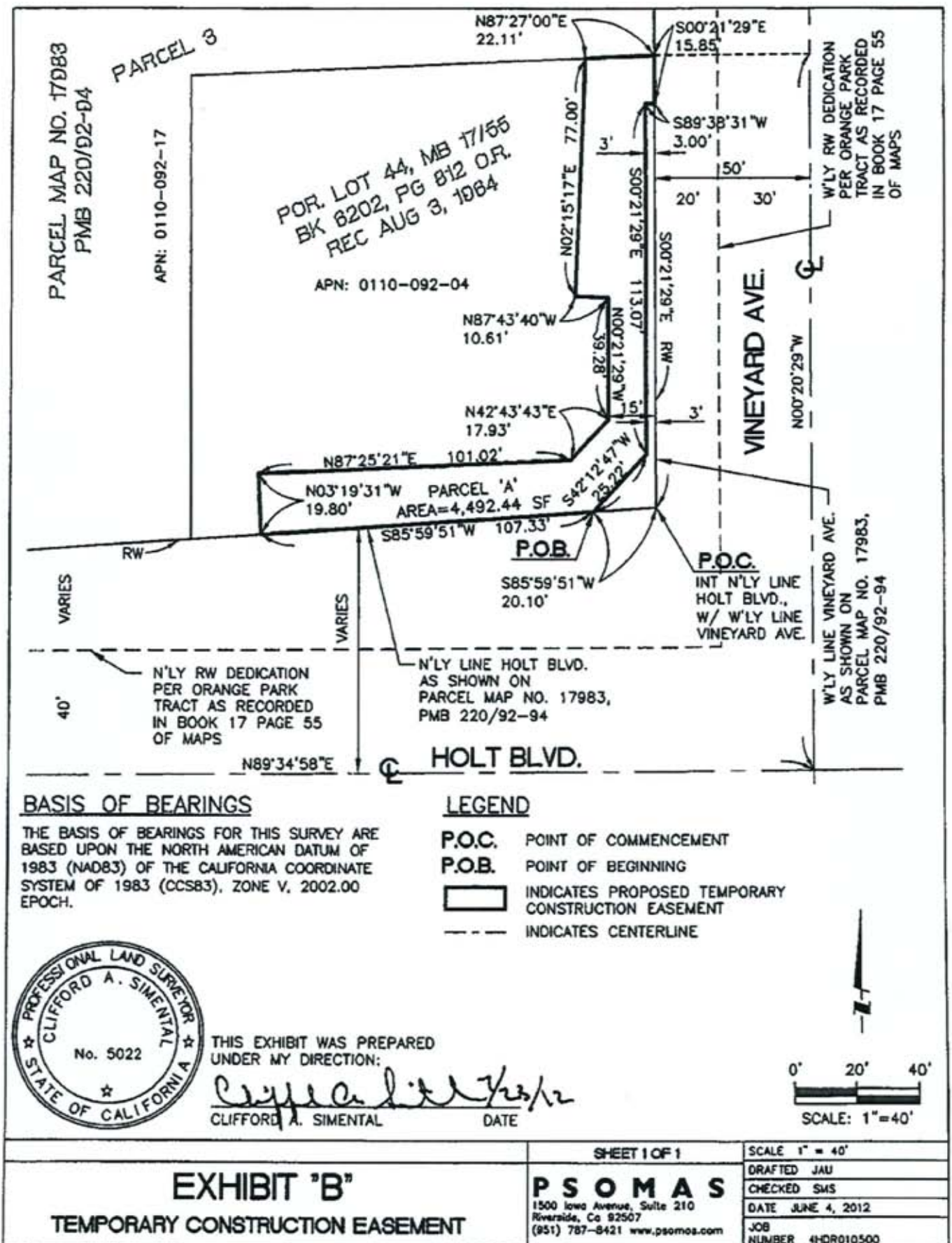


EXHIBIT 'A'
SIDEWALK EASEMENT
LEGAL DESCRIPTION

That portion of land as described in Deed recorded August 3, 1964, filed in Book 6202, of Deeds, page 812, Official Record of San Bernardino County, located in the City of Ontario, County of San Bernardino, State of California, more particularly described as follows;

Commencing at the intersection of westerly line of Vineyard Avenue (50.00 feet wide) as shown on Parcel Map No. 17983, filed in Book 220, pages 92 through 94, inclusive, of Parcel Maps, records of said County, with the northerly line of Holt Boulevard (width varies) as shown on said Parcel Map;

Thence along said westerly line North 00°21'29" West 77.08 feet;

Thence South 89°38'31" West 3.00 feet to a line parallel with and distant 3.00 feet westerly from said westerly line of Vineyard Avenue and being the **Point of Beginning**;

Thence along said parallel line North 00°21'29" West 53.29 feet;

Thence South 89°38'31" West 3.15 feet;

Thence South 03°38'04" West 53.42 feet;

Thence North 89°38'31" East 6.87 feet to the **Point of Beginning**.

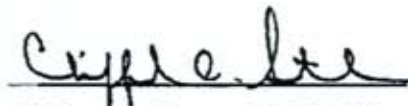
The above described parcel contains 266.77 square feet (0.006 acres) more or less.

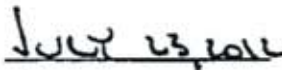
See Exhibit 'B' attached hereto and made a part hereof.

The Basis of Bearings for this survey are based upon the North American Datum of 1983 (NAD83) of the California Coordinate System of 1983 (CCS83), Zone V, 2002.00 Epoch.

This legal description is not intended for use in the division and/or conveyance of land in violation of the subdivision map act of the State of California.

Prepared under the direction of:


Clifford A. Simental, PLS 5022


Date



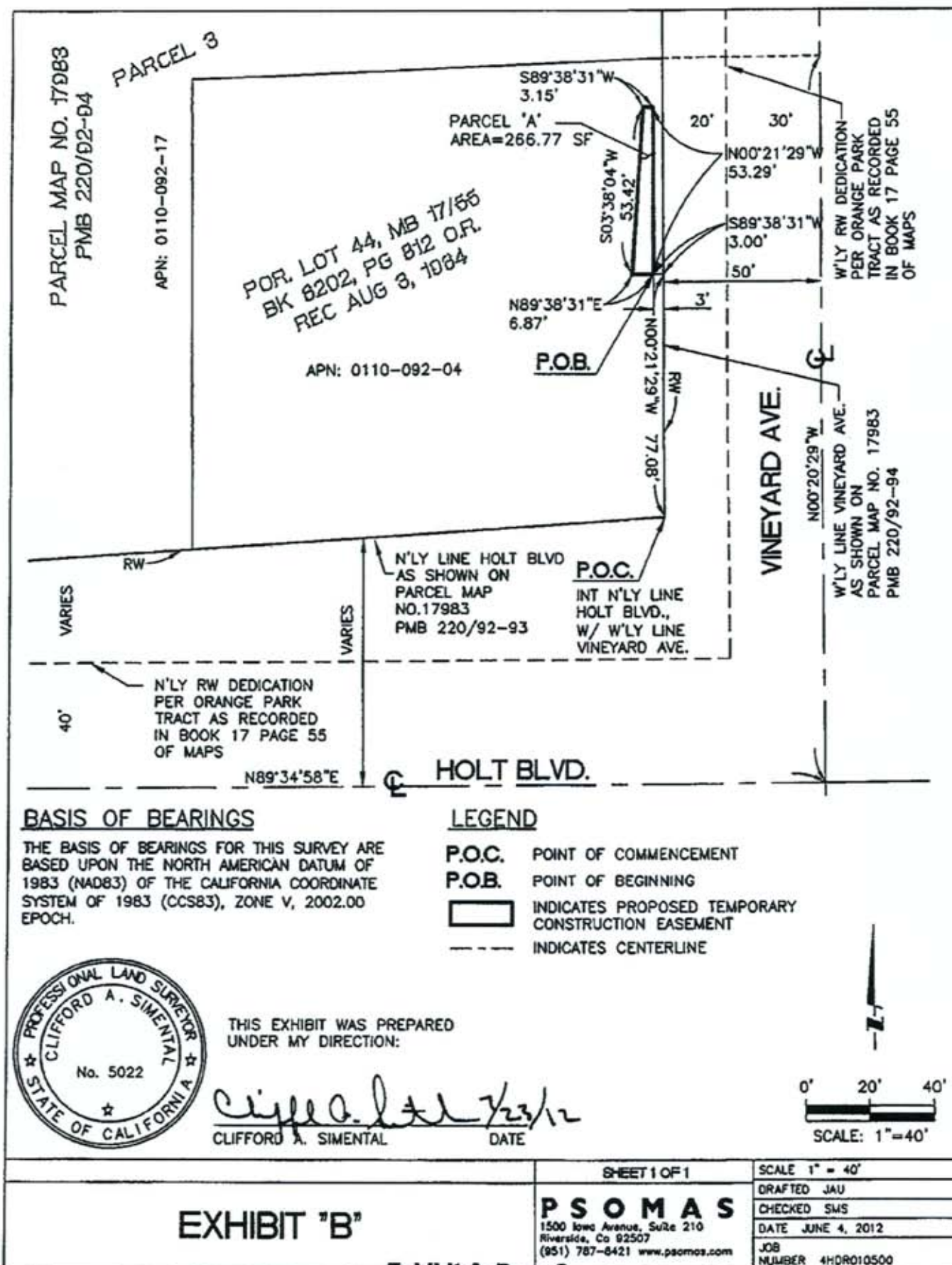


EXHIBIT 'A'
LEGAL DESCRIPTION

FEE

That portion of land as described in Deed recorded August 3, 1964, filed in Book 6202, of Deeds, page 812, Official Record of San Bernardino County, located in the City of Ontario, County of San Bernardino, State of California, more particularly described as follows;

Beginning at the intersection of westerly line of Vineyard Avenue (50.00 feet wide) as shown on Parcel Map No. 17983, filed in Book 220, pages 92 through 94, inclusive, of Parcel Maps, records of said County, with the northerly line of Holt Boulevard (width varies) as shown on said Parcel Map;

Thence along said northerly line South 85°59'51" West 20.10 feet;

Thence North 42°12'47" East 25.22 feet to a line parallel with and distant 3.00 feet westerly from said westerly line of Vineyard Avenue;

Thence along said parallel line North 00°21'29" West 113.07 feet;

Thence North 89°38'31" East 3.00 feet to said westerly line;

Thence along said westerly line South 00°21'29" East 130.36 feet to the **Point of Beginning**;

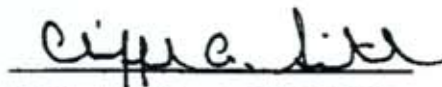
The above described parcel contains 540.55 square feet (0.012 acres) more or less.

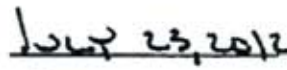
See Exhibit 'B' attached hereto and made a part hereof.

The Basis of Bearings for this survey are based upon the North American Datum of 1983 (NAD83) of the California Coordinate System of 1983 (CCS83), Zone V, 2002.00 Epoch.

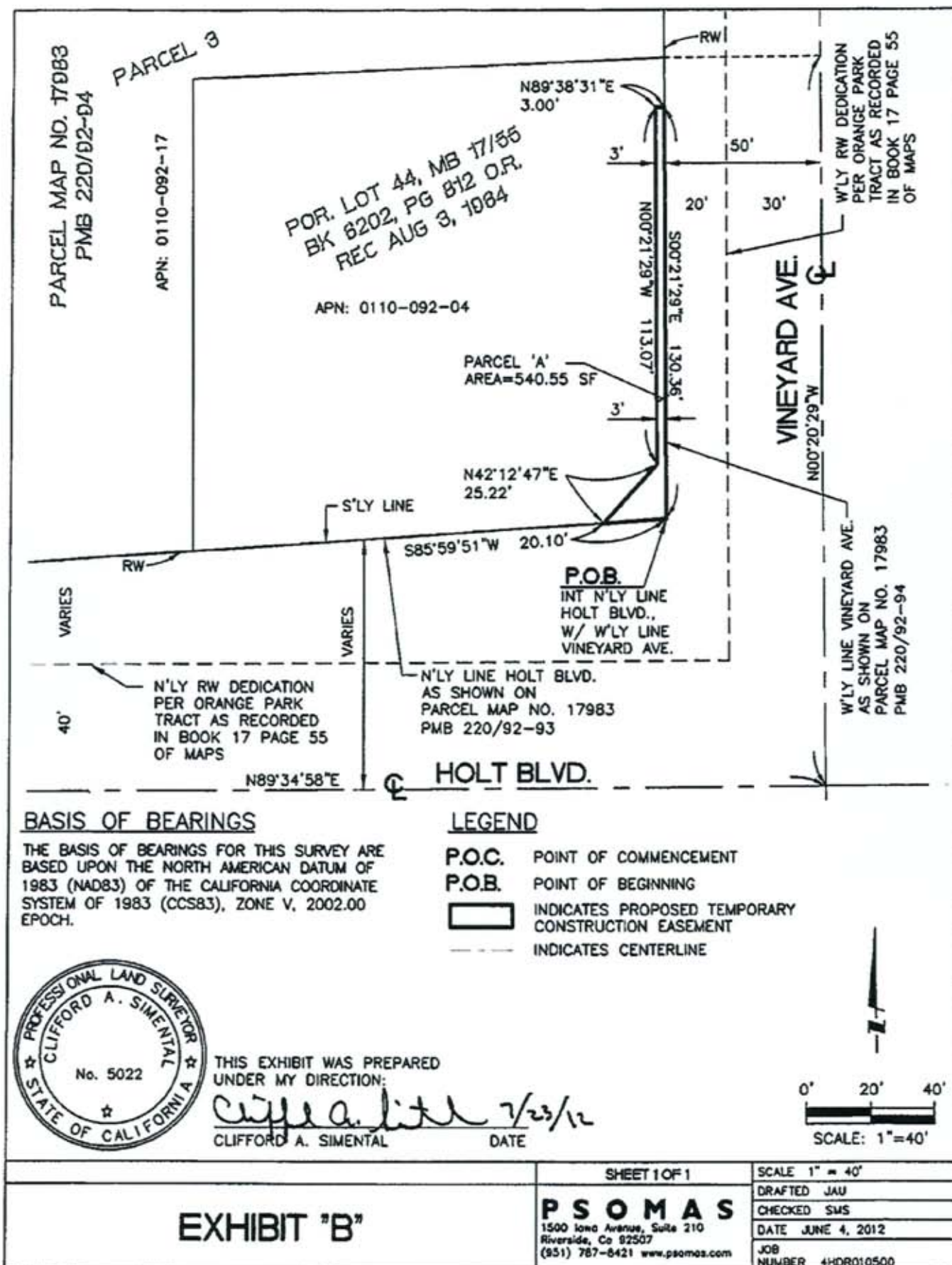
This legal description is not intended for use in the division and/or conveyance of land in violation of the subdivision map act of the State of California.

Prepared under the direction of:


Clifford A. Simental, PLS 5022


Date





RESOLUTION NO. _____

A RESOLUTION OF NECESSITY OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, FOR THE ACQUISITION OF FEE, SIDEWALK AND TEMPORARY CONSTRUCTION EASEMENT INTERESTS IN PORTIONS OF CERTAIN REAL PROPERTY LOCATED AT OR NEAR THE INTERSECTION OF VINEYARD AVENUE, HOLT BOULEVARD AND THE UNION PACIFIC RAILROAD CROSSING, AND MORE PARTICULARLY DESCRIBED AS ASSESSOR PARCEL NOS. 0110-321-39 AND 0110-321-40, BY EMINENT DOMAIN, ARE NECESSARY FOR PUBLIC RIGHT-OF-WAY FOR THE CONSTRUCTION OF THE NORTH VINEYARD AVENUE GRADE SEPARATION PROJECT AND RELATED PUBLIC INFRASTRUCTURE IMPROVEMENTS IN THE CITY OF ONTARIO, SAN BERNARDINO COUNTY, CALIFORNIA.

WHEREAS, the City of Ontario (the "City") proposes to acquire fee, sidewalk and temporary construction easement interests in portions of certain real property located at or near the intersection of Vineyard Avenue, Holt Boulevard and the Union Pacific Railroad crossing, and more particularly described as Assessor Parcel Nos. 0110-321-39 and 0110-321-40, for public right-of-way purposes and the construction of the North Vineyard Avenue Grade Separation Project and related public infrastructure improvements, in the City of Ontario, California, pursuant to the authority granted to it by Section 37350.5 of the California Government Code; and

WHEREAS, pursuant to Section 1245.235 of the California Code of Civil Procedure, the City scheduled a public hearing for Tuesday, December 4, 2012, at 6:30 p.m. at the Ontario City Hall, Council Chambers, 303 East "B" Street, Ontario, California, and gave to each person whose property is to be acquired and whose name and address appeared on the last equalized county assessment roll, notice and a reasonable opportunity to appear at said hearing and be heard on the matters referred to in Section 1240.030 of the California Code of Civil Procedure; and

WHEREAS, said hearing has been held by the City and each person whose property is to be acquired by eminent domain was afforded an opportunity to be heard on said matters; and

WHEREAS, the City may now adopt a Resolution of Necessity pursuant to Section 1240.040 of the California Code of Civil Procedure.

NOW, THEREFORE, THE CITY DOES HEREBY RESOLVE AND DECLARE AS FOLLOWS:

SECTION 1. Compliance with California Code of Civil Procedure and California Environmental Quality Act. There has been compliance by the City with the requirements of Section 1245.235 of the California Code of Civil Procedure and the California Environmental Quality Act.

SECTION 2. Public Use. The public use for which the real property is to be acquired is for public right-of-way purposes and the construction of the North Vineyard Avenue Grade Separation Project and related public infrastructure improvements, in San Bernardino County, California. Section 37350.5 of the California Government Code authorizes the City to acquire by eminent domain real property necessary for such purposes.

SECTION 3. Description of Property. Attached and marked as Exhibit "A" are the legal descriptions and depictions of the real property to be acquired by the City, which describe the general location and extent of the property to be acquired with sufficient detail for reasonable identification.

SECTION 4. Findings. The City hereby finds and determines each of the following:

- (a) The public interest and necessity require the proposed project;
- (b) The proposed project is planned or located in the manner that will be most compatible with the greatest public good and least private injury;
- (c) The real property described in Exhibit "A" is necessary for the proposed project;
- (d) The offer required by Section 7267.2 of the California Government Code was made.

SECTION 5. Use Not Unreasonably Interfering with Existing Public Use(s). Some or all of the real property to be acquired is subject to easements and rights-of-way appropriated to existing public uses. The legal descriptions of these easements and rights-of-way are on file with the City and describe the general location and extent of the easements and rights-of-way with sufficient detail for reasonable identification. In the event the herein described use or uses will not unreasonably interfere with or impair the continuance of the public use as it now exists or may reasonably be expected to exist in the future, counsel for the City is authorized to acquire the real property subject to such existing public use(s) pursuant to Section 1240.510 of the California Code of Civil Procedure.

SECTION 6. More Necessary Public Use. Some or all of the real property to be acquired is subject to easements and rights-of-way appropriated to existing public uses. To the extent that the herein described use or uses will unreasonably interfere with or impair the continuance of the public use as it now exists or may reasonably be expected to exist in the future, the City finds and determines that the herein described use or uses are more necessary than said existing public use. Counsel for the City is authorized to acquire the real property appropriated to such existing public use(s) pursuant to section 1240.610 of the California Code of Civil Procedure. Staff is further authorized to make such improvements to the real property being acquired that it determines is reasonably necessary to mitigate any adverse impact upon the existing public use.

SECTION 7. Further Activities. Counsel for the City is hereby authorized to file legal proceedings necessary to acquire the hereinabove described real property in the name of and on behalf of the City by eminent domain, and counsel is authorized to institute and prosecute such legal proceedings as may be required in connection therewith. Legal counsel is further authorized to take such steps as may be authorized and required by law, and to make such security deposits as may be required by order of court, to permit the City to take possession of and use said real property at the earliest possible time. Counsel is further authorized to correct any errors or to make or agree to non-material changes in the legal description of the real property that are deemed necessary for the conduct of the condemnation action or other proceedings or transaction required to acquire the subject real property. Counsel is further authorized to reduce or modify the extent of the interests or property to be acquired so as to reduce the compensation payable in the action where such change would not substantially impair the construction and operation for the project for which the real property is being acquired.

SECTION 8. Effective Date. This Resolution shall take effect upon adoption.

The City Clerk of the City of Ontario shall certify as to the adoption of this Resolution.

PASSED, APPROVED, AND ADOPTED this 4th day of December 2012.

PAUL S. LEON, MAYOR

ATTEST:

MARY E. WIRTES, MMC, CITY CLERK

APPROVED AS TO LEGAL FORM:

BEST BEST & KRIEGER LLP
CITY ATTORNEY

STATE OF CALIFORNIA)
COUNTY OF SAN BERNARDINO)
CITY OF ONTARIO)

I, MARY E. WIRTES, City Clerk of the City of Ontario, DO HEREBY CERTIFY that foregoing Resolution No. 2012- was duly passed and adopted by the City Council of the City of Ontario at their regular meeting held December 4, 2012 by the following roll call vote, to wit:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

MARY E. WIRTES, MMC, CITY CLERK

(SEAL)

The foregoing is the original of Resolution No. 2012- duly passed and adopted by the Ontario City Council at their regular meeting held December 4, 2012.

MARY E. WIRTES, MMC, CITY CLERK

(SEAL)

Legal Definitions of Property to be Acquired

The following is a list of definitions of legal rights to be acquired by the City of Ontario:

"Fee Acquisition" also known as fee simple or fee simple absolute, refers to complete or absolute ownership of the property in the City of Ontario (the "City"), County of San Bernardino, State of California.

"Temporary Construction Easement" or "TCE" refers to the right of the City, its successors, and assigns, to engage in construction and related activities related to the Vineyard Avenue Grade Separation Project, together with all necessary rights of ingress and egress to the non-exclusive easement area in connection with such construction and related activities.

The TCE shall commence on January 1, 2014 and extend to 11:59 P.M., December 31, 2015. The use of the TCE area shall not exceed 24 months; provided however, that the term of the TCE may be extended upon payment by the City to the Property Owner of an amount equal to \$1557.00 a month, prorated to the actual date upon which the City's use of the Property terminates.

Property Owner shall not cause, directly, indirectly or negligently, any interference with or harm to the rights conveyed hereunder.

"Sidewalk Easement" refers to a non-exclusive permanent and perpetual easement and right of way in favor of the City, its successors and assigns, together with the right to construct, reconstruct, repair, extend, and maintain public sidewalks.

Property Owner shall not erect or construct, or permit to be erected or constructed, any building, structure or improvement on, over, or under any portion of the easement, or plant trees or any other vegetation on any portion of the easement except with the prior written consent of the City, its successors and assigns.

The City shall have the right to trim, cut or clear away any trees, brush, or other vegetation from time to time as determined in its sole discretion, without payment of additional compensation.

No other easements shall be granted on, under or over the easement without the prior written consent of the City, its successors and assigns.

The ground elevations of the easement upon completion of construction shall not be further increased or decreased without the prior written consent of the City.

Property Owner shall not cause, directly, indirectly or negligently, any interference with or harm to the rights conveyed hereunder.

**TEMPORARY CONSTRUCTION EASEMENT
ATTACHMENT TO LEGAL DESCRIPTION
APN: 0110-321-39 & 40**

The parcel of land described in Exhibit "A" is to be used for temporary construction purposes in connection with the construction of the North Vineyard Avenue Grade Separation Project. The right of usage acquired for the temporary construction easement parcel described in Exhibit "A" shall be for a period of twenty-four (24) months; said period to commence on January 1, 2014 and extend through December 31, 2014, 11:59 P.M.

EXHIBIT 'A'

FEE

LEGAL DESCRIPTION

That portion of land as described in Certificate of Compliance (C.O.C.) for Waiver of Parcel Map, recorded August 20, 1982, as Instrument No. 164190, Official Record of San Bernardino County, located in the City of Ontario, County of San Bernardino, State of California, more particularly described as follows;

Commencing at the northwest corner of said C.O.C., said point also being on the easterly line of Vineyard Avenue (50.00 feet wide) as shown on Parcel Map No. 4677, filed in Book 43, pages 69 and 70, of Parcel Maps, records of said County;

Thence along said easterly line of Vineyard Avenue South $00^{\circ}21'29''$ East 148.72 feet to the **Point of Beginning**;

Thence continuing along said easterly line the following two (2) courses;

1. South $00^{\circ}21'29''$ East 58.45 feet to the beginning of a curve concave northeasterly having a radius of 20.00 feet;
2. Southerly and southeasterly and easterly along said curve an arc length of 27.42 feet through a central angle of $78^{\circ}32'34''$

Thence North $47^{\circ}43'19''$ West 18.64 feet;

Thence North $02^{\circ}22'58''$ West 65.47 feet to the **Point of Beginning**.

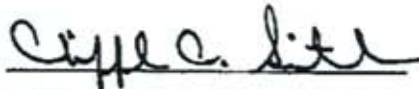
The above described parcel contains 112.53 square feet (0.003 acres) more or less.

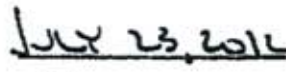
See Exhibit 'B' attached hereto and made a part hereof.

The Basis of Bearings for this survey are based upon the North American Datum of 1983 (NAD83) of the California Coordinate System of 1983 (CCS83), Zone V, 2002.00 Epoch.

This legal description is not intended for use in the division and/or conveyance of land in violation of the subdivision map act of the State of California.

Prepared under the direction of:


Clifford A. Simental, PLS 5022


Date



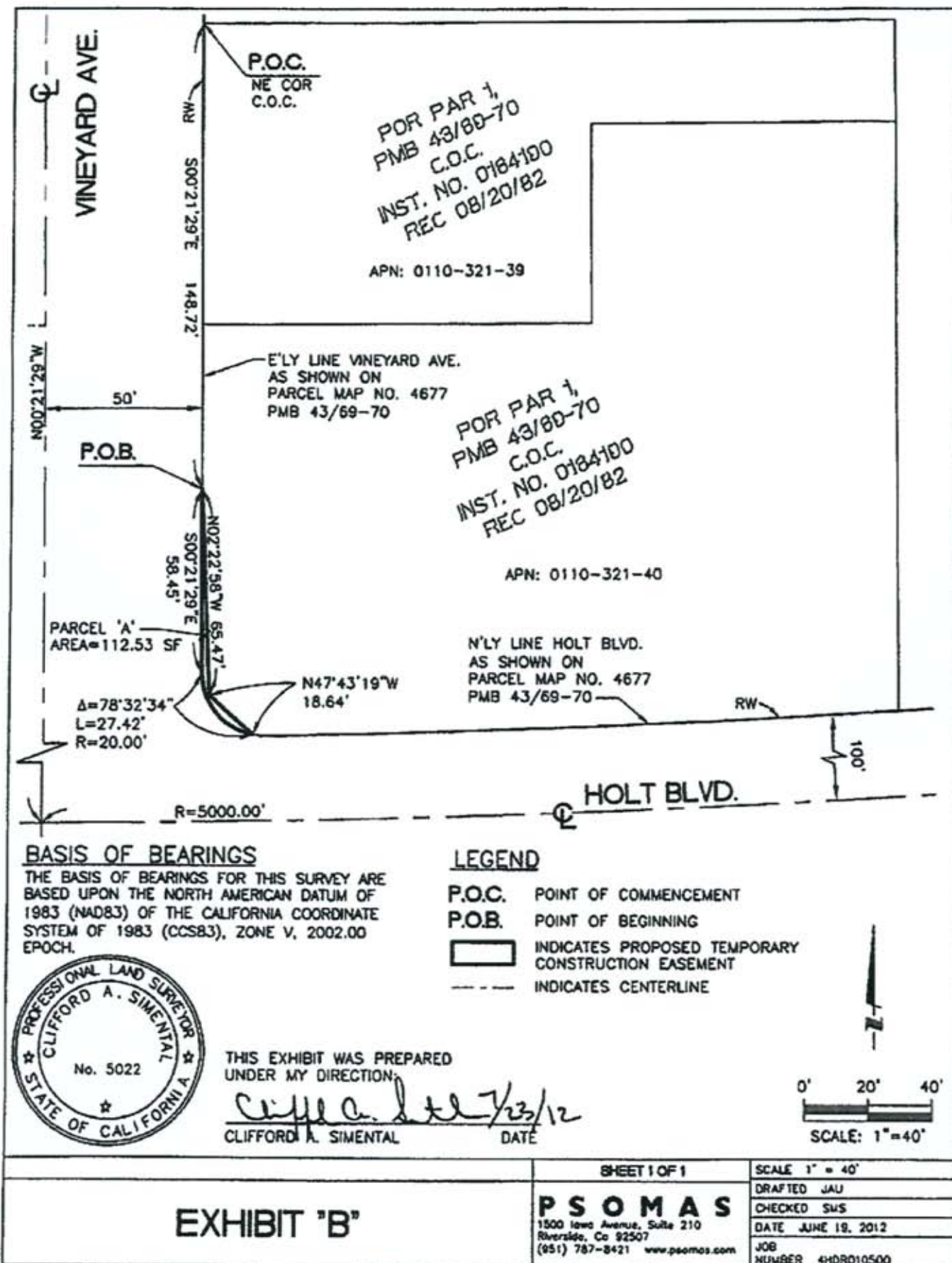


EXHIBIT "B"

SHEET 1 OF 1

SCALE 1" = 40'

PSOMAS

1500 Iowa Avenue, Suite 210
Riverside, Ca 92507
(951) 787-8421 www.psomas.com

DRAFTED JAU

CHECKED SWS

DATE JUNE 18, 2012

JOB NUMBER 41DR010500

EXHIBIT 'A'
SIDEWALK EASEMENT
LEGAL DESCRIPTION

That portion of land as described in Certificate of Compliance (C.O.C.) for Waiver of Parcel Map, recorded August 20, 1982, as Instrument No. 164190, Official Record of San Bernardino County, located in the City of Ontario, County of San Bernardino, State of California, more particularly described as follows;

Commencing at the northwest corner of said C.O.C., said point also being on the easterly line of Vineyard Avenue (50.00 feet wide) as shown on Parcel Map No. 4677, filed in Book 43, pages 69 and 70, of Parcel Maps, records of said County;

Thence along said easterly line of Vineyard Avenue South 00°21'29" East 75.93 feet to the **Point of Beginning**;

Thence continuing along said easterly line South 00°21'29" East 40.00 feet;

Thence North 89°39'45" East 7.00 feet to a line parallel with and distant 7.00 easterly from said easterly line;

Thence along said parallel line North 00°21'29" West 40.00 feet;

Thence South 89°39'45" West 7.00 feet to the **Point of Beginning**.

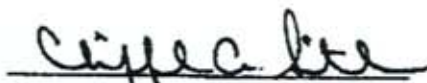
The above described parcel contains 280.00 square feet (0.006 acres) more or less

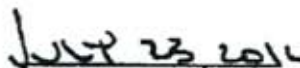
See Exhibit 'B' attached hereto and made a part hereof.

The Basis of Bearings for this survey are based upon the North American Datum of 1983 (NAD83) of the California Coordinate System of 1983 (CCS83), Zone V, 2002.00 Epoch.

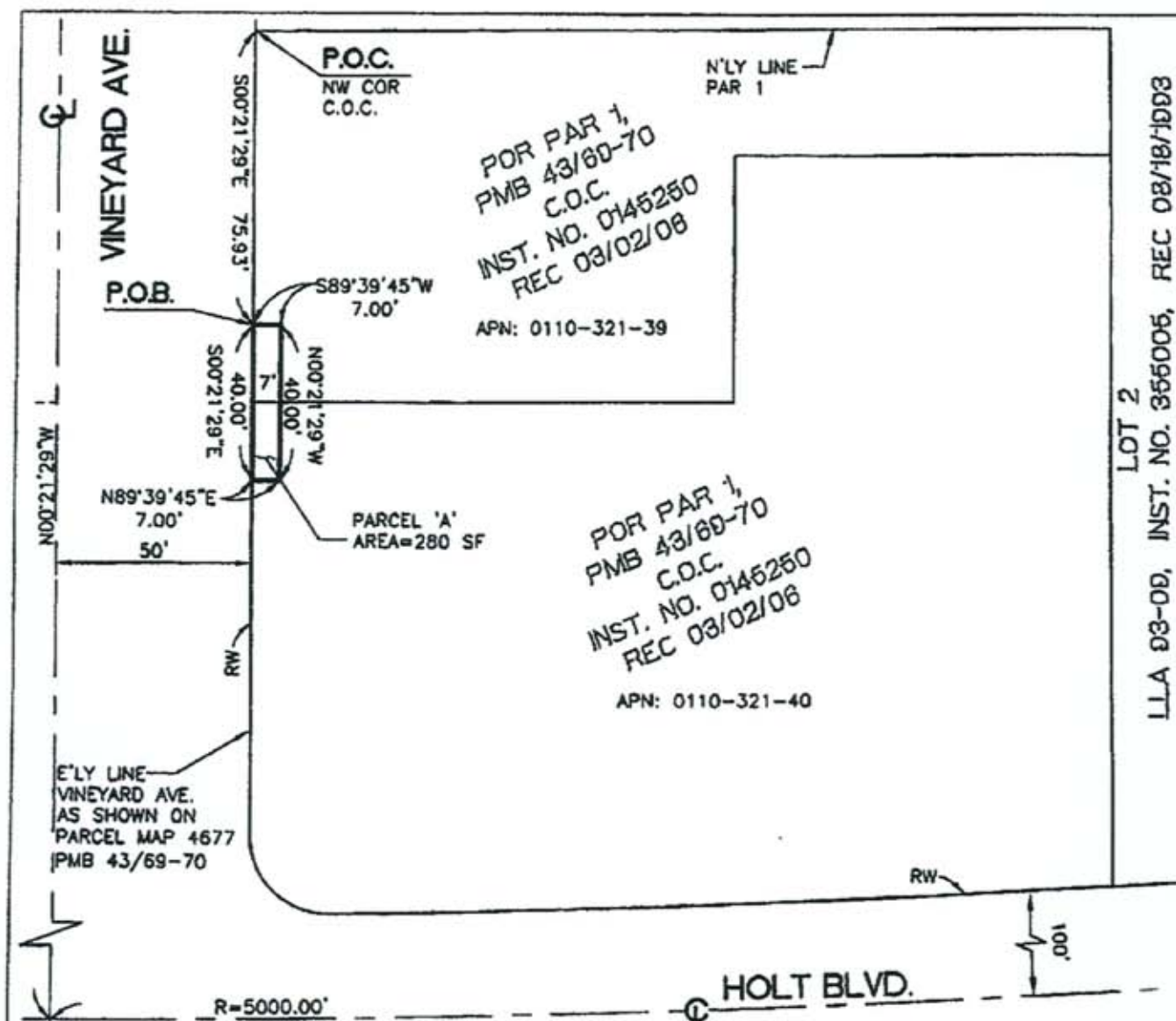
This legal description is not intended for use in the division and/or conveyance of land in violation of the subdivision map act of the State of California.

Prepared under the direction of:


Clifford A. Simental, PLS 5022


Date





BASIS OF BEARINGS

THE BASIS OF BEARINGS FOR THIS SURVEY ARE BASED UPON THE NORTH AMERICAN DATUM OF 1983 (NAD83) OF THE CALIFORNIA COORDINATE SYSTEM OF 1983 (CCS83), ZONE V, 2002.00 EPOCH.



THIS EXHIBIT WAS PREPARED
UNDER MY DIRECTION:

Clifford A. Simental 7/13/12
CLIFFORD A. SIMENTAL DATE

LEGEND

- P.O.C. POINT OF COMMENCEMENT
P.O.B. POINT OF BEGINNING
 INDICATES PROPOSED TEMPORARY CONSTRUCTION EASEMENT
 INDICATES CENTERLINE

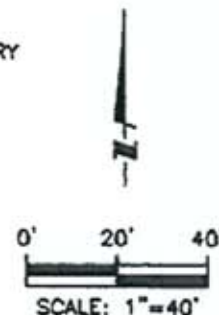


EXHIBIT "B"	SHEET 1 OF 1	SCALE 1" = 40'
	PSOMAS 1500 Iowa Avenue, Suite 210 Riverside, Ca 92507 (951) 787-8421 www.psomas.com	DRAFTED JAU
		CHECKED SMS
		DATE JUNE 19, 2012
		JOB NUMBER 4HDR010500

EXHIBIT 'A'
TEMPORARY CONSTRUCTION EASEMENT
LEGAL DESCRIPTION

That portion of land as described in Certificate of Compliance (C.O.C.) for Waiver of Parcel Map, recorded August 20, 1982, as Instrument No. 164190, Official Record of San Bernardino County, located in the City of Ontario, County of San Bernardino, State of California, more particularly described as follows;

Parcel 'A'

Commencing at the northwest corner of said C.O.C., said point also being on the easterly line of Vineyard Avenue (50.00 feet wide) as shown on Parcel Map No. 4677, filed in Book 43, pages 69 and 70, of Parcel Maps, records of said County;

Thence along said easterly line of Vineyard Avenue South 00°21'29" East 24.81 feet to the **Point of Beginning**;

Thence North 89°38'31" East 5.00 feet to a line parallel with and distant 5.00 feet easterly from said easterly line;

Thence along said parallel line South 00°21'29" East 41.12 feet;

Thence North 89°38'31" East 15.00 feet to a line parallel with and distant 20.00 feet easterly from said easterly line;

Thence along said parallel line South 00°21'29" East 60.00 feet;

Thence South 89°38'31" West 10.00 feet to a line parallel with and distant 10.00 feet easterly from said easterly line;

Thence along said parallel line South 00°21'29" East 81.24 feet;

R:\4HDR010500\SURVEY\LEGAL5\DESCRIPTIONS\HAGF ENTERPRISES\4HDR_HAGF_TCE_0110-092-39_40.doc1

Thence South $45^{\circ}50'58''$ East 28.30 feet to the northerly line of Holt Boulevard as shown on said Parcel Map, being the beginning of a non-tangent curve concave northerly having a radius of 4900.00 feet, a line radial to said beginning bears South $01^{\circ}20'57''$ East;

Thence westerly along said curve an arc length of 9.88 feet through a central angle of $00^{\circ}06'56''$ to the beginning of a point of compound curve concave northerly having a radius of 20.00 feet, a line radial to said beginning bears South $01^{\circ}14'01''$ East;

Thence westerly along said curve an arc length of 4.31 feet through a central angle of $12^{\circ}19'59''$;

Thence North $47^{\circ}43'19''$ West 18.64 feet;

Thence North $02^{\circ}22'58''$ West 65.47 feet to said easterly line;

Thence along said easterly line North $00^{\circ}21'29''$ West 123.91 feet to the **Point of Beginning**,

The above described parcel contains 2422.27 square feet (0.056 acres) more or less.

See Exhibit 'B' attached hereto and made a part hereof.

Parcel 'B'

Beginning at the southeast corner of said C.O.C., said point also being on the northerly line of Holt Boulevard as shown on Parcel Map No. 4677, filed in Book 43, pages 69 and 70, of Parcel Maps, records of said County, being the beginning of a non-tangent curve concave northerly having a radius of 4900.00 feet, a line radial to said beginning bears South $03^{\circ}34'15''$ East;

Thence westerly along said northerly line and said curve an arc length of 79.06 feet through a central angle of $00^{\circ}55'28''$;

Thence North $01^{\circ}17'32''$ West 61.98 feet;

Thence North $89^{\circ}45'16''$ East 80.00 feet to the easterly line of said C.O.C;

Thence along said easterly line South $00^{\circ}20'15''$ East 58.02 feet to the **Point of Beginning**;

The above described parcel contains 4777.84 square feet (0.110 acres) more or less

The Basis of Bearings for this survey are based upon the North American Datum of 1983 (NAD83) of the California Coordinate System of 1983 (CCS83), Zone V, 2002.00 Epoch.

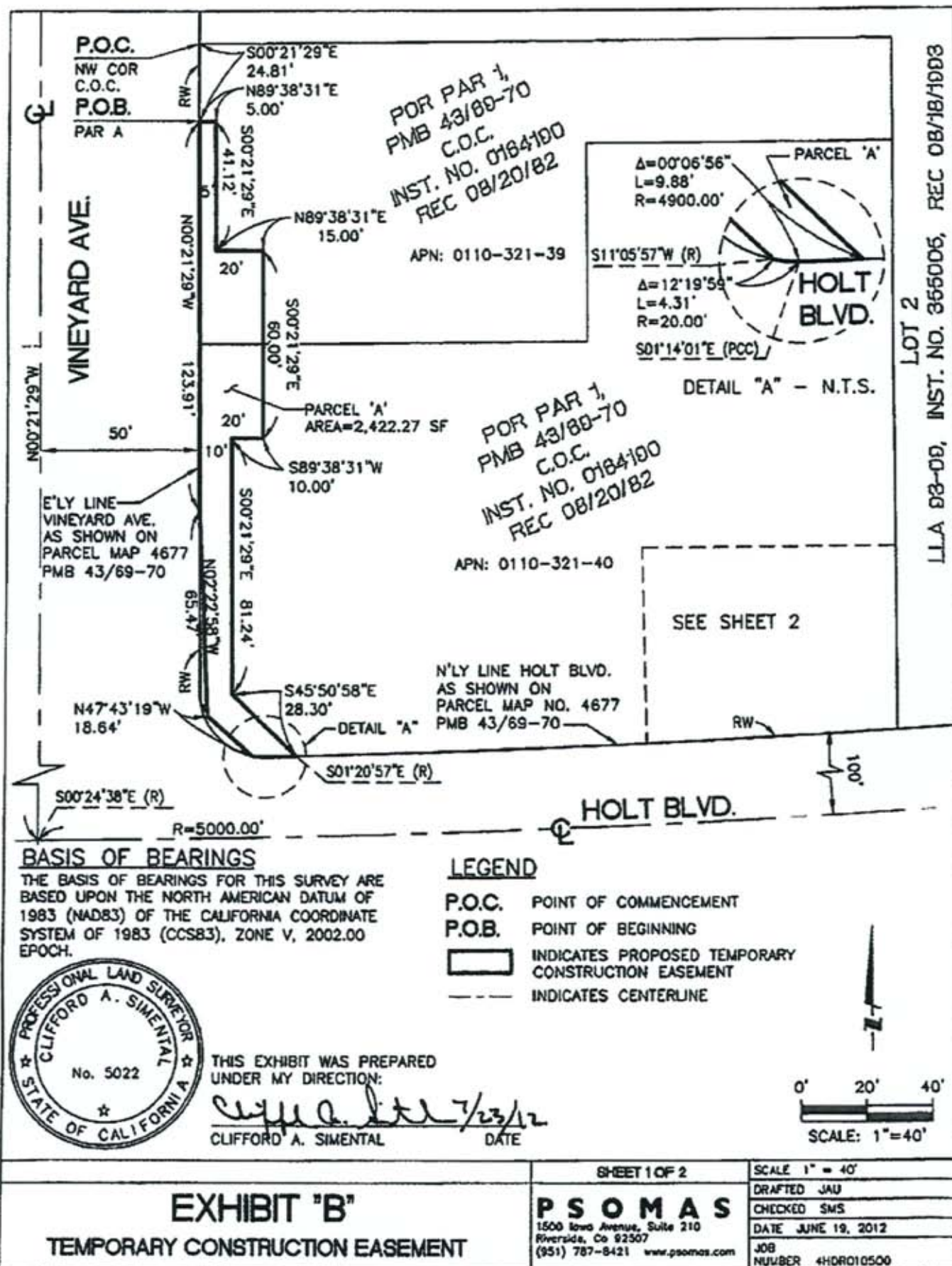
This legal description is not intended for use in the division and/or conveyance of land in violation of the subdivision map act of the State of California.

Prepared under the direction of:

Clifford A. Simental
Clifford A. Simental, PLS 5022

July 23, 2012
Date





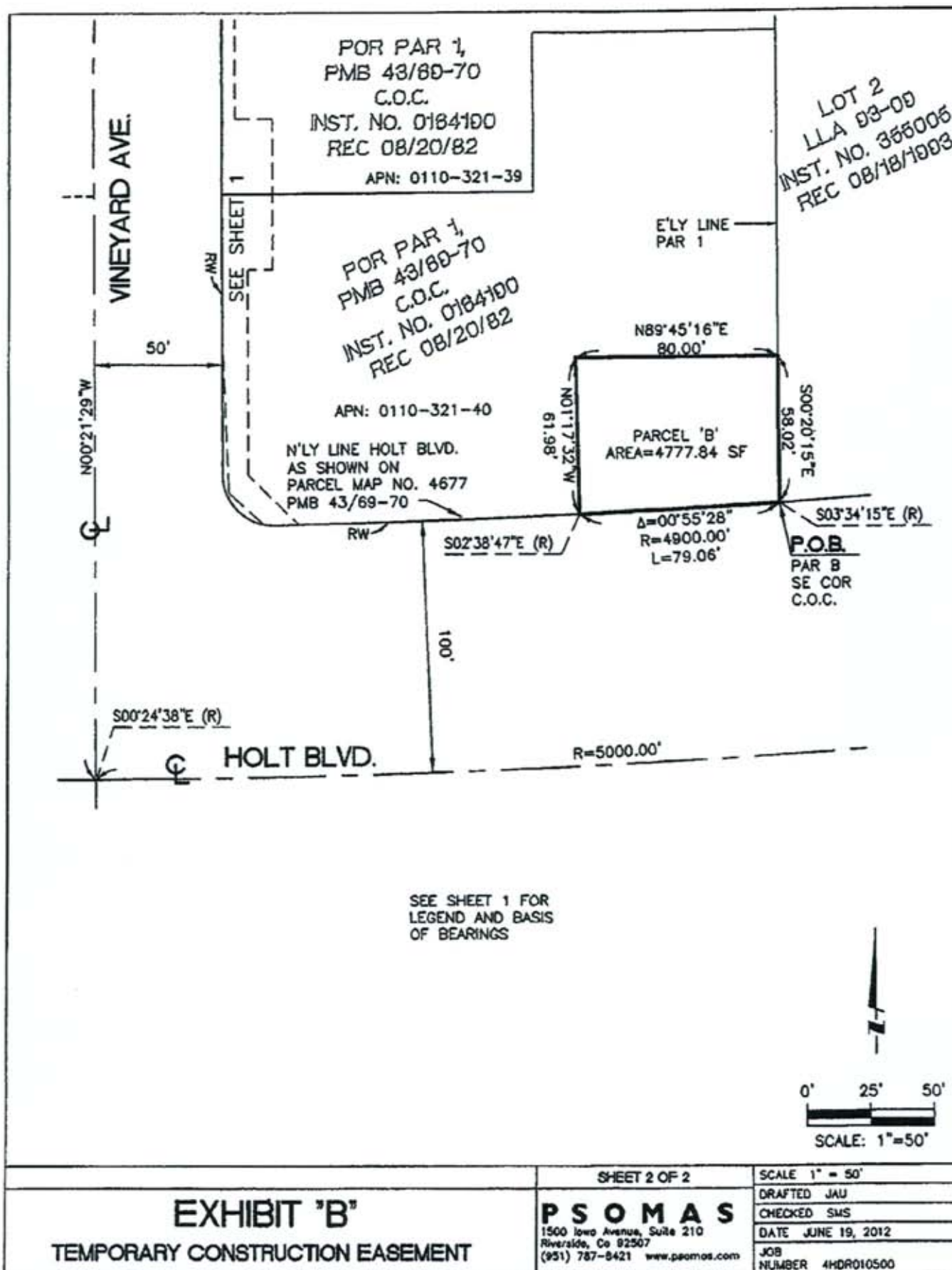


EXHIBIT "B"

TEMPORARY CONSTRUCTION EASEMENT

SHEET 2 OF 2

PSOMAS

1500 Iowa Avenue, Suite 210
Riverside, Co 92507
(951) 787-8421 www.psomas.com

SCALE 1" = 50'

DRAFTED JAU

CHECKED SMS

DATE JUNE 19, 2012

JOB
NUMBER 4HDR010500

RESOLUTION NO. _____

A RESOLUTION OF NECESSITY OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, FOR THE ACQUISITION OF SEWER AND TEMPORARY CONSTRUCTION EASEMENT INTERESTS IN PORTIONS OF CERTAIN REAL PROPERTY LOCATED AT OR NEAR THE INTERSECTION OF VINEYARD AVENUE, HOLT BOULEVARD AND THE UNION PACIFIC RAILROAD CROSSING, AND MORE PARTICULARLY DESCRIBED AS ASSESSOR PARCEL NO. 0110-101-12, BY EMINENT DOMAIN, ARE NECESSARY FOR PUBLIC RIGHT-OF-WAY FOR THE CONSTRUCTION OF THE NORTH VINEYARD AVENUE GRADE SEPARATION PROJECT AND RELATED PUBLIC INFRASTRUCTURE IMPROVEMENTS IN THE CITY OF ONTARIO, SAN BERNARDINO COUNTY, CALIFORNIA.

WHEREAS, the City of Ontario (the "City") proposes to acquire sewer and temporary construction easement interests in portions of certain real property located at or near the intersection of Vineyard Avenue, Holt Boulevard and the Union Pacific Railroad crossing, and more particularly described as Assessor Parcel No. 0110-101-12, for public right-of-way purposes and the construction of the North Vineyard Avenue Grade Separation Project and related public infrastructure improvements, in the City of Ontario, California, pursuant to the authority granted to it by Section 37350.5 of the California Government Code; and

WHEREAS, pursuant to Section 1245.235 of the California Code of Civil Procedure, the City scheduled a public hearing for Tuesday, December 4, 2012, at 6:30 p.m. at the Ontario City Hall, Council Chambers, 303 East "B" Street, Ontario, California, and gave to each person whose property is to be acquired and whose name and address appeared on the last equalized county assessment roll, notice and a reasonable opportunity to appear at said hearing and be heard on the matters referred to in Section 1240.030 of the California Code of Civil Procedure; and

WHEREAS, said hearing has been held by the City and each person whose property is to be acquired by eminent domain was afforded an opportunity to be heard on said matters; and

WHEREAS, the City may now adopt a Resolution of Necessity pursuant to Section 1240.040 of the California Code of Civil Procedure.

NOW, THEREFORE, THE CITY DOES HEREBY RESOLVE AND DECLARE AS FOLLOWS:

SECTION 1. Compliance with California Code of Civil Procedure and California Environmental Quality Act. There has been compliance by the City with the requirements of Section 1245.235 of the California Code of Civil Procedure and the California Environmental Quality Act.

SECTION 2. Public Use. The public use for which the real property is to be acquired is for public right-of-way purposes and the construction of the North Vineyard Avenue Grade Separation Project and related public infrastructure improvements, in San Bernardino County, California. Section 37350.5 of the California Government Code authorizes the City to acquire by eminent domain real property necessary for such purposes.

SECTION 3. Description of Property. Attached and marked as Exhibit "A" are the legal descriptions and depictions of the real property to be acquired by the City, which describe the general location and extent of the property to be acquired with sufficient detail for reasonable identification.

SECTION 4. Findings. The City hereby finds and determines each of the following:

- (a) The public interest and necessity require the proposed project;
- (b) The proposed project is planned or located in the manner that will be most compatible with the greatest public good and least private injury;
- (c) The real property described in Exhibit "A" is necessary for the proposed project;
- (d) The offer required by Section 7267.2 of the California Government Code was made.

SECTION 5. Use Not Unreasonably Interfering with Existing Public Use(s). Some or all of the real property to be acquired is subject to easements and rights-of-way appropriated to existing public uses. The legal descriptions of these easements and rights-of-way are on file with the City and describe the general location and extent of the easements and rights-of-way with sufficient detail for reasonable identification. In the event the herein described use or uses will not unreasonably interfere with or impair the continuance of the public use as it now exists or may reasonably be expected to exist in the future, counsel for the City is authorized to acquire the real property subject to such existing public use(s) pursuant to Section 1240.510 of the California Code of Civil Procedure.

SECTION 6. More Necessary Public Use. Some or all of the real property to be acquired is subject to easements and rights-of-way appropriated to existing public uses. To the extent that the herein described use or uses will unreasonably interfere with or impair the continuance of the public use as it now exists or may reasonably be expected to exist in the future, the City finds and determines that the herein described use or uses are more necessary than said existing public use. Counsel for the City is authorized to acquire the real property appropriated to such existing public use(s) pursuant to Section 1240.610 of the California Code of Civil Procedure. Staff is further authorized to make such improvements to the real property being acquired that it determines is reasonably necessary to mitigate any adverse impact upon the existing public use.

SECTION 7. Further Activities. Counsel for the City is hereby authorized to file legal proceedings necessary to acquire the hereinabove described real property in the name of and on behalf of the City by eminent domain, and counsel is authorized to institute and prosecute such legal proceedings as may be required in connection therewith. Legal counsel is further authorized to take such steps as may be authorized and required by law, and to make such security deposits as may be required by order of court, to permit the City to take possession of and use said real property at the earliest possible time. Counsel is further authorized to correct any errors or to make or agree to non-material changes in the legal description of the real property that are deemed necessary for the conduct of the condemnation action or other proceedings or transaction required to acquire the subject real property. Counsel is further authorized to reduce or modify the extent of the interests or property to be acquired so as to reduce the compensation payable in the action where such change would not substantially impair the construction and operation for the project for which the real property is being acquired.

SECTION 8. Effective Date. This Resolution shall take effect upon adoption.

The City Clerk of the City of Ontario shall certify as to the adoption of this Resolution.

PASSED, APPROVED, AND ADOPTED this 4th day of December 2012.

PAUL S. LEON, MAYOR

ATTEST:

MARY E. WIRTES, MMC, CITY CLERK

APPROVED AS TO LEGAL FORM:

BEST BEST & KRIEGER LLP
CITY ATTORNEY

STATE OF CALIFORNIA)
COUNTY OF SAN BERNARDINO)
CITY OF ONTARIO)

I, MARY E. WIRTES, City Clerk of the City of Ontario, DO HEREBY CERTIFY that foregoing Resolution No. 2012- was duly passed and adopted by the City Council of the City of Ontario at their regular meeting held December 4, 2012 by the following roll call vote, to wit:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

MARY E. WIRTES, MMC, CITY CLERK

(SEAL)

The foregoing is the original of Resolution No. 2012- duly passed and adopted by the Ontario City Council at their regular meeting held December 4, 2012.

MARY E. WIRTES, MMC, CITY CLERK

(SEAL)

Legal Definitions of Property to be Acquired

The following is a list of definitions of legal rights to be acquired by the City of Ontario:

"Temporary Construction Easement" or "TCE" refers to the right of the City, its successors, and assigns, to engage in construction and related activities related to the Vineyard Avenue Grade Separation Project, together with all necessary rights of ingress and egress to the non-exclusive easement area in connection with such construction and related activities.

The TCE shall commence on January 1, 2014 and extend to 11:59 P.M., December 31, 2015. The use of the TCE area shall not exceed 24 months; provided however, that the term of the TCE may be extended upon payment by the City to the Property Owner of an amount equal to \$674.92 a month, prorated to the actual date upon which the City's use of the Property terminates.

Property Owner shall not cause, directly, indirectly or negligently, any interference with or harm to the rights conveyed hereunder.

"Sewer Easement" refers to a non-exclusive permanent and perpetual easement and right of way in favor of the City, its successors and assigns, over, upon, under, and across the lands hereinafter described together with the right to forever construct, maintain, improve, alter, relocate, inspect, occupy, and use for the construction, reconstruction, installation, replacement, removal, repair, operation, and maintenance of sewer facilities.

Property Owner shall not erect or construct, or permit to be erected or constructed, any building, structure or improvement on, over, or under any portion of the easement, or plant trees or any other vegetation on any portion of the easement except with the prior written consent of the City, its successors and assigns.

The City shall have the right to trim, cut or clear away any trees, brush, or other vegetation from time to time as determined in its sole discretion, without payment of additional compensation.

No other easements shall be granted on, under or over the easement without the prior written consent of the City, its successors and assigns.

The ground elevations of the easement upon completion of construction shall not be further increased or decreased without the prior written consent of the City.

Property Owner shall not cause, directly, indirectly or negligently, any interference with or harm to the rights conveyed hereunder.

**TEMPORARY CONSTRUCTION EASEMENT
ATTACHMENT TO LEGAL DESCRIPTION
APN: 0110-101-12**

The parcel of land described in Exhibit "A" is to be used for temporary construction purposes in connection with the construction of the North Vineyard Avenue Grade Separation Project. The right of usage acquired for the temporary construction easement parcel described in Exhibit "A" shall be for a period of twenty-four (24) months; said period to commence on January 1, 2014 and extend through December 31, 2015.

EXHIBIT 'A'
SEWER EASEMENT
LEGAL DESCRIPTION

That portion of Parcel 3 as shown on Parcel Map No. 15097, filed in Book 185, pages 68 and 69, of Maps, Records of San Bernardino County, located in the City of Ontario, County of San Bernardino, State of California, more particularly described as follows:

Parcel 'A'

Commencing at the southeast corner of said Parcel 3;

Thence along the easterly line of said Parcel 3 North 00°25'02" West 10.00 feet to a line parallel with and distant 10.00 feet northerly from the southerly line of said Parcel 3;

Thence along said parallel line South 88°04'02" West 94.73 feet being the **Point of Beginning**;

Thence North 82°26'37" West 41.82 feet to the westerly line of said Parcel 3;

Thence along said westerly line South 00°12'24" East 6.90 feet to said parallel line;

Thence along said parallel line North 88°04'02" East 41.45 feet to the **Point of Beginning**;


The above described parcel contains 142.87 square feet more or less.

See Exhibit 'B' attached hereto and made a part hereof.

The Basis of Bearings for this survey are based upon the North American Datum of 1983 (NAD83) of the California Coordinate System of 1983 (CCS83), Zone V, 2002.00 Epoch.

This legal description is not intended for use in the division and/or conveyance of land in violation of the subdivision map act of the State of California.

Prepared under the direction of:


Clifford A. Simental, PLS 5022


Date



EXHIBIT 'A'
TEMPORARY CONSTRUCTION EASEMENT
LEGAL DESCRIPTION

That portion of Parcel 3 as shown on Parcel Map No. 15097, filed in Book 185, pages 68 and 69, of Maps, Records of San Bernardino County, located in the City of Ontario, County of San Bernardino, State of California, more particularly described as follows:

Parcel 'A'

Beginning at the northeast corner of said Parcel 3, said point also being on the southerly line of Holt Boulevard (50.00 foot half width) as shown on said Parcel Map;

Thence along the easterly line of said Parcel 3 South 00°25'02" East 40.00 feet to a line parallel with and distant 40.00 feet southerly from said southerly line of Holt Boulevard;

Thence along said parallel line South 89°34'58" West 40.00 feet;

Thence North 00°25'02" West 30.00 feet to a line parallel with and distant 10.00 feet southerly from said southerly line;

Thence along said parallel line South 89°34'58" West 40.00 feet;

Thence South 00°25'02" East 20.00 feet to a line parallel with and distant 30.00 feet southerly from said southerly line;

Thence along said parallel line South 89°34'58" West 20.00 feet;

Thence North 00°25'02" West 30.00 feet to said southerly line;

Thence along said southerly line North 89°34'58" East 100.00 feet to the **Point of Beginning**.

The above described parcel contains 2600.00 square feet more or less.

See Exhibit 'B' attached hereto and made a part hereof.

R:\4HDR010500\SURVEY\LEGALS\DESCRIPTIONS\GERMANN\4HDR_GERMANN_TCE_0110-101-12.doc1

Parcel 'B'

Commencing at the southeast corner of said Parcel 3;

Thence along the easterly line of said Parcel 3 North $00^{\circ}25'02''$ West 10.00 to a line parallel with and distant 10.00 feet northerly from the southerly line of said Parcel 3 being the **Point of Beginning**:

Thence along said parallel line South $88^{\circ}04'02''$ West 94.73 feet

Thence North $82^{\circ}26'37''$ West 41.82 feet to the westerly line of said Parcel 3;

Thence along said westerly line North $00^{\circ}12'24''$ West 8.11 feet to a line parallel with and distant 25.00 feet northerly from said southerly line of Parcel 3;

Thence along said parallel line North $88^{\circ}04'02''$ East 136.13 feet to said easterly line of Parcel 3;

Thence along said easterly line South $00^{\circ}25'02''$ East 15.01 feet to the **Point of Beginning**;

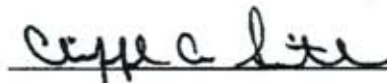
The above described parcel contains 1899.46 square feet more or less.

See Exhibit 'B' attached hereto and made a part hereof.

The Basis of Bearings for this survey are based upon the North American Datum of 1983 (NAD83) of the California Coordinate System of 1983 (CCS83), Zone V, 2002.00 Epoch.

This legal description is not intended for use in the division and/or conveyance of land in violation of the subdivision map act of the State of California.

Prepared under the direction of:


Clifford A. Simental, PLS 5022


Date



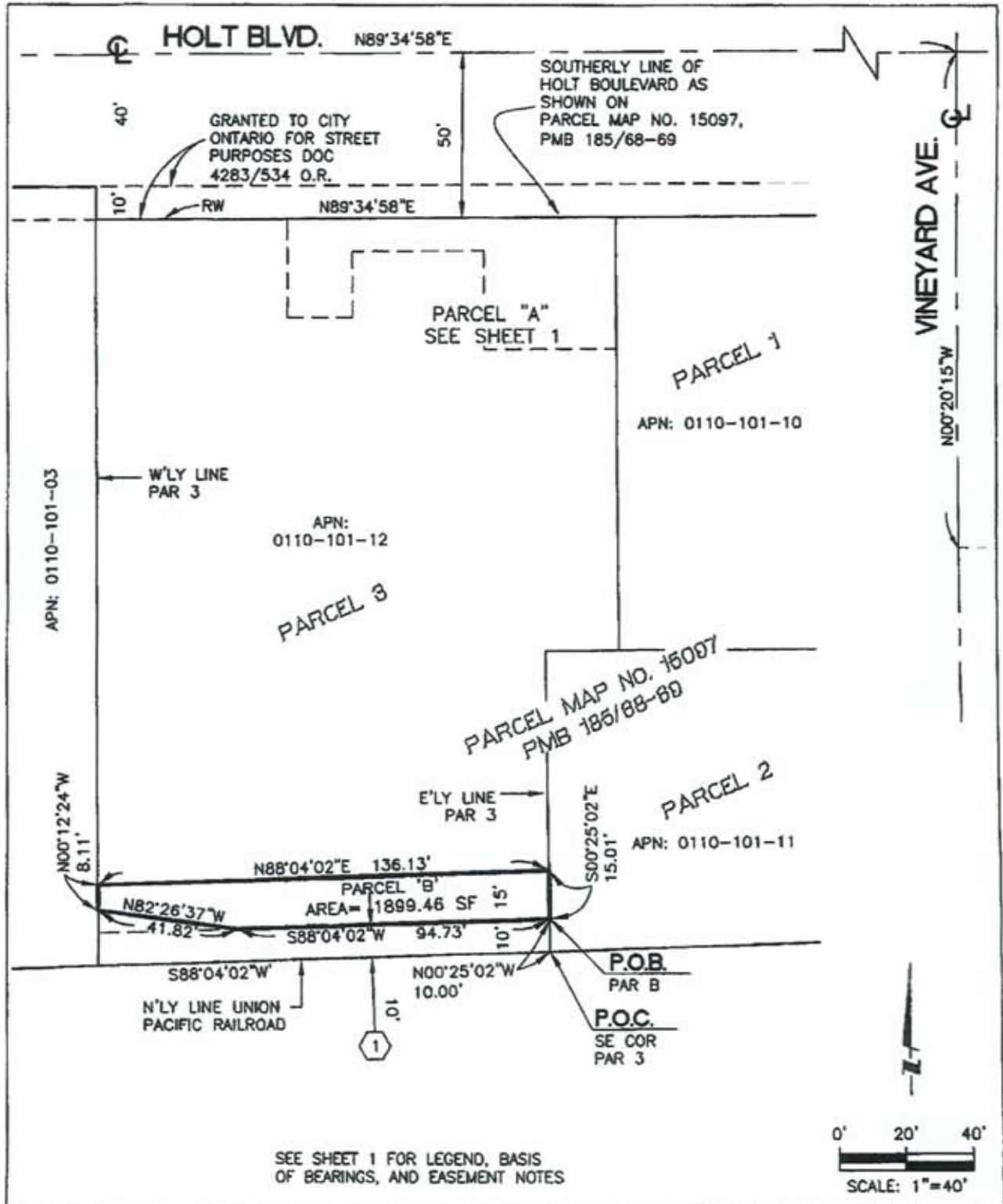


EXHIBIT "B"
TEMPORARY CONSTRUCTION EASEMENT

SHEET 2 OF 2

PSOMAS
 1500 Iowa Avenue, Suite 210
 Riverside, Co 92507
 (951) 787-8421 www.psomas.com

SCALE 1" = 40'

DRAFTED JAU

CHECKED SMS

DATE SEPTEMBER 17, 2012

JOB NUMBER 4HDR010500

RESOLUTION NO. _____

A RESOLUTION OF NECESSITY OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, FOR THE ACQUISITION OF SEWER AND TEMPORARY CONSTRUCTION EASEMENT INTERESTS IN PORTIONS OF CERTAIN REAL PROPERTY LOCATED AT OR NEAR THE INTERSECTION OF VINEYARD AVENUE, HOLT BOULEVARD AND THE UNION PACIFIC RAILROAD CROSSING, AND MORE PARTICULARLY DESCRIBED AS ASSESSOR PARCEL NO. 0110-101-03, BY EMINENT DOMAIN, ARE NECESSARY FOR PUBLIC RIGHT-OF-WAY FOR THE CONSTRUCTION OF THE NORTH VINEYARD AVENUE GRADE SEPARATION PROJECT AND RELATED PUBLIC INFRASTRUCTURE IMPROVEMENTS IN THE CITY OF ONTARIO, SAN BERNARDINO COUNTY, CALIFORNIA.

WHEREAS, the City of Ontario (the "City") proposes to acquire sewer and temporary construction easement interests in portions of certain real property located at or near the intersection of Vineyard Avenue, Holt Boulevard and the Union Pacific Railroad crossing, and more particularly described as Assessor Parcel No. 0110-101-03, for public right-of-way purposes and the construction of the North Vineyard Avenue Grade Separation Project and related public infrastructure improvements, in the City of Ontario, California, pursuant to the authority granted to it by Section 37350.5 of the California Government Code; and

WHEREAS, pursuant to Section 1245.235 of the California Code of Civil Procedure, the City scheduled a public hearing for Tuesday, December 4, 2012, at 6:30 p.m. at the Ontario City Hall, Council Chambers, 303 East "B" Street, Ontario, California, and gave to each person whose property is to be acquired and whose name and address appeared on the last equalized county assessment roll, notice and a reasonable opportunity to appear at said hearing and be heard on the matters referred to in Section 1240.030 of the California Code of Civil Procedure; and

WHEREAS, said hearing has been held by the City and each person whose property is to be acquired by eminent domain was afforded an opportunity to be heard on said matters; and

WHEREAS, the City may now adopt a Resolution of Necessity pursuant to Section 1240.040 of the California Code of Civil Procedure.

NOW, THEREFORE, THE CITY DOES HEREBY RESOLVE AND DECLARE AS FOLLOWS:

SECTION 1. Compliance with California Code of Civil Procedure and California Environmental Quality Act. There has been compliance by the City with the requirements of Section 1245.235 of the California Code of Civil Procedure and the California Environmental Quality Act.

SECTION 2. Public Use. The public use for which the real property is to be acquired is for public right-of-way purposes and the construction of the North Vineyard Avenue Grade Separation Project and related public infrastructure improvements, in San Bernardino County, California. Section 37350.5 of the California Government Code authorizes the City to acquire by eminent domain real property necessary for such purposes.

SECTION 3. Description of Property. Attached and marked as Exhibit "A" are the legal descriptions and depictions of the real property to be acquired by the City, which describe the general location and extent of the property to be acquired with sufficient detail for reasonable identification.

SECTION 4. Findings. The City hereby finds and determines each of the following:

- (a) The public interest and necessity require the proposed project;
- (b) The proposed project is planned or located in the manner that will be most compatible with the greatest public good and least private injury;
- (c) The real property described in Exhibit "A" is necessary for the proposed project;
- (d) The offer required by Section 7267.2 of the California Government Code was made.

SECTION 5. Use Not Unreasonably Interfering with Existing Public Use(s). Some or all of the real property to be acquired is subject to easements and rights-of-way appropriated to existing public uses. The legal descriptions of these easements and rights-of-way are on file with the City and describe the general location and extent of the easements and rights-of-way with sufficient detail for reasonable identification. In the event the herein described use or uses will not unreasonably interfere with or impair the continuance of the public use as it now exists or may reasonably be expected to exist in the future, counsel for the City is authorized to acquire the real property subject to such existing public use(s) pursuant to Section 1240.510 of the California Code of Civil Procedure.

SECTION 6. More Necessary Public Use. Some or all of the real property to be acquired is subject to easements and rights-of-way appropriated to existing public uses. To the extent that the herein described use or uses will unreasonably interfere with or impair the continuance of the public use as it now exists or may reasonably be expected to exist in the future, the City finds and determines that the herein described use or uses are more necessary than said existing public use. Counsel for the City is authorized to acquire the real property appropriated to such existing public use(s) pursuant to Section 1240.610 of the California Code of Civil Procedure. Staff is further authorized to make such improvements to the real property being acquired that it determines is reasonably necessary to mitigate any adverse impact upon the existing public use.

SECTION 7. Further Activities. Counsel for the City is hereby authorized to file legal proceedings necessary to acquire the hereinabove described real property in the name of and on behalf of the City by eminent domain, and counsel is authorized to institute and prosecute such legal proceedings as may be required in connection therewith. Legal counsel is further authorized to take such steps as may be authorized and required by law, and to make such security deposits as may be required by order of court, to permit the City to take possession of and use said real property at the earliest possible time. Counsel is further authorized to correct any errors or to make or agree to non-material changes in the legal description of the real property that are deemed necessary for the conduct of the condemnation action or other proceedings or transaction required to acquire the subject real property. Counsel is further authorized to reduce or modify the extent of the interests or property to be acquired so as to reduce the compensation payable in the action where such change would not substantially impair the construction and operation for the project for which the real property is being acquired.

SECTION 8. Effective Date. This Resolution shall take effect upon adoption.

The City Clerk of the City of Ontario shall certify as to the adoption of this Resolution.

PASSED, APPROVED, AND ADOPTED this 4th day of December 2012.

PAUL S. LEON, MAYOR

ATTEST:

MARY E. WIRTES, MMC, CITY CLERK

APPROVED AS TO LEGAL FORM:

BEST BEST & KRIEGER LLP
CITY ATTORNEY

STATE OF CALIFORNIA)
COUNTY OF SAN BERNARDINO)
CITY OF ONTARIO)

I, MARY E. WIRTES, City Clerk of the City of Ontario, DO HEREBY CERTIFY that foregoing Resolution No. 2012- was duly passed and adopted by the City Council of the City of Ontario at their regular meeting held December 4, 2012 by the following roll call vote, to wit:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

MARY E. WIRTES, MMC, CITY CLERK

(SEAL)

The foregoing is the original of Resolution No. 2012- duly passed and adopted by the Ontario City Council at their regular meeting held December 4, 2012.

MARY E. WIRTES, MMC, CITY CLERK

(SEAL)

Legal Definitions of Property to be Acquired

The following is a list of definitions of legal rights to be acquired by the City of Ontario:

"Temporary Construction Easement" or "TCE" refers to the right of the City, its successors, and assigns, to engage in construction and related activities related to the Vineyard Avenue Grade Separation Project, together with all necessary rights of ingress and egress to the non-exclusive easement area in connection with such construction and related activities.

The TCE shall commence on January 1, 2014 and extend to 11:59 P.M, December 31, 2015. The use of the TCE area shall not exceed 24 months; provided however, that the term of the TCE may be extended upon payment by the City to the Property Owner of an amount equal to \$871.04 a month, prorated to the actual date upon which the City's use of the Property terminates.

Property Owner shall not cause, directly, indirectly or negligently, any interference with or harm to the rights conveyed hereunder.

"Sewer Easement" refers to a non-exclusive permanent and perpetual easement and right of way in favor of the City, its successors and assigns, over, upon, under, and across the lands hereinafter described together with the right to forever construct, maintain, improve, alter, relocate, inspect, occupy, and use for the construction, reconstruction, installation, replacement, removal, repair, operation, and maintenance of sewer facilities.

Property Owner shall not erect or construct, or permit to be erected or constructed, any building, structure or improvement on, over, or under any portion of the easement, or plant trees or any other vegetation on any portion of the easement except with the prior written consent of the City, its successors and assigns.

The City shall have the right to trim, cut or clear away any trees, brush, or other vegetation from time to time as determined in its sole discretion, without payment of additional compensation.

No other easements shall be granted on, under or over the easement without the prior written consent of the City, its successors and assigns.

The ground elevations of the easement upon completion of construction shall not be further increased or decreased without the prior written consent of the City.

Property Owner shall not cause, directly, indirectly or negligently, any interference with or harm to the rights conveyed hereunder.

**TEMPORARY CONSTRUCTION EASEMENT
ATTACHMENT TO LEGAL DESCRIPTION
APN: 0110-101-03**

The parcel of land described in Exhibit "A" is to be used for temporary construction purposes in connection with the construction of the North Vineyard Avenue Grade Separation Project. The right of usage acquired for the temporary construction easement parcel described in Exhibit "A" shall be for a period of twenty-four (24) months; said period to commence on January 1, 2014 and extend through December 31, 2015.

EXHIBIT 'A'
SEWER EASEMENT
LEGAL DESCRIPTION

That portion of Lot 46 as shown on Map of Orange Park Tract, filed in Book 17, page 55, of Maps, Records of San Bernardino County, located in the City of Ontario, County of San Bernardino, State of California, more particularly described as follows:

Parcel 'A'

Commencing at the northeast corner of said Lot 46, also being on the southerly line of Holt Boulevard (40.00 foot half width) as shown on said Map of Orange Park Tract;

Thence along the easterly line of said Lot 46 South $00^{\circ}12'24''$ East 220.46 feet, being 16.90 feet northerly from the southeast corner of said Lot 46 as measured along said easterly line and the **Point of Beginning**;

Thence North $82^{\circ}26'37''$ West 49.17 feet to a line parallel with and distant 25.00 feet northerly from the southerly line of said Lot 46;

Thence along said parallel line South $88^{\circ}04'02''$ West 257.17 feet;

Thence South $78^{\circ}20'51''$ West 55.11 feet to the westerly line of said Lot 46;

Thence along said westerly line South $00^{\circ}14'02''$ East 15.30 feet;

Thence North $78^{\circ}20'51''$ East 51.59 feet;

Thence South $02^{\circ}04'48''$ East 9.11 feet to said southerly line of Lot 46;

Thence along said southerly line North $88^{\circ}04'02''$ East 15.00 feet;

Thence North $02^{\circ}04'48''$ West 10.00 feet to a line parallel with and distant 10.00 feet northerly from said southerly line;

Thence along said parallel line North $88^{\circ}04'02''$ East 244.85 feet;

Thence South $82^{\circ}26'37''$ East 49.97 feet to said easterly line of Lot 46;

Thence along said easterly line North $00^{\circ}12'24''$ West 15.14 feet to the **Point of Beginning**.

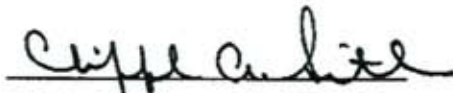
The above described parcel contains 5569.76 square feet more or less.

See Exhibit 'B' attached hereto and made a part hereof.

The Basis of Bearings for this survey are based upon the North American Datum of 1983 (NAD83) of the California Coordinate System of 1983 (CCS83), Zone V, 2002.00 Epoch.

This legal description is not intended for use in the division and/or conveyance of land in violation of the subdivision map act of the State of California.

Prepared under the direction of:


Clifford A. Simental, PLS 5022


Date



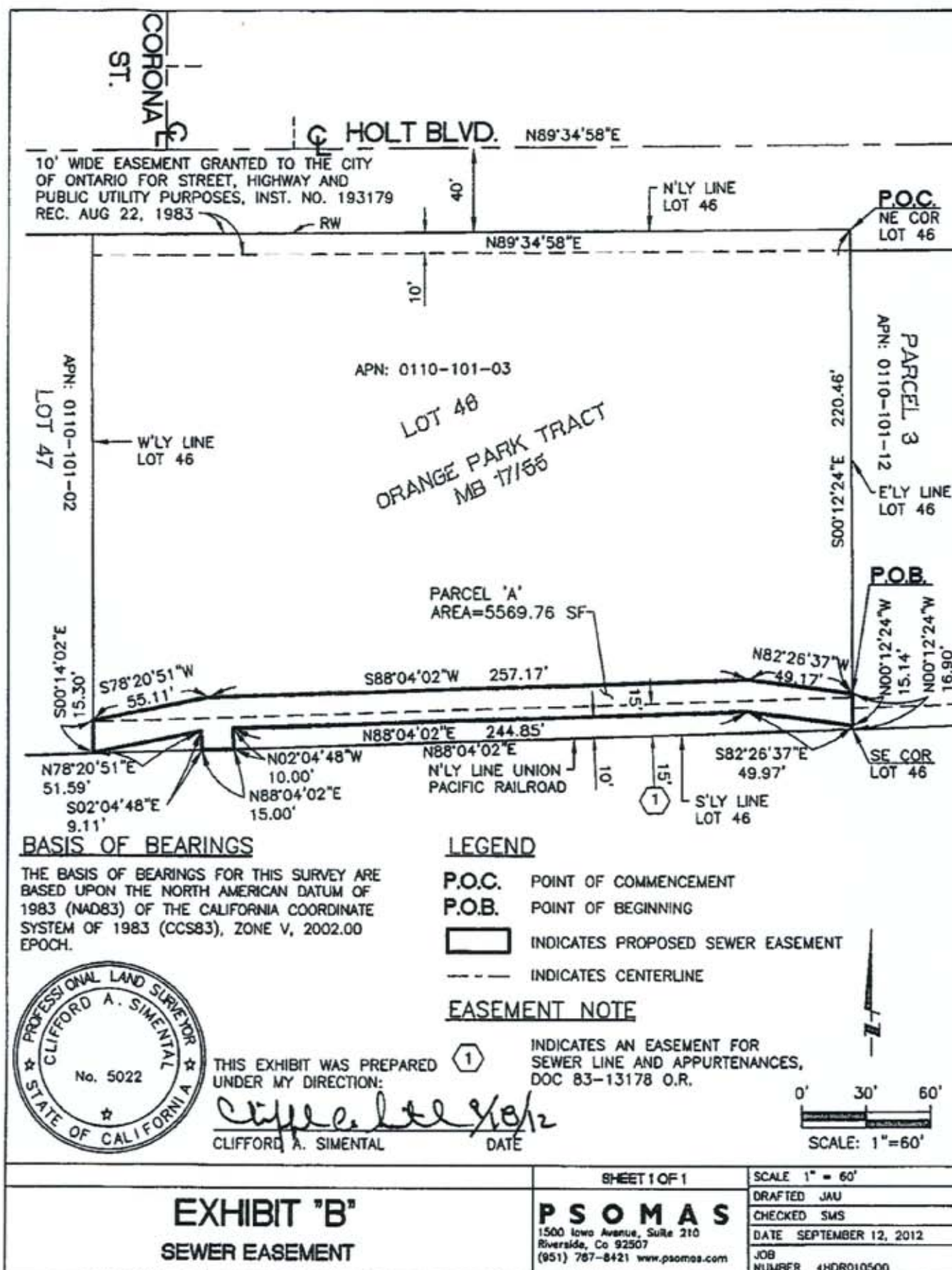


EXHIBIT 'A'

TEMPORARY CONSTRUCTION EASEMENT

LEGAL DESCRIPTION

That portion of Lot 46 as shown on Map of Orange Park Tract, filed in Book 17, page 55, of Maps, Records of San Bernardino County, located in the City of Ontario, County of San Bernardino, State of California, more particularly described as follows:

Parcel 'A'

Commencing at the northeast corner of said Lot 46, also being the southerly line of Holt Boulevard (40.00 foot half width) as shown on said Map of Orange Park Tract;

Thence along the northerly line of said Lot 46 South 89°34'58" West 5.00 feet to a line parallel with and distant 5.00 feet westerly from the easterly line of said Lot 46 and being the **Point of Beginning**;

Thence along said parallel line South 00°12'24" East 212.48 feet to a line parallel with and distant 25.00 feet northerly from the southerly line of said Lot 46.

Thence along said parallel line North 88°04'02" East 5.00 feet to said easterly line of Lot 46;

Thence along said easterly line South 00°12'24" East 8.11 feet, being 16.90 feet northerly from the southeast corner of said Lot 46 as measured along said easterly line;

Thence North 82°26'37" West 49.17 feet to a line parallel with and distant 25.00 feet northerly from said southerly line of Lot 46;

Thence along said parallel line South 88°04'02" West 257.17 feet;

Thence South 78°20'51" West 55.11 feet to the westerly line of said Lot 46;

Thence along said westerly line North 00°14'02" West 19.31 feet to a line parallel with and distant 35.00 feet northerly from said southerly line of Lot 46;

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Thence along said parallel line North 88°04'02" East 339.95 feet to a line parallel with and distant 20.00 feet westerly from said easterly line Lot 46;

Thence along said parallel line North 00°12'24" West 202.87 feet to said northerly line of Lot 46;

Thence along said northerly line North 89°34'58" East 15.00 feet to the **Point of Beginning**.

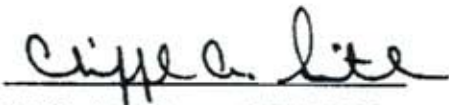
The above described parcel contains 7038.73 square feet more or less.

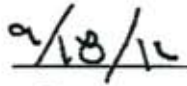
See Exhibit 'B' attached hereto and made a part hereof.

The Basis of Bearings for this survey are based upon the North American Datum of 1983 (NAD83) of the California Coordinate System of 1983 (CCS83), Zone V, 2002.00 Epoch.

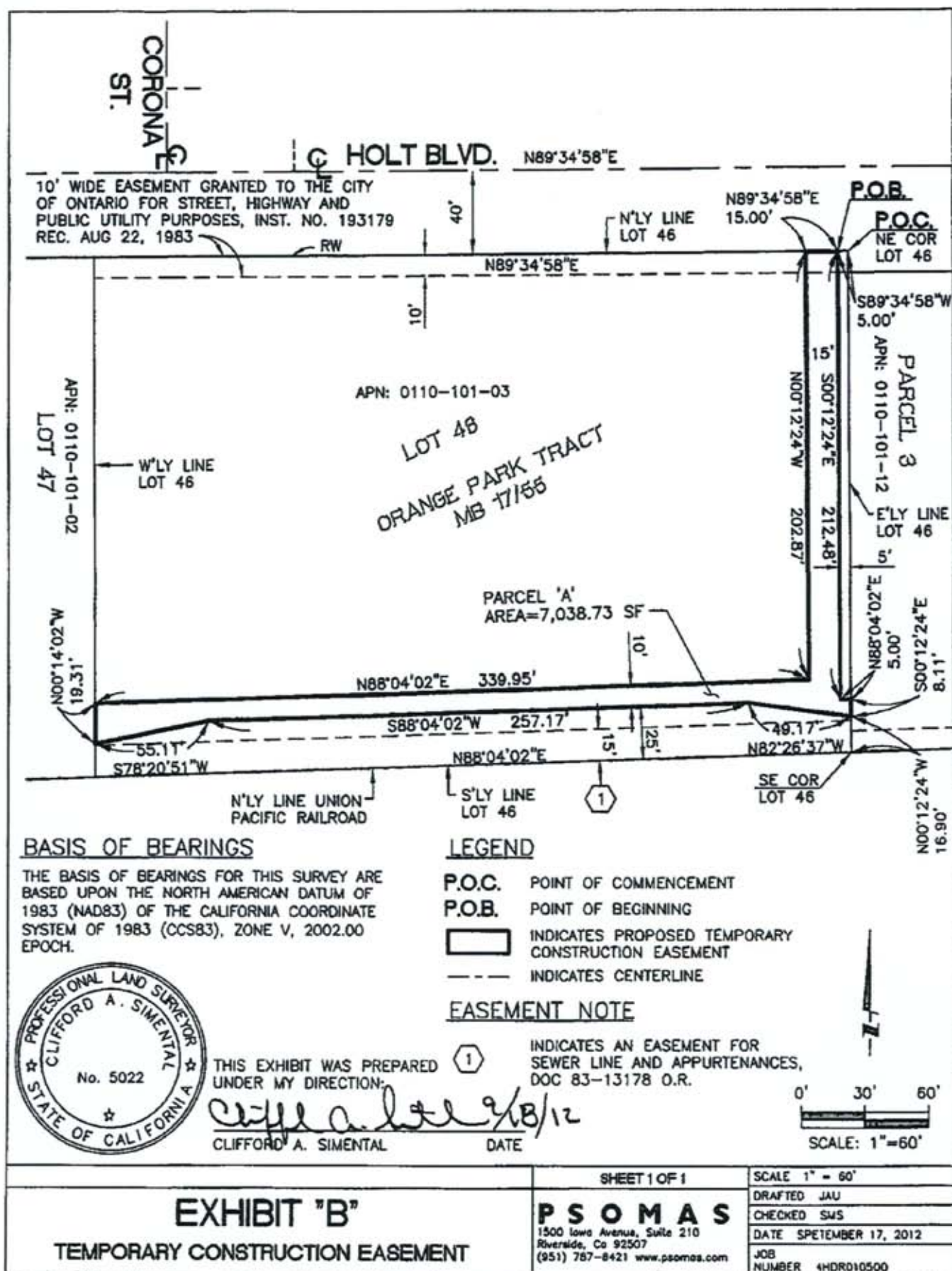
This legal description is not intended for use in the division and/or conveyance of land in violation of the subdivision map act of the State of California.

Prepared under the direction of:


Clifford A. Simental, PLS 5022


Date





CITY OF ONTARIO

Agenda Report
December 4, 2012

SECTION:
ADMINISTRATIVE REPORTS/
DISCUSSION/ACTION

SUBJECT: AN ACTUARIAL ANALYSIS FOR THE MODIFICATION TO RETIREE MEDICAL CONTRIBUTIONS FOR SAFETY EMPLOYEE GROUPS PURSUANT TO THE PUBLIC EMPLOYEES' MEDICAL AND HOSPITAL CARE ACT (PEMHCA) AND EXISTING LABOR AGREEMENTS

RECOMMENDATION: That the City Council receive an actuarial analysis related to agreed-upon modifications to the retiree medical contributions for safety employee groups in accordance with existing labor agreements; and authorize the City Manager to take necessary actions through CalPERS to implement the modifications.

COUNCIL GOALS: Develop Strategies and Take Actions, Including Regaining Local Control of the Ontario International Airport, to Minimize the Negative Impacts of the Global Financial Downturn on Ontario's Economy and the City's Fiscal Health
Maintain the Current High Level of Public Safety
Operate in a Businesslike Manner

FISCAL IMPACT: An actuarial analysis was completed by Bartel Associates, LLC (on file with the Records Management Department) evaluating the impact of the modifications to retiree medical contributions as contained in the recently negotiated labor agreements. The actuary determined that the changes for safety new hires will result in future cost savings to the City, which will be gradually phased in as new safety employees are hired. A summary of the actuary's analysis is attached for reference.

BACKGROUND: On May 1, 2012, the City Council approved new Memoranda of Understanding (MOUs) with the Ontario Police Officers Association, Ontario Police Management Group, Ontario Firefighters Association, and Ontario Fire Management Group. All four bargaining units worked collaboratively with the City to reduce future retirement costs. The safety groups agreed to a second tier of retiree medical benefits for employees hired on or after July 1, 2012, resulting in long-term cost savings for the City. The impact of the change will begin when employees hired on or after July 1, 2012 ultimately retire and start receiving the modified retiree medical contribution as compared to current employees.

STAFF MEMBER PRESENTING: Al C. Boling, Deputy City Manager

Prepared by: Linda Matthews
Department: Human Resources

City Manager
Approval: 

Submitted to Council/O.H.A. 12/04/2012
Approved: _____
Continued to: _____
Denied: _____

21

Upon retirement, employees in the second tier will receive a monthly employer contribution for retiree medical costs equal to the minimum legally required under the Public Employees' Medical and Hospital Care Act (PEMHCA), the medical healthcare program that is administered by the California Public Employees' Retirement System (CalPERS). The minimum employer contribution as of 2013 is \$115 per month, and CalPERS adjusts it annually based on the medical care component of the Consumer Price Index. While actively employed, those in the second tier will also receive a monthly contribution into a retiree medical trust that can be used upon retirement to offset medical costs on a tax-free basis.

Government Code 7507 requires that the City obtain an actuarial valuation report regarding the impact of implementing its second tier of retiree medical benefits and disclose the impact at a public meeting. John E. Bartel, President of Bartel Associates, LLC, provided the required report indicating that the City's actuarial cost of retiree medical based upon the second tier will result in long-term savings.

To implement this and other benefits-related provisions of the recently approved labor agreements, additional actions will be required such as adoption of resolutions for CalPERS stating the amounts of the employer's contribution pursuant to PEMHCA. These actions will be presented to the City Council for consideration at future City Council meetings in 2013.



November 27, 2012

Al Boling
Deputy City Manager
City of Ontario
303 East B Street
Ontario, CA 91764

Re: City of Ontario – Proposed Retiree Healthcare Plan Benefit Changes for Safety Employees

Dear Mr. Boling:

Section 7507.2 of the California Government Code requires agencies obtain a statement of actuarial opinion regarding the cost impact of retiree healthcare plan benefit changes. This letter provides the actuarial impact of the proposed retiree healthcare benefit changes for City of Ontario Safety employees hired after July 1, 2012.

Summary of Benefit Changes

The City currently provides Safety employees a retiree healthcare benefit paying medical premiums up to a cap which varies by bargaining group. For Police safety, the cap is the PEMHCA Kaiser 2-party Los Angeles region premium. For Fire safety, the cap is the average of Los Angeles region PEMHCA premiums (single, 2-party, or family average premium based on coverage election).

The City is considering changing the caps to the PEMHCA minimum employer contribution for all Safety employees hired after July 1, 2012.

Summary of Cost Change

The proposed benefit change for new Safety hires will result in future cost savings to the City. Because the proposed change applies only to future Safety hires after July 1, 2012, there is no immediate impact on the City's retiree medical costs. In future years, as new Safety hires subject to the benefit change gradually become a larger part of the City's active Safety employees, the savings impact will gradually be phased in. The exhibit below summarizes the expected impact on the City's 2013/14 Annual Required Contribution (ARC). The ARC under GASB 45 is equal to the employer Normal Cost (the value of benefits earned during the year), plus the amortized unfunded liability (the value of benefits that have been earned in previous years). (Amounts are in \$ thousands.)

	<u>Current Plan</u>	<u>After Change</u>	<u>Increase/ (Decrease)</u>
■ 2013/14 ARC			
• Normal Cost	\$ 6,751	\$ 6,417	\$(334)
• UAAL	<u>7,822</u>	<u>7,822</u>	<u>-</u>
• Total	14,573	14,239	(334)
■ 2013/14 ARC (as % of projected payroll ¹)			
• Normal Cost	20.0%	19.0%	(1.0%)
• Amortization Bases	<u>23.2%</u>	<u>23.2%</u>	<u>0.0%</u>
• Total	43.2%	42.2%	(1.0%)

¹ Based on 2013/14 projected payroll of \$33,704,000.



In future years, as new Safety employees hired after July 1, 2012 become a larger portion of total Safety employees, the Normal Cost as a percentage of payroll will continue to decrease. See attached report which provides a more detailed description of the saving to the plan, including 10-year savings projections. All results in this letter and the attached report are based on the City's June 30, 2012 Retiree Healthcare Plan valuation.

Conclusion

Because we believe the City's cost will decrease in future years due to the proposed benefit change for newly hired Safety employees, we believe §7507.2 of the California Government Code does not apply.

Please call me (650/377-1601) with any questions about this information.

Sincerely,

John E. Bartel
President

c: Linda Mathews, City of Ontario
Cathy Wandro, Bartel Associates

O:\Clients\City of Ontario\OPEB\2012 Val\Reports\BA Ontario\12-11-27 OPEB 7507 Letter for Tier 2 Safety.Final.docx