San Bernardino Associated Governments
1170 W. 3rd Street, 2nd Floor, San Bernardino, CA 92410
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Web: www.sanbag.ca.gov

•San Bernardino County Transportation Commission •San Bernardino County Transportation Authority
•San Bernardino County Congestion Management Agency •Service Authority for Freeway Emergencies

AGENDA
Board of Directors Meeting
October 3, 2012

*****Start Time: 10:00 a.m. (CLOSED SESSION)*****
1170 W. 3rd Street, 2nd Floor (The Super Chief)

****Convene Regular Meeting at 10:30 a.m.****
1st Floor Lobby

LOCATION
San Bernardino Associated Governments
Santa Fe Depot - SANBAG Lobby 1st Floor
1170 W. 3rd Street, San Bernardino, CA

Board of Directors

President
Janice Rutherford, Supervisor
County of San Bernardino

Vice-President
Mike Leonard, Council Member
City of Hesperia

Cari Thomas, Mayor
City of Adelanto

Rick Roelle, Council Member
Town of Apple Valley

Julie McIntyre, Mayor Pro Tem
City of Barstow

Bill Jahn, Mayor
City of Big Bear Lake

Dennis Yates, Mayor
City of Chino

Ed Graham, Council Member
City of Chino Hills

Sarah Zamora, Mayor
City of Colton

Michael Tahan, Council Member
City of Fontana

Walt Stanckiewitz, Mayor
City of Grand Terrace

Larry McCallon, Mayor
City of Highland

Rhodes "Dusty" Rigsby, Mayor
City of Loma Linda

Paul Eaton, Mayor
City of Montclair

Edward Paget, Mayor
City of Needles

Alan Wapner, Council Member
City of Ontario

L. Dennis Michael, Mayor
City of Rancho Cucamonga

Pete Aguilar, Mayor
City of Redlands

Ed Scott, Mayor Pro Tem
City of Rialto

Patrick Morris, Mayor
City of San Bernardino

Jim Harris, Council Member
City of Twentynine Palms

Ray Musser, Mayor
City of Upland

Ryan McEachron, Mayor
City of Victorville

Dick Riddell, Mayor
City of Yucaipa

George Huntington, Council Member
Town of Yucca Valley

Gary Ovitt, Supervisor
County of San Bernardino

Brad Mitzelfelt, Supervisor
County of San Bernardino

Neil Derry, Supervisor
County of San Bernardino

Josie Gonzales, Supervisor
County of San Bernardino

Basem Muallem, Caltrans
Ex-Officio Member

Ray Wolfe, *Executive Director*

Eileen Teichert, *SANBAG Counsel*

San Bernardino Associated Governments (SANBAG) is a council of governments formed in 1973 by joint powers agreement of the cities and the County of San Bernardino. SANBAG is governed by a Board of Directors consisting of a mayor or designated council member from each of the twenty-four cities in San Bernardino County and the five members of the San Bernardino County Board of Supervisors.

In addition to SANBAG, the composition of the SANBAG Board of Directors also serves as the governing board for several separate legal entities listed below:

***The San Bernardino County Transportation Commission,** which is responsible for short and long range transportation planning within San Bernardino County, including coordination and approval of all public mass transit service, approval of all capital development projects for public transit and highway projects, and determination of staging and scheduling of construction relative to all transportation improvement projects in the Transportation Improvement Program.*

***The San Bernardino County Transportation Authority,** which is responsible for administration of the voter-approved half-cent transportation transactions and use tax levied in the County of San Bernardino.*

***The Service Authority for Freeway Emergencies,** which is responsible for the administration and operation of a motorist aid system of call boxes on State freeways and highways within San Bernardino County.*

***The Congestion Management Agency,** which analyzes the performance level of the regional transportation system in a manner which ensures consideration of the impacts from new development and promotes air quality through implementation of strategies in the adopted air quality plans.*

*As a **Subregional Planning Agency**, SANBAG represents the San Bernardino County subregion and assists the Southern California Association of Governments in carrying out its functions as the metropolitan planning organization. SANBAG performs studies and develops consensus relative to regional growth forecasts, regional transportation plans, and mobile source components of the air quality plans.*

Items which appear on the monthly Board of Directors agenda are subjects of one or more of the listed legal authorities. For ease of understanding and timeliness, the agenda items for all of these entities are consolidated on one agenda. Documents contained in the agenda package are clearly marked with the appropriate legal entity.

San Bernardino Associated Governments
County Transportation Commission
County Transportation Authority
County Congestion Management Agency
Service Authority for Freeway Emergencies

AGENDA

Board of Directors
October 3, 2012

10:00 a.m. (CLOSED SESSION)
1170 W. 3rd Street, 2nd Floor (The Super Chief)
San Bernardino, CA

CLOSED SESSION

#1 Conference With Legal Counsel – Existing Litigation

Existing litigation pursuant to Government Code Section 54956.9 subdivision (a), with respect to the following matters:

SANBAG Parcel #	Case Name and Number
B-235/237	**SANBAG v. Orange Show Road Properties, LLC, et al., San Bernardino County Superior Court Case No. CIVDS 1104950**
B-239	**SANBAG v. Orange Show Road Properties, LLC, et al., San Bernardino County Superior Court Case No. CIVDS 1104962**
B-243	**SANBAG v. World Oil Marketing Company, San Bernardino County Superior Court Case No. CIVDS 1104963**
B-245	**SANBAG v. F & C Jara Properties Fourth Limited Partnership, et al., San Bernardino County Superior Court Case No. CIVDS 1104964**
C-18/20/22	**SANBAG v. Hospitality LLC, et al., San Bernardino County Superior Court Case No. CIVDS 1103202**
C-33	**SANBAG v. Rafaat Ryad Luga, et al., San Bernardino County Superior Court Case No. CIVDS 1103185**
C-39/40/41/44/45/ 46/47/48/49/50/51/ 52/57/58	**SANBAG v. Rancon Realty Fund V Subsidiary LLC, et al., San Bernardino County Superior Court Case No. CIVDS 1103178**
C-42	**SANBAG v. N and D Restaurants, Inc., et al., San Bernardino County Superior Court Case No. CIVDS 1103206**
C-71	**SANBAG v. Costco Wholesale Corporation, et al., San Bernardino County Superior Court Case No. CIVDS 1103192**

#2 CONFERENCE WITH REAL PROPERTY NEGOTIATORS
Agency Negotiator: Garry Cohoe
Property: APN 0266-021-43, County of San Bernardino, CA
Negotiating parties: Doug Dennington for Van Valkenburgh Investments, LLC
Under Negotiation: Price and terms for acquisition and/or transfer of property for Palm Avenue Grade Separation Project easements
Pursuant to Government Code section 54956.8

#3 PUBLIC EMPLOYEE PERFORMANCE EVALUATION
Title: General Counsel
Pursuant to Government Code Section 54957

#4 CONFERENCE WITH LABOR NEGOTIATOR RAY WOLFE
Regarding Unrepresented Employees of SANBAG
pursuant to Government Code Section 54957.6

CONVENE REGULAR MEETING at 10:30 a.m.
1170 W. 3rd Street, 1st Floor Lobby, San Bernardino

To obtain additional information on any items, please contact the staff person listed under each item. You are encouraged to obtain any clarifying information prior to the meeting to allow the Board to move expeditiously in its deliberations. Additional meeting procedures and agenda explanations are attached to the end of this agenda.

Call to Order 10:30 a.m. by Supervisor Janice Rutherford

I. Pledge of Allegiance
II. Attendance
III. Announcements:
- Calendar of Events (Pg. 17)

IV. Agenda Notices/Modifications – Vicki Watson

Notes/Actions:

1. **Possible Conflict of Interest Issues for the Board Meeting of October 3, 2012** Pg. 18

Note agenda item contractors, subcontractors and agents, which may require member abstentions due to conflict of interest and financial interests. Board Member abstentions shall be stated under this item for recordation on the appropriate item.

Consent Calendar

Items listed on the Consent Calendar are expected to be routine and non-controversial. These items have been discussed at SANBAG Policy Committee meetings and made available for public review as noted in the agenda. The Consent Calendar will be acted upon as a single motion. Items on the Consent Calendar may be removed for discussion by Board Member Request. Items pulled from the consent calendar will be brought up under Agenda Item 25.

Administrative

2. **Board of Directors Attendance Roster** Pg. 22

Notes/Actions:

Consent Calendar Continued....

Administrative (Cont.)

3. **August 2012 Procurement Report** Pg. 26

Receive August 2012 Procurement Report. **William Stawarski**

This item was received by the Administrative Committee on September 12, 2012.

4. **Budget to Actual Report for fourth quarter ending June 30, 2012** Pg. 28

Receive and file Budget to Actual Report for fourth quarter ending June 30, 2012. **William Stawarski**

This item was received by the Administrative Committee on September 12, 2012.

5. **Award On-Call Internal Audit and Price Review Services Contract** Pg. 32

Approve Contract No. C12238 to Bazilio Cobb Associates, P.C., for On-Call Internal Audit and Price Review Services for a three year contract with two one-year options to extend for an amount not-to-exceed $250,000 for the initial three year term. **William Stawarski**

SANBAG General Counsel and Contract Administrator have approved this item and Contract as to form.

6. **Addition to Contracting and Procurement Policy No. 11000, Independent Cost Estimates** Pg. 37

Approve an addition to Contracting and Procurement Policy No. 11000, providing that Independent Cost Estimates will be required for all procurement actions, including but not limited to all contract amendments and contract change orders. **Kathleen Murphy-Perez**

This item was reviewed and unanimously recommended for approval by the Administrative Committee on September 12, 2012. This item has been reviewed by SANBAG's General Counsel and Contract Administrator.

7. **General Counsel Staffing** Pg. 40

Approve a legal services agreement C13036 to provide Assistant General Counsel legal services and authorize General Counsel to execute the agreement on behalf of SANBAG. **Eileen Teichert**

This action was reviewed and approved by the Administrative Committee on September 12, 2012.

Notes/Actions:

Consent Calendar Continued....

Air Quality/Traveler Services

8. Contract with the Riverside County Transportation Commission (RCTC) for the implementation of San Bernardino County Trip Reduction and 511 Programs Pg. 41

Approve Contract No. C12553 with the Riverside County Transportation Commission, effective from July 1, 2012, through June 30, 2013, in an amount not-to-exceed $1,800,000. **Duane Baker**

This item was reviewed and unanimously recommended for approval by the Administrative Committee on September 12, 2012. SANBAG General Counsel and Contract Administrator have reviewed this item and the contract.

9. San Bernardino Regional Vanpool Program–Victor Valley Phase Pg. 55

1. Approve Contract C13029 between San Bernardino Associated Governments (SANBAG), acting as the Commission, and Victor Valley Transit Authority (VVTA) in the total amount of $739,312 over three years for the San Bernardino Regional Vanpool Program – Victor Valley Phase.

2. Allocate $294,512 in Measure I Victor Valley Project Development and Traffic Management Systems (PDTMS) program funds to the San Bernardino Regional Vanpool Program – Victor Valley Phase.

3. Allocate $78,288 in Measure I North Desert (Barstow) PDTMS program funds to the San Bernardino Regional Vanpool Program – Victor Valley Phase.

4. Approve an amendment to the SANBAG Fiscal Year 2012/2013 Budget, increasing Task No. 0310, Transit Operating, by $154,600 using $122,134 in Measure I Victor Valley PDTMS funds (Fund No. 4280) and $32,466 in Measure I North Desert (Barstow) PDTMS funds (Fund No. 4380) for a new total of $8,977,672. **Nancy Strickert**

This item was reviewed and unanimously recommended for approval by the Mountain/Desert Committee on September 21, 2012. SANBAG General Counsel and Contract Administrator have reviewed this item and a draft of the Contract.

Notes/Actions:

Consent Calendar Continued....

Regional/Subregional Planning

10. Amendment to San Bernardino County Non-Motorized Transportation Plan Pg. 66

Approve an amendment to the San Bernardino County Non-Motorized Transportation Plan as described below. **Steve Smith**

This item was reviewed and unanimously recommended for approval by the Mountain/Desert Committee on September 21, 2012.

11. Cooperative Agreement with the City of Highland for the Feasibility Study for improvement of the existing SR-210/Highland Avenue interchange and construction of a proposed SR-210/Victoria Avenue Interchange Pg. 69

1) Approve Cooperative Agreement No. C13024 with the City of Highland with a not-to-exceed amount of $100,000 for San Bernardino Associated Governments management of a Feasibility Study for the improvement of the SR-210/Highland interchange and construction of a proposed SR-210/Victoria Avenue interchange.

2) Approve a Fiscal Year 2012-2013 budget amendment increasing Task No. 0404 Subregional Transportation Planning in the amount of $100,000, funded from a City of Highland contribution of $100,000 for a new task total of $1,192,886. **Steve Smith**

This item was reviewed and unanimously recommended for approval by the Major Projects Committee on September 13, 2012. SANBAG General Counsel and Contract Administrator have reviewed this item and the Contract.

12. Measure I Valley Freeway Interchange Project Delivery Initiative Pg. 81

That the SANBAG Board, acting as the San Bernardino County Transportation Authority:

1) Authorize SANBAG staff to draft Baseline Agreements for all phases, and Cooperative Agreements for current phases, for the following interchanges on the Measure I 2010-2040 Strategic Plan interchange priority list: I-10/Cedar (County); SR-210/Baseline (Highland); SR-60/Central (Chino); I-10/University (Redlands); I-215/University (City of San Bernardino); I-10/Alabama (County and Redlands); I-15/Baseline (Rancho Cucamonga); SR-60/Archibald (Ontario); I-10/Monte Vista (Montclair); and I-10/Pepper (Colton).

2) Authorize SANBAG staff to develop draft amendments to Measure I Strategic Plan policies for the Valley Freeway Interchange Program to allow for a "toolbox" of options for loans of Measure I dollars to cover a portion of the local share of interchange costs. These policy amendments would be structured based on the funding principles described in this agenda item and would be considered for approval at a subsequent Major Projects Committee meeting and by the SANBAG Board. Individual local share loans would be based on those policies,

Continue on next page

Item 12 Continued

with approval of individual loan agreements required from the SANBAG Board, following a case-by-case analysis of the feasibility, risks, and potential impacts of each loan. Loan terms and conditions would be documented in a loan agreement between SANBAG and the jurisdiction obtaining the loan. Loan options recommended for policy development include:

1) Loans from a jurisdiction's Measure I Local Street Program funds (No bonding)
2) Loans from a jurisdiction's arterial portion of Measure I Major Street Program funds (No bonding)
3) Combination of 1 and 2
4) Short-term cash loan from SANBAG
5) Bonding against a jurisdiction's Local Street Program funds

3) Authorize SANBAG staff to develop a scope of work to analyze a phasing program for the Measure I 2010-2040 Valley Freeway Interchange Program and to bring the scope of work back to the Major Projects Committee and SANBAG Board for subsequent approval. **Steve Smith**

This item has been reviewed and unanimously recommended for approval by the Major Projects Committee on September 13, 2012. The material in this agenda item has also been reviewed by both the Transportation Technical Advisory Committee and the City/County Managers Technical Advisory Committee.

Council of Governments

13. Legislative Update Pg. 95

Receive update and legislative bill matrix. **Eric Haley**

This item was received by the Administrative Committee on September 12, 2012.

14. Inland Empire Economic Partnership Pg. 102

Approve SANBAG's membership and participation with the Inland Empire Economic Partnership (IEEP) for $15,000. **Duane Baker**

This item was reviewed by the Administrative Committee on September 12, 2012.

Notes/Actions:

Notes/Actions:

Consent Calendar Continued....

Project Delivery

15. I-10 and I-15 Corridor Improvement Projects Public Outreach Pg. 111

Receive information regarding the formation of Community Advisory Groups (CAGs) for the I-10 and I-15 Corridor Improvement Projects. **Jane Dreher**

This item was reviewed by the Major Projects Committee on September 13, 2012 and by the Mountain/Desert Committee on September 21, 2012.

16. Revised Funding Summary No. 3 for Cooperative Agreement No. C12189 with the California Department of Transportation (Caltrans) for the Interstate 215 (I-215) Bi-County High Occupancy Vehicle (HOV) Gap Closure Project Pg. 114

Approve revised Funding Summary No. 3 for Cooperative Agreement No. C12189 with California Department of Transportation (Caltrans) for the I-215 Bi-County High Occupancy Vehicle (HOV) Gap Closure Project. **Garry Cohoe**

This item was reviewed by the Major Projects Committee on September 13, 2012. SANBAG General Counsel and Contract Administrator have reviewed this item and the Funding Summary.

17. Construction and Maintenance Agreement for Palm Avenue Grade Separation Pg. 122

Approve Contract No. C13018 with BNSF Railway Company (BNSF) and the City of San Bernardino for construction and maintenance of the Palm Avenue Grade Separation project in which San Bernardino Associated Governments will pay BNSF $900,000 in 2010-2040 Measure I Valley Major Streets Bond funds for railroad work and flagging and inspection costs and easements, including a 10% contingency and will receive a contribution of $689,710.00 from BNSF towards the overall project cost. **Garry Cohoe**

This item was reviewed by the Major Projects Committee on September 13, 2012. SANBAG General Counsel and Contract Administrator have reviewed this item and the Contract.

Notes/Actions:

Consent Calendar Continued....

Project Delivery (Cont.)

18. Palm Avenue Grade Separation Project Pg. 183

1. Approve Award of Contract No. C12240 with Vali Cooper & Associates, Inc. for Construction Management services for the Palm Avenue Grade Separation Project in an amount not-to-exceed $1,940,000.

2. Approve a contingency amount for Contract No. C12240 of $194,000 and authorize the Executive Director or designee to release contingency as necessary for the project. **Garry Cohoe**

This item was reviewed by the Major Projects Committee on September 13, 2012. SANBAG General Counsel and Contract Administrator have reviewed this item and a draft of the Contract.

19. Laurel Street Grade Separation Project Pg. 227

1. Approve Award of Contract No. C13012 with Athalye Consulting Engineering Services, Inc. for Construction Management services for the Laurel Street Grade Separation Project in an amount not-to-exceed $4,995,000.

2. Approve a contingency amount for Contract No. C13012 of $499,500 and authorize the Executive Director or designee to release contingency as necessary for the project. **Garry Cohoe**

This item was reviewed by the Major Projects Committee on September 13, 2012. SANBAG General Counsel and Contract Administrator have reviewed this item and a draft of the Contract.

20. SR210 Freeway Segment 11 Landscaping Pg. 264

1. Approve the SR210 Freeway Segment 11 Landscaping Project Plans, Specifications, and Estimates package; and

2. Authorize the advertisement and release of Invitation for Bids (IFB) C13002 to obtain construction bids for the SR210 Freeway Segment 11 Landscaping project; and

3. Authorize Staff to proceed directly to the Board without prior Major Projects Policy Committee approval for the award of Construction Contract No. C13002. **Garry Cohoe**

This item was reviewed by the Major Projects Committee on September 13, 2012. SANBAG General Counsel and Contract Administrator have reviewed this item and IFB as to form.

Notes/Actions:

Consent Calendar Continued....

Project Delivery (Cont.)

21. Right-of-Way Appraisals and Acquisitions for the Interstate 15/Interstate 215 (I-15/I-215) Devore Interchange Reconstruction Project Pg. 266

1. Approve appraisals and just compensation on properties needed for the I-15/I-215 Devore Interchange Reconstruction Project listed in Attachment "A" ("Properties") of this agenda item, copies of which are on file with the Director of Project Delivery.

2. Authorize acquisition of the Properties in a not-to-exceed aggregate total of $165,000, increasing the total allowance for property acquisitions for the project to $16,330,000.

3. Authorize the Executive Director to act on behalf of SANBAG in signing Purchase & Sale Agreements for the Properties with the Property Owners, consistent with the procedure set out in SANBAG Valley Freeway Program Policy No. 40004 (reference: Administrative Settlement Policy No. 34507). Property owners: Atchison, Topeka, and Santa Fe Railroad, Union Pacific Railroad, and BNSF Railway. **Garry Cohoe**

This item was reviewed by the Major Projects Committee on September 13, 2012, and the Mountain Desert Committee on September 21, 2012. SANBAG General Counsel has approved this item as to form.

22. Lenwood Road Grade Separation Project – Set Date for Hearings to Consider Resolutions of Necessity Pg. 270

Acting as the San Bernardino County Transportation Commission:

1. Set the date and time of November 7, 2012, at 10:00 a.m. for hearings to consider Resolutions of Necessity for four properties required for the Lenwood Road Grade Separation project in the City of Barstow and the County of San Bernardino. The property owners are: Wilbur and Elaine Gassaway; Carroll Fulmer Management Company; Clayton and Janice Carmean and Albert and Rita Vogler; and Mona Young.

2. Continue the hearings on the Resolutions of Necessity for ten parcels, previously scheduled for October 3, 2012, at 10 a.m., to November 7, 2012, at 10:00 a.m. to consider adoption of Resolutions of Necessity for properties required for the Lenwood Road Grade Separation project in the City of Barstow and the County of San Bernardino. The property owners are: Richard Bowers; Warren Wallis; Naji Razzouk; Nabil and Janet Razzouk; Chong Nam Yim and Young Ja Yim; Chong Nam Yim and Young Ja Yim (a second parcel); Metor Finance; Daniel Gallardo; Lawrence and Beverly Watson; and Laurence Brown. **Garry Cohoe**

This item was reviewed by the Mountain Desert Committee on September 21, 2012. SANBAG General Counsel has approved this item as to form.

Notes/Actions:

Consent Calendar Continued....

Transportation Fund Administration

23. Proposition 1B State-Local Partnership Program Allocation Policy Pg. 274

Authorize the release of Proposition 1B State-Local Partnership Program Funds that were allocated to the Mountain/Desert area but cannot be expended by the State-Local Partnership Program deadline to the San Bernardino Valley area with a commitment to allocate future state and/or federal funds to ensure equity between the regions. **Andrea Zureick**

This item was reviewed and unanimously recommended for approval by the Mountain/Desert Committee on September 21, 2012.

24. Amendments to the Trade Corridors Improvement Fund (TCIF) Project Baseline Agreements for Palm Avenue, Glen Helen Parkway, South Milliken Avenue, and Vineyard Avenue Grade Separation Projects Pg. 279

1. Approve Amendment No. 1 to the Trade Corridors Improvement Fund Project Baseline Agreement C09021 with the California Transportation Commission, California Transportation Department, and the City of San Bernardino for the Palm Avenue Grade Separation Project to update the estimated project cost and the project implementation schedule.

2. Approve Amendment No. 2 to the Trade Corridors Improvement Fund Project Baseline Agreement C09020 with the California Transportation Commission, California Transportation Department, and the County of San Bernardino for the Glen Helen Parkway Grade Separation Project to update the estimated project cost and the project implementation schedule.

3. Approve Amendment No. 2 to the Trade Corridors Improvement Fund Project Baseline Agreement C09016 with the California Transportation Commission, California Transportation Department, and the City of Ontario for the South Milliken Avenue Grade Separation Project to update the estimated project cost and the project implementation schedule.

4. Approve Amendment No. 1 to the Trade Corridors Improvement Fund Project Baseline Agreement C09018 with the California Transportation Commission, California Transportation Department, and the City of Ontario for the Vineyard Avenue Grade Separation Project to update the estimated project cost and the project implementation schedule.

5. Authorize the Executive Director to execute Amendments including technical and administrative changes that may be necessary following California Transportation Commission staff review. Should any policy issues arise, the Executive Director will consult with Board Officers. **Andrea Zureick**

This item was reviewed and unanimously recommended for approval by the Major Projects Committee on September 13, 2012. SANBAG General Counsel and Contract Administrator have reviewed this item and the contract amendments.

Notes/Actions:

Consent Calendar Items Pulled for Discussion

25. Items pulled from the consent calendar shall be taken under this item in the order they were presented on the calendar

DISCUSSION ITEMS

Project Delivery

26. Hearings to Consider Resolutions of Necessity for Properties for the Palm Avenue Grade Separation Project Pg. 305

Acting as the San Bernardino County Transportation Commission:

1. Conduct public hearings to consider condemnation of real property required for the Palm Avenue Grade Separation project ("Project") in the City of San Bernardino and the County of San Bernardino, and

2. By at least a two-thirds majority, adopt Resolutions of Necessity Nos. 13-023, 13-024, 13-025, 13-026, 13-027, and 13-028 and authorize and direct general counsel, or her designee, to prepare, commence, and prosecute proceedings in eminent domain for the purpose of acquiring necessary right-of-way and real property interests from the following property owners: S.B. Universal Self Storage, LLC (APNs 0266-021-17, -18, -32, and -39); Van Valkenburgh Investments LLC (APN 0266-021-43); CalMat Land Company (APN 0262-051-29); Palm Avenue SB LLC (APN 0266-041-62); Gaelle II, LLC (APN 0266-041-69); and Gurbax R. and Rajni Marwah Trustees of the Marwah Family Trust (APN 0266-041-70). **Paula Beauchamp**

This item was reviewed by the Major Projects Committee on September 13, 2012. SANBAG General Counsel has approved this item as to form.

27. Hearings to Consider Resolutions of Necessity for Parcels for the Laurel Street Grade Separation Project in the City of Colton Pg. 412

Acting as the San Bernardino County Transportation Commission:

1. Conduct public hearings to consider condemnation of real property required for the Laurel Street Grade Separation project (Project) in the City Colton, and

2. By at least a two-thirds majority, adopt Resolutions of Necessity Nos. 13-029, 13-030, 13-031, and 13-034. and authorize and direct general counsel, or her designee, to prepare, commence, and prosecute proceedings in eminent domain for the purpose of acquiring necessary right-of-way and real property interests from the following property owners: Colton Industrial Park, LP (Assessor's Parcel Number (APN) 0160-241-11); R.J. & R. property (APNs 0160-241-56 and 0160-241-59); Thomas Hayward (APNs 0160-241-57 and 0160-241-58); and Ernesto & Ivelisse Alcala (APN 0161-081-10). **Khalil Saba**

This item was reviewed by the Major Projects Committee on September 13, 2012. SANBAG General Counsel has approved this item as to form.

Notes/Actions:

Discussion Items Continued....

Project Delivery (Cont.)

28. Award Construction Contract No. C12224 for Interstate 10 (I-10)/Cherry Avenue Project Pg. 500

1. Award Construction Contract No. C12224 to Ortiz Enterprises, Inc. for the I-10/Cherry Avenue Interchange Project in the amount of $49,190,134.21.

2. Approve Allowances/Contingency for Contract No. C12224 on the I-10/Cherry Avenue Interchange Project in the amount of $5,282,315.79. **Garry Cohoe**

At the July 2012 Board meeting, approval was given to take award of Contract No. C12224 directly to the Board without prior Committee review. SANBAG General Counsel and Contract Administrator have reviewed this item and the Contract.

Council of Governments

29. Federal Legislative Presentation Pg. 541
10 Min

Receive presentation by Steve Palmer, SANBAG's Federal advocate. **Eric Haley**

This item has not received prior committee review.

Administrative

30. Renaming the Administrative Committee and Reclassifying Major Projects Committee Meetings as Board Study Sessions for Metro Valley Issues Pg. 542

1. Rename the Administrative Committee as the General Policy Committee and change the membership to include three city members from each subregion and count Board Officers towards that city membership number.

2. Reclassify the Major Projects Committee Meetings as Board of Directors Study Sessions for Metro Valley Issues. **Duane Baker**

This item was reviewed and unanimously recommended for approval by the Administrative Committee on September 12, 2012.

Notes/Actions:

Discussion Items Continued....

Council of Governments

31. **Memorandum of Understanding for the Implementation of a Property Assessed Clean Energy (PACE) Program** Pg. 545

1. Approve the Memorandum of Understanding between SANBAG and its member agencies that wish to participate in the PACE Program.

2. Direct that this Memorandum of Understanding (MOU) be distributed to each city, town and the County with a request that they consider participating in the PACE Program. **Duane Baker**

This item was reviewed and unanimously recommended for approval by the Administrative Committee on September 12, 2012. This item was also reviewed by the City/County Manager's Technical Advisory Committee on September 13, 2012. SANBAG General Counsel has reviewed this item and a draft of the Memorandum of Understanding.

32. **Council of Governments Action Plan** Pg. 555

Approve the creation of a COG Council. **Duane Baker**

This item has not received prior policy or technical advisory committee review.

Other Matters

Comments from Board Members

Brief Comments from Board of Directors

Executive Director's Comments

Brief Comments from the Executive Director

Public Comment

Brief Comments by the General Public

ADJOURNMENT

Notes/Actions:

Additional Information

Agency Reports/Committee Memberships
South Coast Air Quality Management Report — Pg. 559
Mayor Dennis Yates
Mobile Source Air Pollution Reduction Review Committee
Council Member Gwenn Norton-Perry *(No Report this Month)*

SCAG Committees — Pg. 560
SCAG Regional Council
SCAG Policy Committees
Community, Economic and Human Development
Energy and Environment
Transportation and Communications

SANBAG Policy Committees — Pg. 561
Acronym List — Pg. 566

Complete packages of this agenda are available for public review at the SANBAG offices and our website: www.sanbag.ca.gov. Staff reports for items may be made available upon request. For additional information call (909) 884-8276.

Meeting Procedures
The Ralph M. Brown Act is the state law which guarantees the public's right to attend and participate in meetings of local legislative bodies. These rules have been adopted by the Board of Directors in accordance with the Brown Act, Government Code 54950 et seq., and shall apply at all meetings of the Board of Directors and Policy Committees.

Accessibility
The SANBAG meeting facility is accessible to persons with disabilities. If assistive listening devices or other auxiliary aids or services are needed in order to participate in the public meeting, requests should be made through the Clerk of the Board at least three (3) business days prior to the Board meeting. The Clerk's telephone number is (909) 884-8276 and office is located at 1170 W. 3rd Street, 2nd Floor, San Bernardino, CA.

Agendas – All agendas are posted at 1170 W. 3rd Street, 2nd Floor, San Bernardino at least 72 hours in advance of the meeting. Complete packages of this agenda are available for public review at the SANBAG offices and our website: www.sanbag.ca.gov. Staff reports for items may be made available upon request. For additional information call (909) 884-8276.

Agenda Actions – Items listed on both the "Consent Calendar" and "Items for Discussion" contain suggested actions. The Board of Directors will generally consider items in the order listed on the agenda. However, items may be considered in any order. New agenda items can be added and action taken by two-thirds vote of the Board of Directors.

Closed Session Agenda Items – Consideration of closed session items *excludes* members of the public. These items include issues related to personnel, pending litigation, labor negotiations and real estate negotiations. Prior to each closed session, the Chair will announce the subject matter of the closed session. If action is taken in closed session, the Chair may report the action to the public at the conclusion of the closed session.

Public Testimony on an Item – Members of the public are afforded an opportunity to speak on any listed item. Individuals wishing to address the Board of Directors or Policy Committee Members should complete a "Request to Speak" form, provided at the rear of the meeting room, and present it to the SANBAG Clerk prior to the Board's consideration of the item. A "Request to Speak" form must be completed for *each* item when an individual wishes to speak on. When recognized by the Chair, speakers should be prepared to step forward and announce their name and address for the record. In the interest of facilitating the business of the Board, speakers are limited to three (3) minutes on each item. Additionally, a twelve (12) minute limitation is established for the total amount of time any one individual may address the Board at any one meeting. The Chair or a majority of the Board may establish a different time limit as appropriate, and parties to agenda items shall not be subject to the time limitations.

The Consent Calendar is considered a single item, thus the three (3) minute rule applies. Consent Calendar items can be pulled at Board member request and will be brought up individually at the specified time in the agenda allowing further public comment on those items.

Agenda Times – The Board is concerned that discussion take place in a timely and efficient manner. Agendas may be prepared with estimated times for categorical areas and certain topics to be discussed. These times may vary according to the length of presentation and amount of resulting discussion on agenda items.

Public Comment – At the end of the agenda, an opportunity is also provided for members of the public to speak on any subject within the Board's authority. *Matters raised under "Public Comment" may not be acted upon at that meeting. The time limits established in "Public Testimony on any Item" still apply.*

Disruptive Conduct – If any meeting of the Board is willfully disrupted by a person or by a group of persons so as to render the orderly conduct of the meeting impossible, the Chair may recess the meeting or order the person, group or groups of person willfully disrupting the meeting to leave the meeting or to be removed from the meeting. Disruptive conduct includes addressing the Board without first being recognized, not addressing the subject before the Board, repetitiously addressing the same subject, failing to relinquish the podium when requested to do so, or otherwise preventing the Board from conducting its meeting in an orderly manner. *Please be aware that a NO SMOKING policy has been established for meetings. Your cooperation is appreciated!*

SANBAG General Practices for Conducting Meetings of Board of Directors and Policy Committees

Basic Agenda Item Discussion.

- The Chair announces the agenda item number and states the subject.
- The Chair calls upon the appropriate staff member or Board Member to report on the item.
- The Chair asks members of the Board/Committee if they have any questions or comments on the item. General discussion ensues.
- The Chair calls for public comment based on "Request to Speak" forms which may be submitted.
- Following public comment, the Chair announces that public comment is closed and asks if there is any further discussion by members of the Board/Committee.
- The Chair calls for a motion from members of the Board/Committee.
- Upon a motion, the Chair announces the name of the member who makes the motion. Motions require a second by a member of the Board/Committee. Upon a second, the Chair announces the name of the Member who made the second, and the vote is taken.

The Vote as specified in the SANBAG Bylaws.

- Each member of the Board of Directors shall have one vote. In the absence of the official representative, the alternate shall be entitled to vote. (Board of Directors only.)
- Voting may be either by voice or roll call vote. A roll call vote shall be conducted upon the demand of five official representatives present, or at the discretion of the presiding officer.

Amendment or Substitute Motion.

- Occasionally a Board Member offers a substitute motion before the vote on a previous motion. In instances where there is a motion and a second, the maker of the original motion is asked if he would like to amend his motion to include the substitution or withdraw the motion on the floor. If the maker of the original motion does not want to amend or withdraw, the substitute motion is not addressed until after a vote on the first motion.
- Occasionally, a motion dies for lack of a second.

Call for the Question.

- At times, a member of the Board/Committee may "Call for the Question."
- Upon a "Call for the Question," the Chair may order that the debate stop or may allow for limited further comment to provide clarity on the proceedings.
- Alternatively and at the Chair's discretion, the Chair may call for a vote of the Board/Committee to determine whether or not debate is stopped.
- The Chair re-states the motion before the Board/Committee and calls for the vote on the item.

The Chair.

- At all times, meetings are conducted in accordance with the Chair's direction.
- These general practices provide guidelines for orderly conduct.
- From time-to-time circumstances require deviation from general practice.
- Deviation from general practice is at the discretion of the Board/Committee Chair.

Courtesy and Decorum.

- These general practices provide for business of the Board/Committee to be conducted efficiently, fairly and with full participation.
- It is the responsibility of the Chair and Members to maintain common courtesy and decorum.

Adopted By SANBAG Board of Directors January 2008

Important Dates to Remember...
October 2012

SANBAG Meetings – Cancelled:
Plans and Programs Committee no longer meets; content will be absorbed into other committees.

SANBAG Meetings – Scheduled:			
Administrative Committee	Oct. 10	9:00 am	The Super Chief
Major Projects Committee	Oct. 11	9:00 am	The Super Chief
Commuter Rail & Transit Committee	Oct. 18	12:00 pm	The Super Chief
Mountain/Desert Committee	Oct. 19	9:00 am	Town of Apple Valley

Other Meetings/Events:			
Metrolink East Maintenance Facility Expansion Project Groundbreaking	Oct. 4	10:00 am	EMF Facility, exit Mill St. at Bordwell Ave., Colton
I-15/Duncan Canyon Road Interchange Project Groundbreaking	Oct. 12	10:00 am	Southeast quadrant near Duncan Canyon Rd/I-15
High Desert Opportunity	Oct. 18	8:00 am-3:00 pm	Fairgrounds in Victorville

For additional information, please call SANBAG at (909) 884-8276

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TRANSPORTATION MEASURE I

■ San Bernardino County Transportation Commission ■ San Bernardino County Transportation Authority
■ San Bernardino County Congestion Management Agency ■ Service Authority for Freeway Emergencies

Minute Action

AGENDA ITEM 1

Date: October 3, 2012

Subject: Information Relative to Possible Conflict of Interest

Recommendation**: Note agenda items and contractors/subcontractors, which may require member abstentions due to possible conflicts of interest.

Background: In accordance with California Government Code 84308, members of the SANBAG Board may not participate in any action concerning a contract where they have received a campaign contribution of more than $250 in the prior twelve months from an entity or individual, except for the initial award of a competitively bid public works contract. This agenda contains recommendations for action relative to the following contractors:

Closed Session #1 – Conference with Legal Counsel – Existing Litigation

PARCEL	POTENTIAL CONFLICTS OF INTEREST
B-235/237	ORANGE SHOW ROAD PROPERTIES, LLC, a California limited liability company
B-239	ORANGE SHOW ROAD PROPERTIES, LLC, a California limited liability company; SB OIL, INC., a California corporation
B-243	WORLD OIL MARKETING COMPANY, a California corporation (Officers/Directors: Bernard B. Roth; Toshiko G. Chan; Robert S. Roth; Florence Roth; Richard N. Roth; Steven F. Roth)

*

Approved
Board of Directors

Date: _____

Moved: *Second:*

In Favor: *Opposed:* *Abstained:*

Witnessed: _____

COG	X	CTC	X	CTA	X	SAFE	X	CMA	X

Check all that apply
BRD1210-aa

B-245	F & C JARA PROPERTIES FOURTH LIMITED PARTNERSHIP, a California limited partnership; THE JARA MEXICAN FOOD, INC., a Nevada corporation, dba PANCHO VILLA'S RESTAURANT MEXICAN GRILL (Officers/Directors: Francisco J. Jara; Carmen Y. Jara)
C-18/20/22	EL TORITO RESTAURANTS, INC., a California corporation (Officers/Directors: Richard Edwin Rivera; Madelaine Louise Morrow; Richard Paul Dutkiewicz)
C-33	RAFAAT RYAD LUGA, an individual, dba M&J Union 76
C-39/40/44/45/ 46/47/48/49/50/ 51/52/57/58	RANCON REALTY FUND IV & V, California limited partnerships (Members: Daniel Lee Stephenson); RANCON REALTY FUND IV & V SUBSIDIARY LLC, Delaware limited liability companies (Officers/Directors: John H. Brink); SWH CORPORATION, a California corporation, dba MIMI'S CAFÉ (Officers/Directors: Timothy J. Pulido; Roger H. Tefft; Toan (aka Tom) Nguyen; Donald J. Radkoski; Tod P. Spornhauer; Steven A. Davis); TRI-CITY CORPORATE CENTRE MAINTENANCE ASSOCIATION NO.1, a suspended California non-profit mutual benefit corporation
C-42	N AND D RESTAURANTS, INC., a Florida corporation
C-71	COSTCO WHOLESALE CORPORATION, a Washington corporation (Officers: Walter Craig Jelinek; Joel Benoliel; Richard A. Galanti)

Closed Session #2 – Public Employee Performance Evaluation

	Eileen Teichert

Closed Session #3 – Conference with Real Property Negotiators

	Doug Dennington, Van Valkenburgh Investments, LLC

Consent/Discussion Calendar Items

Item No.	Contract No.	Principals & Agents	Subcontractors
5	C12238	Bazilio Cobb Associates PC *Michael J. de Castro*	None
7	C13036	Robert D. Herrick	None
17	C13018	BNSF Railway Company *Melvin Thomas*	None

Item No.	Contract No.	Principals & Agents	Subcontractors
18	C12240	Vali Cooper & Associates, Inc. *Agnes Weber*	Converse Consultants David Evans & Associates, Inc. Hernandez, Kroone & Associates Meadows Consulting Westbound Communication
19	C13012	Athalye Consulting Engineering Services, Inc. *David Tiberi*	HDR Towill, Inc. Group Delta Consultants Arellano Associates
21	APN# 0349-174-07 0349-191-09 0349-181-23	Property Owners: Atchison, Topeka and Santa Fe Railroad Union Pacific Railroad BNSF Railroad	None
22	APN# 0422-043-05 0422-043-06 0422-043-07 0422-043-08 0497-142-26 0497-131-59 0421-172-12 0497-142-25 0497-131-52 0422-042-12 0422-041-07 0422-011-04 0421-181-11 0422-011-13 0422012-19 0422-012-11 0422-012-22 0421-181-08 0497-131-65	Property Owners: Mona L. Young “” “” “” “” “” “” Wibur Walter Gassaway and Elaine Frances Gassaway Carroll Fulmer Management Co. Clayton A. Carmean and Janice J. Carmean, and Albert H. Vogler and Rita K. Vogler Richard D. Bowers Warren Opie Wallis Naji Razzouk Nabil and Janet Razzouk Chong Nam Yim and Young Ja Yim Cong Nam Yim and Young Ja Yim Metor Finance, A California Corporation Daniel Gallardo “” “” “” “” Lawrence W. and Beverly A. Watson Laurence K. Brown	None

Item No.	Contract No.	Principals & Agents	Subcontractors
26	APN# 0266-021-17 0266-021-18 0266-021-32 0266-021-39 0266-021-43 0262-051-29 0266-041-62 0266-041-69 0266-041-70	Property Owners: S.B. Universal Self Storage, LLC Van Valkenburgh Investments LLC/ James F. Jordan, Trustee of the Jordan Revocable Trust CalMat Land Company Palm Avenue SB LLC Gaelle II, LLC Gurbax r. and Rajni Marwah Trustees of the Marwah Family Trust	None
27	APN# 0160-241-11 0160-241-56 0160-241-59 0160-241-57 0160-241-58 0161-081-10	Property Owners: Colton Industrial Park, LP R.J. & R. Partnership Thomas Hayward Mr. Ernesto & Mrs. Ivelisse Alcala	None
28	C12224	Ortiz Enterprises, Inc. *Patrick Ortiz*	Hardy & Harpers Cooper Engineering, Inc. The Mahaffey Companies CGO Construction Rogan Concrete Coring & Sawing Lincoln Pacific Alcorn Fence Company Diversified Landscape LI Johnson Construction , Inc. Griffith Company SRD Engineering West Coast Welding, Inc. Coreslab Structures, Inc. Integrity Rebar Placers Professional Concrete Sawing, Inc. R.J. Lalonde, Inc. Coral Construction Company

Financial Impact: This item has no direct impact on the SANBAG budget.

Reviewed By: This item is prepared monthly for review by SANBAG Board and Committee members.

BRD1210z-aa

BOARD OF DIRECTORS ATTENDANCE RECORD – 2012

Name	Jan	Feb	March	April	May	June	July	Aug	Sept	Oct	Nov	Dec
Gary Ovitt Board of Supervisors	X	X	X	X	X	X	X	X	X			
Brad Mitzelfelt Board of Supervisors	X	X		X	X		X	X				
Janice Rutherford Board of Supervisors	X	X	X	X	X	X	X	X	X			
Josie Gonzales Board of Supervisors	X	X		X	X	X	X	X				
Neil Derry Board of Supervisors	Self-Suspension as of 5/3/2011	X	X	X	X		X					
Cari Thomas City of Adelanto	X	X	X	X	X	X	X	X	X			
Rick Roelle Town of Apple Valley	*	X	X / *	X	X		X	X	X			
Julie McIntyre City of Barstow	X	X	X		X		X	X	X			
Bill Jahn City of Big Bear Lake	X	X	X	X	X			X				
Dennis Yates City of Chino	X	X	X	X	X	X	X	X	X			
Ed Graham City of Chino Hills	X	X	X	X	X	X	X	X	X			
Sarah Zamora City of Colton	X	*	X	X	X	X	X	X	X			
Michael Tahan City of Fontana	X	X		X	X	X		X	X			
Walt Stanckiewitz City of Grand Terrace	X	X	X	X	X	X			X			
Mike Leonard City of Hesperia	X	X	X	X	X	X	X	X				
Larry McCallon City of Highland	X	X	X	X	X	X		X				

X = member attended meeting. * = alternate member attended meeting. Empty box = Did not attend meeting Crossed out box = not a Board Member at the time.

BOARD OF DIRECTORS ATTENDANCE RECORD – 2012

Name	Jan	Feb	March	April	May	June	July	Aug	Sept	Oct	Nov	Dec
Rhodes 'Dusty' Rigsby City of Loma Linda	X	X	X	X	X	X	X	X	X			
Paul Eaton City of Montclair	X	X	X		X	X	X		X			
Edward Paget City of Needles	X	X	X	X	X	X	X	X	X			
Alan Wapner City of Ontario	X	X	X / *	X	X	X	X	X				
L. Dennis Michael City of Rancho Cucamonga	X	X	X	*	X	X		X	X			
Pete Aguilar City of Redlands	X	X	X	X	X	X	X	X	X			
Ed Scott City of Rialto	X	X	X	X	X	X	X	X	X			
Patrick Morris City of San Bernardino	X	X	X	X	X	X		X	X			
Jim Harris City of Twentynine Palms	X	X	X	X	X	X	X	X				
Ray Musser City of Upland	X	X	X	X	X	X	X	X	X			
Ryan McEachron City of Victorville	X	X		X	X	X		X	X			
Dick Riddell City of Yucaipa	X	X	x	X	X	X	X	X	X			
George Huntington Town of Yucca Valley	X	X	X	X	X	X	X	X	X			
Ray Wolfe Ex-Official Member	X	X	X	X								
Syed Raza Ex-Official Member					X							
Basem Muallem Ex-Official Member						X	X	X	Syed Raza			

X = member attended meeting. * = alternate member attended meeting. Empty box = Did not attend meeting Crossed out box = not a Board Member at the time.

BOARD OF DIRECTORS ATTENDANCE RECORD - 2011

Name	Jan	Feb	March	April	May	June	July	Aug	Sept	Oct	Nov	Special Nov 10 Mtg.	Special Nov 16 Mtg.	Dec
Gary Ovitt Board of Supervisors	X		X	X		X	X	X	X					X
Brad Mitzelfelt Board of Supervisors	X	X	X	X	X	X	X	X		X	X		X	X
Janice Rutherford Board of Supervisors	X	X	X	X	X	X	X	X	X	X	X			X
Josie Gonzales Board of Supervisors	X		X	X	X		X	X		X	X	X		X
Neil Derry Board of Supervisors	X	X	X	X	Self-Suspension as of 5/3/2011	Self-Suspension as of 5/3/2011	Self-Suspension as of 5/3/2011	Self-Suspension as of 5/3/2011	Self-Suspension as of 5/3/2011	Self-Suspension as of 5/3/2011	Self-Suspension as of 5/3/2011	Self-Suspension as of 5/3/2011	Self-Suspension as of 5/3/2011	Self-Suspension as of 5/3/2011
Cari Thomas City of Adelanto	X	X	X	X	X	X		X	X	X	X			X
Rick Roelle Town of Apple Valley	X	X	X	X	X	X	X	X	X	*	X		X	X
Julie McIntyre City of Barstow	X	X	X			X		X	X		X		X	X
Bill Jahn City of Big Bear Lake	X	X	X	X	X	X	X		X	X	X		X	X
Dennis Yates City of Chino	X	X	X	X	X	X	X	X	X	X	X		X	X
Ed Graham City of Chino Hills	X	X	X	X	X	X	*	X	X	X	X	X	X	
David Zamora City of Colton	X	X	X	X	X	X	X	*						
Sarah Zamora City of Colton									X	X	X			X
John Roberts City of Fontana	X													
Michael Tahan City of Fontana		*	*	X	X	X	X	X	X	X	X		*	X
Walt Stanckiewitz City of Grand Terrace	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Mike Leonard City of Hesperia	X		X	X	X	X	X	X	*	*	X	X	X	
Larry McCallon City of Highland	X	X	X	X	X	X	X	X	X	X	X	X	X	X

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brdatt11

BOARD OF DIRECTORS ATTENDANCE RECORD - 2011

Name	Jan	Feb	March	April	May	June	July	Aug	Sept	Oct	Nov	Special Nov 10 Mtg.	Special Nov 16 Mtg.	Dec
Rhodes 'Dusty' Rigsby City of Loma Linda	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Paul Eaton City of Montclair	X	X	X	X		X	X	X			X	X	X	X
Edward Paget City of Needles	X	X	X	X	X	X	X	X	X	X	X		X	X
Alan Wapner City of Ontario	X	X	X	X	X	X	X	X	*	X	X	*	X	X
Diane Williams City of Rancho Cucamonga	X	X												
L. Dennis Michael City of Rancho Cucamonga			X	*	X	X	X	X	X	X	X		X	X
Jon Harrison City of Redlands	X	*	X	X	X	*								
Pete Aguilar City of Redlands							X	X	X	X	X	X	X	X
Ed Scott City of Rialto	X	X	*	X	X		X	X		X	X	X	X	X
Patrick Morris City of San Bernardino	X	X	X	X	X	X		X	X	X	X	X		X
Jim Harris City of Twentynine Palms	X	X	X	X	X	X	X	X	X	X	X			X
John Pomierski City of Upland	X	X												
Ray Musser City of Upland			X	X	X	X	X		X	X	X	*	X	X
Ryan McEachron City of Victorville	X	X	X	X	X	X	X	X	X	X	X		X	X
Dick Riddell City of Yucaipa	X	X	X	X	X	X	X	X	X	X	X	X	X	X
George Huntington Town of Yucca Valley	X	X	X	X	X	*	X	X	X	X	X		X	
Ray Wolfe Ex-Official Member	X	X	Basem Muallem	Basem Muallem	X	X	X	Basem Muallem	X	Basem Muallem	X			Basem Muallem

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brdatt11

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TRANSPORTATION MEASURE I

San Bernardino County Transportation Commission ■ San Bernardino County Transportation Authority
San Bernardino County Congestion Management Agency ■ Service Authority for Freeway Emergencies

Minute Action

AGENDA ITEM: 3

Date: October 3, 2012

Subject: August 2012 Procurement Report

Recommendation:* Receive August 2012 Procurement Report.

Background: The Board of Directors adopted the Contracting and Procurement Policy (Policy No. 11000) on January 3, 1997, and approved the last revision on October 6, 2010. The Executive Director, or designee, is authorized to approve Purchase Orders up to an amount of $50,000. All procurements for supplies and services approved by the Executive Director, or designee, in excess of $5,000 shall be routinely reported to the Administrative Committee and to the Board of Directors.

Attached are the purchase orders in excess of $5,000 to be reported to the Administrative Committee for the month of August 2012.

Financial Impact: This item imposes no impact on the fiscal year 2012/2013 budget. Presentation of the monthly procurement report will demonstrate compliance with the Contracting and Procurement Policy (Policy No. 11000).

Reviewed By: This item was received by the Administrative Committee on September 12, 2012.

Responsible Staff: William Stawarski, Chief Financial Officer

*

Approved
Board of Directors

Date: _____

Moved: *Second:*

In Favor: *Opposed:* *Abstained:*

Witnessed: _____

COG	X	CTC	X	CTA	X	SAFE	X	CMA	X

Check all that apply.
BRD1210a-ws

August 2012 Report of Purchase Orders

PO No.	PO Issue Date	Vendor	Purpose	Amount
4000886	8/02/12	GM Business Interiors	Purchase two new ethos pace workstations with seating, additional work surface for postage machine in Room 7, reconfiguration of existing postage area into workstation with seating, freestanding pedestal drawer for legal counsel, and labor to reconfigure existing filing cabinets in mid-depot hallway.	$29,624.14
4000891	8/08/12	Vavrinek, Trine, Day (VTD) & Co., CPA	During mid-2012 SANBAG procured auditing services from VTD for the fiscal year audits 2012-14, with option extensions for FY 2015 to 2016. SANBAG can amend the contract with VTD to adjust the scope to include MARTA's financial audit for FY 2011; however, this could take up to 3 months. MARTA currently is under significant financial constraints and SANBAG provides a major portion of their budget through TDA funds; however, SANBAG is not allowed to provide TDA funds unless a prior year audit has been completed and submitted to SANBAG. Predecessor Auditor, Miers and Miers, has not completed financial report and required single audit for FY 2011.	$35,000.00
4000893	8/08/12	Mobility 21 Transportation, Coalition	Annual partner membership dues.	$20,000.00
4000889	8/17/12	APPLE ONE	Temporary office assistance to provide receptionist duties, copying, and other clerical tasks. Billed rate, at County's negotiated rate, is $14.19/hr.	$5,400.00
4000901	8/27/12	Hinderliter, De Llamas & Assoc	SANBAG has an agreement (91026A) with the County to share costs for this vendor to provide sales tax analysis.	$9,600.00
4000903	8/28/12	BNSF Railway Company	SANBAG is currently working on several projects to be constructed over, under and adjacent to the BNSF Railway corridor in San Bernardino that require design and construction coordination. BNSF has indicated that they can contract for outside consulting services in order to expedite the review and approval of these agreements. The agreements are required for the right of way certification and ready to list for our projects. SANBAG needs agreements to construct the projects.	$20,000.00
**Note: Sole Source justification is noted in the Purpose statement, if applicable.*			**Total**	**$119,624.14**

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TRANSPORTATION MEASURE I

- San Bernardino County Transportation Commission
- San Bernardino County Transportation Authority
- San Bernardino County Congestion Management Agency
- Service Authority for Freeway Emergencies

Minute Action

AGENDA ITEM: 4

Date: October 3, 2012

Subject: Budget to Actual Report for fourth quarter ending June 30, 2012

Recommendation:* Receive and file Budget to Actual Report for fourth quarter ending June 30, 2012.

Background: SANBAG's Budget for Fiscal Year 2011/2012 for new activity was adopted by the Board of Directors on June 1, 2011. This report provides a summary of program activity and task activity compared to budget. Budgetary information includes the original and revised budgets, and year to date expenditures.

Financial Impact: This item reports the status of expenditures against budget and imposes no financial impact on the Fiscal Year 2011/2012 Budget.

Reviewed By: This item was received by the Administrative Committee on September 12, 2012.

Responsible Staff: William Stawarski, Chief Financial Officer

*

Approved
Board of Directors

Date: _____

Moved: *Second:*

In Favor: *Opposed:* *Abstained:*

Witnessed: _____

COG	X	CTC	X	CTA	X	SAFE	X	CMA	X

Check all that apply.

BRD1210b-ws

http://portal.sanbag.ca.gov/mgmt/committee/admin/Admin2012/adm1209/AgendaItems/ADM1209b-ws.docx

ATTACHMENT 1

San Bernardino Associated Governments
Budget to Actual Report: July 2011 - June 2012
Fiscal Year 2011/2012

AIR QUALITY & TRAVELER SERVICES PROGRAM

TASK#	TASK DESCRIPTION	ORIGINAL BUDGET	AMENDMENTS	ENCUMBRANCES	REVISED BUDGET	EXPENDITURES	TASK BALANCE	% OF BUDGET EXPENDED
0102	Air Quality Activities	140,177	-	-	140,177	68,857	71,320	49.12%
0406	Rideshare Management	2,106,653	25,250	600	2,132,503	1,740,125	392,378	81.60%
0702	Call Box System	1,720,467	-	159,950	1,880,417	924,388	956,029	49.16%
0704	Freeway Service Patrol/State	1,813,207	(250)	231,045	2,044,002	1,725,521	318,481	84.42%
0706	Intelligent Transportation Systems	96,820	-	-	96,820	10,710	86,110	11.06%
0812	Clean Fuels Implementation	4,990,148	-	11,403,503	16,393,651	12,026,705	4,366,946	73.36%
TOTAL AIR QUALITY & TRAVELER SERVICES PROGRAM		**10,867,472**	**25,000**	**11,795,098**	**22,687,570**	**16,496,306**	**6,191,264**	**72.71%**

TRANSPORTATION PLANNING & PROGRAMMING PROGRAM

TASK#	TASK DESCRIPTION	ORIGINAL BUDGET	AMENDMENTS	ENCUMBRANCES	REVISED BUDGET	EXPENDITURES	TASK BALANCE	% OF BUDGET EXPENDED
0110	Regional Transportation Planning	180,599	35,958	-	216,557	207,607	8,950	95.87%
0111	Freight Movement Planning	118,921	(35,958)	-	82,963	42,755	40,208	51.54%
0112	Growth Forecasting & Planning	152,844	(35,958)	-	116,886	90,585	26,301	77.50%
0202	Transportation Modeling & Forecasting	184,083	10,000	53,478	247,561	155,407	92,154	62.78%
0203	Congestion Management	131,271	-	-	131,271	81,349	49,922	61.97%
0213	High Desert Corridor Studies	21,856	292,808	-	314,664	5,900	308,764	1.88%
0373	Federal/State Fund Administration	890,576	(71,529)	-	819,047	731,656	87,391	89.33%
0404	Subregional Transportation Planning	291,764	179,000	-	470,764	207,538	263,226	44.09%
0409	Data Development & Management	228,129	61,129	-	289,258	242,961	46,297	83.99%
0500	Transportation Improvement Program	237,447	63,071	-	300,518	300,103	415	99.86%
0526	Subregional Transportation Monitoring	49,073	-	-	49,073	3,826	45,247	7.80%
0609	Strategic Planning/Delivery Planning	427,909	189,458	16,000	633,367	282,731	350,636	44.64%
0701	Valley Signal Coordination	2,204,486	1,124,617	2,348,588	5,677,691	3,370,006	2,307,685	59.36%
0941	Mt./Desert Planning & Project Development	221,668	(17,979)	-	203,689	196,366	7,323	96.40%
TOTAL TRANSPORTATION PLANNING & PROGRAMMING PROGR		**5,340,626**	**1,794,617**	**2,418,066**	**9,553,309**	**5,918,790**	**3,634,519**	**61.96%**

MAJOR PROJECT DELIVERY PROGRAM

TASK#	TASK DESCRIPTION	ORIGINAL BUDGET	AMENDMENTS	ENCUMBRANCES	REVISED BUDGET	EXPENDITURES	TASK BALANCE	% OF BUDGET EXPENDED
0815	Measure I Program Management	6,053,511	(507,464)	303,904	5,849,951	3,425,426	2,424,525	58.55%
0817	SR-60 Sound Wall	945,754	(76,870)	36,576	905,460	644,992	260,468	71.23%
0819	Hwy 62 & Rotary Way Traffic Signal Project	-	450,000	-	450,000	-	450,000	0.00%
0820	SR 210 Final Design	205,388	(30,000)	151,821	327,209	41,471	285,738	12.67%
0822	SR 210 Right of Way Acquisition	2,085,045	-	269,127	2,354,172	1,673,937	680,235	71.11%
0824	SR 210 Construction	8,922,958	38,000	4,661,934	13,622,892	6,857,362	6,765,530	50.34%
0825	I-10 Corridor Project Development	1,979,255	-	1,274,705	3,253,960	1,103,410	2,150,550	33.91%
0826	I-10 Citrus/Cherry Interchanges	42,396,327	(1,895)	4,929,102	47,323,534	6,673,960	40,649,574	14.10%
0830	I-215 San Riv Project Development	16,758	-	-	16,758	-	16,758	0.00%
0834	I-215 Final Design	276,160	-	192,251	468,411	64,923	403,488	13.86%
0836	I-215 Right of Way Acquisition	4,123,124	-	2,560,096	6,683,220	494,843	6,188,377	7.40%
0838	I-215 Construction	45,115,858	135,000	17,697,240	62,948,098	47,780,731	15,167,367	75.90%
0839	I-215 Bi- County HOV Gap Closure Project	8,725,178	-	576,595	9,301,773	4,735,059	4,566,714	50.90%
0840	I-215 Barton Road Interchange	840,597	-	5,935	846,532	627,762	218,770	74.16%
0841	I-10 Riverside Interchange	5,625,035	12,682	8,314,117	13,951,834	11,106,333	2,845,501	79.60%
0842	I-10 Tippecanoe Interchange	5,980,901	2,387,522	6,488,967	14,857,390	2,055,627	12,801,763	13.84%
0843	I-10 Live Oak Canyon	-	-	8,653	8,653	8,653	-	100.00%

Budget to Actual Report: July 2011 - June 2012
Fiscal Year 2011/2012

0845	Mt. Vernon/Washington Interchange	345,004	-	338,060	683,064	227,139	455,925	33.25%
0850	Alternative Project Financing	3,127,299	(160,000)	29,400	2,996,699	555,928	2,440,771	18.55%
0862	I-10 Westbound Lane Addition - Yucaipa	6,042,662	124,552	6,046,638	12,213,852	11,154,472	1,059,380	91.33%
0869	Glen Helen Parkway Grade Separation	6,144,418	-	-	6,144,418	2,920,592	3,223,826	47.53%
0870	Hunts Lane Grade Separation	14,143,498	4,044,246	634,652	18,822,396	2,856,328	15,966,068	15.18%
0871	State St./University Parkway Grade Separation	350,956	4,762	-	355,718	5,514	350,204	1.55%
0874	Palm Avenue Grade Separation	7,000,602	1,507,464	3,022,429	11,530,495	1,593,221	9,937,274	13.82%
0875	Main Street Grade Separation	50,000	-	-	50,000	-	50,000	0.00%
0876	South Milliken Avenue Grade Separation	5,713,901	-	764,598	6,478,499	1,982,091	4,496,408	30.59%
0877	Vineyard Avenue Grade Separation	7,347,188	-	24,586	7,371,774	704,057	6,667,717	9.55%
0879	Colton Crossing BNSF/UPRR Grade Separation	36,495,511	44,688	-	36,540,199	2,910,820	33,629,379	7.97%
0880	I-15/I-215 Devore Interchange	12,098,571	12,740,000	9,800	24,848,371	16,123,677	8,724,694	64.89%
0881	Lenwood Avenue Grade Separation	6,465,500	(43,300)	413,568	6,835,768	1,205,801	5,629,967	17.64%
0882	North Milliken Avenue Grade Separation	26,649,224	(20,000)	12,004,553	38,633,777	19,042,910	19,590,867	49.29%
0883	SR 210 Pepper Avenue Interchange	813,252	-	800,000	1,613,252	519,060	1,094,192	32.17%
0884	Laurel Avenue Grade Separation	7,563,452	760,873	53,125	8,377,450	2,268,240	6,109,210	27.08%
0885	9th Street Rail Improvements	104,437			104,437	2,017	102,420	1.93%
0886	Colton Quiet Zone Project	2,442,707	-	-	2,442,707	184,866	2,257,841	7.57%
0887	SR 210 Lane Addition	1,045,061			1,045,061	62,302	982,759	5.96%
0888	I-15 La Mesa/Nisqualli Interchange	6,000,000	12,087,245	23,809	18,111,054	12,856,430	5,254,624	70.99%
0889	Yucca Loma Bridge	4,300,000	(100,000)		4,200,000	19,814	4,180,186	0.47%
0890	I-15 Ranchero Interchange		200,000		200,000	132,799	67,201	66.40%
0960	2009 A Sales Tax Revenue Note	261,335,100	126,155	-	261,461,255	261,461,255	-	100.00%
0965	2012 A Sales Tax Revenue Bond	-	-	-	-	-	-	0.00%
TOTAL MAJOR PROJECT DELIVERY PROGRAM		**548,870,192**	**33,723,660**	**71,636,241**	**654,230,093**	**426,083,822**	**228,146,271**	**65.13%**

TRANSIT & PASSENGER RAIL PROGRAM

TASK#	TASK DESCRIPTION	ORIGINAL BUDGET	AMENDMENTS	ENCUMBRANCES	REVISED BUDGET	EXPENDITURES	TASK BALANCE	% OF BUDGET EXPENDED
0309	General Transit	309,401	154,619		464,020	320,050	143,970	68.97%
0315	Omnitrans	3,976,523	3,954,213	4,433,798	12,364,534	6,897,886	5,466,648	55.79%
0316	Barstow-County- Transit	49,710	105,942	70,069	225,721	145,917	79,804	64.64%
0317	Victor Valley Transit	107,223	622,938	-	730,161	671,453	58,708	91.96%
0318	Morongo Basin Transit	52,913	107,892	-	160,805	152,461	8,344	94.81%
0319	Social Service Transportation Plan	448,315	(21,350)	200,000	626,965	167,244	459,721	26.68%
0320	Needles Transit	21,202	(1,933)	-	19,269	13,076	6,193	67.86%
0321	Mountain Area Transit	60,727	52,442	86,809	199,978	173,231	26,747	86.63%
0352	General Commuter Rail	573,308	-	76,326	649,634	259,693	389,941	39.98%
0377	Commuter Rail Operating Expenses	10,417,103	1,571,106	287,712	12,275,921	10,323,642	1,952,279	84.10%
0379	Commuter Rail Capital Expenses	-	(1,282,799)	12,118,946	10,836,147	2,781,299	8,054,848	25.67%
0380	Redlands Rail Extension	15,171,583	12,187,019	-	27,358,602	11,113,424	16,245,178	40.62%
0381	Gold Line Phase II	265,451	-	-	265,451	6,471	258,980	2.44%
0382	San Bernardino Transit Center	-	8,943,261	-	8,943,261	591,365	8,351,896	0.00%
0501	Federal Transit Act Programming	24,545	-	14,083	38,628	12,871	25,757	33.32%
TOTAL TRANSIT & PASSENGER RAIL PROGRAM		**31,478,004**	**26,393,350**	**17,287,743**	**75,159,097**	**33,630,083**	**41,529,014**	**44.75%**

San Bernardino Associated Governments
Budget to Actual Report: July 2011 - June 2012
Fiscal Year 2011/2012

TRANSPORTATION FUND ADMINISTRATION PROGRAM

TASK#	TASK DESCRIPTION	ORIGINAL BUDGET	AMENDMENTS	ENCUMBRANCES	REVISED BUDGET	EXPENDITURES	TASK BALANCE	% OF BUDGET EXPENDED
0502	TDA Administration	598,599	44,000	26,505	669,104	228,080	441,024	34.09%
0504	Measure I Administration	360,851	56,972		417,823	285,369	132,454	68.30%
0506	Local Transportation Fund	52,977,596	-	64,387,308	117,364,904	116,604,793	760,111	99.35%
0507	State Transit Assistance Fund	6,900,000	-	36,732,954	43,632,954	4,423,195	39,209,759	10.14%
0513	Measure I Valley Senior & Disabled	5,300,000	1,750,250	-	7,050,250	6,850,250	200,000	97.16%
0515	Measure I Valley Apportionment & Allocation	8,541,550	(1,134,502)	4,568,426	11,975,474	841,969	11,133,505	7.03%
0610	Measure I 2010-2040 Project Advancement	10,889,226	1,134,502	-	12,023,728	11,209,540	814,188	93.23%
0615	Measure I Local Stimulus	-	(775,975)	17,359,597	16,583,622	8,942,628	7,640,994	53.92%
0918	Measure I Local Pass-through	31,001,230	6,823,652	-	37,824,882	37,659,797	165,085	99.56%
TOTAL TRANSPORTATION FUND ADMINISTRATION PROGRAM		**116,569,052**	**7,898,899**	**123,074,790**	**247,542,741**	**187,045,621**	**60,497,120**	**75.56%**

GENERAL - COUNCIL OF GOVERNMENTS SUPPORT PROGRAM

TASK#	TASK DESCRIPTION	ORIGINAL BUDGET	AMENDMENTS	ENCUMBRANCES	REVISED BUDGET	EXPENDITURES	TASK BALANCE	% OF BUDGET EXPENDED
0104	Intergovernmental Relations	365,865	(622)	-	365,243	231,860	133,383	63.48%
0490	Council of Governments New Initiatives	125,854	31,970	446,636	604,460	192,465	411,995	31.84%
0503	Legislation	647,827	16,006	-	663,833	475,544	188,289	71.64%
0601	County Transportation Commission-General	454,052	75,209	-	529,261	463,052	66,209	87.49%
0605	Publications & Public Outreach	509,237	(73,715)	-	435,522	370,152	65,370	84.99%
0805	Building Operations	81,039	-	14,392	95,431	19,690	75,741	20.63%
0806	Building Improvements	18,272	-	-	18,272	914	17,358	5.00%
0942	Financial Management	713,834	622	402,548	1,117,004	963,570	153,434	86.26%
TOTAL COUNCIL OF GOVERNMENTS SUPPORT PROGRAM		**2,915,980**	**49,470**	**863,576**	**3,829,026**	**2,717,247**	**1,111,779**	**70.96%**
GRAND TOTAL ALL PROGRAMS		**716,041,326**	**69,884,996**	**227,075,514**	**1,013,001,836**	**671,891,869**	**341,109,967**	**66.33%**

CONSOLIDATED BY PROGRAM

PROGRAM DESCRIPTION	ORIGINAL BUDGET	AMENDMENTS	ENCUMBRANCES	REVISED BUDGET	EXPENDITURES	PROGRAM BALANCE	% OF BUDGET EXPENDED
AIR QUALITY & TRAVELER SERVICES PROGRAM	10,867,472	25,000	11,795,098	22,687,570	16,496,306	6,191,264	72.71%
TRANSPORTATION PLANNING & PROGRAMMING PROGRAM	5,340,626	1,794,617	2,418,066	9,553,309	5,918,790	3,634,519	61.96%
MAJOR PROJECT DELIVERY PROGRAM	548,870,192	33,723,660	71,636,241	654,230,093	426,083,822	228,146,271	65.13%
TRANSIT & PASSENGER RAIL PROGRAM	31,478,004	26,393,350	17,287,743	75,159,097	33,630,083	41,529,014	44.75%
TRANSPORTATION FUND ADMINISTRATION PROGRAM	116,569,052	7,898,899	123,074,790	247,542,741	187,045,621	60,497,120	75.56%
GENERAL - COUNCIL OF GOVERNMENTS SUPPORT PROGRAM	2,915,980	49,470	863,576	3,829,026	2,717,247	1,111,779	70.96%
GRAND TOTAL ALL PROGRAMS	**716,041,326**	**69,884,996**	**227,075,514**	**1,013,001,836**	**671,891,869**	**341,109,967**	**66.33%**

Governments SANBAG Working Together

San Bernardino Associated Governments

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TRANSPORTATION MEASURE I

- San Bernardino County Transportation Commission
- San Bernardino County Transportation Authority
- San Bernardino County Congestion Management Agency
- Service Authority for Freeway Emergencies

Minute Action

AGENDA ITEM: 5

Date: October 3, 2012

Subject: Award On-Call Internal Audit and Price Review Services Contract

Recommendation:* Approve Contract No. C12238 to Bazilio Cobb Associates, P.C., for On-Call Internal Audit and Price Review Services for a three year contract with two one-year options to extend for an amount not-to-exceed $250,000 for the initial three year term.

Background: The San Bernardino Associated Governments (SANBAG) receives funding from federal, state and local funds for various public works construction projects. SANBAG was seeking a qualified auditing firm to serve on an "on-call" basis to perform pre-award price reviews for Architectural & Engineering (A&E) procurements and Non-A&E procurements. Services are anticipated to generally include pre-award price reviews, which shall be conducted as determined by SANBAG staff. The audits shall be conducted in accordance with Government Auditing Standards as issued by the Comptroller General of the United States.

On June 6, 2012, the SANBAG Board of Directors approved the release of a Request For Proposals (RFP) 12238 for On-Call Internal Audit and Price Review Services. The RFP was posted on SANBAG's website and RFP notifications were sent to approximately thirty-eight vendors who specialize in these services. A Pre-Proposal Meeting was conducted on June 20, 2012, and one (1) firm was in attendance. One (1) Addendum was issued to respond to proposers' written questions. On July 18, 2012, four (4) proposals were received by the date and

*

Approved
Board of Directors

Date: _____

Moved: *Second:*

In Favor: *Opposed:* *Abstained: 0*

Witnessed: _____

COG		CTC	X	CTA	X	SAFE	X	CMA	X

Check all that apply.

BRD1210c-ws

http://portal.sanbag.ca.gov/mgmt/committee/directors/brd2012/brd1210/default.aspx?InitialTabId=Ribbon%2EDocument&VisibilityContext=WSSTabPersistence

time specified in the RFP. A responsive review was conducted for the four (4) proposals received on time. All four (4) proposals were found to be responsive to the RFP.

An Evaluation Committee was established to review the proposals. The Evaluation Committee consisted of one (1) external (outside) individual and three (3) SANBAG staff representing the various departments most affected by internal audits and price reviews services. The proposals were evaluated based on the evaluation criteria stated in the RFP, which were: qualifications of the firm; related experience and client references; the qualifications and experience of the staffing proposed; work plan; and price. Two (2) firms demonstrated significant experience in providing internal audits and price reviews services to the public sector. The staff proposed all had extensive experience, positive references, and fair and reasonable pricing. The Evaluation Committee agreed to interview the following two (2) firms (listed in alphabetical order):

BAZILIO COBB ASSOCIATES, P.C.

MAYER HOFFMAN MCCANN P.C.

On August 15, 2012, the Evaluation Committee conducted oral interviews with the two firms. The interviews were allotted fifty (50) minutes and consisted of an opening presentation followed by thirty (30) minutes of questions and answers. Each firm responded well to the questions and presented an overall understanding of the labor compliance process. The firm Bazilio Cobb Associates, P.C. clearly understood SANBAG's needs. The firm has extensive experience with transportation authorities, pre-award price review and Generally Acceptable Accounting Principal requirements. The firm responded very well to the questions posed, with each key person providing detailed responses. Based on the combination of technical strength and responses to the questions asked during the interview, and positive references, the Evaluation Committee selected Bazilio Cobb Associates, P.C. to provide On-Call Internal Audit and Price Review Services. The contract will have an initial term of three years with two one-year options to extend and a not-to-exceed amount of $250,000.

Financial Impact: This item is consistent with SANBAG's Fiscal Year 2012/2013 budget. Internal Audit and Price Review activities under this On-Call contract are budgeted under various projects.

Reviewed By: SANBAG General Counsel and Contract Administrator have approved this item and Contract as to form.

Responsible Staff: William Stawarski, Chief Financial Officer

CONTRACT SUMMARY SHEET

Contract No. C 12238 Amendment No. _____

By and Between

San Bernardino Associated Governments and Bazilio Cobb Associates, P.C.

Contract Description On call pre-award price reviews conducted in accordance with Government Auditing Standards as issued by the Comptroller General of the United States.

Board of Director's Meeting Date: 10/3/12
Overview of BOD Action: RFP released approved Board action 6/6/12

Is this a Sole-Source procurement? ☐ Yes ☒ No

CONTRACT OVERVIEW

Original Contract Amount	$	250,000	**Original Contingency Amount**	$	0
Revised Contract Amount *Inclusive of prior amendments*	$	0	**Revised Contingency Amount** *Inclusive of prior amendments*	$	0
Current Amendment Amount	$	0	**Contingency Amendment**	$	0
TOTAL CONTRACT VALUE	$	250,000	**TOTAL CONTINGENCY VALUE**	$	0
TOTAL BUDGET AUTHORITY *(contract value + contingency)*				$	250,000

Contract Start Date	Current Contract Expiration Date	Revised Contract Expiration Date
10/3/12	11/3/15, with 2 1-yr extensions	N/A

Has the contract term been amended? ☒ No ☐ Yes - please explain.

FINANCIAL INFORMATION

☒ Budget authority for this contract currently exists in Task No. Various Projects.
☐ A Budget Amendment is required.
How are we funding current FY?

☐ Federal Funds ☐ State Funds ☒ Local Funds ☐ TDA Funds ☒ Measure I Funds

*Provide Brief Overview of the **Overall** Funding for the duration of the Contract:*
This contract is funded in various projects each year for the term of the contract.

☒ Payable ☐ Receivable

CONTRACT MANAGEMENT INFORMATION

Check all applicable boxes:

☐ Retention? If yes, indicate % _____.

☐ Disadvantaged Business Enterprise (DBE) Goal _____ % ☐ Underutilized DBE (UDBE) Goal _____ %

Pamela Beaudrand for G. Cohoe			9/5/12
Task Manager (Print Name)		Signature	Date
		Mike Bannum	9/5/12
Project Manager (Print Name)		Signature	Date
Jeffery Hill			9/5/12
Contracts Administrator (Print Name)		Signature	Date
William Stawarski			9/5/12
Chief Financial Officer (Print Name)		Signature	Date

ATTACHMENT A
"SCOPE OF SERVICES"

Scope of Services

Consultant shall assist SANBAG staff in carrying out Board adopted policy and Federal regulations related to the procurement of goods and services.

Pre-Award Price Review Requirements

To comply with adopted policies and procedures related to the procurement of goods and services, SANBAG will conduct pre-award price reviews for competitive procurements with a value greater than $1,000,000 where the proposal is evaluated on its technical merit rather than cost. These procurements generally are for:

- Architectural and Engineering Services

Additionally, SANBAG may conduct pre-award price reviews of the following types of procurements:

- Single bid procurements
- Sole source procurements

Pre-Award Price Reviews

All pre-award price reviews shall be conducted in accordance with Government Auditing Standards issued by the Comptroller General of the United States as well as the cost principles identified in 48 CFR part 31. Each of the pre-award price reviews should include some or all of the following objectives:

a. To ensure that the proposer's proposed labor rates, overhead rates, other direct costs, and fixed fee are reasonable, allowable, and allocable and in conformity with the Federal Acquisition Regulations;
b. To ensure the proposer(s) complied with applicable prevailing wage rates;
c. To ascertain that the pricing or cost data are current, accurate, and complete;
d. To determine whether the proposer(s) is financially sound and stable; and
e. To determine the adequacy of the proposer's accounting systems in order to identify, account for, record, and accumulate costs; to identify and segregate direct and indirect costs; and to determine consistency in accounting treatment of costs.

Written Reports

Independent Accountant's Report for Applying Agreed-Upon Procedures (AUP) will be issued for each pre-award price review performed. In addition to AUP exceptions, all issues or concerns arising during the course of performing the AUPs, such as internal control issues, should be provided in the report. Reports will be submitted to SANBAG' Project Manager with a copy to the Contract Administrator.

Other Services

SANBAG may request, on an "as-needed basis" other auditing services relative to the procurement function such as closeout audits for capital construction projects or other service contracts. The audit will be conducted in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in Government Auditing Standards, issued by the Comptroller General of the United States.

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TRANSPORTATION MEASURE I

■ San Bernardino County Transportation Commission ■ San Bernardino County Transportation Authority
■ San Bernardino County Congestion Management Agency ■ Service Authority for Freeway Emergencies

Minute Action

AGENDA ITEM: 6

Date: October 3, 2012

Subject: Addition to Contracting and Procurement Policy No. 11000, Independent Cost Estimates

Recommendation:* Approve an addition to Contracting and Procurement Policy No. 11000, providing that Independent Cost Estimates will be required for all procurement actions, including but not limited to all contract amendments and contract change orders.

Background: In September 2012, the Board reviewed the audit findings from the California Department of Transportation (Caltrans). One of the findings identified in the audit report was that San Bernardino Associated Governments (SANBAG) staff did not prepare independent cost estimates as required by State and federal procurement guidelines. United States Department of Transportation, Federal Highways Administration and Federal Transit Administration requires recipients of federal dollars to "perform a cost or price analysis in connection with every procurement action, including contract modifications..." The starting point for cost or price analysis is the development of an independent cost estimate which should be used in the evaluation of the consultant's or contractor's price proposal.

An independent cost estimate (ICE) should be prepared by staff that is knowledgeable about the services being procured. It is the best 'estimate' as to what the services being procured should cost. The method and degree of analysis is dependent on the complexity of the services being procured. The proposed addition to the policy would require an ICE be prepared in advance of the receipt

*

Approved
Board of Directors

Date: _____

Moved: *Second:*

In Favor: *Opposed:* *Abstained:*

Witnessed: _____

COG	x	CTC	x	CTA	x	SAFE	x	CMA	x

Check all that apply.
BRD1210a-kmp

of any bids or proposals, amendments or change orders. The ICE is particularly critical whenever there is no price competition (e.g. for architectural and engineering procurements or where only one proposal is received), or when firms submit unusually high price proposals.

Upon Board approval of this addition to Policy No. 11000, "Contracting and Procurement", as set forth in Attachment A to this staff report, staff will prepare procedural guidelines to support this requirement and include a training component so that staff managing procurements will have the requisite tools necessary to effectively manage procurements.

Financial Impact: This item poses no financial impact of Fiscal Year 2012/2013 budget.

Reviewed By: This item was reviewed and unanimously recommended for approval by the Administrative Committee on September 12, 2012. This item has been reviewed by SANBAG's General Counsel and Contract Administrator.

Responsible Staff: Kathleen Murphy-Perez, Contracts Manager

BRD1210a-kmp

ATTACHMENT A

The following language will be added to Section V of Procurement Policy No. 11000:

"L. Independent Cost Estimates are required for all procurement actions, including but not limited to all contract amendments and contract change orders. The United States Department of Transportation, Federal Highways Administration and Federal Transit Administration require recipients of federal dollars to "perform a cost or price analysis in connection with every procurement action, including contract modifications..." The starting point for cost or price analysis is the development of an independent cost estimate which should be used in the evaluation of the consultant's or contractor's price proposal.

An independent cost estimate (ICE) should be prepared by staff who are knowledgeable about the services being procured. The ICE is the best 'estimate' as to what the services being procured should cost. The method and degree of analysis is dependent on the complexity of the services being procured. An ICE should be prepared in advance of the receipt of any bids or proposals, amendments or change orders. The ICE is particularly critical whenever there is no price competition (e.g. for architectural and engineering procurements or where only one proposal is received), or when firms submit unusually high price proposals."

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TRANSPORTATION MEASURE I

■ San Bernardino County Transportation Commission ■ San Bernardino County Transportation Authority
■ San Bernardino County Congestion Management Agency ■ Service Authority for Freeway Emergencies

Minute Action

AGENDA ITEM: 7

Date: October 3, 2012

Subject: General Counsel Staffing

Recommendation:* Approve a legal services agreement C13036 to provide Assistant General Counsel legal services and authorize General Counsel to execute the agreement on behalf of SANBAG.

Background: A revised agenda item will be distributed at the October 3, 2012 SANBAG Board of Directors meeting.

Financial Impact: To be determined

Reviewed By: This action was reviewed and approved by the Administrative Committee on September 12, 2012.

Responsible Staff: Eileen Teichert, General Counsel

*

Approved
Board of Directors

Date: _____

Moved: *Second:*

In Favor: *Opposed:* *Abstained:*

Witnessed: _____

COG	X	CTC	X	CTA	X	SAFE	X	CMA	X

Check all that apply.

BRD1210a-et

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TRANSPORTATION MEASURE I

■ San Bernardino County Transportation Commission ■ San Bernardino County Transportation Authority
■ San Bernardino County Congestion Management Agency ■ Service Authority for Freeway Emergencies

Minute Action

AGENDA ITEM: 8

Date: October 3, 2012

Subject: Contract with the Riverside County Transportation Commission (RCTC) for the implementation of San Bernardino County Trip Reduction and 511 programs.

Recommendation:* Approve Contract No. C12553 with Riverside County Transportation Commission, effective from July 1, 2012, through June 30, 2013, in an amount not-to-exceed $1,800,000.

Background: San Bernardino Associated Governments (SANBAG) has been involved in the funding and implementation of ridesharing and trip reduction services since the agency's inception. In 1993, SANBAG started a bi-county partnership with RCTC to provide implementation of local programs. In Fiscal Year (FY) 2002/2003, SANBAG's regional rideshare programs were implemented with the four other County Transportation Commissions (CTCs). Last year an Inland Empire 511 program was developed and implemented in partnership with RCTC. It is recommended that RCTC and its contractors continue to provide service in the implementation of these services and it is recommended they continue these services for FY 2012/2013.

Under this contract for FY 2012/2013 SANBAG and RCTC will continue to share 511 program costs equally (50%/50%) and will continue to enhance the program as needs arise. The services provided by RCTC (through its various contractors) are briefly outlined in Attachment A, and include:

1. Rideshare Services ($1,035,774) to include:
    a. Technical and programmatic assistance to county employers;

*

Approved
Board of Directors

Date: October 3, 2012

Moved: *Second:*

In Favor: *Opposed:* *Abstained:*

Witnessed: _____

COG		CTC	X	CTA	X	SAFE		CMA	X

Check all that apply.

BRD1210a-nm
http://portal.sanbag.ca.gov/mgmt/APOR-Mgmnt/Shared%20Documents/C12553.pdf

b. Maintenance of a regional commuter database;
c. Survey and ride guide dissemination;
d. Operation of a 511 phone and web system available to commuters 24 hours a day, 7 days per week, 365 days per year;
e. Expanded Teleservices function, responding to 511 as well as other inquiries from commuters and employers;
f. Outreach, marketing campaigns, promotional efforts;
g. Special projects and one time studies/surveys;
h. Coordination and participation on local, regional and state committees; and
i. Marketing/outreach throughout the fiscal year.

2. Rideshare incentive and reward programs ($764,226) to include:
   a. Option Rideshare incentive program for new ridesharers who try a rideshare mode for a 3 month trial period;
   b. A nine month staggered vanpool incentive; and
   c. The Rideshare Plus reward program for ongoing ridesharers.

The county trip reduction/rideshare program is funded in part through federal Congestion Mitigation/Air Quality (CMAQ) funds, which were allocated by the SANBAG Board on October 5, 2005. The rideshare program funding has also been programmed in the Regional Transportation Improvement Program and is included in the Regional Transportation Plan. As a transportation control measure, ridesharing strategies are needed in order to assist the region in meeting its air quality and transportation conformity goals.

Financial Impact: The total contract amount is $1,800,000, and has been budgeted in the FY 2012/2013 Budget. Funding sources are Measure I Valley TMS ($206,460) and CMAQ ($1,593,540).

Reviewed By: This item was reviewed and unanimously recommended for approval by the Administrative Committee on September 12, 2012. SANBAG General Counsel and Contract Administrator have reviewed this item and the contract.

Responsible Staff: Duane A. Baker, Director of Management Services

Governments SANBAG Working Together

CONTRACT SUMMARY SHEET

Contract No. C 12553 Amendment No. _____

By and Between

SANBAG and RCTC

Contract Description Trip Reduction/Rideshare Programs

Board of Director's Meeting Date: 10/3/12

Overview of BOD Action: Approve Agreement with RCTC for Trip Reduction/Rideshare Programs for the period beginning July 1, 2012 through June 30, 2013, in an amount not to exceed $1,800,000.

Is this a Sole-Source procurement? ☒ Yes ☐ No

CONTRACT OVERVIEW

Original Contract Amount	$	$1,800,000	**Original Contingency Amount**	$	
Revised Contract Amount *Inclusive of prior amendments*	$		**Revised Contingency Amount** *Inclusive of prior amendments*	$	
Current Amendment Amount	$		**Contingency Amendment**	$	
TOTAL CONTRACT VALUE	$	$1,800,000	**TOTAL CONTINGENCY VALUE**	$	
TOTAL BUDGET AUTHORITY *(contract value + contingency)*				$	1,800,000

Contract Start Date	**Current Contract Expiration Date**	**Revised Contract Expiration Date**
7/1/12	6/30/13	

Has the contract term been amended? ☒ No ☐ Yes - please explain.

FINANCIAL INFORMATION

☒ Budget authority for this contract currently exists in Task No. 406.

☐ A Budget Amendment is required.

How are we funding current FY?

☒ Federal Funds ☐ State Funds ☐ Local Funds ☐ TDA Funds ☒ Measure I Funds

*Provide Brief Overview of the **Overall** Funding for the duration of the Contract:*

Measure I Valley TMS funds at 11.47% and CMAQ funds at 88.53% of allowable costs.

☒ Payable ☐ Receivable

CONTRACT MANAGEMENT INFORMATION

Check all applicable boxes:

☐ Retention? If yes, indicate % _____.

☐ Disadvantaged Business Enterprise (DBE) Goal _____ % ☐ Underutilized DBE (UDBE) Goal _____ %

DUANE BAKER		9-5-12
Task Manager (Print Name)	Signature	Date
Nikki Miller	Nikki Miller	9/5/12
Project Manager (Print Name)	Signature	Date
Jeffery Hill		9/5/12
Contracts Administrator (Print Name)	Signature	Date
WILLIAM SAWARSKI		9/5/12
Chief Financial Officer (Print Name)	Signature	Date

AGREEMENT C12553

BY AND BETWEEN

SAN BERNARDINO ASSOCIATED GOVERNMENTS

AND

RIVERSIDE COUNTY TRANSPORTATION COMMISSION

FOR

IMPLEMENTATION OF SAN BERNARDINO COUNTY FISCAL YEAR 2012/2013 EMPLOYER AND COMMUTER TRIP REDUCTION/RIDESHARE PROGRAMS

THIS AGREEMENT ("Agreement") is entered into as of July 1, 2012, in the State of California by and between SAN BERNARDINO ASSOCIATED GOVERNMENTS, referred to herein as "SANBAG," and the RIVERSIDE COUNTY TRANSPORTATION COMMISSION, referred to herein as "RCTC."

WHEREAS, SANBAG approved allocation of Measure I - Valley Traffic Management Systems (VTMS) funds, and Victor Valley Traffic Management Systems funds, and Safe, Accountable, Flexible, Efficient Transportation Equity Act – A Legacy to Users (SAFE-TEA LU) Congestion Mitigation and Air Quality (CMAQ) funds, the allocation of SAFE-TEA LU (initially approved in October of 2005 by SANBAG board), to provide trip reduction services as well as incentives for the commuter programs.

WHEREAS, SANBAG receives SAFE-TEA LU and other federal funds and may use these funds to reimburse RCTC for its services in performing Employer and Commuter Trip Reduction/Rideshare Services.

WHEREAS, SANBAG requires professional and consulting services with respect to the provision of commuter services and programs within San Bernardino County.

WHEREAS, RCTC has managed the bi-county Inland Empire Commuter Services program since November 3, 1993, and has the expertise and resources necessary to manage such services for SANBAG.

WHEREAS, for the avoidance of doubt, the parties to this Agreement acknowledge and agree that RCTC is acting in the capacity of a third party contractor to SANBAG under this Agreement, and is not a subrecipient of federal funds from SANBAG.

NOW, THEREFORE, the parties agree as follows:

A. Contract Services.

1. RCTC will administer, market, and implement commuter services and 511 programs in coordination with RCTC's commuter services program and in coordination with the regional ridesharing core services program in compliance with and as specified in the scope of work, Attachment "A," attached hereto and incorporated herein by reference.

2. RCTC shall provide program administration and oversight and assure that its consultants and/or staff performs its services within the budgets set forth in the scope of work, Attachment "A."

3. RCTC shall provide SANBAG with the following reports, on a monthly or quarterly basis, as set forth below, relative to tasks identified in the scope of work, Attachment "A" to this Agreement:

(a) Quarterly Commuter Assistance Report

(b) Quarter Commuter Assistance Activity Master Report

(c) Quarterly Regional Database Report

(d) Monthly IE511 All Hands Meeting Minutes/Agenda/Monthly Stats.

4. RCTC will notify and work collaboratively with SANBAG regarding any possible program changes that would impact the SANBAG Rideshare Program.

5. SANBAG shall timely respond to RCTC on matters requiring RCTC to coordinate with SANBAG, as set forth in Attachment "A".

B. Compensation.

1. It is understood that SANBAG funding for the program under this Agreement will not exceed one million eight hundred thousand, and no cents ($1,800,000.00) and is being provided from the following sources:

(a) One million five hundred and ninety-three thousand, five hundred and forty dollars and no cents ($1,593,540) from CMAQ funds, and

(b) Two hundred and six thousand, four hundred, sixty dollars and no cents ($206,460.00) from San Bernardino County local ½ cent sales tax, Measure I-Valley Funds.

2. SANBAG receives SAFETEA-LU and other federal funds and may use these funds to reimburse RCTC for its services in performing Employer and Commuter Trip Reduction/Rideshare Services.

3. It is agreed that SANBAG Measure I Funds will reimburse RCTC for the cost of purchasing any items not reimbursable by CMAQ, and invoices submitted to SANBAG shall clearly delineate CMAQ non-reimbursable expenditures. It is agreed that in the event sufficient funds from the sources set forth in (a) and (b) above do not become available to SANBAG for this Agreement, SANBAG may immediately terminate this Agreement with written notice, but shall pay to RCTC from other sources any amounts required to cover RCTC's costs to the date of Agreement termination.

4. SANBAG shall pay RCTC on a cost-reimbursement basis, based upon invoices which delineate charges based on tasks identified in the scope of work, Attachment "A." All invoices shall be provided to SANBAG no more frequently than on a bi-monthly basis and no less than a quarterly basis. All invoices must be received by SANBAG no later than 60 days after the quarter.

5. SANBAG shall be fully responsible for obtaining cost reimbursements of CMAQ funds. SANBAG shall ensure that the SAFE-TEA LU funds are used for authorized purposes in compliance with laws, regulations, and the provision of the terms in this agreement, and that performance goals are achieved

6. SANBAG shall review all billings submitted by RCTC for accuracy and process payment based thereon to RCTC in a timely manner.

7. RCTC shall maintain during the term of this Agreement and for three years thereafter accounting records which cover the receipt and disbursement of all funds provided for the programs administered and implemented under this Agreement. Such records shall be made available for inspection during normal business hours by duly authorized representatives of SANBAG, SANBAG's auditors, Caltrans, Federal Highway Administration, and the United States Department of Transportation, so that SANBAG can comply with the Single Audit Act and OMB Circular No. A-133.

C. Term.

1. This Agreement shall commence on July 1, 2012 and terminate on June 30, 2013, unless it is extended by a written amendment approved by the parties.

2. Either party may terminate this Agreement by giving thirty (30) days written notice to the other for no or any reason, including, but not limited to, changes in legislation, rules and regulations impacting trip reduction programs. SANBAG shall pay for any service provided up to the effective date of the termination.

3. The Executive Directors of both RCTC and SANBAG shall have the authority in their sole discretion to give notice of termination on behalf of their respective agencies.

D. Indemnification and Insurance.

1. (a) It is understood and agreed that neither RCTC nor any officer, official, employee, director, consultant, agent, or volunteer thereof is responsible for any damage or

liability occurring by reasons of anything done or omitted to be done by SANBAG under or in connection with any work authority or jurisdiction delegated to SANBAG under this Agreement. It is understood and agreed that, pursuant to Government Code Section 895.4, SANBAG shall fully defend, indemnify and save harmless RCTC, and all its officers, employees, consultants and agents from all claims, suits or actions of every name, kind, and description brought for or on account of injury (as defined in Government Code Section 810.8) occurring by reason of anything done or omitted to be done by SANBAG under or in connection with any work, authority or jurisdiction delegated to SANBAG under this Agreement.

(b) It is understood and agreed that neither SANBAG nor any officer, official, employee, director, consultant, agent, or volunteer thereof is responsible for any damage or liability occurring by reasons of anything done or omitted to be done by RCTC under or in connection with any work authority or jurisdiction delegated to RCTC under this Agreement. It is understood and agreed that, pursuant to Government Code Section 895.4, RCTC shall fully defend, indemnify and save harmless SANBAG, and all its officers, employees, consultants and agents from all claims, suits or actions of every name, kind, and description brought for or on account of injury (as defined in Government Code Section 810.8) occurring by reason of anything done or omitted to be done by RCTC or its consultants under or in connection with any work, authority or jurisdiction delegated to RCTC under this Agreement.

2. Insurance Requirements

Without anyway affecting the indemnity provision identified in this Contract, RCTC shall, at the RCTC's sole expense, and prior to the commencement of any work, procure and maintain in full force, insurance through the entire term of this Agreement, and shall be written with at least the following limits of liability:

(a) Professional Liability - Shall be provided in an amount not less than $1,000,000, per claim and $2,000,000 in the aggregate. RCTC shall secure and maintain this insurance or "tail" coverage provided throughout the term of this Contract and for a minimum of three (3) years after Contract completion.

(b) Workers' Compensation - Worker's Compensation insurance shall be provided in an amount and form to meet all applicable requirements of the Labor Code of the State of California, including Employers Liability with $250,000 limits, covering all persons providing services on behalf of RCTC and all risks to such persons under this Agreement.

(c) Commercial General Liability - To include coverage for Premises and Operations, Contractual Liability, Personal Injury Liability, Products/Completed Operations Liability, Broad-Form Property Damage and Independent Contractors' Liability, in an amount of not less than $1,000,000 per occurrence, combined single limit, and $2,000,000 in the aggregate written on an occurrence form. For products and completed operations a $2,000,000 aggregate shall be provided.

(d) Automobile Liability - To include owned, non-owned and hired automobiles, in an amount of not less than $1,000,000 per occurrence, combined single limit, and in the aggregate written on an occurrence form.

(e) Network and Privacy Insurance. RCTC shall carry, or shall cause its third party contractor to carry, Network and Privacy (Errors and Omissions) insurance in an amount of not less than $1,000,000 per claim and $1,000,000 in the annual aggregate, protecting RCTC and SANBAG from the following exposures relating to RCTC's or any of its subcontractors performance under the Agreement:

(i) the theft, dissemination and/or unauthorized disclosure of use of confidential information and personally identifiable information (not to be limited bank information, social security numbers, health information, credit card account information, and confidential corporate information). Such insurance shall also include coverage for credit monitoring, notification expenses and other related costs associated with mitigating a data security or privacy breach; and

(ii) the introduction of a computer virus into, or otherwise causing damage to, a computer, computer system, network or similar computer-related property and the data, software, and programs used herein.

If such insurance is maintained on an occurrence basis, RCTC or its third party contractor shall maintain such insurance for an additional period of one year following the end of the applicable Term. If such insurance is maintained on a claims-made basis, RCTC or its third party contractor shall maintain such insurance for an additional period of three year following the end of the applicable Term.

(f) Proof of Coverage - RCTC shall furnish certificates of insurance to SANBAG evidencing the insurance coverage required above, prior to the commencement of performance of services hereunder, and such certificates shall include San Bernardino Associated Governments/San Bernardino County Transportation Authority) as additional insured on Comprehensive General Liability Insurance or Commercial General Liability Insurance and auto insurance. Prior to commencing any work, RCTC shall furnish SANBAG with a certificate(s) of insurance, executed by a duly authorized representative of each insurer, showing compliance with the insurance requirements set forth in this Article. If the insurance company elects to cancel or non-renew coverage for any reason, the CONSULTANT will provide SANBAG 30 days' notice of such cancellation or nonrenewal. If the policy is cancelled for nonpayment of premium, the RCTC will provide SANBAG ten (10) days' notice. RCTC shall maintain such insurance from the time RCTC commences performance of services hereunder until the completion of such Services. All certificates of insurance are to include the contract number and Project Manager' name.

(g) Additional Insured - All policies, except for Workers Compensation and Professional Liability policies, shall contain endorsements naming SANBAG and its officers, employees, agents, and volunteers as additional insureds with respect to liabilities arising out to the performance of Services hereunder. The additional insured endorsements shall not limit the scope of coverage for SANBAG to vicarious liability but shall allow coverage for SANBAG to the full extent provided by the policy.

(h) Waiver of Subrogation Rights - RCTC shall require the carriers of the above required coverages to waive all rights of subrogation against SANBAG, its officers,

employees, agents, volunteers, contractors, and subcontractors. All general auto liability insurance coverage provided shall not prohibit RCTC or CONSULTANT'S employees or agents from waiving the right of subrogation prior to a loss or claim. CONSULTANT hereby waives all rights of subrogation against SANBAG.

(i) All policies required herein are to be primary and non-contributory with any insurance carried or administered by SANBAG.

(j) Certificates/Insurer Rating/Cancellation Notice.

(1) RCTC shall maintain and shall require its consultants to maintain such insurance from the time the Services commence until the Services are completed, except as may be otherwise required by this Section.

(2) RCTC may legally self-insure, but shall require its consultants to place insurance with insurers having an A.M. Best Company rating of no less than A: VIII and licensed to do business in California.

(3) RCTC and its consultants shall replace certificates, policies and endorsements for any insurance expiring prior to completion of the Services.

E. Rights of SANBAG and RCTC.

The Executive Directors of both SANBAG and RCTC shall have full authority to exercise their respective entity's rights under this contract.

F. Ownership of Materials/Confidentiality/Use of Data.

1. Ownership. The following documents and data prepared by RCTC or RCTC's subconsultant pursuant to this Agreement shall become the common property of RCTC and SANBAG: (i) data regarding commuters in San Bernardino County, (ii) San Bernardino County employer information, (iii) park and ride information specific to San Bernardino County; (iv) any monthly or quarterly reports produced by RCTC as required by this Agreement, and (v) advertisements and collateral material funded in whole or in part by SANBAG under this Agreement ("Documents and Data"). RCTC and SANBAG shall not be limited in any way in its use of Documents and Data at any time, provided that any such use not within the purposes intended by this Agreement shall be at the respective party's sole risk and provided that the other party shall be indemnified against any damages resulting from such use, including the release of this material to third parties for a use not intended by this Agreement. Neither party to this Agreement shall sell the Documents and Data prepared under this Agreement without the written permission of both parties.

2. Confidentiality. All ideas, memoranda, specifications, plans, procedures, drawings, descriptions, computer program data, input record data, written information, and other materials described in subsection (1) either created by or provided to RCTC in connection with the performance of this Agreement shall be held confidential by RCTC. Such materials shall not, without the prior written consent of SANBAG, be used by RCTC for any purposes other than the performance of the Services. Nor shall such materials be disclosed to any person or

entity not connected with the performance of the Services. Nothing furnished to RCTC that is otherwise known to RCTC or is generally known, or has become known, to the related industry shall be deemed confidential. RCTC shall not use SANBAG's name or insignia, photographs of the project, or any publicity pertaining to the Services in any magazine, trade paper, newspaper, television or radio production or other similar medium without the prior written consent of SANBAG.

3. Use of Data. All Documents and Data, as defined above, shall be provided to SANBAG in hard copy and electronic media. Documents and Data in electronic media shall be provided in a form that will allow SANBAG to use, access, and manipulate the Documents and Data to prepare reports and perform other ride matching activities contemplated by this Agreement. All Documents and Data shall be provided to SANBAG within 30 days upon written notice.

G. Independent Contractor. SANBAG retains RCTC on an independent contractor basis and RCTC and its consultants shall not be employees of SANBAG. The consultants and other personnel performing the Services under this Agreement on behalf of RCTC shall at all times be under RCTC's exclusive direction and control. RCTC shall pay all wages, salaries, and other amounts due its employees in connection with their performance of Services under this Agreement and as required by law. RCTC shall be responsible for all reports and obligations respecting such employees, including, but not limited to, social security taxes, income tax withholding, unemployment insurance, and workers' compensation insurance.

H. Attorneys' Fees and Costs. If any legal action is instituted to enforce or declare any party's rights hereunder, each party, including the prevailing party, must bear its own costs and attorneys' fees. This paragraph shall not apply to those costs and attorneys' fees directly arising from any third party legal action against a party hereto and payable under Paragraph D(1), Indemnification and Insurance.

I. Consent. Whenever consent or approval of any party is required under this Agreement, that party shall not unreasonably withhold nor delay such consent or approval.

[Signatures on following page]

SIGNATURE PAGE TO
AGREEMENT C12553
BY AND BETWEEN
SAN BERNARDINO ASSOCIATED GOVERNMENTS
AND
RIVERSIDE COUNTY TRANSPORTATION COMMISSION
FOR
IMPLEMENTATION OF SAN BERNARDINO COUNTY FISCAL YEAR 2012/2013 EMPLOYER AND COMMUTER TRIP REDUCTION/RIDESHARE PROGRAMS

IN WITNESS THEREOF, THE AUTHORIZED PARTIES HAVE BELOW SIGNED AND EXECUTED THE AGREEMENT ON THE EFFECTIVE DATE:

SAN BERNARDINO ASSOCIATED GOVERNMENTS	**RIVERSIDE COUNTY TRANSPORTATION COMMISSION**
Janice Rutherford, President	John J. Benoit, Chair
APPROVED AS TO LEGAL FORM SANBAG	APPROVED AS TO LEGAL FORM FOR RCTC
Eileen Monaghan Teichert, SANBAG Counsel	Best Best & Krieger, LLP, RCTC General Counsel

CONCURRENCE:

Jeffery Hill, Contracts Manager

Attachment "A"

Scope of Work

San Bernardino Employer and Commuter Assistance Programs

Fiscal Year 2012-13

Inland Empire Rideshare Services

Provide a variety of services to employers and commuters, who participate in trip reduction activities. Activities shall include, but not be limited to: RideGuide/survey services, employer technical assistance, promotions, RideGuide production, coordination/dissemination of surveys and resulting report analysis for target marketing, Rideshare Connection broadcast e-mails, CommuteSmart News, networking meetings and coordination with other rideshare agencies and service providers. Assist multi-site and multi-jurisdictional headquarters employers within the County as well as related worksites outside of the County. Oversee and maintain a regional website (CommuteSmart.info), IE511.org website, social media platforms, and other regional products/outreach as assigned. Respond and coordinate inquiries with SANBAG that are San Bernardino specific generated from 511, 1-800-COMMUTE, 1-866-RIDESHARE, CommuteSmart.info, as well as direct referrals. Oversee and maintain a regional database of commuters, working with the five county transportation commission's (CTCs) throughout the region, with SANBAG owning all Documents and Data (hard copy and electronic formats), as that term is defined in Section F(1) of the Agreement. Market the regional Guaranteed Ride Home Program to employers in San Bernardino County. Assist in the County's leased Park'N'Ride lot program. Operate the 511 program through phone and web services, providing enhancements, resolving issues, conducting marketing and periodic surveys. RCTC is to keep SANBAG advised regarding potential enhancements, issues, and periodic surveys if such tasks could potentially change/alter the current Rideshare and/or 511 programs in San Bernardino CountyConduct special projects and studies, as assigned, and coordinate with/inform SANBAG rideshare staff if special projects and/or studies impact the San Bernardino Rideshare Program.

Related Expenses ($1,035,774):

Includes labor, office expenses, marketing materials, office equipment, computer programming, telephone and other direct expenses.

Goals:

1. Implementation of commuter assistance programs to approximately 380 regulated and non regulated employer worksites in San Bernardino County, to assist in the development and implementation of trip reduction programs and for technical assistance.

2. Work with 90 employers on AVR/Transportation surveys and AVR calculations.

3. Maintain an accurate database of 52,000 active San Bernardino County commuter registrants, resulting from completed commuter surveys at 90 San Bernardino County employers.

4. Disseminate 7,800 RideGuides to San Bernardino County commuters at 380 worksites.

5. Provide assistance to six multisite/multijurisdictional headquarters located in San Bernardino County representing 47 worksites in San Bernardino, Riverside, as well as Los Angeles and Orange counties.

6. Develop and implement three employer transportation network meetings, one promotional marketing campaign at San Bernardino employer worksites, and other events.

7. Produce and disseminate other regional marketing materials, as standalone campaigns within the Inland Empire or regional campaigns in coordination with the five CTCs.

8. Broadcast 14 Rideshare Connection e-mails to San Bernardino County employers.

9. For the two-county area, respond to 1,300 inquires/calls from commuters who work or reside in San Bernardino or Riverside counties, via 1-866-RIDESHARE, 1-800-COMMUTE, CommuteSmart.info, 511, direct referrals and other internet sources. Of these 1,300 inquiries, 325 RideGuides will be generated. In addition, 500 Inland residents will register in the database via the www.ridematch.info and the www.ie511.org website. SANBAG will be copied on responses that are specific to San Bernardino County.

10. Manage and operate the 511 system which will be available to commuters 24 hours a day, 7 days per week, 365 days per year.

11. The 511 phone system will provide assistance to 29,000 callers per month throughout the year. The system will have the capacity to handle 100,000 concurrent callers.

12. The www.ie511.org website will potentially receive 19,000 unique visitors per month . Website will be able to handle 100,000 concurrent users.

13. Continue 511 marketing/outreach and coordinating development of the marketing plan, campaign themes, surveys, studies and potential collateral materials which include San Bernardino County with SANBAG rideshare staff, before the tasks are implemented.

14. Conduct and coordinate periodic surveys with SANBAG to determine the 511 program use, effectiveness and customer satisfaction.

15. Provide website and phone enhancements/upgrades as needed.

Rideshare Incentive Programs

Option Rideshare offers San Bernardino County residents who commute to work, up to $2 a day (in local merchant gift cards) for each day they participate in a rideshare mode, during a three-month period. The Vanpool Incentive Program provides up to $1,800 over nine months in discounted vanpool fares. Team Ride provides ongoing ridesharers who reside in San Bernardino County a Rideshare Plus Rewards Book, with discount coupons from more than 135,000 merchants throughout the southland. RCTC to manage and operate the Incentive

Programs listed above, and to coordinate and discuss with SANBAG when potential changes to San Bernardino County Incentive Programs are being considered.

Related Expenses ($764,226):

Includes labor, office expenses, marketing materials, office equipment, computer programming, telephone, direct commuter incentives (gift cards/ subsidies) and other direct expenses.

Goals:

1. The Option Rideshare program will enlist 1,500 County residents, who commute to work to 145 employers in Southern California. These participants on average have a one-way commute distance of 27.59 miles and the goal is to reduce 145,000 one way vehicle trips from the roadways.

2. Team Ride registrants will consist of 7,000 members when the program is at its highest membership. Members will work at employment sites from 380 employers throughout Southern California.

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San Bernardino Associated Governments

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TRANSPORTATION MEASURE I

■ San Bernardino County Transportation Commission ■ San Bernardino County Transportation Authority
■ San Bernardino County Congestion Management Agency ■ Service Authority for Freeway Emergencies

Minute Action

AGENDA ITEM: 9

Date: October 3, 2012

Subject: San Bernardino Regional Vanpool Program–Victor Valley Phase

Recommendation:* 1. Approve Contract C13029 between San Bernardino Associated Governments (SANBAG), acting as the Commission, and Victor Valley Transit Authority (VVTA) in the total amount of $739,312 over three years for the San Bernardino Regional Vanpool Program – Victor Valley Phase.

2. Allocate $294,512 in Measure I Victor Valley Project Development and Traffic Management Systems (PDTMS) program funds to the San Bernardino Regional Vanpool Program – Victor Valley Phase.

3. Allocate $78,288 in Measure I North Desert (Barstow) PDTMS program funds to the San Bernardino Regional Vanpool Program – Victor Valley Phase.

4. Approve an amendment to the SANBAG Fiscal Year 2012/2013 Budget, increasing Task No. 0310, Transit Operating, by $154,600 using $122,134 in Measure I Victor Valley PDTMS funds (Fund No. 4280) and $32,466 in Measure I North Desert (Barstow) PDTMS funds (Fund No. 4380) for a new total of $8,977,672.

Background: In October of 2011, VVTA (with support from San Bernardino Associated Governments) was awarded a $1.491 million grant from the Federal Transit Administration's (FTA) Title 49 U.S.C 5309 - Bus Livability Program for

*

Approved
Board of Directors

Date: _____

Moved: *Second:*

In Favor: *Opposed:* *Abstained:*

Witnessed: _____

COG		CTC	X	CTA	X	SAFE		CMA	

Check all that apply.
BRD1210a-ns
http://portal.sanbag.ca.gov/mgmt/APOR-Mgmnt/Shared%20Documents/C13029_CSS.docx

the San Bernardino Regional Vanpool Program – Victor Valley Phase. The vanpool program has been designed to replicate vanpool programs offered by transit agencies in neighboring Los Angeles, Orange and San Diego Counties. The program will provide up to $400 per vanpool lease subsidy, but not-to-exceed 50% of the vehicle lease cost, to the vanpool-leasing agency for each qualified lease. VVTA procured and ultimately selected two leasing partner agencies, Enterprise Rideshare and vRide, to provide vehicle leases to vanpools. The lease agreements cover the vehicle expense, including maintenance, roadside assistance and insurance. Vanpools that qualify for the program are those that either originate or terminate within the greater Victor Valley area, which also includes Barstow and surrounding communities. This area was selected for this phase due to the high number of existing vanpools, which originate or terminate in this area (145 known vanpools). It is anticipated that by the end of the first year of operation, the Program could grow to 200 vanpools.

In addition to the FTA grant providing the vanpool subsidies, the grant will provide funding for the development of a web-based database system to facilitate the application process, the collection of vanpool data and reporting modules. The web-based system will be designed to ease program administration and will also upload data reported into the FTA National Transit Database (NTD). To staff's knowledge, no other agency has been successful in developing and implementing such a system. Therefore, once this web-based system is implemented it can be shared with other vanpool agencies, thereby eliminating costs and streamlining/improving the reporting function between similar programs. The administration and marketing will be conducted by VVTA (with SANBAG assistance), and these administration/marketing efforts will be funded with local dollars and are in addition to the grant assistance.

FTA considers the numerous vanpool subsidy programs in the country (which are operated through third party leases) as a viable transit mode. As a result of adding vanpool programs to transit agencies' NTD data, these agencies have realized a pronounced increase in federal funding. As a result, most have more than doubled their investment into the program, on a scale of $2 returned for every $1 invested. This return on investment (which is provided back to the transit agency in annual Section 5307 allocations) can be utilized as the agency desires and is not limited to specific vanpool operating or capital costs. Given the high number of existing vanpools in the County, and so as not to lose out on the commuter and funding benefits of the vanpool program, the implementation of this program in the County is critical to maintaining and growing federal funding allocations and sustaining transit agencies' operations.

As a result of the anticipated additional federal funding generated directly from this program, the San Bernardino Regional Vanpool Program-Victor Valley Phase

is expected to become fully self-sustaining within three years. The program will also establish a standardized administrative, enrollment and reporting design that can be easily adapted and grow within the Inland Empire, potentially including partners throughout other geographical areas of the Inland Empire, in subsequent phases.

Initially, it was proposed that the match to the federal funds would come from Local Transportation Funds (LTF) and/or State Transit Assistance (STA) funding. In further discussions it has been discovered that the State does not view vanpool operational expenses as an eligible LTF/STA transit expense; however, LTF/STA funding can be used for program administration and marketing.

Staff believes that the utilization of Project Development and Traffic Management Systems funding is an ideal source of funding to leverage the federal funding for the kickoff of this very important transit program. Eligible projects under this funding source are those that reduce traffic flow, assist in congestion management as well as provide commuter assistance. The vanpool program will accomplish all of those criteria and by providing funding, SANBAG will ensure the vanpool program becomes self-sustaining within the Inland Empire, beginning with the greater Victor Valley area. The Victor Valley area has significant work-related transportation needs and the provision of cost-effective and reliable transportation that improves access to jobs and improves the mobility of San Bernardino high desert communities is a transportation priority. The vanpool program is also responsive to the goals of the Bus Livability Program and implements a key recommendation of the February 2010 "Victor Valley Long Distance Commuter Needs Assessment" study.

The $294,512 from Victor Valley PDTMS and $78,288 from North Desert PDTMS will be used as the local match for the federal portion awarded to VVTA and SANBAG. This funding will be used for vanpool subsidies and as well as the development of a web-based database system to facilitate the application process, the collection of vanpool data and reporting modules. The remaining $371,512 is provided to VVTA to administer the program over the three-year period. These funds will reimburse VVTA primarily for contract assistance in areas where VVTA does not have in-house expertise, such as routine clerical support and data management, technical support, program development and administration, marketing, printing and legal fees. Note that agencies in other Counties have managed the program primarily through in-house staff, and on average, they hire a full time person a year before the program is implemented during development. Post implementation, staffing averages one full time staff per 175 vanpools subsidized per month in the program. VVTA has elected to manage the program by assigning some oversight to in-house staff (the new Mobility Manager position); however, the majority of the administration and

management will be through third-party contracts. Once the program is fully implemented and federal funding is received, VVTA will reconsider the best way in which to staff this program.

Therefore, SANBAG staff recommends the approval of Contract No. C13029 between SANBAG and VVTA. This contract is an agreement that passes through funding in an amount not-to-exceed $739,312 over three years. The approval of this contract would also allocate $294,512 from Victor Valley PDTMS and $78,288 from North Desert PDTMS over a three year period. The remaining funds $371,512 will come from STA Funds, which were allocated as part of the FY12/13 SANBAG approved budget.

Financial Impact: This item requires a budget amendment to the approved Fiscal Year 2012/2013 budget to increase Task No. 0310 (Transit Operating) by $154,600 using $122,134 in Victor Valley PDTMS funds (Fund No. 4280) and $32,466 in North Desert PDTMS funds (Fund No. 4380). The remaining funds allocated to this project will be budgeted in future fiscal years.

Reviewed By: This item was reviewed and unanimously recommended for approval by the Mountain/Desert Committee on September 21, 2012. SANBAG General Counsel and Contract Administrator have reviewed this item and a draft of the Contract.

Responsible Staff: Nancy Strickert, Transit Analyst

Governments SANBAG Working Together

CONTRACT SUMMARY SHEET

Contract No. C 13029 Amendment No. _____

By and Between

San Bernardino Associated Governments and Victor Valley Transit Authority

Contract Description Cooperative Agreement - Vanpool

Board of Director's Meeting Date: October 3, 2012

Overview of BOD Action: Approve Contract No. C13029 between VVTA and SANBAG for the amount of $744,250 for the matching funds for VVTA Vanpool

Is this a Sole-Source procurement? ☐ Yes ☒ No

CONTRACT OVERVIEW

Original Contract Amount	$	739,312	**Original Contingency Amount**	$	
Revised Contract Amount *Inclusive of prior amendments*	$		**Revised Contingency Amount** *Inclusive of prior amendments*	$	
Current Amendment Amount	$		**Contingency Amendment**	$	
TOTAL CONTRACT VALUE	$	739,312	**TOTAL CONTINGENCY VALUE**	$	
TOTAL BUDGET AUTHORITY *(contract value + contingency)*				$	739,312

Contract Start Date	**Current Contract Expiration Date**	**Revised Contract Expiration Date**
10/3/12	10/03/15	

Has the contract term been amended? ☒ No ☐ Yes - please explain.

FINANCIAL INFORMATION

☒ Budget authority for this contract currently exists in Task No. 0507.

☒ A Budget Amendment is required.

How are we funding current FY? *Victor Valley PDTMS, Mountain Desert PDTMS, 0310*

☐ Federal Funds ☐ State Funds ☐ Local Funds ☒ TDA Funds ☒ Measure I Funds

*Provide Brief Overview of the **Overall** Funding for the duration of the Contract:*

Victor Valley PDTMS, Mountain Desert PDTMS, STA Funds

☒ Payable ☐ Receivable

CONTRACT MANAGEMENT INFORMATION

Check all applicable boxes:

☐ Retention? If yes, indicate % _____.

☐ Disadvantaged Business Enterprise (DBE) Goal _____ % ☐ Underutilized DBE (UDBE) Goal _____ %

DUANE BAKER	Duane A Baker	9/13/12
Task Manager (Print Name)	Signature	Date
Nancy Strickert		9/13/12
Project Manager (Print Name)	Signature	Date
Jeffery Hill		9/13/12
Contracts Manager (Print Name)	Signature	Date
WILLIAM STAWARSKI		9/18/12
Chief Financial Officer Signature (Print Name)	Signature	Date

C13029-ns
0310

COOPERATIVE AGREEMENT NO. C13029
BETWEEN

SAN BERNARDINO ASSOCIATED GOVERNMENTS (SAN BERNARDINO COUNTY TRANSPORTATION COMMISSION)
AND

VICTOR VALLEY TRANSIT AUTHORITY

This COOPERATIVE AGREEMENT ("AGREEMENT"), is made on the "Effective Date" by and between the San Bernardino Associated Governments, a joint powers authority, acting as the San Bernardino County Transportation Commission, hereinafter referred to as "SANBAG", and the Victor Valley Transit Authority, a joint powers authority, hereinafter referred to as "VVTA" for the purpose of defining the roles and responsibilities of the two parties with respect to the receipt of Victor Valley Project Development and Traffic Management Systems (VVPDTMS), Rural Mountain/Desert Subareas Project Development and Traffic Management Systems (MDPDTMS), and State Transit Assistance (STA) funds for the purpose of funding the Victor Valley Phase of the San Bernardino Regional Vanpool Program. SANBAG and VVTA are each a "party" and collectively "Parties" as identified herein.

RECITALS:

WHEREAS, SANBAG is the San Bernardino County Transportation Commission; and

WHEREAS, VVTA is a provider of public transportation within the county; and,

WHEREAS, VVTA in conjunction with SANBAG was awarded $1,491,200 of Federal Transportation Administration (FTA) Section 5309 Bus Livability funds for the San Bernardino Regional Vanpool Program – Victor Valley Phase hereinafter referred to as "PROJECT"; and

NOW, THEREFORE, it is mutually understood and agreed by the Parties as follows:

SECTION I. RESPONSIBILITIES OF VVTA

A. VVTA shall provide the tasks identified in Attachment A, incorporated into this Agreement by this reference.

B. VVTA shall prepare and submit to SANBAG an original and two (2) copies of a monthly progress report and invoice for tasks included in Attachment A.

C. VVTA shall, upon completion of the Project, prepare and submit a Project Follow-up Report to SANBAG. The Project Follow-up Report shall include documentation that all aspects of PROJECT included in Attachment A have been completed.

D. VVTA agrees to indemnify, defend and hold harmless SANBAG and its authorized officers, employees, and agents from any and all claims, actions, losses, damages, and/or liability ("Claims") arising out of this Agreement from any cause whatsoever, including the acts, errors, or omissions of any person and for any costs or expenses incurred by the indemnitees on account of any Claims except where such indemnification its prohibited by law. This indemnification provision shall apply regardless of the existence or degree of fault of indemnitees, but does not apply to the indemnitees' "sole" or "active" negligence or "willful misconduct" within the meaning of Civil Code Section 2782.

E. VVTA agrees that any program administration funds not encumbered during the specific allocated year will be rescinded and returned to SANBAG.

SECTION II. RESPONSIBILITIES OF SANBAG

A. SANBAG shall provide technical assistance and document review to VVTA during the preparation of the Project.

B. SANBAG's contribution to VVTA is limited to a Not-To-Exceed Amount of Seven Hundred Forty-Four Thousand Two Hundred and Fifty Dollars ($744,250) for the federal match and program administration for the San Bernardino Regional Vanpool Program – Victor Valley Phase.

C. SANBAG shall reimburse VVTA for allowable Project costs within forty-five (45) calendar days after VVTA submits to SANBAG a satisfactory monthly invoice and progress report for Project.

SECTION III. MUTUALLY AGREED PROVISIONS:

A. Term of Agreement - This Agreement shall remain in effect until October 3, 2015. The term of this Agreement may only be extended upon mutual written agreement by both Parties.

B. Legal Authority - The signers of this Agreement represent and warrant that they are duly authorized to execute this Agreement on behalf of SANBAG and VVTA and that, by executing this Agreement, the Parties are formally bound to the provisions of this Agreement.

C. Product Development – Any product developed during the course of the San Bernardino Regional Van Pool – Victor Valley Phase will be owned by SANBAG and VVTA for their future use and for use for other vanpool phases.

D. Notices - Any notices, requests, or demands made between the parties pursuant to this Agreement are to be directed as follows:

To VVTA:

Victor Valley Transit Authority
17150 Smoketree St.
Hesperia, CA 92345
Attention: **Kevin Kane**
Position: Executive Director
Phone No.: 760-948-4330

To SANBAG:

San Bernardino Associated Governments
1170 W. Third St., 2nd Floor
San Bernardino, CA 92401-1715
Attention: **Mitch Alderman**
Position: Director, Transit & Rail Programs
Phone No.: 909-884-8276

E. Severability - If any term, provision, covenant, or condition of this Agreement is held to be invalid, void, or otherwise unenforceable, to any extent, by any court of competent jurisdiction, the remainder of this Agreement shall not be affected thereby, and each term, provision, covenant or condition of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

F. Counterparts of Agreement - This Agreement may be executed and delivered in any number of counterparts, each of which, when executed and delivered shall be deemed an original and all of which together shall constitute the same agreement. Facsimile signatures will not be permitted.

G. Force Majeure - Either party shall be excused from performing its obligations under this Agreement during the time and to the extent that it is prevented from performing by an unforeseeable cause beyond its control, including: any incidence of fire; flood; acts of God; commandeering of material, products, plants or facilities by the federal, state or local government; national fuel shortage; or a material act or omission by the other party; when satisfactory evidence of such cause is presented to the other party, and provided further that such nonperformance is unforeseeable, beyond the control and is not due to the fault or negligence of the party not performing.

H. Assignment - Neither this Agreement, nor any of the parties' rights, obligations, duties, or authority hereunder may be assigned in whole or in part by either party without the prior written consent of the other party, which consent the other party may withhold in its sole, and absolute, discretion. Any such attempt of assignment shall be deemed void and of no force and effect. Consent to one assignment shall not be deemed consent to any subsequent assignment, nor the waiver of any right to consent to such subsequent assignment.

I. Obligations To Comply with Law - Nothing herein shall be deemed nor construed to authorize or require any Party to issue bonds, notes, or other evidences of indebtedness under the terms, in amounts, or for purposes other than as authorized by local, state or federal law.

J. Governing Law - The laws of the State of California and applicable local, state and federal laws, regulations and guidelines shall govern this Agreement.

This Agreement No. C13029 is executed and effective as of the date executed by SANBAG (Effective Date).

SAN BERNARDINO ASSOCIATED GOVERNMENTS

Janice Rutherford
President

Date: _____

Approved as to Form:

Eileen Monaghan Teichert
SANBAG General Counsel

Concurrence:

Jeffery Hill
SANBAG Contract Administrator

VICTOR VALLEY TRANSIT AUTHORITY

Kevin Kane
Executive Director

Approved as to Form:

Carol Greene
VVTA Counsel

ATTACHMENT A

Project Milestones and Schedule

Project Milestone	Start Date	Completion
Task 1 – Execute FTA Funding Agreement.	Funding announcement in Federal Register	Funding announcement + 12 months (NTP)
Task 2 – Vanpool Lease - Develop Vanpool Provider Request for Proposa issue, review proposals, execute contracts.	Funding announcement in Federal Register	NTP + 10 months
Task 3 - Asset Management: a. Develop IT Request for Proposal, issue, review proposals, execute contracts. b. Develop and implement the IT System, including web-based application, database, reporting functions and NTD reporting. c. Manage the System	 NTP + 9 months NTP + 13 months NTP + 22 months	 NTP + 13 months NTP + 22 months Ongoing
Task 4 – Procure and implement Development and Management Program Consulting Services	NTP + 11 Months	Ongoing
Task 5 – Procure and implement Clerical and Technical Support	NTP + 15 months	Ongoing
Task 6 – Marketing: a. Develop and produce outreach materials b. Conduct outreach to employers c. Create a website d. Conduct a kickoff event	 NTP + 9 months NTP + 2 months NTP + 9 Months NTP + 12 months	 NTP + 11 months, and updates to are ongoing Ongoing Ongoing NTP + 13 months
Task 7 – Procure and implement Clerical and Technical Support	NTP + 16 months	Ongoing
Task 8 – Printing: develop a vanpool decal and other printed materials	NTP + 9 months	Ongoing
Task 9 – Legal – Seek County Counsel assistance on relevant vanpool matters	NTP	Ongoing
Task 10 – Implementation - begin accepting vanpools	NTP + 11 months	Ongoing

ATTACHMENT B

San Bernardino Regional Vanpool Program – Victor Valley Phase

FTA Grant Request	FY12/13	FY13/14	FY14/15	TOTAL
Vanpool Lease	$ 698,000	$ 1,035,600	$ 400	$ 1,734,000
Asset Mngt	$ 75,000	$ 30,000	$25,000	$ 130,000
Grant subtotal	$ 773,000	$ 1,065,600	$25,400	$ 1,864,000
FTA 80%	$ 618,400	$ 852,480	$20,320	$ 1,491,200
Match 20%	$ 154,600	$ 213,120	$ 5,080	$ 372,800

Program Admin	FY12/13	FY13/14	FY14/15	TOTAL
Development/Management	$ 75,062	$ 40,000	$ 25,000	$ 145,062
Clerical/Technical Support		$ 40,000	$ 41,200	$ 81,200
Marketing	$ 16,250	$ 15,000	$ 15,000	$ 46,250
Printing	$ 27,500	$ 27,500	$ 27,500	$ 82,500
Legal	$ 5,000	$ 5,500	$ 6,000	$ 16,500
TOTAL	$ 123,812	$ 128,000	$ 114,700	$ 366,512

Total Per Year – SANBAG's Obligation	$ 278,412	$ 341,120	$ 119,780	$ 739,312

Funding for Match and Program Admin

	FY12/13	FY13/14	FY 14/15	TOTALS
STAF	$ 123,812	$ 128,000	$ 114,700	$ 366,512
VVPDTMS (79%)	$ 122,134	$ 168,365	$ 4,013	$ 294,512
MDPDTMS (21%)	$ 32,466	$ 44,755	$ 1,067	$ 78,288
TOTAL	$ 278,412	$ 341,120	$ 119,780	$ 739,312

Governments
SANBAG
Working Together

San Bernardino Associated Governments
1170 W. 3rd Street, 2nd Floor San Bernardino, CA 92410-1715
Phone: (909) 884-8276 Fax: (909) 885-4407 Web: www.sanbag.ca.gov

TRANSPORTATION MEASURE I

■ San Bernardino County Transportation Commission ■ San Bernardino County Transportation Authority
■ San Bernardino County Congestion Management Agency ■ Service Authority for Freeway Emergencies

Minute Action

AGENDA ITEM: 10

Date: October 3, 2012

Subject: Amendment to San Bernardino County Non-Motorized Transportation Plan

Recommendation:* Approve an amendment to the San Bernardino County Non-Motorized Transportation Plan as described below.

Background: The San Bernardino County Non-Motorized Transportation Plan (NMTP) was approved by the SANBAG Board in March 2011. The NMTP conforms to the requirements established by the State of California for local jurisdiction eligibility to receive grant funds through the State Bicycle Transportation Account (BTA). The BTA provides local jurisdictions statewide approximately $8M per year for bicycle planning and capital projects.

The City of Big Bear Lake is interested in amending its City chapter within the NMTP to add a Class I bicycle facility that had not previously been included in the Plan. The Knickerbocker Creek Trail is comprised of a paved asphalt concrete multi-use path and a decomposed granite off-road trail pedestrian or mountain bike trail. The path connects Village Drive/Pennsylvania Avenue to Big Bear Lake for an approximate length of 0.3 miles. The estimated cost of the project is $1.2M to $1.7M depending on whether or not a grade separation is required at SR-18. (Attachment A – Figure 5.8 and Attachment B – Proposed Language and Table 5.16)

Approval of this amendment to the NMTP does not constitute a financial commitment to the project by SANBAG. It only permits inclusion of the project

*

Approved
Board of Directors

Date: _____

Moved: *Second:*

In Favor: *Opposed:* *Abstained:*

Witnessed: _____

COG	X	CTC		CTA		SAFE		CMA	

Check all that apply.
BRD1210a-jl

into the NMTP, which would enable the City of Big Bear Lake to seek grant funding under the State's BTA program.

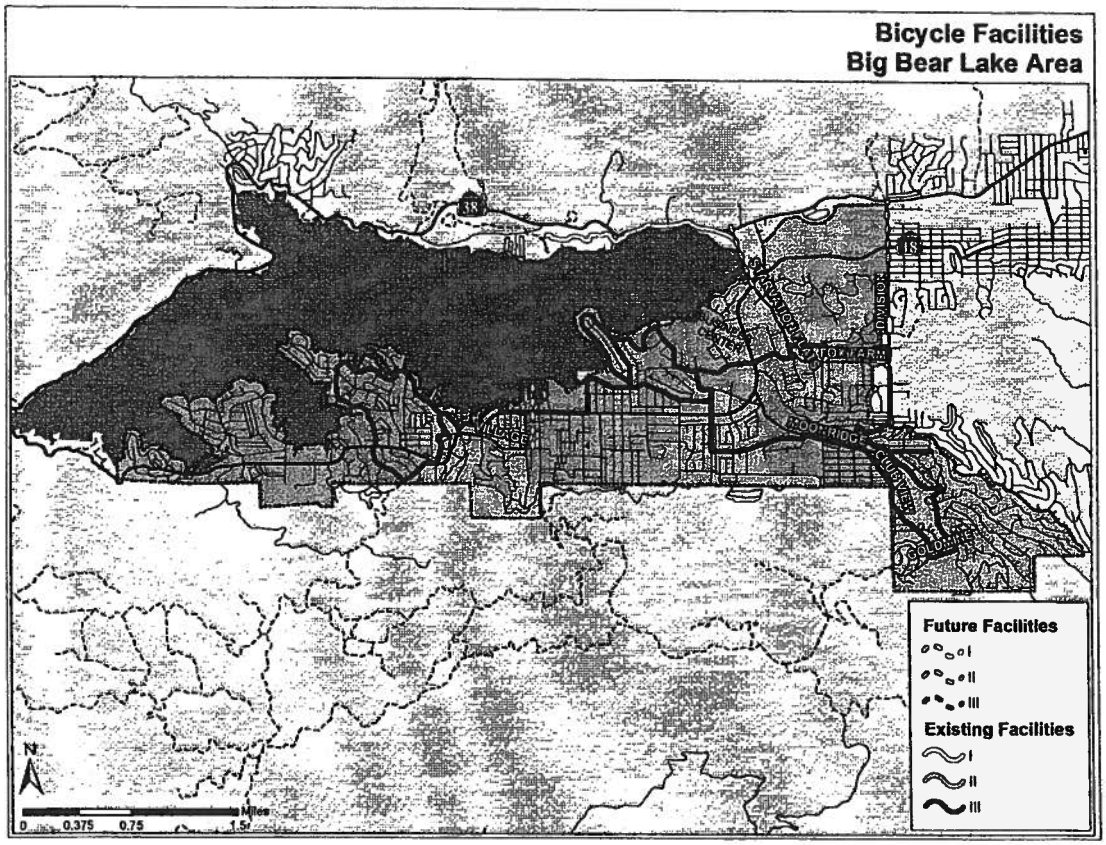
Financial Impact: This item has no impact on the current FY12/13 Budget. All staff activity associated with this item is consistent with Task No. 0404 Subregional Planning.

Reviewed By: This item was reviewed and unanimously recommended for approval by the Mountain/Desert Committee on September 21, 2012.

Responsible Staff: Steve Smith, Director of Planning

Attachment A

Figure 5.8



Attachment B

Proposed Improvements

"The City of Big Bear Lake has ~~not~~ identified ~~any~~ *one* proposed, future non-motorized improvement *along Knickerbocker Creek Trail.* ~~However, the~~ *The* City in collaboration with bicycle advocacy groups and the County of San Bernardino are pursuing funds to prepare a Big Bear Valley regional non-motorized transportation plan. Should such a study be prepared and adopted by the jurisdictions, the plan will be incorporated into a future update or amendment to this plan."

Table 5.16

Bike Bear Lake Proposed Improvements

Street/Path	From	To	Class	Mileage	Est. Cost
Knickerbocker Creek Trail	Village Dr./ Pennsylvania Ave.	Big Bear Lake	I	0.3	$1.2 - 1.7 million

BRD1210a-jl

Governments SANBAG Working Together

San Bernardino Associated Governments

1170 W. 3rd Street, 2nd Floor San Bernardino, CA 92410-1715
Phone: (909) 884-8276 Fax: (909) 885-4407 Web: www.sanbag.ca.gov

TRANSPORTATION MEASURE I

- San Bernardino County Transportation Commission
- San Bernardino County Transportation Authority
- San Bernardino County Congestion Management Agency
- Service Authority for Freeway Emergencies

Minute Action

AGENDA ITEM: 11

Date: October 3, 2012

Subject: Cooperative Agreement with the City of Highland for the Feasibility Study for improvement of the existing SR-210/Highland Avenue interchange and construction of a proposed SR-210/Victoria Avenue Interchange

Recommendation:* 1) Approve Cooperative Agreement No. C13024 with the City of Highland with a not-to-exceed amount of $100,000 for San Bernardino Associated Governments management of a Feasibility Study for the improvement of the SR-210/Highland interchange and construction of a proposed SR-210/Victoria Avenue interchange.

2) Approve a Fiscal Year 2012-2013 budget amendment increasing Task No. 0404 Subregional Transportation Planning in the amount of $100,000, funded from a City of Highland contribution of $100,000 for a new task total of $1,192,886.

Background: On April 8, 2011, Caltrans approved a Project Study Report (PSR), to evaluate the feasibility of constructing a new interchange within the city limits of Highland and San Bernardino on SR-210 at Victoria Avenue. The purpose of the new interchange would be to improve access to business and entertainment facilities in the Victoria Avenue corridor, such

*

Approved
Board of Directors

Date: _____

Moved: *Second:*

In Favor: *Opposed:* *Abstained:*

Witnessed: _____

	COG	X	CTC		CTA		SAFE		CMA

Check all that apply

BRD1210a-tb
http://portal.sanbag.ca.gov/mgmt/APOR-Mgmnt/Shared%20Documents/C13024-Highland-VictoriaIC.doc

as the San Bernardino International Airport (SBIA) and the San Manuel Band of Mission Indians establishments.

When the California Department of Transportation (Caltrans) signed the PSR, two conditions were noted that required followup. The first was the need to further evaluate the feasibility of improving the existing SR-210/Highland Avenue interchange. The second was to further analyze traffic operational issues related to interchange spacing between the Victoria Ave. interchange ramps and both the ramps to/from the SR-210/SR-330 interchange and the ramps to/from the SR-210/Highland Avenue interchange.

The purpose of Agreement No. C13024 is to secure funds from the City of Highland to support these two PSR followup activities and to define the responsibilities of both San Bernardino Associated Governments (SANBAG) and the City of Highland in performing the scope of work defined in the agreement. Current plans are to utilize the services of Parsons, SANBAG's general consultant, to complete the work in the most effective and expeditious manner possible.

The schedule to complete the feasibility study and present findings to the SANBAG Board is estimated as a maximum of one year. The study will be funded by a contribution from the City of Highland for a maximum amount of $100,000. Cooperative Agreement No. C13024 notes that SANBAG will serve as lead agency for the project, and Highland will reimburse SANBAG for eligible expenses up to $100,000.

The agreement with Highland is attached and includes a scope of work for reference purposes. It should be noted that SANBAG's commitment to complete the feasibility study does not represent a commitment to proceed on additional phases of the project. A new interchange at SR-210/Victoria Avenue is not listed in the SANBAG Development Mitigation Nexus Study and would therefore not be eligible for Measure I funds or for State and Federal funds allocated by SANBAG, nor is the interchange on the Measure I Freeway Interchange Program priority list. Any additional funding commitments or steps taken to advance this project would be brought back to the SANBAG Board for consideration at the appropriate time.

Financial Impact: Approval of this agenda item would increase the Fiscal Year 2012-2013 budget, Task 0404 Subregional Transportation Planning, by $100,000 for a new task total of $1,192,886. The increase in Task 0404 will be funded from a City of Highland contribution of $100,000.

Reviewed By: This item was reviewed and unanimously recommended for approval by the Major Projects Committee on September 13, 2012. SANBAG General Counsel and Contract Administrator have reviewed this item and the Contract.

Responsible Staff: Steve Smith, Director of Planning

Governments SANBAG Working Together

CONTRACT SUMMARY SHEET

Contract No. C 13024 Amendment No. _____

By and Between

SANBAG and City of Highland

Contract Description Cooperative agreement with Highland for the Feasibility Study for the Construction of a proposed SR-210/Victoria Avenue Interchange

Board of Director's Meeting Date: October 3, 2012

Overview of BOD Action: Approve Cooperative Agreement C13024 with the City of Highland for SANBAG participation in the Feasibility Study for the improvement of the Highland/SR-210 interchange and the construction of a proposed Victoria Avenue/SR-210 interchange.

Is this a Sole-Source procurement? ☐ Yes ☐ No N/A

CONTRACT OVERVIEW

Original Contract Amount	$	100,000	**Original Contingency Amount**	$	
Revised Contract Amount *Inclusive of prior amendments*	$		**Revised Contingency Amount** *Inclusive of prior amendments*	$	
Current Amendment Amount	$		**Contingency Amendment**	$	
TOTAL CONTRACT VALUE	$	100,000	**TOTAL CONTINGENCY VALUE**	$	
TOTAL BUDGET AUTHORITY *(contract value + contingency)*				$	100,000

Contract Start Date	Current Contract Expiration Date	Revised Contract Expiration Date
10/3/12	12/31/13	

Has the contract term been amended? ☒ No ☐ Yes - please explain.

FINANCIAL INFORMATION

☐ Budget authority for this contract currently exists in Task No. _____.

☒ A Budget Amendment is required.

How are we funding current FY? $100,000 Reimbursement from City of Highland

☐ Federal Funds ☐ State Funds ☒ Local Funds ☐ TDA Funds ☐ Measure I Funds

*Provide Brief Overview of the **Overall** Funding for the duration of the Contract:*

$100,000 Reimbursement from City of Highland

☐ Payable ☒ Receivable

CONTRACT MANAGEMENT INFORMATION

Check all applicable boxes:

☐ Retention? If yes, indicate % _____.

☐ Disadvantaged Business Enterprise (DBE) Goal _____ % ☐ Underutilized DBE (UDBE) Goal _____ %

Steve Smith	Steve Smith	9/4/12
Task Manager (Print Name)	Signature	Date
Tim Byrne	Timothy Byrne	8.31.12
Project Manager (Print Name)	Signature	Date
Jeffery Hill		9/5/12
Contracts Administrator (Print Name)	Signature	Date
WILLIAM STAWARSKI		9/5/12
Chief Financial Officer (Print Name)	Signature	Date

COOPERATIVE AGREEMENT NO. C13024

BETWEEN

SAN BERNARDINO COUNTY TRANSPORTATION AUTHORITY

AND

CITY OF HIGHLAND

FOR

FEASIBILITY STUDY FOR IMPROVEMENT OF THE EXISTING SR-210/HIGHLAND AVENUE INTERCHANGE AND CONSTRUCTION OF A PROPOSED SR-210/VICTORIA AVENUE INTERCHANGE

THIS AGREEMENT is effective on the "Effective Date" identified herein by and between the San Bernardino County Transportation Authority (hereinafter referred to as "AUTHORITY"), and the City of Highland (hereinafter referred to as "CITY"). AUTHORITY and CITY are each a "Party" and collectively "Parties" herein.

RECITALS:

WHEREAS, in April 2011, Caltrans completed a Project Study Report/Project Development Support to evaluate the feasibility of constructing a new interchange within the City of Highland on SR-210 at Victoria Avenue to improve access and traffic circulation; and

WHEREAS, determination of the feasibility and impacts of a new Victoria Avenue interchange or a reconstructed Highland Avenue interchange require additional analysis before the proposed interchange improvements proceed further to the Project Approval and Environmental Document phase ; and

WHEREAS, the CITY has agreed to fund a feasibility study (hereinafter referred to as the "PROJECT") to address selected issues pertaining to feasibility and impacts of the proposed interchange improvements; and

WHEREAS, CITY has requested and AUTHORITY agrees that AUTHORITY will be the lead agency to complete the PROJECT; and

WHEREAS, the Parties desire to proceed with the PROJECT in a timely manner; and

WHEREAS, this AGREEMENT is intended to delineate the duties, and funding responsibilities of the Parties for the PROJECT; and

NOW, THEREFORE, the Parties agree to the following:

SECTION I

AUTHORITY RESPONSIBILITIES:

Authority agrees:

1. To be the lead agency for this PROJECT and to diligently undertake and complete in a timely manner the Scope of Work for the PROJECT as shown in Attachment A, which is attached to this Agreement and by this reference incorporated into this Agreement.

2. To be responsible for expending the eligible PROJECT expenses that are incurred by AUTHORITY for an amount not to exceed $100,000, with reimbursement by CITY per paragraph 2 of Section II and subject to paragraphs 3 and 10 of Section III. Expenses relative to time spent on the PROJECT by AUTHORITY staff are not considered eligible PROJECT expenses and will not be charged to the $100,000 PROJECT funds.

3. To prepare and submit to CITY an original and two copies of signed invoices for reimbursement of eligible PROJECT expenses. Invoices may be submitted to CITY as frequently as monthly.

4. To abide by all AUTHORITY, CITY, State, and Federal laws, regulations, policies, and procedures pertaining to the PROJECT.

5. To maintain all source documents, books and records connected with AUTHORITY's performance under this Agreement for a minimum of five (5) years from the date of the Final Report of Expenditures submittal to CITY or until audit resolution is achieved, whichever is later, and to make all such supporting information available for inspection and audit by representatives of CITY. Copies will be made and furnished by SANBAG upon written request.

6. To establish and maintain an accounting system conforming to Generally Accepted Accounting Principles (GAAP) to support AUTHORITY's request for reimbursement, payment vouchers, or invoices which segregate and accumulate costs of PROJECT work elements and produce monthly reports which clearly identify reimbursable costs, matching fund costs, indirect cost allocation, and other allowable expenditures by AUTHORITY.

7. To prepare a Final Report of Expenditures, including a final invoice reporting the actual eligible PROJECT costs expended for those activities described in the work activities, and to submit that Report and invoice no later than 120 calendar days following the completion of those expenditures. The Final Report of Expenditures, an original and two copies of which report shall be submitted to CITY, must demonstrate that these PROJECT funds were used in conformance with this Agreement and for those PROJECT-specific work activities.

8. To cooperate in having a PROJECT-specific audit completed by CITY, at CITY's option and expense, upon completion of the PROJECT. All funds expended on the PROJECT must be used in conformance with this Agreement.

9. To repay to CITY any reimbursement for AUTHORITY costs that are determined by subsequent audit to be unallowable within ninety (90) days of AUTHORITY receiving notice of audit findings, which time shall include an opportunity for AUTHORITY to respond to and/or resolve the finding. Should the finding not be otherwise resolved and AUTHORITY fails to reimburse moneys due CITY within ninety (90) days of audit finding, or within such other period as may be agreed between both parties hereto, the CITY reserves the right to withhold future payments due AUTHORITY from any source under CITY's control.

10. To include CITY in Project Development Team (PDT) meetings, if and when such meetings are held, and related communications on PROJECT progress, to provide at least quarterly schedule updates to CITY, and to consult with CITY on critical issues relative to the PROJECT.

SECTION II

CITY RESPONSIBILITIES:

City agrees:

1. To reimburse AUTHORITY within 30 calendar days after AUTHORITY submits to CITY an original and two copies of the signed invoices in the proper form covering those actual eligible PROJECT expenditures that were incurred by AUTHORITY, including back up information. Invoices may be submitted to CITY as frequently as monthly.

2. To reimburse AUTHORITY for all eligible PROJECT expenses not to exceed $100,000 subject to paragraph 10 of Section III.

SECTION III

IT IS MUTUALLY AGREED:

1. The PROJECT costs have been estimated to be $100,000 or less. CITY shall have no further responsibilities to provide any funding for PROJECT exceeding this amount without prior CITY approval, subject to Paragraph 10 of this Section.

2. Eligible PROJECT reimbursements shall include only those costs incurred by AUTHORITY for PROJECT activities that are described in this Agreement.

3. CITY may, in its sole discretion, advance funds for AUTHORITY's use toward eligible PROJECT costs. AUTHORITY shall provide documentation of expenditures to CITY consistent with Section I.3, identifying the portions of those expenditures being reimbursed by the advanced funds.

4. Neither CITY nor any officer or employee thereof is responsible for any injury, damage, or liability occurring or arising by reason of anything done or omitted to be done by AUTHORITY or SANBAG under or in connection with any work, authority, or

jurisdiction delegated to AUTHORITY under this Agreement. It is understood and agreed that, pursuant to Government Code Section 895.4, AUTHORITY and SANBAG shall fully defend, indemnify and save harmless CITY, its officers and employees from all claims, suits or actions of every name, kind and description brought for or on account of injury (as defined by Government Code Section 810.8) occurring by reason of anything done or omitted to be done by AUTHORITY and SANBAG or their officers, employees, agents, volunteers and contractors, under or in connection with any work, authority or jurisdiction delegated to AUTHORITY and SANBAG.

5. Neither AUTHORITY, SANBAG nor any officer or employee thereof is responsible for any injury, damage, or liability occurring or arising by reason of anything done or omitted to be done by CITY and under or in connection with any work, authority, or jurisdiction delegated to CITY under this Agreement. It is understood and agreed that, pursuant to Government Code Section 895.4, CITY shall fully defend, indemnify and save harmless AUTHORITY, SANBAG, its officers and employees from all claims, suits or actions of every name, kind and description brought for or on account of injury (as defined by Government Code Section 810.8) occurring by reason of anything done or omitted to be done by CITY or its officers, employees, agents, volunteers and contractors, under or in connection with any work, authority or jurisdiction delegated to CITY under this Agreement.

6. CITY and AUTHORITY represent that they have sufficient insurance coverage for purposes of Professional Liability, General Liability, Automobile Liability and Workers' Compensation and warrant that through their respective insurance programs, they have adequate coverage or resources to protect against liabilities arising out of the performance of the terms, conditions or obligations of this Agreement.

7. This Agreement is expressly subordinated to any bonds, notes, certificates or other evidences of indebtedness involved in bond financings as are now outstanding or as may hereafter be issued by AUTHORITY.

8. This Agreement will expire on December 31, 2013, unless extended in writing by the parties. The Agreement may also be terminated by either party by giving the other party 30 days written notice.

9. CITY, at CITY's option and in coordination with AUTHORITY, may assign additional resources to the PROJECT to facilitate its timely completion.

10. In the event AUTHORITY determines PROJECT work may exceed the not to exceed amounts identified in Section I, paragraph 2, AUTHORITY shall inform CITY of this determination and thereafter the Parties shall work together in an attempt to agree upon an amendment to the PROJECT amounts identified in this Agreement. In no event, however, shall CITY be responsible for PROJECT costs in excess of the PROJECT amounts identified herein absent a written amendment to this Agreement that is approved by the Parties.

11. This Agreement may be signed in counterparts, each of which shall constitute an original.

12. The "Effective Date" of this Agreement is the date on which AUTHORITY executes this Agreement.

13. This Agreement constitutes the entire agreement of the parties hereto with respect to the subject matter hereof. There are no other agreements or understandings between the parties with respect to the subject matter hereof or any related subject and no representations by either party to the other have been made as an inducement to enter into this Agreement. All prior negotiations between the parties are superseded by this Agreement. This Agreement may not be altered, amended or modified except by a writing executed by all parties hereto.

SIGNATURES ON FOLLOWING PAGE:

SAN BERNARDINO COUNTY TRANSPORTATION AUTHORITY

By: _____
Janice Rutherford, President
SANBAG Board of Directors

Date: _____

APPROVED AS TO FORM:

By: _____
Eileen Monaghan Teichert
AUTHORITY General Counsel

Date: _____

CONCURRENCE:

By: _____
Jeffery Hill
AUTHORITY Contract Administrator

CITY OF HIGHLAND

By: _____
Larry McCallon
Mayor, City of Highland

Date: 09-07-2012

APPROVED AS TO FORM:

By: _____
Craig Steele
City Attorney, City of Highland

Date: 5/11/12

C13024

Attachment A – Scope of Work

FEASIBILITY STUDY FOR THE IMPROVEMENT OF THE SR-210/HIGHLAND INTERCHANGE AND THE CONSTRCUTION OF A PROPOSED SR-210/VICTORIA AVENUE INTERCHANGE

The purpose of this study is to evaluate the feasibility of possible improvements to the existing SR-210/Highland Avenue interchange and traffic operational impacts of a proposed new SR-210/Victoria Avenue interchange. A summary of activities to be accomplished is presented below:

1. Evaluate feasibility of improving the existing SR-210/Highland Avenue interchange and nearby roadway network as an alternative to constructing a new interchange at SR 210 and Victoria Avenue to fully address existing and future traffic circulation and access needs in San Bernardino and Highland:
    a. Conduct studies on existing and 2035 AM and PM peak hour traffic volumes, queue delays by approach, and level of service of the SR-210/Highland Avenue interchange and nearby roadway network.
    b. Examine deficiencies of the SR-210/Highland Avenue interchange and nearby roadway network.
    c. Develop engineering measures and structural improvements that could be employed to improve operation at the interchange and the nearby roadway network, including freeway ramp, roadway and intersection geometric modifications, traffic signal, and striping/signing improvements.
    d. Determine total project cost to implement the engineering measures and structural improvements including environmental, design, right-of-way and construction costs.

2. Perform the following tasks for a proposed new SR-210/Victoria Avenue interchange
    a. Review the Project Study Report for the Victoria Avenue interchange prepared by Caltrans dated April 8, 2011.
    b. Analyze traffic operational issues related to interchange spacing between the Victoria Ave. interchange ramps and both the ramps to/from the SR-210/SR-330 interchange and the ramps to/from the SR-210/Highland Avenue interchange.
    c. Identify traffic operational and design solutions to mitigate the proximity impacts of the new Victoria Avenue interchange to SR-330 and the SR-210/Highland Avenue interchange, and assess those solutions against Federal Highway Administration criteria. Develop justifications for a design exception of interchange spacing. Participate in discussions with Caltrans and FHWA to seek a conceptual approval of the interchange spacing design exception.
    d. Identify ways to limit the impact of a new Victoria Ave. interchange to existing businesses proximate to the existing Highland Ave. interchange.

3. Prepare a report on study findings and determine if there is a consensus solution
    a. Prepare a draft report documenting the results of Tasks 1 and 2. Present the results to the stakeholder agencies including Cities of Highland and San Bernardino, SANBAG, Caltrans, San Manual Tribe, SBIAA/IVDA.
    b. Discuss economically neutral solutions on study findings to determine whether a consensus solution can be reached. Financial feasibility will necessarily be a part of that discussion.
    c. Prepare a final report documenting results, describing the consensus solution, if any, and describing next steps to implement the selected interchange improvements, or other non-interchange improvements (e.g. smart street, traffic signal coordination, corridor improvements, etc.) to the existing Highland Avenue corridor.

Governments SANBAG Working Together

San Bernardino Associated Governments

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Phone: (909) 884-8276 Fax: (909) 885-4407 Web: www.sanbag.ca.gov

TRANSPORTATION MEASURE I

■ San Bernardino County Transportation Commission ■ San Bernardino County Transportation Authority
■ San Bernardino County Congestion Management Agency ■ Service Authority for Freeway Emergencies

Minute Action

AGENDA ITEM: 12

Date: October 3, 2012

Subject: Measure I Valley Freeway Interchange Project Delivery Initiative

Recommendation:* That the SANBAG Board, acting as the San Bernardino County Transportation Authority:

1) Authorize SANBAG staff to draft Baseline Agreements for all phases, and Cooperative Agreements for current phases, for the following interchanges on the Measure I 2010-2040 Strategic Plan interchange priority list: I-10/Cedar (County); SR-210/Baseline (Highland); SR-60/Central (Chino); I-10/University (Redlands); I-215/University (City of San Bernardino); I-10/Alabama (County and Redlands); I-15/Baseline (Rancho Cucamonga); SR-60/Archibald (Ontario); I-10/Monte Vista (Montclair); and I-10/Pepper (Colton).

2) Authorize SANBAG staff to develop draft amendments to Measure I Strategic Plan policies for the Valley Freeway Interchange Program to allow for a "toolbox" of options for loans of Measure I dollars to cover a portion of the local share of interchange costs. These policy amendments would be structured based on the funding principles described in this agenda item and would be considered for approval at a subsequent Major Projects Committee meeting and by the SANBAG Board. Individual local share loans would be based on those policies, with approval of individual loan agreements required from the SANBAG Board, following a case-by-case analysis of the feasibility, risks, and potential impacts of

*

Approved
Board of Directors

Date: *October 3, 2012*

Moved: *Second:*

In Favor: *Opposed:* *Abstained:*

Witnessed: _____

COG		CTC		CTA	X	SAFE		CMA	

Check all that apply.

BRD1210a-ss

each loan. Loan terms and conditions would be documented in a loan agreement between SANBAG and the jurisdiction obtaining the loan. Loan options recommended for policy development include:

1) Loans from a jurisdiction's Measure I Local Street Program funds (No bonding)
2) Loans from a jurisdiction's arterial portion of Measure I Major Street Program funds (No bonding)
3) Combination of 1 and 2
4) Short-term cash loan from SANBAG
5) Bonding against a jurisdiction's Local Street Program funds

3) Authorize SANBAG staff to develop a scope of work to analyze a phasing program for the Measure I 2010-2040 Valley Freeway Interchange Program and to bring the scope of work back to the Major Projects Committee and SANBAG Board for subsequent approval.

Background: A workshop on the topic of delivering the top 10 interchanges in the Valley Freeway Interchange Program was held with the Major Projects Committee on May 10, 2012. One of the action items from that workshop was for SANBAG staff to meet with lead agencies on each of the top 10 interchanges on the priority list and to identify possible paths forward for each project.

In addition, concern was expressed that some jurisdictions may not have their local share of project costs available within the timeframe for which project development and construction would occur. Therefore, staff was asked to identify options that would enable jurisdictions to borrow the local share, so that they could match SANBAG's public share if and when the local match was needed to continue the project.

This agenda item highlights proposed paths forward for each of the top 10 interchanges on the priority list and presents a set of options for local share loans. The paper is based on input from the lead agencies, prior discussions with the Transportation Technical Advisory Committee (TTAC), input from an ad hoc committee of the City/County Manager TAC (CCMTAC), and a discussion of five options for local share loans at the CCMTAC meeting of August 2. A working paper containing a draft set of recommendations was presented to and discussed with the TTAC on August 27. The working paper was also circulated to the City/County Managers' Technical Advisory Committee (CCMTAC) on August 29. The input provided by the CCMTAC has been particularly useful to refine the local share loan options.

Recommendation on Paths Forward for the Top 10 Interchanges

A listing of the specific paths forward for each of the interchanges is presented in Exhibit 1 on the following page. The Baseline Agreements and Cooperative Agreements developed for the interchanges listed in Exhibit 1 would be approved by the SANBAG Board on an individual basis as they are developed in conjunction with the respective jurisdictions. The Baseline Agreements identify the project scope, sources of funding, and schedule by phase through the completion of the project. They represent funding and schedule estimates by the parties involved, but recognize that certain details may remain to be worked out as more becomes known about the design of the project and its cost. The Cooperative Agreements will identify the specific roles for SANBAG and the local jurisdictions for the next phase of the project, and will outline the specific funding commitments for that phase. SANBAG will take on much of the management responsibility, as indicated in Exhibit 1.

If a loan for the local share is required, an additional loan agreement would be needed. These agreements would be with the lead agency for each project. Per the Measure I Strategic Plan, each lead agency is responsible for coordinating funding for any minority portions of the local share with those jurisdictions. However, SANBAG is available to assist in those discussions. Each funding arrangement will need to be worked out on a case-by-case basis. Attachment 1 provides a complete listing of Valley interchanges, the local share percentage, and any splits of the local share among jurisdictions. Per direction from the Major Projects Committee at the May 10 workshop, SANBAG staff is developing an option whereby local shares that are currently split among jurisdictions for individual interchanges could be consolidated into 100 percent responsibility for the lead jurisdiction for each individual interchange, wherever possible. An initial concept was discussed with the TTAC in July, 2012, but finding an acceptable solution presents a significant challenge.

Exhibit 1. Paths forward for Individual Interchanges

I-10/Cedar (Priority 1, County lead)

- SANBAG would take over the project and draft an agreement that identifies SANBAG and County responsibilities for design and right-of-way and for funding commitments through construction.

SR-210/Baseline (Priority 2, City of Highland)

- Incorporate project into the SR-210 widening project. City would remain responsible for its local share of the interchange costs.

SR-60/Central (Priority 3, City of Chino lead)

- Caltrans may need to finish Project Study Report (PSR - drafted in 2009, but not finalized); SANBAG would lead project from that point on, with local share funding from Chino. SANBAG may also complete the PSR.

I-10/University (Priority 4, City of Redlands lead)

- SANBAG would lead PA&ED (Project Approval and Environmental Documentation) phase and would draft an agreement that identifies SANBAG and City funding responsibilities for that phase. Additional phases would depend on City funding availability and coordination with I-10 mainline project.

I-215/University (Priority 5, City of San Bernardino lead)

- SANBAG would lead the project through PA&ED, pending City local share funding, to position the project for future funding opportunities. Decisions to proceed to subsequent phases would be based on funding availability.

I-10/Alabama (Priority 6, City of Redlands and County)

- It appears that the existing interchange cannot be preserved under either of the mainline widening alternatives. SANBAG would therefore initiate development work on that interchange. Local shares to be discussed.

I-15/Baseline (Priority 7, City of Rancho Cucamonga)

- SANBAG would take over the project for the construction phase and would assist City in final stages before advertising. City will front all the costs, with repayment of the public share by SANBAG under an Advance Expenditure Agreement.

I-10/Mount Vernon (Priority 8, City of Colton lead)

- Monitor progress on the I-10 PA&ED and Traffic & Revenue studies as related to the Mount Vernon/I-10 interchange over the next year, and make a recommendation on the course of action at that time.

SR-60/Archibald (Priority 9, City of Ontario lead)

- Proceed with Project Study Report, to be managed by SANBAG, pending City local share funding.

I-10/Monte Vista (Priority 10, City of Montclair lead)

- SANBAG and City are working on a lower-cost concept for Monte Vista. Pending outcome of those conceptual studies and discussions with Caltrans, a PSR could be initiated.

I-10/Pepper (Priority 19, City of Colton lead with County involvement),

- Being discussed as part of strategy to use existing $7+ million in earmarks for interchange improvement. The existing ramps and bridge would be widened assuming no future extension of Pepper Ave. to the south. The earmark would pay for most of project cost, and SANBAG would manage the project through completion.

Recommendation on Loans for the Local Share of Project Costs

SANBAG has the funding and bonding capacity to fund the public share of project costs for the top 10 interchanges with Measure I funds, even on accelerated schedules. It should also be noted that SANBAG will be striving to identify State and Federal revenue to fund the public share portion of interchange

costs wherever possible, thereby reducing the Measure I Valley Freeway Interchange portion of the costs. This will extend the Measure I dollars for use on additional interchanges. This strategy has already been successfully employed in delivering a number of interchange projects. Although the prospects for additional State and Federal funding are not as optimistic as they have been in the past, developing these projects at least through the PA&ED phase will position the local jurisdictions and SANBAG to capture funding for later phases if and when it should become available. What is not clear is whether local jurisdictions will have their local shares available at the same time, particularly if the interchange projects are accelerated.

Approval of a loan for the local share would be considered by the SANBAG Board on a case-by-case basis, after complete analysis of the impact of the proposed loan on the other projects in the Interchange Program. The following set of loan options listed below would be in addition to the use of intra-jurisdictional loans, which are already allowed under Measure I policy.

Five options were presented for consideration by the CCMTAC on August 2. Although the CCMTAC recommended that one of the options be dropped, the CCMTAC suggested that the remaining options be considered as a "toolbox" from which local jurisdictions and SANBAG could select the most appropriate method for each individual interchange. Strategic Plan policy would allow for use of any of the available methods, but the SANBAG Board would need to consider each loan request on a case-by-case basis, with financial impact data and risk assessment data provided to guide that decision. This section describes the options in general, and if the Board approves the general direction, specific policy amendments will be developed for inclusion into the Measure I Strategic Plan, with these amendments to be brought back to the Major Projects Committee and Board for separate action. The Major Projects Committee is being requested to approve the concept of a "toolbox" approach to the provision of local share loans, and for staff to proceed with development of Measure I Strategic Plan policies for the following specific loan options:

1. **Loans from a jurisdiction's Measure I Local Street Program funds (no bonding)** - Allow loans for up to 2/3 of the local share from a jurisdiction's Measure I Local Street Program "pass-through" funds, with a commitment by the jurisdiction to reimburse the Measure I Local Street Program account with Development Impact Fee (DIF) funds as they are collected or with other legally appropriate non-Measure I funds. Other legally appropriate funds could include proceeds from a Community Facilities District (CFD) or other development-based sources (note: when DIF funds are referenced elsewhere in this agenda item, this implies other legally appropriate non-Measure I funds

as well). This option assumes no bonding is required, i.e. cash flow in the jurisdiction's Local Street Program is sufficient to cover up to 2/3 of local share costs. Conditions for receipt of a loan under this option include:

a. Local pass-through funds would be withheld by SANBAG sufficient to pay up to 2/3 of the local share of project invoices immediately after the initiation of work activities on the interchange project. The jurisdiction would need to provide the other 1/3 in cash, as needed for project expenses, from either DIF funds or their own internal loans.
b. A maximum 10-year term, beginning at the completion of project construction, would be identified for DIF funds to replenish the local pass-through account. The first annual payment would be no later than the end of construction.
c. 100 percent of the jurisdiction's Nexus Study portion of DIF funds not previously committed to projects (or to funding the other 1/3 of the local share) would need to be committed to repayment of the loan.
d. No interest would be charged (but the jurisdiction would be repaying itself with less valuable dollars)
e. SANBAG would release the withheld pass-through funds as the jurisdiction repays with DIF.
f. The jurisdiction would need to show the use of the loan funds and its repayment plan in its 5-Year Measure I Capital Improvement Plan (CIP), so that the auditors would recognize how those funds were being applied.
g. If the jurisdiction has not repaid the pass-through funds by the end of the term, the term would need to be renegotiated. The jurisdiction would need to continue to repay the loan until it is retired. If full repayment does not occur by the end of Measure I 2010-2040, (i.e. insufficient DIF funds are collected) the loan obligation will be considered fulfilled. This is considered consistent with Measure I given that Measure I funds will not have replaced the development contribution if development has not occurred.
h. Prior to approval of the loan agreement, SANBAG would need to qualify the loan with an internal risk assessment process.
i. In addition to the 2/3 cap on the local share portion to be covered by the loan, a limit on percentage of local pass-through funds may need to be set on a case-by-case basis. The reason for this would be as a potential hedge against Measure I revenue being lower than forecast.

j. Any additional cost of administration of the loan incurred by SANBAG would be included as a cost to be borne by the jurisdiction and could be included in the loan. This would be true of all options.

2. **Loans from a jurisdiction's arterial portion of Measure I Major Street Program funds (no bonding)** - Allow loans for up to 2/3 of the local share from a jurisdiction's Measure I Major Street/Arterial Program equitable share with a commitment to reimburse the Major Street/Arterial Program account with DIF funds as they are collected. This option assumes that no bonding is required, i.e. cash flow in the jurisdiction's arterial portion of the Major Street Program is sufficient to cover up to 2/3 of local share costs. Conditions for receipt of a loan under this option include:

   a. Funds from the Major Street/Arterial Program would be withheld by SANBAG sufficient to pay up to 2/3 of the local share of project invoices immediately after the initiation of work activities on the interchange project. The jurisdiction would need to provide the other 1/3 in cash, as needed for project expenses, from either DIF funds or their own internal loans.
   b. A maximum 10-year term, beginning at the completion of project construction, would be identified for DIF funds to replenish the arterial account. The first annual payment would be no later than the end of construction.
   c. 100 percent of the jurisdiction's Nexus Study portion of DIF funds not previously committed to projects (or to funding the other 1/3 of the local share) would need to be committed to repayment of the loan.
   d. No interest would be charged (but the time-value-of-money calculation for the arterial equitable share will account for the fact that the funds were used earlier than they would have been otherwise)
   e. SANBAG would withhold the arterial funds and would release the withheld funds for use on other projects as the jurisdiction repays with DIF.
   f. If the jurisdiction has not repaid the arterial funds by the end of the term, the term would need to be renegotiated. The jurisdiction would need to continue to repay the loan until it is retired. If it becomes clear that full repayment will not occur by the end of Measure I 2010-2040, (i.e. insufficient DIF funds are collected) the remainder of the loan obligation would need to be fulfilled using the jurisdiction's Measure I Local Street funds, since Local Street funds can legitimately be used for interchange-related expenditures

(arterial funds cannot). This reassignment of funds would be part of the renegotiation of the loan. Use of Local Street funds, in the event DIF funds fall short, is considered consistent with Measure I given that Measure I funds will not have replaced the development contribution if development has not occurred.

g. In addition to the 2/3 cap on the local share portion to be covered by the loan, a limit on percentage of arterial funds may need to be set on a case-by-case basis. The reason for this would be as a potential hedge against Measure I revenue being lower than forecast.
h. Prior to approval of the loan agreement, SANBAG would qualify the loan with an internal risk assessment process.

3. **Combination of 1 and 2** - Allow a combination of option 1 and option 2 as sources of funding for a local share loan for an interchange project. The terms would be consistent with the terms specified in each of the two options and negotiated on a case-by-case basis.

4. **Short-term cash loan from SANBAG** - Allow a short-term cash loan for up to 2/3 of the local share that would be made available from SANBAG, with a fixed term and an interest rate premium (e.g. 5 year term; Local Agency Investment Fund (LAIF) plus 3%). This would be conditioned on SANBAG having cash flow available and there being no risk of delay to other SANBAG projects. The cash loan could only be utilized for the PA&ED and Design phases of the interchange project. The jurisdiction would be in default if it fails to maintain payments, and SANBAG would be given the authority to invoke the terms of options 1, 2, or 3 to make those payments.

5. **Bonding against a jurisdiction's Local Street Program funds** - Allow for a jurisdiction to bond for up to 2/3 of the local share against its Measure I Local Street Program "pass-through" funds, with the debt service to be paid by those funds. DIF funds would reimburse the jurisdiction's Local Street account as they are collected, and the additional Local Street funds could be expended on other projects in the jurisdiction's Measure I Local Street Capital Improvement Plan.

    a. The bond issue could be:
        i. Coordinated with another SANBAG bond issue, in which case SANBAG would make debt service payments from the jurisdiction's Local Street account before sending the remaining funds to the jurisdiction. The jurisdiction would then reimburse SANBAG for their Local Street funds with DIF funds as they are collected, and SANBAG would

release a comparable amount of Local Street funds back to the jurisdiction for other projects.

ii. Arranged independently by the jurisdiction, with the debt service paid directly by Local Street funds the jurisdiction has already received. In this case, the loan would be internal to the jurisdiction. The CIP would document the loan, and auditing of the Local Street account would track loan repayment.

b. If full repayment of the Local Street account does not occur by the end of Measure I 2010-2040, (i.e. insufficient DIF funds are collected) the repayment obligation to the Local Street account will be considered fulfilled. This is considered consistent with Measure I, given that Measure I funds will not have replaced the development contribution if development has not occurred.

SANBAG staff analyzed the amount of both Measure I Local Street funds and Major Street/Arterial funds that could be available as the security for local share loans for the above options. Table 1 shows the estimated local share of costs by jurisdiction for the top 10 interchanges on the priority list. This includes both the top 10 projects for which the agency is lead, as well as those for which they have a minority share. The source of the costs was the SANBAG 10-year Delivery Plan, which contains costs that have been refined and updated from the costs in the Nexus Study. The table also shows the Local Street Program and Arterial Program annual revenue and a projection of how many years of revenue would be required to fund 2/3 of the local share. A conservative assumption has been used that there is no annual revenue growth. The estimates indicate that each jurisdiction, with the exception of Montclair and the County, would have sufficient Local Street Program revenue to fund 2/3 of their local share responsibility within 9 years or less. The number of years would be lower if revenue growth was assumed. It should be noted that the cost of the Alabama/I-10 interchange was not fully accounted for in the version of the table contained in the September 13, 2012 Major Projects Committee agenda. Accounting for the cost of the Alabama/I-10 interchange will require further discussion.

Few if any of the jurisdictions would be able to divert 100 percent of their Local Street Program revenue to funding the local share of interchange projects, given the ongoing needs for street maintenance and rehabilitation, for which much of this funding is used. The use of arterial funding may be more feasible for many of the jurisdictions, but the number of years is typically higher for this source. In addition, some of the jurisdictions have indicated that they have other sources available to fund the local share. Examples include the Cities of Chino (from

collected DIF fees) and Rancho Cucamonga (from DIF fees and redevelopment funds).

The County of San Bernardino has some unique challenges in developing its funding strategy for the local share. The County's DIF program in the Valley is structured around 12 DIF subareas, generally corresponding to spheres of influence. In addition, the use of Measure I Local Street funds and Arterial Program funds must be spread across those subareas. A commitment of either DIF or Measure I funds to a major project in one subarea could mean deferring work in other subareas by a substantial period of time. The potential for annexation of portions of these areas by the cities further complicates the commitment of funding and the tracking of those funds. The proposed "toolbox" approach provides several ways for the County to deal with these issues, but SANBAG and the County will need to collaborate on how to design a feasible solution to these challenges. The I-10/Cedar interchange, No. 1 on the interchange priority list, will require some immediate attention in this regard.

Table 1. Analysis of Local Jurisdiction Capacity to Fund 2/3 of the Local Share Cost for the Top 10 Interchanges (Notes: conservatively assumes no annual revenue growth; $ are in 1000s; project costs may change as additional work is completed – costs have been adjusted from September 13, 2012 Major Projects Committee agenda item)

Jurisdiction	Local Share Cost by Jurisdiction for Top 10 Interchanges	2/3 of Local Share Cost	Local Street $ FY 11-12	Years for Local Street $ to Pay off 2/3 Local Share	Arterial $ FY 12-13	Years for Arterial $ to Pay off 2/3 Local Share
Chino	$14,550	$9,700	$1,040	9.33	$641	15.13
Fontana	$6,900	$4,600	$2,760	1.67	$1,645	2.80
Highland	$4,310	$2,873	$740	3.88	$574	5.01
Montclair	$9,180	$6,120	$500	12.24	$51	120.00
Ontario	$4,640	$3,093	$2,210	1.40	$1,038	2.98
Rancho Cucamonga	$10,020	$6,683	$2,240	2.98	$430	15.54
Redlands	$6,650	$4,436	$930	4.77	$413	10.74
Rialto	$2,290	$1,527	$1,370	1.11	$329	4.64
San Bernardino	$4,050	$2,700	$2,920	0.92	$666	4.05
Upland	$3,290	$2,193	$1,000	2.19	$194	11.31
County	$28,940	$19,303	$1,660	11.63	$1,088	17.74

Two additional options were considered in discussions with the CCMTAC and TTAC, but were eliminated from inclusion in the proposed "toolbox." These included:

- Allow for up to 70% of the arterial program to be used as a loaning "pool". This would leave 15-20 percent of the arterial funds available for various arterial projects. The CCMTAC advised against this option, given that jurisdictions would be borrowing not just against their own equitable share of arterial funds, but against the equitable shares of other Valley jurisdictions. This could cause complications if the borrowing jurisdiction was unable to repay its loan, and the inter-jurisdictional bookkeeping would be more complex than if they simply borrowed against their own jurisdiction's arterial revenue stream.
- Allow for SANBAG to bond for up to 2/3 of the local share, with the debt service to be paid with DIF funds as they are collected. If the DIF funds were to be insufficient to pay debt service, SANBAG would be given authority to withhold the jurisdiction's Measure I Local Street Program funds needed to make those payments. SANBAG's bond counsel advised that it was preferable for a jurisdiction to bond against its own Local Street Program revenue stream and that a generic bonding against the overall Measure I revenue stream, with eventual repayment from DIF funds, would introduce uncertainties into the overall bond measure and could affect the interest rate that SANBAG would receive for its other projects. Bonding against a jurisdiction's own revenue stream is cleaner, and the repayment terms better defined.

Recommendation of Phasing Analysis for the Valley Freeway Interchange Program

A third recommendation is that the committee recommend the Board authorize SANBAG staff to develop a scope of work to analyze a phasing program for the Measure I 2010-2040 Valley Freeway Interchange Program. The purpose of this initiative would be to develop a phasing plan for the interchange program that would target improvements for the most congested ramps at selected interchanges, where feasible. This would result in a more cost-effective use of available funds in the Valley Freeway Interchange Program. Given that funding requirements for the full Interchange Program are much larger than the funds available, a phased program could stretch the available Measure I dollars across a broader cross-section of Valley interchanges. The scope of work would identify phasing opportunities for the entire list of interchanges, including those outside the top 10. Local jurisdictions have concerns over how this may affect interchange positions on the priority list, and this will be taken into consideration in drafting the scope.

Financial Impact: This agenda item has no financial impact on the SANBAG budget, Task No. 0609. However, the policies that are ultimately developed based on this item will provide a financial framework for assisting local jurisdictions with delivery of interchange projects, and will have impacts on both SANBAG and local jurisdiction cash flows for interchange projects, depending on the funding option(s) each jurisdiction wishes to pursue.

Reviewed By: This item has been reviewed and unanimously recommended for approval by the Major Projects Committee on September 13, 2012. The material in this agenda item has also been reviewed by both the Transportation Technical Advisory Committee and the City/County Managers Technical Advisory Committee.

Responsible Staff: Steve Smith, Director of Planning

Attachment 1
Interchanges in the Measure I Valley Freeway Interchange Program
(See key to jurisdiction list at end of table)

Interchange and Place on Priority List	2011 Nexus Study Cost ($Millions)	Total Local Share Percentage	Local Nexus Study Splits	
			Jurisdictions Involved (Lead agency listed First)	Percentage Splits
SR-60 at:				
Ramona (15)	$30	31.3%	Ch/Co/Mo	53/39/8
Central (3)	$30	58.8%	Ch/Co/Mo	91/8/1
Mountain (14)	$15	46.2%	Ch/On	50/50
Euclid (12)	$6	44.5%	On/Ch	57/43
Grove (11)	$51	48.3%	On/Ch	99/1
Vineyard (24)	$51	60.3%	On/Ch	93/7
Archibald (9)	$8	66.1%	On	100
I-10 at:				
Monte Vista (10)	$50	24.1%	Mo/Up/Co	74/2/24
Euclid (13)	$9	17.4%	Up/On	60/40
Grove/4th (25)	$128	17.1%	On/RC/Up	64/22/14
Vineyard (22)	$84	60.0%	On	100
Cherry* (in construction phase)	$77	35.4%	Co/Fo	64/36
Beech (31)	$114	50.0%	Fo/Co	64/36
Citrus* (in construction phase)	$59	38.4%	Fo/Co	99/1
Alder (28)	$99	50.0%	Fo/Co	71/29
Cedar (1)	$52	30.0%	Co/Fo/Ri	74/12/14
Riverside - Phase 1 (IC/Ramps-complete) - Phase 2 (RR Bridge)	$44 $27 $10	27.4%	Ri/Co/Ct	66/8/26
Pepper (19) - Pepper/Valley (complete) - Ramps/Bridge	$55 $10 $45	34.0%	Ct/Co/SB	92/4/4
Mt. Vernon (8)	$32	5.1%	Ct	100
Tippecanoe* (in construction phase)	$78	34.6%	SB/LL	50/50
Mtn. View (18)	$51	37.8%	LL/SB/Co/Re	70/20/6/4
California (27)	$45	47.8%	Co/LL/Re	47/38/15
Alabama (6)	$31	50.5%	Co/Re	65/35
University (4)	$7	17.9%	Re	100
Wabash (33)	$40	35.8%	Co/Re	88/12

BRD1210a-ss

Interchange and Place on Priority List	2011 Nexus Study Cost ($Millions)	Total Local Share Percentage	Local Nexus Study Splits	
			Jurisdictions Involved (Lead agency listed First)	Percentage Splits
Live Oak (Complete)	$19	37.0%	Yu/Re	99/1
Wildwood (29)	$35	50.0%	Yu	100
I-15 at:				
6th/Arrow (23)	$70	50.0%	RC/Fo	90/10
Baseline (7)	$40	50.0%	RC/Fo	67/33
Duncan Cyn. (32) (in construction)	$41	77.3%	Fo/Co	79/21
Sierra (16)	$13	80.3%	Ri/Fo/Co	65/28/7
I-215 at:				
University (5)	$28	15.8	Co/SB	57/43
Pepper/Linden (30)	$57	50.0	SB	100
Palm (26)	$11	35.7	SB/Co	50/50
SR-210 at:				
Waterman (17)	$51	18.2	SB	
Del Rosa (20)	$36	32.8	SB/Hi/Co	63/28/9
Baseline (2)	$9	41.9	Hi	100
5th (21)	$8	44.1	Hi/SB/Re	93/5/1

*I-10 Citrus, I-10 Cherry and I-10 Tippecanoe – Interchanges that were underway prior to finalization of Interchange Priority List and therefore are not assigned a priority number.

Shading indicates the interchange is included in the top ten priority interchanges.

Abbreviations: Ch=Chino; Co=County; Ct=Colton; Fo=Fontana; Hi=Highland; LL=Loma Linda; Mo=Montclair; On=Ontario; RC= Rancho Cucamonga; Re=Redlands; Ri=Rialto; SB=San Bernardino; Up=Upland; Yu=Yucaipa

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TRANSPORTATION MEASURE I

- San Bernardino County Transportation Commission
- San Bernardino County Transportation Authority
- San Bernardino County Congestion Management Agency
- Service Authority for Freeway Emergencies

Minute Action

AGENDA ITEM: **13**

Date: October 3, 2012

Subject: Legislative Update

Recommendation:* Receive update and legislative bill matrix

Background: August 31st was the last day the Legislature could pass bills before Final Recess began. The Governor will have until September 30th to sign or veto any bills passed by the Legislature.

Status of bills SANBAG has taken a position on:

a) **AB 441 (Monning) – Oppose (Health)**
Signed
b) **AB 890 (Olsen & Perea) – Support (CEQA)**
Governor's desk
c) **AB 1600 (Torres) – Support (Gold Line)**
Signed
d) **AB 1665 (Galgiani) – Support (CEQA)**
Governor's desk
e) **AB 1780 (Bonilla) – Support (PIDs)**
Dead
f) **SB 446 (Dutton) – Support (ONT Airport)**
Dead

*

Approved
Board of Directors

Date: _____

Moved: *Second:*

In Favor: *Opposed:* *Abstained:*

Witnessed: _____

COG	X	CTC	X	CTA	X	SAFE	X	CMA	X

Check all that apply.

BRD1210a-eh
http://portal.sanbag.ca.gov/mgmt/committee/directors/brd2012/brd1210/AgendaItems/BRD1210a1-eh.xlsx

Attached, please find an updated bill matrix that reflects the status of bills as of September 20, 2012.

Financial Impact: This item has no impact to the FY 2012/2013 SANBAG Budget.

Reviewed By: This item was received by the Administrative Committee on September 12, 2012.

Responsible Staff: Eric Haley, Acting Director, Legislative Affairs

Bill	Issue	Summary	Recommended Position	Platform	Known Support/Opposition	Position Taken
Bills that have been to a SANBAG Board						
AB 441 (Monning) **Signed**	Health	This bill requires the Governor's Office of Planning and Research to voluntarily develop guidelines for local and regional agencies to incorporate health issues into local or regional general plans and requires the CTC to include health issues in guidelines circulated by the CTC for the preparation of regional transportation plans.	Oppose	SANBAG supports budget and CTC allocations to fully fund projects for San Bernardino County included in the State Transportation Improvement Program, State Highway Operation and Protection Program, and the Measure I Expenditure Plan.	Support: California Pan-Ethnic Health Network & AQMD	Approved 5/2/2012
AB 890 (Olsen & Perea) Governor's Desk	CEQA	This bill, until January 1, 2016, would exempt city roadway improvement projects from the requirements of the California Environmental Quality Act (CEQA) if the project is within the existing right-of-way.	Support	SANBAG will advocate for reforms to ensure projects are delivered faster with more coordination.	Support: CSAC, League of California Cities Opposition: The Planning and Conservation League & Sierra Club CA	Approved 5/2/2012
AB 1600 (Torres) **Signed**	Gold Line	Extends Metro Gold Line Foothill Extension Construction Authority's light rail project to include the City of Montclair; and requires the Los Angeles County Metropolitan Transportation Authority (LAMTA) to assume responsibility for operation of all completed phases of the Gold Line.	Support w/ Amendments	SANBAG will advocate for high speed, and higher speed rail investment in San Bernardino County and connectivity with local and regional transit.	Support: City of Montclair, City of Ontario, County of San Bernardino, LAMTA	Approved 5/2/2012

Bill	Issue	Summary	Recommended Position	Platform	Known Support/Opposition	Position Taken
AB 1665 (Galgiani) Governors Desk	CEQA	Specifies that CEQA does not apply to the closure of a railroad grade crossing by order of the PUC when the PUC has found the crossing to present a threat to public safety.	Support	SANBAG will advocate for a safe, funded, and growing rail system in Southern California.	Support: PUC (sponsor), American Council of Engineering Companies of CA & CA State Council of Laborers	Approved 6/6/12
AB 1780 (Bonilla) Dead	PIDs	This bill amends Caltrans protocols for conducting project study reports (PSR) for transportation projects on the state highway system and assigns cost-sharing responsibilities for the completion of PSR's. This bill assigns Caltrans with the responsibility to develop PIDs and to pay for costs to review and approve those locally-produced PIDs for projects on the state highway system that are in established programming documents. For all other projects, Caltrans's costs for review and approval of the PIDs are to be paid by the entity performing the work.	Support	SANBAG will advocate for reforms to ensure projects are delivered faster with more coordination.	Support: Self-Help Counties Coalition (sponsor) & Santa Clara Valley Transportation Authority	Approved 6/6/12
SB 446 (Dutton) Dead	ONT Airport	Local control of ONT Airport.	Support	Support local control of the Ontario International Airport in recognition of its goods movement and passenger impacts on San Bernardino County.	Support: City on Ontario (sponsor), County of San Bernardino…	Approved 5/1/2011

Bill	Issue	Summary	Recommended Position	Platform	Known Support/Opposition	Position Taken
Bills being reviewed						
AB 2405 (Blumenfield) Governor's Desk	HOT Lanes	Exempts qualifying clean alternative fuel vehicles from toll charges imposed on single-occupant vehicles in HOT lanes, unless prohibited by federal law. The bill specifically provides that this exemption does not apply to the imposition of tolls on toll roads, toll highways, or toll bridges.	Tracking	Not Applicable	Support: AQMD, CA Natural Gas Vehicle Coalition, CA Electric Transportation Coalition, CALSTART & Clean Energy Opposed: RCTC, CTA & American Council of Engineering Companies	
SB 1003 (Yee) Governors Desk	Brown Act	Amends the Brown Act to specify that a district attorney or any interested person may commence an action by mandamus, injunction, or declaratory relief to determine whether the Brown Act applies to a local legislative body's past actions, as well as threatened future actions. The bill establishes a procedure for filing an action, limiting filings for past actions to one year, requiring a letter be submitted to the local agency setting forth the alleged violation, and allowing the local agency 30 days to respond prior to proceeding with a legal action.	Tracking	Not Applicable	Opposed: CSAC & Regional Council of Rural Counties	

Bill	Issue	Summary	Recommended Position	Platform	Known Support/Opposition	Position Taken
SB 1117 (Desaulnier) Governor's Desk	Rail	This bill places new responsibility on the CTC to provide state overview of all rail operations through a new expanded rail plan. Caltrans would continue to do the actual support work, with policy guidance and approval by the CTC. Currently the CTC relies on Caltrans to prepare its various documents; this has allowed the CTC to maintain a small staff that focuses on the needs of the commissioners to address transportation policy issues, without the inevitable distractions of managing a large staff. This bill is silent on where the responsibility rests for preparing the rail transportation plan.	Tracking	Support equitable distribution of the funding for bus and rail services in California.	Support: Sen. Desaulnier (Sponsor)	
SB 1151 (Steinberg) Dead	RDA	The bill requires joint powers authorities to develop Long Range Asset Management Plans to maximize the social and economic value of the former redevelopment agency assets for the public sector. The plans would include detailed valuation and environmental contamination information on a parcel-by-parcel basis and facilitate the integration of properties into local land use plans. The bill authorizes the use of the trust funds to finance public and private infrastructure needed for infill development.	Tracking	Support continued regional decision making governing the use of all current funding sources.	Support: BRIDGE Housing, California Infill Builders Association, California Labor Federation, CSAC, DMB Pacific Ventures, Los Angeles Alliance for a New Economy & Mission Bay Development Group. CSAC is "Supporting w/ Amendments"	

Bill	Issue	Summary	Recommended Position	Platform	Known Support/Opposition	Position Taken
ACA 23 (Perea) Dead	Voting Requirement	Would change the vote requirement for local transportation taxes from 2/3 to 55% of the voters within the jurisdiction. This would apply to cities, counties and special districts. As for taxes, it does not specify, other than to exclude sales taxes on property sales. Any tax authority granted to a local government would be eligible under this measure to be approved under the 55%.	Tracking	Not Applicable	Support: League of Cities	

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TRANSPORTATION MEASURE I

■ San Bernardino County Transportation Commission ■ San Bernardino County Transportation Authority
■ San Bernardino County Congestion Management Agency ■ Service Authority for Freeway Emergencies

Minute Action

AGENDA ITEM: 14

Date: October 3, 2012

Subject: Inland Empire Economic Partnership

Recommendation:* Approve SANBAG's membership and participation with the Inland Empire Economic Partnership (IEEP) for $15,000.

Background: The IEEP was formed to provide a regional voice to promote and enhance the economic vitality of the Inland Empire. The IEEP is a partnership that includes business, government, and academic leaders to develop and carry out initiatives to benefit the region.

SANBAG has been a member of the IEEP in the past but has deferred making a membership decision for this year. The reason for deferring the decision was that the IEEP was transitioning their organizational structure and programs and the SANBAG Board of Directors wanted more information about these changes before committing to membership.

Mr. Paul Granillo, President and Chief Executive Officer of the IEEP and Dr. John Husing, Chief Economist of the IEEP, made a presentation to the Administrative Committee on the IEEP's efforts and initiatives.

After the presentation, the Administrative Committee discussed the merits of IEEP membership and the various levels of membership available. The Committee felt that it would be important for SANBAG to participate with the

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Approved
Board of Directors

Date: _____

Moved: *Second:*

In Favor: *Opposed:* *Abstained:*

Witnessed: _____

COG	X	CTC		CTA		SAFE		CMA	

Check all that apply.

BRD1210d-dab

Attachment: http://portal.sanbag.ca.gov/mgmt/committee/directors/brd2012/brd1210/AgendaItems/BRD1210d1-dab.ppt

IEEP as a partner with the business community to support economic development in the region. The Committee recommended that SANBAG renew its membership with IEEP at the $15,000 level so that SANBAG would have a seat on the IEEP Board.

Financial Impact: This item is consistent with the adopted Fiscal Year 2012/2013 budget. Funds for participation are included in Task 0104 – Intergovernmental Relations.

Reviewed By: This item was reviewed by the Administrative Committee on September 12, 2012.

Responsible Staff: Duane A. Baker, Director of Management Services

BRD1210d-dab

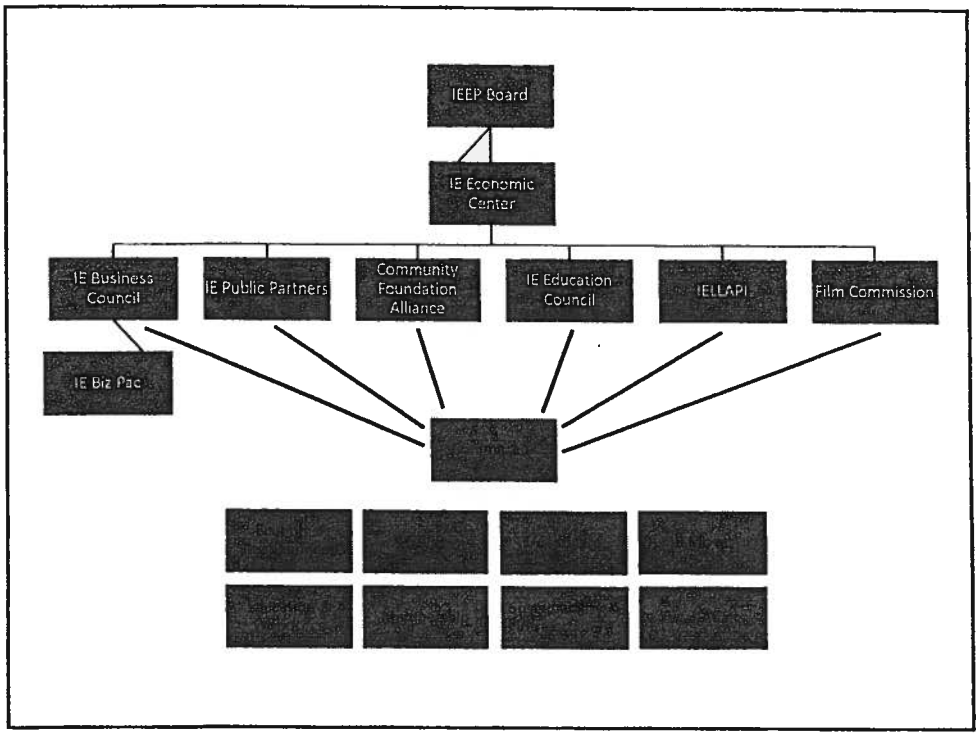
ATTACHMENT

ie INLAND EMPIRE ECONOMIC PARTNERSHIP

The Region's Voice for Business and Quality of Life

Our Mission

To help create the two-county region's voice for business and quality of life. Our membership, a collection of important organizations in the private and public sector, give the organization the knowledge and perspective needed to advocate and provide a vibrant business and living environment.



Inland Empire Economic Center

- The Center for the Study of Economy is lead by Dr. John Husing who serves as Chief Economist of the Inland Empire Economic Partnership and the Inland Empire Business Council.
- Dr. Husing leads strategic projects with many prominent organizations. His work includes designing innovative programs, strategies, and policy solutions for private industries, government, and private foundations.

4

- The Inland Empire Business Council (IEBC)
- IEBC will be the leading voice of business on important issues locally, regionally and nationally. The organization works to enhance the Inland Empire's economic development and prosperity to preserve a high quality of life.
- IEBC will promote economic development in the two county area and serve as the voice of business in one of America's largest regions.
- In providing a proactive forum for businesses, government and academia to join together, IEBC helps assure the prosperity of the Inland Region of Southern California. The Inland Empire Business Council serves pro-business interests so that the region's vibrant economy will continue to expand, bringing the benefits of prosperity to every corner of the county.

- **MISSION STATEMENT**
  The Inland Empire Business Council represents and promotes the business community, working with government and academia to enhance the Inland Empire's economic development and prosperity in order to create and preserve a high quality of life.

  IEBC INITIATIVES
  The Inland Empire Business Council accomplishes its mission by leading a high profile, proactive advocacy program for business interests throughout California and the nation, focusing on four core initiatives:
- Public Policy
- Infrastructure
- Workforce Development
- Economic Development

INLAND EMPIRE [redacted] PUBLIC PARTNERS

- The IEPP shall be comprised of cities in San Bernardino and Riverside Counties that choose to invest in the Partnership
- Counties and County Agencies are also welcome to invest in membership in IEPP
- Mission Statement: *The Mission of the Inland Empire Public Partners is to bring together elected officials, County Administrators, City Managers and Economic Development Specialists from Riverside and San Bernardino Counties in order for them to interface with Business Leaders and Community Leaders of the Inland Empire. By mutual information sharing and collaboration it is the purpose of the IEPP to help better the business climate and quality of life of the Inland Empire.*
- IEPP members will have access to the members of the Inland Empire Business Council in ways that promote healthy dialogue and information sharing about the needs of the Business Community of the Inland Empire.
- IEPP City members will be given economic data concerning their municipality.
- IEPP City members will receive the service of the Inland Empire Film Commission
- IEPP members will receive access to the services of the Husing Center for the Study of Economy of the Inland Empire at a discounted rate.

- **Mission Statement:** The Inland Empire Latino Leadership and Policy Institute promotes the professional, academic and health advancement of Latinos and Latinas living in Riverside and San Bernardino Counties. The Institute is a division of the Inland Empire Economic Partnership which exists to help create the two-county region's voice for business and quality of life.

The Community Foundation
Serving Riverside and San Bernardino Counties

- Building Support for the Non-Profit Sector
- The Community Foundation is a nonprofit, public charity created by and for the people of Riverside and San Bernardino Counties. We connect donors with the causes they care about. Established in 1941, The Community Foundation now has nearly $54 million in assets and provides college scholarships and grants to nonprofit organizations across the two-county area. We are your center for charitable investment in your community:We offer donors a wide variety of options for giving—establishing permanent endowments, creating flexible donor-advised funds, or donating to existing funds here at The Community Foundation. We provide wise stewardship of donor funds through a conservative, diversified investment strategy guided by our Board with advice from our investment management firm, Wurts&Associates.Each year we award millions of dollars in scholarships and grants to the many educational, humanitarian, and cultural organizations that make this region a better place to live for all of us.

INLAND EMPIRE FILM COMMISSION

- The Inland Empire Film Commission (IEFC) is recognized by the California Film Commission as the official advocate for filming interests in the two-county region. The IEFC is also a member of the FLICS (Film Liaisons in California, Statewide). A FLICS designation recognizes the staff of the IEFC for their knowledge of all issues that affect production in their area. The FLICS certification serves as a "Seal of Approval" to the film industry and assures film companies that a FLICS location representative understands the film business and will be able to capably assist their company's on-location efforts.

REAL COALITION

Regional Economic Association Leaders of California

Mobility 21

THE SOUTHERN CALIFORNIA TRANSPORTATION COALITION

One Region. One Voice. One Future.

THE CALIFORNIA STEWARDSHIP NETWORK

THRIVING REGIONS LEAD TO A THRIVING STATE

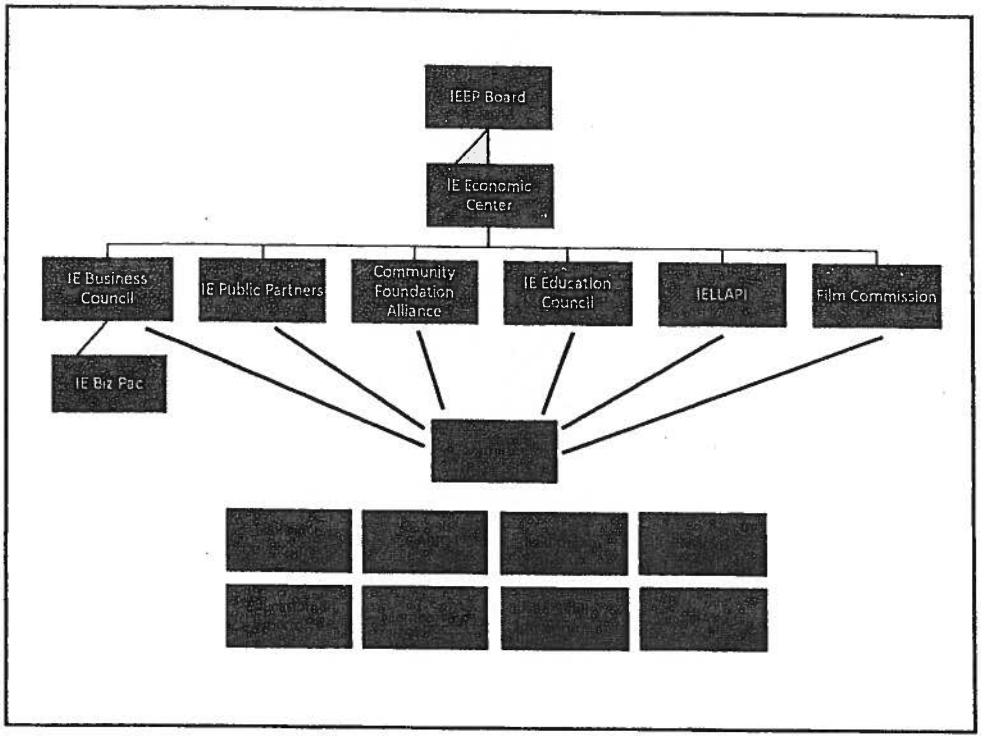
SOUTHERN CALIFORNIA ASSOCIATION of GOVERNMENTS

IEEP Committees

- Economic Development
- GAAP
- Healthcare
- IE Moves
- Education & Workforce
- Membership
- Sustainability & Infrastructure
- Legal Affairs

IEEP Board of Directors 2012/13

Patrick Brilliant	President & CEO	Riverside Community Hospital
Dr. Pam Clute	Assistant Vice Chancellor, Educational & Community Engagement	UC Riverside
James Cuevas	CEO	JJC Project Management
Mike Gallo	President & CEO	Kelly Space & Technology
Paul Granillo	President & CEO	Inland Empire Economic Partnership
Brett Guge	Vice President, Finance & Administration	California Steel
Vincent Haydel	Director of Public Affairs	Southern California Edison
Kristy Hennessey	VP of Gov't Relations Riverside & San Bernardino Counties	Time Warner Cable
Dr. John Husing	Chief Economist	Inland Empire Economic Partnership
Ronald Loveridge	Mayor of Riverside	City of Riverside
Dr. Tomas Morales	President	CSU San Bernardino
Patrick Morris	Mayor of San Bernardino	City of San Bernardino
Dan Rendler	Director	Southern California Gas Company
George Reyes	Partner	Best, Best & Krieger
Marco Robles	Public Affairs	Cardenas Markets
Janice Rutherford	Supervisor, 2nd District	County of San Bernardino
Grover Trask	Special Council	Best, Best & Krieger
Dan Byrnes	Finance Controller	United Parcel Service
John Tavaglione	Supervisor, 2nd District	County of Riverside



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TRANSPORTATION MEASURE I

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Minute Action

AGENDA ITEM: 15

Date: October 3, 2012

Subject: I-10 and I-15 Corridor Improvement Projects Public Outreach

Recommendation:* Receive information regarding the formation of Community Advisory Groups (CAGs) for the I-10 and I-15 Corridor Improvement Projects.

Background: The preliminary engineering and the Toll & Revenue Studies for the I-10 and I-15 Corridor Improvement projects are proceeding. In addition, the I-10 Corridor environmental studies for a High Occupancy Vehicle (HOV) and Express Lane alternative are also progressing. The I-10 Corridor Project spans from LA County Line to Redlands, while the I-15 Corridor Project spans from Riverside County Line to SR-395.

A major component of the on-going studies is the community relations and public outreach effort. As you are aware, our consultant recently conducted more than fifty (50) stakeholder interviews to document participant perspectives and understanding of Express Lanes and how those perspectives relate to the I-10 and I-15 corridors. Interview participants represented a wide spectrum of the community, including, but not limited to, members and representatives from the following stakeholder groups: elected officials (including SANBAG Board members), key local agency personnel, first responders, local committees (transportation, environmental, etc.), businesses, freight shippers/service providers, educational institutions, medical facilities, and community-based

*

Approved
Board of Directors

Date: _____

Moved: *Second:*

In Favor: *Opposed:* *Abstained:*

Witnessed: _____

COG		CTC	X	CTA	X	SAFE		CMA	

Check all that apply.
BRD1210a-jd

organizations. The consultant is currently developing a report that will summarize all of the interview observations and feedback.

To sustain public involvement throughout the development of the two corridor improvement projects, three (3) CAGs will be formed. Each CAG will include local stakeholders who can provide project staff with community and civic-based perspectives on technical findings throughout the development of the studies. To ensure all geographic perspectives are represented, a CAG will be formed for the:

(1) West end of the San Bernardino Valley;
(2) East end of the San Bernardino Valley; and
(3) Victor Valley area.

Because a CAG is composed of grass-roots interests from a variety of viewpoints – business, community, civic, and environmental – staff charged with developing the studies will have a unique and ongoing opportunity to obtain feedback from a broad cross section of involved citizens along the corridors. The CAGs will allow us to involve communities in an ongoing and meaningful way, as well as sustain public involvement throughout the development of the I-10 and I-15 corridor studies. CAGs are a proven approach to enhance public participation and will supplement the input received during the public meetings and public hearings that are open to the community at large.

We are currently reviewing our project database and local understanding of the stakeholders to identify potential CAG member candidates. CAGs usually have an average of fifteen (15) to twenty-five (25) members. We encourage all Board Members to contact Garry Cohoe, SANBAG Director of Project Delivery, if you have someone in mind who should be considered for CAG membership.

It is most advantageous to form the CAGs now, since the I-10 Corridor project's 30-day CEQA/NEPA public scoping period will start in mid-October 2012. During this period, the general public and participating agencies will have an opportunity to share their thoughts about what alternatives and environmental impacts should be studied as part of the CEQA/NEPA environmental impact evaluation. As part of the scoping process, two (2) public scoping meetings will be held in November 2012 to offer stakeholders additional opportunities to participate and learn about the project and discuss any relevant issues and concerns that should be considered. The public meetings also provide another means to identify potential CAG members.

A Board workshop is planned following the SANBAG Board meeting on December 5, 2012. Additional details on the CAGs, stakeholder interviews, and other public outreach tasks, along with a status of the studies being performed for these two corridors, will be presented at the workshop.

Financial Impact: This item does not have direct impact on the adopted budget.

BRD1210a-jd

Reviewed By: This item was reviewed by the Major Projects Committee on September 13, 2012 and by the Mountain/Desert Committee on September 21, 2012.

Responsible Staff: Jane Dreher, Public Information Officer

BRD1210a-jd

Governments SANBAG Working Together

San Bernardino Associated Governments

1170 W. 3rd Street, 2nd Floor San Bernardino, CA 92410-1715
Phone: (909) 884-8276 Fax: (909) 885-4407 Web: www.sanbag.ca.gov

TRANSPORTATION MEASURE I

San Bernardino County Transportation Commission ■ San Bernardino County Transportation Authority
San Bernardino County Congestion Management Agency ■ Service Authority for Freeway Emergencies

Minute Action

AGENDA ITEM: **16**

Date: October 3, 2012

Subject: Revised Funding Summary No. 3 for Cooperative Agreement No. C12189 with the California Department of Transportation (Caltrans) for the Interstate 215 (I-215) Bi-County High Occupancy Vehicle (HOV) Gap Closure Project.

Recommendation:* Approve revised Funding Summary No. 3 for Cooperative Agreement No. C12189 with California Department of Transportation (Caltrans) for the I-215 Bi-County High Occupancy Vehicle (HOV) Gap Closure Project.

Background: The I-215 Bi-County HOV Gap Closure project involves the construction of approximately 7.5 miles of HOV lanes between State Routes 60 and 91 and I-215 Interchange in the City of Riverside and Orange Show Road in the City of San Bernardino. The project closes the gap in the regional HOV network that will exist upon completion of the State Route 91 HOV project in Riverside and SANBAG's I-215 widening project north of Orange Show Road. Caltrans recently advertised the project for construction, and staff anticipates construction to start in the fall of 2012.

In February 2012, the Board approved Construction Cooperative Agreement No. C12189 with Caltrans for the construction phase of the Project. Since many of the amendments to Caltrans cooperative agreements are due to funding revisions, the latest Caltrans agreement template, upon which C12189 is based, now includes a separate Funding Summary that is executed concurrently with the main body of

*

Approved
Board of Directors

Date: _____

Moved: *Second:*

In Favor: *Opposed:* *Abstained:*

Witnessed: _____

COG		CTC	X	CTA	X	SAFE		CMA	

Check all that apply.

BRD1210b-ks

Attachment: http://portal.sanbag.ca.gov/mgmt/APOR-Mgmnt/Shared%20Documents/Funding%20Summary%20Amendment%20No%202%20-%20C12189.rtf

the agreement, but can be revised independently. The Caltrans District has been delegated the authority to execute revisions to the Funding Summary, which streamlines the approval by bypassing the Caltrans Headquarters review process.

Consistent with the Caltrans template, Cooperative Agreement No. C12189 sets out the funding, billing and payment details for the Project in a separate Funding Summary and provides that a new Funding Summary be created each time the funding, billing and payment details change and becomes valid upon signing by each party. In May 2012, the Board approved revised Funding Summary No. 2 for Cooperative Agreement No. C12189 to insure that funding for the Project is consistent with the latest approved version of the Federal Transportation Improvement Program (FTIP).

At this time, Staff is recommending another revision to the Funding Summary for Agreement No. C12189 in order to capture an additional amount of Corridor Mobility Improvement Account (CMIA) funds that became available from other CMIA savings. At its June 27, 2012 meeting, the California Transportation Commission (CTC) allocated $3,088,000 million of CMIA funds for the replacement of the I-215 Newport Bridge, which is partof the I-215 Bi-County HOV Project. The allocation of $3,088,000 in additional CMIA funding would result in an equal amount of savings in Measure I funds. Table 1 below summarizes the current and proposed funding plans for the Project. The overall cost of the Project has not changed. Staff would like to point out that the attached Funding Summary includes a Caltrans-only pavement rehab project (0H330) which is being combined with the I-215 Bi-County HOV Project for construction purposes. The pavement rehab project is fully funded by Caltrans and is not included in Table 1 below.

Table 1

	CMAQ	CMIA	STIP-RIP	STIP-ITIP	Measure I	TOTAL
Current Funding Plan	$34,850,000	$15,460,000	$63,284,000	$4,961,000	$40,227,000	$158,782,000
Proposed Funding Plan	$34,850,000	$18,548,000	$63,284,000	$4,961,000	$37,139,000	$158,782,000
Net Change	$0	$3,088,000	$0	$0	-$3,088,000	$0

Staff is recommending that the Board approve revised Funding Summary No. 3 for Agreement No. C12189. Board's approval will result in a net savings of $3,088,000 of Measure I funds.

Financial Impact: This item is consistent with the adopted SANBAG fiscal year 2012/2013 budget. Funding is provided under Task Number No. 0839.

Reviewed By: This item was reviewed by the Major Projects Committee on September 13, 2012. SANBAG General Counsel and Contract Administrator have reviewed this item and the Funding Summary.

Responsible Staff: Garry Cohoe, Director of Project Delivery

FUNDING SUMMARY Number 3

Project Number: 0812000211
Agreement: 08-1530
C12189

Part I – Funding Summary Table

Funding Source	Funding Partner	Fund Type	CON Capital	CON Support	Totals by Fund Type
STATE	AUTHORITY	Bond - Corridor Mobility Improvement (CMIA)	$7,325,000	$11,223,000	$18,548,000
STATE	CALTRANS	SHOPP	$12,258,000	$800,000	$13,058,000
STATE	AUTHORITY	STIP/RIP	$61,520,000	$1,764,000	$63,284,000
STATE	AUTHORITY	STIP/ITIP	$4,961,000	$0	$4,961,000
FEDERAL	AUTHORITY	Congestion Mitigation and Air Quality (CMAQ)	$31,567,000	$3,283,000	$34,850,000
LOCAL	AUTHORITY	Measure I	$36,778,000	$361,000	$37,139,000
		Totals by Component	$154,409,000	$17,431,000	$171,840,000

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This table represents full funding of each PROJECT COMPONENT in Agreement 08-1530.

Billing and payment details follow.

FUNDING SUMMARY Number 3

Project Number: 0812000211
Agreement: 08-1530
C12189

Part II – Billing and Payment Details

Responsibilities

CALTRANS is IMPLEMENTING AGENCY for CONSTRUCTION.

Cost: CONSTRUCTION Support

1. Each PARTNER listed below will do work for CONSTRUCTION Support as described in the SCOPE SUMMARY of the cooperative agreement:
   - CALTRANS

   Therefore, based on the funding arrangements presented in the Funding Summary Table:
   - CALTRANS may invoice AUTHORITY for local funds.

2. PARTNERS will exchange funds for actual costs.

   CALTRANS will invoice AUTHORITY for an initial deposit of $150,000 thirty (30) working days prior to the construction contract bid advertisement date. This deposit represents two (2) months' estimated support costs.

   Thereafter, CALTRANS will submit to AUTHORITY monthly invoices of estimated costs based on the prior month's actual expenditures. This will include all expenditures incurred by BNSF and UPRR for coordination and review as specified in the Spending Summary.

   After PARTNERS agree that all WORK is complete for this PROJECT COMPONENT, CALTRANS will submit a final accounting for all OBLIGATIONS costs. Based on the final accounting, PARTNERS will refund or invoice as necessary in order to satisfy the financial commitments of this agreement.

Cost: CONSTRUCTION Capital

3. CALTRANS will invoice AUTHORITY for the actual cost of any SFM as a CONSTRUCTION CAPITAL cost.

4. Each PARTNER listed below will do work for CONSTRUCTION Capital as described in the SCOPE SUMMARY of the cooperative agreement:
   - CALTRANS

   Therefore, based on the funding arrangements presented in the Funding Summary Table:
   - CALTRANS may invoice AUTHORITY for local funds.

5. PARTNERS will exchange funds for actual costs.

CALTRANS will invoice AUTHORITY for an initial deposit of $5,000,000 thirty (30) working days prior to the construction contract bid advertisement date. This deposit represents one (1) months' estimated capital cost.

Thereafter, CALTRANS will submit to AUTHORITY monthly invoices of estimated costs based on the prior month's actual expenditures.

After PARTNERS agree that all WORK is complete for this PROJECT COMPONENT, CALTRANS will submit a final accounting for all OBLIGATIONS costs. Based on the final accounting, PARTNERS will refund or invoice as necessary in order to satisfy the financial commitments of this agreement.

FUNDING SUMMARY Number 3

Project Number: 0812000211
Agreement: 08-1530
C12189

Part III – Spending Summary

Description	Partner Administering	Funding Partner	Not to exceed Amount from Measure I funds from OM940
Payment for Burlington Northern Santa Fe (BNSF) coordination and reviews.	CALTRANS	AUTHORITY	$5,900,000
Payment for Union Pacific Railroad (UPRR) coordination and reviews.	CALTRANS	AUTHORITY	$400,000

CALTRANS will enter into a Construction and Maintenance (C&M) Agreement with BNSF and UPRR for work within their right of ways. The resident engineer will authorize payment for this supplemental work up to the amounts listed above to the contractor responsible for the work on the railroads.

Project	Breakdown	CMAQ	CMIA	STIP-RIP	STIP-ITIP	Measure I	SHOPP	TOTAL
0M940	Support	$3,283,000	$11,223,000	$1,764,000	$0	$0	$0	$16,270,000
	Capital	$31,567,000	$4,237,000	$61,520,000	$4,961,000	$36,778,000	$0	$139,063,000
	Total	$34,850,000	$15,460,000	$63,284,000	$4,961,000	$36,778,000	$0	$155,333,000
0P510	Support	$0	$0	$0	$0	$361,000	$0	$361,000
	Capital	$0	$3,088,000	$0	$0	$0	$0	$3,088,000
	Total	$0	$3,088,000	$0	$0	$361,000	$0	$3,449,000
0H330	Support	$0	$0	$0	$0	$0	$800,000	$800,000
	Capital	$0	$0	$0	$0	$0	$12,258,000	$12,258,000
	Total	$0	$0	$0	$0	$0	$13,058,000	$13,058,000
TOTAL		$34,850,000	$18,548,000	$63,284,000	$4,961,000	$37,139,000	$13,058,000	$171,840,000

*AUTHORITY will be utilizing local advance construction funds for CMAQ funds. In the event the capital expenditures exceeds the yearly obligated amount of CMAQ, Measure I funds will be used as local advance construction funds to cover the deficit.

FUNDING SUMMARY Number 3

Project Number: 0812000211
Agreement: 08-1530
C12189

Part IV – Signature Page

STATE OF CALIFORNIA
DEPARTMENT OF TRANSPORTATION

APPROVED

By:_____
Basem E. Muallem, P.E.
District Director

Date:_____

By:_____
Lisa Pacheco
District Budget Manager

By:_____
HQ Accounting

SAN BERNARDINO COUNTY
TRANSPORTATION AUTHORITY

APPROVED

By:_____
Janice Rutherford
Board President

Date:_____

By:_____
Vicki Watson
Clerk of the Board

APPROVED AS TO FORM AND
PROCEDURE

By:_____
Eileen Monaghan Teichert
AUTHORITY's General Counsel

CONCURRENCE

By:_____
Jeffery Hill
Contract Administrator

Governments SANBAG Working Together

San Bernardino Associated Governments

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TRANSPORTATION MEASURE I

San Bernardino County Transportation Commission ■ San Bernardino County Transportation Authority
San Bernardino County Congestion Management Agency ■ Service Authority for Freeway Emergencies

Minute Action

AGENDA ITEM: 17

Date: October 3, 2012

Subject: Construction and Maintenance Agreement for Palm Avenue Grade Separation

Recommendation:* Approve Contract No. C13018 with BNSF Railway Company (BNSF) and the City of San Bernardino for construction and maintenance of the Palm Avenue Grade Separation project in which San Bernardino Associated Governments will pay BNSF $900,000 in 2010-2040 Measure I Valley Major Streets Bond funds for railroad work and flagging and inspection costs and easements, including a 10% contingency and will receive a contribution of $689,710.00 from BNSF towards the overall project cost.

Background: The Palm Avenue Grade Separation project in the City of San Bernardino is nearing completion of the design and right-of-way phase with construction scheduled to start in the middle of 2013. This project will grade separate Palm Avenue and the BNSF tracks at an off-set crossing from the existing at-grade crossing. In order to construct this project, easements need to be obtained from BNSF for permanent and temporary rights. In addition there are railroad flagging and inspection costs associated with monitoring and regulating construction work adjacent and on a very busy railroad corridor. A construction and maintenance agreement is therefore required to specify the roles and responsibilities of the participating agencies and the funding arrangements for this work. Since this is a new grade separation that is replacing an at-grade crossing, federal regulations provide for a contribution from the railroad, which is also included in this agreement.

*

Approved
Board of Directors

Date: _____

Moved: *Second:*

In Favor: *Opposed:* *Abstained:*

Witnessed: _____

COG		CTC	X	CTA	X	SAFE		CMA	

Check all that apply.

BRD1210c-das

Attachment: http://portal.sanbag.ca.gov/mgmt/APOR-Mgmnt/Shared%20Documents/C13018.PDF

In this agreement, San Bernardino Associated Governments (SANBAG) agrees to pay BNSF $36,645 for a permanent easement for the new bridge and foundations which will be within the existing BNSF right-of-way. In addition, SANBAG agrees to pay $31,224 for a temporary construction license that will allow a larger area for SANBAG's contractor to construct the new bridge within existing BNSF right-of-way. In the agreement, SANBAG also agrees to pay $750,000 for the estimated railroad costs for flagging and inspection work and work done by BNSF to remove the existing at-grade crossing facilities. An additional 10% contingency is being requested in this item as the agreement commits SANBAG to pay BNSF's actual costs for this work. In this three party agreement, SANBAG will construct the new bridge and will then turn over the bridge to the City of San Bernardino upon completion of construction along with the easements obtained in SANBAG's name. The agreement spells out responsibilities and requirements associated with the construction and ongoing maintenance of the bridge.

Due to the public safety benefits associated with the elimination of at-grade railroad crossing, there is a federal regulation Title 23 CFR sec. 646.210 that provides for the railroad to contribute 5% of a theoretical bridge cost towards the overall project cost. For this project, the parties involved have determined this contribution to be in the amount of $689,710. Per the agreement, BNSF will contribute these funds towards the project upon completion.

This agreement is required to be executed before the right-of-way can be cleared as it contains the easement documents for the railroad right-of-way required for the project. As such, this agreement needs to be executed now to keep the project on schedule. This project is utilizing Trade Corridor Improvement Funds (TCIF) which require a construction contract award in 2013. Staff recommends approval of this item.

Financial Impact: The costs for the payable portion of the agreement are accounted for in the 2012/13 current year budget. These costs will be funded by 2010-2040 Measure I Valley Major Streets Bond funds. Task No. 0874.

Reviewed By: This item was reviewed by the Major Projects Committee on September 13, 2012. SANBAG General Counsel and Contract Administrator have reviewed this item and the Contract.

Responsible Staff: Garry Cohoe, Director of Project Delivery

Governments SANBAG Working Together

CONTRACT SUMMARY SHEET

Contract No. C 13018 Amendment No. _____

By and Between

San Bernardino County Transportation Authority and BNSF Railway and the City of San Bernardino

Contract Description Construction & Maintenance Agreement for the Palm Ave. Grade Sep Project

Board of Director's Meeting Date: Oct.3, 2012
Overview of BOD Action: Approve agreement

Is this a Sole-Source procurement? ☒ Yes ☐ No

CONTRACT OVERVIEW

Original Contract Amount	$	817,869	**Original Contingency Amount**	$	82,131
Revised Contract Amount *Inclusive of prior amendments*	$		**Revised Contingency Amount** *Inclusive of prior amendments*	$	
Current Amendment Amount	$		**Contingency Amendment**	$	
TOTAL CONTRACT VALUE	$	817,869	**TOTAL CONTINGENCY VALUE**	$	82,131
TOTAL BUDGET AUTHORITY *(contract value + contingency)*				$	900,000

Contract Start Date	**Current Contract Expiration Date**	**Revised Contract Expiration Date**
10/3/12	10/3/15	

Has the contract term been amended? ☒ No ☐ Yes - please explain.

FINANCIAL INFORMATION

☒ Budget authority for this contract currently exists in Task No. 0874.
☐ A Budget Amendment is required.
How are we funding current FY?

☐ Federal Funds ☐ State Funds ☐ Local Funds ☐ TDA Funds ☒ Measure I Funds

Provide Brief Overview of the ***Overall*** *Funding for the duration of the Contract:*
This agreement payable by Measure I Major Streets funding for railroad work. There is also a receivable.
☒ Payable ☐ Receivable

CONTRACT MANAGEMENT INFORMATION

Check all applicable boxes:
☐ Retention? If yes, indicate % _____.
☐ Disadvantaged Business Enterprise (DBE) Goal _____ % ☐ Underutilized DBE (UDBE) Goal _____ %

9-6-12

P. Beauchamp for Garry Cohoe		9/4/12
Task Manager (Print Name)	Signature	Date
DENNIS STAYLOR		9/4/12
Project Manager (Print Name)	Signature	Date
Jeffery Hill		9/6/12
Contracts Administrator (Print Name)	Signature	Date
WILLIAM STAWARSKI		9/7/12
Chief Financial Officer (Print Name)	Signature	Date

Governments SANBAG Working Together

CONTRACT SUMMARY SHEET

Contract No. C 13018 Amendment No. _____

By and Between

San Bernardino County Transportation Authority and BNSF Railway and the City of San Bernardino

Contract Description Construction & Maintenance Agreement for the Palm Ave. Grade Sep Project

Board of Director's Meeting Date: Oct.3, 2012
Overview of BOD Action: Approve agreement

Is this a Sole-Source procurement? ☒ Yes ☐ No

CONTRACT OVERVIEW

Original Contract Amount	$	689,710.00	**Original Contingency Amount**	$	
Revised Contract Amount *Inclusive of prior amendments*	$		**Revised Contingency Amount** *Inclusive of prior amendments*	$	
Current Amendment Amount	$		**Contingency Amendment**	$	
TOTAL CONTRACT VALUE	$	689,710.00	**TOTAL CONTINGENCY VALUE**	$	
TOTAL BUDGET AUTHORITY *(contract value + contingency)*				$	689,710.00

Contract Start Date	**Current Contract Expiration Date**	**Revised Contract Expiration Date**
10/3/12	10/3/15	

Has the contract term been amended? ☒ No ☐ Yes - please explain.

FINANCIAL INFORMATION

☒ Budget authority for this contract currently exists in Task No. 0874.
☐ A Budget Amendment is required.

How are we funding current FY?

☐ Federal Funds ☐ State Funds ☒ Local Funds ☐ TDA Funds ☐ Measure I Funds

*Provide Brief Overview of the **Overall** Funding for the duration of the Contract:*
This CSS shows the receivable contribution to the project from BNSF. There is also a payable portion.
☐ Payable ☒ Receivable

CONTRACT MANAGEMENT INFORMATION

Check all applicable boxes:
☐ Retention? If yes, indicate % _____.
☐ Disadvantaged Business Enterprise (DBE) Goal _____ % ☐ Underutilized DBE (UDBE) Goal _____ %

P. Beauchamp for Gary Cohoe		9/4/12
Task Manager (Print Name)	Signature	Date
DENNIS TAYLOR		9/4/12
Project Manager (Print Name)	Signature	Date
Jeffery Hill		9/6/12
Contracts Administrator (Print Name)	Signature	Date
WILLIAM STAWARSKI		9/6/12
Chief Financial Officer (Print Name)	Signature	Date

CONSTRUCTION and MAINTENANCE AGREEMENT

BNSF Agreement No. BF-10003191
SANBAG Agreement No.C13018
Palm Avenue Overhead
U.S. D.O.T. No. 929074M
C.P.U.C. No. 002-74.06-A

This Agreement **("Agreement")**, is executed to be effective as of this _____ day of _____, 2012 **("Effective Date")**, by and between **BNSF RAILWAY COMPANY**, a Delaware corporation **("BNSF")**, the **CITY OF SAN BERNARDINO**, a body corporate and politic of the State of California **("CITY")**, and the **SAN BERNARDINO ASSOCIATED GOVERNMENTS**, a body corporate and politic of the State of California, hereinafter referred to as **("SANBAG")**.

RECITALS:

WHEREAS, BNSF owns and operates a line of railroad in and through the City of San Bernardino, County of San Bernardino, State of California, hereinafter referred to as **("Rail Corridor")**;

WHEREAS, SANBAG and CITY desire to proceed with grade separating Palm Avenue and the Rail Corridor with the Palm Avenue Overhead crossing, by means of a three span, cast in place post-tensioned reinforced concrete box girder bridge, 402 feet long by 40 feet 5 inches wide, on concrete piers and abutments ("Structure");

WHEREAS, the existing Palm Avenue grade crossing, U.S. D.O.T. No. 026105N, C.P.U.C. Crossing No. 002-74.00, will be closed and removed upon completion of construction and the placing in service of said Structure;

WHEREAS, SANBAG entered into Cooperative Agreement No. C08202 with the CITY dated October 06, 2008 which provides for SANBAG to obtain the environmental clearance and execute the design of the Palm Avenue grade separation project;

WHEREAS, SANBAG entered into Cooperative Agreement No. C11180 with the CITY dated June 01, 2011 which provides for SANBAG to acquire right of way and administer funding for the Palm Avenue grade separation project;

WHEREAS, SANBAG entered into Cooperative Agreement No. C12241 with the CITY dated July 11, 2012 which provides for SANBAG to advertise, construct, and administer funding for the Palm Avenue grade separation project;

WHEREAS, pursuant to said Cooperative Agreements, upon completion and acceptance of the Structure by CITY, CITY will thereafter control and maintain the Structure at its sole cost and expense;

WHEREAS, BNSF agrees to contribute a portion of the Project costs;

WHEREAS, in order to construct the Project SANBAG must acquire certain rights-of-way from BNSF;

WHEREAS, the parties desire to further define their respective rights and responsibilities associated with the construction and on going maintenance of the grade separated crossing.

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

ARTICLE I – SCOPE OF WORK

1. The term **"Project"** as used herein includes any and all work related to the construction of the Structure, more particularly described on Exhibit A, attached hereto and incorporated herein, including but not limited to, any and all changes to telephone, telegraph, signal and electrical lines, other utilities and appurtenances, temporary and permanent track work, temporary detour road, fencing, grading, maintenance access roadways, alterations to or new construction of drainage facilities, slab bridge and fenced turnaround area, preliminary and construction engineering, right of way acquisition, construction management, and contract preparation. Additionally, temporary controls during construction must be in compliance with Section 8A-5, "Traffic Controls during Construction and Maintenance" of the Manual of Uniform Traffic Control Devices ("MUTCD"), U.S. Department of Transportation.

ARTICLE II – BNSF OBLIGATIONS

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

1. Upon SANBAG's payment to BNSF of an administrative fee in the sum of Two Thousand Dollars and No/100 dollars ($2,000.00), together with the sum of Thirty Four Thousand Six Hundred Forty Five and No/100 Dollars ($34,645.00), BNSF shall grant to SANBAG, its successors and assigns, upon and subject to the terms and conditions set forth in this Agreement, a temporary non-exclusive license (hereinafter called, "Temporary Construction License") to construct the Structure across or upon that portion of BNSF's Rail Corridor shown as three parcels on Exhibit A attached to this Agreement, excepting and reserving BNSF's rights, and the rights of any others who have obtained, or may obtain, permission or authority from BNSF, to do the following:

(a) Operate, maintain, renew and/or relocate any and all existing railroad track or tracks, wires, pipelines and other facilities of like character upon, over or under the surface of said Rail Corridor;

(b) Construct, operate, maintain, renew and/or relocate upon said Rail Corridor, without limitation, such facilities as the BNSF may from time to time deem appropriate, provided such facilities do not materially interfere with SANBAG's construction of the Project;

(c) Otherwise use or operate the Rail Corridor as BNSF may from time to time deem appropriate, provided such use or operations does not materially interfere with SANBAG's construction of the Project, and ;

The term of the Temporary Construction License shall begin on the Notice to Commence Construction date as set forth hereinafter in Article III, Section 18 and ends on the earlier of (i) substantial completion of the Project, or (ii) thirty months (30) months following the Notice to Commence Construction. The Temporary Construction License and related rights given by BNSF to SANBAG in this provision are without warranty of title of any kind, express or implied, and no covenant of warranty of title will be implied from the use of any word or words herein contained. The Temporary Construction License is for construction of the Project and shall not be used by SANBAG for any other purpose. SANBAG acknowledges and agrees that SANBAG shall not have the right, under the Temporary Construction License, to use the Structure. In the event SANBAG is evicted by anyone owning, or claiming title to or any interest in said Rail Corridor, BNSF will not be liable to SANBAG for any damages, losses or any expenses of any nature whatsoever. The granting of similar rights to others, subsequent to the date of this Agreement, will not impair or interfere with the rights granted to SANBAG herein.

Upon SANBAG's payment to BNSF of the additional sum of Thirty One Thousand Two Hundred Twenty Four and No/100 Dollars ($31,224.00), such payment to be made within thirty (30) days of the giving of the Notice to Proceed pursuant to Article III, Section 16 of this Agreement, and provided further that SANBAG is in compliance with the terms and conditions of this Agreement, BNSF will grant to SANBAG, its successors and assigns, a perpetual easement (hereinafter called, the "Easement") to enter upon and use that portion of BNSF's Rail Corridor as is necessary to use and maintain the Structure,

substantially in the form of Exhibit B attached to this Agreement. If SANBAG fails to pay BNSF within the thirty day time period set forth in the preceding sentence, BNSF may stop construction of the Project until full payment is received by BNSF.

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

(a) Procurement of materials, equipment and supplies necessary for the railroad work;

(b) Preliminary engineering, design, and contract preparation;

(c) Removal of the concrete crossing panels for the existing Palm Avenue grade crossing;

(d) Removal of the existing Palm Avenue Signal Warning Devices;

(e) Furnishing of flagging services necessary for the safety of BNSF's property and the operation of its trains during construction of the Project as set forth in further detail on Exhibit C, attached to this Agreement and made a part hereof;

(f) Furnishing of engineering and inspection as required in connection with the construction of the Project and;

(g) Providing a contract project coordinator, at SANBAG's expense, to serve as a project manager for the Project.

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

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

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

6. During the construction of the Project, BNSF will send SANBAG progressive invoices detailing the costs of the railroad work performed by BNSF under this Agreement. SANBAG must reimburse BNSF for completed force-account work within forty-five (45) calendar days from the date of SANBAG'S receipt of the invoice for such work. Upon completion of the Project, BNSF will send SANBAG a detailed invoice of final costs, segregated as to labor and materials for each item in the recapitulation shown on Exhibit D. Pursuant to this Section, SANBAG will verify such final costs. All undisputed costs set forth in the final invoice shall be paid within ninety (90) calendar days from the date of the final invoice. The Parties agree to take reasonable efforts to resolve any disputed cost in a timely manner. BNSF will assess a finance charge of 0.033% per day (12% per annum) on any unpaid sums or other charges due

under this Agreement which are past its credit terms. The finance charge continues to accrue daily until the date the payment is received by BNSF, not the date that payment is made or the date postmarked on the payment. Finance charges will be assessed on delinquent sums and other charges as of the end of the month and will be reduced by amounts in dispute and any un-posted payments received by the month's end. Finance charges will be noted on invoices sent to SANBAG under this Section 6. **For purposes of computing the time limits prescribed by Section 911.2 of the CALIFORNIA GOVERNMENT CODE for the presentment of a claim against SANBAG, the cause of action for failure to reimburse BNSF for the cost of the Railroad Work performed by it pursuant to this Agreement shall be deemed to have accrued one hundred eighty (180) days from the date of the final invoice.**

ARTICLE III – SANBAG OBLIGATIONS

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

1. SANBAG shall furnish to BNSF and CITY plans and specifications for the Project together with calculations with the railroad clearances expressed in **English Units.** One complete reduced size 11" x 17" paper copy shall be submitted to BNSF's Director of Structural Engineering. A PDF copy of the plans and specifications should be sent to both BNSF's Manager Public Projects and BNSF's Director Structural Engineering. The PDF copy with a file size of two (2) megabytes or less should be sent via an email attachment. Should the PDF copy of the plans and specifications exceed two (2) megabytes, a CD (Compact Disk) of the plans and specifications should be sent via overnight mail service to both BNSF offices. The email and mailing addresses are included in Article V, Section 25. Sets of said plans shall be submitted to BNSF and CITY for approval prior to commencement of any construction. BNSF will give SANBAG final written approval of the plans and specifications substantially in the form of Exhibit E, attached to this Agreement and made a part hereof. Upon BNSF's final written approval of the plans and specifications, said plans and specifications will become part of this Agreement and are hereby incorporated herein. Any approval of the plans and specifications by BNSF shall in no way obligate BNSF in any manner with respect to the finished product design and/or construction. Any approval by BNSF shall mean only that the plans and specifications meet BNSF standard specifications, and such approval by BNSF shall not be deemed to mean that the plans and specifications or construction is structurally sound and appropriate or that such plans and specifications meet applicable regulations, laws, statutes or local ordinances and/or building code.

2. SANBAG must provide for and maintain minimum vertical and horizontal clearances, as required and approved by BNSF as part of the plans and specifications for the Project.

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

4. SANBAG must make application to the Public Utilities Commission of the State of California **("Commission")** for an order authorizing construction of the Project and to furnish to the Commission plans of the proposed construction, approved by BNSF and CITY, together with a copy of this Agreement and to obtain all other required permits and approvals for the construction of the Project.

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

(a) Preliminary and final Engineering;

(b) Design and the Construction of the Structure;

(c) Providing of suitable drainage, both temporary and permanent including the relocation of drainage off of BNSF property and between Bent 3 and Abutment 4;

(d) Construct a vehicle barrier between Cajon Boulevard and BNSF's southwesterly right of way line;

(e) Construct a wrought iron fence along BNSF's northeasterly right of way line including a BNSF maintenance access gate;

(f) All other necessary grading and paving, including backfill of excavations and restoration of disturbed vegetation on BNSF's Rail Corridor;

(g) Application of the D.O.T. Crossing Number 929074M and the C.P.U.C. Crossing No. 002-74.06-A in conspicuous locations on the Structure;

(h) Providing of pedestrian and/or trespasser control during construction;

(i) Installation and maintenance of throw fences consisting of an 8 ftoot high fence with inward curved top and a 10 foot high vertical fence both mounted on concrete barriers on the outer edges of the Structure's deck; and

(j) Job site cleanup within Project area including removal of all construction materials, concrete debris, surplus soil, refuse, disturbed contaminated soils, asphalt debris, litter and other waste materials to the satisfaction of BNSF;

6. SANBAG will acquire all properties required to construct the Project.

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

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

9. SANBAG or its contractor(s) shall submit one reduced size 11" x 17" paper copy, including calculations, expressed in **English Units** of the plans and specifications for proposed shoring, falsework, or cribbing to be used over, under, or adjacent to BNSF's tracks to BNSF's Director Structural Engineering. SANBAG or its contractor(s) shall submit a PDF copy of the plans and specifications for the proposed shoring, falsework, or cribbing to both BNSF's Manager Public Projects and BNSF's Director Structural Engineering. The PDF copy with a file size of two (2) megabytes or less should be sent via an email attachment. Should the PDF copy of the plans and specifications exceed two (2) megabytes, a CD (Compact Disk) of the plans and specifications should be sent via overnight mail service to both BNSF offices for approval. The email and mailing addresses are included in Article V, Section 25. The shoring, falsework or cribbing used by SANBAG's contractor shall comply with the BNSF Bridge Requirements set forth on Exhibit F, attached to this Agreement and incorporated herein, and all applicable requirements promulgated by state and federal agencies, departments, commissions and other legislative bodies.

Falsework shall be designed according to the State of California, Department of Transportation FALSEWORK MANUAL available at this Web Site:
http://www.dot.ca.gov/hq/esc/construction/manuals/OSCCompleteManuals/FalseworkManual.pdf

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

(a) The Contractor is placed on notice that fiber optic, communication and other cable lines and systems (collectively, the "Lines") owned by various telecommunications companies may be

buried on BNSF's property or Rail Corridor. The locations of these Lines have been included on the plans based on information from the telecommunications companies. The Contractor will be responsible for contacting BNSF's Engineering Representative (909) 386-4079, BNSF's Signal Representative (909) 386-4053 and the telecommunications companies and notifying them of any work that may damage these Lines or facilities and/or interfere with their service. The contractor must also mark all Lines shown on the plans or marked in the field in order to verify their locations. The contractor must also use all reasonable methods when working in the BNSF Rail Corridor or on BNSF property to determine if any other Lines (fiber optic, cable, communication or otherwise) may exist.

(b) Failure to mark or identify these Lines will be sufficient cause for any BNSF Representative to stop construction at no cost to SANBAG or BNSF until these items are completed.

(c) In addition to the liability terms contained elsewhere in this Agreement, the contractor hereby indemnifies, defends and holds harmless BNSF for, from and against all cost, liability, and expense whatsoever (including, without limitation, attorney's fees and court costs and expenses) arising out of or in any way contributed to by any act or omission of Contractor, its subcontractors, agents and/or employees that cause or in any way or degree contribute to (1) any damage to or destruction of any Lines by Contractor, and/or its subcontractors, agents and/or employees, on BNSF's property or within BNSF's Rail Corridor, (2) any injury to or death of any person employed by or on behalf of any telecommunications company, and/or its contractor, agents and/or employees, on BNSF's property or within BNSF's Rail Corridor, and/or (3) any claim or cause of action for alleged loss of profits or revenue by, or loss of service by a customer or user of such telecommunication company(ies).**THE LIABILITY ASSUMED BY CONTRACTOR WILL NOT BE AFFECTED BY THE FACT, IF IT IS A FACT, THAT THE DAMAGE, DESTRUCTION, INJURY, DEATH, CAUSE OF ACTION OR CLAIM WAS OCCASIONED BY OR CONTRIBUTED TO BY THE NEGLIGENCE OF BNSF, ITS AGENTS, SERVANTS, EMPLOYEES OR OTHERWISE, UNLESS SUCH CLAIMS ARE PROXIMATELY CAUSED BY THE WILLFUL MISCONDUCT OR SOLE NEGLIGENCE OF BNSF.**

(d) The Contractor will be responsible for the rearrangement of any facilities or Lines determined to interfere with the construction. The Contractor must cooperate fully with any telecommunications company(ies) in performing such rearrangements.

11. SANBAG must incorporate in each prime contract for construction of the Project, or the specifications therefore (i) the provisions set forth in Article III, Sections 7, 8, 9, 10, and 12; (ii) the provisions set forth in Article V, Sections 1, 2, 3, 4, 5, 6, 7, 14 and 15, and (iii) the provisions set forth in Exhibit C, Exhibit C-I, and Exhibit F, attached hereto and by reference made a part hereof.

12. Except as otherwise provided below in this Section 12, all construction work performed hereunder by SANBAG for the Project will be pursuant to a contract or contracts to be let by SANBAG, and all such contracts must include the following:

(a) All work performed under such contract or contracts within the limits of BNSF's Rail Corridor must be performed in a good and workmanlike manner in accordance with plans and specifications approved by BNSF;

(b) Changes or modifications during construction that affect safety or BNSF operations must be subject to BNSF's approval;

(c) No work will be commenced within BNSF's Rail Corridor until each of the prime contractors employed in connection with said work must have (i) executed and delivered to BNSF a letter agreement in the form of Exhibit C-I, and (ii) delivered to and secured BNSF's approval of the required insurance; and

(d) If it is in SANBAG's best interest, SANBAG may direct that the construction of the Project be done by day labor under the direction and control of SANBAG, or if at any time, in the

opinion of SANBAG, the contractor has failed to prosecute with diligence the work specified in and by the terms of said contract, SANBAG may terminate its contract with the contractor and take control over the work and proceed to complete the same by day labor or by employing another contractor(s) provided; however, that any contractor(s) replacing the original contractor(s) must comply with the obligations in favor of BNSF set forth above and, provided further, that if such construction is performed by day labor, SANBAG will, at its expense, procure and maintain on behalf of BNSF the insurance required by Exhibit C-1.

(e) To facilitate scheduling for the Project, SANBAG shall have its contractor give BNSF's Project Engineer at telephone number 909 386 4079 eight (8) weeks advance notice of the proposed times and dates for work windows. BNSF and SANBAG's contractor will establish mutually agreeable work windows for the Project. SANBAG shall inform its contractor that any request for work windows with less than eight (8) weeks advance notice will have a reduced probability of approval. BNSF has the right at any time to revise or change the work windows, due to train operations or service obligations. BNSF will not be responsible for any additional costs and expenses resulting from a change in work windows. Additional costs and expenses resulting from a change in work windows shall be accounted for in the contractor's expenses for the Project.

(f) The plans and specifications for the Project must be in compliance with the Bridge Requirements set forth in said Exhibit F, attached to this Agreement and incorporated herein.

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

14. SANBAG, shall quit claim to City, within sixty (60) days after SANBAG'S notification of the completion date the Project, as provided for in Article III, Section 13 above, all of its right title and interest in the perpetual easement granted to SANBAG by BNSF pursuant to the provisions in Article II, Section 1 of this Agreement.

15. **TO THE FULLEST EXTENT PERMITTED BY LAW, SANBAG HEREBY RELEASES, INDEMNIFIES, DEFENDS AND HOLDS HARMLESS BNSF, ITS AFFILIATED COMPANIES, PARTNERS, SUCCESSORS, ASSIGNS, LEGAL REPRESENTATIVES, OFFICERS, DIRECTORS, SHAREHOLDERS, EMPLOYEES AND AGENTS FOR, FROM AND AGAINST ANY AND ALL CLAIMS, LIABILITIES, FINES, PENALTIES, COSTS, DAMAGES, LOSSES, LIENS, CAUSES OF ACTION, SUITS, DEMANDS, JUDGMENTS AND EXPENSES (INCLUDING, WITHOUT LIMITATION, COURT COSTS AND ATTORNEYS' FEES) OF ANY NATURE, KIND OR DESCRIPTION OF ANY PERSON (INCLUDING, WITHOUT LIMITATION, THE EMPLOYEES OF THE PARTIES HERETO) OR ENTITY DIRECTLY OR INDIRECTLY ARISING OUT OF, RESULTING FROM OR RELATED TO (IN WHOLE OR IN PART) (I) THE USE, OCCUPANCY OR PRESENCE OF SANBAG, ITS CONTRACTORS, SUBCONTRACTORS, EMPLOYEES OR AGENTS IN, ON, OR ABOUT THE CONSTRUCTION SITE, (II) THE PERFORMANCE, OR FAILURE TO PERFORM BY SANBAG, ITS CONTRACTORS, SUBCONTRACTORS, EMPLOYEES, OR AGENTS, ITS WORK OR ANY OBLIGATION UNDER THIS AGREEMENT, (III) THE SOLE OR CONTRIBUTING ACTS OR OMISSIONS OF SANBAG, ITS CONTRACTORS, SUBCONTRACTORS, EMPLOYEES, OR AGENTS IN, ON, OR ABOUT THE CONSTRUCTION SITE, (IV) SANBAG'S BREACH OF THE TEMPORARY CONSTRUCTION LICENSE GRANTED TO SANBAG PURSUANT TO ARTICLE II OF THIS AGREEMENT, (V) ANY RIGHTS OR INTERESTS GRANTED TO SANBAG PURSUANT TO THE TEMPORARY CONSTRUCTION LICENSE DISCUSSED IN ARTICLE II OF THIS AGREEMENT, (VI) SANBAG'S OCCUPATION AND USE OF BNSF'S PROPERTY OR RAIL CORRIDOR, OR (VII) AN ACT OR OMISSION OF SANBAG OR ITS OFFICERS, AGENTS, INVITEES, EMPLOYEES OR CONTRACTORS OR ANYONE DIRECTLY OR INDIRECTLY EMPLOYED BY ANY OF THEM, OR ANYONE THEY CONTROL OR EXERCISE CONTROL OVER. THE LIABILITY ASSUMED BY SANBAG WILL NOT BE AFFECTED BY THE FACT, IF IT IS A FACT, THAT THE DAMAGE, DESTRUCTION, INJURY OR DEATH WAS OCCASIONED BY OR CONTRIBUTED TO BY THE NEGLIGENCE OF BNSF, ITS AGENTS,**

SERVANTS, EMPLOYEES OR OTHERWISE, UNLESS SUCH CLAIMS ARE PROXIMATELY CAUSED BY THE WILLFUL MISCONDUCT OR SOLE NEGLIGENCE OF BNSF.

16. SANBAG must give BNSF's Manager of Public Projects written notice to proceed ("**Notice to Proceed**") with the railroad work after receipt of necessary funds for the Project. BNSF will not begin the railroad work (including, without limitation, procurement of supplies, equipment or materials) until written notice to proceed is received from SANBAG. The Notice to Proceed must reference BNSF's Agreement No. BF-10003191.

17. SANBAG must perform all necessary work to obtain the permanent closure and vacation of Palm Avenue across BNSF's right-of-way and must barricade the road approaches prior to completion of the Project. BNSF will cooperate with SANBAG to achieve the closure and vacation of Palm Avenue and will remove the crossing surface within its right-of-way.

18. SANBAG must give BNSF's Manager of Public Projects written notice to commence construction ("Notice to Commence Construction") when the Contractor has satisfied the requirements set forth hereinafter in Article III, Section 12 (c) and will enter BNSF Rail Corridor to begin construction. The Notice to Commence Construction must reference BNSF's Agreement No. BF10003191.

ARTICLE IV - CITY OBLIGATIONS

IN CONSIDERATION of the covenants of BNSF and SANBAG herein contained and the faithful performance thereof, CITY agrees:

1. To permit SANBAG to act as the responsible lead agency to design and construct the Project.

2. In addition to the terms and conditions set forth elsewhere in this Agreement, including, but not limited to, the terms and conditions set forth in Exhibit F, BNSF and CITY agree as follows:

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

(b) CITY must, at CITY's sole cost and expense, keep the Structure free from graffiti.

(c) CITY must maintain D.O.T. Crossing Number 929074M and C.P.U.C. Crossing No. 002-74.06-A in legible condition in the conspicuous locations on the Structure where applied by SANBAG during construction;

(d) It is understood by CITY that the right to install utilities is restricted to the placement of underground utilities beneath BNSF's tracks located a minimum of fifty (50) feet from abutments, piers, piles, or footings with the exception that upon BNSF's prior approval BNSF will permit selected utilities to be installed closer to the abutments, piers, piles, footings and/or run through the deck of the Structure. Under no circumstances will utilities be allowed to hang from the Structure. All utility crossings within the limits of BNSF's Rail Corridor will be covered by separate agreements between BNSF and each of the owners of the utilities;

(e) Upon request from BNSF, CITY shall remove all trash and debris associated with the Structure from BNSF's property;

(f) CITY must provide BNSF with any and all necessary permits and maintain roadway traffic controls, at no cost to BNSF, whenever requested by BNSF to allow BNSF to inspect the Structure or to make emergency repairs thereto;

(g) CITY must keep the Structure and surrounding areas clean and free from birds, pigeons, scavengers, vermin, creatures and other animals;

(h) CITY hereby grants to BNSF, at no cost or expense to BNSF, a permanent right of access from City property to BNSF tracks for maintenance purposes;

(i) CITY must, at CITY's sole cost and expense, maintain the throw fences consisting of an 8 foot high fence with inward curved top and a 10 foot high vertical fence both mounted on concrete barriers on the outer edges of the Structure's deck; and

(j) If CITY (including its contractors and agents) or BNSF, on behalf of CITY, performs (i) alterations or modifications to the Structure, or (ii) any maintenance or other work on the Structure with heavy tools, equipment or machinery at ground surface level horizontally within 25'-0" of the centerline of the nearest track, or (iii) any maintenance or other work outside the limits of the deck of the Structure vertically above the top of the rail, then CITY or its contractors and/or agents must procure and maintain the following insurance coverage, and other the insurance requirements as contained in Exhibit C-1, which may be changed from time to time:

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

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

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

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

3. Subject to the restrictions imposed by Article V, Section 14 below, CITY must notify and obtain prior authorization from BNSF's Manager of Public Projects before entering BNSF's Rail Corridor for **INSPECTION OR MAINTENANCE** purposes, and the BNSF Manager of Public Projects will determine if flagging is required. CITY must procure and maintain the insurance coverage required by Exhibit C-1 and comply with the obligations set forth in Exhibit C and Exhibit F, as the same may be revised from time to time. If the construction work hereunder is contracted, CITY must require its prime contractor(s) to comply with the obligations set forth in Exhibit C and Exhibit C-1, and Exhibit F, as the same may be revised from time to time. CITY will be responsible for its contractor(s) compliance with such obligations.

4. **TO THE FULLEST EXTENT PERMITTED BY LAW, CITY HEREBY RELEASES, INDEMNIFIES, DEFENDS AND HOLDS HARMLESS BNSF, ITS AFFILIATED COMPANIES, PARTNERS, SUCCESSORS, ASSIGNS, LEGAL REPRESENTATIVES, OFFICERS, DIRECTORS, SHAREHOLDERS, EMPLOYEES AND AGENTS FOR, FROM AND AGAINST ANY AND ALL CLAIMS, LIABILITIES, FINES, PENALTIES, COSTS, DAMAGES, LOSSES, LIENS, CAUSES OF ACTION, SUITS, DEMANDS, JUDGMENTS AND EXPENSES (INCLUDING, WITHOUT LIMITATION, COURT COSTS AND ATTORNEYS' FEES) OF ANY NATURE, KIND OR DESCRIPTION OF ANY PERSON (INCLUDING, WITHOUT LIMITATION, THE EMPLOYEES OF THE PARTIES HERETO) OR ENTITY DIRECTLY OR INDIRECTLY ARISING OUT OF, RESULTING FROM OR RELATED TO (IN WHOLE OR IN PART) (I) THE USE, OCCUPANCY OR PRESENCE OF CITY, ITS CONTRACTORS, SUBCONTRACTORS, EMPLOYEES OR AGENTS IN, ON, OR ABOUT THE MAINTENANCE SITE, (II) THE PERFORMANCE, OR FAILURE TO PERFORM BY THE CITY, ITS CONTRACTORS, SUBCONTRACTORS, EMPLOYEES, OR AGENTS, ITS WORK OR ANY OBLIGATION UNDER THIS AGREEMENT, (III) THE SOLE OR CONTRIBUTING ACTS OR OMISSIONS OF CITY, ITS CONTRACTORS, SUBCONTRACTORS, EMPLOYEES, OR AGENTS IN, ON, OR ABOUT THE MAINTENANCE SITE, (IV) CITY'S OCCUPATION AND USE OF BNSF'S PROPERTY OR RAIL CORRIDOR, INCLUDING WITHOUT LIMITATION, SUBSEQUENT MAINTENANCE OF THE STRUCTURE BY CITY, OR (V)AN ACT OR OMISSION OF CITY OR ITS OFFICERS, AGENTS, INVITEES, EMPLOYEES OR CONTRACTORS OR ANYONE DIRECTLY OR INDIRECTLY EMPLOYED BY ANY OF THEM, OR ANYONE THEY CONTROL OR EXERCISE CONTROL OVER. THE LIABILITY ASSUMED BY CITY WILL NOT BE AFFECTED BY THE FACT, IF IT IS A FACT, THAT THE DAMAGE, DESTRUCTION, INJURY OR DEATH WAS OCCASIONED BY OR CONTRIBUTED TO BY THE NEGLIGENCE OF BNSF, ITS AGENTS, SERVANTS, EMPLOYEES OR OTHERWISE, UNLESS SUCH CLAIMS, ARE PROXIMATELY CAUSED BY THE WILLFUL MISCONDUCT OR SOLE NEGLIGENCE OF BNSF.**

ARTICLE V – JOINT OBLIGATIONS

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

1. All work contemplated in this Agreement must be performed in a good and workmanlike manner and each portion must be promptly commenced by the party obligated hereunder to perform the same and thereafter diligently prosecuted to conclusion in its logical order and sequence. Furthermore, any changes or modifications during construction which affect BNSF will be subject to BNSF's approval prior to the commencement of any such changes or modifications. BNSF will notify SANBAG of potential impacts to Project at the time said impacts are known subject to the provisions of Article II, Item 4.

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

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

4. BNSF shall have the right to request any SANBAG employee, or CITY employee, who enters BNSF's Rail Corridor and because of their incompetence, neglect of duty, unsafe conduct or misconduct

and/or they adversely affected BNSF's operations or facilities, be removed from the Rail Corridor. In the event SANBAG or CITY elects not to honor such request, BNSF may stop work within its Rail Corridor until the matter has been fully resolved to BNSF's satisfaction. The party whose employee has been asked to leave the Rail Corridor will indemnify BNSF and the other parties against any claims arising from such removal.

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

Garry Cohoe
SANBAG Director of Project Delivery
1170 W. 3rd Street, 2nd Floor
San Bernardino, CA 92410
Phone number: (909) 884-8276
Fax number (909) 388-2002
Email: gcohoe@sanbag.ca.gov

6. SANBAG's or CITY's employees, agents, contractors, representatives and invitees shall wear Personal Protective Equipment ("**PPE**") when on the BNSF's Rail Corridor during construction of the Project or performing subsequent maintenance after completion of construction. The PPE shall meet applicable OSHA and ANSI specifications. Current BNSF PPE requirements are listed on the web site,www.contractororientation.com. A partial list of BNSF's PPE requirements include; a) safety glasses: permanently affixed side shields; no yellow lenses, b) hard hats with high visibility orange cover, c) safety shoes: hardened toe, above-the-ankle lace-up with a defined heel and d), high visibility retro-reflective orange vests are required as specified by BNSF's representative in charge of the Project. PPE requirements as defined on the web site, will be amended from time to time, and shall take precedence over the Partial list of requirements outlined in this Section 6 of Article V. Hearing protection, fall protection and respirators will be worn as required by State and Federal regulations.

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

8. BNSF shall contribute the amount of Six Hundred Eighty Nine Thousand Seven Hundred Ten and No/100 Dollars ($689,710.00) toward the cost of the Projectst (hereinafter referred to as "BNSF's Share"). BNSF's Share is based on the costs for preliminary engineering, right-of-way, and construction within the following limits:

(a) Where a grade crossing is eliminated by grade separation, the structure and approaches required to transition to a theoretical highway profile which would have been constructed if

there were no railroad present, for the number of lanes on the existing highway and in accordance with the current design standards of the appropriate state highway agency; and

(b) Where another facility, such as a highway or waterway, requiring a bridge structure is located within the limits of a grade separation project, the estimated cost of a theoretical structure and approaches as described in 23 CFR 646.210(c)(1) to eliminate the railroad-highway grade crossing without considering the presence of the waterway or other highway.

The total cost of constructing the Project is estimated to be Twenty Four Million Four Hundred Seventy Eight Thousand and No/100 Dollars ($24,478,000.00), more particularly described on Exhibit G attached hereto and incorporated herein.

9. BNSF will make payment in full of BNSF's Share to SANBAG upon receipt of a detailed invoice of the Project's final costs, together with written advice of the Project's date of completion as provided for hereinabove in Article III Section 13. ok

10. SANBAG agrees to furnish BNSF's Manager Public Projects monthly Project Progress Reports that detail work completed, percentage of Project completeness, an updated projection of the Project's final cost, and the Project's estimated completion date for BNSF's use in budgeting BNSF's Share.

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

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

13. All expenses detailed in statements sent to SANBAG pursuant to Article II, Section 6 herein will comply with the terms and provisions of the Federal Aid Highway Program Manual, U.S. Department of Transportation, as amended from time to time, which manual is hereby incorporated into and made a part of this Agreement by reference. The parties mutually agree that BNSF's preliminary engineering, design, and contract preparation costs described in Article II, Section 2 herein are part of the costs of the Project even though such work may have preceded the date of this Agreement and the issuance of Notice to Proceed as more particularly described in Article III, Section 16.

14. The parties mutually agree that no construction activities for the Project, nor future maintenance of the Structure once completed, that would interfere with operations of the Rail Corridor will be permitted during the fourth quarter of each calendar year. Emergency work will be permitted only upon prior notification to BNSF's Network Operations Center (telephone number: 800 832-5452). The parties hereto mutually understand and agree that trains cannot be subjected to delay during this time period.

15. Subject to the restrictions imposed by Article V, Section 14 above, the construction of the Project will not commence until SANBAG gives BNSF's Manager of Public Projects thirty (30) days prior written notice of such commencement. The commencement notice will reference BNSF's Agreement No. BF-10003191 and must state the time that construction activities will begin.

16. Within 90 days of the conclusion of the Project and final acceptance by BNSF, SANBAG must provide BNSF with a complete electronic set of the bridge plans with the railroad clearances (prepared in **English Units)**. BNSF will also accept a marked up paper copy of the bridge plans labeled **"As Built"**. The marked up copy of those plans will reflect any and all deviations from the original plans that occurred during construction. The electronic set of bridge plans will be submitted in Micro Station *.dgn electronic format (preferred) or AutoCAD *.dwg format. Electronic plans are to be submitted in the original format used for CAD plan preparation and not converted to another format prior to submission. The "As Built" plans shall show actual measured "as constructed" clearances as well as depth, size and location of all foundation components. The plans shall show dimensioned locations of existing and relocated utilities. The As Built plans must comply with the Bridge Requirements set forth on Exhibit F and depict all

information in BNSF engineering stationing and mile post pluses. The As Built plans must also include plan and profile, structural bridge drawings and specifications, and drainage plans. All improvements and facilities must be shown. It is understood that BNSF prefers to receive the "As Built" plans in an electronic format.

17. In the event that BNSF shall deem it necessary or desirable in the future, in the performance of its duty as a common carrier, to raise or lower the grade or change the alignment of its tracks or to lay additional track or tracks or to build other facilities in connection with the operation of its railroad, BNSF shall, at its expense, have full right to make such changes or additions, provided such changes or additions do not change or alter the Structure herein proposed to be constructed and provided further, however, that should it become necessary or desirable in the future to change, alter, widen or reconstruct the Structure to accommodate railroad Projects, the cost of such work, including any cost incidental to alteration of railroad or highway facilities made necessary by the alteration of the Structure shall be the sole responsibility of CITY.

18. In the event CITY shall deem it necessary or desirable in the future, due to traffic conditions, to alter or reconstruct the Structure, it shall have full right to do so, subject to BNSF's approval of the plans and specifications therefore and to the Commission's jurisdiction; provided, however, that such alteration or reconstruction shall not encroach further upon or occupy the surface of BNSF's right of way herein provided to a greater extent than is contemplated by the plans and specifications to be approved by BNSF as provided in Article III, Section 1 hereof, without the prior written consent of BNSF, and execution of a supplement to this Agreement or the completion of a separate agreement.

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

20. The covenants and provisions of this Agreement are binding upon and inure to the benefit of the successors and assigns of the parties hereto. Notwithstanding the preceding sentence, no party hereto may assign any of its rights or obligations hereunder without the prior written consent of the other parties.

21. In the event construction of the Project does not commence within three (3) years of the Effective Date, this Agreement will become null and void.

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

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

24. This Agreement (including exhibits and other documents, manuals, etc. incorporated herein), together with previously acquired and recorded property rights if any, is the full and complete agreement between BNSF, CITY, and SANBAG with respect to the subject matter herein and supersedes any and all other prior agreements between the parties hereto.

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

BNSF:

BNSF's Manager of Public Projects
740 E. Carnegie Drive
San Bernardino, CA 92408
Email: Melvin.Thomas@bnsf.com

Director Structural Engineering
4515 Kansas Avenue
Kansas City, KS 66106
Email: Byron.Burns@bnsf.com

BNSF's Project Engineer
740 E. Carnegie Drive
San Bernardino, CA 92408
Email: Greg.Rousseau@bnsf.com

SANBAG:

Garry Cohoe
SANBAG Director of Project Delivery
1170 W. 3rd Street, 2nd Floor, San Bernardino, CA 92410
Phone number: (909) 884-8276
Fax number (909) 388-2002
Email: gcohoe@sanbag.ca.gov

CITY:

City of San Bernardino
Attention: Robert Eisenbeisz
Deputy Director / City Engineer
300 North D Street
San Bernardino, CA 92418
Fax No: (909) 384-5573

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

Signature pages to follow.

BNSF RAILWAY COMPANY

By: _____
Printed Name: Sanford C. Sexhus
Title: Vice President Engineering

WITNESS:

_____

CITY OF SAN BERNARDINO

By_____
Andrea Travis-Miller
Acting City Manager

Date: _____

APPROVED AS TO FORM:

By:_____
James F. Penman
City Attorney

Date:_____

SAN BERNARDINO ASSOCIATED GOVERNMENTS

By: _____
Janice Rutherford
President - Board of Directors

Date: _____

APPROVED AS TO FORM:

By:_____
Eileen Monaghan Teichert
General Counsel

Date:_____

CONCURRENCE:

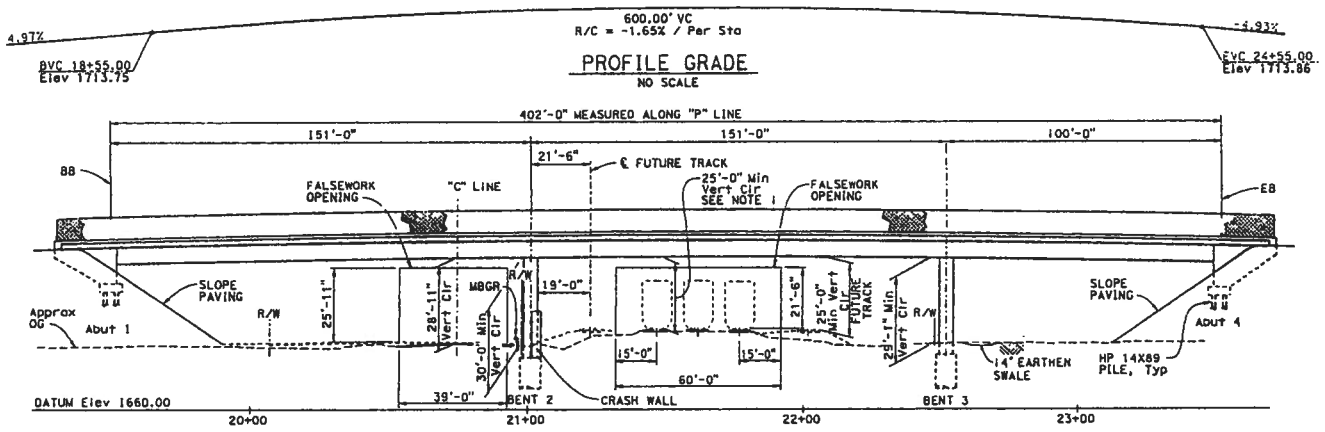
BY:_____
Jeffery Hill
Contract Administrator

FORT WORTH, TEXAS
SCALE: AS NOTED
CALIFORNIA DIVISION
CAJON SUBDIVISION
LINE SEGMENT 7600

EXHIBIT "A"

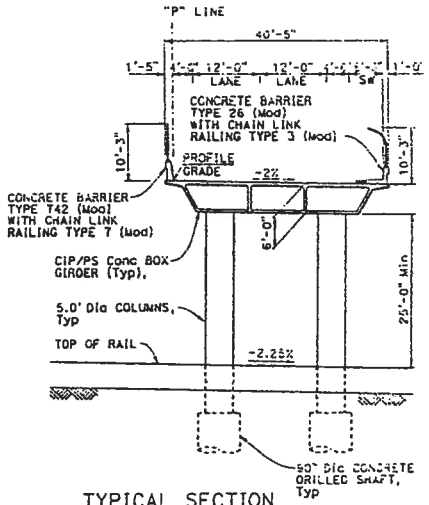
ATTACHED TO THE CONSTRUCTION AND MAINTENANCE AGREEMENT BETWEEN BNSF RAILWAY COMPANY, THE CITY OF SAN BERNARDINO AND SAN BERNARDINO ASSOCIATED GOVERNMENTS

SANFORD C. SEXHUS
VICE PRESIDENT ENGINEERING

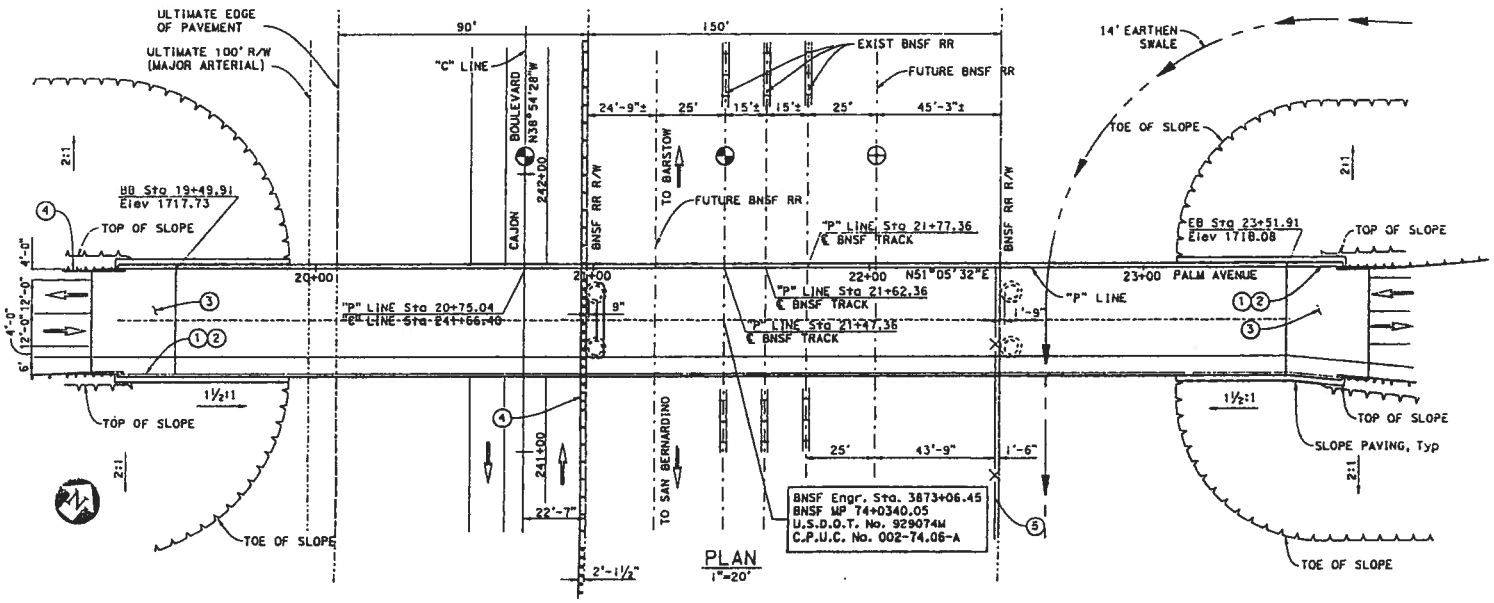


PROFILE GRADE
NO SCALE

ELEVATION
1"=20'



TYPICAL SECTION
1"=10'



PLAN
1"=20'

LEGEND:
1. Point "PALM AVENUE OVERHEAD"
2. Point year constructed
3. Structure Approach Type N(30S)
4. MBGR, see "ROAD PLANS"
5. WROUGHT IRON FENCE, see "ROAD PLANS"
- Denotes point of minimum vertical clearance
- Denotes point of minimum vertical clearance future track
- Direction of traffic

NOTES:
1. Minimum vertical clearance over railroad shown is over existing track at future bridge widening.
2. Minimum vertical clearance over railroad shown is over future track at future bridge widening.
3. Minimum vertical clearance over entire railroad R/W is 29'-1" over approximate OG.

PALM AVENUE GRADE SEPARATION
CONSTRUCT PALM AVENUE OVERHEAD
SHEET 1 OF 2

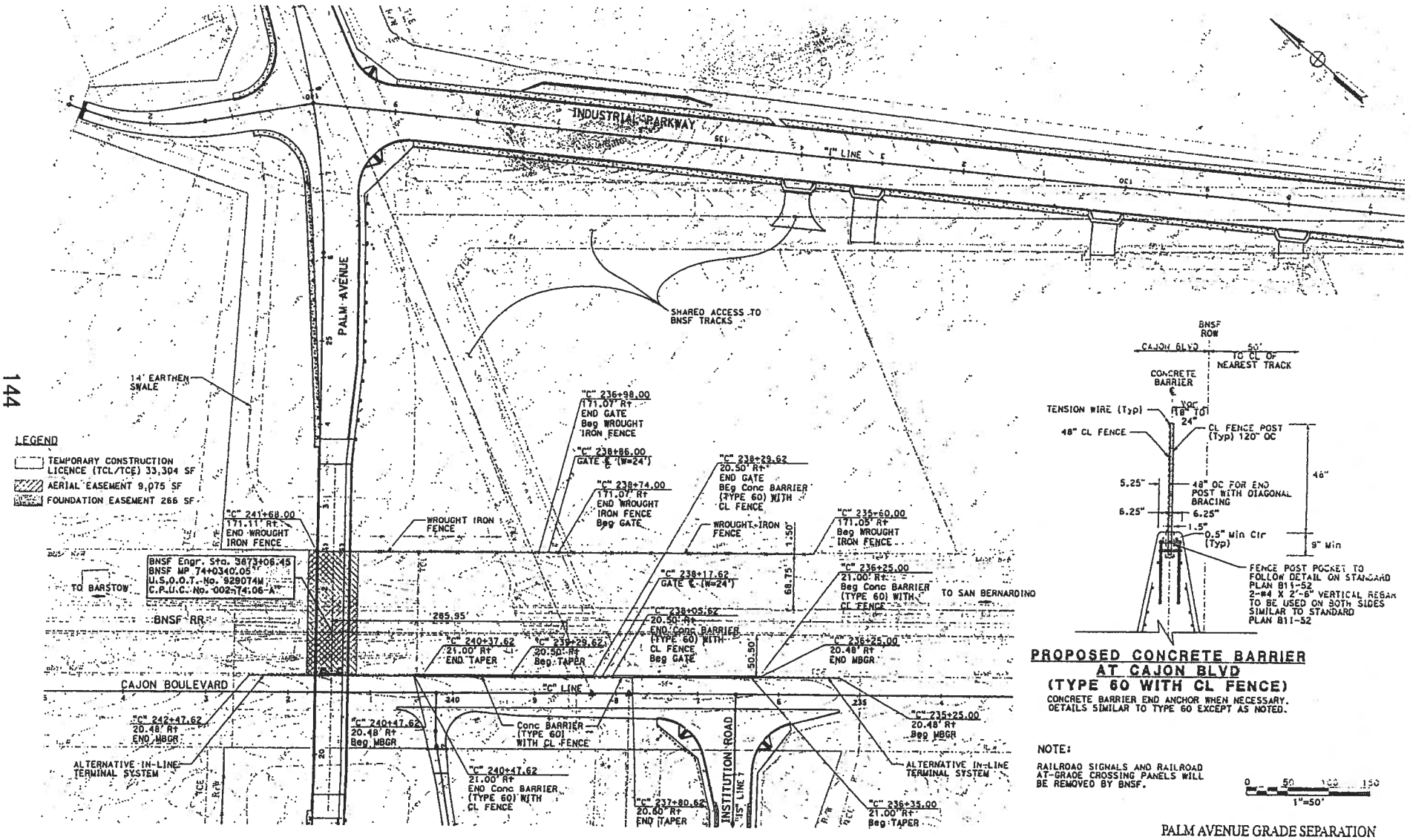
MAY 2012

FORT WORTH, TEXAS
SCALE: AS NOTED
CALIFORNIA DIVISION
CAJON SUBDIVISION
LINE SEGMENT 7600

EXHIBIT "A"

ATTACHED TO THE CONSTRUCTION AND MAINTENANCE AGREEMENT BETWEEN BNSF RAILWAY COMPANY, THE CITY OF SAN BERNARDINO AND SAN BERNARDINO ASSOCIATED GOVERNMENTS

SANFORD C. SEXHUS
VICE PRESIDENT ENGINEERING



PROPOSED CONCRETE BARRIER AT CAJON BLVD (TYPE 60 WITH CL FENCE)

CONCRETE BARRIER END ANCHOR WHEN NECESSARY. DETAILS SIMILAR TO TYPE 60 EXCEPT AS NOTED.

NOTE:

RAILROAD SIGNALS AND RAILROAD AT-GRADE CROSSING PANELS WILL BE REMOVED BY BNSF.

0 50 100 150
1"=50'

PALM AVENUE GRADE SEPARATION
BNSF IMPROVEMENTS EXHIBIT
SHEET 2 OF 2

EXHIBIT B

To Construction and Maintenance Agreement

EASEMENT AGREEMENT
FOR PALM AVENUE OVERHEAD
(C&M Agreement)

THIS EASEMENT AGREEMENT FOR PALM AVENUE OVERHEAD ("**Easement Agreement**") is made and entered into as of the _____ day of _____ 2012 ("**Effective Date**"), by and between **BNSF RAILWAY COMPANY**, a Delaware corporation ("**Grantor**"), and **SAN BERNARDINO ASSOCIATED GOVERNMENTS**, a body corporate and politic of the State of California, hereinafter referred to as ("**Grantee**").

A. Grantor owns or controls certain real property situated at or near the vicinity of San Bernardino, County of San Bernardino, State of California, at Mile Post 74+0340.05, as described or depicted on **Exhibit "A-1"** attached hereto and made a part hereof (the "**Premises**").

B. Grantor and Grantee have entered into that certain Construction and Maintenance Agreement dated as of _____ concerning improvements on or near the Premises (the "**C&M Agreement**").

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

D. Grantor has agreed to grant Grantee such easement, subject to the terms and conditions set forth in this Easement Agreement.

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

Section 1 Granting of Easement.

1.1 Easement Purpose. The "**Easement Purpose**" shall be for the purposes set forth in the C&M Agreement. Any improvements to be constructed in connection with the Easement Purpose are referred to herein as "**Improvements**" and shall be constructed, located, configured and maintained by Grantee in strict accordance with the terms of this Easement Agreement and the C&M Agreement.

1.2 Grant. Grantor does hereby grant unto Grantee a non-exclusive easement ("**Easement**") over the Premises for the Easement Purpose and for no other purpose. The Easement is granted subject to any and all restrictions, covenants, easements, licenses, permits, leases and other encumbrances of whatsoever nature whether or not of record, if any, relating to the Premises and subject to all with all applicable federal, state and local laws, regulations, ordinances, restrictions, covenants and court or administrative decisions and orders, including Environmental Laws (defined below) and zoning laws (collectively, "**Laws**"),. Grantor may not make any alterations or improvements or perform any maintenance or repair activities within the Premises except in accordance with the terms and conditions of the C&M Agreement.

1.3 Reservations by Grantor. Grantor excepts and reserves the right, to be exercised by Grantor and any other parties who may obtain written permission or authority from Grantor:

(a) to install, construct, maintain, renew, repair, replace, use, operate, change, modify and relocate any existing pipe, power, communication, cable, or utility lines and appurtenances and other facilities or structures of like character (collectively, "**Lines**") upon, over, under or across the Premises;

(b) to install, construct, maintain, renew, repair, replace, use, operate, change, modify and relocate any tracks or additional facilities or structures upon, over, under or across the Premises; and

(c) to use the Premises in any manner as the Grantor in its sole discretion deems appropriate, provided Grantor uses all commercially reasonable efforts to avoid material interference with the use of the Premises by Grantee for the Easement Purpose.

Section 2 **Term of Easement.** The term of the Easement, unless sooner terminated under provisions of this Easement Agreement, shall be perpetual. The term of the Temporary Easement for parcel APN 0266-011-13, shall begin on the Notice to Commence Construction date as set forth hereinafter in Article III, Section 18 and Section 12 (c) of the Construction and Maintenance Agreement and ends, unless sooner terminated under provisions of this Easement Agreement, on the earlier of (i) substantial completion of the Project, or (ii) Thirty (30) months following the Notice to Commence Construction.

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

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

Section 5 **Improvements.** Grantee shall take, in a timely manner, all actions necessary and proper to the lawful establishment, construction, operation, and maintenance of the Improvements, including such actions as may be necessary to obtain any required permits, approvals or authorizations from applicable governmental authorities. Any and all cuts and fills, excavations or embankments necessary in the construction, maintenance, or future alteration of the Improvements shall be made and maintained in such manner, form and extent as will provide adequate drainage of and from the adjoining lands and premises of the Grantor; and wherever any such fill or embankment shall or may obstruct the natural and pre-existing drainage from such lands and premises of the Grantor, the Grantee shall construct and maintain such culverts or drains as may be requisite to preserve such natural and pre-existing drainage, and shall also wherever necessary, construct extensions of existing drains, culverts or ditches through or along the premises of the Grantor, such extensions to be of adequate sectional dimensions to preserve the present flowage of drainage or other waters, and of materials and workmanship equally as good as those now existing. In the event any construction, repair, maintenance, work or other use of the Premises by Grantee will affect any Lines, fences, buildings, improvements or other facilities (collectively, "**Other Improvements**"), Grantee will be responsible at Grantee's sole risk to locate and make any adjustments necessary to such Other Improvements. Grantee must contact the owner(s) of the Other Improvements notifying them of any work that may damage these Other Improvements and/or interfere with their service and obtain the owner's written approval prior to so affecting the Other Improvements. Grantee must mark all Other Improvements on the Plans and Specifications and mark such Other Improvements in the field in order to verify their locations. Grantee must also use all reasonable methods when working on or near Grantor property to determine if any Other Improvements (fiber optic, cable, communication or otherwise) may exist. The Grantee agrees to keep the above-described premises free and clear from combustible materials and to cut and remove or cause to be cut and removed at its sole expense all weeds and vegetation on said premises, said work of cutting and removal to be done at such times and with such frequency as to comply with Grantee and local laws and regulations and abate any and all hazard of fire.

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

Section 7 Environmental.

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

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

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

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

7.5 Evidence of Compliance. Grantee agrees periodically to furnish Grantor with proof satisfactory to Grantor that Grantee is in compliance with this **Section 7**. Should Grantee not comply fully with the above-stated obligations of this **Section 7**, notwithstanding anything contained in any other provision hereof, Grantor may, at its option, terminate this Easement Agreement by serving five (5) days' notice of termination upon Grantee. Upon termination, Grantee shall remove the Improvements and restore the Premises as provided in **Section 9**.

Section 8 Default and Termination.

8.1 Grantor's Performance Rights. If at any time Grantee, or Grantee's Contractors, fails to properly perform its obligations under this Easement Agreement, Grantor, in its sole discretion, may: (i) seek specific performance of the unperformed obligations, or (ii) at Grantee's sole cost, may arrange for the performance of such work as Grantor deems necessary for the safety of its rail operations, activities and property, or to avoid or remove any interference with the activities or property of Grantor, or anyone or anything present on the rail

corridor or property with the authority or permission of Grantor. Grantee shall promptly reimburse Grantor for all costs of work performed on Grantee's behalf upon receipt of an invoice for such costs. Grantor's failure to perform any obligations of Grantee or Grantee's Contractors shall not alter the liability allocation set forth in this Easement Agreement.

8.2 Abandonment. Grantor may, at its option, terminate this Easement Agreement by serving five (5) days' notice in writing upon Grantee if Grantee should abandon or cease to use the Premises for the Easement Purpose. Any waiver by Grantor of any default or defaults shall not constitute a waiver of the right to terminate this Easement Agreement for any subsequent default or defaults, nor shall any such waiver in any way affect Grantor's ability to enforce any section of this Easement Agreement.

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

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

Section 9 Surrender of Premises.

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

(a) remove all or such portion of Grantee's Improvements and all appurtenances thereto from the Premises, as Grantor directs at Grantor's sole discretion;

(b) repair and restore any damage to the Premises arising from, growing out of, or connected with Grantee's use of the Premises;

(c) remedy any unsafe conditions on the Premises created or aggravated by Grantee; and

(d) leave the Premises in the condition which existed as of the Effective Date.

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

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

Section 11 Tax Exchange. Grantor may assign its rights (but not its obligations) under this Easement Agreement to Goldfinch Exchange Company LLC, an exchange intermediary, in order for Grantor to effect an exchange under Section 1031 of the Internal Revenue Code. In such event, Grantor shall provide Grantee with

a Notice of Assignment, attached as **Exhibit "C-1"**, and Grantee shall execute an acknowledgement of receipt of such notice.

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

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

Section 14 **Miscellaneous**.

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

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

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

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

14.5 This Easement Agreement is the full and complete agreement between Grantor and Grantee with respect to all matters relating to Grantee's use of the Premises, and supersedes any and all other agreements between the parties hereto relating to Grantee's use of the Premises as described herein. However, nothing herein is intended to terminate any surviving obligation of Grantee or Grantee's obligation to defend and hold Grantor harmless in any prior written agreement between the parties.

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

ADMINISTRATIVE FEE

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

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

GRANTOR:

BNSF RAILWAY COMPANY, a Delaware corporation

By: _____
Name: Mark D. Ude
Title: AVP-Corporate Real Estate Development

GRANTEE:

SAN BERNARDINO ASSOCIATED GOVERNMENTS, a body corporate and politic of the State of California

By: _____
Name: Janice Rutherford
Title: President - Board of Directors

EXHIBIT "A-1"
To Easement Agreement

Premises

EXHIBIT "A"
LEGAL DESCRIPTION
APN 0266-011-13

THAT PORTION OF GOVERNMENT LOT 37, RANCHO MUSCUPIABE, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 7, PAGE 23 OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, DESCRIBED AS FOLLOWS:

COMMENCING AT THE INTERSECTION OF THE CENTERLINE OF PALM AVENUE (64 FEET WIDE) AND THE NORTHEASTERLY RIGHT OF WAY LINE OF THE B.N.S.F. RAILROAD (150 FEET WIDE) (FORMERLY A.T. & S.F. R.R.) AS SHOWN ON A MAP FILED IN BOOK 84, PAGE 28 OF RECORDS OF SURVEY, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY; THENCE ALONG SAID NORTHEASTERLY RIGHT OF WAY LINE NORTH 38°54'04" WEST 211.63 FEET TO THE **TRUE POINT OF BEGINNING**; THENCE LEAVING SAID NORTHEASTERLY RIGHT OF WAY LINE SOUTH 51°05'32" WEST 150.00 FEET TO THE SOUTHWESTERLY RIGHT OF WAY LINE OF SAID RAILROAD; THENCE ALONG SAID SOUTHWESTERLY LINE NORTH 38°54'04" WEST 60.50 FEET; THENCE LEAVING SAID SOUTHWESTERLY LINE NORTH 51°05'32" EAST 150.00 FEET TO SAID NORTHEASTERLY RIGHT OF WAY LINE; THENCE ALONG SAID NORTHEASTERLY RIGHT OF WAY LINE SOUTH 38°54'04" EAST 60.50 FEET TO THE TRUE POINT OF BEGINNING.

CONTAINING 9,075 SQUARE FEET, MORE OR LESS.

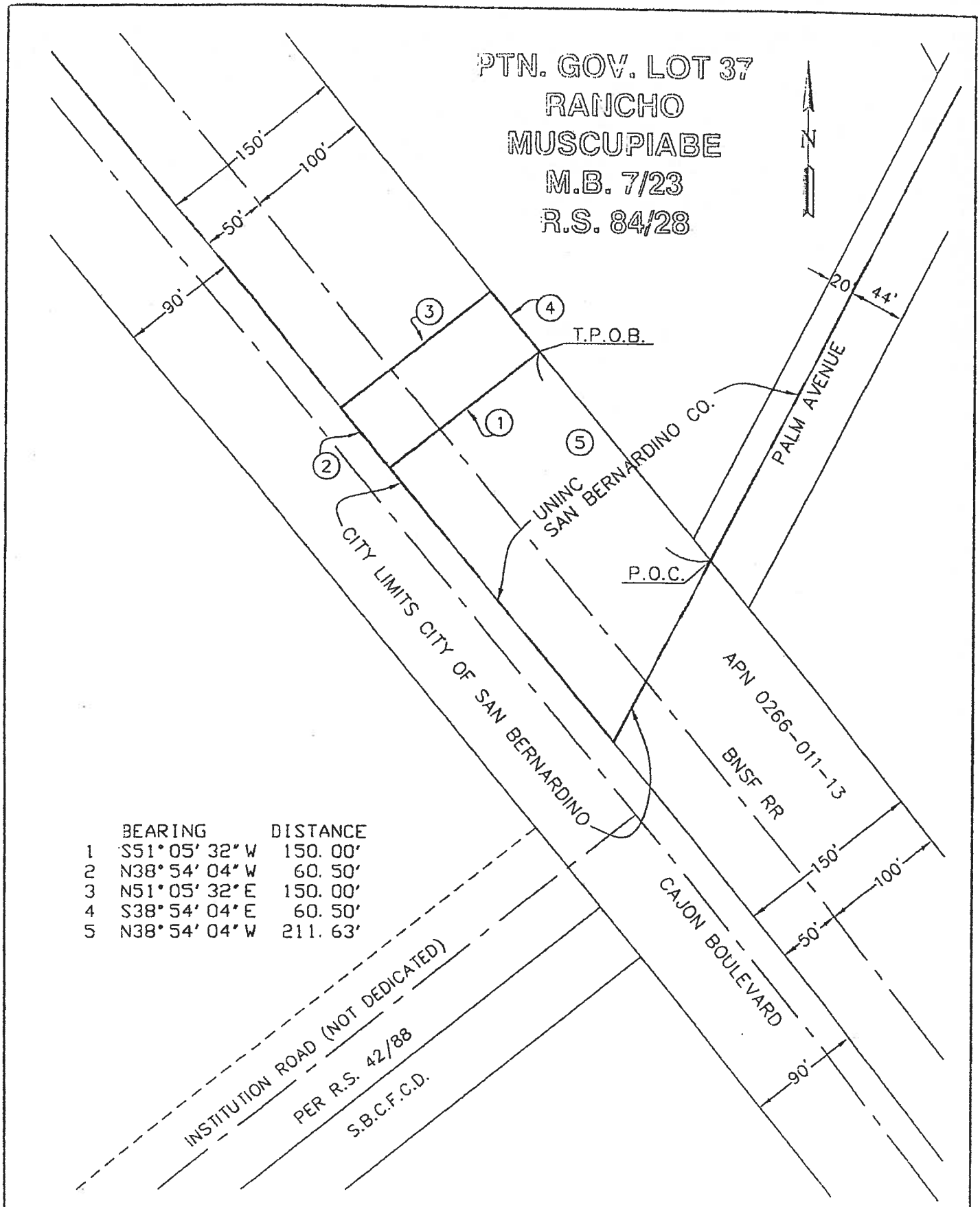
ALL AS MORE PARTICULARLY SHOWN ON EXHIBIT B ATTACHED HERETO AND MADE A PART HEREOF.

DATED THIS 6th DAY OF OCTOBER, 2011.

Gwen-Vera del Castillo

GWEN-VERA DEL CASTILLO, PLS 5108

LICENSED LAND SURVEYOR
GWEN-VERA DEL CASTILLO
L.S. 5108
STATE OF CALIFORNIA



	BEARING	DISTANCE
1	S51°05'32"W	150.00'
2	N38°54'04"W	60.50'
3	N51°05'32"E	150.00'
4	S38°54'04"E	60.50'
5	N38°54'04"W	211.63'

JOB #: 108-078	EXHIBIT "B"	COAST SURVEYING, INC.
DATE: 10-6-11	BNSF RAILROAD	15031 PARKWAY LOOP, SUITE B
SCALE: 1"=100'	AP 0266-011-13	TUSTIN, CA 92780-6527 (714) 918-6266
SHEET 1 OF 1		

EXHIBIT "A"
LEGAL DESCRIPTION
FOUNDATION EASEMENT
APN 0266-011-13

THAT PORTION OF GOVERNMENT LOT 37, RANCHO MUSCUPIABE, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 7, PAGE 23 OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, DESCRIBED AS FOLLOWS:

COMMENCING AT THE INTERSECTION OF THE CENTERLINE OF PALM AVENUE (64 FEET WIDE) AND THE NORTHEASTERLY RIGHT OF WAY LINE OF THE B.N.S.F. RAILROAD (150 FEET WIDE) (FORMERLY A.T. & S.F. R.R.) AS SHOWN ON A MAP FILED IN BOOK 84, PAGE 28 OF RECORDS OF SURVEY, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY; THENCE NORTH 38°54'04" WEST 138.62 FEET ALONG SAID NORTHEASTERLY RIGHT OF WAY LINE; THENCE LEAVING SAID NORTHEASTERLY RIGHT OF WAY LINE SOUTH 51°05'32" WEST 150.00 FEET TO THE SOUTHWESTERLY RIGHT OF WAY LINE OF SAID RAILROAD; THENCE ALONG SAID SOUTHWESTERLY LINE NORTH 38°54'04" WEST 16.25 FEET TO THE **TRUE POINT OF BEGINNING**; THENCE CONTINUING ALONG SAID SOUTHWESTERLY RIGHT OF WAY LINE NORTH 38°54'04" WEST 28.00 FEET; THENCE LEAVING SAID SOUTHWESTERLY RIGHT OF WAY LINE NORTH 51°05'56" EAST 7.50 FEET; THENCE SOUTH 38°54'04" EAST 7.75 FEET; THENCE NORTH 51°05'32" EAST 4.50 FEET; THENCE SOUTH 38°54'28" EAST 12.50 FEET; THENCE SOUTH 51°05'32" WEST 4.50 FEET; THENCE SOUTH 38°54'04" EAST 7.75 FEET; THENCE SOUTH 51°05'56" WEST 7.50 FEET TO THE TRUE POINT OF BEGINNING.

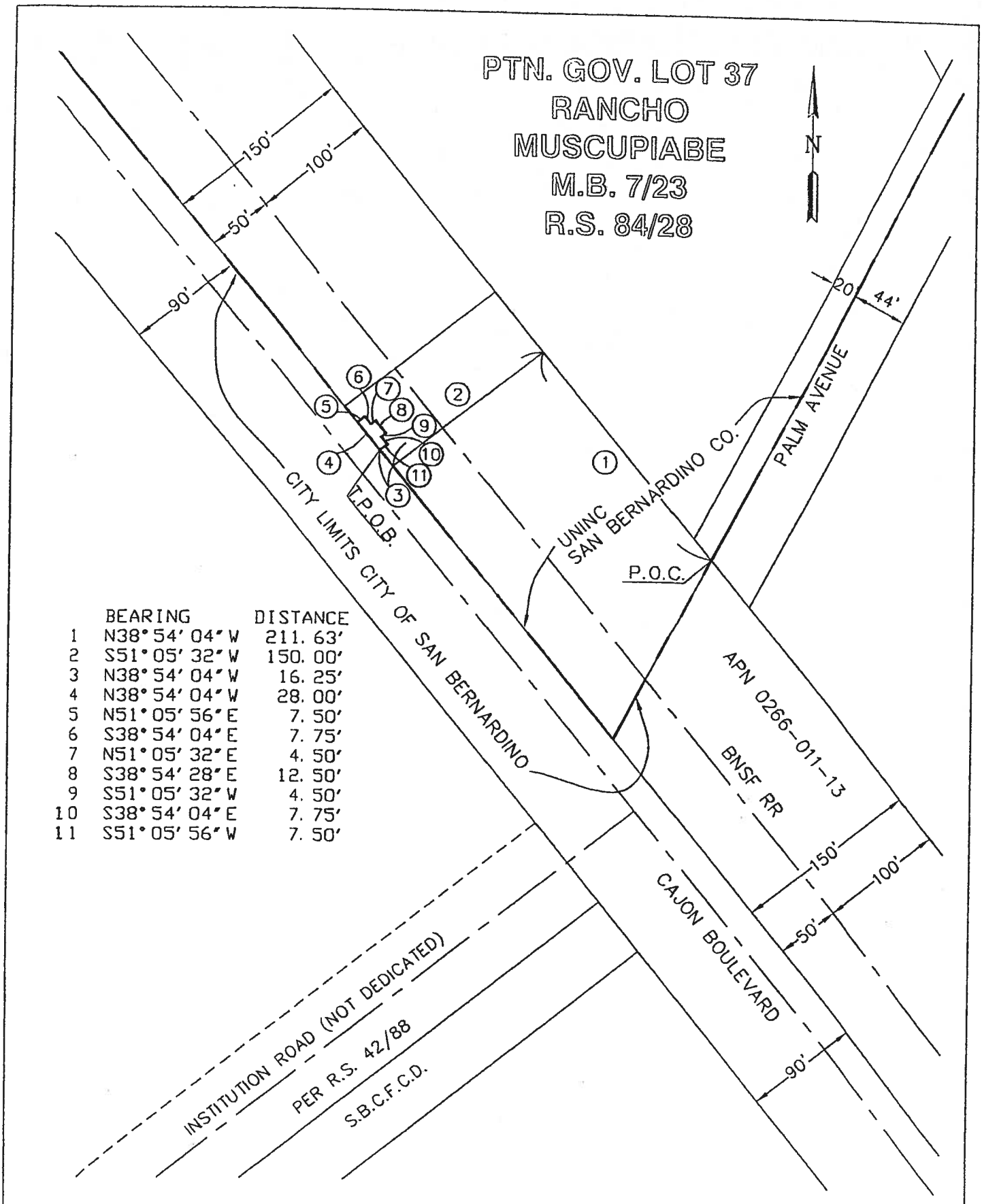
CONTAINING 266 SQUARE FEET, MORE OR LESS.

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

DATED THIS 26TH DAY OF MARCH, 2012.

Gwen-Vera del Castillo

GWEN-VERA DEL CASTILLO, PLS 5108



	BEARING	DISTANCE
1	N38°54'04"W	211.63'
2	S51°05'32"W	150.00'
3	N38°54'04"W	16.25'
4	N38°54'04"W	28.00'
5	N51°05'56"E	7.50'
6	S38°54'04"E	7.75'
7	N51°05'32"E	4.50'
8	S38°54'28"E	12.50'
9	S51°05'32"W	4.50'
10	S38°54'04"E	7.75'
11	S51°05'56"W	7.50'

JOB #: 108-078	EXHIBIT "B"	COAST SURVEYING, INC.
DATE: 3-23-12	BNSF RAILROAD	15031 PARKWAY LOOP, SUITE B
SCALE: 1"=100'	AP 0266-011-13	TUSTIN, CA 92780-6527 (714) 918-6266
SHEET 1 OF 1		

EXHIBIT "B-1"
To Easement Agreement

MEMORANDUM OF EASEMENT

MEMORANDUM OF EASEMENT

THIS MEMORANDUM OF EASEMENT is hereby executed this _____ day of_____, 2012, by and between **BNSF RAILWAY COMPANY**, a Delaware corporation ("**Grantor**"), whose address for purposes of this instrument is 2500 Lou Menk Drive, Fort Worth, Texas 76131, and **SAN BERNARDINO ASSOCIATED GOVERNMENTS**, a body corporate and politic of the State of California, hereinafter referred to as ("**Grantee**"), whose address for purposes of this instrument is 1170 W. 3rd. Street, San Bernardino, California 92410-1715, which terms "Grantor" and "Grantee" shall include, wherever the context permits or requires, singular or plural, and the heirs, legal representatives, successors and assigns of the respective parties:

WITNESSETH:

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

WHEREAS, Grantor and Grantee entered into an Easement Agreement, dated _____, 2012 (the "**Easement Agreement**") which set forth, among other things, the terms of an easement granted by Grantor to Grantee over and across the Premises (the "**Easement**"); and

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

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

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

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

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

GRANTOR:

BNSF RAILWAY COMPANY, a Delaware corporation

By: _____
Name: Mark D. Ude
Title: AVP-Corporate Real Estate Development

STATE OF TEXAS §
§
COUNTY OF TARRANT §

This instrument was acknowledged before me on the _____ day of _____, 2012, by _____ (name) as _____(title) of **BNSF RAILWAY COMPANY**, a Delaware corporation.

_____
Notary Public

(Seal)

My appointment expires:_____

GRANTEE:
SAN BERNARDINO ASSOCIATED GOVERNMENTS, a body corporate and politic of the State of California,

By: _____
Name: Janice Rutherford
Title: President - Board of Directors

STATE OF CALIFORNIA §
§
COUNTY OF SAN BERNARDINO §

This instrument was acknowledged before me on the _____ day of _____, 2012, by _____ (name) as _____(title) of _____, a _____.

_____
Notary Public

(Seal)

My appointment expires:_____

EXHIBIT "C"

To Construction and Maintenance Agreement

CONTRACTOR REQUIREMENTS
PALM AVENUE OVERHEAD

1.01 General:

- **1.01.01** The Contractor must cooperate with **BNSF RAILWAY COMPANY**, hereinafter referred to as "**Railway**" where work is over or under on or adjacent to **Railway** property and/or right-of-way, hereafter referred to as "**Railway Property**", during **SAN BERNARDINO ASSOCIATED GOVERNMENTS**, a body corporate and politic of the State of California, hereinafter referred to as ("**SANBAG**") removal of the existing at-grade crossing at Palm Avenue, DOT # 026105N, CPUC # 002-74.00 through the construction of a new grade separated overhead crossing, USDOT No. 929074M, CPUC # 002B-74.06-A BNSF's Milepost 74.06, and Line Segment 7600 on BNSF's Cajon Subdivision.

- **1.01.02** The Contractor must execute and deliver to the Railway duplicate copies of the Exhibit C-1 Agreement, in the form attached hereto, obligating the Contractor to provide and maintain in full force and effect the insurance called for under Section 3 of said Exhibit C-1. Questions regarding procurement of the Railroad Protective Liability Insurance should be directed to Rosa Martinez at Marsh, USA, 214-303-8519.

- **1.01.03** The Contractor must plan, schedule and conduct all work activities so as not to interfere with the movement of any trains on Railway Property.

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

Garry Cohoe
SANBAG Director of Project Delivery
1170 W. 3rd Street, 2nd Floor

San Bernardino, CA 92410
Phone number: (909) 884-8276
Fax number (909) 388-2002
Email: gcohoe@sanbag.ca.gov

- **1.01.05** The Contractor is responsible for determining and complying with all Federal, State and Local Governmental laws and regulations, including, but not limited to environmental laws and regulations (including but not limited to the Resource Conservation and Recovery Act, as amended; the Clean Water Act, the Oil Pollution Act, the Hazardous Materials Transportation Act, CERCLA), and health and safety laws and regulations. The Contractor hereby indemnifies, defends and holds harmless Railway for, from and against all fines or penalties imposed or assessed by Federal, State and Local Governmental Agencies against the Railway which arise out of Contractor's work under the Exhibit C-1 Agreement.

- **1.01.06** The Contractor must notify SANBAG'S Director of Project Delivery (909-884-8276) and Railway's Manager Public Projects, telephone number 909-386-4472 at least thirty (30) calendar days before commencing any work on Railway Property. Contractor's notification to Railway must refer to Railway's file BF-10003191.

- **1.01.07** For any bridge demolition and/or falsework above any tracks or any excavations located with any part of the excavations located within, whichever is greater, twenty-five (25) feet of the nearest track or intersecting a slope from the plane of the top of rail on a 2 horizontal to 1 vertical slope beginning at eleven (11) feet from centerline of the nearest track, both measured perpendicular to center line of track, the Contractor must furnish the Railway five sets of working drawings showing details of construction affecting Railway Property and tracks. The working drawing must include the proposed method of installation and removal of falsework, shoring or cribbing, not included in the contract plans and two sets of structural calculations of any falsework, shoring or cribbing. For all excavation and shoring submittal plans, the current "BNSF-UPRR Guidelines for Temporary Shoring" must be used for determining the design loading conditions to be used in shoring design, and all calculations and submittals must be in accordance with the current "BNSF-UPRR Guidelines for Temporary Shoring". All submittal drawings and calculations must be stamped by a registered professional engineer licensed to practice in the state the project is located. All calculations must take into consideration railway surcharge loading and must be designed to meet American Railway Engineering and Maintenance-of-Way Association (previously known as American Railway Engineering Association) Coopers E-80 live loading standard. All drawings and calculations must be stamped by a registered professional engineer licensed to practice in the state the project is located. The Contractor must not begin work until notified by the Railway that plans have been approved. The Contractor will be required to use lifting devices such as, cranes and/or winches to place or to remove any falsework over Railway's tracks. In no case will the Contractor be relieved of responsibility for results obtained by the implementation of said approved plans.

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

1.02 Contractor Safety Orientation

- **1.02.01 No employee of the Contractor, its subcontractors, agents or invitees may enter Railway Property without first having completed Railway's Engineering Contractor Safety Orientation, found on the web site www.contractororientation.com. The Contractor must ensure that each of its employees, subcontractors, agents or invitees completes Railway's Engineering Contractor Safety**

Orientation through internet sessions before any work is performed on the Project. Additionally, the Contractor must ensure that each and every one of its employees, subcontractors, agents or invitees possesses a card certifying completion of the Railway Contractor Safety Orientation before entering Railway Property. The Contractor is responsible for the cost of the Railway Contractor Safety Orientation. The Contractor must renew the Railway Contractor Safety Orientation annually. Further clarification can be found on the web site or from the Railway's Representative.

1.03 Railway Requirements

- **1.03.01** The Contractor must take protective measures as are necessary to keep railway facilities, including track ballast, free of sand, debris, and other foreign objects and materials resulting from his operations. Any damage to railway facilities resulting from Contractor's operations will be repaired or replaced by Railway and the cost of such repairs or replacement must be paid for by SANBAG.

- **1.03.02** The Contractor must notify the Railway's Division Engineer at 909-386-4504 and provide blasting plans to the Railway for review seven (7) calendar days prior to conducting any blasting operations adjacent to or on Railway's Property.

- **1.03.03** The Contractor must abide by the following temporary clearances during construction:

  - 15'-0" Horizontally from centerline of nearest track
  - 21'-6" Vertically above top of rail
  - 27'-0" Vertically above top of rail for electric wires carrying less than 750 volts
  - 28'-0" Vertically above top of rail for electric wires carrying 750 volts to 15,000 volts
  - 30'-0" Vertically above top of rail for electric wires carrying 15,000 volts to 20,000 volts
  - 34'-0" Vertically above top of rail for electric wires carrying more than 20,000 volts

1.03.04 Upon completion of construction, the following clearances shall be maintained:

  - 72'-0" Northeasterly from centerline of track, Main 1, to face of column Bent 3 and 39'-11" Southwesterly Horizontally from centerline of track, Main 3, to face of crash wall for Bent 2.
  - 25'-0" Vertically above top of rail

- **1.03.05** Any infringement within State statutory clearances due to the Contractor's operations must be submitted to the Railway and to SANBAG and must not be undertaken until approved in writing by the Railway, and until the AUTHORITY has obtained any necessary authorization from the State Regulatory Authority for the infringement. No extra compensation will be allowed in the event the Contractor's work is delayed pending Railway approval, and/or the State Regulatory Authority's approval.

- **1.03.06** In the case of impaired vertical clearance above top of rail, Railway will have the option of installing tell-tales or other protective devices Railway deems necessary for protection of Railway operations. The cost of tell-tales or protective devices will be borne by SANBAG.

- **1.03.07** The details of construction affecting the Railway's Property and tracks not included in the contract plans must be submitted to the Railway by SANBAG for approval before work is undertaken and this work must not be undertaken until approved by the Railway.

- **1.03.08** At other than public road crossings, the Contractor must not move any equipment or materials across Railway's tracks until permission has been obtained from the Railway. The Contractor must obtain a "Temporary Construction Crossing Agreement" from the Railway prior to moving his equipment or

materials across the Railways tracks. The temporary crossing must be gated and locked at all times when not required for use by the Contractor. The temporary crossing for use of the Contractor will be constructed and, at the completion of the project, removed at the expense of the Contractor.

- **1.03.09** Discharge, release or spill on the Railway Property of any hazardous substances, oil, petroleum, constituents, pollutants, contaminants, or any hazardous waste is prohibited and Contractor must immediately notify the Railway's Resource Operations Center at 1(800) 832-5452, of any discharge, release or spills in excess of a reportable quantity. Contractor must not allow Railway Property to become a treatment, storage or transfer facility as those terms are defined in the Resource Conservation and Recovery Act or any state analogue.

- **1.03.10** The Contractor upon completion of the work covered by this contract, must promptly remove from the Railway's Property all of Contractor's tools, equipment, implements and other materials, whether brought upon said property by said Contractor or any Subcontractor, employee or agent of Contractor or of any Subcontractor, and must cause Railway's Property to be left in a condition acceptable to the Railway's representative.

1.04 Contractor Roadway Worker on Track Safety Program and Safety Action Plan:

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

- **1.04.02** Contractor shall have a background investigation performed on all of its employees, subcontractors and agents who will be performing any services for Railway under the Exhibit C-1 Agreement which are determined by Railway in its sole discretion **a)** to be on Railway's property, or **b)** that require access to Railway Critical Infrastructure, Railway Critical Information Systems, Railway's

  Employees, Hazardous Materials on Railway's property or is being transported by or otherwise in the custody of Railway, or Freight in Transit involving Railway.

  The required background screening shall at a minimum meet the rail industry background screening criteria defined by the e-RAILSAFE Program as outlined at http://www.e-railsafe.com, in addition to any other applicable regulatory requirements.

  Contractor shall obtain written consent from all its employees, subcontractors or agents screened in compliance with the e-RAILSAFE Program to participate in the Program on their behalf and to release completed background information to Railway's designee. Contractor shall be subject to periodic audit to ensure compliance.

Contractor subject to the e-RAILSAFE Program hereunder shall not permit any of its employees, subcontractors or agents to perform services hereunder who are not first approved under e-RAILSAFE Program standards. Railway shall have the right to deny entry onto its premises or access as described in this section above to any of Contractor's employees, subcontractors or agents who do not display the authorized identification badge issued by a background screening service meeting the standards set forth in the e-RAILSAFE Program, or who in Railway's opinion, which may not be unreasonable, may pose a threat to the safety or security of Railway's operations, assets or personnel.

Contractors shall be responsible for ensuring that its employees, subcontractors and agents are United States citizens or legally working in the United States under a lawful and appropriate work VISA or other work authorization.

1.05 Railway Flagger Services:

- **1.05.01** The Contractor must give Railway's **Roadmaster (telephone 909-386-4061)** a minimum of thirty (30) calendar days advance notice when flagging services will be required so that the Roadmaster can make appropriate arrangements (i.e., bulletin the flagger's position). If flagging services are scheduled in advance by the Contractor and it is subsequently determined by the parties hereto that such services are no longer necessary, the Contractor must give the Roadmaster five (5) working days advance notice so that appropriate arrangements can be made to abolish the position pursuant to union requirements.

- **1.05.02** Unless determined otherwise by Railway's Project Representative, Railway flagger will be required and furnished when Contractor's work activities are located over, under and/or within twenty-five (25) feet measured horizontally from centerline of the nearest track and when cranes or similar equipment positioned beyond 25-feet from the track centerline could foul the track in the event of tip over or other catastrophic occurrence, but not limited thereto for the following conditions:

- **1.05.02a** When, upon inspection by Railway's Representative, other conditions warrant.

- **1.05.02b** When any excavation is performed below the bottom of tie elevation, if, in the opinion of Railway's representative, track or other Railway facilities may be subject to movement or settlement.

- **1.05.02c** When work in any way interferes with the safe operation of trains at timetable speeds.

- **1.05.02d** When any hazard is presented to Railway track, communications, signal, electrical, or other facilities either due to persons, material, equipment or blasting in the vicinity.

- **1.05.02e** Special permission must be obtained from the Railway before moving heavy or cumbersome objects or equipment which might result in making the track impassable.

- **1.05.03** Flagging services will be performed by qualified Railway flaggers.

- **1.05.03a** Flagging crew generally consists of one employee. However, additional personnel may be required to protect Railway Property and operations, if deemed necessary by the Railways Representative.

- **1.05.03b** Each time a flagger is called, the minimum period for billing will be the eight (8) hour basic day.

- **1.05.03c** The cost of flagger services provided by the Railway will be borne by **SANBAG**. The estimated cost for one (1) flagger is approximately between $800.00-$1,600.00 for an eight (8) hour basic day with

time and one-half or double time for overtime, rest days and holidays. The estimated cost for each flagger includes vacation allowance, paid holidays, Railway and unemployment insurance, public liability and property damage insurance, health and welfare benefits, vehicle, transportation, meals, lodging, radio, equipment, supervision and other costs incidental to performing flagging services. Negotiations for Railway labor or collective bargaining agreements and rate changes authorized by appropriate Federal authorities may increase actual or estimated flagging rates. **THE FLAGGING RATE IN EFFECT AT THE TIME OF PERFORMANCE BY THE CONTRACTOR HEREUNDER WILL BE USED TO CALCULATE THE ACTUAL COSTS OF FLAGGING PURSUANT TO THIS PARAGRAPH.**

- **1.05.03d** The average daily train traffic on this route is 84 freight trains and 2 passenger trains.

Train timetable speeds are:

Westward: 50 MPH Passenger, 35 MPH Freight
Eastward: 79 MPH Passenger, 55 MPH Freight
Eastward: 70 MPH, Qualifying Freight

1.06 Contractor General Safety Requirements

- **1.06.01** Work in the proximity of railway track(s) is potentially hazardous where movement of trains and equipment can occur at any time and in any direction. All work performed by contractors within 25 feet of any track must be in compliance with FRA Roadway Worker Protection Regulations.

- **1.06.02** Before beginning any task on Railway Property, a thorough job safety briefing must be conducted with all personnel involved with the task and repeated when the personnel or task changes. If the task is within 25 feet of any track, the job briefing must include the Railway's flagger, as applicable, and include the procedures the Contractor will use to protect its employees, subcontractors, agents or invitees from moving any equipment adjacent to or across any Railway track(s).

- **1.06.03** Workers must not work within 25 feet of the centerline of any track without an on track safety strategy approved by the Railway's Project Representative. When authority is provided, every contractor employee must know: (1) who the Railway flagger is, and how to contact the flagger, (2) limits of the authority, (3) the method of communication to stop and resume work, and (4) location of the designated places of safety. Persons or equipment entering flag/work limits that were not previously job briefed, must notify the flagger immediately, and be given a job briefing when working within 25 feet of the center line of track.

- **1.06.04** When Contractor employees are required to work on the Railway Property after normal working hours or on weekends, the Railway's representative in charge of the project must be notified. A minimum of two employees must be present at all times.

- **1.06.05** Any employees, agents or invitees of Contractor or its subcontractors under suspicion of being under the influence of drugs or alcohol, or in the possession of same, will be removed from the Railway's Property and subsequently released to the custody of a representative of Contractor management. Future access to the Railway's Property by that employee will be denied.

- **1.06.06** Any damage to Railway Property, or any hazard noticed on passing trains must be reported immediately to the Railway's representative in charge of the project. Any vehicle or machine which may come in contact with track, signal equipment, or structure (bridge) and could result in a train derailment must be reported immediately to the Railway representative in charge of the project and to the Railway's Resource Operations Center at 1(800) 832-5452. Local emergency numbers are to be obtained from the Railway representative in charge of the project prior to the start of any work and must be posted at the job

site.

- **1.06.07** For safety reasons, all persons are prohibited from having pocket knives, firearms or other deadly weapons in their possession while working on Railway's Property.

- **1.06.08** All personnel protective equipment (PPE) used on Railway Property must meet applicable OSHA and ANSI specifications. Current Railway personnel protective equipment requirements are listed on the web site, **www.contractororientation.com,** however, a partial list of the requirements include: a) safety glasses with permanently affixed side shields (no yellow lenses); b) hard hats c) safety shoe with: hardened toes, above-the-ankle lace-up and a defined heel; and d) high visibility retro-reflective work wear. The Railway's representative in charge of the project is to be contacted regarding local specifications for meeting requirements relating to hi-visibility work wear. Hearing protection, fall protection, gloves, and respirators must be worn as required by State and Federal regulations. **(NOTE – Should there be a discrepancy between the information contained on the web site and the information in this paragraph, the web site will govern.)**

- **1.06.09 THE CONTRACTOR MUST NOT PILE OR STORE ANY MATERIALS, MACHINERY OR EQUIPMENT CLOSER THAN 25'-0" TO THE CENTER LINE OF THE NEAREST RAILWAY TRACK. MATERIALS, MACHINERY OR EQUIPMENT MUST NOT BE STORED OR LEFT WITHIN 250 FEET OF ANY HIGHWAY/RAIL AT-GRADE CROSSINGS OR TEMPORARY CONSTRUCTION CROSSING, WHERE STORAGE OF THE SAME WILL OBSTRUCT THE VIEW OF A TRAIN APPROACHING THE CROSSING. PRIOR TO BEGINNING WORK, THE CONTRACTOR MUST ESTABLISH A STORAGE AREA WITH CONCURRENCE OF THE RAILWAY'S REPRESENTATIVE.**

- **1.06.10** Machines or vehicles must not be left unattended with the engine running. Parked machines or equipment must be in gear with brakes set and if equipped with blade, pan or bucket, they must be lowered to the ground. All machinery and equipment left unattended on Railway's Property must be left inoperable

  and secured against movement. (See internet Engineering Contractor Safety Orientation program for more detailed specifications)

- **1.06.11** Workers must not create and leave any conditions at the work site that would interfere with water drainage. Any work performed over water must meet all Federal, State and Local regulations.

- **1.06.12** All power line wires must be considered dangerous and of high voltage unless informed to the contrary by proper authority. For all power lines the minimum clearance between the lines and any part of the equipment or load must be; 200 KV or below - 15 feet; 200 to 350 KV - 20 feet; 350 to 500 KV - 25 feet; 500 to 750 KV - 35 feet; and 750 to 1000 KV - 45 feet. If capacity of the line is not known, a minimum clearance of 45 feet must be maintained. A person must be designated to observe clearance of the equipment and give a timely warning for all operations where it is difficult for an operator to maintain the desired clearance by visual means.

1.07 Excavation:

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

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

- **1.07.02** The Contractor must cease all work and notify the Railway immediately before continuing excavation in the area if obstructions are encountered which do not appear on drawings. If the obstruction is a utility and the owner of the utility can be identified, then the Contractor must also notify the owner immediately. If there is any doubt about the location of underground cables or lines of any kind, no work must be performed until the exact location has been determined. There will be no exceptions to these instructions.

- **1.07.03** All excavations must be conducted in compliance with applicable OSHA regulations and, regardless of depth, must be shored where there is any danger to tracks, structures or personnel.

- **1.07.04** Any excavations, holes or trenches on the Railway's Property must be covered, guarded and/or protected when not being worked on. When leaving work site areas at night and over weekends, the areas must be secured and left in a condition that will ensure that Railway employees and other personnel who may be working or passing through the area are protected from all hazards. All excavations must be back filled as soon as possible.

1.08 Hazardous Waste, Substances and Material Reporting:

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

1.09 Personal Injury Reporting

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

NON-EMPLOYEE PERSONAL INJURY DATA COLLECTION

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

Injured Person Type:

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

If train involved, Train ID: _____

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

Officer Providing Information:

_____ _____ _____
(Name) (Employee No.) (Phone #)

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

NON-EMPLOYEE PERSONAL INJURY DATA COLLECTION

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

1. Accident City/St: _____ 2: Date:_____ Time:: _____

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

Mile Post / Line Segment _____

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

6. Name (last, first, mi): _____

7. Address: _____ City: _____ St: _____ Zip: _____

8 Date of Birth: _____ and/or Age: _____ Gender: _____
(If available)

Phone Number: _____ Employer:_____

9. Injury: _____ 10. Body Part: _____
(i.e. laceration, etc.) (i.e. Hand, etc.)

11. Description of Accident (To include location, action, result, etc.)_____

_____

_____

_____

_____

12. Treatment:

☐ First Aid Only _____

☐ Required Medical Treatment _____

☐ Other Medical Treatment _____

13. Dr. Name: _____ Date: _____

14: Dr. Address:

Street: _____ City: _____ St: ____ Zip: _____

15: Hospital Name: _____

16: Hospital Address:

Street: _____ City: _____ St: ____ Zip: _____

17: Diagnosis: _____

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

EXHIBIT "C-1"

Agreement Between
BNSF RAILWAY COMPANY
and the
CONTRACTOR

BNSF RAILWAY COMPANY
Attention: Manager Public Projects

Railway File: BF-10003191
Agency Project: Palm Avenue Overhead- USDOT No. 929074M

Gentlemen:

The undersigned (hereinafter called, the "Contractor"), has entered into a contract (the "Contract") dated _____, 201_, with **SAN BERNARDINO ASSOCIATED GOVERNMENTS**, a body corporate and politic of the State of California, hereinafter referred to as ("**SANBAG**") for the performance of certain work in connection with the following project: **Removal of the existing at-grade crossing at Palm Avenue, DOT # 026105N, CPUC # 002-74.00 through the construction of a new grade separated overhead crossing, USDOT No. 929074M, CPUC # 002B-74.06-A BNSF's Milepost 74.06, and Line Segment 7600 on BNSF's Cajon Subdivision.**

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

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

Section 1. RELEASE OF LIABILITY AND INDEMNITY

Contractor hereby waives, releases, indemnifies, defends and holds harmless Railway for all judgments, awards, claims, demands, and expenses (including attorneys' fees), for injury or death to all persons, including Railway's and Contractor's officers and employees, and for loss and damage to property belonging to any person, arising in any manner from Contractor's or any of Contractor's subcontractors' acts or omissions or any work performed on or about Railway's Property. **THE LIABILITY ASSUMED BY CONTRACTOR WILL NOT BE AFFECTED**

BY THE FACT, IF IT IS A FACT, THAT THE DESTRUCTION, DAMAGE, DEATH, OR INJURY WAS OCCASIONED BY OR CONTRIBUTED TO BY THE NEGLIGENCE OF RAILWAY, ITS AGENTS, SERVANTS, EMPLOYEES OR OTHERWISE, EXCEPT TO THE EXTENT THAT SUCH CLAIMS ARE PROXIMATELY CAUSED BY THE WILLFUL MISCONDUCT OR SOLE NEGLIGENCE OF RAILWAY.

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

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

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

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

Section 2. TERM

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

Section 3. INSURANCE

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

A. Commercial General Liability insurance. This insurance shall contain broad form contractual liability with a combined single limit of a minimum of $5,000,000 each occurrence and an aggregate limit of at least $10,000,000 but in no event less than the amount otherwise carried by the Contractor. Coverage must be purchased on a post 2004 ISO occurrence form or equivalent and include coverage for, but not limit to the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Other Requirements:

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

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

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

Contractor is not allowed to self-insure without the prior written consent of ***Railway***. If granted by ***Railway***, self-insured retention or other financial responsibility for claims shall be covered directly by Contractor in lieu of insurance. Any and all ***Railway*** liabilities that would otherwise, in accordance with the provisions of this ***Agreement***, be covered by Contractor's insurance will be covered as if Contractor elected not to include a deductible, self-insured retention or other financial responsibility for claims.

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

BNSF Railway Company
Manager Public Projects
740 East Carnegie Drive
San Bernardino, CA 92408
Phone: 909-386-4472
Fax: 909-386-4479
Melvin.Thomas@bnsf.com

AND

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

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

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

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

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

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

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

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

The fact that insurance (including, without limitation, self-insurance) is obtained by Contractor shall not be deemed to release or diminish the liability of Contractor including, without limitation, liability under the indemnity provisions of this ***Agreement.*** Damages recoverable by ***Railway*** shall not be limited by the amount of the required insurance coverage.

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

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

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

Section 4. EXHIBIT "C" CONTRACTOR REQUIREMENTS

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

Section 5. TRAIN DELAY

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

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

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

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

Contractor and its subcontractors must give Railway's representative (BNSF Project Engineer, 909-386-4079) eight (8) weeks advance notice of the times and dates for proposed work windows. Railway and Contractor will establish mutually agreeable work windows for the project. Railway has the right at any time to revise or change the work windows due to train operations or service obligations. Railway will not be responsible for any additional costs or expenses resulting from a change in work windows. Additional costs or expenses resulting from a change in work windows shall be accounted for in Contractor's expenses for the project.

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

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

_____	
Contractor	**BNSF Railway Company**
By:_____	By:_____
Printed Name: _____	Name: _____
	Manager Public Projects
Title: _____	Accepted and effective this _____day of 20__.
Contact Person: _____	
Address: _____	
City:_____	
State: _____ Zip: _____	
Fax: _____	
Phone: _____	
E-mail:_____	

EXHIBIT D

Flagging	$360,000.00
Inspection	$100,000.00
Signal	$140,000.00
Track	$150,000.00
TOTAL ESTIMATED COST RAILROAD WORK	$750,000.00

Exhibit E

Melvin Thomas
Manager Public Projects

BNSF Railway Company
740 East Carnegie Drive
San Bernardino, CA 92408
(909) 386-4472 (office)
(909) 831-8199 (cell)
(909) 386-4479 (fax)
Melvin.Thomas@bnsf.com

Date:

Mr. Garry Cohoe
Director of Project Delivery
San Bernardino Associated Governments
1170 W. 3rd Street, 2nd Floor
San Bernardino, CA 92410

Re: Final Approval of Plans and Specifications dated _____ _____by (consultant) **(hereinafter called, the "Plans and Specifications")**

Dear Mr. Cohoe:

This letter serves as **BNSF RAILWAY COMPANY'S** ("BNSF") final written approval of that portion of the Plans and Specifications covering the Project's concept for the construction of the Palm Avenue Overhead, U.S. D.O.T. No. 929074M involving the vertical clearances from top of rail to the bridge soffit and the horizontal clearances from center line of the tracks to face of the columns, piers, and/or abutments which ever be the case that will be constructed on or adjacent to BNSF's Rail Corridor. This final written approval is given to **SAN BERNARDINO ASSOCIATED GOVERNMENTS**, a body corporate and politic of the State of California, hereinafter referred to as **("SANBAG")** pursuant to Article III, Section 1 of that certain Construction and maintenance Agreement between BNSF, CITY OF SAN BERNARDINO, and SANBAG, which this Exhibit E is attached to and made a part thereof.

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

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

BNSF has not reviewed the design details or calculations for structural integrity or engineering accuracy. BNSF accepts no responsibility for errors or omissions in the design of the project.

Respectfully,

Melvin Thomas

Manager Public Projects
BNSF Railway

Exhibit F

BNSF Bridge Requirements

BRIDGE DESIGN, PLANS & SPECIFICATIONS:

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

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

For the permanent Structure, SANBAG will submit plans showing the least horizontal distance from the centerline of existing and future tracks to the face of the nearest member of the proposed Structure. The location of the least horizontal distance must be accurately described such that BNSF can determine where it will occur in both the horizontal and vertical plane. .

For the permanent Structure, AUTHORITY will submit plans showing the least vertical clearance from top of paving to bottom the deck of the proposed Structure. Prior to beginning construction of the permanent Structure, the top of rail elevations should be checked and verified that they have not changed from the assumed elevations utilized for the design of the bridge. The general policy of BNSF with regard to bridge and related crash wall construction is to follow the current recommendations of the American Railway Engineering and Maintenance-of-Way Association (AREMA) Current AREMA recommended practice in Manual for Railway Engineering Chapter 8 (Art. 2.1.5.1).

Prior to issuing any invitation to bid on construction of the Structure, SANBAG should conduct a pre-bid meeting where prospective Contractors have the opportunity to communicate with BNSF personnel regarding site specific train speeds, train density, and general safety requirements for men and equipment working near live tracks. Any invitation to bid and specifications for the Structure must be submitted to BNSF for review and approval prior to letting of bids for the Project.

BRIDGE CONSTRUCTION:

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

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

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

BRIDGE MAINTENANCE:

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

Fencing and other pedestrian access controls within BNSF's rail corridor and incorporated into the Project shall be designed and maintained by SANBAG through construction. Trespasser control shall be the responsibility of SANBAG through construction. Graffiti removal will be the responsibility of CITY.

BRIDGE INSPECTION:

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

BRIDGE ALTERATIONS:

Except as provided otherwise by this Agreement, there will be no alterations made to the Structure that will alter the railroad vertical or horizontal clearances provided by the original design.

It is expressly understood by SANBAG and CITY that the right to install utilities is restricted to the placement of underground utilities beneath BNSF's tracks located a minimum of fifty (50) feet from abutments, piers, piles, or footings with the exception that upon BNSF's prior approval BNSF will permit selected utilities to be installed closer to the abutments, piers, piles, footings and/or run through the deck of the Structure. Under no circumstances will utilities be allowed to hang from the Structure. All utility crossings within the limits of BNSF's Rail Corridor will be covered by separate agreements between BNSF and each of the owners of the utilities.

Exhibit G

Palm Avenue Overhead – Total Project Cost

Construction	
Civil Items:	$ 7,294,864
Structures Items:	$ 4,353,940
Railroad Items:	$ 750,000
Construction Support:	$ 2,112,321
Right of Way	
ROW Acquisition:	$ 5,476,619
ROW Utilities:	$ 1,271,420
ROW Support:	$ 200,000
Design:	$ 3,000,000
Other Project Support:	$ 18,836
TOTAL	**$24,478,000**

Governments SANBAG Working Together

San Bernardino Associated Governments

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TRANSPORTATION MEASURE I

San Bernardino County Transportation Commission ■ San Bernardino County Transportation Authority
San Bernardino County Congestion Management Agency ■ Service Authority for Freeway Emergencies

Minute Action

AGENDA ITEM: 18

Date: October 3, 2012

Subject: Palm Avenue Grade Separation Project

Recommendation:* 1. Approve Award of Contract No. C12240 with Vali Cooper & Associates, Inc. for Construction Management services for the Palm Avenue Grade Separation Project in an amount not-to-exceed $1,940,000.

2. Approve a contingency amount for Contract No. C12240 of $194,000 and authorize the Executive Director or designee to release contingency as necessary for the project.

Background: **Recommendations 1 & 2 are for a new contract.** On June 11, 2012, SANBAG Board approved the release of Request for Proposals (RFP) No. C12240 for Construction Management, Materials Testing, and Construction Surveying and Public Outreach services associated with the construction of the Palm Avenue Grade Separation Project. On August 1, 2012, staff received six (6) proposals. The firms who submitted are, in alphabetical order, Berg and Associates, Ghirardelli Associates, Harris and Associates, Integris Management Group, NV5, and Vali Cooper & Associates, Inc. Staff assembled a selection panel consisting of members from the City of San Bernardino, Caltrans, County of San Bernardino and SANBAG. Following review of the six (6) proposals, three (3) firms were

*

Approved
Board of Directors

Date: _____

Moved: *Second:*

In Favor: *Opposed:* *Abstained:*

Witnessed: _____

COG		CTC	X	CTA	X	SAFE		CMA	

Check all that apply.
BRD1210a-mb
Attachment: http://portal.sanbag.ca.gov/mgmt/APOR-Mgmnt/Shared%20Documents/C12240%20Palm%20Avenue%20Grade%20Seperation.docx

shortlisted to participate in interviews: Harris and Associates, NV5 and Vali Cooper & Associates, Inc. Interviews were held on Thursday, August 23, 2012.

All three (3) firms were very qualified to manage this project. Vali Cooper & Associates thorough knowledge of the project, proposed staffing for work on the project, including their choice of subconsultants, and their work plan distinguished it from the other firms. The selection panel unanimously agreed that Vali Cooper & Associates, Inc. was the most qualified and most available team to provide the services requested. Staff verified not only the references of the firm and the principal, but also called on and received positive references for the Resident Engineer and Structure Rep/Inspector. Therefore, staff recommends approval of Contract No. C12240 with Vali Cooper & Associates, Inc. for Construction Management on the Palm Avenue Grade Separation Project for a total not-to-exceed amount of $1,940,000, a contingency for Contract No. C12240 not-to-exceed $194,000, and to authorize the Executive Director or designee to release contingency funds as necessary for the project.

Financial Impact: This item is consistent with the 2012/2013 Fiscal Year budget. Task No. 0874

Reviewed By: This item was reviewed by the Major Projects Committee on September 13, 2012. SANBAG General Counsel and Contract Administrator have reviewed this item and a draft of the Contract.

Responsible Staff: Garry Cohoe, Director of Project Delivery

Governments SANBAG Working Together

CONTRACT SUMMARY SHEET

Contract No. C 12240 Amendment No. _____

By and Between

San Bernardino Transportation Authority and Vali Cooper & Associates, Inc.

Contract Description Construction Management Services – Palm Avenue Grade Separation Project

Board of Director's Meeting Date: October 3, 2012
Overview of BOD Action: Award Contract C12240 for CM Services and establish contingency

Is this a Sole-Source procurement? ☐ **Yes** ☒ **No**

CONTRACT OVERVIEW

Original Contract Amount	$	1,940,000	**Original Contingency Amount**	$	194,000
Revised Contract Amount *Inclusive of prior amendments*	$		**Revised Contingency Amount** *Inclusive of prior amendments*	$	
Current Amendment Amount	$		**Contingency Amendment**	$	
TOTAL CONTRACT VALUE	$	1,940,000	**TOTAL CONTINGENCY VALUE**	$	194,000
TOTAL BUDGET AUTHORITY *(contract value + contingency)*				$	2,134,000

Contract Start Date	**Current Contract Expiration Date**	**Revised Contract Expiration Date**
10/3/12	10/3/16	

Has the contract term been amended? ☒ No ☐ Yes - please explain.

FINANCIAL INFORMATION

☒ Budget authority for this contract currently exists in Task No. 0874.
☐ A Budget Amendment is required.
How are we funding current FY? City of SB, MI 2010-2040

☐ Federal Funds ☐ State Funds ☒ Local Funds ☐ TDA Funds ☒ Measure I Funds

*Provide Brief Overview of the **Overall** Funding for the duration of the Contract:*
Contract will be funded by MI 2010-2040 funds and City of San Bernardino funds
☒ Payable ☐ Receivable

CONTRACT MANAGEMENT INFORMATION

Check all applicable boxes:
☒ Retention? If yes, indicate % 5.
☐ Disadvantaged Business Enterprise (DBE) Goal _____ % ☐ Underutilized DBE (UDBE) Goal _____ %

Garry Cohoe	[signature]	8/31/12
Task Manager (Print Name)	Signature	Date
Mike Barnum	[signature]	8/29/12
Project Manager (Print Name)	Signature	Date
Jeffery Hill	[signature]	9/5/12
Contracts Administrator (Print Name)	Signature	Date
William S Ramkeene	[signature]	9/6
Chief Financial Officer (Print Name)	Signature	Date

ATTACHMENT A
SCOPE OF SERVICES

CONTRACT NO: C12240

San Bernardino Associated Governments

Palm Avenue Grade Separation Project

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A. DESCRIPTION OF SERVICES

The San Bernardino Associated Governments, acting as the San Bernardino Transportation Authority (AUTHORITY) will utilize the services of CONSULTANT to support the construction activities for the Project. The CONSULTANT will provide construction management, materials testing, construction surveying and public outreach services for the Project. A description of the Project is given below.

Palm Avenue Grade Separation Project

AUTHORITY proposes to grade separate Palm Avenue over the BNSF tracks and Cajon Boulevard about 300 feet north of the current at-grade crossing. Palm Avenue will remain one lane in each direction with added turn pockets at intersections. A new connector from Palm Avenue to Cajon Boulevard will be constructed around a new detention basin added to accommodate onsite drainage. A slight realignment of Industrial Parkway and its intersection with Palm Avenue will also be incorporated into the project. The project will also include utility relocations, drainage modifications, signing and striping, traffic handling, and replacement planting.

Services

Services are anticipated to generally include, but are not limited to the following: participation in the evaluation of scheduling of the proposed project; constructability review; construction project advertising, bid analysis, and award; construction inspection; construction surveying, materials testing, landscape inspection, contractor interface and contract administration; office engineering; public outreach services and other assorted duties as appropriate in managing construction of a capital railroad grade separation improvement project.

The Consultant will assign a full-time Resident Engineer to coordinate all contract and personnel activities for all phases of construction. Other Resident Engineer(s) and inspection personnel may be assigned to direct and coordinate all project specific field activities and responsibilities as needed for satisfactory performance on the project. The Resident Engineer and every Resident Engineer assigned for this project shall be licensed as a Professional Civil Engineer in the State of California at the time of proposal submittal through the duration of the contract. The Consultant is expected to provide a Survey Project Manager, Materials Testing Project Manager, and Landscape Architect to administer the construction support services requested herein and to assign qualified field personnel to perform the requested services. Furthermore, the Consultant shall provide a public outreach liaison to assist the Authority's Public Information Office, and the City of San Bernardino in implementing the Public Outreach Program established for this project.

Insofar as the Consultant's approach described in the Proposal, the scope of responsibility and the total number of personnel assigned to each phase is left to the discretion of the Consultant.

AUTHORITY anticipates that the total contract will be approximately **32** months in duration, with preconstruction services starting **in October 2012,** construction starting in **June 2013,** and ending in **April 2015,** (440 WD) followed by closeout activities not exceeding two months. A 30 day landscape plant establishment period is included.

CONSULTANT shall provide qualified construction management and inspection, materials testing, construction surveying and public relations personnel to perform a wide variety of

construction management, support and contract administration duties as outlined in this Scope of Services for the Project.

AUTHORITY has designated a Project Manager to coordinate all construction activities.

Mr. Mike Barnum, Construction Manager

The CONSULTANT shall report to and receive direction from AUTHORITY through the Project Manager, or his designees. The AUTHORITY Project Manager is responsible for coordination of all AUTHORITY construction activities and for coordinating the efforts of the total construction team. The AUTHORITY Project Manager will be the main contact and primary source of information between AUTHORITY, cities, outside agencies, supporting consultants and the public for the construction projects.

B. PERFORMANCE REQUIREMENTS

Construction Management: CONSULTANT shall furnish a Project Manager to coordinate CONSULTANT operations with AUTHORITY. The Project Manager shall be responsible for all matters related to CONSULTANT personnel and operations. The Project Manager may also serve as the Resident Engineer. The Resident Engineer shall be assigned to direct and coordinate construction activities under this contract. Other Assistant Resident Engineers may be assigned to each specific project responsibilities as needed. The Resident Engineer shall be a Civil Engineer registered in the State of California and shall be in responsible charge of construction management and construction activity within the Project.

The number of CONSULTANT personnel assigned to the Project will vary throughout the duration of the contract. CONSULTANT personnel will be assigned, in varying levels of responsibility, as needed by the CONSULTANT to meet the Project schedule, Project requirements, and construction activities.

Resumes of personnel must be submitted to AUTHORITY for review and approval prior to assignment to the Project. AUTHORITY and CONSULTANT will jointly determine the quality and quantity of services that are required by CONSULTANT personnel. Personnel selected for assignment by CONSULTANT shall be made available for personal interviews prior to acceptance by AUTHORITY. If, in the opinion of AUTHORITY, an individual lacks adequate experience, the individual may be rejected or may be accepted on a trial basis until such time the individual's ability to perform the required services has been demonstrated. If, at any time, the performance of CONSULTANT personnel is unsatisfactory to AUTHORITY, AUTHORITY may release him/her by written notice and may request another qualified person be assigned.

If CONSULTANT personnel are on leave of absence, the Project Manager shall provide approved, equally qualified replacement personnel until the assigned personnel returns to the Project.

The typical workday includes all hours worked by the construction Contractor. If necessary, overtime for CONSULTANT personnel may be required. The construction Contractor's operations may be restricted to specific hours during the week, which shall become the normal workday for CONSULTANT personnel. The Project Manager, with prior concurrence from AUTHORITY, shall have the authority to increase, decrease, or eliminate CONSULTANT personnel work hours dependent on the schedule and requirements of the construction Contractor. All overtime required by CONSULTANT personnel shall be approved and authorized by AUTHORITY prior to each occurrence.

CONSULTANT personnel shall be knowledgeable of and comply with all applicable local, state, and federal regulations. CONSULTANT personnel shall cooperate and consult with AUTHORITY, State, and City officials during the course of the Project. CONSULTANT personnel shall perform duties as may be required to assure that construction is being performed in accordance with the Project plans and specifications. CONSULTANT personnel shall keep accurate and timely records and document all work performed by the Contractor and CONSULTANT.

CONSULTANT shall monitor for Contractor's compliance with the labor standards provisions of the projects and the related wage determination decisions of the Secretary of Labor.

CONSULTANT personnel shall assist AUTHORITY and local agencies in obtaining compliance with the safety and accident prevention provisions of the Project. Local agencies will retain jurisdictional control for traffic control.

All services required herein shall be performed in accordance with California Department of Transportation guidelines, regulations, policies, procedures, manuals, and standards, except as noted in the special provisions.

Materials Testing: The number of field testing personnel assigned to the Project will vary throughout the duration of the construction contract. CONSULTANT certified materials testing personnel will be assigned as needed by the Resident Engineer to meet the required numbers and frequencies of testing based on schedule of the construction contractor.

Materials Testing Services will be provided on an on-call basis. The duration of assignments could vary from a minimum of a few hours to the full term of the Project. CONSULTANT personnel will be available within one (1) day of written notification by AUTHORITY.

It is the intent of AUTHORITY to maintain a consistency of material testing quality throughout each phase of each project. CONSULTANT is therefore encouraged to provide, where ever and whenever possible, the same field personnel for the duration of construction of each project.

On days when work is not performed by the construction contractor, such as rainy or unsuitable weather days, CONSULTANT will not provide services unless authorized by the AUTHORITY Construction Manager.

Resumes of materials testing personnel must be submitted to AUTHORITY for review and approval prior to assignment to the Project. If, at any time, the level of performance of any testing personnel is below expectations, AUTHORITY may release that field person and request that another be assigned as needed.

If a member of CONSULTANT's materials testing personnel is on a leave of absence, CONSULTANT's Project Manager will provide an equally qualified replacement employee until the original member returns to work. The replacement employee will meet all the requirements of a permanently assigned employee.

All CONSULTANT personnel will be knowledgeable of, and comply with, all applicable local,

state, and federal regulations. All personnel shall cooperate and consult with AUTHORITY during the course of the contract; and perform other duties as may be required to assure that the construction is being performed in accordance with the Project plans and specifications. CONSULTANT's personnel will keep records and document the work as directed by the Resident Engineer.

All services required herein will be performed in accordance with Caltrans regulations, policies, procedures, manuals, and standards.

Construction Surveying: CONSULTANT will furnish surveying crew(s) to perform construction surveys for the Project. The number of survey crew(s) assigned to the Project may vary throughout the duration of the construction contract to meet the Project needs. CONSULTANT personnel will be assigned as needed by the Resident Engineer to meet the schedule of the construction contractor.

Construction surveying services will be provided on an on-call basis. It is the intent of AUTHORITY to maintain a consistency of construction survey quality throughout each phase of each project. Therefore, CONSULTANT is encouraged to provide the same field personnel for the duration of construction. It is important that the Field Party Chief(s) assigned to a project be completely familiar with the survey requirements and the assignments for the Project.

On days when work is not performed by the construction contractor, such as rainy or unsuitable weather days, CONSULTANT will not provide services unless authorized by the Resident Engineer.

Construction surveying will not be performed when conditions such as weather, traffic, and other factors prevent safe and efficient operation.

Resumes of CONSULTANT personnel and certifications must be submitted to AUTHORITY for review. CONSULTANT personnel must be approved by AUTHORITY prior to assignment to a project. AUTHORITY and CONSULTANT will have the responsibility of determining the quality and quantity of work performed by CONSULTANT personnel. If, at any time, the level of performance of any CONSULTANT survey personnel is below expectations, AUTHORITY may release the survey crew member and request that another be assigned.

If CONSULTANT's survey crew personnel assigned to the Project is on a leave of absence, the Project Manager will provide an equally qualified replacement(s) until the original employee(s) returns to work. The replacement(s) will be required to meet all the requirements of the permanently assigned employee(s).

CONSULTANT personnel will:

- Be knowledgeable of, and comply with all, applicable local, Caltrans, state, and federal regulations.
- Cooperate and consult with AUTHORITY officials during the course of the contract.
- Perform duties as may be required to assure construction is performed in accordance with the Project plans and specifications.
- Keep records and document work as directed by the Resident Engineer.

All services required herein will be performed in accordance with Caltrans regulations, policies,

procedures, manuals, and standards.

C. DUTIES AND RESPONSIBILITIES

1. Pre-construction Services

a. Schedule

CONSULTANT shall review the proposed Project schedule, compare it to the Project plans and specifications, and provide recommendations to AUTHORITY, as appropriate, to ensure efficiency of Contractor and CONSULTANT operations and safe and expeditious completion of the Project.

b. Budget

CONSULTANT shall review the Project estimate and provide recommendations to AUTHORITY, as appropriate, to ensure efficient utilization of funds and control of project costs.

c. Constructability Review
CONSULTANT shall review Project plans and special provisions for possible errors and deficiencies and report such findings to AUTHORITY in a format provide by AUTHORITY.

2. Bid Process

a. Bid Documents

CONSULTANT shall assist AUTHORITY, as requested, with the following tasks:

1) Review of bid documents
2) Preparation of bid tabulations

b. Pre-construction Meetings

CONSULTANT shall assist AUTHORITY in conducting one, or more, pre-construction meetings with all involved parties on the Project. Parties may include, but are not limited to, the Contractor, design engineer, Caltrans, County and City staff, utility companies, and developers.

c. Contract Award

CONSULTANT shall assist AUTHORITY, as requested, with the following tasks:

1) Review of bid for completeness and responsiveness

2) Perform bid analysis

3) Development of contractor payment schedules, and other procedural

items.

4) Checking Contractor references, licenses, insurance, and sureties.

5) Coordination with prospective Contractor for award of construction contract(s).

All processes will be consistent with procedures outlined by the California Department of Transportation for Special Funded Programs and Local Assistance Procedure Manuals.

3. Project Administration

a. CONSULTANT shall administer Project construction contracts using Caltrans Construction Manual as a guideline.

b. CONSULTANT shall conduct regular Project coordination meetings with Contractor, AUTHORITY, local agencies, and design engineer, as appropriate.

c. CONSULTANT shall prepare Contractor progress payments and maintain payment records and supporting documentation. All progress payments shall be reviewed by AUTHORITY for approval.

d. CONSULTANT shall provide reports as needed to comply with specific funding requirements.

e. CONSULTANT shall establish and maintain Project records in accordance with the Caltrans Construction Manual. Project record keeping shall include, but are not limited to, correspondence, memoranda, contract documents, change orders, claims, AUTHORITY and engineer directives, meeting minutes, shop drawings, supplementary drawings, and requests for payment. CONSULTANT shall maintain a record of the names, addresses, and telephone and fax numbers of the Contractors, subcontractors, and principal material suppliers.

f. CONSULTANT shall establish and maintain a filing system in hard copies files and in electronic forms for each Project using the Caltrans Construction Manual as a guideline. Electronic data documentation will be required to be uploaded weekly to the AUTHORITY Major Projects Portal

g. CONSULTANT shall monitor Contractors' construction schedules on an ongoing basis and alert AUTHORITY to conditions that may lead to delays in completion of the Project.

h. CONSULTANT shall prepare and submit a monthly Activity Summary Report for the Project in a format approved by AUTHORITY. The activity report shall include among other items status of SWPPP issues, RFIs, contract change orders, and notice of potential claims; construction activities completed, ongoing, and upcoming; status of Project budget and schedule, and other highlights and critical issues.

i. CONSULTANT shall review and ensure compliance with environmental requirements.

j. CONSULTANT shall participate in partnering sessions with the Contractor, AUTHORITY, and Local Agencies, as required.

k. CONSULTANT shall ensure that the Project meets all provisions of the Caltrans Quality Assurance Program Manual.

l. CONSULTANT shall review Contractors' certified payroll records and ensure compliance with the requirements of the construction contract.

m. CONSULTANT shall ensure that the Project meets all provisions of the Storm Water Pollution Prevention Plan (SWPPP).

n. CONSULTANT shall assure that the Project meets all applicable regulations of the Air Quality Management District (AQMD).

o. CONSULTANT shall maintain redlined as-built plans on an ongoing basis throughout the duration of the Project. Redlined plans shall show all changes made to the original contract plans, each change identified with the name of the approver, date of change approval , and CCO number, if applicable

4. Construction Coordination

a. CONSULTANT shall provide a minimum of one qualified Resident Engineer to effectively manage the Project.

b. CONSULTANT Resident Engineer shall act as a prime point of contact between Contractor, AUTHORITY, CONSULTANT's construction surveyor, CONSULTANT's materials inspector, and utility companies. CONSULTANT may, when requested by AUTHORITY, act as point of contact between design engineers, cities, and the public. CONSULTANT shall ensure coordination with property owners adjacent to Project right-of-way to ensure timely communication regarding property-condition survey and construction activities and scheduling.

c. CONSULTANT shall maintain regular contact with AUTHORITY's Project/Construction Manager.

d. CONSULTANT shall coordinate utility relocations with utility companies and their designees, as well as the utility inspector.

e. CONSULTANT shall proactively review Project plans and special provisions for possible errors and deficiencies prior to construction of any specific element and report such findings to AUTHORITY. Should AUTHORITY determine that changes are necessary, CONSULTANT shall assist in implementation and processing of change orders in accordance with contract documents.

f. CONSULTANT shall proactively review Project plans and special provisions; monitor, coordinate, and track construction progress schedule and RFIs; and communicate with various agencies prior to construction of any specific elements

to ensure the Project proceeds on schedule and according to the order of work in the plans and special provisions. CONSULTANT shall expedite work, as required, to maintain schedule in conjunction with the overall construction staging program.

g. CONSULTANT shall coordinate review of shop drawings and Requests for Information (RFI) with the Construction Manager. CONSULTANT shall log and track all submittals and requests.

h. CONSULTANT shall provide a qualified SWPPP Coordinator who along with the Resident Engineer shall review and certify contractor prepared Storm Water Pollution Prevention Plans (SWPPP) and coordinate approval with AUTHORITY and State Water Resource Control Board. The SWPPP Coordinator shall be at a minimum a Qualified Storm Water Pollution Prevention Plan (SWPPP) Developer (QSD) and a Qualified SWPPP Practitioner (QSP). CONSULTANT shall provide at a minimum weekly SWPPP monitoring and shall cooperate with all monitoring agency inspections and field reviews.

i. CONSULTANT shall coordinate the implementation of any changes with the Construction Manager and the design engineer.

j. CONSULTANT shall review and approve falsework and shoring plans.

k. CONSULTANT shall review and approve Traffic Control Plans and forward to AUTHORITY for Caltrans/City/County approvals, as necessary.

l. CONSULTANT shall coordinate all Project construction activities with other on-going projects within and adjacent to the Project limits.

5. Construction Inspection

a. CONSULTANT shall coordinate all required inspections necessary for the Project. CONSULTANT shall ensure that appropriate City and local agencies are notified and present as required throughout the Project. CONSULTANT shall notify AUTHORITY immediately regarding any directives, recommendations, notices, etc. received from agencies other than AUTHORITY.

b. CONSULTANT shall perform daily on-site observations of the progress and quality of construction to determine if the work being performed is in general conformance with the contract documents, all applicable laws, codes, and ordinances.

c. CONSULTANT shall exercise reasonable care and diligence to discover and promptly report to AUTHORITY any and all defects or deficiencies in the materials or workmanship used in the Project.

d. CONSULTANT personnel assigned to the Project shall be thoroughly familiar with Caltrans Standard Specifications, Caltrans Standard Plans, Caltrans Erosion Control and Highway Planting requirements, and safety standards. CONSULTANT personnel shall have the ability to read and interpret

construction plans and specifications. CONSULTANT personnel shall also have knowledge of State of California Construction Safety Orders (CalOSHA) and traffic control practices as specified in the Work Area Traffic Control Handbook (WATCH). In addition, CONSULTANT personnel shall be thoroughly familiar with the construction requirements of Caltrans' Storm Water Pollution Prevention Program.

e. Assignments to be performed by CONSULTANT personnel shall include, but are not limited to, the following:

1) Paving and subgrade inspection, sub-surface & finish surface drainage inspection, structures and foundation inspection, electrical inspection for traffic, ramp meter and irrigation control equipment, signing and striping inspection, quantity calculations, checking grade and alignment, construction traffic control, soil amendments and plant material identification & quality control, hardscape inspection, trenching & irrigation inspection and duties that may be required to determine that construction of the Project is being performed in accordance with the contract documents.

2) Identifying actual and potential problems associated with the Project and recommending sound engineering solutions.

3) Identifying common plant diseases and/or pests together with their respective eradication techniques, directing of plant adaptability requirements along with proper planting & pruning techniques, and avoiding potential problems associated with the Project by recommending sound engineering solutions.

4) Perform basic sampling of construction materials in the field per California Test Method 105 and 125 by both the prime and subconsultant personnel.

5) Maintaining awareness of safety and health requirements. Monitoring Contractors' compliance with applicable regulations and construction contract provisions for the protection of the public and Project personnel.

6) Preparing complete and accurate daily reports, calculations, project records, payment quantity documents, reports, and correspondence related to Project activities.

7) Preparing construction sketches, drawings, and cross-sections, as necessary.

8) Assisting in the preparation of as-built plans.

9) Providing inspections for environmental compliance.

10) Maintaining awareness of water discharge requirements. Monitoring Contractors' compliance with applicable regulations and construction contract provisions.

11) Monitoring Contractors' compliance with applicable regulations required by AQMD.

12) Other duties as may be required or reasonably requested.

6. Project Support

a. Construction Surveys

CONSULTANT shall perform construction surveying services, field calculations, and home office calculations to support construction of the Project. CONSULTANT may be requested to review available survey data, construction plans, and right-of-way plans to confirm compatibility and to identify discrepancies prior to and during construction of proposed projects. The Resident Engineer will assign survey work to the CONSULTANT by issuing a "Request for Survey Services". Requests may include, but not be limited to, the following types of surveys and related services:

1) Construction Surveys

CONSULTANT shall assist the Resident Engineer in all phases of construction staking and calculations as needed.

a) Survey calculations and adjustments shall be performed with established and computed coordinates based on the California Coordinate System.

b) Cross-section data collection shall be performed by conventional and terrain line interpolation survey methods.

c) Survey data will include topography, cross-section, and other survey data in computer formats compatible with the Caltrans computer survey and design systems.

d) Prepare and maintain survey documents. Survey documents include survey field notes, maps, drawings, and other survey documents.

e) Perform construction staking, including but not limited to:

i. Utility relocations
ii. Clearing limits
iii. Slope staking
iv. Storm drain, sanitary sewer, and irrigation systems
v. Drainage structures
vi. Curbs, gutters, and sidewalk
vii. Horizontal and vertical control for structures and portions of structures (bents, abutments, wingwalls, etc.)

viii. Rough grade
ix. Finish grade

f) Monitor for settlement, if required.

g) Global Positioning Satellite (GPS) equipment shall be made available if required by AUTHORITY

2) Grid Grades

Grid grade data shall provide pavement elevations at the station line, the left edge of pavement, the right edge of pavement, and the right edge of travel way at 25 foot intervals for travel lanes.

3) Open Ended Traverses and Profile Data Sheets

Separate open-ended traverse calculations and point maps shall depict plan data for station lines, utility lines, wall layout lines, and abutment/bent alignment. Specific information to be shown will be part numbers, coordinates, bearings, and curve data.

Profile data sheets are required for all profiles shown on the plans identifying vertical design elements such as grade, point of intersection (PI) location, beginning of vertical curve (BVC) location, end of vertical curve (EVC) location, and curve length.

4) Three Line Profiles

Separate profile plots are required for the left edge of pavement, the right edge of pavement, and the edge of shoulder for all travel lanes.

5) Right of Way Lines

Existing right of way and easements will be established from Local Agency's record information and existing monumentation.

a) Right of way monumentation shall be renewed and restored in accordance with Section 10.4 of the Caltrans "Survey Manual" and the State of California Land Surveyor's Act.

b) Corner records and records of surveys shall be prepared and filed in accordance with the applicable standards and the State of California Land Surveyor's Act and the California Subdivision Map Act.

c) Perpetuate existing monumentation which includes restoring, renewing, referencing, and resetting existing boundary related monumentation. In addition, stake areas where construction disturbs the existing right of way, preparing and filing required maps and records.

New right of way and easements will be established from plans, right of way maps, utility drawings, and Local Agency record information, and existing monumentation.

a) Right of Way Surveys which includes research and preparation filing of required maps and records. In addition, locate and set monuments for right or way and easement lines, staking for right of way and easement fences.

b) Final monumentation which includes setting of centerline points of control upon completion of construction.

6) Special Design – Data Surveys
Includes drainage, utility, and surveys required for special field studies.

7) Control Survey

Includes Project control surveys, aerial mapping control surveys, horizontal and vertical control surveys. In addition control surveys will include restoration, renewal, reference, relocation, and resetting of existing control monumentation. The CONSULTANT will be required to provide horizontal and vertical control at the end of each bridge.

8) Topographic Surveys

Topographic surveys will normally be compiled by ground survey methods only.
CONSULTANT will provide all necessary Project related surveys and construction staking, including horizontal and vertical control, right of way, and easements. CONSULTANT shall coordinate all staking and verify accuracy. CONSULTANT shall ensure timely coordination of all staking requests from the Contractor.

b. Materials Testing and Geotechnical Services

1) CONSULTANT will provide experienced personnel, equipment, and facilities to perform various construction materials sampling and testing. Laboratory and field materials testing will be used to ensure that structure and roadway construction work conforms to California State Department of Transportation (Caltrans) standards, specifications, and special provisions for material quality and workmanship.

2) All field and laboratory testing is to be performed in accordance with California Test Methods.

3) CONSULTANT will be responsible for the accuracy and completeness of all test data compilation and results.

c. Public Outreach

1) General Public Outreach Plan

a) AUTHORITY's primary goal is to assure the public that AUTHORITY is a public agency that delivers quality transportation projects and trustworthy, accurate and timely public information.

b) AUTHORITY will provide the primary outreach effort with supplemental support as requested from CONSULTANT. This will be a targeted approach with incremental outreach based on construction schedule and staging. The primary target audiences identified for this Project include, but are not limited to:

- i. LOCAL AGENCY
- ii. AUTHORITY Board
- iii. LOCAL AGENCY and area Emergency Service Providers
- iv. School Transportation Coordinator(s)
- v. Local Business Community
  - i) Specific businesses with expanding priority based on proximity to work zone and detours
  - ii) Chamber of Commerce
- vi. Commuters
- vii. Recreational Travelers
- viii. Trucking Industry
- ix. Local media
  - i) Print
  - ii) Radio
  - iii) Television

c) In the weeks prior to the selection of a construction contractor, AUTHORITY may coordinate an Emergency Responders Project Briefing to highlight the Project details and possible access challenges for consideration by the Project team.

d) Following the emergency responders briefing, AUTHORITY may coordinate a Chamber of Commerce Project Briefing to highlight the Project benefits, possible construction schedule and traffic management plan.

f) Just prior to the start of field construction activities, AUTHORITY and CONSULTANT (includes all PR subs) may coordinate a groundbreaking media event with the LOCAL AGENCY to ceremoniously open the Project. CONSULTANT will be called up on to develop (with input from AUTHORITY) and maintain a task list of deliverables for this event. CONSULTANT will acquire the necessary items authorized for the event. CONSULTANT will be responsible for set up and breakdown of the event site.

g) Prior to construction beginning, AUTHORITY and CONSULTANT may coordinate a community meeting to share Project information, construction scheduling, detour information and expected challenges with the general public. CONSULTANT will be called up on to develop (with input from AUTHORITY) and maintain a task list of deliverables for this event. CONSULTANT will acquire the necessary items authorized for the event. CONSULTANT will be responsible for set up and breakdown of the event site. Staffing this event will be determined based on availability.

h) Near the completion of the construction Project, AUTHORITY and CONSULTANT will coordinate a ribbon-cutting media event. CONSULTANT will be called upon in a similar fashion to the groundbreaking event.

i) At various stages throughout the Project, AUTHORITY will request support from CONSULTANT for the following items:

i. Establish and maintain stakeholder and/or 'interested parties' list(s) – used for sharing Project updates during Project construction. May need to be filtered to specific audiences (i.e. emergency responders, city government, etc.)

ii. Development of a Project fact sheet (include Project description, Project budget, Project schedule, AUTHORITY contact information, LOCAL AGENCY contact information, photos, logos, etc.)

iii. Weekly media advisories (use AUTHORITY template). CONSULTANT (or sub) will make weekly contact with Project team to establish what road or lane closures (and associated detours if applicable) will be taking place, develop the advisory, send to AUTHORITY Public Information Office for approval, submit to webmaster for posting, distribute to appropriate media and stakeholder list.

iv. Emergency notices – when needed.

v. Develop web content for project tab on AUTHORITY website. This page should include same elements of fact sheet with expanded detail when possible. If the information is dynamic, please provide updates to AUTHORITY Public Information Office for approval prior to submitting to webmaster.

2) All requests for speaking to government councils, boards, chambers of commerce or similar business or social groups shall be directed to the AUTHORITY Public Information Office before agreeing to appear.

3) All media inquiries shall be directed to the AUTHORITY Public Information Office.

d. Permits

CONSULTANT shall review the Project for permit compliance and coordinate with AUTHORITY and the design engineer to ensure that necessary permits are obtained. CONSULTANT shall assist AUTHORITY in the coordination, timely processing and verification of approval for all permits. CONSULTANT shall maintain permits and permit documentation on site.

7. Cost and Schedule

a. CONSULTANT shall monitor and track the following:

1) Contract pay item quantities and payments
2) Contract change orders
3) Supplemental work items
4) Agency furnished materials
5) Contingency balance
6) Project budget

b. CONSULTANT shall review and monitor Contractor's schedule and inform AUTHORITY of any significant changes or deviations in the schedule.

c. CONSULTANT shall provide and maintain a Project staffing plan of field office personnel based on the Contractor submitted baseline schedule update. In cooperation with AUTHORITY, the staffing plan shall be periodically updated to reflect Project progress and needs.

8. Contract Change Orders and Claims

a. CONSULTANT shall receive and evaluate requests for changes and/or substitutions by the Contractor. Contract Change Orders submitted to AUTHORITY shall be accompanied by CONSULTANT recommendations. Where applicable, CONSULTANT shall convey proposed changes to design engineer, or other Project consultants. If the requested changes are accepted, CONSULTANT shall negotiate and prepare appropriate Contract Change Orders.

b. CONSULTANT shall attempt to avoid unnecessary Contract Change Orders. When a Contract Change Order is necessary, CONSULTANT shall consult with AUTHORITY prior to its preparation. Unless directed otherwise by AUTHORITY, the preferred method of payment for Contract Change Orders should be as follows

1) Agreed Price
2) Adjustment in compensation to a bid item
3) Time and materials or Force Account

CONSULTANT shall perform force account analysis to validate cost submitted by the Contractor for contract change orders with agreed unit price, lump sum price, and adjustment in components. Analysis shall be based on realistic production and resource needs to complete the work.

c. CONSULTANT shall attempt to identify all potential claims, track and monitor unresolved claims. The CONSULTANT shall implement appropriate claims avoidance processes where in the best interests of AUTHORITY as determined by AUTHORITY's Construction Manager.

d. CONSULTANT shall assist AUTHORITY, as requested, in the identification, resolution, and final disposition of claims filed by the Contractor or third parties against AUTHORITY or the Project.

9. Safety

In addition to the requirements specified elsewhere in this contract, the following shall also apply:

a. CONSULTANT shall implement and conduct a comprehensive safety program including regular tail-gate safety meetings for CONSULTANT personnel. CONSULTANT shall provide AUTHORITY with monthly status of safety reports.

b. CONSULTANT shall comply with State of California Construction Safety Orders and provisions of the Caltrans Construction Manual.

c. CONSULTANT shall provide appropriate safety training for all CONSULTANT field personnel.

d. CONSULTANT shall provide all necessary safety equipment as required for CONSULTANT personnel.

10. Project Close Out

a. CONSULTANT shall prepare a list of items to be completed and/or corrected by the Contractor for final completion of the Project.

b. CONSULTANT shall collect and furnish as-built information to the design engineer for preparation of as-built drawings including pre-stress drawings and pile logs, as applicable.

c. CONSULTANT shall review and verify completeness of as-built drawings.

d. CONSULTANT shall conduct a final walk-through with AUTHORITY, Local Agencies, Contractors, and design engineers.

e. CONSULTANT shall prepare final construction reports including the Project Completion Report.

f. CONSULTANT shall prepare and deliver to AUTHORITY all Project files.

g. CONSULTANT shall assist AUTHORITY and Contractor in obtaining final release of all Project permits.

h. Project closeout services will be completed within two months of project acceptance.

D. DELIVERABLES

1. Inspector daily reports, extra work diaries and Resident Engineers' daily diaries.

2. Monthly Project Activity Summary Reports.

3. Monthly Contractor progress payments, back-up documentation, and Contractor payment records.

4. Contractor final payment documents, delivered to AUTHORITY no later than ten (10) working days after acceptance by AUTHORITY of the completed construction Project.

5. Project Completion Report documents per Local Assistance Procedure Manual and Caltrans Construction Manual.

6. All Project files, Project reports, correspondence, memoranda, shop drawings, Project logs, change order data, claims and claim reports, and Contractor payment records.

7. Certified payrolls and fringe benefit statements for all employees, CONSULTANT and Contractor, who are subject to the State and/or Federal prevailing wage rates.

8. All material test results will be provided in accordance with the applicable Standard Specifications and Special Provisions, and test methods. Failing tests will be immediately reported to the Resident Engineer or Structures Representative. All test results will be recorded on the appropriate forms. The test documents will be legible and show the identity of the tester where appropriate. A notebook containing all test results and reports will be maintained by CONSULTANT throughout the duration of the Project and delivered to AUTHORITY with the Project files.

9. Unless otherwise specified in the survey request, the deliverables shall conform to the following:

   a. Survey points, lines, and monuments shall be established, marked, identified, and referenced as required by survey request and requirements herein.

   b. Survey notes, drawings, calculations, and other survey documents and information shall be completed as required by the survey request and the requirements herein.

   c. All original survey documents resulting from this contract, including original field notes, adjustment calculations, final results, and appropriate intermediate documents, shall be delivered to the Resident Engineer and shall become the

property of AUTHORITY. A copy of all survey documents furnished by AUTHORITY shall be retained by CONSULTANT for future reference.

When the survey is performed with a total station survey system, the original field notes shall be a hard copy in a readable format of the data (observations) as originally collected and submitted by the survey party. The hard copy shall be signed by the Party Chief. If the Party Chief is not licensed, the person in "responsible charge" will be required to sign.

d. Deliverables to the Resident Engineer shall follow the format specified below:
   1) Horizontal Control
   2) Alpha numeric hard copy point listing with adjusted California Coordinate System northing and eastings and the appropriate descriptions.
   3) Vertical Control
   4) Alpha numeric hard copy benchmark listing with adjusted elevations compatible with the design datum.
   5) Topography
   6) Alpha numeric hard copy listing, hard copy drawing, and computer aided drawing and design (CADD) digital drawing. The CADD drawing shall be compatible with the systems utilized by Caltrans.

e. Data collection method used to collect cross-section data and the coding (feature description) of terrain data for cross-sections shall conform to the survey request requirements. Deliverables shall depend on the data collection method as follows:

   1) Conventional Cross – Sections (each cross – section):
   For each cross - section and alpha numeric listing, a hard copy drawing, and a computer formatted file compatible with the systems utilized by Caltrans.

   2) Terrain Line Interpolation Cross – Section Data (each terrain line interpolation survey):
   Terrain line interpolation cross – sections shall include an alpha numeric listing, a hard copy plan view drawing of the terrain lines, and a computer input file. The computer input file shall be provided in a format compatible with the systems utilized by Caltrans.

   3) Data Collector Data
   If specified in the survey request, the raw data from the data collector shall be provided in a format conforming to the survey request requirements.

   4) Other—As specified in the survey request.

E. EQUIPMENT AND MATERIALS TO BE PROVIDED BY CONSULTANT

1. CONSULTANT shall provide all necessary equipment including software, materials, supplies, miscellaneous tools, phones, vehicles, and safety equipment required for its

personnel to perform the services accurately, efficiently, and safely. Only those items listed in Attachment B, CONSULTANT Cost Proposal, shall be reimbursed by AUTHORITY.

2. CONSULTANT personnel shall be provided with vehicles suitable for the location and nature of the work involved. Vehicles shall be equipped with flashing yellow lights, either permanently or temporarily affixed.

3. CONSULTANT personnel shall be provided with a mobile radio, cellular phone, or other means to assure full-time communication. If a radio system is to be used, CONSULTANT shall provide a base station at the field office.

4. CONSULTANT personnel shall be provided with all applicable standard plans, specifications, and other standards as appropriate (see item G below).

5. For Materials Testing, CONSULTANT and its staff will be fully equipped at all times to perform the services required, including but not limited to the following:

   a. An on-site mobile laboratory or laboratory in close proximity to the Project will be required. The type and location of the lab should be such that it can meet the needs of the Project in an efficient, time effective manner. The laboratory is to be fully staffed, equipped, and supplied to conduct all required soils, materials, and concrete breaking tests in a timely manner.
   b. Field personnel will be provided with all necessary safety equipment to permit work to be performed safely and efficiently within operating highway and construction zone environments.
   d. All equipment to be calibrated as per Section 3-10 and 3-11 of Caltrans' Quality Assurance Program Manual.

6. For construction surveying, CONSULTANT and staff shall have adequate equipment and supplies to complete the required survey work. Equipment and supplies shall, include, but not be limited to:

   a. Survey vehicles:

      Survey vehicles will be suitable to perform the required work in varying terrain and conditions encountered on the Project. Vehicles shall be fully equipped with all necessary tools, instruments, supplies, and safety equipment required to perform the work accurately, efficiently, and safely. Vehicles shall be equipped with a flashing yellow beacon light.

   b. Data Processing Systems:

      Data processing systems shall include hardware and software to:
      1) Performing survey and staking calculations from the design plans and specifications;
      2) Reduce survey data collected with conventional and total station survey systems;
      3) Perform network adjustments for horizontal and vertical control surveys;

4) Format survey data to be compatible with the Caltrans computer survey and data system.

c. Drafting equipment and supplies.

d. Digital calculators.

e. Hand tools as appropriate for the requested survey work.

f. Traffic cones (minimum 25). Traffic cones shall be 28 inches in height (minimum).

g. Traffic control devices as required to perform the requested survey work. Traffic control devices include signs, sign bases, flags, and hand held signs.

h. Leveling instruments and equipment:
   1) Self-leveling level. Precision: standard deviation in one mile of double run leveling 0.005 feet or less.
   2) Suitable level rods for the work to be performed.

i. Distance measuring instruments and equipment:
   1) Electronic distance measurer (EDM). Precision: standard deviation 3 mm plus 3 PPM, or less; Range: Minimum one mile under average atmospheric conditions.
   2) Prisms, sufficient to perform the required work.
   3) Tapes; steel, cloth.

j. Angle measuring instruments and equipment:
   1) Theodolite for non-control surveys; Precision: direct circle reading to three seconds, or equivalent, horizontal and vertical.
   2) Targets as required to perform the work.

k. When required for efficient survey operations, total station survey systems consisting of an electronic angle measuring instrument, EDM, and electronic data collector shall be provided. The angle measuring instruments and EDM shall conform to the requirements for the equipment previously listed.

l. Radio or cellular communications equipment for communication between field office and field crews.

m. Caltrans manuals, standards, forms, and other policies and procedures to be followed to perform the required work.

F. MATERIALS TO BE FURNISHED BY AUTHORITY

1. AUTHORITY will provide three (3) copies of all Project construction documents including plans, and special provisions, and one (1) copy of all other reports, designer prepared resident engineer files, and contracts. In addition, AUTHORITY will provide one (1) full size (24" x 36") sets of plans for use in the construction field office as record documents.

2. AUTHORITY will provide copies of all previously secured permits and Project authorizations.

3. Appropriate forms for recording test data in accordance with Caltrans practices and procedures outlined in the "Manual of Test".

G. STANDARDS

All construction inspection, surveys, materials sampling and testing, and contract administration shall be in accordance with the Project bid documents, special provisions, plans, and current Caltrans Manuals including:

1. Construction Manual and its revisions

2. Bridge Construction Records and Procedures Manual

3. Quality Assurance Program Manual

4. Manual of Traffic Controls for Construction and Maintenance Work Zones

5. Caltrans Standard Specifications and Standard Plans

6. Caltrans Storm Water Pollution Prevention Plan (SWPPP) and Water Pollution Control Program (WPCP) Preparation Manual

7. Manual of Test (3 volumes)

8. Survey Manual

9. District 8 Standard Staking Procedures Manual

Work not covered by the manuals shall be performed in accordance with accepted professional standards.

Surveys performed by CONSULTANT shall conform to the requirements of the Land Surveyor's Act. In accordance with the Land Surveyor's Act, "responsible charge" for the work shall reside with the Licensed Land Surveyor or a pre-January 1, 1982, Registered Professional Civil Engineer in the State of California.

Unless otherwise specified in the survey request, control surveys shall conform to second order (modified) accuracy standards as specified in the Caltrans "Survey Manual".

Additional standards for specific survey work may be included in the applicable request for survey. Such standards supplement the standards specified herein. If additional standards conflict with the standards specified herein, the "Survey Request's" standard shall govern.

The Resident Engineer and AUTHORITY will decide all questions which may arise as to the quality or acceptability of deliverables furnished and work performed for this contract. Any CONSULTANT employee who does not perform adequately will be replaced if directed by the

AUTHORITY Construction Manager.

H. AVAILABILITY AND WORK HOURS

The typical workday includes all hours worked by AUTHORITY's construction Contractor including nights and weekends. The construction Contractor's operations may be restricted to specific hours during the week, which will become the normal workday for CONSULTANT's personnel. On days when work is not performed by the construction contractor, such as rainy or unsuitable weather days, CONSULTANT services will not be provided unless authorized by the AUTHORITY Construction Manager.

Unless otherwise directed by AUTHORITY, the normal work week will consist of 40 hours. From time to time, overtime may be required. However, overtime will be worked only when approved in writing by AUTHORITY.

I. LIMITATIONS TO AUTHORITY

CONSULTANT does not have the authority to:

1. Authorize deviations from the contract documents.

2. Approve substitute materials or equipment; except as authorized in writing by AUTHORITY.

3. Conduct or participate in tests or third party inspections; except as authorized in writing by AUTHORITY.

4. Assume any of the responsibilities of the Contractors, Contractors' Superintendent, or subcontractors.

5. Exercise control over or be responsible for construction means, methods, techniques, sequences, procedures, or safety precautions.

6. Communicate directly with subcontractors or material suppliers without the prior consent of the Contractor.

7. Verbally authorize or approve change orders or extra work for the Project.

8. Offer or receive incentives, inducements, or other forms of enumeration to or from the Contractor to perform services or work outside the terms of any executed contracts for this Project.

J. THIRD PARTY RELATIONSHIPS

This Contract is intended to provide unique services for a specific project. In the development of the Project, AUTHORITY has worked closely with various professional consultants, agencies, and others in the preparation of the construction documents and other Project related materials. AUTHORITY, however, is solely responsible for and will be the sole point of contact for all contractual matters related to the Project. CONSULTANT shall take direction **only** from AUTHORITY and shall regularly inform **only** AUTHORITY of Project progress, outstanding issues, and all Project related matters.

During the course of the Project, CONSULTANT may find occasion to meet with Caltrans, City or County representatives, the design engineer, Project consultants, or other third parties who have assisted with the Project. These entities may, from time to time, offer suggestions and/or recommendations regarding the Project or elements of the Project. While AUTHORITY enjoys a close relationship with and has considerable confidence in the capabilities of these other parties, CONSULTANT shall not act on any suggestions, solicited or unsolicited, without obtaining specific direction from AUTHORITY. All oral and written communication with outside agencies or consultants related to the Project shall be directed only to AUTHORITY. Distribution of Project related communication and information shall be at the sole discretion of AUTHORITY representatives.

K. CONSTRUCTION SITE SAFETY

In addition to the requirements specified elsewhere in this contract, the following also will apply.

1. CONSULTANT will conform to the safety provisions of the Caltrans Construction Manual.

2. CONSULTANT's field personnel will wear white hard hats with proper suspension, orange vests with reflective tape, sleeved shirt, long pants, and leather boots with ankle support and rubber soled shoes at all times while working in the field.

3. CONSULTANT will provide appropriate safety training for all CONSULTANT's personnel, including work on and near highways.

4. All safety equipment will be provided by CONSULTANT.

L. BASIS FOR SURVEY AND MONUMENT STAKING

AUTHORITY will designate the existing horizontal and vertical control monuments that are the basis of CONSULTANT performed surveys. AUTHORITY will provide the California Coordinate System values and/or elevation values for these monuments. CONSULTANT shall adjust CONSULTANT performed surveys to be the designated control monuments and the values.

Monuments established by CONSULTANT shall be marked by CONSULTANT with furnished disks, plugs, tags. In addition, CONSULTANT shall identify CONSULTANT established monuments by tagging or stamping the monuments with the license or registration number of CONSULTANT'S surveyor who is in "responsible charge" of the work.

M. PERSONNEL QUALIFICATIONS AND RESPONSIBILITIES

The quantity and qualifications of field personnel to be assigned will be determined by the scope

of the Project and the degree of difficulty of required tasks to be performed. All personnel and personnel assignments are subject to approval by AUTHORITY. While some areas of responsibility may overlap, as a guideline, CONSULTANT personnel assigned to the Project should have the following qualifications:

1. Project Manager

   a. A minimum of six (6) years' project management experience on similar construction projects is desired.

   b. Accessible to AUTHORITY at all times during normal working hours.

   c. A thorough understanding of Caltrans construction practices and procedures. The Project Manager will assume the following functional responsibilities:

      1) Review, monitor, train, and provide general direction for CONSULTANT personnel.
      2) Assign personnel to projects on an as-needed basis.
      3) Administer personal leave.
      4) Prepare monthly reports for delivery to AUTHORITY.

2. Resident Engineer

   a. A minimum of eight (8) years' resident engineer experience on similar construction projects is desired.

   b. Licensed Professional Civil Engineer in the State of California.

   c. Ability to work independently, make effective decisions concerning construction work in progress, and solve field problems.

   d. Accessible to AUTHORITY at all times including weekends and holidays.

   e. A thorough understanding of Caltrans field methods, practices, and construction office procedures. The Resident Engineer will assume the following functional responsibilities:

      1) Monitor and provide daily direction to CONSULTANT Resident Engineers and inspection personnel.
      2) Assign field personnel to specific project tasks.
      3) Monitor and track Contractor progress.
      4) Prepare daily, weekly and monthly reports as required.
      5) Coordinate utility relocations with appropriate agencies and the utility inspector.
      6) Act as prime field contact between various project Contractors and AUTHORITY's Construction Manager.

3. Assistant Resident Engineer

   a. A minimum of four (4) years' experience on similar construction projects is

desired.

b. Licensed Professional Civil Engineer in the State of California.

c. Ability to work independently, make effective decisions concerning construction work in progress, and solve field problems.

d. Accessible to AUTHORITY at all times including weekends and holidays.

e. Thorough understanding of Caltrans field methods, practices, and construction office procedures. The Assistant Resident Engineer shall act under the direction of the Resident Engineer and will assume the following functional responsibilities:

1) Monitor and provide daily direction to CONSULTANT inspection personnel.
2) Assign field personnel to specific project tasks.
3) Monitor and track Contractor progress.
4) Prepare daily, weekly and monthly reports as required.
5) Coordinate utility relocations with appropriate agencies.

4. Lead Field Inspector

a. A minimum of six (6) years' construction inspection experience in public works or similar projects ***or*** a four-year degree in the field of civil engineering, transportation and four years of similar construction experience is desired.

b. Knowledge of Caltrans construction practices, physical characteristics and properties of highway construction materials, and approved methods and equipment used in making physical tests of construction materials.

c. Ability to work independently, make effective decisions concerning construction work in progress, and solve field problems.

d. Ability to direct the efforts of subordinate inspectors.

e. Ability to use an automatic level and transit for the purpose of verifying line and grade.

f. Understanding of Caltrans field and construction office procedures. The Lead Field Inspector will assume the following functional responsibilities:

1) Assist in inspections to assure compliance with contract plans, specifications, and special provisions on all phases of construction.
2) Assist in the preparation of contract change orders, contract estimates, progress pay estimates, and other documents or reports required for the Project.
3) Coordinate field testing of materials to monitor compliance with Project specifications and Caltrans Quality Assurance Program.
4) Maintain accurate and timely Project records. Perform quantity

calculations for progress pay estimates.

5) Perform analytical calculations such as basic earthwork, grading, profiles, and special staking procedures.
6) Provide input for the redesign of facilities to fit existing field conditions.
7) Monitor and track Contractor progress. Prepare daily, weekly, and monthly reports as required.

5. Field Inspector

a. Two (2) years' construction inspection experience in public works or similar projects ***or*** a four-year degree in the field of civil transportation engineering is desired.

b. Knowledge of construction practices, physical characteristics and properties of construction materials, and approved methods and equipment used in making physical tests of construction materials.

c. Ability to work independently. Ability to make minor decisions concerning construction work in progress and to solve field and office problems.

d. Ability to use an automatic level and transit for the purpose of verifying line and grade.

e. Understanding of Caltrans construction methods and practices. The Field Inspector will assume the following functional responsibilities:

1) Assist in inspections to assure compliance with contract plans, specifications, and special provisions on all phases of project construction.
2) Assist in preparation of contract change orders, contract estimates, progress pay estimates, and other documents or reports required for the Project.
3) Coordinate field testing of materials to monitor compliance with Project specifications and Caltrans Quality Assurance Program.
4) Perform quantity calculations for progress pay estimates and maintain Project records.
5) Perform analytical calculations such as basic earthwork, grading, profiles, and special staking procedures.
6) Provide input for the redesign of facilities to fit existing field conditions.
7) Perform construction materials sampling.
8) Perform labor compliance interviews of the Contractors' personnel.

6. Structural Representative or Lead Structural Inspector

a. A minimum of six (6) years' of bridge or structural construction inspection as related to major public works projects and a four-year degree in civil engineering is desired.

b. Licensed Professional Civil Engineer in the State of California.

c. Knowledge of stress analysis, structural mechanics, and strength of materials.

d. Knowledge of Caltrans construction practices and the physical characteristics and properties of various bridge construction materials including concrete.

e. Experience in the following areas: foundations, pile driving, concrete prestressing, bridge deck construction, cast-in-place wall construction, falsework, and shoring.

f. Ability to work independently. Ability to perform duties in the construction field office and effectively make decisions concerning construction work in progress and solving field problems.

g. Ability to direct the efforts of subordinate inspectors.

h. Ability to use an automatic level and transit for the purpose of verifying line and grade.

i. Thorough understanding of Caltrans field methods, practices, and construction office procedures. The Structural Representative shall assume the following functional responsibilities:

1) Assist in inspections to assure compliance with contract plans, specifications, and special provisions on all phases of structural construction such as bridges, foundations, walls, falsework, shoring, and drainage structures.
2) Make grade, alignment, quantity, falsework, and shoring calculations.
3) Assist in the preparation of contract change orders, contract estimates, progress pay estimates, and other documents or reports required for the Project. Coordinate the sampling and testing of construction materials to monitor compliance with contract specifications.
4) Monitor and track Contractor progress. Prepare daily, weekly, and monthly reports as required.
5) Coordinate with Resident Engineer, as well as the Construction Staking and Material Testing consultants.
6) Direct the daily activities of subordinate inspectors.

7. Structural Inspector

a. A minimum of two (2) years' of bridge design or structural construction inspection as related to Caltrans or major public works projects ***or*** a four-year degree in civil or structural engineering is desired.

b. Knowledge of stress analysis, structural mechanics, and strength of materials.

c. Knowledge of construction practices and the physical characteristics and properties of various highway bridge construction materials including concrete.

d. Experience in one or more of the following areas: pile driving, concrete prestressing, bridge deck construction, retaining wall construction, falsework,

and shoring.

e. Ability to work independently and make minor decisions concerning construction work in progress and to solve field and office problems.

f. Ability to use an automatic level and transit for the purpose of verifying line and grade.

g. Understanding of Caltrans construction methods and practices. The Structural Inspector will assume the following functional responsibilities:

1) Assist in inspections to assure compliance with contract plans, specifications, and special provisions on all phases of structural construction such as bridges, foundation, walls, falsework, shoring, and drainage structures.
2) Make grade, alignment, quantity, falsework, and shoring calculations.
3) Assist in the preparation of contract change orders, contract estimates, progress pay estimates, and other documents or reports required for the Project.
4) Sampling and testing of construction materials to monitor compliance with contract specifications and Caltrans Quality Assurance Program.

8. Office Engineer

a. A minimum of two (2) years' experience as an office engineer on similar construction projects is desired.

b. Knowledge of Caltrans Office of Highway Construction forms used to administer construction projects.

c. Knowledge of Caltrans system of document organization.

d. Knowledge of construction records and accounting procedures.

e. Knowledge of documentation, procedures, and reporting for federally funded projects.

f. Knowledge of laws and regulations governing the payment of prevailing wages.

g. The Office Engineer will assume the following functional responsibilities:

1) Process monthly progress pay estimates, monthly status reports, extra work reports, and weekly statements of working days.
2) Prepare and process contract change orders.
3) Monitor construction budget and schedule.
4) Prepare, maintain, and/or file project documents including labor and equipment records, correspondence, memoranda, meeting minutes, claims, personnel records, labor compliance reports, and daily, weekly, and monthly reports.
5) Perform routine calculations and checking of quantities.

6) Coordinate all office activities and functions with AUTHORITY representatives.

9. Materials Testing Project Manager

a. A minimum four (4) years' project management experience on a similar highway/bridge construction project is desired.

b. Licensed Civil Engineer in the State of California.

c. Ability to use typical computer programs including word processing and spreadsheets.

d. The materials testing project manager will assume the following functional responsibilities:

1) Review, monitor, train, and provide general direction for CONSULTANT's laboratory and field personnel.
2) Assign personnel to projects on an as-needed basis in coordination with the Resident Engineer.
3) Administer personal leave, subject to approval of the Resident Engineer.
4) Prepare monthly reports for delivery to the Resident Engineer.
5) Provide direction, administration, and responsibility for Materials Certification per Caltrans Construction Manual, Section 8-01.

Material testing personnel will be certified by a California Registered Civil Engineer as being experienced and competent in the test procedures required for the work involved (and possess a current certificate of proficiency (Form MR-0111) in accordance with Quality Assurance Program Manual (Section 3-5). Independent certification of Caltrans test procedures may be performed at the discretion of the AUTHORITY Construction Manager.

10. Materials Technicians

CONSULTANT personnel provided under this contract will have a variety of skills and experience appropriate for the level of tasks to be assigned. Field personnel shall be certified by Caltrans and should have a minimum of two (2) years' experience in conducting material sampling and testing of the type required for the projects involved and possess the following additional capabilities:

a. Have the ability to establish specific locations for appropriate tests when construction contract administration personnel are not available.

b. Be familiar with construction practices and be fully aware of construction activities at the Project site.

c. Have knowledge of and comply with safety and health regulations and requirements applicable to the Project.

d. Specific qualifications for technicians are as follows:

1) CONSTRUCTION TECHNICIAN I

a) Performs a variety of semi-skilled activities. Examples of duties assigned to this classification are:

i. Conducting quality control tests such as soil densities, sieve analysis tests, operation scales and inspecting spread operations.
ii. Sampling and transporting produced construction materials from point of application or production to testing laboratory.

b) Knowledge and Skills Required

i. Knowledge of tools, equipment and vehicles utilized in construction.
ii. Knowledge of standard equipment and materials used for the sampling and testing of construction material.
iii. Knowledge of basic mathematics used in the computation of a variety of construction items.
iv. Knowledge of record keeping, preparing of documents and reports.

2) CONSTRUCTION TECHNICIAN II

a) Performs a variety of skilled activities. Examples of duties assigned to this classification are:

i. Inspecting minor construction items, sampling and inspection of steel reinforcement, sampling and inspection of concrete placing operation.
ii. Collect and analyze soil samples of construction materials to determine compaction and moisture content.
iii. Inspection and sampling of all phases of asphalt concrete and PCC paving operation, including plant inspection.
iv. Confers with construction engineers and contractors regarding construction in progress and is conformance to specifications and construction plans.
v. Answers questions and resolves problems.
vi. Inspects construction in progress to ensure conformance with specification, agreements, and established requirements.
vii. Keeps daily diary of work progress.
viii. Prepares reports on all field inspections and submits project quantities on a daily basis.
ix. Keeps accurate documentation for force accounts and possible claims.

b) Knowledge and Skills Required

i. All knowledge and skills required of lower classification.
ii. Knowledge of currently accepted methods, procedures and techniques used in highway construction inspection, survey, materials testing, and quality control equipment.
iii. Skill in interpersonal relations as applied to contact with contractors, representatives of other governmental jurisdictions, and other AUTHORITY/Caltrans staff.

3) CONSTRUCTION TECHNICIAN III

a) Exercises considerable independent judgment within general Caltrans standards and guidelines. Examples of duties assigned to this classification are:

i. Inspect Project construction on an ongoing basis to assure compliance with contract and in accordance with State and local standards.
ii. Perform a variety of structural material tests and inspections.
iii. Reviews construction plans and verified that these are in accordance with designated specifications and other requirements.
iv. Participates in the preparation of completed work estimates, to calculate compensation due contractor.
v. Examines and verifies numeric data and material specifications on project cost source documents, utilizing geometry and trigonometry calculations.
vi. Supervises all work activities involved in construction projects, laboratory, and quality control work.
vii. Recommends approval of proposed Project changes.

b) Knowledge and Skills Required

i. All knowledge and skills required of lower classifications.
ii. Knowledge of the principles and practices of Civil Engineering as applied to the construction of state highways.
iii. Skill in analyzing and evaluating a wide variety of highly technical engineering data, including construction plans, field survey and quality control documents.
iv. Skill in interpreting and implementing Caltrans standards, policies, procedures and regulations.
v. Skill in interpersonal relations, as applied to contacts with contractors, representatives of other governmental jurisdictions, and other AUTHORITY/Caltrans staff.

11. Construction Surveying Project Manager

a. A minimum four (4) years' project management experience on similar construction projects is desired.

b. Licensed Surveyor or pre-January 1, 1982 Registered Professional Engineer in the State of California.

c. Accessible to the Resident Engineer and AUTHORITY at all times during normal working hours as specified in this Scope of Services.

d. Under the direction of the Resident Engineer, the Project Manager will be responsible for:

1) Review, monitor, train, and provide general direction for CONSULTANT survey personnel.
2) Assign personnel to projects on an as-needed basis.
3) Administer personal leave, subject to approval of the Resident Engineer.
4) Prepare monthly reports for delivery to the Resident Engineer.

12. Field Party Chief(s)

a. The person(s) holding the position of Party Chief shall meet at least one of the following licensing requirements:

1) A licensed Land Surveyor in the State of California.
2) A pre-January 1, 1982, Registered Professional Civil Engineer in the State of California.
3) An experienced surveyor who serves as chief under the direction or supervision of a person who is a licensed Land Surveyor or pre-January 1, 1982 Registered Professional Civil Engineer in the State of California. The direction or supervision shall place the supervisor in "responsible charge" of the work. "Responsible Charge" is defined in Chapter 15 of the Business and Professions Code (the Land Surveyor's Act) and Title 16, Chapter 5, of the California Administrative Code (regulations adopted by the Board of Registration for Professional Engineers and Land Surveyors).

b. The Party Chief(s) should have a minimum two (2) years' survey experience on similar construction projects and possess the following additional capabilities:

1) Thorough knowledge of construction survey practices and the ability to read and interpret plans and specifications.
2) Ability to make effective decisions concerning field problems and work in progress.
3) Familiarity with typical coordinate geometry computer programs.
4) Familiarity with safety requirements for surveying near traffic.

c. The Party Chief(s) will assume the following responsibilities:

1) Perform construction staking services for Project construction.

2) Administer day to day activities for the survey party.
3) Perform analytical survey calculations for items such as grading, horizontal and vertical control, right of way, and minor in-field design.
4) Maintain continuous communication with the Resident Engineer, field personnel, and construction administration staff.

13. Survey Crews

a. Qualifications for survey crew members should include the following:

1) A minimum of one (1) year of survey experience on similar construction projects is desired.
2) Fundamental knowledge of construction survey practices and the ability to read and interpret plans and specifications.
3) Ability to assist Party Chiefs and office personnel in all required surveying work.
4) One survey crew member must have the ability to assume temporary leadership of the survey party in the absence of the Party Chief.

b. Under the direction of the Resident Engineer and the Party Chief, the survey crew members will assume the following responsibilities:

1) Perform basic calculations to support construction staking.
2) Maintain continuous communication with Party Chiefs and office personnel.

ATTACHMENT 'B'

Vail Cooper & Associates, Inc.

San Bernardino Associated Governments (SANBAG)

Palm Avenue Grade Separation

Construction Management Services

August 23, 2012

I. DIRECT LABOR COSTS

Staff Classification	Initial Direct Hourly Rate	Hours	Total
PM/Resident Engineer	$80.77	1,840	$148,615.60
Construction Inspector	$56.00	3,503	$196,360.00
Structures Rep	$63.00	1,908	$120,204.00
DE (By Meadows Consulting)	$0.00	0	$0.00
Electrical Inspector	$59.00	320	$18,880.00
DWPP Coordinator	$58.65	280	$16,422.00
Inspector Overtime Budget	$62.50	240	$16,000.00

Subtotal Hours & Direct Labor Costs	8,140	$519,282.60	
Anticipated Salary Increases		$13,449.38	
Total Direct Labor Costs		$532,732.08	(1)

II. INDIRECT COSTS

INDIRECT RATE 138.55 % x $ 532,732.08 (Subtotal (1)) = Subtotal $743,587.44 (2)

III. FEE (PROFIT)

0 % x $ 1,276,319.52 (Total (1) + (2)) = Subtotal $114,868.78 (3)

IV. OTHER DIRECT COSTS

Item	Amount
Office Complex - To Be Contractor Provided	$0.00
Office Supplies	$5,000.00

Subtotal $ $5,000.00 (4)

V. SUBCONSULTANTS COST

Landscape Budget (Hernandez, Kroone & Associates)	$63,079.84
Material Testing Budget (Converse Consultants)	$158,400.00
Labor Compliance & Office Engineer Budget (Meadows Consulting)	$78,654.89
Public Outreach Budget (Westbound Communications)	$49,965.43
Survey Budget (David Evans & Associates, Inc.)	$193,711.80
Subtotal $	$543,812.00 (5)

VI. TOTAL AMOUNT

$1,940,000 (Total 1-5)

ATTACHMENT 'B'

Hernandez, Kroeng & Associates

San Bernardino Associated Governments (SANBAG)

Palm Avenue Grade Separation

Construction Management Services

August 23, 2012

I. DIRECT LABOR COSTS

Staff Classification	Initial Direct Hourly Rate	Hours	Total
Project Manager	$0.00	0	$0.00
Landscape Architect	$69.00	120	$7,080.00
Landscape Inspector	$59.74	292	$14,818.05
Subtotal Hours & Direct Labor Costs		412	$21,898.05
Anticipated Salary Increases			$1,252.52
Total Direct Labor Costs			$23,148.60 (1)

II. INDIRECT COSTS

INDIRECT RATE 150.00 % x $ 23,148.60 (Subtotal (1)) = Subtotal $34,722.90 (2)

III. FEE (PROFIT)

0 % x $ 57,871.50 (Total (1) + (2)) = Subtotal $8,680.44 (3)

IV. OTHER DIRECT COSTS

Item	Amount
Car Mileage	$0.00
Travel	$0.00
Commuter Charges	$0.00
Subtotal $	$0.00 (4)

V. TOTAL AMOUNT

$63,080 (Total 1-4)

ATTACHMENT 'B'

Converse Consultants

San Bernardino Associated Governments (SANBAG)

Palm Avenue Grade Separation

Construction Management Services

August 23, 2012

I. DIRECT LABOR COSTS

Staff Classification	Initial Direct Hourly Rate	Hours	Total
Project Principal	$0.00	0	$0.00
Project Manager	$0.00	0	$0.00
Construction Technician I	$38.10	600	$22,900.00
Construction Technician II	$39.60	112	$4,475.52
Sample Pick Up	$9.00	56	$504.00
Office Support	$17.00	72	$1,224.00
Project Administrator	$23.10	60	$1,386.00
Project Engineer	$34.62	78	$2,634.12
Senior Geologist	$34.62	12	$415.44

Subtotal Hours & Direct Labor Costs	988	$33,544.08	
Anticipated Salary Increases		$0.00	
Total Direct Labor Costs		$33,544.08	(1)

II. INDIRECT COSTS

INDIRECT RATE 146.11 % x $ 33,544.08 (Subtotal (1)) = Subtotal $49,011.20 (2)

III. FEE (PROFIT)

9 % x $ 82,555.34 (Total (1) + (2)) = Subtotal $7,429.98 (3)

IV. OTHER DIRECT COSTS

Item	Amount
Car Mileage	$0.00
Travel	$0.00
Computer Charges	$0.00
Laboratory Testing Services	$58,414.68

Subtotal $ $58,414.68 (4)

V. TOTAL AMOUNT

$158,400 (Total 1-4)

ATTACHMENT 'B'

Westbound Communications

San Bernardino Associated Governments (SANBAG)

Palm Avenue Grade Separation

Construction Management Services

August 23, 2012

I. DIRECT LABOR COSTS

Staff Classification	Initial Direct Hourly Rate	Hours	Total
Project Principal	$0.00	0	$0.00
Project Manager	$0.00	0	$0.00
Public Relations	$50.68	285	$14,435.25
Subtotal Hours & Direct Labor Costs		285	$14,435.25
Anticipated Salary Increases			$0.00
Total Direct Labor Costs			$14,435.25 (1)

II. INDIRECT COSTS

INDIRECT RATE 154.00 % x $ 14,435.25 (Subtotal (1)) = Subtotal $22,230.29 (2)

III. FEE (PROFIT)

9 % x $ 35,665.54 (Total (1) + (2)) = Subtotal $3,209.90 (3)

IV. OTHER DIRECT COSTS

Item	Amount
Miscellaneous PR Costs	$10,000.00
Subtotal $	$10,000.00 (4)

V. TOTAL AMOUNT

$49,965 (Total 1-4)

ATTACHMENT 'B'

Meadows Consulting

San Bernardino Associated Governments (SANBAG)

Palm Avenue Grade Separation

Construction Management Services

August 23, 2012

I. DIRECT LABOR COSTS

Staff Classification	Initial Direct Hourly Rate	Hours	Total
Project Principal	$0.00	0	$0.00
Project Manager	$0.00	0	$0.00
Office Engineer	$35.00	803	$28,280.00
Labor Compliance	$54.00	372	$20,088.00

Subtotal Hours & Direct Labor Costs	1,180	$48,368.00	
Anticipated Salary Increases		$1,397.83	
Total Direct Labor Costs		$49,765.83	(1)

II. INDIRECT COSTS

INDIRECT RATE 45.00 % x $ 49,765.83 (Subtotal (1)) = Subtotal $22,394.62 (2)

III. FEE (PROFIT)

9 % x $ 72,160.45 (Total (1) + (2)) = Subtotal $6,494.44 (3)

IV. OTHER DIRECT COSTS

Item	Amount
Car Mileage	$0.00
Computer Charges	$0.00

Subtotal $ $0.00 (4)

V. TOTAL AMOUNT

$78,655 (Total 1-4)

ATTACHMENT 'B'

David Evans & Associates, Inc.

San Bernardino Associated Governments (SANBAG)

Palm Avenue Grade Separation

Construction Management Services

August 23, 2012

I. DIRECT LABOR COSTS

Staff Classification	Initial Direct Hourly Rate	Hours	Total
Project Principal	$0.00	0	$0.00
Project Manager	$0.00	0	$0.00
Survey Task Manager	$61.50	33	$2,029.50
LS Party Chief (UNION)*	$45.88	654	$29,992.44
Instrument Person (UNION)*	$39.81	654	$25,904.94
Sr. Survey Analyst	$49.00	89	$4,312.00
Survey CAD	$28.00	32	$896.00
Survey Project Coordinator	$27.70	50	$1,385.00

Subtotal Hours & Direct Labor Costs	1,511	$64,519.88	
Anticipated Salary Increases		$0.00	
Total Direct Labor Costs		$64,519.88	(1)

II. INDIRECT COSTS

INDIRECT RATE 175.34 % x $ 64,519.88 (Subtotal (1)) = Subtotal $113,129.10 (2)

III. FEE (PROFIT)

8 % x $ 177,649.64 (Total (1) + (2)) = Subtotal $14,211.92 (3)

IV. OTHER DIRECT COSTS

Item	Amount
Car Mileage	$0.00
Computer Charges	$0.00
Mail/Courier	$28.00
Agency Filing Fees	$200.00
Record of Survey Filing	$1,600.00

Subtotal $ $1,850.00 (4)

V. TOTAL AMOUNT $193,711 (Total 1-4)

Governments SANBAG Working Together

San Bernardino Associated Governments

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TRANSPORTATION MEASURE I

■ San Bernardino County Transportation Commission ■ San Bernardino County Transportation Authority
■ San Bernardino County Congestion Management Agency ■ Service Authority for Freeway Emergencies

Minute Action

AGENDA ITEM: **19**

Date: October 3, 2012

Subject: Laurel Street Grade Separation Project

Recommendation:* 1. Approve Award of Contract No. C13012 with Athalye Consulting Engineering Services, Inc. for Construction Management services for the Laurel Street Grade Separation Project in an amount not-to-exceed $4,995,000.

2. Approve a contingency amount for Contract No. C13012 of $499,500 and authorize the Executive Director or designee to release contingency as necessary for the project.

Background: **Recommendations 1 & 2 are for a new contract.** On July 11, 2012, SANBAG Board approved the release of Request for Proposals (RFP) C13012 for Construction Management, Materials Testing, and Construction Surveying and Public Outreach services associated with the construction of the Laurel Street Grade Separation Project. On August 8, 2012, staff received five (5) proposals. The firms who submitted are, in alphabetical order, Arcadis U.S. Inc., Athalye Consulting Engineering Services, Inc., J. L. Patterson & Associates, Inc., Rail Pros, and Parsons Brinckerhoff. Staff assembled a selection panel consisting of members from the City of Colton, Caltrans, Riverside County Transportation Commission (RCTC) and SANBAG staff. Following review of the five (5) proposals, four (4) firms were shortlisted to participate in interviews: in alphabetical order, Arcadis U.S. Inc., Athalye Consulting Engineering Services,

*

Approved
Board of Directors

Date: _____

Moved: *Second:*

In Favor: *Opposed:* *Abstained:*

Witnessed: _____

COG		CTC	X	CTA	X	SAFE		CMA	

Check all that apply.

BRD1210b-mb

Attachment: http://portal.sanbag.ca.gov/mgmt/APOR-Mgmnt/Shared%20Documents/C13012%20Laural%20Avenue%20Grade%20Seperation%20CM%20Contract.docx

Inc., Rail Pros, and Parsons Brinckerhoff. Interviews were held on Thursday, August 29, 2012.

All four (4) firms were very qualified to manage this project, Athalye Consulting Engineering Services, Inc. thorough knowledge of the project, proposed staffing for work on the project, including their choice of subconsultants, and their work plan distinguished it from the other firms. The selection panel unanimously agreed that Athalye Consulting Engineering Services, Inc. was the most qualified and most available team to provide the services requested. Staff verified not only the references of the firm and the principal, but also called on and received positive references for the Resident Engineer and Structure Rep/Inspector. Therefore, Staff recommends approval of Contract No. C13012 with Athalye Consulting Engineering Services, Inc. for Construction Management on the Laurel Street Grade Separation Project for a total not-to-exceed amount of $4,995,000, a contingency for Contract No. C13012 for a not-to-exceed amount of $499,500, and to authorize the Executive Director or designee to release contingency as necessary for the project.

Financial Impact: This item is consistent with the 2012/2013 Fiscal Year budget. Task No. 0884

Reviewed By: This item was reviewed by the Major Projects Committee on September 13, 2012. SANBAG General Counsel and Contract Administrator have reviewed this item and a draft of the Contract.

Responsible Staff: Garry Cohoe, Director of Project Delivery

Governments SANBAG Working Together

CONTRACT SUMMARY SHEET

Contract No. C 13012 Amendment No. _____

By and Between

San Bernardino County Transportation Authority and Athalye Consulting Engineering Services, Inc

Contract Description Laurel Street Grade Separation Project

Board of Director's Meeting Date: October 3, 2012
Overview of BOD Action: Award Construction Management (CM) Services Contract and establish CM contingency

Is this a Sole-Source procurement? ☐ Yes ☒ No

CONTRACT OVERVIEW

Original Contract Amount	$	4,995,000	**Original Contingency Amount**	$	499,500
Revised Contract Amount *Inclusive of prior amendments*	$		**Revised Contingency Amount** *Inclusive of prior amendments*	$	
Current Amendment Amount	$		**Contingency Amendment**	$	
TOTAL CONTRACT VALUE	$	4,995,000	**TOTAL CONTINGENCY VALUE**	$	499,500
TOTAL BUDGET AUTHORITY *(contract value + contingency)*				$	5,494,500

Contract Start Date	**Current Contract Expiration Date**	**Revised Contract Expiration Date**
10/3/12	10/3/17	

Has the contract term been amended? ☒ No ☐ Yes - please explain.

FINANCIAL INFORMATION

☒ Budget authority for this contract currently exists in Task No. 0884.
☐ A Budget Amendment is required.
How are we funding current FY? $1M MI and City of Colton/UPRR/BNSF

☐ Federal Funds ☐ State Funds ☒ Local Funds ☐ TDA Funds ☒ Measure I Funds

*Provide Brief Overview of the **Overall** Funding for the duration of the Contract:*
City of Colton, BNSF, UPRR and MI
☒ Payable ☐ Receivable

CONTRACT MANAGEMENT INFORMATION

Check all applicable boxes:
☒ Retention? If yes, indicate % 5.
☐ Disadvantaged Business Enterprise (DBE) Goal _____ % ☐ Underutilized DBE (UDBE) Goal _____ %

Garry Cohoe		8/31/12
Task Manager (Print Name)	Signature	Date
Mike Barnum		8/30/12
Project Manager (Print Name)	Signature	Date
Jeffery Hill		9/5/12
Contracts Administrator (Print Name)	Signature	Date
WILLIAM STAWARSKI		9/5
Chief Financial Officer (Print Name)	Signature	Date

ATTACHMENT A
SCOPE OF SERVICES

CONTRACT NO: C13012

San Bernardino County Transportation Authority

Laurel Street Grade Separation Project

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A. DESCRIPTION OF SERVICES

The San Bernardino County Transportation Authority (AUTHORITY) will utilize the services of CONSULTANT to support the construction activities for the Project. The CONSULTANT will provide construction management, materials testing, construction surveying and public outreach for the Project. A description of the Project is given below.

Laurel Street Grade Separation Project

The project is located along Laurel Street, between Pennsylvania Avenue and La Cadena Drive in the City of Colton This project proposes to grade separate Laurel Street under the BNSF railroad tracks at the current at-grade crossing. Laurel Street will remain one lane in each direction. The project includes the following work elements:

- Construction of the BNSF Bridge carrying six railroad tracks.
- Construction of a two-lane roadway bridge.
- Construction of abutments to accommodate a future railroad bridge
- Construction of retaining walls.
- Construction of a three-track shoofly.
- Drainage improvements (pumps, force-main, and detention basin).
- Local street improvements and modifications to adjacent property lots.

The project will also include utility relocations, drainage modifications, signing and striping, traffic handling, and replacement planting.

Services

Services are to include, but are not limited to the following: participation in the evaluation of scheduling of the proposed project; constructability review; construction project advertising, bid analysis, and award; construction inspection; construction surveying, materials testing, landscape inspection, contractor interface and contract administration; office engineering; public outreach services and other assorted duties as appropriate in managing construction of a capital railroad grade separation improvement project.

Consultant will assign a full-time Resident Engineer to coordinate all contract and personnel activities for all phases of construction. Other Resident Engineer(s) and inspection personnel may be assigned to direct and coordinate all project specific field activities and responsibilities as needed for satisfactory performance on the project. The Resident Engineer and every Resident Engineer assigned for this project shall be licensed as a Professional Civil Engineer in the State of California at the time of proposal submittal through the duration of the contract. The Consultant is expected to provide a Survey Project Manager, Materials Testing Project Manager, and Landscape Architect to administer the construction support services requested herein and to assign qualified field personnel to perform the requested services. Furthermore, the Consultant shall provide a public outreach liaison to assist the Authority's Public Information Office, and the City of Colton in implementing the Public Outreach Program established for this project.

Insofar as the Consultant's approach described in the Proposal, the scope of responsibility and the total number of personnel assigned to each phase is left to the discretion of the Consultant.

The total contract will be approximately 32 months in duration, with preconstruction services starting in October 2012, construction starting in March 2013 and ending in March 2015 followed by closeout activities not exceeding two months. The above durations includes a 90 day landscape plant establishment period.

CONSULTANT shall provide qualified construction management and inspection, materials testing, construction surveying and public relations personnel to perform a wide variety of construction management, support and contract administration duties as outlined in this Scope of Services for the Project.

AUTHORITY has designated a Project Manager to coordinate all construction activities.

Mr. Mike Barnum, Construction Manager

The CONSULTANT shall report to and receive direction from AUTHORITY through the Project Manager, or his designees. The AUTHORITY Project Manager is responsible for coordination of all AUTHORITY construction activities and for coordinating the efforts of the total construction team. The AUTHORITY Project Manager will be the main contact and primary source of information between AUTHORITY, cities, outside agencies, supporting consultants and the public for the construction projects.

B. PERFORMANCE REQUIREMENTS

Construction Management: CONSULTANT shall furnish a Project Manager to coordinate CONSULTANT operations with AUTHORITY. The Project Manager shall be responsible for all matters related to CONSULTANT personnel and operations. The Project Manager may also serve as the Resident Engineer. The Resident Engineer shall be assigned to direct and coordinate construction activities under this contract. Other Assistant Resident Engineers may be assigned to each specific project responsibilities as needed. The Resident Engineer shall be a Civil Engineer registered in the State of California and shall be in responsible charge of construction management and construction activity within the Project.

The number of CONSULTANT personnel assigned to the Project will vary throughout the duration of the contract. CONSULTANT personnel will be assigned, in varying levels of responsibility, as needed by the CONSULTANT to meet the Project schedule, Project requirements, and construction activities.

Resumes of personnel must be submitted to AUTHORITY for review and approval prior to assignment to the Project. AUTHORITY and CONSULTANT will jointly determine the quality and quantity of services that are required by CONSULTANT personnel. Personnel selected for assignment by CONSULTANT shall be made available for personal interviews prior to acceptance by AUTHORITY. If, in the opinion of AUTHORITY, an individual lacks adequate experience, the individual may be rejected or may be accepted on a trial basis until such time the individual's ability to perform the required services has been demonstrated. If, at any time, the performance of CONSULTANT personnel is unsatisfactory to AUTHORITY, AUTHORITY may release him/her by written notice and may request another qualified person be assigned.

If CONSULTANT personnel are on leave of absence, the Project Manager shall provide equally qualified replacement personnel until the assigned personnel returns to the Project approved by AUTHORITY.

The typical workday includes all hours worked by the construction Contractor. If necessary, overtime for CONSULTANT personnel may be required. The construction Contractor's operations may be restricted to specific hours during the week, which shall become the normal workday for CONSULTANT personnel. The Project Manager, with prior concurrence from AUTHORITY, shall have the authority to increase, decrease, or eliminate CONSULTANT personnel work hours dependent on the schedule and requirements of the construction Contractor. All overtime required by CONSULTANT personnel shall be approved and authorized by AUTHORITY prior to each occurrence.

CONSULTANT personnel shall be knowledgeable of and comply with all applicable local, state, and federal regulations. CONSULTANT personnel shall cooperate and consult with AUTHORITY, State, and City officials during the course of the Project. CONSULTANT personnel shall perform duties as may be required to assure that construction is being performed in accordance with the Project plans and specifications. CONSULTANT personnel shall keep accurate and timely records and document all work performed by the Contractor and CONSULTANT.

CONSULTANT shall monitor for Contractor's compliance with the labor standards provisions of the projects and the related wage determination decisions of the Secretary of Labor.

CONSULTANT personnel shall assist AUTHORITY and local agencies in obtaining compliance with the safety and accident prevention provisions of the Project. Local agencies will retain jurisdictional control for traffic control.

All services required herein shall be performed in accordance with California Department of Transportation guidelines, regulations, policies, procedures, manuals, and standards, except as noted in the special provisions.

Materials Testing: The number of field testing personnel assigned to the Project will vary throughout the duration of the construction contract. CONSULTANT certified materials testing personnel will be assigned as needed by the Resident Engineer to meet the required numbers and frequencies of testing based on schedule of the construction contractor.

Materials Testing Services will be provided on an on-call basis. The duration of assignments could vary from a minimum of a few hours to the full term of the Project. CONSULTANT personnel will be available within one (1) day of written notification by AUTHORITY.

It is the intent of AUTHORITY to maintain a consistency of material testing quality throughout each phase of each project. CONSULTANT is therefore encouraged to provide, where ever and whenever possible, the same field personnel for the duration of construction of each project.

On days when work is not performed by the construction contractor, such as rainy or unsuitable weather days, CONSULTANT will not provide services unless authorized by the AUTHORITY Construction Manager.

Resumes of materials testing personnel must be submitted to AUTHORITY for review and approval prior to assignment to the Project. If, at any time, the level of performance of any testing personnel is below expectations, AUTHORITY may release that field person and request that another be assigned as needed.

If a member of CONSULTANT's materials testing personnel is on a leave of absence, CONSULTANT's Project Manager will provide an equally qualified replacement employee until the original member returns to work. The replacement employee will meet all the requirements of a permanently assigned employee.

All CONSULTANT personnel will be knowledgeable of, and comply with, all applicable local, state, and federal regulations. All personnel shall cooperate and consult with AUTHORITY during the course of the contract; and perform other duties as may be required to assure that the construction is being performed in accordance with the Project plans and specifications. CONSULTANT's personnel will keep records and document the work as directed by the Resident Engineer.

All services required herein will be performed in accordance with Caltrans regulations, policies, procedures, manuals, and standards.

Construction Surveying: CONSULTANT will furnish surveying crew(s) to perform construction surveys for the Project. The number of survey crew(s) assigned to the Project may vary throughout the duration of the construction contract to meet the Project needs. CONSULTANT personnel will be assigned as needed by the Resident Engineer to meet the schedule of the construction contractor.

Construction surveying services will be provided on an on-call basis. It is the intent of AUTHORITY to maintain a consistency of construction survey quality throughout each phase of each project. Therefore, CONSULTANT is encouraged to provide the same field personnel for the duration of construction. It is important that the Field Party Chief(s) assigned to a project be completely familiar with the survey requirements and the assignments for the Project.

On days when work is not performed by the construction contractor, such as rainy or unsuitable weather days, CONSULTANT will not provide services unless authorized by the Resident Engineer.

Construction surveying will not be performed when conditions such as weather, traffic, and other factors prevent safe and efficient operation.

Resumes of CONSULTANT personnel and certifications must be submitted to AUTHORITY for review. CONSULTANT personnel must be approved by AUTHORITY prior to assignment to a project. AUTHORITY and CONSULTANT will have the responsibility of determining the quality and quantity of work performed by CONSULTANT personnel. If, at any time, the level of performance of any CONSULTANT survey personnel is below expectations, AUTHORITY may release the survey crew member and request that another be assigned.

If CONSULTANT's survey crew personnel assigned to the Project is on a leave of absence, the Project Manager will provide an equally qualified replacement(s) until the original employee(s) returns to work. The replacement(s) will be required to meet all the requirements of the permanently assigned employee(s).

CONSULTANT personnel will:

- Be knowledgeable of, and comply with all, applicable local, Caltrans, state, and federal regulations.
- Cooperate and consult with AUTHORITY officials during the course of the contract.

- Perform duties as may be required to assure construction is performed in accordance with the Project plans and specifications.
- Keep records and document work as directed by the Resident Engineer.

All services required herein will be performed in accordance with Caltrans regulations, policies, procedures, manuals, and standards.

C. DUTIES AND RESPONSIBILITIES

1. Pre-construction Services

a. Schedule

CONSULTANT shall review the proposed Project schedule, compare it to the Project plans and specifications, and provide recommendations to AUTHORITY, as appropriate, to ensure efficiency of Contractor and CONSULTANT operations and safe and expeditious completion of the Project.

b. Budget

CONSULTANT shall review the Project estimate and provide recommendations to AUTHORITY, as appropriate, to ensure efficient utilization of funds and control of project costs.

c. Constructability Review
CONSULTANT shall review Project plans and special provisions for possible errors and deficiencies and report such findings to AUTHORITY in a format provide by AUTHORITY.

2. Bid Process

a. Bid Documents

CONSULTANT shall assist AUTHORITY, as requested, with the following tasks:

1) Review of bid documents
2) Preparation of bid tabulations

b. Pre-construction Meetings

CONSULTANT shall assist AUTHORITY in conducting one, or more, pre-construction meetings with all involved parties on the Project. Parties may include, but are not limited to, the Contractor, design engineer, Caltrans, County and City staff, utility companies, and developers.

c. Contract Award

CONSULTANT shall assist AUTHORITY, as requested, with the following tasks:

1) Review of bid for completeness and responsiveness

2) Perform bid analysis

3) Development of contractor payment schedules, and other procedural items.

4) Checking Contractor references, licenses, insurance, and sureties.

5) Coordination with prospective Contractor for award of construction contract(s).

All processes will be consistent with procedures outlined by the California Department of Transportation for Special Funded Programs and Local Assistance Procedure Manuals.

3. Project Administration

a. CONSULTANT shall administer Project construction contracts using Caltrans Construction Manual as a guideline.

b. CONSULTANT shall conduct regular Project coordination meetings with Contractor, AUTHORITY, local agencies, and design engineer, as appropriate.

c. CONSULTANT shall prepare Contractor progress payments and maintain payment records and supporting documentation. All progress payments shall be reviewed by AUTHORITY for approval.

d. CONSULTANT shall provide reports as needed to comply with specific funding requirements.

e. CONSULTANT shall establish and maintain Project records in accordance with the Caltrans Construction Manual. Project record keeping shall include, but are not limited to, correspondence, memoranda, contract documents, change orders, claims, AUTHORITY and engineer directives, meeting minutes, shop drawings, supplementary drawings, and requests for payment. CONSULTANT shall maintain a record of the names, addresses, and telephone and fax numbers of the Contractors, subcontractors, and principal material suppliers.

f. CONSULTANT shall establish and maintain a filing system in hard copies files and in electronic forms for each Project using the Caltrans Construction Manual as a guideline. Electronic data documentation will be required to be uploaded weekly to the AUTHORITY Major Projects Portal

g. CONSULTANT shall monitor Contractors' construction schedules on an ongoing basis and alert AUTHORITY to conditions that may lead to delays in completion of the Project.

h. CONSULTANT shall prepare and submit a monthly Activity Summary Report for the Project in a format approved by AUTHORITY. The activity report shall include among other items status of SWPPP issues, RFIs, contract change orders,

and notice of potential claims; construction activities completed, ongoing, and upcoming; status of Project budget and schedule, and other highlights and critical issues.

i. CONSULTANT shall review and ensure compliance with environmental requirements.

j. CONSULTANT shall participate in partnering sessions with the Contractor, AUTHORITY, and Local Agencies, as required.

k. CONSULTANT shall ensure that the Project meets all provisions of the Caltrans Quality Assurance Program Manual.

l. CONSULTANT shall review Contractors' certified payroll records and ensure compliance with the requirements of the construction contract.

m. CONSULTANT shall ensure that the Project meets all provisions of the Storm Water Pollution Prevention Plan (SWPPP).

n. CONSULTANT shall assure that the Project meets all applicable regulations of the Air Quality Management District (AQMD).

o. CONSULTANT shall maintain redlined as-built plans on an ongoing basis throughout the duration of the Project. Redlined plans shall show all changes made to the original contract plans, each change identified with the name of the approver, date of change approval , and CCO number, if applicable

4. Construction Coordination

a. CONSULTANT shall provide a minimum of one qualified Resident Engineer to effectively manage the Project.

b. CONSULTANT Resident Engineer shall act as a prime point of contact between Contractor, AUTHORITY, CONSULTANT's construction surveyor, CONSULTANT's materials inspector, and utility companies. CONSULTANT may, when requested by AUTHORITY, act as point of contact between design engineers, cities, and the public. CONSULTANT shall ensure coordination with property owners adjacent to Project right-of-way to ensure timely communication regarding property-condition survey and construction activities and scheduling.

c. CONSULTANT shall maintain regular contact with AUTHORITY's Project/Construction Manager.

d. CONSULTANT shall coordinate utility relocations with utility companies and their designees, as well as the utility inspector.

e. CONSULTANT shall proactively review Project plans and special provisions for possible errors and deficiencies prior to construction of any specific element and report such findings to AUTHORITY. Should AUTHORITY determine that changes are necessary, CONSULTANT shall assist in implementation and processing of change orders in accordance with contract documents.

f. CONSULTANT shall proactively review Project plans and special provisions; monitor, coordinate, and track construction progress schedule and RFIs; and communicate with various agencies prior to construction of any specific elements to ensure the Project proceeds on schedule and according to the order of work in the plans and special provisions. CONSULTANT shall expedite work, as required, to maintain schedule in conjunction with the overall construction staging program.

g. CONSULTANT shall coordinate review of shop drawings and Requests for Information (RFI) with the Construction Manager. CONSULTANT shall log and track all submittals and requests.

h. CONSULTANT shall provide a qualified SWPPP Coordinator who along with the Resident Engineer shall review and certify contractor prepared Storm Water Pollution Prevention Plans (SWPPP) and coordinate approval with AUTHORITY and the State Water Resource Control Board. The SWPPP Coordinator shall be at a minimum a Qualified Storm Water Pollution Prevention Plan (SWPPP) Developer (QSD) and a Qualified SWPPP Practitioner (QSP). CONSULTANT shall provide at a minimum weekly SWPPP monitoring and shall cooperate with all monitoring agency inspections and field reviews.

i. CONSULTANT shall coordinate the implementation of any changes with the Construction Manager and the design engineer.

j. CONSULTANT shall review and approve falsework and shoring plans.

k. CONSULTANT shall review and approve Traffic Control Plans and forward to AUTHORITY for Caltrans/City/County approvals, as necessary.

l. CONSULTANT shall coordinate all Project construction activities with other on-going projects within and adjacent to the Project limits.

5. Construction Inspection

a. CONSULTANT shall coordinate all required inspections necessary for the Project. CONSULTANT shall ensure that appropriate City and local agencies are notified and present as required throughout the Project. CONSULTANT shall notify AUTHORITY immediately regarding any directives, recommendations, notices, etc. received from agencies other than AUTHORITY.

b. CONSULTANT shall perform daily on-site observations of the progress and quality of construction to determine if the work being performed is in general conformance with the contract documents, all applicable laws, codes, and ordinances.

c. CONSULTANT shall exercise reasonable care and diligence to discover and promptly report to AUTHORITY any and all defects or deficiencies in the materials or workmanship used in the Project.

d. CONSULTANT personnel assigned to the Project shall be thoroughly familiar with Caltrans Standard Specifications, Caltrans Standard Plans, Caltrans Erosion

Control and Highway Planting requirements, and safety standards. CONSULTANT personnel shall have the ability to read and interpret construction plans and specifications. CONSULTANT personnel shall also have knowledge of State of California Construction Safety Orders (CalOSHA) and traffic control practices as specified in the Work Area Traffic Control Handbook (WATCH). In addition, CONSULTANT personnel shall be thoroughly familiar with the construction requirements of Caltrans' Storm Water Pollution Prevention Program.

e. Assignments to be performed by CONSULTANT personnel shall include, but are not limited to, the following:

1) Paving and subgrade inspection, sub-surface & finish surface drainage inspection, structures and foundation inspection, electrical inspection for traffic, ramp meter and irrigation control equipment, signing and striping inspection, quantity calculations, checking grade and alignment, construction traffic control, soil amendments and plant material identification & quality control, hardscape inspection, trenching & irrigation inspection and duties that may be required to determine that construction of the Project is being performed in accordance with the contract documents.

2) Identifying actual and potential problems associated with the Project and recommending sound engineering solutions.

3) Identifying common plant diseases and/or pests together with their respective eradication techniques, directing of plant adaptability requirements along with proper planting & pruning techniques, and avoiding potential problems associated with the Project by recommending sound engineering solutions.

4) Perform basic sampling of construction materials in the field per California Test Method 105 and 125 by both the prime and subconsultant personnel.

5) Maintaining awareness of safety and health requirements. Monitoring Contractors' compliance with applicable regulations and construction contract provisions for the protection of the public and Project personnel.

6) Preparing complete and accurate daily reports, calculations, project records, payment quantity documents, reports, and correspondence related to Project activities.

7) Preparing construction sketches, drawings, and cross-sections, as necessary.

8) Assisting in the preparation of as-built plans.

9) Providing inspections for environmental compliance.

10) Maintaining awareness of water discharge requirements. Monitoring Contractors' compliance with applicable regulations and construction contract provisions.

11) Monitoring Contractors' compliance with applicable regulations required by AQMD.

12) Other duties as may be required or reasonably requested.

6. Project Support

a. Construction Surveys

CONSULTANT shall perform construction surveying services, field calculations, and home office calculations to support construction of the Project. CONSULTANT may be requested to review available survey data, construction plans, and right-of-way plans to confirm compatibility and to identify discrepancies prior to and during construction of proposed projects. The Resident Engineer will assign survey work to the CONSULTANT by issuing a "Request for Survey Services". Requests may include, but not be limited to, the following types of surveys and related services:

1) Construction Surveys

CONSULTANT shall assist the Resident Engineer in all phases of construction staking and calculations as needed.

a) Survey calculations and adjustments shall be performed with established and computed coordinates based on the California Coordinate System.

b) Cross-section data collection shall be performed by conventional and terrain line interpolation survey methods.

c) Survey data will include topography, cross-section, and other survey data in computer formats compatible with the Caltrans computer survey and design systems.

d) Prepare and maintain survey documents. Survey documents include survey field notes, maps, drawings, and other survey documents.

e) Perform construction staking, including but not limited to:

i. Utility relocations
ii. Clearing limits
iii. Slope staking
iv. Storm drain, sanitary sewer, and irrigation systems
v. Drainage structures
vi. Curbs, gutters, and sidewalk
vii. Horizontal and vertical control for structures and portions of structures (bents, abutments, wingwalls, etc.)
viii. Rough grade
ix. Finish grade

f) Monitor for settlement, if required.

g) Global Positioning Satellite (GPS) equipment shall be made available if required by AUTHORITY

2) Grid Grades

Grid grade data shall provide pavement elevations at the station line, the left edge of pavement, the right edge of pavement, and the right edge of travel way at 25 foot intervals for travel lanes.

3) Open Ended Traverses and Profile Data Sheets

Separate open-ended traverse calculations and point maps shall depict plan data for station lines, utility lines, wall layout lines, and abutment/bent alignment. Specific information to be shown will be part numbers, coordinates, bearings, and curve data.

Profile data sheets are required for all profiles shown on the plans identifying vertical design elements such as grade, point of intersection (PI) location, beginning of vertical curve (BVC) location, end of vertical curve (EVC) location, and curve length.

4) Three Line Profiles

Separate profile plots are required for the left edge of pavement, the right edge of pavement, and the edge of shoulder for all travel lanes.

5) Right of Way Lines

Existing right of way and easements will be established from Local Agency's record information and existing monumentation.

a) Right of way monumentation shall be renewed and restored in accordance with Section 10.4 of the Caltrans "Survey Manual" and the State of California Land Surveyor's Act.

b) Corner records and records of surveys shall be prepared and filed in accordance with the applicable standards and the State of California Land Surveyor's Act and the California Subdivision Map Act.

c) Perpetuate existing monumentation, which includes restoring, renewing, referencing, and resetting existing boundary related monumentation. In addition, stake areas where construction disturbs the existing right of way, preparing and filing required maps and records.

New right of way and easements will be established from plans, right of way maps, utility drawings, and Local Agency record information, and existing monumentation.

a) Right of Way Surveys, which includes research and preparation filing of required maps and records. In addition, locate and set monuments for right or way and easement lines, staking for right of way and easement fences.

b) Final monumentation, which includes setting of centerline points of control upon completion of construction.

6) Special Design – Data Surveys
Includes drainage, utility, and surveys required for special field studies.

7) Control Survey

Includes Project control surveys, aerial mapping control surveys, horizontal and vertical control surveys. In addition control surveys will include restoration, renewal, reference, relocation, and resetting of existing control monumentation. The CONSULTANT will be required to provide horizontal and vertical control at the end of each bridge.

8) Topographic Surveys

Topographic surveys will normally be compiled by ground survey methods only.

CONSULTANT will provide all necessary Project related surveys and construction staking, including horizontal and vertical control, right of way, and easements. CONSULTANT shall coordinate all staking and verify accuracy. CONSULTANT shall ensure timely coordination of all staking requests from the Contractor.

b. Materials Testing and Geotechnical Services

1) CONSULTANT will provide experienced personnel, equipment, and facilities to perform various construction materials sampling and testing. Laboratory and field materials testing will be used to ensure that structure and roadway construction work conforms to California State Department of Transportation (Caltrans) standards, specifications, and special provisions for material quality and workmanship.

2) All field and laboratory testing is to be performed in accordance with California Test Methods.

3) CONSULTANT will be responsible for the accuracy and completeness of all test data compilation and results.

c. Public Outreach

1) General Public Outreach Plan

a) AUTHORITY's primary goal is to assure the public that AUTHORITY is a public agency that delivers quality transportation projects and trustworthy, accurate and timely public information.

b) AUTHORITY will provide the primary outreach effort with supplemental support as requested from CONSULTANT. This will be a targeted approach with incremental outreach based on construction schedule and staging. The primary target audiences identified for this Project include, but are not limited to:

i. LOCAL AGENCY
ii. AUTHORITY Board
iii. LOCAL AGENCY and area Emergency Service Providers
iv. School Transportation Coordinator(s)
v. Local Business Community
    i) Specific businesses with expanding priority based on proximity to work zone and detours
    ii) Chamber of Commerce
vi. Commuters
vii. Recreational Travelers
viii. Trucking Industry
ix. Local media
    i) Print
    ii) Radio
    iii) Television

c) In the weeks prior to the selection of a construction contractor, AUTHORITY may coordinate an Emergency Responders Project Briefing to highlight the Project details and possible access challenges for consideration by the Project team.

d) Following the emergency responders briefing, AUTHORITY may coordinate a Chamber of Commerce Project Briefing to highlight the Project benefits, possible construction schedule and traffic management plan.

f) Just prior to the start of field construction activities, AUTHORITY and CONSULTANT (includes all PR subs) may coordinate a groundbreaking media event with the LOCAL AGENCY to ceremoniously open the Project. CONSULTANT will be called up on to develop (with input from AUTHORITY) and maintain a task list of deliverables for this event. CONSULTANT will acquire the necessary items authorized for the event. CONSULTANT will be responsible for set up and breakdown of the event site.

g) Prior to construction beginning, AUTHORITY and CONSULTANT may coordinate a community meeting to share Project information, construction scheduling, detour information and expected challenges with the general public. CONSULTANT will be called up on to develop (with input from AUTHORITY) and maintain a task list of deliverables for this event. CONSULTANT will acquire the necessary items authorized for the event. CONSULTANT will be responsible for set up and breakdown of the event site. Staffing this event will be determined based on availability.

h) Near the completion of the construction Project, AUTHORITY and CONSULTANT will coordinate a ribbon-cutting media event. CONSULTANT will be called upon in a similar fashion to the groundbreaking event.

i) At various stages throughout the Project, AUTHORITY will request support from CONSULTANT for the following items:

i. Establish and maintain stakeholder and/or 'interested parties' list(s) – used for sharing Project updates during Project construction. May need to be filtered to specific audiences (i.e. emergency responders, city government, etc.)

ii. Development of a Project fact sheet (include Project description, Project budget, Project schedule, AUTHORITY contact information, LOCAL AGENCY contact information, photos, logos, etc.)

iii. Weekly media advisories (use AUTHORITY template). CONSULTANT (or sub) will make weekly contact with Project team to establish what road or lane closures (and associated detours if applicable) will be taking place, develop the advisory, send to AUTHORITY Public Information Office for approval, submit to webmaster for posting, distribute to appropriate media and stakeholder list.

iv. Emergency notices – when needed.

v. Develop web content for project tab on AUTHORITY website. This page should include same elements of fact sheet with expanded detail when possible. If the information is dynamic, please provide updates to AUTHORITY Public Information Office for approval prior to submitting to webmaster.

2) All requests for speaking to government councils, boards, chambers of commerce or similar business or social groups shall be directed to the AUTHORITY Public Information Office before agreeing to appear.

3) All media inquiries shall be directed to the AUTHORITY Public Information Office.

d. Permits

CONSULTANT shall review the Project for permit compliance and coordinate with AUTHORITY and the design engineer to ensure that necessary permits are obtained. CONSULTANT shall assist AUTHORITY in the coordination, timely processing and verification of approval for all permits. CONSULTANT shall maintain permits and permit documentation on site.

7. Cost and Schedule

a. CONSULTANT shall monitor and track the following:

1) Contract pay item quantities and payments
2) Contract change orders
3) Supplemental work items
4) Agency furnished materials
5) Contingency balance
6) Project budget

b. CONSULTANT shall review and monitor Contractor's schedule and inform AUTHORITY of any significant changes or deviations in the schedule.

c. CONSULTANT shall provide and maintain a Project staffing plan of field office personnel based on the Contractor submitted baseline schedule update. In cooperation with AUTHORITY, the staffing plan shall be periodically updated to reflect Project progress and needs.

8. Contract Change Orders and Claims

a. CONSULTANT shall receive and evaluate requests for changes and/or substitutions by the Contractor. Contract Change Orders submitted to AUTHORITY shall be accompanied by CONSULTANT recommendations. Where applicable, CONSULTANT shall convey proposed changes to design engineer, or other Project consultants. If the requested changes are accepted, CONSULTANT shall negotiate and prepare appropriate Contract Change Orders.

b. CONSULTANT shall attempt to avoid unnecessary Contract Change Orders. When a Contract Change Order is necessary, CONSULTANT shall consult with AUTHORITY prior to its preparation. Unless directed otherwise by AUTHORITY, the preferred method of payment for Contract Change Orders should be as follows

1) Agreed Price
2) Adjustment in compensation to a bid item
3) Time and materials or Force Account

CONSULTANT shall perform force account analysis to validate cost submitted by the Contractor for contract change orders with agreed unit price, lump sum

price, and adjustment in components. Analysis shall be based on realistic production and resource needs to complete the work.

c. CONSULTANT shall attempt to identify all potential claims, track and monitor unresolved claims. The CONSULTANT shall implement appropriate claims avoidance processes where in the best interests of AUTHORITY as determined by AUTHORITY's Construction Manager.

d. CONSULTANT shall assist AUTHORITY, as requested, in the identification, resolution, and final disposition of claims filed by the Contractor or third parties against AUTHORITY or the Project.

9. Safety

In addition to the requirements specified elsewhere in this contract, the following shall also apply:

a. CONSULTANT shall implement and conduct a comprehensive safety program including regular tail-gate safety meetings for CONSULTANT personnel. CONSULTANT shall provide AUTHORITY with monthly status of safety reports.

b. CONSULTANT shall comply with State of California Construction Safety Orders and provisions of the Caltrans Construction Manual.

c. CONSULTANT shall provide appropriate safety training for all CONSULTANT field personnel.

d. CONSULTANT shall provide all necessary safety equipment as required for CONSULTANT personnel.

10. Project Close Out

a. CONSULTANT shall prepare a list of items to be completed and/or corrected by the Contractor for final completion of the Project.

b. CONSULTANT shall collect and furnish as-built information to the design engineer for preparation of as-built drawings including pre-stress drawings and pile logs, as applicable.

c. CONSULTANT shall review and verify completeness of as-built drawings.

d. CONSULTANT shall conduct a final walk-through with AUTHORITY, Local Agencies, Contractors, and design engineers.

e. CONSULTANT shall prepare final construction reports including the Project Completion Report.

f. CONSULTANT shall prepare and deliver to AUTHORITY all Project files.

g. CONSULTANT shall assist AUTHORITY and Contractor in obtaining final release of all Project permits.

h. Project closeout services will be completed within two months of project acceptance.

D. DELIVERABLES

1. Inspector daily reports, extra work diaries and Resident Engineers' daily diaries.

2. Monthly Project Activity Summary Reports.

3. Monthly Contractor progress payments, back-up documentation, and Contractor payment records.

4. Contractor final payment documents, delivered to AUTHORITY no later than ten (10) working days after acceptance by AUTHORITY of the completed construction Project.

5. Project Completion Report documents per Local Assistance Procedure Manual and Caltrans Construction Manual.

6. All Project files, Project reports, correspondence, memoranda, shop drawings, Project logs, change order data, claims and claim reports, and Contractor payment records.

7. Certified payrolls and fringe benefit statements for all employees, CONSULTANT and Contractor, who are subject to the State and/or Federal prevailing wage rates.

8. All material test results will be provided in accordance with the applicable Standard Specifications and Special Provisions, and test methods. Failing tests will be immediately reported to the Resident Engineer or Structures Representative. All test results will be recorded on the appropriate forms. The test documents will be legible and show the identity of the tester where appropriate. A notebook containing all test results and reports will be maintained by CONSULTANT throughout the duration of the Project and delivered to AUTHORITY with the Project files.

9. Unless otherwise specified in the survey request, the deliverables shall conform to the following:

   a. Survey points, lines, and monuments shall be established, marked, identified, and referenced as required by survey request and requirements herein.

   b. Survey notes, drawings, calculations, and other survey documents and information shall be completed as required by the survey request and the requirements herein.

   c. All original survey documents resulting from this contract, including original field notes, adjustment calculations, final results, and appropriate intermediate documents, shall be delivered to the Resident Engineer and shall become the property of AUTHORITY. A copy of all survey documents furnished by AUTHORITY shall be retained by CONSULTANT for future reference.

   When the survey is performed with a total station survey system, the original field notes shall be a hard copy in a readable format of the data (observations) as originally collected and submitted by the survey party. The hard copy shall be

signed by the Party Chief. If the Party Chief is not licensed, the person in "responsible charge" will be required to sign.

d. Deliverables to the Resident Engineer shall follow the format specified below:
   1) Horizontal Control
   2) Alpha numeric hard copy point listing with adjusted California Coordinate System northing and eastings and the appropriate descriptions.
   3) Vertical Control
   4) Alpha numeric hard copy benchmark listing with adjusted elevations compatible with the design datum.
   5) Topography
   6) Alpha numeric hard copy listing, hard copy drawing, and computer aided drawing and design (CADD) digital drawing. The CADD drawing shall be compatible with the systems utilized by Caltrans.

e. Data collection method used to collect cross-section data and the coding (feature description) of terrain data for cross-sections shall conform to the survey request requirements. Deliverables shall depend on the data collection method as follows:

   1) Conventional Cross – Sections (each cross – section):
   For each cross - section and alpha numeric listing, a hard copy drawing, and a computer formatted file compatible with the systems utilized by Caltrans.

   2) Terrain Line Interpolation Cross – Section Data (each terrain line interpolation survey):
   Terrain line interpolation cross – sections shall include an alpha numeric listing, a hard copy plan view drawing of the terrain lines, and a computer input file. The computer input file shall be provided in a format compatible with the systems utilized by Caltrans.

   3) Data Collector Data
   If specified in the survey request, the raw data from the data collector shall be provided in a format conforming to the survey request requirements.

   4) Other—As specified in the survey request.

E. EQUIPMENT AND MATERIALS TO BE PROVIDED BY CONSULTANT

1. CONSULTANT shall provide all necessary equipment including software, materials, supplies, miscellaneous tools, phones, vehicles, and safety equipment required for its personnel to perform the services accurately, efficiently, and safely. Only those items listed in Attachment B, CONSULTANT Cost Proposal, shall be reimbursed by AUTHORITY.

2. CONSULTANT personnel shall be provided with vehicles suitable for the location and nature of the work involved. Vehicles shall be equipped with flashing yellow lights, either permanently or temporarily affixed.

3. CONSULTANT personnel shall be provided with a mobile radio, cellular phone, or other means to assure full-time communication. If a radio system is to be used, CONSULTANT shall provide a base station at the field office.

4. CONSULTANT personnel shall be provided with all applicable standard plans, specifications, and other standards as appropriate (see item G below).

5. For Materials Testing, CONSULTANT and its staff will be fully equipped at all times to perform the services required, including but not limited to the following:

   a. An on-site mobile laboratory or laboratory in close proximity to the Project will be required. The type and location of the lab should be such that it can meet the needs of the Project in an efficient, time effective manner. The laboratory is to be fully staffed, equipped, and supplied to conduct all required soils, materials, and concrete breaking tests in a timely manner.
   b. Field personnel will be provided with all necessary safety equipment to permit work to be performed safely and efficiently within operating highway and construction zone environments.
   d. All equipment to be calibrated as per Section 3-10 and 3-11 of Caltrans' Quality Assurance Program Manual.

6. For construction surveying, CONSULTANT and staff shall have adequate equipment and supplies to complete the required survey work. Equipment and supplies shall, include, but not be limited to:

   a. Survey vehicles:
   Survey vehicles will be suitable to perform the required work in varying terrain and conditions encountered on the Project. Vehicles shall be fully equipped with all necessary tools, instruments, supplies, and safety equipment required to perform the work accurately, efficiently, and safely. Vehicles shall be equipped with a flashing yellow beacon light.

   b. Data Processing Systems:

   Data processing systems shall include hardware and software to:
      1) Performing survey and staking calculations from the design plans and specifications;
      2) Reduce survey data collected with conventional and total station survey systems;
      3) Perform network adjustments for horizontal and vertical control surveys;
      4) Format survey data to be compatible with the Caltrans computer survey and data system.

   c. Drafting equipment and supplies.

   d. Digital calculators.

   e. Hand tools as appropriate for the requested survey work.

f. Traffic cones (minimum 25). Traffic cones shall be 28 inches in height (minimum).

g. Traffic control devices as required to perform the requested survey work. Traffic control devices include signs, sign bases, flags, and hand held signs.

h. Leveling instruments and equipment:
   1) Self-leveling level. Precision: standard deviation in one mile of double run leveling 0.005 feet or less.
   2) Suitable level rods for the work to be performed.

i. Distance measuring instruments and equipment:
   1) Electronic distance measurer (EDM). Precision: standard deviation 3 mm plus 3 PPM, or less; Range: Minimum one mile under average atmospheric conditions.
   2) Prisms, sufficient to perform the required work.
   3) Tapes; steel, cloth.

j. Angle measuring instruments and equipment:
   1) Theodolite for non-control surveys; Precision: direct circle reading to three seconds, or equivalent, horizontal and vertical.
   2) Targets as required to perform the work.

k. When required for efficient survey operations, total station survey systems consisting of an electronic angle measuring instrument, EDM, and electronic data collector shall be provided. The angle measuring instruments and EDM shall conform to the requirements for the equipment previously listed.

l. Radio or cellular communications equipment for communication between field office and field crews.

m. Caltrans manuals, standards, forms, and other policies and procedures to be followed to perform the required work.

F. MATERIALS TO BE FURNISHED BY AUTHORITY

1. AUTHORITY will provide three (3) copies of all Project construction documents including plans, and special provisions, and one (1) copy of all other reports, designer prepared resident engineer files, and contracts. In addition, AUTHORITY will provide one (1) full size (24" x 36") sets of plans for use in the construction field office as record documents.

2. AUTHORITY will provide copies of all previously secured permits and Project authorizations.

3. Appropriate forms for recording test data in accordance with Caltrans practices and procedures outlined in the "Manual of Test".

G. STANDARDS

All construction inspection, surveys, materials sampling and testing, and contract administration shall be in accordance with the Project bid documents, special provisions, plans, and current Caltrans Manuals including:

2. Construction Manual and its revisions

3. Bridge Construction Records and Procedures Manual

4. Quality Assurance Program Manual

5. Manual of Traffic Controls for Construction and Maintenance Work Zones

6. Caltrans Standard Specifications and Standard Plans

7. Caltrans Storm Water Pollution Prevention Plan (SWPPP) and Water Pollution Control Program (WPCP) Preparation Manual

8. Manual of Test (3 volumes)

9. Survey Manual

10. District 8 Standard Staking Procedures Manual

Work not covered by the manuals shall be performed in accordance with accepted professional standards.

Surveys performed by CONSULTANT shall conform to the requirements of the Land Surveyor's Act. In accordance with the Land Surveyor's Act, "responsible charge" for the work shall reside with the Licensed Land Surveyor or a pre-January 1, 1982, Registered Professional Civil Engineer in the State of California.

Unless otherwise specified in the survey request, control surveys shall conform to second order (modified) accuracy standards as specified in the Caltrans "Survey Manual".

Additional standards for specific survey work may be included in the applicable request for survey. Such standards supplement the standards specified herein. If additional standards conflict with the standards specified herein, the "Survey Request's" standard shall govern.

The Resident Engineer and AUTHORITY will decide all questions, which may arise as to the quality or acceptability of deliverables furnished and work performed for this contract. Any CONSULTANT employee who does not perform adequately will be replaced if directed by the AUTHORITY Construction Manager.

H. AVAILABILITY AND WORK HOURS

The typical workday includes all hours worked by AUTHORITY's construction Contractor including nights and weekends. The construction Contractor's operations may be restricted to specific hours during the week, which will become the normal workday for CONSULTANT's personnel. On days when work is not performed by the construction contractor, such as rainy or

unsuitable weather days, CONSULTANT services will not be provided unless authorized by the AUTHORITY Construction Manager.

Unless otherwise directed by AUTHORITY, the normal work week will consist of 40 hours. From time to time, overtime may be required. However, overtime will be worked only when approved in writing by AUTHORITY.

I. LIMITATIONS TO AUTHORITY

CONSULTANT does not have the authority to:

1. Authorize deviations from the contract documents.

2. Approve substitute materials or equipment; except as authorized in writing by AUTHORITY.

3. Conduct or participate in tests or third party inspections; except as authorized in writing by AUTHORITY.

4. Assume any of the responsibilities of the Contractors, Contractors' Superintendent, or subcontractors.

5. Exercise control over or be responsible for construction means, methods, techniques, sequences, procedures, or safety precautions.

6. Communicate directly with subcontractors or material suppliers without the prior consent of the Contractor.

7. Verbally authorize or approve change orders or extra work for the Project.

8. Offer or receive incentives, inducements, or other forms of enumeration to or from the Contractor to perform services or work outside the terms of any executed contracts for this Project.

J. THIRD PARTY RELATIONSHIPS

This Contract is intended to provide unique services for a specific project. In the development of the Project, AUTHORITY has worked closely with various professional consultants, agencies, and others in the preparation of the construction documents and other Project related materials. AUTHORITY, however, is solely responsible for and will be the sole point of contact for all contractual matters related to the Project. CONSULTANT shall take direction **only** from AUTHORITY and shall regularly inform **only** AUTHORITY of Project progress, outstanding issues, and all Project related matters.

During the course of the Project, CONSULTANT may find occasion to meet with Caltrans, City or County representatives, the design engineer, Project consultants, or other third parties who have assisted with the Project. These entities may, from time to time, offer suggestions and/or recommendations regarding the Project or elements of the Project. While AUTHORITY enjoys a close relationship with and has considerable confidence in the capabilities of these other parties, CONSULTANT shall not act on any suggestions, solicited or unsolicited, without obtaining specific direction from AUTHORITY. All oral and written communication with outside agencies

or consultants related to the Project shall be directed only to AUTHORITY. Distribution of Project related communication and information shall be at the sole discretion of AUTHORITY representatives.

K. CONSTRUCTION SITE SAFETY

In addition to the requirements specified elsewhere in this contract, the following also will apply.

1. CONSULTANT will conform to the safety provisions of the Caltrans Construction Manual.

2. CONSULTANT's field personnel will wear white hard hats with proper suspension, orange vests with reflective tape, sleeved shirt, long pants, and leather boots with ankle support and rubber soled shoes at all times while working in the field.

3. CONSULTANT will provide appropriate safety training for all CONSULTANT's personnel, including work on and near highways.

4. All safety equipment will be provided by CONSULTANT.

L. BASIS FOR SURVEY AND MONUMENT STAKING

AUTHORITY will designate the existing horizontal and vertical control monuments that are the basis of CONSULTANT performed surveys. AUTHORITY will provide the California Coordinate System values and/or elevation values for these monuments. CONSULTANT shall adjust CONSULTANT performed surveys to be the designated control monuments and the values.

Monuments established by CONSULTANT shall be marked by CONSULTANT with furnished disks, plugs, tags. In addition, CONSULTANT shall identify CONSULTANT established monuments by tagging or stamping the monuments with the license or registration number of CONSULTANT'S surveyor who is in "responsible charge" of the work.

M. PERSONNEL QUALIFICATIONS AND RESPONSIBILITIES

The quantity and qualifications of field personnel to be assigned will be determined by the scope of the Project and the degree of difficulty of required tasks to be performed. All personnel and personnel assignments are subject to approval by AUTHORITY. While some areas of responsibility may overlap, as a guideline, CONSULTANT personnel assigned to the Project should have the following qualifications:

1. Project Manager

   a. A minimum of six (6) years' project management experience on similar construction projects is desired.

   b. Accessible to AUTHORITY at all times during normal working hours.

   c. A thorough understanding of Caltrans construction practices and procedures. The Project Manager will assume the following functional responsibilities:

      1) Review, monitor, train, and provide general direction for CONSULTANT personnel.

2) Assign personnel to projects on an as-needed basis.
3) Administer personal leave.
4) Prepare monthly reports for delivery to AUTHORITY.

2. Resident Engineer

a. A minimum of eight (8) years' resident engineer experience on similar construction projects is desired.

b. Licensed Professional Civil Engineer in the State of California.

c. Ability to work independently, make effective decisions concerning construction work in progress, and solve field problems.

d. Accessible to AUTHORITY at all times including weekends and holidays.

e. A thorough understanding of Caltrans field methods, practices, and construction office procedures. The Resident Engineer will assume the following functional responsibilities:

1) Monitor and provide daily direction to CONSULTANT Resident Engineers and inspection personnel.
2) Assign field personnel to specific project tasks.
3) Monitor and track Contractor progress.
4) Prepare daily, weekly and monthly reports as required.
5) Coordinate utility relocations with appropriate agencies and the utility inspector.
6) Act as prime field contact between various project Contractors and AUTHORITY's Construction Manager.

3. Assistant Resident Engineer

a. A minimum of four (4) years' experience on similar construction projects is desired.

b. Licensed Professional Civil Engineer in the State of California.

c. Ability to work independently, make effective decisions concerning construction work in progress, and solve field problems.

d. Accessible to AUTHORITY at all times including weekends and holidays.

e. Thorough understanding of Caltrans field methods, practices, and construction office procedures. The Assistant Resident Engineer shall act under the direction of the Resident Engineer and will assume the following functional responsibilities:

1) Monitor and provide daily direction to CONSULTANT inspection personnel.
2) Assign field personnel to specific project tasks.
3) Monitor and track Contractor progress.

4) Prepare daily, weekly and monthly reports as required.
5) Coordinate utility relocations with appropriate agencies.

4. Lead Field Inspector

a. A minimum of six (6) years' construction inspection experience in public works or similar projects ***or*** a four-year degree in the field of civil engineering, transportation and four years of similar construction experience is desired.

b. Knowledge of Caltrans construction practices, physical characteristics and properties of highway construction materials, and approved methods and equipment used in making physical tests of construction materials.

c. Ability to work independently, make effective decisions concerning construction work in progress, and solve field problems.

d. Ability to direct the efforts of subordinate inspectors.

e. Ability to use an automatic level and transit for the purpose of verifying line and grade.

f. Understanding of Caltrans field and construction office procedures. The Lead Field Inspector will assume the following functional responsibilities:

1) Assist in inspections to assure compliance with contract plans, specifications, and special provisions on all phases of construction.
2) Assist in the preparation of contract change orders, contract estimates, progress pay estimates, and other documents or reports required for the Project.
3) Coordinate field testing of materials to monitor compliance with Project specifications and Caltrans Quality Assurance Program.
4) Maintain accurate and timely Project records. Perform quantity calculations for progress pay estimates.
5) Perform analytical calculations such as basic earthwork, grading, profiles, and special staking procedures.
6) Provide input for the redesign of facilities to fit existing field conditions.
7) Monitor and track Contractor progress. Prepare daily, weekly, and monthly reports as required.

5. Field Inspector

a. Two (2) years' construction inspection experience in public works or similar projects ***or*** a four-year degree in the field of civil transportation engineering is desired.

b. Knowledge of construction practices, physical characteristics and properties of construction materials, and approved methods and equipment used in making physical tests of construction materials.

c. Ability to work independently. Ability to make minor decisions concerning construction work in progress and to solve field and office problems.

d. Ability to use an automatic level and transit for the purpose of verifying line and grade.

e. Understanding of Caltrans construction methods and practices. The Field Inspector will assume the following functional responsibilities:

1) Assist in inspections to assure compliance with contract plans, specifications, and special provisions on all phases of project construction.
2) Assist in preparation of contract change orders, contract estimates, progress pay estimates, and other documents or reports required for the Project.
3) Coordinate field testing of materials to monitor compliance with Project specifications and Caltrans Quality Assurance Program.
4) Perform quantity calculations for progress pay estimates and maintain Project records.
5) Perform analytical calculations such as basic earthwork, grading, profiles, and special staking procedures.
6) Provide input for the redesign of facilities to fit existing field conditions.
7) Perform construction materials sampling.
8) Perform labor compliance interviews of the Contractors' personnel.

6. Structural Representative or Lead Structural Inspector

a. A minimum of six (6) years' of bridge or structural construction inspection as related to major public works projects and a four-year degree in civil engineering is desired.

b. Licensed Professional Civil Engineer in the State of California.

c. Knowledge of stress analysis, structural mechanics, and strength of materials.

d. Knowledge of Caltrans construction practices and the physical characteristics and properties of various bridge construction materials including concrete.

e. Experience in the following areas: foundations, pile driving, concrete prestressing, bridge deck construction, cast-in-place wall construction, falsework, and shoring.

f. Ability to work independently. Ability to perform duties in the construction field office and effectively make decisions concerning construction work in progress and solving field problems.

g. Ability to direct the efforts of subordinate inspectors.

h. Ability to use an automatic level and transit for the purpose of verifying line and grade.

i. Thorough understanding of Caltrans field methods, practices, and construction office procedures. The Structural Representative shall assume the following functional responsibilities:

1) Assist in inspections to assure compliance with contract plans, specifications, and special provisions on all phases of structural construction such as bridges, foundations, walls, falsework, shoring, and drainage structures.
2) Make grade, alignment, quantity, falsework, and shoring calculations.
3) Assist in the preparation of contract change orders, contract estimates, progress pay estimates, and other documents or reports required for the Project. Coordinate the sampling and testing of construction materials to monitor compliance with contract specifications.
4) Monitor and track Contractor progress. Prepare daily, weekly, and monthly reports as required.
5) Coordinate with Resident Engineer, as well as the Construction Staking and Material Testing consultants.
6) Direct the daily activities of subordinate inspectors.

7. Structural Inspector

a. A minimum of two (2) years' of bridge design or structural construction inspection as related to Caltrans or major public works projects ***or*** a four-year degree in civil or structural engineering is desired.

b. Knowledge of stress analysis, structural mechanics, and strength of materials.

c. Knowledge of construction practices and the physical characteristics and properties of various highway bridge construction materials including concrete.

d. Experience in one or more of the following areas: pile driving, concrete prestressing, bridge deck construction, retaining wall construction, falsework, and shoring.

e. Ability to work independently and make minor decisions concerning construction work in progress and to solve field and office problems.

f. Ability to use an automatic level and transit for the purpose of verifying line and grade.

g. Understanding of Caltrans construction methods and practices. The Structural Inspector will assume the following functional responsibilities:

1) Assist in inspections to assure compliance with contract plans, specifications, and special provisions on all phases of structural construction such as bridges, foundation, walls, falsework, shoring, and drainage structures.

2) Make grade, alignment, quantity, falsework, and shoring calculations.

3) Assist in the preparation of contract change orders, contract estimates, progress pay estimates, and other documents or reports required for the Project.

4) Sampling and testing of construction materials to monitor compliance with contract specifications and Caltrans Quality Assurance Program.

8. Office Engineer

a. A minimum of two (2) years' experience as an office engineer on similar construction projects is desired.

b. Knowledge of Caltrans Office of Highway Construction forms used to administer construction projects.

c. Knowledge of Caltrans system of document organization.

d. Knowledge of construction records and accounting procedures.

e. Knowledge of documentation, procedures, and reporting for federally funded projects.

f. Knowledge of laws and regulations governing the payment of prevailing wages.

g. The Office Engineer will assume the following functional responsibilities:

1) Process monthly progress pay estimates, monthly status reports, extra work reports, and weekly statements of working days.
2) Prepare and process contract change orders.
3) Monitor construction budget and schedule.
4) Prepare, maintain, and/or file project documents including labor and equipment records, correspondence, memoranda, meeting minutes, claims, personnel records, labor compliance reports, and daily, weekly, and monthly reports.
5) Perform routine calculations and checking of quantities.
6) Coordinate all office activities and functions with AUTHORITY representatives.

9. Materials Testing Project Manager

a. A minimum four (4) years' project management experience on a similar highway/bridge construction project is desired.

b. Licensed Civil Engineer in the State of California.

c. Ability to use typical computer programs including word processing and spreadsheets.

d. The materials testing project manager will assume the following functional responsibilities:

1) Review, monitor, train, and provide general direction for CONSULTANT's laboratory and field personnel.
2) Assign personnel to projects on an as-needed basis in coordination with the Resident Engineer.
3) Administer personal leave, subject to approval of the Resident Engineer.
4) Prepare monthly reports for delivery to the Resident Engineer.

5) Provide direction, administration, and responsibility for Materials Certification per Caltrans Construction Manual, Section 8-01.

Material testing personnel will be certified by a California Registered Civil Engineer as being experienced and competent in the test procedures required for the work involved (and possess a current certificate of proficiency (Form MR-0111) in accordance with Quality Assurance Program Manual (Section 3-5). Independent certification of Caltrans test procedures may be performed at the discretion of the AUTHORITY Construction Manager.

10. Materials Technicians

CONSULTANT personnel provided under this contract will have a variety of skills and experience appropriate for the level of tasks to be assigned. Field personnel shall be certified by Caltrans and should have a minimum of two (2) years' experience in conducting material sampling and testing of the type required for the projects involved and possess the following additional capabilities:

a. Have the ability to establish specific locations for appropriate tests when construction contract administration personnel are not available.

b. Be familiar with construction practices and be fully aware of construction activities at the Project site.

c. Have knowledge of and comply with safety and health regulations and requirements applicable to the Project.

d. Specific qualifications for technicians are as follows:

1) CONSTRUCTION TECHNICIAN I

a) Performs a variety of semi-skilled activities. Examples of duties assigned to this classification are:

i. Conducting quality control tests such as soil densities, sieve analysis tests, operation scales and inspecting spread operations.
ii. Sampling and transporting produced construction materials from point of application or production to testing laboratory.

b) Knowledge and Skills Required

i. Knowledge of tools, equipment and vehicles utilized in construction.
ii. Knowledge of standard equipment and materials used for the sampling and testing of construction material.
iii. Knowledge of basic mathematics used in the computation of a variety of construction items.
iv. Knowledge of record keeping, preparing of documents and reports.

2) CONSTRUCTION TECHNICIAN II

a) Performs a variety of skilled activities. Examples of duties assigned to this classification are:

i. Inspecting minor construction items, sampling and inspection of steel reinforcement, sampling and inspection of concrete placing operation.
ii. Collect and analyze soil samples of construction materials to determine compaction and moisture content.
iii. Inspection and sampling of all phases of asphalt concrete and PCC paving operation, including plant inspection.
iv. Confers with construction engineers and contractors regarding construction in progress and is conformance to specifications and construction plans.
v. Answers questions and resolves problems.
vi. Inspects construction in progress to ensure conformance with specification, agreements, and established requirements.
vii. Keeps daily diary of work progress.
viii. Prepares reports on all field inspections and submits project quantities on a daily basis.
ix. Keeps accurate documentation for force accounts and possible claims.

b) Knowledge and Skills Required

i. All knowledge and skills required of lower classification.
ii. Knowledge of currently accepted methods, procedures and techniques used in highway construction inspection, survey, materials testing, and quality control equipment.
iii. Skill in interpersonal relations as applied to contact with contractors, representatives of other governmental jurisdictions, and other AUTHORITY/Caltrans staff.

3) CONSTRUCTION TECHNICIAN III

a) Exercises considerable independent judgment within general Caltrans standards and guidelines. Examples of duties assigned to this classification are:

i. Inspect Project construction on an ongoing basis to assure compliance with contract and in accordance with State and local standards.
ii. Perform a variety of structural material tests and inspections.
iii. Reviews construction plans and verified that these are in accordance with designated specifications and other requirements.
iv. Participates in the preparation of completed work

estimates, to calculate compensation due contractor.

v. Examines and verifies numeric data and material specifications on project cost source documents, utilizing geometry and trigonometry calculations.

vi. Supervises all work activities involved in construction projects, laboratory, and quality control work.

vii. Recommends approval of proposed Project changes.

b) Knowledge and Skills Required

i. All knowledge and skills required of lower classifications.

ii. Knowledge of the principles and practices of Civil Engineering as applied to the construction of state highways.

iii. Skill in analyzing and evaluating a wide variety of highly technical engineering data, including construction plans, field survey and quality control documents.

iv. Skill in interpreting and implementing Caltrans standards, policies, procedures and regulations.

v. Skill in interpersonal relations, as applied to contacts with contractors, representatives of other governmental jurisdictions, and other AUTHORITY/Caltrans staff.

11. Construction Surveying Project Manager

a. A minimum four (4) years' project management experience on similar construction projects is desired.

b. Licensed Surveyor or pre-January 1, 1982 Registered Professional Engineer in the State of California.

c. Accessible to the Resident Engineer and AUTHORITY at all times during normal working hours as specified in this Scope of Services.

d. Under the direction of the Resident Engineer, the Project Manager will be responsible for:

1) Review, monitor, train, and provide general direction for CONSULTANT survey personnel.
2) Assign personnel to projects on an as-needed basis.
3) Administer personal leave, subject to approval of the Resident Engineer.
4) Prepare monthly reports for delivery to the Resident Engineer.

12. Field Party Chief(s)

a. The person(s) holding the position of Party Chief shall meet at least one of the following licensing requirements:

1) A licensed Land Surveyor in the State of California.
2) A pre-January 1, 1982, Registered Professional Civil Engineer in the State of California.
3) An experienced surveyor who serves as chief under the direction or supervision of a person who is a licensed Land Surveyor or pre-January 1, 1982 Registered Professional Civil Engineer in the State of California. The direction or supervision shall place the supervisor in "responsible charge" of the work. "Responsible Charge" is defined in Chapter 15 of the Business and Professions Code (the Land Surveyor's Act) and Title 16, Chapter 5, of the California Administrative Code (regulations adopted by the Board of Registration for Professional Engineers and Land Surveyors).

b. The Party Chief(s) should have a minimum two (2) years' survey experience on similar construction projects and possess the following additional capabilities:

1) Thorough knowledge of construction survey practices and the ability to read and interpret plans and specifications.
2) Ability to make effective decisions concerning field problems and work in progress.
3) Familiarity with typical coordinate geometry computer programs.
4) Familiarity with safety requirements for surveying near traffic.

c. The Party Chief(s) will assume the following responsibilities:

1) Perform construction staking services for Project construction.
2) Administer day to day activities for the survey party.
3) Perform analytical survey calculations for items such as grading, horizontal and vertical control, right of way, and minor in-field design.
4) Maintain continuous communication with the Resident Engineer, field personnel, and construction administration staff.

13. Survey Crews

a. Qualifications for survey crew members should include the following:

1) A minimum of one (1) year of survey experience on similar construction projects is desired.
2) Fundamental knowledge of construction survey practices and the ability to read and interpret plans and specifications.
3) Ability to assist Party Chiefs and office personnel in all required surveying work.
4) One survey crew member must have the ability to assume temporary leadership of the survey party in the absence of the Party Chief.

b. Under the direction of the Resident Engineer and the Party Chief, the survey crew members will assume the following responsibilities:

1) Perform basic calculations to support construction staking.
2) Maintain continuous communication with Party Chiefs and office personnel.

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TRANSPORTATION MEASURE I

San Bernardino County Transportation Commission ■ San Bernardino County Transportation Authority
San Bernardino County Congestion Management Agency ■ Service Authority for Freeway Emergencies

Minute Action

AGENDA ITEM: **20**

Date: October 3, 2012

Subject: SR210 Freeway Segment 11 Landscaping

Recommendations:* 1. Approve the SR210 Freeway Segment 11 Landscaping Project Plans, Specifications, and Estimates package; and

2. Authorize the advertisement and release of Invitation for Bids (IFB) C13002 to obtain construction bids for the SR210 Freeway Segment 11 Landscaping project; and

3. Authorize Staff to proceed directly to the Board without prior Major Projects Policy Committee approval for the award of Construction Contract No. C13002.

Background: In November 2008, San Bernardino Associated Governments (SANBAG) approved Cooperative Agreement No. C09084 with Caltrans whereby the State agreed to perform the Project Approval and Environmental Document (PA/ED) and Plans, Specifications, and Estimates (PS&E) phases of project development for landscaping four SR-210 Segments, 8 through 11, between Sierra Avenue in Fontana and the SR210/I-215 Interchange in San Bernardino.

In June 2010, SANBAG approved a professional services contract with a firm to provide construction management services for the SR-210 Segments 8 through 11 corridor landscaping projects.

*

Approved
Board of Directors

Date: _____

Moved: *Second:*

In Favor: *Opposed:* *Abstained:*

Witnessed: _____

COG		CTC	X	CTA	X	SAFE		CMA	

Check all that apply.

BRD1210a-bmf

In August 2011, SANBAG approved Cooperative Agreement No. C10161 with Caltrans. This Cooperative Agreement is a no cost agreement which assigns to SANBAG responsibility for advertising, awarding, and administering a construction contract for the Segment 11 Landscaping Project in accordance with the Caltrans-approved PS&E package followed by a four-year maintenance contract.

Segment 11 is the final landscaping segment along SR210. The landscape construction is being funded with state-authorized Federal Transportation Enhancement Activity (TEA) funds, Surface Transportation Program (STP) funds, and Measure I funds. In June 2012, Caltrans requested the California Transportation Commission (CTC) allocate $2,500,000 in TEA funds for the project. With only six (6) months to award a construction contract following CTC allocation of funding, SANBAG must award a landscape construction contract by December 2012. To meet this schedule milestone, staff recommends proceeding directly to the Board for approval of the award of landscaping Construction Contract No. 13002 without prior Committee approval. The construction contract is anticipated to be awarded to the lowest responsive/responsible bidder. A copy of the final PS&E package has been filed with the Clerk of the Board and is available for public review at SANBAG's offices.

Financial Impact: Funding is provided under Task Number No. 0824. The funding sources are STP, TEA and Measure I. This item has no impact to the current adopted SANBAG Fiscal Year 2012/2013 budget.

Reviewed By: This item was reviewed by the Major Projects Committee on September 13, 2012. SANBAG General Counsel and Contract Administrator have reviewed this item and IFB as to form.

Responsible Staff: Garry Cohoe, Director of Project Delivery

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TRANSPORTATION MEASURE I

- San Bernardino County Transportation Commission
- San Bernardino County Transportation Authority
- San Bernardino County Congestion Management Agency
- Service Authority for Freeway Emergencies

Minute Action

AGENDA ITEM: 21

Date: October 3, 2012

Subject: Right-of-Way Appraisals and Acquisitions for the Interstate 15/Interstate 215 (I-15/I-215) Devore Interchange Reconstruction Project

Recommendation:* 1. Approve appraisals and just compensation on properties needed for the I-15/ I-215 Devore Interchange Reconstruction Project listed in Attachment "A" ("Properties") of this agenda item, copies of which are on file with the Director of Project Delivery.

2. Authorize acquisition of the Properties in a not-to-exceed aggregate total of $165,000, increasing the total allowance for property acquisitions for the project to $16,330,000.

3. Authorize the Executive Director to act on behalf of SANBAG in signing Purchase & Sale Agreements for the Properties with the Property Owners, consistent with the procedure set out in SANBAG Valley Freeway Program Policy No. 40004 (reference: Administrative Settlement Policy No. 34507). Property owners: Atchison, Topeka, and Santa Fe Railroad, Union Pacific Railroad, and BNSF Railway.

Background: SANBAG, in conjunction with Caltrans is proceeding with the right-of-way phase of the I-15/I-215 Devore Interchange Reconstruction Project (Devore Interchange Project). Cooperative Agreement No. C11103 with Caltrans was approved for this phase of the project at the June 1, 2011, Board meeting and was amended at the March 7, 2012, Board meeting. In this agreement SANBAG is designated as

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Approved
Board of Directors

Date: _____

Moved: *Second:*

In Favor: *Opposed:* *Abstained:*

Witnessed: _____

COG		CTC	X	CTA	X	SAFE		CMA	

Check all that apply.

BRD1210g-das

Attachment: http://portal.sanbag.ca.gov/mgmt/committee/directors/brd2012/brd1210/AgendaItems/BRD1210g1-das.xlsx

the implementing agency for the appraisal, acquisition, and management of the right-of-way properties needed for this important design-build project. The approved agreement commits up to $50,353,825 in Measure I 2010-2040 Cajon Pass funds for the acquisition of right-of-way, utility relocations, Caltrans right-of-way engineering and condemnation work, and mitigation expenses. At the June 6, 2012, SANBAG Board meeting, the Board approved appraisals and authorized making offers on 15 parcels for an aggregate not-to-exceed amount of $3,000,000; at the July 11, 2012, SANBAG Board meeting, the Board approved appraisals and authorized making offers on an additional 31 parcels for an aggregate not-to-exceed amount of $1,610,000; at the August 1, 2012, SANBAG Board meeting, an additional 62 parcels for an aggregate $9,930,000 was approved; and at the September 5, 2012, SANBAG Board meeting, an additional 18 properties were approved at an aggregate $1,625,000.

Recommendation 1: SANBAG's right-of-way consultant, Overland, Pacific and Cutler (OPC) Services, has completed appraisals of an additional 3 properties. This is the balance of the properties that have been identified for the project at this time. The 3 properties are summarized in Attachment "A" and include fee takes and temporary construction easements with a total estimated value of $165,000. The estimated cost includes the property acquisition costs and a contingency of approximately 20%. The fee take is on a vacant railroad owned parcel and the temporary construction easements are on existing railroad right-of-way. Copies of these appraisals are on file with the Director of Project Delivery. These appraisals have been reviewed by a senior appraiser and by SANBAG's independent right-of-way advisor for compliance with necessary processes and meeting fair compensation requirements. In addition, Caltrans has reviewed and approved these appraisals. Staff recommends approval of these appraisals.

Recommendation 2: Staff requests that the Board authorize proceeding with offers of acquisition for all properties identified in Attachment "A" for an aggregate amount of $165,000. The addition of the funds for these properties increases the total authorized amount for property acquisition for this project to $16,330,000.

The Board should be aware that while condemnation actions for these properties is a last resort and SANBAG's consultant will make every reasonable attempt to avoid such actions, there is a potential that these properties may need to be acquired through eminent domain proceedings. Per the cooperative agreement, all resolution of necessity hearings will be coordinated by Caltrans through the California Transportation Commission (CTC). It is anticipated that the acquisition document for the temporary construction easements will be included within a construction and maintenance agreement with each railroad. These agreements between Caltrans and the railroads, may also include SANBAG, and

if they do, they would be brought before the Board at a future date for approval. Staff recommends approval of this recommendation.

Recommendation 3: Acquisition of these properties in a timely manner is critical to maintaining the planned construction schedule for the project. To assist in maintaining the schedule, staff is recommending that the Board authorize the Executive Director to act on behalf of SANBAG in signing Purchase & Sale Agreements, similar to the procedure used pursuant to SANBAG Valley Freeway Program Policy No. 40004 (reference: Administrative Settlement Policy No. 34507). This Board-approved policy establishes a standard administrative process for acquisition of right-of-way whereby the Executive Director is authorized to pursue acquisitions utilizing certain factors, such as an available appraisal, the inexact nature of the process by which just compensation is determined through legal processes, and the impact of such acquisitions through voluntary settlement on the project-wide perspective, including, e.g., project deadlines and funding issues. This process is appropriate for the acquisition of the one part-take fee property from the railroad. A standard agreement and easement generally in the format that is consistent with the Caltrans standard template and their standard supplemental clauses will be used for these acquisitions and previously approved project acquisitions with SANBAG signing the agreements as buyer, not Caltrans. The final documents will be approved as to form by SANBAG's legal counsel prior to presenting to the Executive Director for signature. Pursuant to the cooperative agreement the property will be acquired in Caltrans' name but the agreement will be signed by SANBAG and paid for by SANBAG.

Financial Impact: This item is consistent with the SANBAG Fiscal Year 2012/2013 budget. Task No. 0880.

Reviewed By: This item was reviewed by the Major Projects Committee on September 13, 2012, and the Mountain Desert Committee on September 21, 2012. SANBAG General Counsel has approved this item as to form.

Responsible Staff: Garry Cohoe, Director of Project Delivery

Attachment "A"
Devore ROW Parcels for Acquisition

Caltrans Parcel No. (CPN)	APN(s)	Owner	Type
22518	0349-174-07	Atchison, Topeka and Santa Fe Railroad	Fee, Part-Take Vacant Railroad Property
22667	0349-191-09	Union Pacific Railroad	Temporary Construction Easement on Railroad Property
22668	0349-181-23	BNSF Railroad	Temporary Construction Easement on Railroad Property

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TRANSPORTATION MEASURE I

San Bernardino County Transportation Commission ■ San Bernardino County Transportation Authority
San Bernardino County Congestion Management Agency ■ Service Authority for Freeway Emergencies

Minute Action

AGENDA ITEM: 22

Date: October 3, 2012

Subject: Lenwood Road Grade Separation Project – Set Date for Hearings to Consider Resolutions of Necessity

Recommendations:* Acting as the San Bernardino County Transportation Commission:

1. Set the date and time of November 7, 2012, at 10:00 a.m. for hearings to consider Resolutions of Necessity for four properties required for the Lenwood Road Grade Separation project in the City of Barstow and the County of San Bernardino. The property owners are: Wilbur and Elaine Gassaway; Carroll Fulmer Management Company; Clayton and Janice Carmean and Albert and Rita Vogler; and Mona Young.

2. Continue the hearings on the Resolutions of Necessity for ten parcels, previously scheduled for October 3, 2012, at 10 a.m., to November 7, 2012, at 10:00 a.m. to consider adoption of Resolutions of Necessity for properties required for the Lenwood Road Grade Separation project in the City of Barstow and the County of San Bernardino. The property owners are: Richard Bowers; Warren Wallis; Naji Razzouk; Nabil and Janet Razzouk; Chong Nam Yim and Young Ja Yim; Chong Nam Yim and Young Ja Yim (a second parcel); Metor Finance; Daniel Gallardo; Lawrence and Beverly Watson; and Laurence Brown.

Background: SANBAG has made steady progress towards the start of construction on the Lenwood Road Grade Separation. 100% Plans, Specifications, and Estimates will

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Approved
Board of Directors

Date: _____

Moved: *Second:*

In Favor: *Opposed:* *Abstained:*

Witnessed: _____

COG		CTC	X	CTA		SAFE		CMA	

Check all that apply.

BRD1209b-bmf

Attachments: http://portal.sanbag.ca.gov/mgmt/committee/directors/brd2012/brd1210/AgendaItems/BRD1210b1-bmf.xlsx
http://portal.sanbag.ca.gov/mgmt/committee/directors/brd2012/brd1210/AgendaItems/BRD1210b2-bmf.xlsx

be submitted for final review and approval in November. One of the remaining critical path items is right-of-way acquisition. The SANBAG Board has approved appraisals and authorized offers for properties required for the grade separation project. While SANBAG's right-of-way agent, Epic Land Solutions, Inc., continues to negotiate with property owners of the subject parcels, it is unlikely that all parcels will be acquired through a negotiated sale. The alternative to a negotiated sale is acquiring the property through eminent domain which requires a prescribed process.

One step in the eminent domain process is setting a hearing date and time for the consideration of the Resolution of Necessity for the parcels not acquired through negotiated sale. While this action is embarking on the first step of the eminent domain process, the right-of-way agents will continue to negotiate with the property owners in an effort to acquire the properties voluntarily and avoid eminent domain.

The Committee and the Board previously set the date for three parcels for September Board hearings. However, the agenda items for these parcels were "pulled" when an issue was identified regarding clarifications of the length of time associated with the temporary construction easements. This issue has since been addressed. Additionally, a fourth property has been added as a result of problems with escrow, the Young property. Staff is requesting that the Board, acting as the County Transportation Commission, set the date and time of November 7, 2012, to consider these four Resolutions of Necessity.

The Committee and the Board previously set the date for ten other parcels for October Board hearings. Staff is requesting the hearings on these parcels be continued to the same November 7, 2012, date so that all of the remaining Resolutions of Necessity for this project can be considered on the same date. This will allow the Board to focus on the full project right-of-way needs at one hearing.

The four project property acquisitions are summarized in Attachment "A" and include fee takes, and permanent and temporary construction easements. The ten project property acquisitions for which staff is recommending a continuance are summarized in Attachment "B" and also include fee takes, and permanent and temporary construction easements.

Financial Impact: These items imposed no financial impact.

Reviewed By: This item was reviewed by the Mountain Desert Committee on September 21, 2012. SANBAG General Counsel has approved this item as to form.

Responsible Staff: Garry Cohoe, Director of Project Delivery

MDC1209a-bmf

LENWOOD ROAD GRADE SEPARATION PROJECT
PROPERTY ACQUISITIONS FOR RESOLUTIONS OF NECESSITY HEARINGS

RES #	APN	NAME	TITLE OWNER	TYPE
13-007	0497-142-26	GASSAWAY	WILBUR WALTER GASSAWAY AND ELAINE FRANCES GASSAWAY, TRUSTEE(S) OF THE WILBUR WALTER AND ELAINE FRANCES GASSAWAY TRUST DATED 9-30-98	EASEMENT, PARTIAL TAKE, TEMPORARY CONSTRUCTION EASEMENT
13-008	0497-131-59	FULMER	CARROLL FULMER MANAGEMENT CO., INC., A FLORIDA CORPORATION	EASEMENT, PARTIAL TAKE, TEMPORARY CONSTRUCTION EASEMENT
13-009	0421-172-12	CARMEAN AND VOGLER	CLAYTON A. CARMEAN & JANICE J. CARMEAN AND ALBERT H. VOGLER & RITA K. VOGLER, AS TENANCY IN COMMON	TEMPORARY CONSTRUCTION EASEMENT
13-036	0422-043-05, 06, 07, 08	YOUNG	MONA L. YOUNG	EASEMENT, TEMPORARY CONSTRUCTION EASEMENT

LENWOOD ROAD GRADE SEPARATION PROJECT
PROPERTY ACQUISITIONS FOR RESOLUTIONS OF NECESSITY HEARINGS

RON#	APN	NAME	TITLE OWNER	TYPE
13-013	0497-142-25	BOWERS	RICHARD D. BOWERS, TRUSTEE OF THE RICHARD D BOWERS 1996 TRUST	PARTIAL TAKE, TEMPORARY CONSTRUCTION EASEMENT
13-014	0497-131-52	WALLIS	WARREN OPIE WALLIS, AN UNMARRIED MAN	PARTIAL TAKE, TEMPORARY CONSTRUCTION EASEMENT
13-015	0422-042-12	NAJI RAZZOUK	NAJI RAZZOUK, TRUSTEE OF THE FAMILY TRUST OF NAJI Y. RAZZOUK DATED NOVEMBER 16,1999	FULL TAKE
13-016	0422-041-07	NABIL RAZZOUK	NABIL AND JANET RAZZOUK, TRUSTEES OF THE NABIL AND JANET RAZZOUK FAMILY TRUST DATED 10/10/94	FULL TAKE
13-017	0422-011-04	YIM	CHONG NAM YIM AND YOUNG JA YIM, HUSBAND AND WIFE AS JOINT TENANTS	FULL TAKE
13-018	0421-181-11	YIM	CHONG NAM YIM AND YOUNG JA YIM, HUSBAND AND WIFE AS JOINT TENANTS	PARTIAL TAKE, TEMPORARY CONSTRUCTION EASEMENT
13-019	0422-011-13	METOR FINANCE	METOR FINANCE, A CALIFORNIA CORPORATION	FULL TAKE
13-020	0422-012-19, 11, 22	GALLARDO	DANIEL GALLARDO, A MARRIED MAN, AS HIS SOLE AND SEPARATE PROPERTY	PARTIAL TAKE, TEMPORARY CONSTRUCTION EASEMENT
13-021	0421-181-08	WATSON	LAWRENCE W. AND BEVERLY A. WATSON, HUSBAND AND WIFE AS JOINT TENANTS	FULL TAKE
13-022	0497-131-65	BROWN	LAURENCE K. BROWN AS TRUSTEE OF THE NANCY BROWN SUPPLEMENTAL TRUST, SUBJECT TO ITEM NO. 11 OF SCHEDULE B	PARTIAL TAKE, TEMPORARY CONSTRUCTION EASEMENT

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San Bernardino Associated Governments

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TRANSPORTATION MEASURE I

San Bernardino County Transportation Commission ■ San Bernardino County Transportation Authority
San Bernardino County Congestion Management Agency ■ Service Authority for Freeway Emergencies

Minute Action

AGENDA ITEM: 23

Date: October 3, 2012

Subject: Proposition 1B State-Local Partnership Program Allocation Policy

Recommendation:* Authorize the release of Proposition 1B State-Local Partnership Program Funds that were allocated to the Mountain/Desert area but cannot be expended by the State-Local Partnership Program deadline to the San Bernardino Valley area with a commitment to allocate future State and/or federal funds to ensure equity between the regions.

Background: On January 5, 2011, the SANBAG Board approved Policy 35000 Allocation of Proposition 1B State-Local Partnership Program (SLPP) Funds, which distributed the formula SLPP funds available for allocation by SANBAG to the San Bernardino Valley and Mountain/Desert areas based on 50% centerline miles and 50% population as indicated in Attachment 1 – Table 1. The population and centerline mile data in Table 1 are consistent with the item approved by the Board on January 5, 2011. The total amount of formula SLPP has been updated to reflect the most current allocation amount available from the California Transportation Commission (CTC). In January 2011, the total amount of formula SLPP available to SANBAG was estimated at $55,174,000, the actual amount available is $56,894,000.

The Board approved Policy 35000 after much discussion regarding equity between the Mountain/Desert and Valley regions at the Plans and Programs Committee, Mountain/Desert Committee, and Transportation Technical Advisory Committee

Approved
Board of Directors

Date: October 3, 2012

Moved: *Second:*

In Favor: *Opposed:* *Abstained:*

Witnessed: _____

COG		CTC	X	CTA	X	SAFE		CMA	

Check all that apply

BRD1210a-cs
http://portal.sanbag.ca.gov/mgmt/committee/directors/brd2012/brd1210/AgendaItems/BRD1210a1-cs.xlsx

(TTAC) meetings leading up to the January 2011 Board meeting. The policy was implemented in the 10-Year Delivery Plan where specific projects and funding amounts were identified and through subsequent Board approval on a project-specific basis.

The formula SLPP funds need to be allocated by the CTC within the five-year life of the program with the last opportunity for CTC allocation being their June 11, 2013, meeting. The formula program requires a dollar-for-dollar match of the SLPP funds, and the match can only be from voter-approved transportation taxes or fees. Additionally, Policy 3500 included:

- SLPP funds apportioned to the Mountain/Desert region are allocated to the Major Local Highway program.
- SLPP will be distributed amongst the five Mountain/Desert subareas by population.
- Equity among the subareas will be made up by use of other state or federal funds or by transfers of eligible Measure I funds if SLPP is not allocated to subareas.

Staff has worked with the local agencies within the five Mountain/Desert subareas to identify projects that meet the requirements of the SLPP program. Attachment 1 – Table 2 includes the list of projects approved to receive formula SLPP funds and additional projects that are in a position to meet the SLPP requirements. The US 395 Interim Widening was included in the 10-Year Delivery Plan with a SLPP allocation of $3,250,000; however, this project will not meet the funding deadline. The amount of SLPP allocated to Mountain/Desert subarea projects that are ready for construction has been maximized at this time (Attachment 1 – Table 2). Based on current estimates, there is approximately $1,301,774 of SLPP funds allocated to the Mountain/Desert region that cannot be used on a project within that region. Additionally, Attachment 1 – Table 3 indicates the current distribution of SLPP funds amoungst the five Mountain/Desert subareas and balance remaining after allocation to the projects identified in Table 2.

Staff recommendation is that the SLPP funds that cannot be used in the Mountain/Desert region in accordance with the SLPP funding requirements be made available for use on Valley projects that are able to meet the SLPP requirements. Although Policy 35000 does not specifically address the situation where SLPP must be transferred from one region to another, staff recommends that equity be achieved by use of other state or federal funds on future Mountain/Desert region projects.

Staff will bring forward a recommendation to the October Major Projects Committee to identify which Valley projects could benefit from the additional

$1,301,774 SLPP funds (approximate) and the current Valley SLPP surplus of $4,095,226.

Financial Impact: This item has no impact on the SANBAG Fiscal Year 2012/2013 budget.

Reviewed By: This item was reviewed and unanimously recommended for approval by the Mountain/Desert Committee on September 21, 2012.

Responsible Staff: Andrea Zureick, Director, Fund Administration and Programming

Attachment 1

Table 1 - Distributiuon of San Bernardino Total SLPP (Formula Program)[1] $ 56,894,000

Region	Centerline Miles[2]	Percentage of Centerline Miles	Population[3]	Percentage of Population	Allocation Percentage (50% Centerline Miles/50% Population)	Allocation Amount
Valley	4,542.06	53.3%	1,505,467	72.6%	63.0%	35,830,226
Mountain/Desert	3,973.73	46.7%	567,682	27.4%	37.0%	21,063,774
Total	8,515.79	100.0%	2,073,149	100.0%	100.0%	56,894,000

1. San Bernardino SLPP Formula Program Total has been updated to reflect final allocations. The rest of the data is consistent with what was approved by the Board on January 11, 2011.
2. Centerline Miles – The information is from the 2009 Public Road Data published by Caltrans (County's information previously supplied is from the 2008 Public Road Data).
3. Population - Numbers shown are from the SANBAG Board approved Measure I 2010 Population Estimate (Approved on August 4, 2010)

Table 2 - Project List and SLPP Allocation Amounts

Project	Lead Agency	SLPP Amount			Current Project Status
		Total	Valley SLPP (63%)	Mountain/Desert SLPP (37%)	
Vineyard Ave Grade Separation	Ontario	$ 14,080,000	$ 14,080,000		Right of way phase
South Milliken Grade Separation	Ontario	$ 17,655,000	$ 17,655,000		Right of way phase
I-15 Ranchero Interchange	Hesperia	$ 4,550,000		$ 4,550,000	Advertisement phase
Lenwood Grade Separation	Barstow/County	$ 2,161,000		$ 2,161,000	Right of way phase
Yucca Loma Corridor (Bridge & Yates Road Portion)**	Apple Valley/ County	$ 9,950,000		$ 9,950,000	Right of way phase
US 395 Interim widening	SANBAG	$ -		$ -	SLPP allocated in 10-yr delivery plan but project will not make deadline*
SR-62 Apache to Palm **	Yucca Valley	$ 723,000		$ 723,000	Right of way phase
SR-62 LaHonda to Dumosa**	Yucca Valley	$ 778,000		$ 778,000	Right of way phase
Big Bear City - Village L**	Big Bear	$ 1,200,000		$ 1,200,000	Construction ready
National Park Drive, Street Improvement Project-Phase 2**	Twentynine Palms	$ 400,000		$ 400,000	Environmental cleared, no right of way & 95% design
	SLPP $ Identified	$ 51,497,000	$ 31,735,000	$ 19,762,000	
	Allocation Amount (see Table 1)	$ 56,894,000	$ 35,830,226	$ 21,063,774	
	Remaining $ to be programmed	$ 5,397,000	$ 4,095,226	$ 1,301,774	

*All SLPP funds must be allocated by the CTC for the constuction phase by June 11, 2013
**The SLPP allocation to these projects still requires Board approval.

277

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Table 3 - Mountain/Desert Subareas - SLPP Shares & Remaining Balance in Accordance with Policy 35000 and Table 2

Subarea	Population	Percentage	SLPP Share	Programmed	Balance
Colorado River	8,185	1.40%	$ 294,893		$ 294,893
Morongo Basin	77,627	13.70%	$ 2,885,737	$ 1,901,000	$ 984,737
Mountains	53,156	9.40%	$ 1,979,995	$ 1,200,000	$ 779,995
North Desert	60,092	10.60%	$ 2,232,760	$ 2,161,000	$ 71,760
Victor Valley	368,622	64.90%	$ 13,670,389	$ 14,500,000	$ (829,611)
Total	567,682	100.00%	$ 21,063,774	$ 19,762,000	$ 1,301,774

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TRANSPORTATION MEASURE I

■ San Bernardino County Transportation Commission ■ San Bernardino County Transportation Authority
■ San Bernardino County Congestion Management Agency ■ Service Authority for Freeway Emergencies

Minute Action

AGENDA ITEM: 24

Date: October 3, 2012

Subject: Amendment to the Trade Corridors Improvement Fund (TCIF) Project Baseline Agreements for Palm Avenue, Glen Helen Parkway, South Milliken Avenue, and Vineyard Avenue Grade Separation Projects

Recommendation:*

1. Approve Amendment No. 1 to the Trade Corridors Improvement Fund Project Baseline Agreement C09021 with the California Transportation Commission, California Transportation Department, and the City of San Bernardino for the Palm Avenue Grade Separation Project to update the estimated project cost and the project implementation schedule.

2. Approve Amendment No. 2 to the Trade Corridors Improvement Fund Project Baseline Agreement C09020 with the California Transportation Commission, California Transportation Department, and the County of San Bernardino for the Glen Helen Parkway Grade Separation Project to update the estimated project cost and the project implementation schedule.

3. Approve Amendment No. 2 to the Trade Corridors Improvement Fund Project Baseline Agreement C09016 with the California Transportation Commission, California Transportation Department, and the City of Ontario for the South Milliken Avenue Grade Separation Project to update the estimated project cost and the project implementation schedule.

*

Approved
Board of Directors

Date: October 3, 2012

Moved: *Second:*

In Favor: *Opposed:* *Abstained:*

Witnessed: _____

COG		CTC	X	CTA	X	SAFE		CMA	

Check all that apply.

BRD1210a-pc

http://portal.sanbag.ca.gov/mgmt/APOR-Mgmnt/Shared%20Documents/C09021-01.docx
http://portal.sanbag.ca.gov/mgmt/APOR-Mgmnt/Shared%20Documents/c09020-02.docx
http://portal.sanbag.ca.gov/mgmt/APOR-Mgmnt/Shared%20Documents/C09016-02.docx
http://portal.sanbag.ca.gov/mgmt/APOR-Mgmnt/Shared%20Documents/C09018-01.docx

4. Approve Amendment No. 1 to the Trade Corridors Improvement Fund Project Baseline Agreement C09018 with the California Transportation Commission, California Transportation Department, and the City of Ontario for the Vineyard Avenue Grade Separation Project to update the estimated project cost and the project implementation schedule.

5. Authorize the Executive Director to execute Amendments including technical and administrative changes that may be necessary following California Transportation Commission staff review. Should any policy issues arise, the Executive Director will consult with Board Officers.

Background:

On September 3, 2008, the SANBAG Board approved a total of 11 Trade Corridors Improvement Fund (TCIF) Project Baseline Agreements with the California Transportation Commission (CTC), California Transportation Department (Caltrans) and local sponsors for 11 projects. The adopted TCIF program guidelines require the nominating agencies to provide executed Project Baseline Agreements that commit to full funding of the projects and define the delivery schedule, scope, and expected performance. The TCIF program guidelines also require a Project Baseline Agreement Amendment to be executed if the funding arrangements and/or delivery schedule, scope, and expected performance benefits are modified. Once these Project Baseline Agreement Amendments are approved by the SANBAG Board and local sponsors, they are forwarded to the Southern California Consensus Group for concurrence, and finally to the CTC for approval.

Recommendation 1: Palm Avenue Grade Separation

The Palm Avenue Grade Separation Project Baseline Agreement Amendment changes the delivery schedule and updates the total project cost from $35.176M to $26.398M. At the time when the original baseline agreement was executed, the project was in the preliminary project development phase; however, until selection of a preferred alternative and completion of sufficient design to confirm right-of-way (ROW) requirements, an updated cost for the project was not able to be determined. This updated cost reflects the selected alternative and is consistent with the current design optimization efforts and bid prices. While the final alignment selected impacts more ROW and has resulted in a cost increase for that phase, it has resulted in a lower construction cost, which translates to an overall lower total project cost.

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http://portal.sanbag.ca.gov/mgmt/APOR-Mgmnt/Shared%20Documents/C09021-01.docx
http://portal.sanbag.ca.gov/mgmt/APOR-Mgmnt/Shared%20Documents/c09020-02.docx
http://portal.sanbag.ca.gov/mgmt/APOR-Mgmnt/Shared%20Documents/C09016-02.docx
http://portal.sanbag.ca.gov/mgmt/APOR-Mgmnt/Shared%20Documents/C09018-01.docx

The project was originally funded with only State and local funds. Subsequent to the start of the project, a federal grant for the project was obtained; however, the additional federal funds required federal environmental clearance and additional resource agency coordination. The result of this additional effort was that final environmental clearance for the project was not obtained until July 2011. This delay in the environmental clearance also delayed the federal authorization to begin ROW activities. The ROW certification is anticipated in January 2013, and the construction award milestone is schedule for June 2013, which is well ahead of the TCIF construction deadline of December 2013. The construction completion date is June 2015. Staff recommends approval of the TCIF Baseline Agreement Amendment as attached with changes to project cost, funding, and schedule.

Recommendation 2: Glen Helen Parkway Grade Separation

The Glen Helen Parkway Grade Separation Project Baseline Agreement Amendment No. 2 changes the delivery schedule and updates the total project cost from $29.568M to $28.785M.

The Glen Helen Grade Separation Project has had two distinct events that triggered schedule and project cost changes. The first event was the discovery of a Kangaroo Rat habitat on the project site, and the other event involved input from the public. These events, which occurred during the environmental phase, resulted in a significant delay to environmental approval and caused revisions to the project design and ROW requirements. The original Baseline Agreement was amended, per SANBAG Board approval in December 2010, to account for this delay.

Design and ROW are nearing completion and the project is expected to be ready for a CTC construction allocation in October 2012. This Baseline Agreement Amendment is required to reflect the current project schedule and cost estimate prior to allocation. Staff recommends approval of the TCIF Baseline Agreement Amendment No. 2 as attached with changes to project cost, funding, and schedule.

Recommendation 3: South Milliken Avenue Grade Separation

The South Milliken Avenue Grade Separation Project Baseline Agreement Amendment No. 2 changes the delivery schedule and updates the total

project cost from $79.224M to $76.816M. The project has had two distinct events that triggered schedule and project cost changes. The first event was the negotiations with Union Pacific Railroad on the preferred rail-highway configuration. This event delayed the environmental completion date, and the original Baseline Agreement was amended, per SANBAG Board approval in January 2010, to account for this delay.

Additionally, during the review of 35% PS&E plan submittal, a modification to the preferred alternative configuration was evaluated that would potentially decrease the overall construction cost and provide favorable intersection operation. The evaluation yielded construction cost savings, however, resulted in a resubmittal of the 35% plans and pushed the completion of the design phase (ready to list milestone) from the Baseline Agreement Amendment milestone date of February 2012, to March 2013; at this time 65% PS&E plans have been completed for the project. The ROW certification is anticipated in February 2013, and the construction award milestone is schedule for July 2013, which is well ahead of the TCIF construction deadline of December 2013. The construction completion date is September 2016. Staff recommends approval of the TCIF Baseline Agreement Amendment No. 2 as attached with changes to project cost, funding, and schedule.

Recommendation 4: Vineyard Avenue Grade Separation

The Vineyard Ave Grade Separation Project Baseline Agreement Amendment changes the delivery schedule and updates the total project cost from $43.789M to $51.795M. The project has had two distinct events that triggered schedule and project cost changes. The first event was the negotiations with Union Pacific Railroad on the preferred rail-highway configuration. This event delayed the environmental completion date from the original baseline agreement milestone of December 2009 to June 2010.

The second event was a permit delay from the Los Angeles World Airports (LAWA). During preparation of the 35% PS&E plan submittal, the City of Ontario and Consultant had to obtain a Right of Entry permit for geotechnical borings on LAWA within the project site. The permit review process by LAWA took over seven months. Furthermore, the City experienced additional delays due to an active lawsuit between LAWA and Aero Ontario (developer of the Pacific Gateway Cargo Center located

at the southwest corner of the project site). The lawsuit was eventually settled and the grade separation project was able to move forward.

These two events pushed the completion of the design phase (ready to list milestone) from the original baseline agreement date of December 2011, to March 2013. At this time the project has 65% PS&E plans completed and the begin construction milestone is scheduled for July 2012. Staff recommends approval of the TCIF Baseline Agreement amendment as attached with changes to project cost, funding and schedule.

Railroad contributions:
According to California Streets and Highways Code Section 2450 and Public Utilities Code (PUC) Section 1202.5 the railroads are to contribute up to ten percent of the project cost for projects with state funds. 23 US Code 130(b) indicates the railroads are to contribute up to five percent of the project cost for projects with federal funds.

While the railroads are required to make a contribution, often that percentage amount is not calculated on the entire cost of the project. Usually railroads only contribute their percentage to the portion of the project that goes directly over the train tracks or the ROW of the railroad. Typically, the five or ten percent of the total cost paid by the railroads equates to only three or seven percent of the total cost of the project.

All four projects are in the process of negotiation with the railroad on their contribution share. The amounts shown in the TCIF Baseline Agreement Amendments are current estimates subject to change according to the final construction and maintenance agreements with the railroad.

Financial Impact: This item is consistent with the approved SANBAG Fiscal Year 2012/2013 budget, Task No. 0881, 0869, 0874, 0876.

Reviewed By: This item was reviewed and unanimously recommended for approval by the Major Projects Committee on September 13, 2012. SANBAG General Counsel and Contract Administrator have reviewed this item and the contract amendments.

Responsible Staff: Andrea Zureick, Director, Fund Administration and Programming

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http://portal.sanbag.ca.gov/mgmt/APOR-Mgmnt/Shared%20Documents/C09021-01.docx
http://portal.sanbag.ca.gov/mgmt/APOR-Mgmnt/Shared%20Documents/c09020-02.docx
http://portal.sanbag.ca.gov/mgmt/APOR-Mgmnt/Shared%20Documents/C09016-02.docx
http://portal.sanbag.ca.gov/mgmt/APOR-Mgmnt/Shared%20Documents/C09018-01.docx

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CONTRACT SUMMARY SHEET

Contract No. C 09021 Amendment No. 01

By and Between

California Transportation Commission, Caltrans and City of San Bernardino

Contract Description Baseline agreement serves as a general scope/ benefit/ project sponsor agreement. Final funding contribution will be determined by co-op agreements for each phase.

Board of Director's Meeting Date: 10/3/2012

Overview of BOD Action: Approve Amendment #1 to TCIF Baseline Agreement for Palm Ave Road Grade Separation Project C09021-01

Is this a Sole-Source procurement? ☐ Yes ☐ No

CONTRACT OVERVIEW

Original Contract Amount	$	0	**Original Contingency Amount**	$	0
Revised Contract Amount *Inclusive of prior amendments*	$	0	**Revised Contingency Amount** *Inclusive of prior amendments*	$	0
Current Amendment Amount	$	0	**Contingency Amendment**	$	0
TOTAL CONTRACT VALUE	$	0	**TOTAL CONTINGENCY VALUE**	$	0
TOTAL BUDGET AUTHORITY *(contract value + contingency)*				$	0

Contract Start Date	**Current Contract Expiration Date**	**Revised Contract Expiration Date**
9/3/2008	6/30/2014	9/1/2015

Has the contract term been amended? ☐ No ☒ Yes - please explain.
Contract expiration date extended

FINANCIAL INFORMATION

☐ Budget authority for this contract currently exists in Task No. _____.
☐ A Budget Amendment is required.
How are we funding current FY? NA

☐ Federal Funds ☒ State Funds ☐ Local Funds ☐ TDA Funds ☐ Measure I Funds

*Provide Brief Overview of the **Overall** Funding for the duration of the Contract:*
NA- This is a scoping documents only
☐ Payable ☐ Receivable

CONTRACT MANAGEMENT INFORMATION

Check all applicable boxes:

☐ Retention? If yes, indicate % _____.
☐ Disadvantaged Business Enterprise (DBE) Goal _____ % ☐ Underutilized DBE (UDBE) Goal _____ %

Andrea Zureick Task Manager (Print Name)	Andrea Zureick Signature	9/6/12 Date
 Project Manager (Print Name)	PHILIP CHU Signature	9/5/12 Date
Jeffery Hill Contracts Manager (Print Name)	 Signature	9/6/12 Date
WILLIAM STAMPS Chief Financial Officer Signature (Print Name)	 Signature	9/7/12 Date

TRADE CORRIDORS IMPROVEMENT FUND
PROJECT BASELINE AGREEMENT AMENDMENT #1

On , with CTC Resolution TCIF , attached hereto for reference, the California Transportation Commission approved a TCIF Program Amendment to revise fund programming and project schedule of TCIF Project: the Palm Avenue Grade Separation Project.

The Project Baseline Agreement provision for the Palm Avenue Grade Separation Project, effective on September 1, 2008, made by and between the California Transportation Commission, the California Department of Transportation, the City of San Bernardino, and San Bernardino Associated Governments remains in effect except for the following sections:

4.1 Project Schedule and Cost
See Project Programming Request Form, attached as Exhibit A.

_____
California Department of Transportation
Malcolm Dougherty, Director

_____
California Transportation Commission
Bimla Rhinehart, Executive Director

_____
City of San Bernardino
Andrea Travis-Miller, Acting City Manager

_____
San Bernardino Associated Governments
Raymond Wolfe, Executive Director

APPROVED AS TO FORM:

_____
Eileen Monaghan Teichert, SANBAG General Counsel

C09021-01

Exhibit A

STATE OF CALIFORNIA • DEPARTMENT OF TRANSPORTATION

Print

PROJECT PROGRAMMING REQUEST

DTP-0001 (REV. 6/11)

General Instructions

☐ New Project	☑ Amendment (Existing Project)				Date: 05/10/12
District	EA	Project ID	PPNO	MPO ID	TCRP No.
8	925175L		1134	200850	

County	Route/Corridor	P.M. Bk	P.M. Ahd	Project Sponsor/Lead Agency	
SBD				San Bernardino Associated Governments (SANBAG)	
				MPO	Element
				SCAG	LA

Project Mgr/Contact	Phone	E-mail Address
Dennis Saylor	909-884-8276	dsaylor@sanbag.ca.gov

Project Title

ACE: Palm Avenue Railroad Grade Separation

Location, Project Limits, Description, Scope of Work, Legislative Description

Near the city of San Bernardino. Construct grade separation for BNSF/UPRR lines at Palm Avenue (TCIF 63).

Component	Implementing Agency	Reimbursements
PA&ED	San Bernardino Associated Governments (SANBAG)	
PS&E	San Bernardino Associated Governments (SANBAG)	
Right of Way	San Bernardino Associated Governments (SANBAG)	
Construction	San Bernardino Associated Governments (SANBAG)	

Legislative Districts

Assembly:	63	Senate:	32
Congressional:	43		

Purpose and Need

Palm Ave is a major east-west arterial that carries approximately 5,300 vehicles per day. The estimated 94 freight and two passenger trains that cross Palm Ave every day create substantial traffic delays and disrupt access to a developing industrial/warehouse area nearby. Separating the railroad crossing from Palm Ave will mitigate community impacts of goods movement and provide more reliable access to warehouse and truck facilities.

Project Benefits

Project Milestone	Existing	Proposed
Project Study Report Approved		
Begin Environmental (PA&ED) Phase	07/01/08	
Circulate Draft Environmental Document (Document Type: CE/CE)		NEPA CE
Draft Project Report	06/30/09	
End Environmental Phase (PA&ED Milestone)	12/30/09	07/31/11
Begin Design (PS&E) Phase	01/01/10	
End Design Phase (Ready to List for Advertisement Milestone)	06/30/12	01/15/13
Begin Right of Way Phase	07/01/10	09/24/11
End Right of Way Phase (Right of Way Certification Milestone)	06/30/12	01/15/13
Begin Construction Phase (Contract Award Milestone)	07/01/12	06/01/13
End Construction Phase (Construction Contract Acceptance Milestone)	12/30/13	06/30/15
Begin Closeout Phase	01/01/14	07/01/15
End Closeout Phase (Closeout Report)	06/30/14	09/01/15

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STATE OF CALIFORNIA • DEPARTMENT OF TRANSPORTATION

PROJECT PROGRAMMING REQUEST

DTP-0001 (REV. 6/11)

Date: 05/10/12

District	County	Route	EA	Project ID	PPNO	TCRP No.
8	SBD		925175L		1134	

Project Title: ACE Palm Avenue Railroad Grade Separation

Existing Total Project Cost

Component	Prior	10/11	11/12	12/13	13/14	14/15	15/16+	Total	Implementing Agency
E&P (PA&ED)	750							750	San Bernardino Associated
PS&E	2,000							2,000	San Bernardino Associated
R/W SUP (CT)									
CON SUP (CT)									
R/W	1,126							1,126	San Bernardino Associated
CON			31,300					31,300	San Bernardino Associated
TOTAL	3,876		31,300					35,176	

Proposed Total Project Cost

E&P (PA&ED)	774							774	
PS&E		2,024						2,024	
R/W SUP (CT)									
CON SUP (CT)									
R/W			8,320					8,320	
CON				15,280				15,280	
TOTAL	774	2,024	8,320	15,280				26,398	

Fund No. 1: State Bond - Trade Corridor Program (TCIF) — **Program Code:** 20.XX.723.000

Existing Funding

Component	Prior	10/11	11/12	12/13	13/14	14/15	15/16+	Total	Funding Agency
E&P (PA&ED)									Caltrans
PS&E									
R/W SUP (CT)									
CON SUP (CT)									
R/W									
CON			9,390					9,390	
TOTAL			9,390					9,390	

Proposed Funding

									Notes
E&P (PA&ED)									
PS&E									
R/W SUP (CT)									
CON SUP (CT)									
R/W									
CON				4,560				4,560	
TOTAL				4,560				4,560	

Fund No. 2: Local Funds - Developer Fees (DEV) — **Program Code:** 20.10.400.100

Existing Funding

Component	Prior	10/11	11/12	12/13	13/14	14/15	15/16+	Total	Funding Agency
E&P (PA&ED)									San Bernardino Associated Gov
PS&E									
R/W SUP (CT)									
CON SUP (CT)									
R/W									
CON			5,136					5,136	
TOTAL			5,136					5,136	

Proposed Funding

									Notes
E&P (PA&ED)	113							113	
PS&E		296						296	
R/W SUP (CT)									
CON SUP (CT)									
R/W			1,215					1,215	
CON				1,917				1,917	
TOTAL	113	296	1,215	1,917				3,541	

Fund No. 3:	Local Funds - Local Measure (MEA)								Program Code
Existing Funding									20.10.400.100
Component	Prior	10/11	11/12	12/13	13/14	14/15	15/16+	T ta	Funding Agency
E&P (PA&ED)	750							750	San Bernardino Associated Gov
PS&E	2,000							2,000	
R/W SUP (CT)									
CON SUP (CT)									
R/W	1,126							1,126	
CON			16,774					16,774	
TOTAL	3,876		16,774					20,650	
Proposed Funding									Notes
E&P (PA&ED)	661							661	
PS&E		1,728						1,728	
R/W SUP (CT)									
CON SUP (CT)									
R/W			2,805					2,805	
CON				3,289				3,289	
TOTAL	661	1,728	2,805	3,289				8,483	

Fund No. 4:	Congestion Management Air Quality (CMAQ)								Program Code
Existing Funding									
Component	Prior	10/11	11/12	12/13	13/14	14/15	15/16+	Total	Funding Agency
E&P (PA&ED)									SANBAG
PS&E									SANBAG CMAQ
R/W SUP (CT)									
CON SUP (CT)									
R/W									
CON									
TOTAL									
Proposed Funding									Notes
E&P (PA&ED)									
PS&E									
R/W SUP (CT)									
CON SUP (CT)									
R/W			4,300					4,300	
CON									
TOTAL			4,300					4,300	

Fund No. 5:	BNSF RR Contribution								Program Code
Existing Funding									
Component	Prior	10/11	11/12	12/13	13/14	14/15	15/16+	Total	Funding Agency
E&P (PA&ED)									BNSF Private
PS&E									
R/W SUP (CT)									
CON SUP (CT)									
R/W									
CON									
TOTAL									
Proposed Funding									Notes
E&P (PA&ED)									
PS&E									
R/W SUP (CT)									
CON SUP (CT)									
R/W									
CON				550				550	
TOTAL				550				550	

Fund No. 6:	SAFETEA-LU DEMO								Program Code
Existing Funding									
Component	Prior	10/11	11/12	12/13	13/14	14/15	15/16+	Total	Funding Agency
E&P (PA&ED)									
PS&E									Federal Demo Fund SAFETEALU
R/W SUP (CT)									
CON SUP (CT)									
R/W									
CON									
TOTAL									
Proposed Funding									Notes
E&P (PA&ED)									
PS&E									
R/W SUP (CT)									
CON SUP (CT)									
R/W									
CON				1,600				1,600	
TOTAL				1,600				1,600	

Fund No. 7:	PNRS								Program Code
Existing Funding									
Component	Prior	10/11	11/12	12/13	13/14	14/15	15/16+	Total	Funding Agency
E&P (PA&ED)									
PS&E									
R/W SUP (CT)									
CON SUP (CT)									
R/W									
CON									
TOTAL									
Proposed Funding									Notes
E&P (PA&ED)									PNRS savings from Hunts Lane
PS&E									
R/W SUP (CT)									
CON SUP (CT)									
R/W									
CON				3,364				3,364	
TOTAL				3,364				3,364	

Governments SANBAG Working Together

CONTRACT SUMMARY SHEET

Contract No. C 09020 Amendment No. 02

By and Between

California Transportation Commission, Caltrans and County of San Bernardino

Contract Description Baseline agreement serves as a general scope/ benefit/ project sponsor agreement. Final funding contribution will be determined by co-op agreements for each phase.

Board of Director's Meeting Date: 10/3/2012

Overview of BOD Action: Approve Amendment #2 to TCIF Baseline Agreement for Glen Helen Parkway Grade Separation Project C09020-02

Is this a Sole-Source procurement? ☐ Yes ☐ No

CONTRACT OVERVIEW

Original Contract Amount	$	0	**Original Contingency Amount**	$	0
Revised Contract Amount *Inclusive of prior amendments*	$	0	**Revised Contingency Amount** *Inclusive of prior amendments*	$	0
Current Amendment Amount	$	0	**Contingency Amendment**	$	0
TOTAL CONTRACT VALUE	$	0	**TOTAL CONTINGENCY VALUE**	$	0
TOTAL BUDGET AUTHORITY *(contract value + contingency)*				$	0

Contract Start Date	Current Contract Expiration Date	Revised Contract Expiration Date
9/3/2008	3/1/2014	3/11/2016

Has the contract term been amended? ☐ No ☒ Yes - please explain.
Contract expiration date extended

FINANCIAL INFORMATION

☐ Budget authority for this contract currently exists in Task No. _____.
☐ A Budget Amendment is required.
How are we funding current FY? NA

☐ Federal Funds ☒ State Funds ☐ Local Funds ☐ TDA Funds ☐ Measure I Funds

*Provide Brief Overview of the **Overall** Funding for the duration of the Contract:*
NA- This is a scoping documents only
☐ Payable ☐ Receivable

CONTRACT MANAGEMENT INFORMATION

Check all applicable boxes:
☐ Retention? If yes, indicate % _____.
☐ Disadvantaged Business Enterprise (DBE) Goal _____ % ☐ Underutilized DBE (UDBE) Goal _____ %

Andrea Zureick Task Manager (Print Name)	Andrea Zureick Signature	9/6/12 Date
PHILIP CHU Project Manager (Print Name)	Signature	9/5/12 Date
Jeffery Hill Contracts Manager (Print Name)	Signature	Date
WILLIAM STAWARSKI **Chief Financial Officer Signature (Print Name)**	Signature	9/7/12 Date

TRADE CORRIDORS IMPROVEMENT FUND
PROJECT BASELINE AGREEMENT AMENDMENT #2

On , with CTC Resolution TCIF , attached hereto for reference, the California Transportation Commission approved a TCIF Program Amendment to revise fund programming and project schedule of TCIF Project: the Glen Helen Parkway Grade Separation Project.

The Project Baseline Agreement provision for the Glen Helen Parkway Grade Separation Project, effective on September 1, 2008 made by and between the California Transportation Commission, the California Department of Transportation, the County of San Bernardino, and San Bernardino Associated Governments remains in effect except for the following sections:

4.1 Project Schedule and Cost
See Project Programming Request Form, attached as Exhibit A.

_____
California Department of Transportation
Malcolm Dougherty, Director

_____
California Transportation Commission
Bimla Rhinehart, Executive Director

_____
County of San Bernardino
Josie Gonzales, Board of Supervisors Chair

_____
San Bernardino Associated Governments
Raymond Wolfe, Executive Director

APPROVED AS TO FORM:

_____
Eileen Monaghan Teichert, SANBAG General Counsel

Exhibit A

2008 Project Programming Request

(Project Information)

General Instructions

☐ New Project	☑ Amendment (Existing Project)			Date: 08/20/12
Caltrans District	EA	PPNO	MPO ID	TCRP No.
08			200806	N/A

County	Route/Corridor	Project Sponsor/Lead Agency	MPO	Element
SBD		SANBAG	SCAG	MT

Project Title

Glen Helen Pkwy Railroad Grade Separation

PM Bk	PM Ahd	Project Mgr/Contact	Phone	E-mail Address
		Chris Saed	909-387-7877	csaed@dpw.sbcounty.gov

Location, Project Limits, Description, Scope of Work, Legislative Description

In the County of San Bernardino, on Glen Helen Pkwy at UPRR and BNSF, construct grade separation (highway over rail).

Component	Implementing Agency	AB 3090	Letter of No Prejudice
PA&ED	County of San Bernardino	☐	☐
PS&E	County of San Bernardino	☐	☐
Right of Way	County of San Bernardino	☐	☐
Construction	County of San Bernardino	☐	☐

Legislative Districts

Assembly:	63	Senate:	31, 32
Congressional:	26, 43		

Purpose and Need:

Glen Helen Pkwy connects I-15 and I-215 and carries approximately 5,600 vehicles per day, although that substantially increase during special events at Glen Helen Regional Park and San Manuel Amphitheater (formerly Hyundai Pavilion), which holds 65,000 people. In addition, it is a detour alternative to the Devore Interchange during construciton or emergencies. The estimated 94 freight and two passenger trains that cross Glen Helen Pkwy every day create substanital traffic delays and and provide a physical impediment to passenger and truck mobility in this developing area. Separating the railroad crossing from Glen Helen Pkwy will mitigate community impacts of goods movement.

Project Benefits:

Railroad grade separations increase travel reliability on major roadways for both the community and truck traffic, improve air quality, and eliminate potential conflicts between vehicular and train traffic, which all act to mitigate the impact of freight movement on communities. This grade separation will eliminate gate down time totaling 6.6 hours per day in 2030 and is estimated to reduce 371 daily vehicle hours of delay in 2030.

Project Milestone		Date	
Project Study Report Approved		N/A	
Begin Environmental (PA&ED) Phase		06/01/06	
Circulate Draft Environmental Document	Document Type: N/A	CEQA SE	
Draft Project Report		06/30/08	
End Environmental Phase (PA&ED Milestone)		04/19/10	
Begin Design (PS&E) Phase		04/01/09	
End Design Phase (Ready to List for Advertisement Milestone)		~~01/31/12~~	10/01/2012
Begin Right of Way Phase		04/20/10	
End Right of Way Phase (Right of Way Certification Milestone)		~~01/31/12~~	11/15/2012
Begin Construction Phase (Contract Award Milestone)		~~04/01/12~~	04/05/2013
End Construction Phase (Construction Contract Acceptance Milestone)		~~09/01/13~~	08/22/2014
Begin Closeout Phase		~~09/02/13~~	11/23/2015
End Closeout Phase (Closeout Report)		~~03/01/14~~	03/11/2016

2008 Project Programming Request

(Funding Information)

(dollars in thousands and escalated to the programmed year)

Date: 08/20/12

County	CT District	PPNO	TCRP Project No.	EA
SBD	08	0	N/A	0

Project Title: Glen Helen Pkwy Railroad Grade Separation

Existing Total Project Cost									
Component	Prior	08/09	09/10	10/11	11/12	12/13	13/14+	Total	Implementing Agency
E&P (PA&ED)	0	0	0	0	0	0	0	0	
PS&E	2,650	0	0	0	0	0	0	2,650	
R/W SUP (CT)	0	0	0	0	0	0	0	0	
CON SUP (CT)	0	0	0	0	0	0	0	0	
R/W	0	0	5,700	0	0	0	0	5,700	
CON	0	0	0	0	21,218	0	0	21,218	
TOTAL	2,650	0	5,700	0	21,218	0	0	29,568	
Proposed Total Project Cost									
E&P (PA&ED)	0	0	0	0	0	0	0	0	
PS&E	2,650	0	0	0	0	0	0	2,650	
R/W SUP (CT)	0	0	0	0	0	0	0	0	
CON SUP (CT)	0	0	0	0	0	0	0	0	
R/W	0	0	6,400	0	0	0	0	6,400	
CON	0	0	0	0	0	16,835	0	16,835	
TOTAL	2,650	0	6,400	0	0	16,835	0	25,885	

Fund No. 1: TCIF — **Program Code**

Existing Funding									
Component	Prior	08/09	09/10	10/11	11/12	12/13	13/14+	Total	Funding Agency
E&P (PA&ED)	0	0	0	0	0	0	0	0	
PS&E	0	0	0	0	0	0	0	0	
R/W SUP (CT)	0	0	0	0	0	0	0	0	
CON SUP (CT)	0	0	0	0	0	0	0	0	
R/W	0	0	0	0	0	0	0	0	
CON	0	0	0	0	7,172	0	0	7,172	
TOTAL	0	0	0	0	7,172	0	0	7,172	
Proposed Funding									**Notes**
E&P (PA&ED)								0	Construction moved to FY 12/13
PS&E								0	
R/W SUP (CT)								0	
CON SUP (CT)								0	
R/W								0	
CON						7,172		7,172	
TOTAL	0	0	0	0	0	7,172	0	7,172	

Fund No. 2: Development Impact fee — **Program Code**

Existing Funding									
Component	Prior	08/09	09/10	10/11	11/12	12/13	13/14+	Total	Funding Agency
E&P (PA&ED)	0	0	0	0	0	0	0	0	
PS&E	0	0	0	0	0	0	0	0	
R/W SUP (CT)	0	0	0	0	0	0	0	0	
CON SUP (CT)	0	0	0	0	0	0	0	0	
R/W	0	0	1,585	0	0	0	0	1,585	
CON	0	0		0	7,469	0	0	7,469	
TOTAL	0	0	1,585	0	7,469	0	0	9,054	
Proposed Funding									**Notes**
E&P (PA&ED)								0	
PS&E	737							737	
R/W SUP (CT)								0	
CON SUP (CT)								0	
R/W			1,779					1,779	
CON						4,104		4,104	
TOTAL	737	0	1,779	0	0	4,104	0	6,620	

Fund No. 3:	SANBAG Measure I							Program Code
Existing Funding								
Component	Prior	08/09	09/10	10/11	11/12	12/13	13/14+	Total	Funding Agency
E&P (PA&ED)	0	0	0	0	0	0	0	0	
PS&E	2,650	0	0	0	0	0	0	2,650	
R/W SUP (CT)	0	0	0	0	0	0	0	0	
CON SUP (CT)	0	0	0	0	0	0	0	0	
R/W	0	0	4,115	0	0	0	0	4,115	
CON	0	0	0	0	6,577	0	0	6,577	
TOTAL	2,650	0	4,115	0	6,577	0	0	13,342	
Proposed Funding									Notes
E&P (PA&ED)								0	
PS&E	1,913							1,913	
R/W SUP (CT)								0	
CON SUP (CT)								0	
R/W			4,621					4,621	
CON						3,489		3,489	
TOTAL	1,913	0	4,621	0	0	3,489	0	10,023	

Fund No. 4:	Railroad - BNSF RR							Program Code
Existing Funding								
Component	Prior	08/09	09/10	10/11	11/12	12/13	13/14+	Total	Funding Agency
E&P (PA&ED)	0	0	0	0	0	0	0	0	
PS&E	0	0	0	0	0	0	0	0	
R/W SUP (CT)	0	0	0	0	0	0	0	0	
CON SUP (CT)	0	0	0	0	0	0	0	0	
R/W	0	0	0	0	0	0	0	0	
CON	0	0	0	0	0	0	0	0	
TOTAL	0	0	0	0	0	0	0	0	
Proposed Funding									Notes
E&P (PA&ED)								0	RR-BNSF
PS&E								0	
R/W SUP (CT)								0	
CON SUP (CT)								0	
R/W								0	
CON						2,070		2,070	
TOTAL	0	0	0	0	0	2,070	0	2,070	

Governments SANBAG Working Together

CONTRACT SUMMARY SHEET

Contract No. C 09016 Amendment No. 02

By and Between

California Transportation Commission, Caltrans and City of Ontario

Contract Description Baseline agreement serves as a general scope/benefit/project sponsor agreement. Final funding contribution will be determined by co-op agreements for each phase.

Board of Director's Meeting Date: 10/3/2012

Overview of BOD Action: Approve Amendment #2 to TCIF Baseline Agreement for South Milliken Avenue Road Grade Separation Project C09016-02

Is this a Sole-Source procurement? ☐ Yes ☐ No

CONTRACT OVERVIEW

Original Contract Amount	$	0	**Original Contingency Amount**	$	0
Revised Contract Amount *Inclusive of prior amendments*	$	0	**Revised Contingency Amount** *Inclusive of prior amendments*	$	0
Current Amendment Amount	$	0	**Contingency Amendment**	$	0
TOTAL CONTRACT VALUE	$	0	**TOTAL CONTINGENCY VALUE**	$	0
TOTAL BUDGET AUTHORITY *(contract value + contingency)*				$	0

Contract Start Date	Current Contract Expiration Date	Revised Contract Expiration Date
9/3/2008	5/1/2016	9/1/2016

Has the contract term been amended? ☐ No ☒ Yes - please explain.
Contract expiration date extended

FINANCIAL INFORMATION

☐ Budget authority for this contract currently exists in Task No. _____.
☐ A Budget Amendment is required.
How are we funding current FY? NA

☐ Federal Funds ☒ State Funds ☐ Local Funds ☐ TDA Funds ☐ Measure I Funds

*Provide Brief Overview of the **Overall** Funding for the duration of the Contract:*
NA- this is a scoping document only
☐ Payable ☐ Receivable

CONTRACT MANAGEMENT INFORMATION

Check all applicable boxes:

☐ Retention? If yes, indicate % _____.
☐ Disadvantaged Business Enterprise (DBE) Goal _____ % ☐ Underutilized DBE (UDBE) Goal _____ %

Andrea Zureick Task Manager (Print Name)	Andrea Zureick Signature	9/6/12 Date
PHILIP CHU Project Manager (Print Name)	Signature	9/5/12 Date
Jeffery Hill Contracts Manager (Print Name)	Signature	9/6/12 Date
WILLIAM STAWARSKI Chief Financial Officer Signature (Print Name)	Signature	9/7/12 Date

TRADE CORRIDORS IMPROVEMENT FUND
PROJECT BASELINE AGREEMENT AMENDMENT #2

On , with CTC Resolution TCIF , attached hereto for reference, the California Transportation Commission approved a TCIF Program Amendment to revise fund programming and project schedule of TCIF Project: the South Milliken Avenue Grade Separation Project.

The Project Baseline Agreement provision for the South Milliken Avenue Grade Separation Project, effective on September 1, 2008, made by and between the California Transportation Commission, the California Department of Transportation, the City of Ontario, and San Bernardino Associated Governments remains in effect except for the following sections:

4.1 Project Schedule and Cost
See Project Programming Request Form, attached as Exhibit A.

_____
California Department of Transportation
Malcolm Dougherty, Director

_____
California Transportation Commission
Bimla Rhinehart, Executive Director

_____
City of Ontario
Chris Hughes, City Manager

_____
San Bernardino Associated Governments
Raymond Wolfe, Executive Director

APPROVED AS TO FORM:

_____
Eileen Monaghan Teichert, SANBAG General Counsel

C09016-02

Exhibit A

2008 Project Programming Request

(Project Information)

Caltrans

General Instructions

☐ New Project	☑ Amendment (Existing Project)			Date: 06/07/12
Caltrans District	EA	PPNO	MPO ID	TCRP No
08			200405	

County	Route/Corridor	Project Sponsor/Lead Agency	MPO	Element
SBD		City of Ontario	SCAG	MT

Project Title

South Milliken Ave Railroad Grade Separation at UP/Los Angeles

PM Bk	PM Ahd	Project Mgr/Contact	Phone	E-mail Address
		Tom Danna	909-395-2387	tdanna@ci.ontario.ca.us

Location, Project Limits, Description, Scope of Work, Legislative Description

In the City of Ontario along Alameda Corridor East, on Milliken Ave at UP/Los Angeles immediately north of Mission Blvd, construct grade separation.

Component	Implementing Agency	AB 3090	Letter of No Prejudice
PA&ED	Ontario	☐	☐
PS&E	Ontario	☐	☐
Right of Way	Ontario	☐	☐
Construction	Ontario	☐	☐

Legislative Districts

Assembly:	61, 71	**Senate:**	31, 32
Congressional:	43, 44		

Purpose and Need

Milliken Ave is a north/south corridor east of Los Angeles/Ontario International Airport (ONT) running from SR-60 to I-10 and provides access to and from ONT (for both passenger traffic and cargo-related uses), and to Ontario's Foreign Trade Zone No. 50-1 (an extension of the Port of Long Beach's FTZ N0. 50). It carries an estimated 19,500 vehicles per day (43,000 vpd by 2030), and heavy duty trucks are estimated to comprise 20 percent of daily traffic. Separating the railroad crossing from Milliken Ave, which is a key location along the Alameda Corridor East, will mitigate community impacts of goods movement and provide more reliable truck access to the logistics complex and the air cargo facilities at ONT.

Project Benefits

Railroad grade separations increase travel reliability on major roadways for both the community and truck traffic, improve air quality, and eliminate potential conflicts between vehicular and train traffic, which all act to mitigate the impact of freight movement on communities. This grade separation will eliminate gate down time totaling 2 hours per day in 2030 and is estimated to reduce 131 daily vehicle hours of delay in 2030.

Project Milestone			Date	
Project Study Report Approved			N/A	
Begin Environmental (PA&ED) Phase			07/01/08	
Circulate Draft Environmental Document	Document Type	N/A	CEQA SE	
Draft Project Report			07/01/09	
End Environmental Phase (PA&ED Milestone)			~~06/15/10~~	06/25/2010
Begin Design (PS&E) Phase			~~06/16/10~~	06/16/2010
End Design Phase (Ready to List for Advertisement Milestone)			~~02/01/12~~	03/07/2013
Begin Right of Way Phase			~~01/31/11~~	07/01/2011
End Right of Way Phase (Right of Way Certification Milestone)			~~01/31/13~~	03/07/2013
Begin Construction Phase (Contract Award Milestone)			~~04/01/13~~	07/18/2013
End Construction Phase (Construction Contract Acceptance Milestone)			~~10/01/15~~	01/01/2016
Begin Closeout Phase			~~11/01/15~~	02/01/2016
End Closeout Phase (Closeout Report)			~~05/01/16~~	09/01/2016

2008 Project Programming Request

(Funding Information)

Caltrans

(dollars in thousands and escalated to the programmed year) Date: 06/07/12

County	CT District	PPNO	TCRP Project No.	EA
SBD	08	0	0	0

Project Title: South Milliken Ave Railroad Grade Separation at UP/Los Angeles

Existing Total Project Cost									Implementing Agency
Component	Prior	08/09	09/10	10/11	11/12	12/13	13/14+	Total	
E&P (PA&ED)	750	0	0	0	0	0	0	750	
PS&E	0	0	0	4,196	0	0	0	4,196	
R/W SUP (CT)	0	0	0	0	0	0	0	0	
CON SUP (CT)	0	0	0	0	0	0	0	0	
R/W	0	0	0	7,309	0	0	0	7,309	
CON	0	0	0	0	0	66,970	0	66,970	
TOTAL	750	0	0	11,504	0	66,970	0	79,224	
Proposed Total Project Cost									
E&P (PA&ED)	750	0	0	0	0	0	0	750	
PS&E	0	0	0	4,745	0	0	0	4,745	
R/W SUP (CT)	0	0	0	0	0	0	0	0	
CON SUP (CT)	0	0	0	0	0	0	0	0	
R/W	0	0	0	0	5,221	0	0	5,221	
CON	0	0	0	0	0	66,100	0	66,100	
TOTAL	750	0	0	4,745	5,221	66,100	0	76,816	

Fund No. 1:	TCIF								Program Code
Existing Funding									
Component	Prior	08/09	09/10	10/11	11/12	12/13	13/14+	Total	Funding Agency
E&P (PA&ED)	0	0	0	0	0	0	0	0	
PS&E	0	0	0	0	0	0	0	0	$6.49m from N Milliken
R/W SUP (CT)	0	0	0	0	0	0	0	0	
CON SUP (CT)	0	0	0	0	0	0	0	0	
R/W	0	0	0	0	0	0	0	0	
CON	0	0	0	0	0	14,521	0	14,521	
TOTAL	0	0	0	0	0	14,521	0	14,521	
Proposed Funding									Notes
E&P (PA&ED)								0	
PS&E								0	
R/W SUP (CT)								0	
CON SUP (CT)								0	
R/W								0	
CON						14,521		14,521	
TOTAL	0	0	0	0	0	14,521	0	14,521	

Fund No. 2:	Developer Impact Fees (Local)								Program Code
Existing Funding									
Component	Prior	08/09	09/10	10/11	11/12	12/13	13/14+	Total	Funding Agency
E&P (PA&ED)	0	0	0	0	0	0	0	0	
PS&E	0	0	0	889	0	0	0	889	
R/W SUP (CT)	0	0	0	0	0	0	0	0	
CON SUP (CT)	0	0	0	0	0	0	0	0	
R/W	0	0	0	1,462	0	0	0	1,462	
CON	0	0	0	0	0	13,549	0	13,549	
TOTAL	0	0	0	2,301	0	13,549	0	15,850	
Proposed Funding									Notes
E&P (PA&ED)	250							250	
PS&E				949				949	
R/W SUP (CT)								0	
CON SUP (CT)								0	
R/W					1,044			1,044	
CON						12,433		12,433	
TOTAL	250	0	0	949	1,044	12,433	0	14,676	

Fund No. 3:	SANBAG Measure I (Local)								Program Code
	Existing Funding								
Component	Prior	08/09	09/10	10/11	11/12	12/13	13/14+	Total	Funding Agency
E&P (PA&ED)	750	0	0	0	0	0	0	750	
PS&E	0	0	0	3,356	0	0	0	3,356	
R/W SUP (CT)	0	0	0	0	0	0	0	0	
CON SUP (CT)	0	0	0	0	0	0	0	0	
R/W	0	0	0	5,847	0	0	0	5,847	
CON	0	0	0	0	0	38,900	0	38,900	
TOTAL	750	0	0	9,203	0	38,900	0	48,863	
	Proposed Funding								Notes
E&P (PA&ED)	500							500	
PS&E				3,796				3,796	
R/W SUP (CT)								0	
CON SUP (CT)								0	
R/W					4,177			4,177	
CON						17,656		17,656	
TOTAL	500	0	0	3,796	4,177	17,656	0	26,129	

Fund No. 4:	Prop 1B SLPP-SBD Formula Share								Program Code
	Existing Funding								
Component	Prior	08/09	09/10	10/11	11/12	12/13	13/14+	Total	Funding Agency
E&P (PA&ED)	0	0	0	0	0	0	0	0	
PS&E	0	0	0	0	0	0	0	0	
R/W SUP (CT)	0	0	0	0	0	0	0	0	
CON SUP (CT)	0	0	0	0	0	0	0	0	
R/W	0	0	0	0	0	0	0	0	
CON	0	0	0	0	0	0	0	0	
TOTAL	0	0	0	0	0	0	0	0	
	Proposed Funding								Notes
E&P (PA&ED)								0	Prop 1B SLPP SBD Share
PS&E								0	
R/W SUP (CT)								0	
CON SUP (CT)								0	
R/W								0	
CON						17,655		17,655	
TOTAL	0	0	0	0	0	17,655	0	17,655	

Fund No. 5:	Railroad - UPRR (Private)								Program Code
	Existing Funding								
Component	Prior	08/09	09/10	10/11	11/12	12/13	13/14+	Total	Funding Agency
E&P (PA&ED)	0	0	0	0	0	0	0	0	
PS&E	0	0	0	0	0	0	0	0	
R/W SUP (CT)	0	0	0	0	0	0	0	0	
CON SUP (CT)	0	0	0	0	0	0	0	0	
R/W	0	0	0	0	0	0	0	0	
CON	0	0	0	0	0	0	0	0	
TOTAL	0	0	0	0	0	0	0	0	
	Proposed Funding								Notes
E&P (PA&ED)								0	UPRR
PS&E								0	
R/W SUP (CT)								0	
CON SUP (CT)								0	
R/W								0	
CON						3,835		3,835	
TOTAL	0	0	0	0	0	3,835	0	3,835	

Governments SANBAG Working Together

CONTRACT SUMMARY SHEET

Contract No. C 09018 Amendment No. 01

By and Between

California Transportation Commission, Caltrans and City of Ontario

Contract Description Baseline agreement serves as a general scope/ benefit/ project sponsor agreement. Final funding contribution will be determined by co-op agreements for each phase.

Board of Director's Meeting Date: 10/3/2012

Overview of BOD Action: Approve Amendment #1 to TCIF Baseline Agreement for Vineyard Road Grade Separation Project C09018-01

Is this a Sole-Source procurement? ☐ **Yes** ☐ **No**

CONTRACT OVERVIEW

Original Contract Amount	$	0	**Original Contingency Amount**	$	0
Revised Contract Amount *Inclusive of prior amendments*	$	0	**Revised Contingency Amount** *Inclusive of prior amendments*	$	0
Current Amendment Amount	$	0	**Contingency Amendment**	$	0
TOTAL CONTRACT VALUE	$	0	**TOTAL CONTINGENCY VALUE**	$	0
TOTAL BUDGET AUTHORITY *(contract value + contingency)*				$	0

Contract Start Date	**Current Contract Expiration Date**	**Revised Contract Expiration Date**
9/3/2008	4/30/2015	9/1/2015

Has the contract term been amended? ☐ No ☒ Yes - please explain.
Contract expiration date extended

FINANCIAL INFORMATION

☐ Budget authority for this contract currently exists in Task No. _____.
☐ A Budget Amendment is required.
How are we funding current FY? NA

☐ Federal Funds ☒ State Funds ☐ Local Funds ☐ TDA Funds ☐ Measure I Funds

*Provide Brief Overview of the **Overall** Funding for the duration of the Contract:*
NA- this is a scoping document only

☐ Payable ☐ Receivable

CONTRACT MANAGEMENT INFORMATION

Check all applicable boxes:

☐ Retention? If yes, indicate % _____.
☐ Disadvantaged Business Enterprise (DBE) Goal _____ % ☐ Underutilized DBE (UDBE) Goal _____ %

Andrea Zureick Task Manager (Print Name)	Andrea Zureick Signature	9/6/12 Date
PHILIP CHU. Project Manager (Print Name)	Signature	9/5/12 Date
Jeffery Hill Contracts Manager (Print Name)	Signature	9/6/12 Date
WILLIAM STAWARSKI Chief Financial Officer Signature (Print Name)	Signature	9/7/12 Date

TRADE CORRIDORS IMPROVEMENT FUND
PROJECT BASELINE AGREEMENT AMENDMENT #1

On , with CTC Resolution TCIF , attached hereto for reference, the California Transportation Commission approved a TCIF Program Amendment to revise fund programming and project schedule of TCIF Project: the Vineyard Avenue Grade Separation Project.

The Project Baseline Agreement provision for the Vineyard Avenue Grade Separation Project, effective on September 1, 2008, made by and between the California Transportation Commission, the California Department of Transportation, the City of Ontario, and San Bernardino Associated Governments remains in effect except for the following sections:

4.1 Project Schedule and Cost
See Project Programming Request Form, attached as Exhibit A.

_____
California Department of Transportation
Malcolm Dougherty, Director

_____
California Transportation Commission
Bimla Rhinehart, Executive Director

_____
City of Ontario
Chris Hughes, City Manager

_____
San Bernardino Associated Governments
Raymond Wolfe, Executive Director

APPROVED AS TO FORM:

_____
Eileen Monaghan Teichert, SANBAG General Counsel

C09018-01

Exhibit A

2008 Project Programming Request

(Project Information)

General Instructions

☐ New Project	☑ Amendment (Existing Project)			Date: 06/07/12
Caltrans District	EA	PPNO	MPO ID	TCRP No.
08			200849	

County	Route/Corridor	Project Sponsor/Lead Agency	MPO	Element
SBD		City of Ontario	SCAG	MT

Project Title

Vineyard Ave Railroad Grade Separation at UP/Alhambra

PM Bk	PM Ahd	Project Mgr/Contact	Phone	E-mail Address
		Tom Danna	909-395-2387	tdanna@ci.ontario.ca.us

Location, Project Limits, Description, Scope of Work, Legislative Description

In the City of Ontario along Alameda Corridor East, on Vineyard Ave at UP/Alhambra immediately south of Holt Blvd, construct grade separation.

Component	Implementing Agency	AB 3090	Letter of No Prejudice
PA&ED	Ontario	☐	☐
PS&E	Ontario	☐	☐
Right of Way	Ontario	☐	☐
Construction	Ontario	☐	☐

Legislative Districts

Assembly:	61	Senate:	32
Congressional:	43		

Purpose and Need

Vineyard Ave is a north/south corridor north of Los Angeles/Ontario International Airport (ONT) running from I-10 to ONT and to Ontario's Foreign Trade Zone No. 50-1 (an extension of the Port of Long Beach's FTZ NO. 50). It carries an estimated 11,400 vehicles per day (25,200 vpd by 2030), and heavy duty trucks are estimated to comprise 20 percent of daily traffic. Separating the railroad crossing from Vineyard Ave, which is a key location along the Alameda Corridor East, will mitigate community impacts of goods movement and provide more reliable truck access to the logistics complex and the air cargo facilities at ONT.

Project Benefits

Railroad grade separations increase travel reliability on major roadways for both the community and truck traffic, improve air quality, and eliminate potential conflicts between vehicular and train traffic, which all act to mitigate the impact of freight movement on communities. This grade separation will eliminate gate down time totaling 2.4 hours per day in 2030 and is estimated to reduce 98 daily vehicle hours of delay in 2030.

Project Milestone			Date	
Project Study Report Approved			N/A	
Begin Environmental (PA&ED) Phase			07/01/08	
Circulate Draft Environmental Document	Document Type	N/A	CEQA SE	
Draft Project Report			~~01/01/09~~	07/01/2009
End Environmental Phase (PA&ED Milestone)			~~12/31/09~~	06/15/2010
Begin Design (PS&E) Phase			~~01/01/10~~	06/16/2010
End Design Phase (Ready to List for Advertisement Milestone)			~~12/31/11~~	03/07/2013
Begin Right of Way Phase			~~01/01/10~~	07/01/2011
End Right of Way Phase (Right of Way Certification Milestone)			~~06/30/12~~	03/07/2013
Begin Construction Phase (Contract Award Milestone)			~~12/01/12~~	07/18/2013
End Construction Phase (Construction Contract Acceptance Milestone)			~~12/31/14~~	02/01/2015
Begin Closeout Phase			~~01/01/15~~	03/01/2015
End Closeout Phase (Closeout Report)			~~04/30/15~~	09/01/2015

2008 Project Programming Request

(Funding Information)

Caltrans

(dollars in thousands and escalated to the programmed year) Date: 06/07/12

County	CT District	PPNO	TCRP Project No.	EA
SBD	08	0	0	0

Project Title: Vineyard Ave Railroad Grade Separation at UP/Alhambra

Existing Total Project Cost									Implementing Agency
Component	Prior	08/09	09/10	10/11	11/12	12/13	13/14+	Total	
E&P (PA&ED)	750	0	0	0	0	0	0	750	
PS&E	0	0	2,000	0	0	0	0	2,000	
R/W SUP (CT)	0	0	0	0	0	0	0	0	
CON SUP (CT)	0	0	0	0	0	0	0	0	
R/W	0	0	8,402	0	0	0	0	8,402	
CON	0	0	0	0	0	32,637	0	32,637	
TOTAL	750	0	10,402	0	0	32,637	0	43,789	
Proposed Total Project Cost									
E&P (PA&ED)	750	0	0	0	0	0	0	750	
PS&E	0	0	3,045	0	0	0	0	3,045	
R/W SUP (CT)	0	0	0	0	0	0	0	0	
CON SUP (CT)	0	0	0	0	0	0	0	0	
R/W	0	0	0	0	600	0	0	600	
CON	0	0	0	0	0	47,400	0	47,400	
TOTAL	750	0	3,045	0	600	47,400	0	51,795	

Fund No. 1:	Trade Corridor Improvement Funds (TCIF)								Program Code
Existing Funding									
Component	Prior	08/09	09/10	10/11	11/12	12/13	13/14+	Total	Funding Agency
E&P (PA&ED)	0	0	0	0	0	0	0	0	
PS&E	0	0	0	0	0	0	0	0	
R/W SUP (CT)	0	0	0	0	0	0	0	0	
CON SUP (CT)	0	0	0	0	0	0	0	0	
R/W	0	0	0	0	0	0	0	0	
CON	0	0	0	0	0	6,884	0	6,884	
TOTAL	0	0	0	0	0	6,884	0	6,884	
Proposed Funding									Notes
E&P (PA&ED)								0	
PS&E								0	
R/W SUP (CT)								0	
CON SUP (CT)								0	
R/W								0	
CON						6,884		6,884	
TOTAL	0	0	0	0	0	6,884	0	6,884	

Fund No. 2:	Local Funds (Developer Impact Fees)								Program Code
Existing Funding									
Component	Prior	08/09	09/10	10/11	11/12	12/13	13/14+	Total	Funding Agency
E&P (PA&ED)	0	0	0	0	0	0	0	0	
PS&E	0	0	0	0	0	0	0	0	
R/W SUP (CT)	0	0	0	0	0	0	0	0	
CON SUP (CT)	0	0	0	0	0	0	0	0	
R/W	0	0	1,680	0	0	0	0	1,680	
CON	0	0	0	0	0	6,673	0	6,673	
TOTAL	0	0	1,680	0	0	6,673	0	8,353	
Proposed Funding									Notes
E&P (PA&ED)	250							250	
PS&E			609					609	
R/W SUP (CT)								0	
CON SUP (CT)								0	
R/W					120			120	
CON						8,737		8,737	
TOTAL	250	0	609	0	120	8,737	0	9,716	

Fund No. 3:	SANBAG Measure I								Program Code
Existing Funding									
Component	Prior	08/09	09/10	10/11	11/12	12/13	13/14+	Total	Funding Agency
E&P (PA&ED)	750	0	0	0	0	0	0	750	
PS&E	0	0	2,000	0	0	0	0	2,000	
R/W SUP (CT)	0	0	0	0	0	0	0	0	
CON SUP (CT)	0	0	0	0	0	0	0	0	
R/W	0	0	6,722	0	0	0	0	6,722	
CON	0	0	0	0	0	19,080	0	19,080	
TOTAL	750	0	8,722	0	0	19,080	0	28,552	
Proposed Funding									Notes
E&P (PA&ED)	500							500	
PS&E			2,436					2,436	
R/W SUP (CT)								0	
CON SUP (CT)								0	
R/W					480			480	
CON						14,081		14,081	
TOTAL	500	0	2,436	0	480	14,081	0	17,497	

Fund No. 4:	Prop 1B- State Local Partnership Program (SLPP)								Program Code
Existing Funding									
Component	Prior	08/09	09/10	10/11	11/12	12/13	13/14+	Total	Funding Agency
E&P (PA&ED)	0	0	0	0	0	0	0	0	
PS&E	0	0	0	0	0	0	0	0	
R/W SUP (CT)	0	0	0	0	0	0	0	0	
CON SUP (CT)	0	0	0	0	0	0	0	0	
R/W	0	0	0	0	0	0	0	0	
CON	0	0	0	0	0	0	0	0	
TOTAL	0	0	0	0	0	0	0	0	
Proposed Funding									Notes
E&P (PA&ED)								0	SANBAG formula share
PS&E								0	SLPP
R/W SUP (CT)								0	
CON SUP (CT)								0	
R/W								0	
CON						14,080		14,080	
TOTAL	0	0	0	0	0	14,080	0	14,080	

Fund No. 5:	Union Pacific Railroad (UPRR)								Program Code
Existing Funding									
Component	Prior	08/09	09/10	10/11	11/12	12/13	13/14+	Total	Funding Agency
E&P (PA&ED)	0	0	0	0	0	0	0	0	
PS&E	0	0	0	0	0	0	0	0	
R/W SUP (CT)	0	0	0	0	0	0	0	0	
CON SUP (CT)	0	0	0	0	0	0	0	0	
R/W	0	0	0	0	0	0	0	0	
CON	0	0	0	0	0	0	0	0	
TOTAL	0	0	0	0	0	0	0	0	
Proposed Funding									Notes
E&P (PA&ED)								0	UPRR
PS&E								0	
R/W SUP (CT)								0	
CON SUP (CT)								0	
R/W								0	
CON						3,618		3,618	
TOTAL	0	0	0	0	0	3,618	0	3,618	

DISCUSSION ITEMS

Governments SANBAG Working Together

San Bernardino Associated Governments

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Phone: (909) 884-8276 Fax: (909) 885-4407 Web: www.sanbag.ca.gov

TRANSPORTATION MEASURE I

■ San Bernardino County Transportation Commission ■ San Bernardino County Transportation Authority
■ San Bernardino County Congestion Management Agency ■ Service Authority for Freeway Emergencies

Minute Action

AGENDA ITEM: 26

Date: October 3, 2012

Subject: Hearings to Consider Resolutions of Necessity for Properties for the Palm Avenue Grade Separation Project

Recommendations:* Acting as the San Bernardino County Transportation Commission:

1. Conduct public hearings to consider condemnation of real property required for the Palm Avenue Grade Separation project ("Project") in the City of San Bernardino and the County of San Bernardino, and

2. By at least a two-thirds majority, adopt Resolutions of Necessity Nos. 13-023, 13-024, 13-025, 13-026, 13-027, and 13-028 and authorize and direct general counsel, or her designess, to prepare, commence, and prosecute proceedings in eminent domain for the purpose of acquiring necessary right-of-way and real property interests from the following property owners: S.B. Universal Self Storage, LLC (APNs 0266-021-17, -18, -32, and -39); Van Valkenburgh Investments, LLC (APN 0266-021-43); CalMat Land Company (APN 0262-051-29); Palm Avenue SB LLC (APN 0266-041-62); Gaelle II, LLC (APN 0266-041-69); and Gurbax R. and Rajni Marwah Trustees of the Marwah Family Trust (APN 0266-041-70).

*

Approved
Board of Directors

Date: _____

Moved: *Second:*

In Favor: *Opposed:* *Abstained:*

Witnessed: _____

COG		CTC	X	CTA		SAFE		CMA	

Check all that apply.

BRD1210d-das

Attachments: http://portal.sanbag.ca.gov/mgmt/APOR-Mgmnt/Shared%20Documents/RES13023.pdf
http://portal.sanbag.ca.gov/mgmt/APOR-Mgmnt/Shared%20Documents/RES13024.pdf
http://portal.sanbag.ca.gov/mgmt/APOR-Mgmnt/Shared%20Documents/RES13025.pdf
http://portal.sanbag.ca.gov/mgmt/APOR-Mgmnt/Shared%20Documents/RES13026.pdf
http://portal.sanbag.ca.gov/mgmt/APOR-Mgmnt/Shared%20Documents/RES13027.pdf
http://portal.sanbag.ca.gov/mgmt/APOR-Mgmnt/Shared%20Documents/RES13028.pdf

Background:

The Palm Avenue Grade Separation project is a high priority grade separation project for SANBAG. This project has been programmed with State Trade Corridor Improvement Funds (TCIF) and Measure I funding. This project will increase public safety, improve air quality, reduce traffic congestion, and improve emergency vehicle response time.

SANBAG has made steady progress towards the start of construction on the Palm Avenue Grade Separation Project. Staff will submit 100% Plans, Specifications, and Estimates to the Commission for final review and approval by the end of this year. One of the remaining critical path items is right-of-way acquisition. The SANBAG Board has approved appraisals and authorized offers for properties required for the grade separation project. SANBAG's right-of-way agent, Overland, Pacific, and Cutler (OPC) sent offers to each property owner and some parcels are being acquired through negotiated sale. While SANBAG and OPC continue to negotiate with property owners of the subject parcels, not all parcels will be acquired through a negotiated sale. Negotiations with the property owners for the parcels listed in the resolutions have not been successful and these parcels will need to be acquired through eminent domain which requires a statutorily prescribed process. During the eminent domain process, SANBAG's right-of-way agent will continue to negotiate with the property owners in an attempt to reach negotiated sales for the necessary property interests.

SANBAG, acting as the County Transportation Commission, is authorized to acquire property by eminent domain pursuant to Public Utilities Code section 130220.5. On September 5, 2012, the Board approved setting a public hearing for October 3, 2012, for the Board acting as the Commission to consider adopting Resolutions of Necessity regarding the parcels listed in Exhibit "A" located in the County of San Bernardino and the City of San Bernardino.

The adoption of the attached Resolutions of Necessity by the Commission allows the eminent domain process to proceed which will result in obtaining legal rights to the property needed for the Project. Since the process takes several months, it is necessary to start this process now to ensure that the property is obtained in time for construction of the Project to commence in 2013 as scheduled.

In order to adopt the Resolutions of Necessity, the Commission must make five findings discussed below for each parcel to be acquired for the Project. The issue of just compensation value for these property interests is not addressed by these resolutions and is not to be considered at the hearings. The five necessary findings are:

1. The public interest and necessity require the Project.

This Project will improve safety, air quality, emergency vehicle response times, and traffic delay reductions by grade separating Palm Avenue and the BNSF tracks. Currently, 4,000 vehicles per day pass through the grade crossing and this volume of traffic is expected to increase to 13,800 vehicles per day by the year 2035. As of 2008, there was gate down-time of 3.32 hours per day and this is projected to increase to 6.6 hours per day by the year 2030. This Project will eliminate all gate down-time resulting in better emergency vehicle response time, decrease vehicle emissions from idling vehicles, and improve pedestrian and vehicle safety by eliminating the need to cross the railroad tracks.

2. The Project is planned or located in the manner that will be most compatible with the greatest public good and least private injury.

The Project is being aligned on a northerly offset relative to the existing alignment of Palm Avenue to minimize impacts to existing utilities and businesses, to resolve traffic staging issues, and to minimize overall project cost. Offsetting the alignment allows traffic to continue to use the existing Palm Avenue while the embankment and bridge work are underway. This is important as there are no local roads in close proximity that cross both railroads and Cajon Creek and that can serve as a detour. Offsetting to the north impacts vacant land but provides less impacts to existing businesses and utilities which are located along Palm Avenue and to the south along Cajon Boulevard. In general, the project requires easements to accommodate future slopes and utility relocations. The proposed design minimizes the property required, but includes: partial acquisitions, temporary easements, and the acquisition of one full parcel.

3. The properties sought to be acquired are necessary for the Project.

While some of the Project is being constructed within existing right-of-way, the subject properties are needed to allow the construction of a new bridge and embankments, realigned local streets, slopes, retaining walls, drainage systems, and required utility relocations. The following are the required takes for the subject properties:

S.B. Universal Self Storage, LLC: Parcels APN 0266-021-17, -18, -32, and -39. These 4 parcels are all owned by S.B. Universal Self Storage, LLC. They are undeveloped commercial use parcels. The Project requires a permanent roadway easement on 3 parcels and a temporary construction easement on all 4 parcels to accommodate the realigned and raised intersection of Palm and Industrial.

Van Valkenburgh Investments, LLC: Parcel APN 0266-021-43. This is an undeveloped industrial use property. The Project requires a permanent roadway

easement and a temporary construction easement to accommodate the bridge embankment and relocated utilities.

CalMat Land Company: Parcel APN 0262-051-29. This is an undeveloped industrial use property. The Project requires a permanent roadway easement, a temporary construction easement, and a utility easement to accommodate the bridge embankment, a new detention basin, and relocated utilities.

Palm Avenue SB LLC: Parcel APN 0266-041-62. This is an undeveloped industrial use property. The Project requires a permanent roadway easement and a temporary construction easement to accommodate the realigned and raised Palm Avenue/Industrial Parkway intersection and protection of existing utilities.

Gaelle II, LLC: Parcel APN 0266-041-69. On this parcel there is a gas station under construction. The Project requires just a temporary construction easement and access easement during construction to facilitate traffic flow.

Gurbax R. and Rajni Marwah Trustees of the Marwah Family Trust: Parcel APN 0266-041-70. There is an operating Denny's restaurant on this property. The Project requires a temporary construction easement to regrade a small portion of the driveway approach and facilitate traffic during construction.

4. Offers required by Section 7267.2 of the Government Code have been made to the owner or owners of record.

The subject properties were appraised and an offer for the full amount of the appraisal was made to the owner or owners of record in accordance with Section 7267.2 of the Government Code. The first offer for the S.B. Universal Self Storage, LLC parcel was made on March 6, 2012, the first offer for the Van Valkenburgh parcel was made on August 1, 2012, the first offer for the CalMat parcel was made on March 23, 2012, the first offer for the Palm Avenue SB LLC parcel was made on March 9, 2012, the first offer for the Gaelle parcel was made on March 5, 2012, and the first offer for the Marwah parcel was made on March 6, 2012.

5. All conditions and statutory requirements necessary to exercise the power of eminent domain to acquire the properties have been complied with.

SANBAG has complied with all conditions and requirements to exercise the power of eminent domain.

Upon completion of the Project, SANBAG will transfer properties acquired for this Project to the City of San Bernardino.

Financial Impact: This item does not impact the budget. Task No. 0874.

Reviewed By: This item was reviewed by the Major Projects Committee on September 13, 2012. SANBAG General Counsel has approved this item as to form.

Responsible Staff: Paula Beauchamp, Project Manager

RESOLUTION NO. 13-023

A RESOLUTION OF THE SAN BERNARDINO COUNTY TRANSPORTATION COMMISSION FINDING AND DETERMINING THAT THE PUBLIC INTEREST AND NECESSITY REQUIRE THE ACQUISITION BY EMINENT DOMAIN OF INTERESTS IN CERTAIN REAL PROPERTY FOR PUBLIC USE AND AUTHORIZING AND DIRECTING CONDEMNATION OF PORTIONS OF APN NO. 0266-021-17, 18, 32, 39

WHEREAS, the San Bernardino County Transportation Commission (the "Commission") is undertaking the Palm Avenue Grade Separation Project (the "Project") that necessitates the Commission to acquire by eminent domain portions of the property located on the Southwesterly corner of Palm Avenue and Kendall Drive in the City of San Bernardino, California; and

WHEREAS, the Project is intended to improve public safety, decrease traffic congestion and improve passenger rail operations by building grade separations between the roadway and the rail lines; and

WHEREAS, the Project requires the acquisition of property interests from private parties; and

WHEREAS, the Project will be a transportation improvement project serving the public interest; and

WHEREAS, subsection (a) of the California Public Utilities Code section 130220.5, authorizes the Commission to exercise the power of eminent domain to acquire these property interests for public use by condemnation; and

WHEREAS, the real property required for the Project includes a roadway easement as legally described in Exhibit "A" and depicted in Exhibit "B" and located on the Southwesterly corner of Palm Avenue and Kendall Drive in the City of San Bernardino, California; and

WHEREAS, the hereinafter described real property required for the Project includes a temporary construction easement as legally described in Exhibit "C" and depicted in Exhibit "D" and located on the Southwesterly corner of Palm Avenue and Kendall Drive in the City of San Bernardino, California; and

WHEREAS, reasonable pedestrian and vehicular access to the remainder property will be maintained during construction; and

WHEREAS, in accordance with section 1245.235 of the California Code of Civil Procedure, on September 6, 2012 there was mailed a Notice of Hearing on the Intent of the Commission to adopt a Resolution of Necessity for acquisition by eminent domain of the interests in real property described and depicted in Exhibits "A" through "D" herein. The Notice

of Hearing was mailed to the listed address of all persons whose names appear on the last equalized county assessment roll as having an interest in the property described and depicted in Exhibits "A" through "D" (collectively the "Property"); and

WHEREAS, the Commission provided written notice to the City of San Bernardino as required by subsection (c) of California Public Utilities Code section 130220.5; and

WHEREAS, the Project, including all amendments thereto, together with the staff reports, environmental documents and all other evidence presented to the Commission at the times the Project and the amendments thereto were adopted, are incorporated herein by this reference and made a part hereof as though fully set forth herein; and

WHEREAS, pursuant to section 1245.235 of the California Code of Civil Procedure, the Commission scheduled a hearing for October 3, 2012 at 10:00 a.m. at Santa Fe Depot---SANBAG Lobby 1st Floor, 1170 W. 3rd Street, San Bernardino, California and gave to each person whose property is to be acquired notice and a reasonable opportunity to appear at said hearing and to 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 Commission and each person whose property is to be acquired by eminent domain was afforded an opportunity to be heard on those matters specified in the Commission's notice of intention to conduct a hearing on whether to adopt a Resolution of Necessity as referred to in section 1240.030 of the California Code of Civil Procedure; and

WHEREAS, the Commission may adopt a Resolution of Necessity pursuant to section 1240.040 of the California Code of Civil Procedure.

NOW, THEREFORE, by a vote of two-thirds or more of its members, the San Bernardino County Transportation Commission does hereby find, determine, resolve and order as follows:

Section 1. Incorporation of Findings and Recitals. The above findings and recitals are true and correct and are incorporated herein in full by this reference.

Section 2. Compliance with California Code of Civil Procedure. The Commission has complied with the requirements of section 1245.235 of the California Code of Civil Procedure regarding notice and hearing.

Section 3. Public Use. The public use for which the Property is to be acquired is for the construction and future maintenance of the Project, a public transportation improvement, as more fully described hereinabove. Subsection (a) of California Public Utilities Code section 130220.5 authorizes the Commission to acquire by eminent domain property and interests in property necessary for such purpose and for all uses incidental or convenient thereto.

Section 4. Necessity.

(a) The Project is necessary to improve public safety, decrease traffic congestion and improve passenger rail operations by building grade separations between the roadway and the rail lines; and

(b) The public interest and necessity require the acquisition by eminent domain proceedings of a roadway easement as legally described in Exhibit "A" and depicted in Exhibit "B" and a temporary construction easement as legally described in Exhibit "C" and depicted in Exhibit "D" attached to this Resolution of Necessity.

Section 5. Description of Property Interests. The property interests to be acquired are more particularly described and depicted in Exhibits "A" through "D" attached hereto and incorporated herein by reference.

Section 6. Findings. The Commission hereby finds, determines and declares each of the following:

(a) The public interest and necessity require the proposed Project;

(b) The Project is planned or located in the manner that will be most compatible with the greatest public good and least private injury;

(c) The above-described property interests, as described and depicted in Exhibits "A" through "D", are necessary for the proposed Project;

(d) The offer required by section 7267.2 of the California Government Code has been made to the owner or owners of record; and

(e) All conditions and statutory requirements necessary to exercise the power of eminent domain ("the right to take") to acquire the Property have been complied with by the Commission.

Section 7. Existing Public Use(s). Pursuant to sections 1240.510 and 1240.610 of the Code of Civil Procedure, to the extent that any of the real property to be acquired is already devoted to a public use, the use proposed by this Project is a more necessary public use than the use to which the real property, or any portion thereof, is already devoted, or, in the alternative, is a compatible public use which will not unreasonably interfere with or impair the continuance of the public use to which the real property, or any portion thereof, is already devoted.

Section 8. Authority to Exercise Eminent Domain. The Commission is hereby authorized and empowered to acquire a roadway easement as legally described in Exhibit "A" and depicted in Exhibit "B" and a temporary construction easement as legally described in Exhibit "C" and depicted in Exhibit "D", including the improvements thereon, if any, by eminent domain for the Project.

Section 9. Further Activities. Legal Counsel for the Commission ("Counsel") is hereby authorized and empowered to acquire the hereinabove described interests in real property in the name of and on behalf of the Commission by eminent domain, and is authorized to institute and prosecute such legal proceedings as may be required in connection therewith. 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 and to permit the Commission to take possession of and use real property at the earliest possible time. Counsel is further authorized to correct any errors in this Resolution of Necessity or to make or agree to non-material changes in the legal descriptions of the real property that are deemed necessary for the conduct of the eminent domain action or other proceedings or transactions required to acquire the interests in the subject real property.

Section 10. Effective Date. This Resolution shall take effect upon adoption.

Adopted by the San Bernardino County Transportation Commission on October 3, 2012, by the following vote:

AYES:

NOES:

ABSENT:

_____
Janice Rutherford, Chairperson
San Bernardino County Transportation Commission

ATTEST:

_____
Vicki Watson,
Clerk of the Commission

EXHIBIT "A"

RIGHT OF WAY
ATTACHMENT TO LEGAL DESCRIPTION
APN: 0266-021-17, 18, 32

The property identified in the attached legal description and map shall be for right of way purposes to facilitate the construction and use of the Palm Avenue Grade Separation Project.

Reasonable pedestrian and vehicular access to the remainder property will be maintained during construction.

The San Bernardino County Transportation Commission is expressly granted the right to convey, transfer or assign the right of way.

Coast Surveying, Inc.
November 14, 2011

LEGAL DESCRIPTION
RIGHT OF WAY
APN 0266-021-17, -18, -32

THAT PORTION OF GOVERNMENT LOT 37, RANCHO MUSCUPIABE, IN THE CITY OF SAN BERNARDINO, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 7, PAGE 23 OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, AND THOSE PORTIONS OF LOTS 4 AND 5 OF TRACT NO. 4250, IN SAID CITY, AS PER MAP RECORDED IN BOOK 53, PAGE 52 OF MAPS, IN THE OFFICE OF SAID COUNTY RECORDER OF SAID COUNTY, DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE NORTHWESTERLY RIGHT OF WAY LINE OF PALM AVENUE (44 FEET HALF WIDTH) AND THE SOUTHWESTERLY LINE OF SAID LOT 5; THENCE ALONG SAID NORTHWESTERLY RIGHT OF WAY LINE NORTH 27°16'35" EAST 403.69 FEET TO THE NORTHEAST CORNER OF SAID LOT 4, TRACT NO. 4250; THENCE ALONG THE NORTHEASTERLY LINE OF SAID LOT 4 NORTH 62°43'25" WEST 22.40 FEET; THENCE LEAVING SAID NORTHEASTERLY LINE SOUTH 33°05'13" WEST 173.95 FEET; THENCE SOUTH 72°11'17" WEST 66.78 FEET; THENCE NORTH 42°11'39" WEST 156.56 FEET; THENCE SOUTH 69°55'15" WEST 27.29 FEET TO THE SOUTHWESTERLY LINE OF THE LAND DESCRIBED AS PARCEL 5 IN THE QUITCLAIM DEED TO S.B. UNIVERSAL SELF STORAGE LLC RECORDED NOVEMBER 30, 1999, AS DOCUMENT NO. 1999-0490718 OFFICIAL RECORDS, IN THE OFFICE OF SAID COUNTY RECORDER; THENCE ALONG SAID SOUTHWESTERLY LINE AND THE SOUTHWESTERLY LINE OF SAID LOT 5, TRACT NO. 4250, SOUTH 20°04'45" EAST 214.71 FEET TO THE BEGINNING OF A CURVE CONCAVE NORTHEASTERLY HAVING A RADIUS OF 680.67 FEET; THENCE SOUTHEASTERLY 119.26 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 10°02'20" TO THE POINT OF BEGINNING.

CONTAINING 33, 320 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 NOVEMBER, 2011.

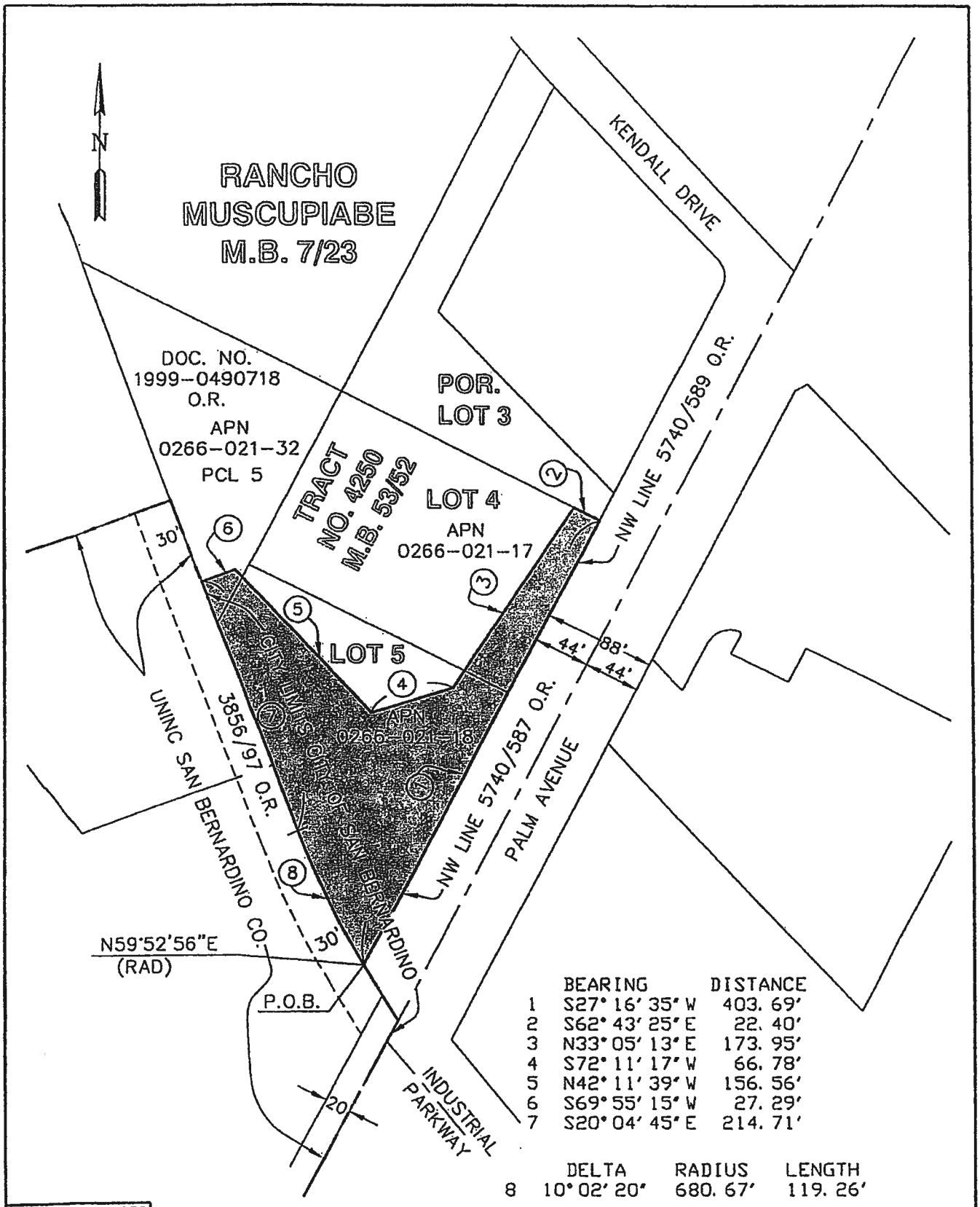
Gwen-Vera del Castillo

GWEN-VERA DEL CASTILLO, PLS 5108

LICENSED LAND SURVEYOR
GWEN-VERA DEL CASTILLO
L.S. 5108
STATE OF CALIFORNIA

JN 10R078

EXHIBIT "B"



	BEARING	DISTANCE
1	S27° 16' 35" W	403. 69'
2	S62° 43' 25" E	22. 40'
3	N33° 05' 13" E	173. 95'
4	S72° 11' 17" W	66. 78'
5	N42° 11' 39" W	156. 56'
6	S69° 55' 15" W	27. 29'
7	S20° 04' 45" E	214. 71'

	DELTA	RADIUS	LENGTH
8	10° 02' 20"	680. 67'	119. 26'

JOB #: 108-078	EXHIBIT "B"	COAST SURVEYING, INC.
DATE: 11-14-11	APN 0266-021-17, 18, 32	15031 PARKWAY LOOP, SUITE B
SCALE: 1"=100'	RIGHT OF WAY	TUSTIN, CA 92780-6527 (714) 918-6266
SHEET 1 OF 1		

EXHIBIT "C"

TEMPORARY CONSTRUCTION EASEMENT
ATTACHMENT TO LEGAL DESCRIPTION
APN: 0266-021-17, 18, 32, 39

The parcel of land in the attached legal description and map is to be used for temporary construction purposes in connection with the construction of the Palm Avenue Grade Separation Project. The right of usage acquired for the temporary construction easement parcel described in the attached legal description and depicted in the attached map shall be for a period of twenty-four (24) months.

Reasonable pedestrian and vehicular access to the remainder property will be maintained during construction.

The San Bernardino County Transportation Commission is expressly granted the right to convey, transfer or assign the easement rights described above.

LEGAL DESCRIPTION
TEMPORARY CONSTRUCTION EASEMENT
APN 0266-021-17, -18, -32, -39

THAT PORTION OF GOVERNMENT LOT 37, RANCHO MUSCUPIABE, IN THE CITY OF SAN BERNARDINO, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 7, PAGE 23 OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, AND THOSE PORTIONS OF LOTS 3, 4 AND 5 OF TRACT NO. 4250, IN SAID CITY, COUNTY AND STATE, AS PER MAP RECORDED IN BOOK 53, PAGE 52 OF MAPS, IN THE OFFICE OF SAID COUNTY RECORDER OF SAID COUNTY, DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE SOUTHWESTERLY LINE OF SAID LOT 3 AND THE NORTHWESTERLY RIGHT OF WAY LINE OF PALM AVENUE (88 FEET WIDE); THENCE ALONG SAID NORTHWESTERLY RIGHT OF WAY LINE NORTH 27°16'35" EAST 10.84 FEET; THENCE LEAVING SAID NORTHWESTERLY RIGHT OF WAY NORTH 62°43'25" WEST 36.00 FEET; THENCE SOUTH 32°58'31" WEST 168.67 FEET TO THE SOUTHWESTERLY LINE OF SAID LOT 4; THENCE ALONG SAID SOUTHWESTERLY LINE NORTH 62°43'25" WEST 173.25 FEET TO THE SOUTHWESTERLY CORNER OF SAID LOT 4; THENCE SOUTH 69°55'16" WEST 11.48 FEET; THENCE SOUTH 42°11'39" EAST 156.56 FEET; THENCE NORTH 72°11'17" EAST 66.78 FEET; THENCE NORTH 33°05'11" EAST 173.95 FEET TO THE SOUTHWESTERLY LINE OF SAID LOT 3; THENCE ALONG SAID SOUTHWESTERLY LINE SOUTH 62°43'25" EAST 22.40 FEET TO THE POINT OF BEGINNING.

CONTAINING 9,793 SQUARE FEET, MORE OR LESS.

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

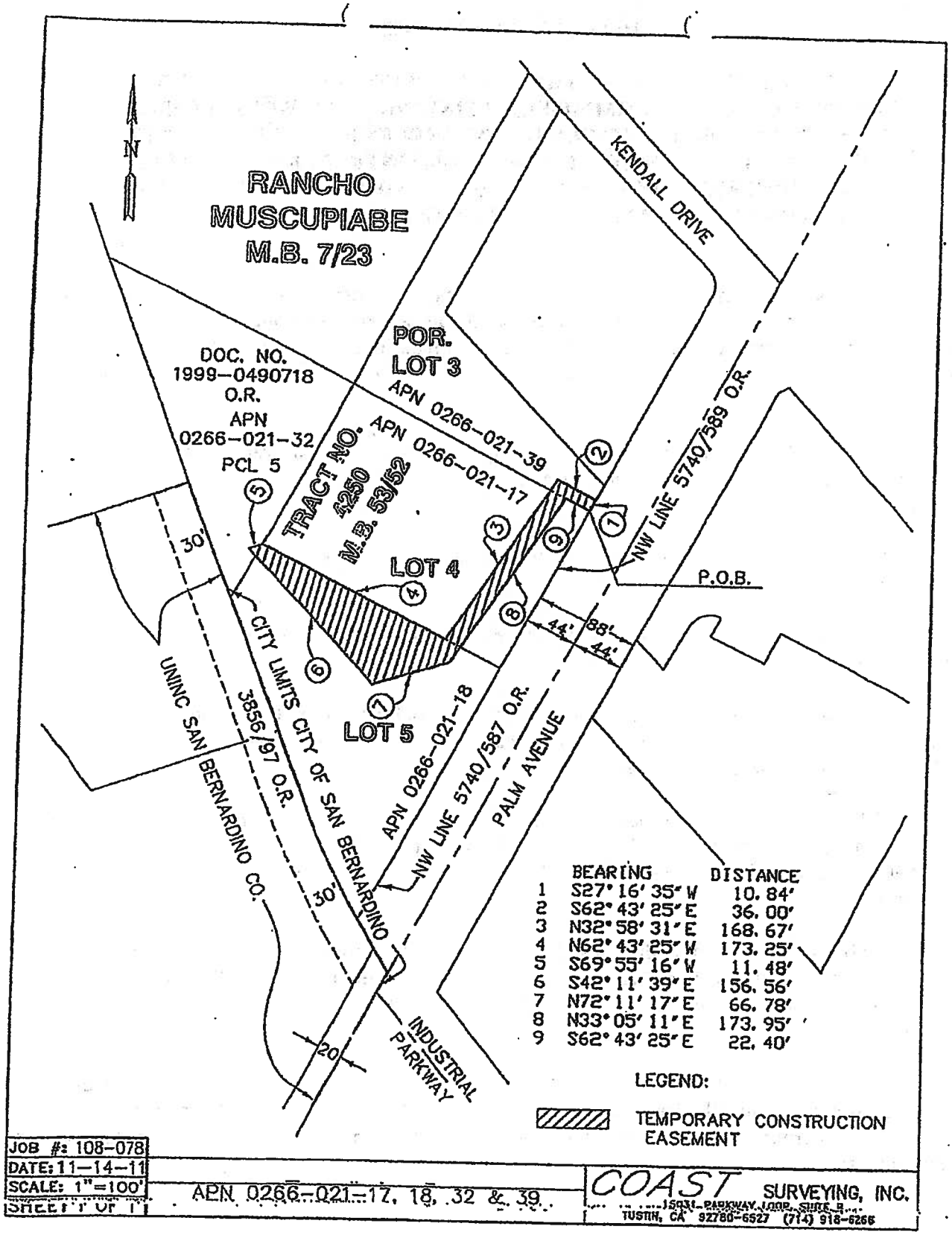
DATED THIS 16TH DAY OF NOVEMBER, 2011.

Gwen-Vera del Castillo

GWEN-VERA DEL CASTILLO, PLS 5108

LICENSED LAND SURVEYOR * GWEN-VERA DEL CASTILLO * L.S. 5108 * STATE OF CALIFORNIA

EXHIBIT "D"


N
RANCHO
MUSCUPIABE
M.B. 7/23
KENDALL DRIVE
POR.
LOT 3
APN 0266-021-39
DOC. NO.
1999-0490718
O.R.
APN
0266-021-32
PCL 5
TRACT NO.
4250
M.B. 53/52
APN 0266-021-17
NW LINE 5740/589 O.R.
LOT 4
P.O.B.
30'
44'
88'
44'
CITY LIMITS CITY OF SAN BERNARDINO
UNINC SAN BERNARDINO CO.
3856/97 O.R.
LOT 5
APN 0266-021-18
NW LINE 5740/587 O.R.
PALM AVENUE
30'
20'
INDUSTRIAL
PARKWAY
BEARING DISTANCE
1 S27°16'35"W 10.84'
2 S62°43'25"E 36.00'
3 N32°58'31"E 168.67'
4 N62°43'25"W 173.25'
5 S69°55'16"W 11.48'
6 S42°11'39"E 156.56'
7 N72°11'17"E 66.78'
8 N33°05'11"E 173.95'
9 S62°43'25"E 22.40'
LEGEND:
TEMPORARY CONSTRUCTION EASEMENT
JOB #: 108-078
DATE: 11-14-11
SCALE: 1"=100'
SHEET 1 OF 1
APN 0266-021-17, 18, 32 & 39
COAST SURVEYING, INC.
15031 PARKWAY LOOP, SUITE B
TUSTIN, CA 92780-6527 (714) 918-6266

RESOLUTION NO. 13-024

A RESOLUTION OF THE SAN BERNARDINO COUNTY TRANSPORTATION COMMISSION FINDING AND DETERMINING THAT THE PUBLIC INTEREST AND NECESSITY REQUIRE THE ACQUISITION BY EMINENT DOMAIN OF INTERESTS IN CERTAIN REAL PROPERTY FOR PUBLIC USE AND AUTHORIZING AND DIRECTING CONDEMNATION OF PORTIONS OF APN NO. 0266-021-43

WHEREAS, the San Bernardino County Transportation Commission (the "Commission") is undertaking the Palm Avenue Grade Separation Project (the "Project") that necessitates the Commission to acquire by eminent domain portions of the property located on the Northwest corner of Palm Avenue and Industrial Parkway in the County of San Bernardino, California; and

WHEREAS, the Project is intended to improve public safety, decrease traffic congestion and improve passenger rail operations by building grade separations between the roadway and the rail lines; and

WHEREAS, the Project requires the acquisition of property interests from private parties; and

WHEREAS, the Project will be a transportation improvement project serving the public interest; and

WHEREAS, subsection (a) of the California Public Utilities Code section 130220.5, authorizes the Commission to exercise the power of eminent domain to acquire these property interests for public use by condemnation; and

WHEREAS, the real property required for the Project includes a temporary construction easement as legally described in Exhibit "A" and depicted in Exhibit "B" and located on the Northwest corner of Palm Avenue and Industrial Parkway in the County of San Bernardino, California; and

WHEREAS, the hereinafter described real property required for the Project includes a utility easement as legally described in Exhibit "C" and depicted in Exhibit "D" and located on the Northwest corner of Palm Avenue and Industrial Parkway in the County of San Bernardino, California; and

WHEREAS, the hereinafter described real property required for the Project includes a roadway easement as legally described in Exhibit "E" and depicted in Exhibit "F" and located on the Northwest corner of Palm Avenue and Industrial Parkway in the County of San Bernardino, California; and

WHEREAS, the hereinafter described real property required for the Project includes a slope easement as legally described in Exhibit "G" and depicted in Exhibit "H" and located on the Northwest corner of Palm Avenue and Industrial Parkway in the County of San Bernardino, California; and

WHEREAS, reasonable pedestrian and vehicular access to the remainder property will be maintained during construction; and

WHEREAS, the Commission has purchased an adjacent parcel, Assessor Parcel Number 0266-021-44 (the "Francis property"), in order to provide additional access to Assessor Parcel Number 0266-021-43 and as part of the statutory offer the Commission will transfer the adjacent Francis property to the owners of Assessor Parcel Number 0266-021-43; and

WHEREAS, in connection with the transfer of the Francis property, the Commission will reserve on the Francis property a temporary construction easement as legally described in Exhibit "I" and depicted in Exhibit "J" and a roadway easement as legally described in Exhibit "K" and depicted in Exhibit "L"; and

WHEREAS, in accordance with section 1245.235 of the California Code of Civil Procedure, on September 6, 2012 there was mailed a Notice of Hearing on the Intent of the Commission to adopt a Resolution of Necessity for acquisition by eminent domain of the interests in real property described and depicted in Exhibits "A" through "J" herein. The Notice of Hearing was mailed to the listed address of all persons whose names appear on the last equalized county assessment roll as having an interest in the property described and depicted in Exhibits "A" through "H" (collectively the "Property"); and

WHEREAS, the Commission provided written notice to the County of San Bernardino as required by subsection (c) of California Public Utilities Code section 130220.5; and

WHEREAS, the Project, including all amendments thereto, together with the staff reports, environmental documents and all other evidence presented to the Commission at the times the Project and the amendments thereto were adopted, are incorporated herein by this reference and made a part hereof as though fully set forth herein; and

WHEREAS, pursuant to section 1245.235 of the California Code of Civil Procedure, the Commission scheduled a hearing for October 3, 2012 at 10:00 a.m. at Santa Fe Depot---SANBAG Lobby 1st Floor, 1170 W. 3rd Street, San Bernardino, California and gave to each person whose property is to be acquired notice and a reasonable opportunity to appear at said hearing and to 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 Commission and each person whose property is to be acquired by eminent domain was afforded an opportunity to be heard on those matters specified in the Commission's notice of intention to conduct a hearing on whether to adopt a Resolution of Necessity as referred to in section 1240.030 of the California Code of Civil Procedure; and

WHEREAS, the Commission may adopt a Resolution of Necessity pursuant to section 1240.040 of the California Code of Civil Procedure.

NOW, THEREFORE, by a vote of two-thirds or more of its members, the San Bernardino County Transportation Commission does hereby find, determine, resolve and order as follows:

Section 1. Incorporation of Findings and Recitals. The above findings and recitals are true and correct and are incorporated herein in full by this reference.

Section 2. Compliance with California Code of Civil Procedure. The Commission has complied with the requirements of section 1245.235 of the California Code of Civil Procedure regarding notice and hearing.

Section 3. Public Use. The public use for which the Property is to be acquired is for the construction and future maintenance of the Project, a public transportation improvement, as more fully described hereinabove. Subsection (a) of California Public Utilities Code section 130220.5 authorizes the Commission to acquire by eminent domain property and interests in property necessary for such purpose and for all uses incidental or convenient thereto.

Section 4. Necessity.

(a) The Project is necessary to improve public safety, decrease traffic congestion and improve passenger rail operations by building grade separations between the roadway and the rail lines; and

(b) The public interest and necessity require the acquisition by eminent domain proceedings of a temporary construction easement as legally described in Exhibit "A" and depicted in Exhibit "B", a utility easement as legally described in Exhibit "C" and depicted in Exhibit "D", a roadway easement as legally described in Exhibit "E" and depicted in Exhibit "F" and a slope easement as legally described in Exhibit "G" and depicted in Exhibit "H" attached to this Resolution of Necessity.

Section 5. Description of Property Interests. The property interests to be acquired are more particularly described and depicted in Exhibits "A" through "H" attached hereto and incorporated herein by reference.

Section 6. Findings. The Commission hereby finds, determines and declares each of the following:

(a) The public interest and necessity require the proposed Project;

(b) The Project is planned or located in the manner that will be most compatible with the greatest public good and least private injury;

(c) The above-described property interests, as described and depicted in Exhibits "A" through "H", are necessary for the proposed Project;

(d) The offer required by section 7267.2 of the California Government Code has been made to the owner or owners of record; and

(e) All conditions and statutory requirements necessary to exercise the power of eminent domain ("the right to take") to acquire the Property have been complied with by the Commission.

Section 7. Existing Public Use(s). Pursuant to sections 1240.510 and 1240.610 of the Code of Civil Procedure, to the extent that any of the real property to be acquired is already devoted to a public use, the use proposed by this Project is a more necessary public use than the use to which the real property, or any portion thereof, is already devoted, or, in the alternative, is a compatible public use which will not unreasonably interfere with or impair the continuance of the public use to which the real property, or any portion thereof, is already devoted.

Section 8. Authority to Exercise Eminent Domain. The Commission is hereby authorized and empowered to acquire a temporary construction easement as legally described in Exhibit "A" and depicted in Exhibit "B", a utility easement as legally described in Exhibit "C" and depicted in Exhibit "D", a roadway easement as legally described in Exhibit "E" and depicted in Exhibit "F" and a slope easement as legally described in Exhibit "G" and depicted in Exhibit "H", including the improvements thereon, if any, by eminent domain for the Project.

Section 9. Further Activities. Legal Counsel for the Commission ("Counsel") is hereby authorized and empowered to acquire the hereinabove described interests in real property in the name of and on behalf of the Commission by eminent domain, and is authorized to institute and prosecute such legal proceedings as may be required in connection therewith. 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 and to permit the Commission to take possession of and use real property at the earliest possible time. Counsel is further authorized to correct any errors in this Resolution of Necessity or to make or agree to non-material changes in the legal descriptions of the real property that are deemed necessary for the conduct of the eminent domain action or other proceedings or transactions required to acquire the interests in the subject real property.

Section 10. Effective Date. This Resolution shall take effect upon adoption.

Adopted by the San Bernardino County Transportation Commission on October 3, 2012, by the following vote:

AYES:

NOES:

ABSENT:

_____
Janice Rutherford, Chairperson
San Bernardino County Transportation Commission

ATTEST:

_____
Vicki Watson,
Clerk of the Commission

EXHIBIT "A"

TEMPORARY CONSTRUCTION EASEMENT
ATTACHMENT TO LEGAL DESCRIPTION
APN: 0266-021-43

The parcel of land in the attached legal description and map is to be used for temporary construction purposes in connection with the construction of the Palm Avenue Grade Separation Project. The right of usage acquired for the temporary construction easement parcel described in the attached legal description and depicted in the attached map shall be for a period of twenty-four (24) months.

Reasonable pedestrian and vehicular access to the remainder property will be maintained during construction.

The San Bernardino County Transportation Commission is expressly granted the right to convey, transfer or assign the easement rights described above.

Coast Surveying, Inc.
August 29, 2011

LEGAL DESCRIPTION
TEMPORARY CONSTRUCTION EASEMENT
APN 0266-021-43

THAT PORTION OF GOVERNMENT LOT 37, RANCHO MUSCUPIABE, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 7, PAGE 23 OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, DESCRIBED AS FOLLOWS:

COMMENCING AT THE INTERSECTION OF THE NORTHWESTERLY RIGHT OF WAY LINE OF PALM AVENUE (20 FEET HALF WIDTH) WITH THE NORTHEASTERLY RIGHT OF WAY LINE OF THE B.N.S.F. RAILROAD (FORMERLY A.T. & S.F. RR) RIGHT OF WAY AS SHOWN ON A MAP RECORDED IN BOOK 64, PAGE 28 OF RECORDS OF SURVEY, RECORDS OF SAID COUNTY; THENCE ALONG SAID NORTHEASTERLY RIGHT OF WAY LINE NORTH 38°54'04" WEST 357.11 FEET TO THE **TRUE POINT OF BEGINNING**; THENCE LEAVING SAID NORTHEASTERLY RIGHT OF WAY LINE NORTH 54°25'38" EAST 429.80 FEET; THENCE NORTH 20°04'45" WEST 65.79 FEET TO THE NORTHWESTERLY LINE OF PARCEL NO. 5 AS DESCRIBED IN THE GRANT DEED TO VAN VALKENBURGH INVESTMENTS, LLC, ET AL, RECORDED AUGUST 15, 2008 AS DOCUMENT NO. 2008-0373614 OFFICIAL RECORDS, RECORDS OF SAID COUNTY; THENCE ALONG SAID NORTHWESTERLY LINE SOUTH 70°10'59" WEST 12.00 FEET; THENCE LEAVING SAID NORTHWESTERLY LINE SOUTH 20°04'45" EAST 51.04 FEET; THENCE SOUTH 56°43'33" WEST 424.54 FEET TO SAID NORTHEASTERLY RAILROAD RIGHT OF WAY LINE; THENCE ALONG SAID NORTHEASTERLY LINE SOUTH 38°54'04" EAST 34.56 FEET TO THE TRUE POINT OF BEGINNING.

CONTAINING 11,759 SQUARE FEET, MORE OR LESS.

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

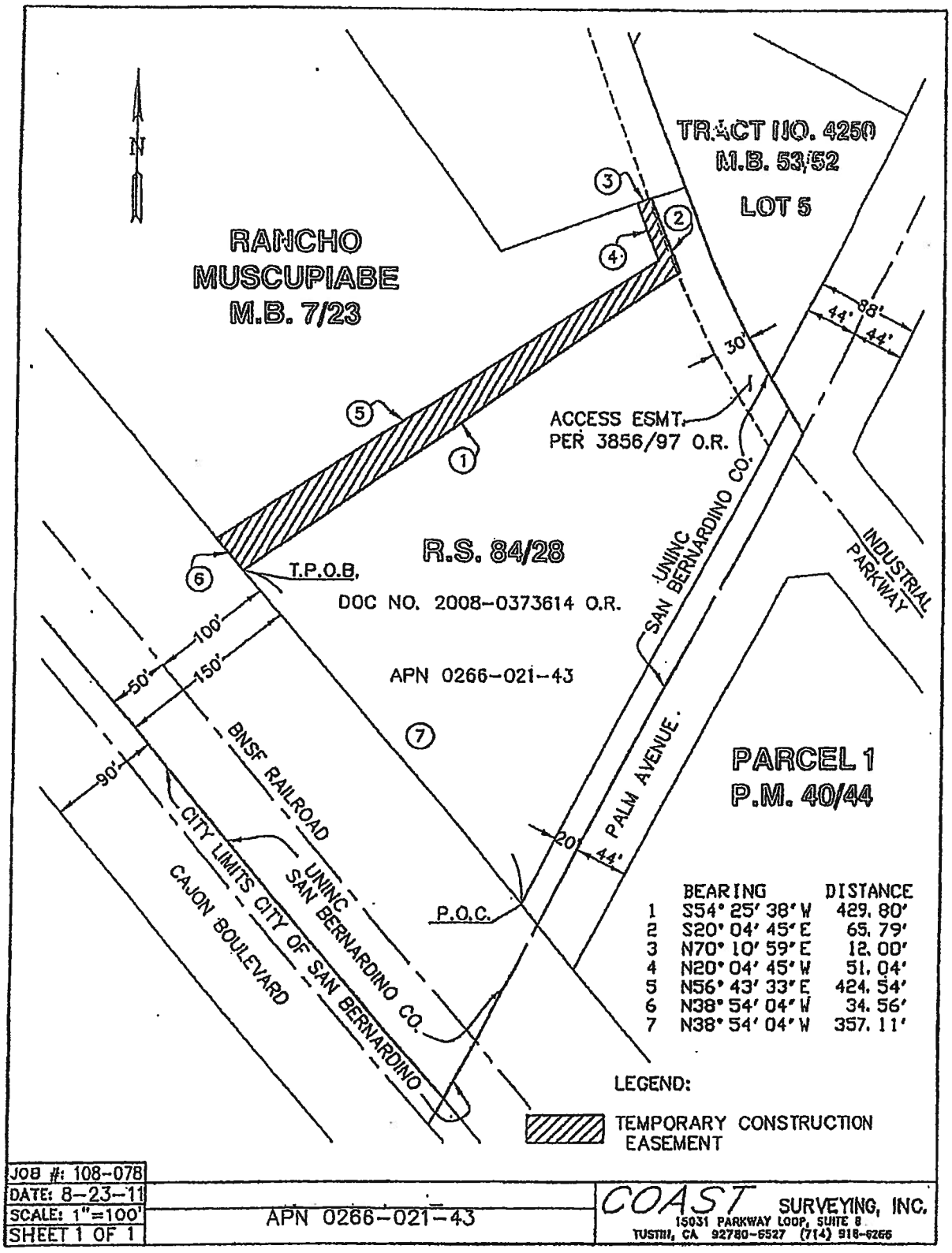
DATED THIS 3RD DAY OF OCTOBER, 2011.

Gwen-Vera del Castillo

GWEN-VERA DEL CASTILLO, PLS 5108

JN 108078

EXHIBIT "B"



JOB #: 108-078		COAST SURVEYING, INC.
DATE: 8-23-11		15031 PARKWAY LOOP, SUITE B
SCALE: 1"=100'	APN 0266-021-43	TUSTIN, CA 92780-6527 (714) 918-6266
SHEET 1 OF 1		

EXHIBIT "C"

UTILITY EASEMENT
ATTACHMENT TO LEGAL DESCRIPTION
APN: 0266-021-43

This permanent, nonexclusive utility easement allows the San Bernardino County Transportation Commission, and its employees, agents, representatives and contractors the right to use the property in the attached legal description and map for the purpose of constructing, maintaining, repairing, relocating and adjusting, as applicable, underground utility facilities and their appurtenant fixtures and equipment as required.

There shall not be constructed any improvements within the easement area that would impede the rights as defined herein. The affected portion of the easement area will be backfilled to grade with dirt or with pavement material. Once the utilities are in place, the surface of the easement area may be used for access or automobile parking purposes.

Reasonable pedestrian and vehicular access to the remainder property will be maintained during construction.

The San Bernardino County Transportation Commission is expressly granted the right to convey, transfer or assign the easement rights described above.

Coast Surveying, Inc.
April 25, 2012

LEGAL DESCRIPTION
UTILITY EASEMENT
APN 0266-021-43

THAT PORTION OF GOVERNMENT LOT 37, RANCHO MUSCUPIABE, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 7, PAGE 23 OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, DESCRIBED AS FOLLOWS:

COMMENCING AT THE INTERSECTION OF THE NORTHWESTERLY RIGHT OF WAY LINE OF PALM AVENUE (20 FEET HALF WIDTH) WITH THE NORTHEASTERLY RIGHT OF WAY LINE OF THE B.N.S.F. RAILROAD (FORMERLY A.T. & S.F. RR) RIGHT OF WAY AS SHOWN ON A MAP RECORDED IN BOOK 84, PAGE 28 OF RECORDS OF SURVEY, RECORDS OF SAID COUNTY; THENCE ALONG SAID NORTHEASTERLY RIGHT OF WAY LINE NORTH 38°54'04" WEST 313.03 FEET; THENCE LEAVING SAID NORTHEASTERLY RIGHT OF WAY LINE NORTH 54°25'38" EAST 49.01 FEET TO THE TRUE POINT OF BEGINNING; THENCE NORTH 35°34'22" WEST 20.00 FEET; THENCE NORTH 54°25'38" EAST 372.36 FEET TO THE BEGINNING OF A NONTANGENT CURVE CONCAVE NORTHEASTERLY HAVING A RADIUS OF 708.73 FEET, A RADIAL BEARING TO SAID CURVE BEARS SOUTH 67°10'49" WEST; THENCE SOUTHEASTERLY 20.44 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 01°39'09" TO A LINE PARALLEL WITH AND 20.00 FEET SOUTHEASTERLY OF THE ABOVE COURSE HAVING A BEARING AND DISTANCE OF "NORTH 54°25'38" EAST 372.36 FEET"; THENCE NONTANGENT ALONG SAID PARALLEL LINE SOUTH 54°25'38" WEST 368.13 FEET TO THE TRUE POINT OF BEGINNING.

CONTAINING 7,404 SQUARE FEET, MORE OR LESS.

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

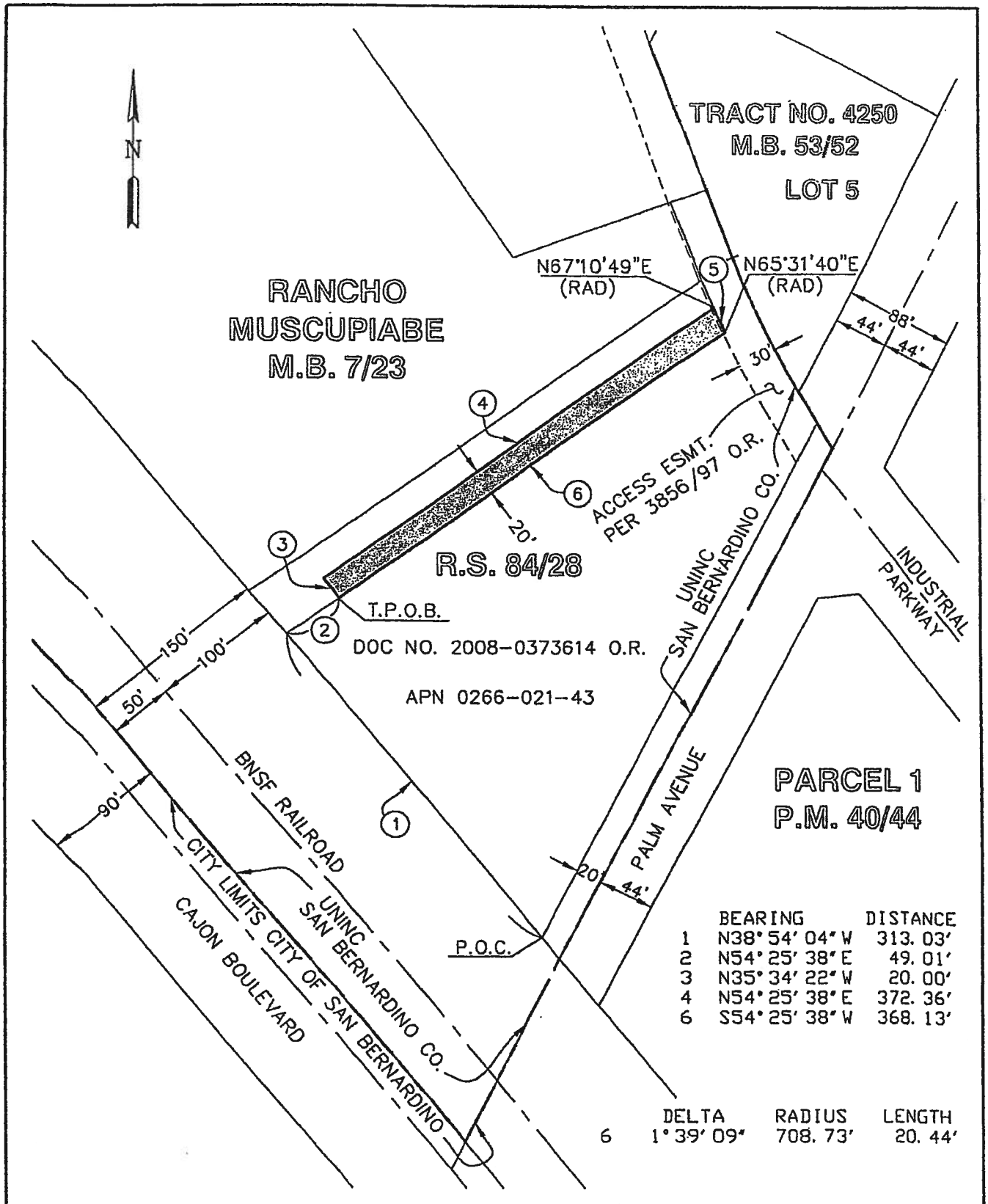
DATED THIS 27th DAY OF APRIL, 2012.

Gwen-Vera del Castillo

GWEN-VERA DEL CASTILLO, PLS 5108

JN 108078

EXHIBIT "D"



JOB #: 108-078	EXHIBIT "B"	COAST SURVEYING, INC.
DATE: 4-25-12	UTILITY EASEMENT	15031 PARKWAY LOOP, SUITE B
SCALE: 1"=100'	APN 0266-021-43	TUSTIN, CA 92780-6527 (714) 918-6266
SHEET 1 OF 1		

EXHIBIT "E"

RIGHT OF WAY
ATTACHMENT TO LEGAL DESCRIPTION
APN: 0266-021-43

The property identified in the attached legal description and map shall be for right of way purposes to facilitate the construction and use of the Palm Avenue Grade Separation Project.

Reasonable pedestrian and vehicular access to the remainder property will be maintained during construction.

The San Bernardino County Transportation Commission is expressly granted the right to convey, transfer or assign the right of way.

Coast Surveying, Inc.
April 25, 2012

LEGAL DESCRIPTION
RIGHT OF WAY
APN 0266-021-43

THAT PORTION OF GOVERNMENT LOT 37, RANCHO MUSCUPIABE, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 7, PAGE 23 OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE NORTHWESTERLY RIGHT OF WAY LINE OF PALM AVENUE (20 FEET HALF WIDTH) WITH THE NORTHEASTERLY RIGHT OF WAY LINE OF THE B.N.S.F. RAILROAD (FORMERLY A.T. & S.F. RR) RIGHT OF WAY AS SHOWN ON A MAP RECORDED IN BOOK 84, PAGE 28 OF RECORDS OF SURVEY, RECORDS OF SAID COUNTY; THENCE ALONG SAID NORTHEASTERLY RIGHT OF WAY LINE NORTH 38°54'04" WEST 313.03 FEET; THENCE LEAVING SAID NORTHEASTERLY RIGHT OF WAY LINE NORTH 54°25'36" EAST 417.14 FEET TO THE BEGINNING OF A NONTANGENT CURVE CONCAVE NORTHEASTERLY HAVING A RADIUS OF 708.73 FEET, A RADIAL BEARING TO SAID CURVE BEARS SOUTH 65°31'40" WEST; THENCE NORTHWESTERLY 45.16 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 03°39'02"; THENCE NONTANGENT NORTH 20°04'45" WEST 65.79 FEET TO THE NORTHWESTERLY LINE OF PARCEL NO. 5 AS DESCRIBED IN THE GRANT DEED TO VAN VALKENBURGH INVESTMENTS, LLC, ET AL, RECORDED AUGUST 15, 2008 AS DOCUMENT NO. 2008-0373614 OFFICIAL RECORDS, RECORDS OF SAID COUNTY; THENCE ALONG SAID NORTHWESTERLY LINE NORTH 70°10'59" EAST 28.00 FEET TO THE NORTHEASTERLY LINE OF SAID PARCEL 5; THENCE ALONG SAID NORTHEASTERLY LINE THE FOLLOWING THREE COURSES:

1. SOUTH 20°04'45" EAST 56.48 FEET TO THE BEGINNING OF A CURVE CONCAVE NORTHEASTERLY HAVING A RADIUS OF 680.67 FEET;
2. SOUTHEASTERLY 119.69 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 10°04'30";
3. SOUTH 30°09'15" EAST 28.05 FEET TO SAID NORTHWESTERLY RIGHT OF WAY LINE OF PALM AVENUE;

THENCE ALONG SAID NORTHWESTERLY LINE SOUTH 27°16'36" WEST 465.45 FEET TO THE POINT OF BEGINNING.

CONTAINING 2.109 ACRES, MORE OR LESS.

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

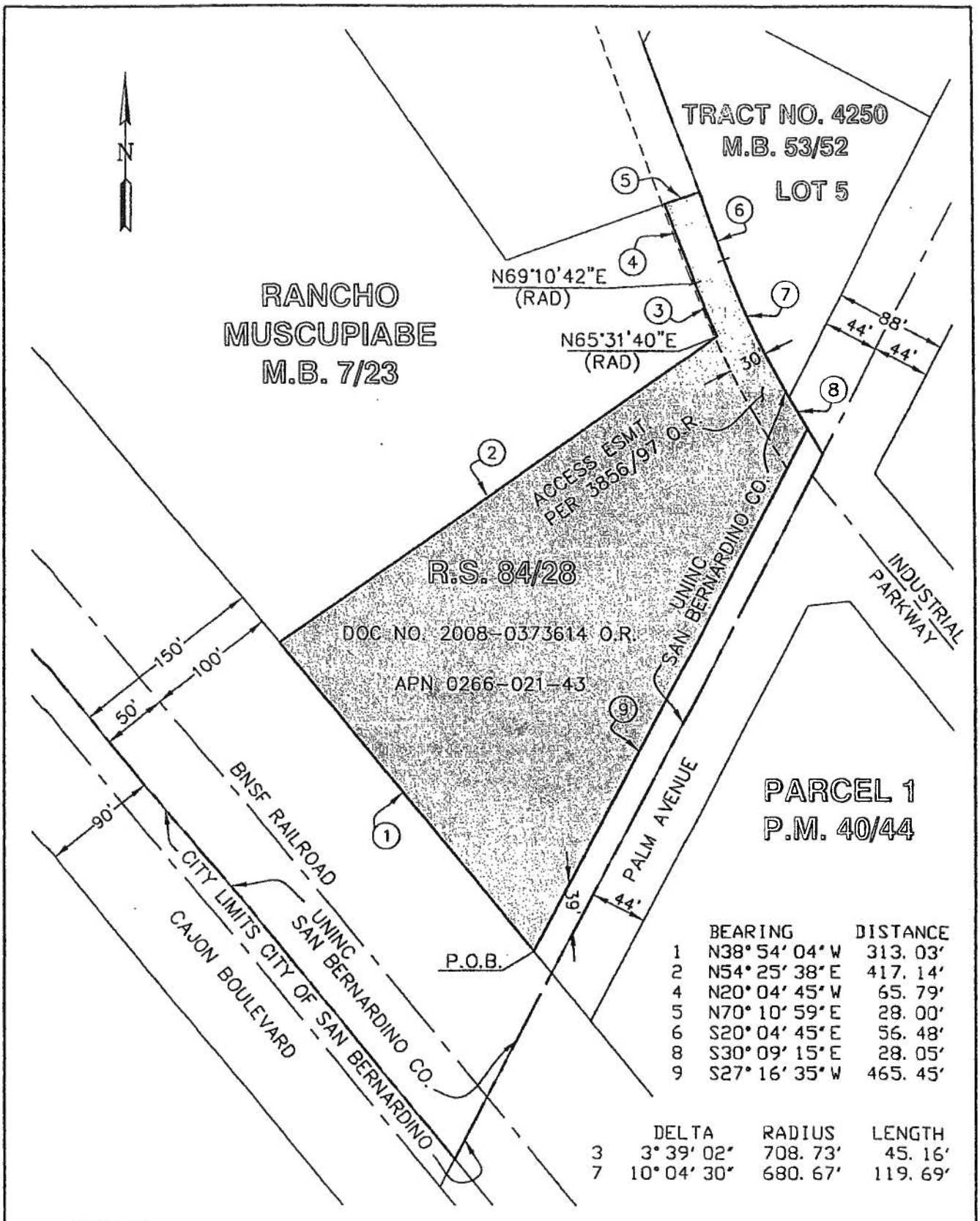
DATED THIS 27th DAY OF APRIL, 2012.

GWEN-VERA DEL CASTILLO, PLS 5108

1

JN 108078

EXHIBIT "F"



	BEARING	DISTANCE
1	N38° 54' 04" W	313. 03'
2	N54° 25' 38" E	417. 14'
4	N20° 04' 45" W	65. 79'
5	N70° 10' 59" E	28. 00'
6	S20° 04' 45" E	56. 48'
8	S30° 09' 15" E	28. 05'
9	S27° 16' 35" W	465. 45'

	DELTA	RADIUS	LENGTH
3	3° 39' 02"	708. 73'	45. 16'
7	10° 04' 30"	680. 67'	119. 69'

JOB #: 108-078	EXHIBIT "B"	COAST SURVEYING, INC.
DATE: 4-25-12	RIGHT OF WAY	15031 PARKWAY LOOP, SUITE B
SCALE: 1"=100'	APN 0266-021-43	TUSTIN, CA 92780-6527 (714) 918-6266
SHEET 1 OF 1		

EXHIBIT "G"

SLOPE EASEMENT
ATTACHMENT TO LEGAL DESCRIPTION
APN: 0266-021-43

This slope and maintenance easement allows the San Bernardino County Transportation Commission (the "Commission"), and its employees, agents, representatives and contractors the right to use the property in the attached legal description and map for a permanent, nonexclusive easement for purpose of constructing thereon cut and/or fill slopes and appurtenant parts thereof incident to the construction of the Palm Avenue Grade Separation Project. Specifically, the Commission, and its employees, agents, representatives and contractors have the right to construct, maintain and adjust, as applicable, a slope and includes the right of ingress/egress and appurtenances thereto, over and across the easement area.

The easement area will be backfilled, to grade, with dirt.

Reasonable pedestrian and vehicular access to the remainder property will be maintained during construction.

The San Bernardino County Transportation Commission is expressly granted the right to convey, transfer or assign the easement rights described above.

Coast Surveying, Inc.
April 25, 2012

LEGAL DESCRIPTION
SLOPE EASEMENT
APN 0266-021-43

THAT PORTION OF GOVERNMENT LOT 37, RANCHO MUSCUPIABE, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 7, PAGE 23 OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, DESCRIBED AS FOLLOWS:

COMMENCING AT THE INTERSECTION OF THE NORTHWESTERLY RIGHT OF WAY LINE OF PALM AVENUE (20 FEET HALF WIDTH) WITH THE NORTHEASTERLY RIGHT OF WAY LINE OF THE B.N.S.F. RAILROAD (FORMERLY A.T. & S.F. RR) RIGHT OF WAY AS SHOWN ON A MAP RECORDED IN BOOK 84, PAGE 28 OF RECORDS OF SURVEY, RECORDS OF SAID COUNTY; THENCE ALONG SAID NORTHEASTERLY RIGHT OF WAY LINE NORTH 38°54'04" WEST 313.03 FEET TO THE TRUE POINT OF BEGINNING; THENCE CONTINUING ALONG SAID NORTHEASTERLY RIGHT OF WAY LINE NORTH 38°54'04" WEST 44.08 FEET; THENCE LEAVING SAID NORTHEASTERLY RIGHT OF WAY LINE NORTH 54°25'38" EAST 429.80 FEET TO THE BEGINNING OF A NONTANGENT CURVE CONCAVE NORTHEASTERLY HAVING A RADIUS OF 708.73 FEET, A RADIAL BEARING TO SAID CURVE BEARS SOUTH 69°10'42" WEST; THENCE SOUTHEASTERLY 45.16 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 03°39'02" TO A LINE PARALLEL WITH AND 44.00 FEET SOUTHEASTERLY OF THE ABOVE COURSE HAVING A BEARING AND DISTANCE OF "NORTH 54°25'38" EAST 429.80 FEET"; THENCE NONTANGENT ALONG SAID PARALLEL LINE SOUTH 54°25'38" WEST 417.14 FEET TO SAID NORTHEASTERLY RIGHT OF WAY LINE AND THE TRUE POINT OF BEGINNING.

CONTAINING 18,624 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 APRIL, 2012.

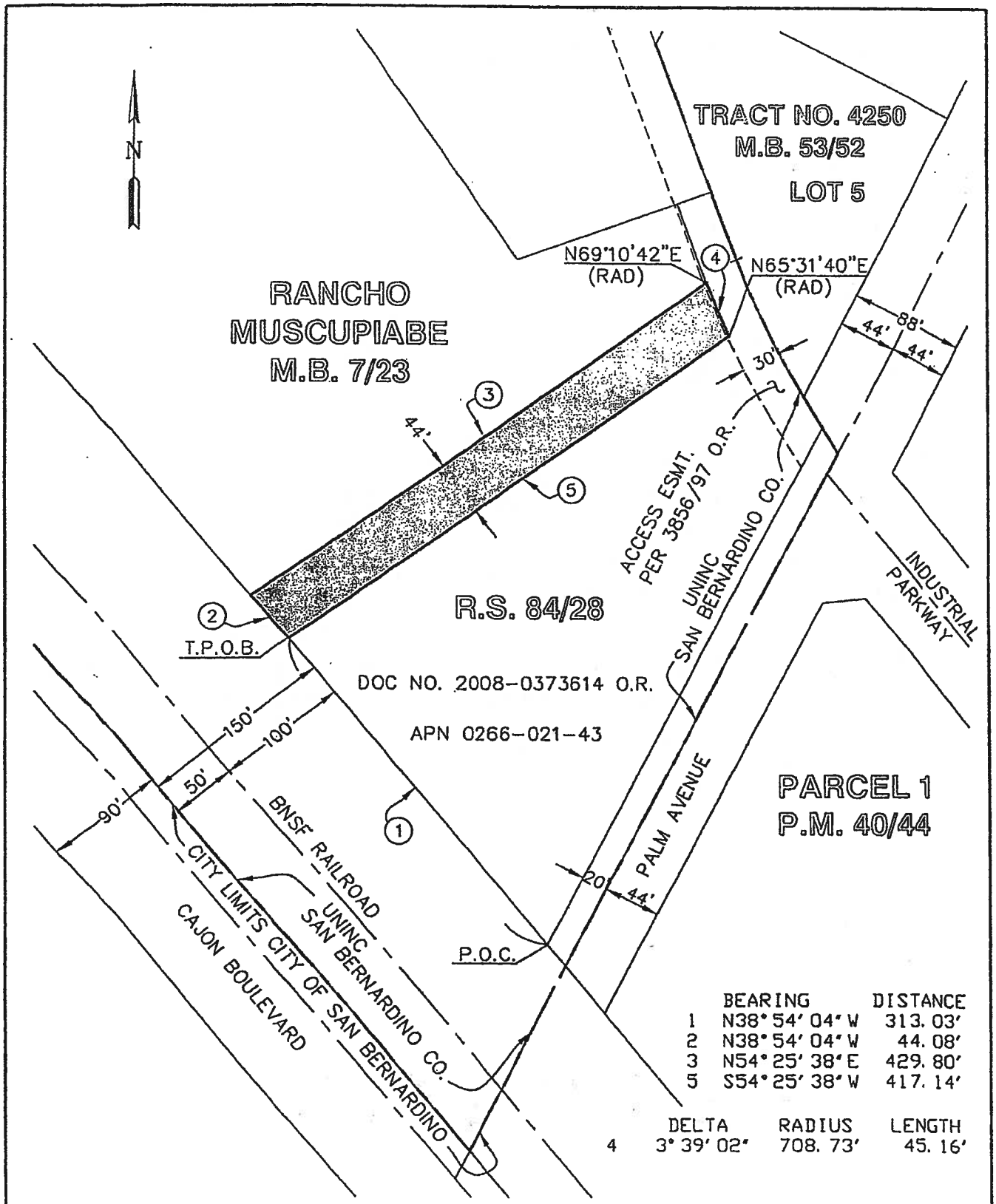
Gwen-Vera del Castillo

GWEN-VERA DEL CASTILLO, PLS 5108

1

JN 108078

EXHIBIT "H"



	BEARING	DISTANCE
1	N38°54'04"W	313.03'
2	N38°54'04"W	44.08'
3	N54°25'38"E	429.80'
5	S54°25'38"W	417.14'

	DELTA	RADIUS	LENGTH
4	3°39'02"	708.73'	45.16'

JOB #: 108-078	EXHIBIT "B"	COAST SURVEYING, INC.
DATE: 4-25-12	SLOPE EASEMENT	15031 PARKWAY LOOP, SUITE B
SCALE: 1"=100'	APN 0266-021-43	TUSTIN, CA 92780-6527 (714) 918-6266
SHEET 1 OF 1		

EXHIBIT "I"

TEMPORARY CONSTRUCTION EASEMENT
ATTACHMENT TO LEGAL DESCRIPTION
APN: 0266-021-44

The parcel of land in the attached legal description and map is to be used for temporary construction purposes in connection with the construction of the Palm Avenue Grade Separation Project. The right of usage acquired for the temporary construction easement parcel described in the attached legal description and depicted in the attached map shall be for a period of twenty-four (24) months.

Reasonable pedestrian and vehicular access to the remainder property will be maintained during construction.

The San Bernardino County Transportation Commission is expressly granted the right to convey, transfer or assign the easement rights described above.

Temporary Construction Easement - Francis

Coast Surveying, Inc.
June 14, 2012

EXHIBIT "A"
LEGAL DESCRIPTION
TEMPORARY CONSTRUCTION EASEMENT
APN 0266-021-44

THAT PORTION SECTION 12, TOWNSHIP 1 NORTH, RANGE 5 WEST OF RANCHO MUSCUPIABE, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 7, PAGE 23 OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, DESCRIBED AS FOLLOWS:

COMMENCING AT THE EASTERLY CORNER OF THE LAND DESCRIBED IN THE GRANT DEED TO WALLACE M. FRANCIS, ET AL, RECORDED MARCH 28, 1994 AS DOCUMENT NO. 94-146070 OFFICIAL RECORDS, RECORDS OF SAID COUNTY, SAID POINT ALSO BEING ON THE SOUTHWESTERLY LINE OF LOT 5 OF TRACT NO. 4250 AS SHOWN ON A MAP RECORDED IN BOOK 53, PAGE 52 OF MAPS, RECORDS OF SAID COUNTY; THENCE ALONG THE SOUTHEASTERLY LINE OF THE LAND DESCRIBED IN SAID GRANT DEED SOUTH 70°10'59" WEST 28.00 FEET TO THE TRUE POINT OF BEGINNING; THENCE CONTINUING ALONG SAID SOUTHEASTERLY LINE SOUTH 70°10'59" WEST 12.00 FEET TO A LINE PARALLEL WITH AND 40.00 FEET SOUTHWESTERLY OF THE NORTHEASTERLY LINE OF THE LAND DESCRIBED IN SAID GRANT DEED; THENCE ALONG SAID PARALLEL LINE NORTH 20°04'45" WEST 227.82 FEET TO THE NORTHWESTERLY LINE OF THE LAND DESCRIBED IN SAID GRANT DEED; THENCE ALONG SAID NORTHWESTERLY LINE NORTH 69°55'15" EAST 12.00 FEET TO A LINE PARALLEL WITH AND 28.00 FEET SOUTHWESTERLY OF THE NORTHEASTERLY LINE OF THE LAND DESRIBED IN SAID GRANT DEED; THENCE ALONG SAID PARALLEL LINE SOUTH 20°04'45" EAST 227.87 FEET TO THE TRUE POINT OF BEGINNING.

CONTAINING 2,734 SQUARE FEET, MORE OR LESS.

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

DATED THIS 14TH DAY OF JUNE, 2012.

GWEN-VERA DEL CASTILLO, PLS 5108

EXHIBIT "J"

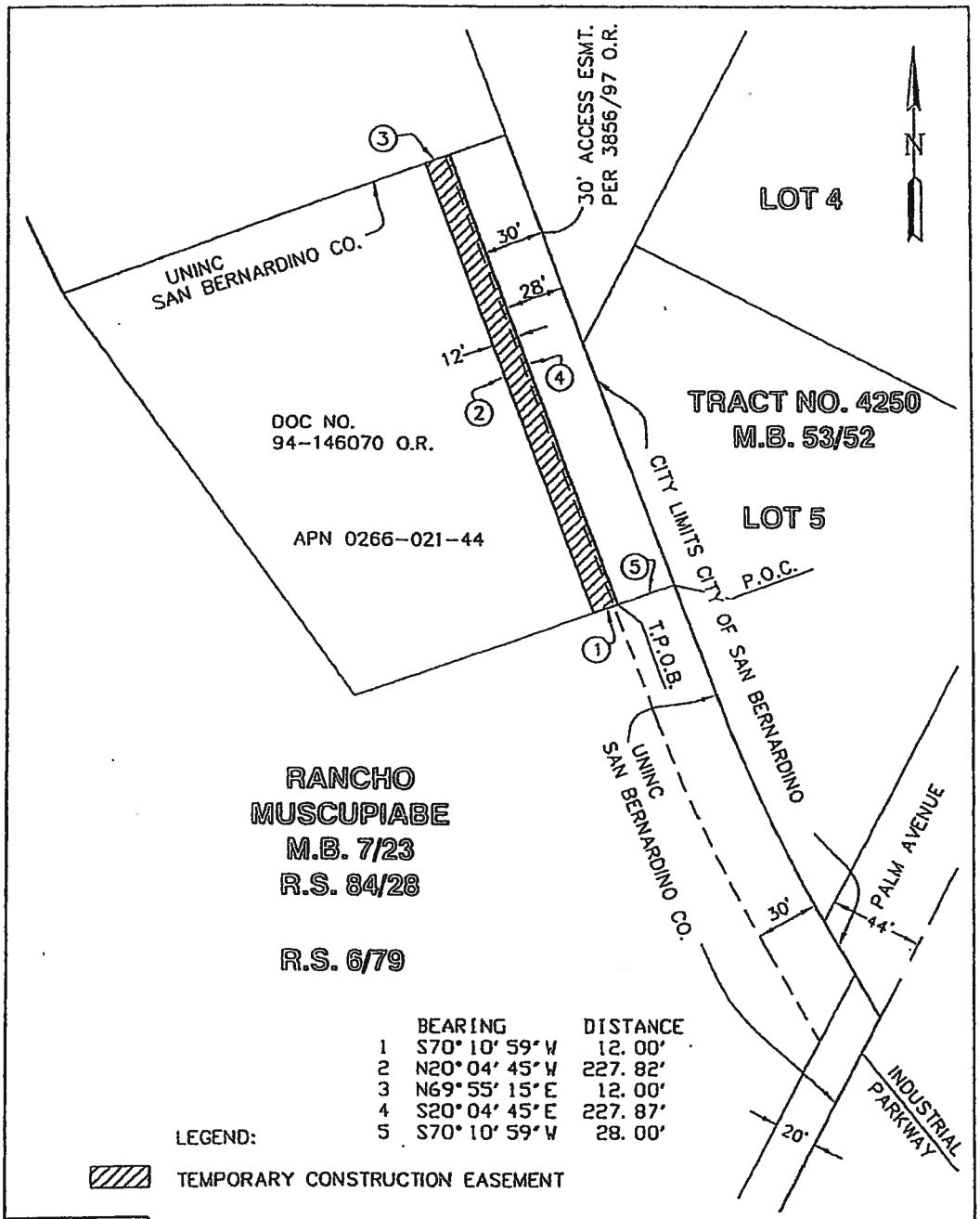

30' ACCESS ESMT. PER 3856/97 O.R.
LOT 4
N
UNINC SAN BERNARDINO CO.
30'
28'
12'
DOC NO. 94-146070 O.R.
APN 0266-021-44
TRACT NO. 4250 M.B. 53/52
LOT 5
CITY LIMITS CITY OF SAN BERNARDINO
P.O.C.
T.P.O.B.
RANCHO MUSCUPIABE M.B. 7/23 R.S. 84/28
R.S. 6/79
UNINC SAN BERNARDINO CO.
PALM AVENUE
30'
44'
INDUSTRIAL PARKWAY
20'
BEARING DISTANCE
1 S70° 10' 59" W 12.00'
2 N20° 04' 45" W 227.82'
3 N69° 55' 15" E 12.00'
4 S20° 04' 45" E 227.87'
5 S70° 10' 59" W 28.00'
LEGEND:
TEMPORARY CONSTRUCTION EASEMENT
JOB #: 108-078
DATE: 6-14-12
SCALE: 1"=60'
SHEET 1 OF 1
EXHIBIT "B"
APN 0266-021-44
COAST SURVEYING, INC.
15031 PARKWAY LOOP, SUITE B
TUSTIN, CA 92780-6527 (714) 918-6266

EXHIBIT "K"

RIGHT OF WAY
ATTACHMENT TO LEGAL DESCRIPTION
APN: 0266-021-44

The property identified in the attached legal description and map shall be for right of way purposes to facilitate the construction and use of the Palm Avenue Grade Separation Project.

Reasonable pedestrian and vehicular access to the remainder property will be maintained during construction.

The San Bernardino County Transportation Commission is expressly granted the right to convey, transfer or assign the right of way.

Right of Way – Francis

(Deducted from Larger Parcel)

Coast Surveying, Inc.
June 14, 2012

EXHIBIT "A"
LEGAL DESCRIPTION
RIGHT OF WAY
APN 0266-021-44

THAT PORTION OF SECTION 12, TOWNSHIP 1 NORTH, RANGE 5 WEST OF RANCHO MUSCUPIABE, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 7, PAGE 23 OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, DESCRIBED AS FOLLOWS:

BEGINNING AT THE EASTERLY CORNER OF THE LAND DESCRIBED IN THE GRANT DEED TO WALLACE M. FRANCIS, ET AL, RECORDED MARCH 28, 1994 AS DOCUMENT NO. 94-146070 OFFICIAL RECORDS, RECORDS OF SAID COUNTY, SAID POINT ALSO BEING ON THE SOUTHWESTERLY LINE OF LOT 5 OF TRACT NO. 4250 AS SHOWN ON A MAP RECORDED IN BOOK 53, PAGE 52 OF MAPS, RECORDS OF SAID COUNTY; THENCE ALONG SAID SOUTHWESTERLY LOT LINE NORTH 20°04'45" WEST 122.52 FEET TO THE MOST WESTERLY CORNER OF SAID LOT 5; THENCE CONTINUING ALONG THE NORTHEASTERLY LINE OF THE LAND DESCRIBED IN SAID GRANT DEED, NORTH 20°04'45" WEST 105.48 FEET TO THE NORTHEAST CORNER OF THE LAND DESCRIBED IN SAID GRANT DEED; THENCE ALONG THE NORTHWESTERLY LINE OF THE LAND DESCRIBED IN SAID GRANT DEED, SOUTH 69°55'15" WEST 28.00 FEET TO A LINE PARALLEL WITH AND 28.00 FEET SOUTHWESTERLY OF THE NORTHEASTERLY LINE OF THE LAND DESCRIBED IN SAID GRANT DEED; THENCE ALONG SAID PARALLEL LINE SOUTH 20°04'45" EAST 227.87 FEET TO THE SOUTHEASTERLY LINE OF THE LAND DESCRIBED IN SAID GRANT DEED; THENCE ALONG SAID SOUTHEASTERLY LINE NORTH 70°10'59" EAST 28.00 FEET TO THE POINT OF BEGINNING.

CONTAINING 6,383 SQUARE FEET, MORE OR LESS.

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

DATED THIS 14TH DAY OF JUNE, 2012.

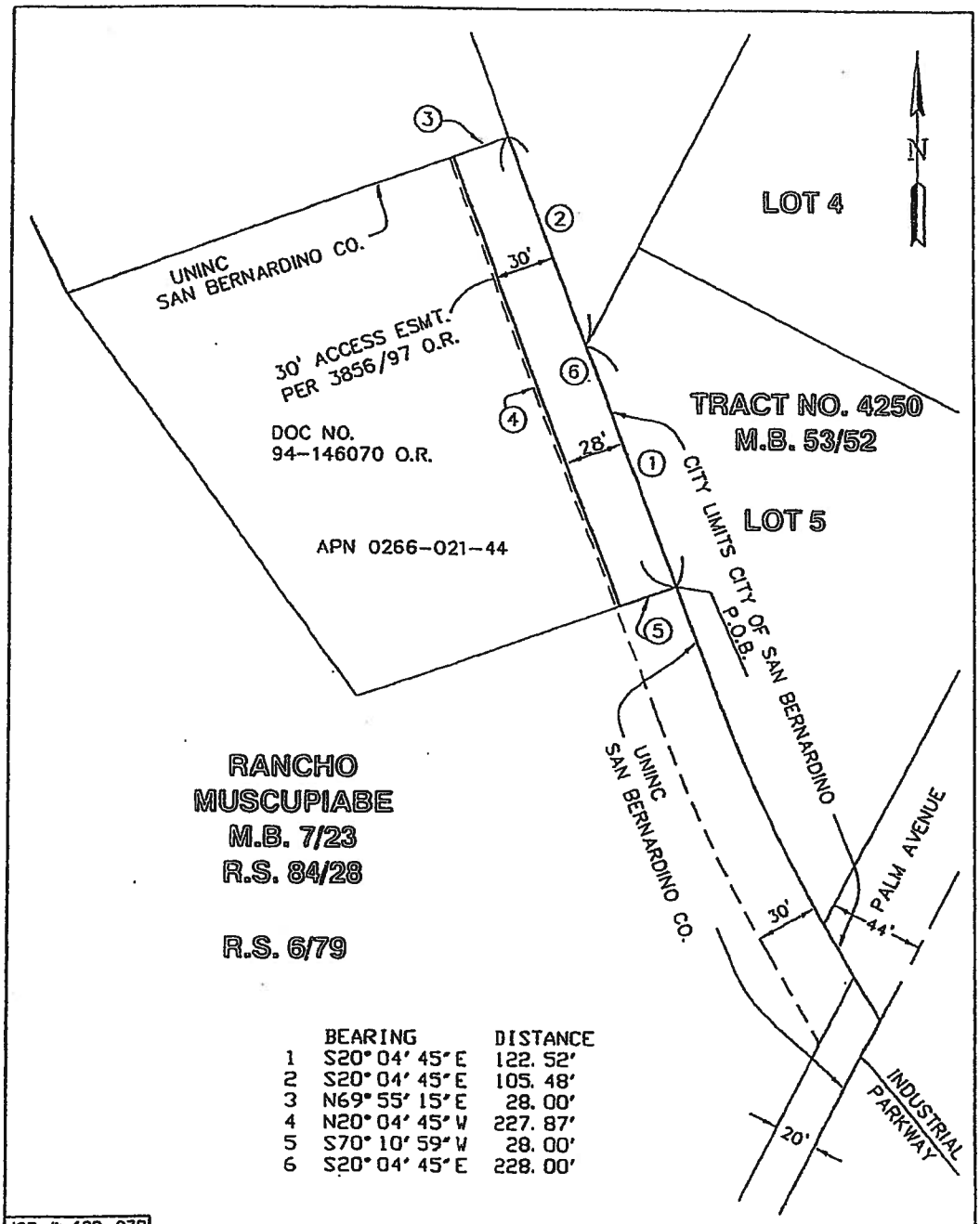
Gwen-Vera del Castillo

GWEN-VERA DEL CASTILLO, PLS 5108

LICENSED LAND SURVEYOR
GWEN-VERA DEL CASTILLO
L.S. 5108
STATE OF CALIFORNIA

JN 108078 rev

EXHIBIT "L"



	BEARING	DISTANCE
1	S20° 04' 45"E	122.52'
2	S20° 04' 45"E	105.48'
3	N69° 55' 15"E	28.00'
4	N20° 04' 45"W	227.87'
5	S70° 10' 59"W	28.00'
6	S20° 04' 45"E	228.00'

JOB #: 108-078	EXHIBIT "B"	COAST SURVEYING, INC.
DATE: 6-14-12	APN 0266-021-44	15031 PARKWAY LOOP, SUITE B
SCALE: 1"=60'	RIGHT OF WAY	TUSTIN, CA 92780-6527 (714) 918-6268
SHEET 1 OF 1		

RESOLUTION NO. 13-025

A RESOLUTION OF THE SAN BERNARDINO COUNTY TRANSPORTATION COMMISSION FINDING AND DETERMINING THAT THE PUBLIC INTEREST AND NECESSITY REQUIRE THE ACQUISITION BY EMINENT DOMAIN OF INTERESTS IN CERTAIN REAL PROPERTY FOR PUBLIC USE AND AUTHORIZING AND DIRECTING CONDEMNATION OF PORTIONS OF APN NO. 0262-051-29

WHEREAS, the San Bernardino County Transportation Commission (the "Commission") is undertaking the Palm Avenue Grade Separation Project (the "Project") that necessitates the Commission to acquire by eminent domain portions of the property located within the vicinity of Palm Avenue, Southwesterly of Cajon Boulevard, in the City of San Bernardino, California; and

WHEREAS, the Project is intended to improve public safety, decrease traffic congestion and improve passenger rail operations by building grade separations between the roadway and the rail lines; and

WHEREAS, the Project requires the acquisition of property interests from private parties; and

WHEREAS, the Project will be a transportation improvement project serving the public interest; and

WHEREAS, subsection (a) of the California Public Utilities Code section 130220.5, authorizes the Commission to exercise the power of eminent domain to acquire these property interests for public use by condemnation; and

WHEREAS, the real property required for the Project includes a roadway easement as legally described in Exhibit "A" and depicted in Exhibit "B" and located within the vicinity of Palm Avenue, Southwesterly of Cajon Boulevard, in the City of San Bernardino, California; and

WHEREAS, the hereinafter described real property required for the Project includes a utility easement as legally described in Exhibit "C" and depicted in Exhibit "D" and located within the vicinity of Palm Avenue, Southwesterly of Cajon Boulevard, in the City of San Bernardino, California; and

WHEREAS, the hereinafter described real property required for the Project includes a temporary construction easement as legally described in Exhibit "E" and depicted in Exhibit "F" and located within the vicinity of Palm Avenue, Southwesterly of Cajon Boulevard, in the City of San Bernardino, California; and

WHEREAS, reasonable pedestrian and vehicular access to the remainder property will be maintained during construction; and

WHEREAS, in accordance with section 1245.235 of the California Code of Civil Procedure, on September 6, 2012 there was mailed a Notice of Hearing on the Intent of the Commission to adopt a Resolution of Necessity for acquisition by eminent domain of the interests in real property described and depicted in Exhibits "A" through "F" herein. The Notice of Hearing was mailed to the listed address of all persons whose names appear on the last equalized county assessment roll as having an interest in the property described and depicted in Exhibits "A" through "F" (collectively the "Property"); and

WHEREAS, the Commission provided written notice to the City of San Bernardino as required by subsection (c) of California Public Utilities Code section 130220.5; and

WHEREAS, the Project, including all amendments thereto, together with the staff reports, environmental documents and all other evidence presented to the Commission at the times the Project and the amendments thereto were adopted, are incorporated herein by this reference and made a part hereof as though fully set forth herein; and

WHEREAS, pursuant to section 1245.235 of the California Code of Civil Procedure, the Commission scheduled a hearing for October 3, 2012 at 10:00 a.m. at Santa Fe Depot---SANBAG Lobby 1st Floor, 1170 W. 3rd Street, San Bernardino, California and gave to each person whose property is to be acquired notice and a reasonable opportunity to appear at said hearing and to 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 Commission and each person whose property is to be acquired by eminent domain was afforded an opportunity to be heard on those matters specified in the Commission's notice of intention to conduct a hearing on whether to adopt a Resolution of Necessity as referred to in section 1240.030 of the California Code of Civil Procedure; and

WHEREAS, the Commission may adopt a Resolution of Necessity pursuant to section 1240.040 of the California Code of Civil Procedure.

NOW, THEREFORE, by a vote of two-thirds or more of its members, the San Bernardino County Transportation Commission does hereby find, determine, resolve and order as follows:

Section 1. Incorporation of Findings and Recitals. The above findings and recitals are true and correct and are incorporated herein in full by this reference.

Section 2. Compliance with California Code of Civil Procedure. The Commission has complied with the requirements of section 1245.235 of the California Code of Civil Procedure regarding notice and hearing.

Section 3. Public Use. The public use for which the Property is to be acquired is for the construction and future maintenance of the Project, a public transportation improvement, as more fully described hereinabove. Subsection (a) of California Public Utilities Code section

130220.5 authorizes the Commission to acquire by eminent domain property and interests in property necessary for such purpose and for all uses incidental or convenient thereto.

Section 4. Necessity.

(a) The Project is necessary to improve public safety, decrease traffic congestion and improve passenger rail operations by building grade separations between the roadway and the rail lines; and

(b) The public interest and necessity require the acquisition by eminent domain proceedings of a roadway easement as legally described in Exhibit "A" and depicted in Exhibit "B", a utility easement as legally described in Exhibit "C" and depicted in Exhibit "D" and a temporary construction easement as legally described in Exhibit "E" and depicted in Exhibit "F" attached to this Resolution of Necessity.

Section 5. Description of Property Interests. The property interests to be acquired are more particularly described and depicted in Exhibits "A" through "F" attached hereto and incorporated herein by reference.

Section 6. Findings. The Commission hereby finds, determines and declares each of the following:

(a) The public interest and necessity require the proposed Project;

(b) The Project is planned or located in the manner that will be most compatible with the greatest public good and least private injury;

(c) The above-described property interests, as described and depicted in Exhibits "A" through "F", are necessary for the proposed Project;

(d) The offer required by section 7267.2 of the California Government Code has been made to the owner or owners of record; and

(e) All conditions and statutory requirements necessary to exercise the power of eminent domain ("the right to take") to acquire the Property have been complied with by the Commission.

Section 7. Existing Public Use(s). Pursuant to sections 1240.510 and 1240.610 of the Code of Civil Procedure, to the extent that any of the real property to be acquired is already devoted to a public use, the use proposed by this Project is a more necessary public use than the use to which the real property, or any portion thereof, is already devoted, or, in the alternative, is a compatible public use which will not unreasonably interfere with or impair the continuance of the public use to which the real property, or any portion thereof, is already devoted.

Section 8. Authority to Exercise Eminent Domain. The Commission is hereby authorized and empowered to acquire a roadway easement as legally described in Exhibit "A"

and depicted in Exhibit "B", a utility easement as legally described in Exhibit "C" and depicted in Exhibit "D" and a temporary construction easement as legally described in Exhibit "E" and depicted in Exhibit "F", including the improvements thereon, if any, by eminent domain for the Project.

Section 9. Further Activities. Legal Counsel for the Commission ("Counsel") is hereby authorized and empowered to acquire the hereinabove described interests in real property in the name of and on behalf of the Commission by eminent domain, and is authorized to institute and prosecute such legal proceedings as may be required in connection therewith. 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 and to permit the Commission to take possession of and use real property at the earliest possible time. Counsel is further authorized to correct any errors in this Resolution of Necessity or to make or agree to non-material changes in the legal descriptions of the real property that are deemed necessary for the conduct of the eminent domain action or other proceedings or transactions required to acquire the interests in the subject real property.

Section 10. Effective Date. This Resolution shall take effect upon adoption.

Adopted by the San Bernardino County Transportation Commission on October 3, 2012, by the following vote:

AYES:

NOES:

ABSENT:

_____
Janice Rutherford, Chairperson
San Bernardino County Transportation Commission

ATTEST:

_____
Vicki Watson,
Clerk of the Commission

EXHIBIT "A"

RIGHT OF WAY
ATTACHMENT TO LEGAL DESCRIPTION
APN: 0266-051-29

The property identified in the attached legal description and map shall be for right of way purposes to facilitate the construction and use of the Palm Avenue Grade Separation Project.

Reasonable pedestrian and vehicular access to the remainder property will be maintained during construction.

The San Bernardino County Transportation Commission is expressly granted the right to convey, transfer or assign the right of way.

LEGAL DESCRIPTION
RIGHT OF WAY
APN 0262-051-29

THOSE PORTIONS OF GOVERNMENT LOT 37, RANCHO MUSCUPIABE, IN THE CITY OF SAN BERNARDINO, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 7, PAGE 23 OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, DESCRIBED AS FOLLOWS:

PARCEL A

COMMENCING AT THE MOST NORTHERLY CORNER OF THAT CERTAIN LAND AS SHOWN ON A MAP RECORDED IN BOOK 42, PAGE 88 OF RECORDS OF SURVEY, RECORDS OF SAID COUNTY, BEING A POINT ON THE SOUTHWESTERLY RIGHT OF WAY LINE OF CAJON BOULEVARD; THENCE SOUTH 38°54'04" EAST 494.60 FEET ALONG SAID SOUTHWESTERLY RIGHT OF WAY LINE TO THE TRUE POINT OF BEGINNING; THENCE CONTINUING ALONG SAID SOUTHWESTERLY RIGHT OF WAY LINE SOUTH 38°54'04" EAST 532.25 FEET TO THE NORTHWESTERLY LINE OF THE LAND DESCRIBED AS TRACT NO. 420 IN THE QUITCLAIM DEED TO THE SAN BERNARDINO FLOOD CONTROL DISTRICT RECORDED APRIL 20, 1950 IN BOOK 2564, PAGE 41 OFFICIAL RECORDS, RECORDS OF SAID COUNTY; THENCE ALONG SAID NORTHWESTERLY LINE SOUTH 51°06'03" WEST 1149.55 FEET TO THE NORTHEASTERLY RIGHT OF WAY LINE OF THE UNION PACIFIC RAILROAD (FORMERLY SOUTHERN PACIFIC RAILROAD) (150 FEET WIDE); THENCE ALONG SAID NORTHEASTERLY RIGHT OF WAY LINE NORTH 38°52'19" WEST 140.01 FEET; THENCE LEAVING SAID NORTHEASTERLY RIGHT OF WAY LINE NORTH 51°06'03" EAST 150.02 FEET; THENCE NORTH 45°12'22" EAST 177.83 FEET; THENCE NORTH 07°00'48" EAST 326.88 FEET TO THE BEGINNING OF A CURVE CONCAVE SOUTHEASTERLY HAVING A RADIUS OF 520.05 FEET; THENCE NORTHEASTERLY 400.09 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 44°04'44"; THENCE NORTH 51°05'32" EAST 226.02 FEET TO THE TRUE POINT OF BEGINNING.

CONTAINING 9.356 ACRES, MORE OR LESS.

PARCEL B

COMMENCING AT THE MOST NORTHERLY CORNER OF THAT CERTAIN LAND AS SHOWN ON A MAP RECORDED IN BOOK 42, PAGE 88 OF RECORDS OF SURVEY, RECORDS OF SAID COUNTY, BEING A POINT ON THE SOUTHWESTERLY RIGHT OF WAY LINE OF CAJON BOULEVARD; THENCE SOUTH 38°54'04" EAST 1076.85 FEET ALONG SAID SOUTHWESTERLY RIGHT OF WAY LINE TO THE SOUTHEASTERLY LINE OF THE LAND DESCRIBED AS TRACT NO. 420 IN THE QUITCLAIM DEED TO THE SAN BERNARDINO COUNTY FLOOD CONTROL DISTRICT RECORDED APRIL 20, 1950 IN BOOK 2564, PAGE 41 OFFICIAL RECORDS, RECORDS OF SAID COUNTY, SAID POINT BEING THE TRUE POINT OF BEGINNING; THENCE CONTINUING ALONG SAID SOUTHWESTERLY RIGHT OF WAY LINE SOUTH 38°54'04" EAST 173.27 FEET; THENCE LEAVING SAID SOUTHWESTERLY RIGHT OF WAY LINE SOUTH 68°40'53" WEST 374.97 FEET; THENCE SOUTH 51°06'03" WEST 156.69 FEET; THENCE NORTH 38°53'57" WEST 49.65 FEET; THENCE SOUTH 68°40'53" WEST 34.33 FEET TO SAID SOUTHEASTERLY LINE OF THE SAN BERNARDINO

FLOOD CONTROL DISTRICT LAND; THENCE ALONG SAID SOUTHEASTERLY LINE NORTH 51°06'03" EAST 546.87 FEET TO THE TRUE POINT OF BEGINNING.

CONTAINING 51,268 SQUARE FEET, MORE OR LESS.

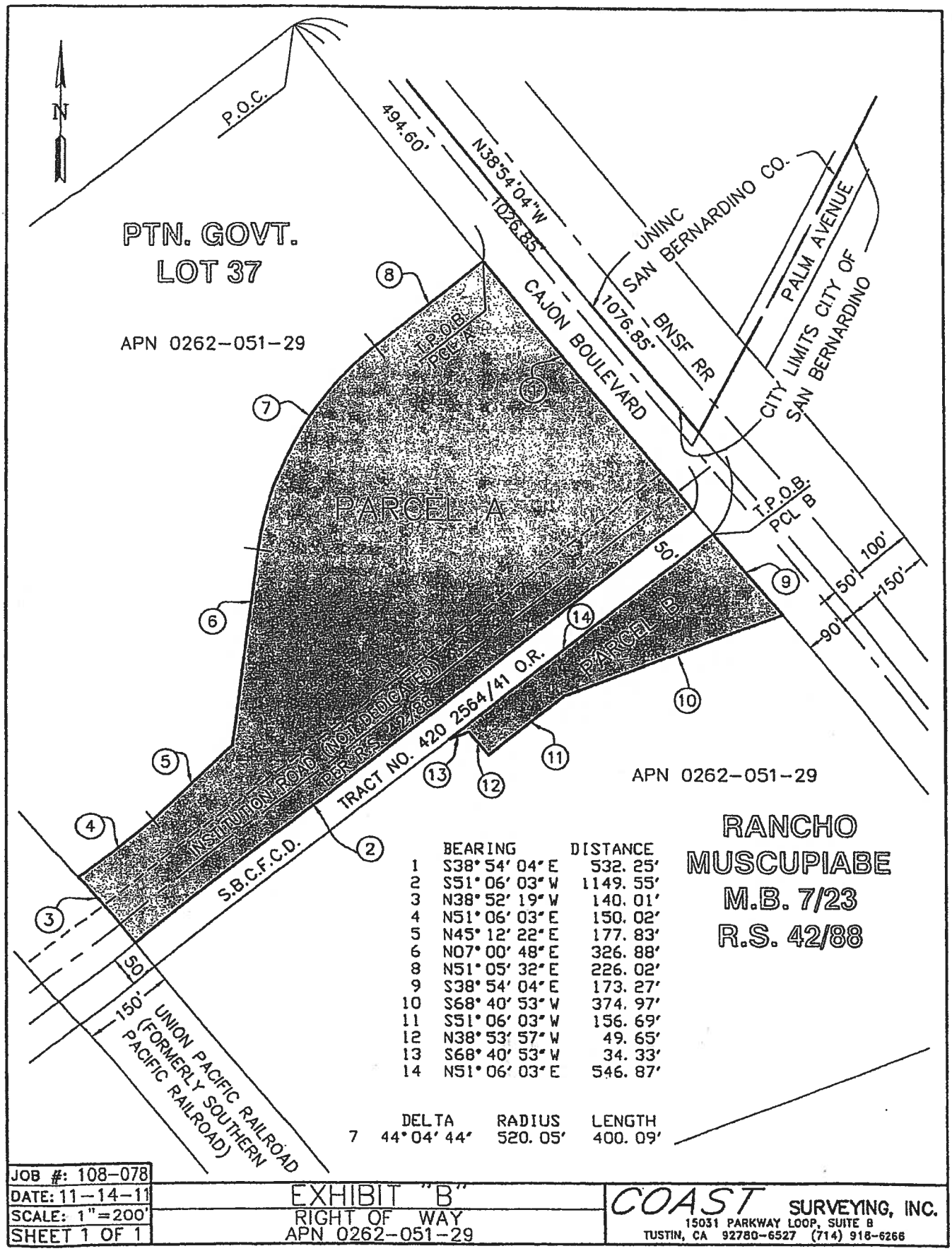
ALL AS MORE PARTICULARLY SHOWN ON EXHIBIT B ATTACHED HERETO AND MADE A PART HEREOF.

DATED THIS 28TH DAY OF NOVEMBER, 2011.

Gwen Vera del Castillo

GWEN-VERA DEL CASTILLO, PLS 5108

EXHIBIT "B"



	BEARING	DISTANCE
1	S38° 54' 04" E	532. 25'
2	S51° 06' 03" W	1149. 55'
3	N38° 52' 19" W	140. 01'
4	N51° 06' 03" E	150. 02'
5	N45° 12' 22" E	177. 83'
6	N07° 00' 48" E	326. 88'
8	N51° 05' 32" E	226. 02'
9	S38° 54' 04" E	173. 27'
10	S68° 40' 53" W	374. 97'
11	S51° 06' 03" W	156. 69'
12	N38° 53' 57" W	49. 65'
13	S68° 40' 53" W	34. 33'
14	N51° 06' 03" E	546. 87'

	DELTA	RADIUS	LENGTH
7	44° 04' 44"	520. 05'	400. 09'

JOB #: 108-078	EXHIBIT "B"	COAST SURVEYING, INC.
DATE: 11-14-11	RIGHT OF WAY	15031 PARKWAY LOOP, SUITE B
SCALE: 1"=200'	APN 0262-051-29	TUSTIN, CA 92780-6527 (714) 918-6266
SHEET 1 OF 1		

EXHIBIT "C"

UTILITY EASEMENT
ATTACHMENT TO LEGAL DESCRIPTION
APN: 0262-051-29

This permanent, nonexclusive utility easement allows the San Bernardino County Transportation Commission, and its employees, agents, representatives and contractors the right to use the property in the attached legal description and map for the purpose of constructing, maintaining, repairing, relocating and adjusting, as applicable, underground and overhead utility facilities and their appurtenant fixtures and equipment as required.

There shall not be constructed any improvements within the easement area that would impede the rights as defined herein. The affected portion of the easement area will be backfilled to grade with dirt or with pavement material. Once the utilities are in place, the surface of the easement area may be used for access or automobile parking purposes.

Reasonable pedestrian and vehicular access to the remainder property will be maintained during construction.

The San Bernardino County Transportation Commission is expressly granted the right to convey, transfer or assign the easement rights described above.

Coast Surveying, Inc.
November 15, 2011

LEGAL DESCRIPTION
UTILITY EASEMENT

THOSE PORTIONS OF GOVERNMENT LOT 37, RANCHO MUSCUPIABE, IN THE CITY OF SAN BERNARDINO, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 7, PAGE 23 OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, DESCRIBED AS FOLLOWS:

PARCEL A

COMMENCING AT THE INTERSECTION OF THE SOUTHEASTERLY LINE OF THE LAND DESCRIBED AS TRACT NO. 420 IN THE QUITCLAIM DEED TO THE SAN BERNARDINO COUNTY FLOOD CONTROL DISTRICT RECORDED APRIL 20, 1950 IN BOOK 2564, PAGE 41 OFFICIAL RECORDS, RECORDS OF SAID COUNTY WITH THE SOUTHWESTERLY RIGHT OF WAY OF CAJON BOULEVARD (90 FEET WIDE) AS SHOWN ON A MAP RECORDED IN BOOK 42, PAGE 88 OF RECORDS OF SURVEY, RECORDS OF SAID COUNTY; THENCE ALONG SAID SOUTHWESTERLY RIGHT OF WAY LINE SOUTH 38°54'04" EAST 141.80 FEET TO THE TRUE POINT OF BEGINNING; THENCE CONTINUING ALONG SAID SOUTHWESTERLY RIGHT OF WAY LINE SOUTH 38°54'04" EAST 31.47 FEET; THENCE LEAVING SAID SOUTHWESTERLY LINE SOUTH 68°40'53" WEST 573.67 FEET TO SAID SOUTHEASTERLY LINE OF TRACT NO. 420; THENCE ALONG SAID SOUTHEASTERLY LINE NORTH 51°06'03" EAST 99.33 FEET; THENCE LEAVING SAID SOUTHEASTERLY LINE NORTH 68°40'53" EAST 469.47 FEET TO THE TRUE POINT OF BEGINNING.

CONTAINING 15,649 SQUARE FEET, MORE OR LESS.

PARCEL B

COMMENCING AT THE INTERSECTION OF THE SOUTHEASTERLY LINE OF THE LAND DESCRIBED AS TRACT NO. 420 IN THE QUITCLAIM DEED TO THE SAN BERNARDINO COUNTY FLOOD CONTROL DISTRICT RECORDED APRIL 20, 1950 IN BOOK 2564, PAGE 41 OFFICIAL RECORDS, RECORDS OF SAID COUNTY WITH THE SOUTHWESTERLY RIGHT OF WAY OF CAJON BOULEVARD (90 FEET WIDE) AS SHOWN ON A MAP RECORDED IN BOOK 42, PAGE 88 OF RECORDS OF SURVEY, RECORDS OF SAID COUNTY; THENCE ALONG SAID SOUTHWESTERLY RIGHT OF WAY LINE SOUTH 38°54'04" EAST 173.27 FEET; THENCE LEAVING SAID SOUTHWESTERLY LINE SOUTH 68°40'53" WEST 573.67 FEET TO SAID SOUTHEASTERLY LINE OF TRACT NO. 420, SAID POINT BEING THE TRUE POINT OF BEGINNING; THENCE SOUTH 68°40'53" WEST 165.54 FEET TO THE NORTHWESTERLY LINE OF SAID TRACT NO. 420; THENCE ALONG SAID NORTHWESTERLY LINE NORTH 51°06'03" EAST 99.33 FEET; THENCE LEAVING SAID NORTHWESTERLY LINE NORTH 68°40'53" EAST 165.54 FEET TO SAID SOUTHEASTERLY LINE OF SAID TRACT NO. 420; THENCE ALONG SAID SOUTHEASTERLY LINE SOUTH 51°06'03" WEST 99.33 FEET TO THE TRUE POINT OF BEGINNING.

CONTAINING 4,967 SQUARE FEET, MORE OR LESS.

PARCEL C

COMMENCING AT THE INTERSECTION OF THE SOUTHEASTERLY LINE OF THE LAND DESCRIBED AS TRACT NO. 420 IN THE QUITCLAIM DEED TO THE SAN BERNARDINO COUNTY FLOOD CONTROL DISTRICT RECORDED APRIL 20, 1950 IN BOOK 2564, PAGE 41 OFFICIAL RECORDS, RECORDS OF SAID COUNTY WITH THE SOUTHWESTERLY RIGHT OF WAY OF CAJON BOULEVARD (90 FEET WIDE) AS SHOWN ON A MAP RECORDED IN BOOK 42, PAGE 88 OF RECORDS OF SURVEY, RECORDS OF SAID COUNTY; THENCE ALONG SAID SOUTHWESTERLY RIGHT OF WAY LINE SOUTH 38°54'04" EAST 173.27 FEET; THENCE LEAVING SAID SOUTHWESTERLY LINE SOUTH 68°40'53" WEST 739.21 FEET TO SAID NORTHWESTERLY LINE OF TRACT NO. 420, SAID POINT BEING THE TRUE POINT OF BEGINNING; THENCE SOUTH 68°40'53" WEST 170.17 FEET; THENCE NORTH 21°19'07" WEST 30.00 FEET; THENCE NORTH 68°40'53" EAST 264.86 FEET TO SAID NORTHWESTERLY LINE OF SAID TRACT NO. 420; THENCE ALONG SAID NORTHWESTERLY LINE SOUTH 51°06'03" WEST 99.33 FEET TO THE TRUE POINT OF BEGINNING.

CONTAINING 6,526 SQUARE FEET, MORE OR LESS.

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

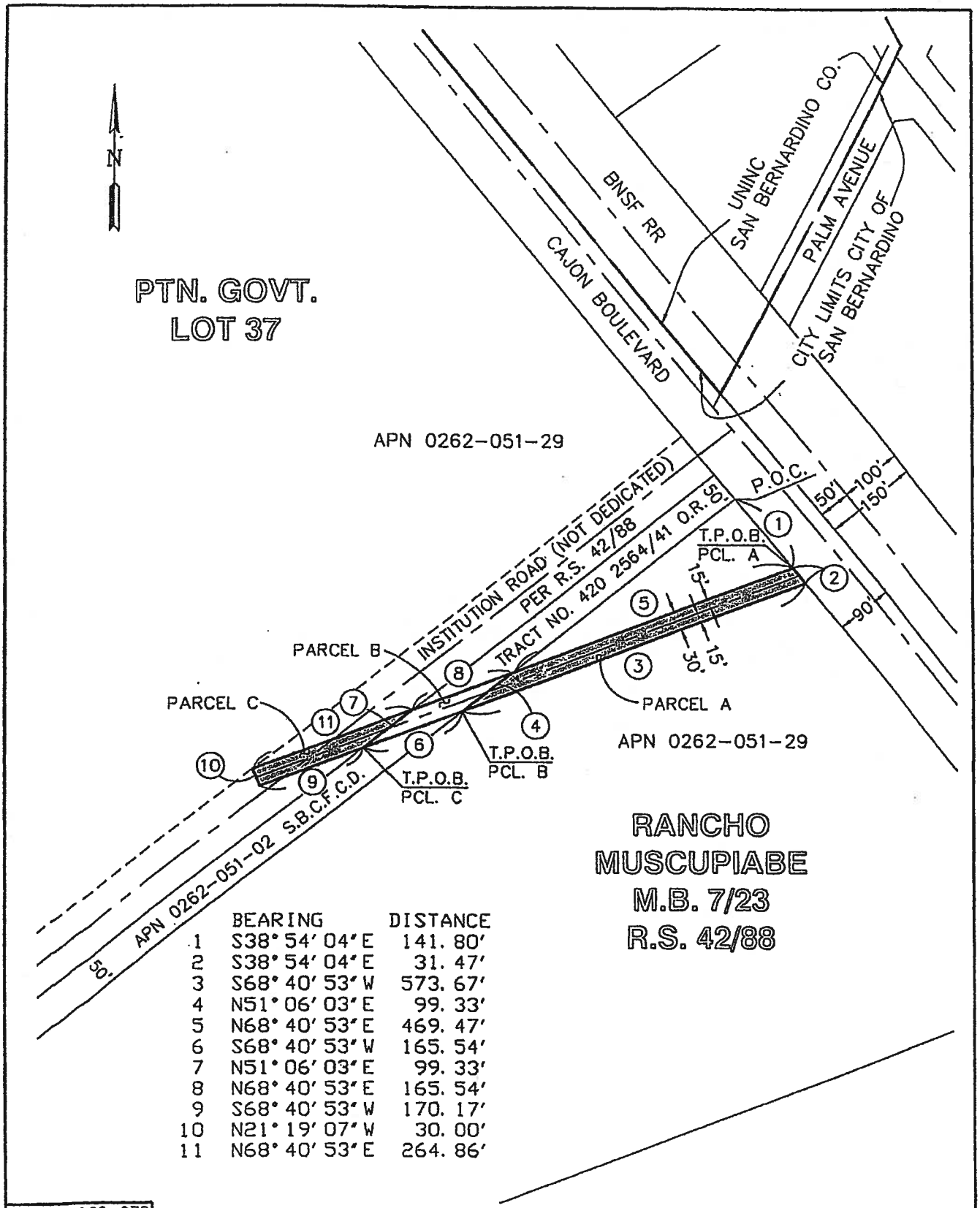
DATED THIS 16TH DAY OF NOVEMBER, 2011.

Gwen-Vera del Castillo

GWEN-VERA DEL CASTILLO, PLS 5108

LICENSED LAND SURVEYOR
GWEN-VERA DEL CASTILLO
L.S. 5108
STATE OF CALIFORNIA

EXHIBIT "D"



	BEARING	DISTANCE
1	S38° 54' 04"E	141. 80'
2	S38° 54' 04"E	31. 47'
3	S68° 40' 53"W	573. 67'
4	N51° 06' 03"E	99. 33'
5	N68° 40' 53"E	469. 47'
6	S68° 40' 53"W	165. 54'
7	N51° 06' 03"E	99. 33'
8	N68° 40' 53"E	165. 54'
9	S68° 40' 53"W	170. 17'
10	N21° 19' 07"W	30. 00'
11	N68° 40' 53"E	264. 86'

JOB #: 108-078	EXHIBIT "B"	COAST SURVEYING, INC.
DATE: 11-16-11	UTILITY EASEMENT	15031 PARKWAY LOOP, SUITE B
SCALE: 1"=200'		TUSTIN, CA 92780-6527 (714) 918-6266
SHEET 1 OF 1		

EXHIBIT "E"

TEMPORARY CONSTRUCTION EASEMENT
ATTACHMENT TO LEGAL DESCRIPTION
APN: 0262-051-29

The parcel of land in the attached legal description and map is to be used for temporary construction purposes in connection with the construction of the Palm Avenue Grade Separation Project. The right of usage acquired for the temporary construction easement parcel described in the attached legal description and depicted in the attached map shall be for a period of twenty-four (24) months.

Reasonable pedestrian and vehicular access to the remainder property will be maintained during construction.

The San Bernardino County Transportation Commission is expressly granted the right to convey, transfer or assign the easement rights described above.

Coast Surveying, Inc.
November 14, 2011

LEGAL DESCRIPTION
TEMPORARY CONSTRUCTION EASEMENT
APN 0262-051-29

THOSE PORTIONS OF GOVERNMENT LOT 37, RANCHO MUSCUPIABE, IN THE CITY OF SAN BERNARDINO, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 7, PAGE 23 OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, DESCRIBED AS FOLLOWS:

PARCEL A-1

COMMENCING AT THE MOST NORTHERLY CORNER OF THAT CERTAIN LAND AS SHOWN ON A MAP RECORDED IN BOOK 42, PAGE 88 OF RECORDS OF SURVEY, RECORDS OF SAID COUNTY, BEING A POINT ON THE SOUTHWESTERLY RIGHT OF WAY LINE OF CAJON BOULEVARD; THENCE SOUTH 38°54'04" EAST 494.60 FEET ALONG SAID SOUTHWESTERLY RIGHT OF WAY LINE TO THE TRUE POINT OF BEGINNING; THENCE LEAVING SAID SOUTHWESTERLY RIGHT OF WAY LINE SOUTH 51°05'32" WEST 226.02 FEET TO THE BEGINNING OF A CURVE CONCAVE SOUTHEASTERLY HAVING A RADIUS OF 520.05 FEET; THENCE SOUTHWESTERLY 400.09 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 44°04'44" TO A POINT OF CUSP; THENCE NORTH 07°00'48" EAST 16.61 FEET TO THE BEGINNING OF A CURVE CONCAVE SOUTHEASTERLY HAVING A RADIUS OF 550.06 FEET; THENCE NORTHEASTERLY 423.17 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 44°04'44"; THENCE NORTH 51°05'32" EAST 193.22 FEET TO SAID SOUTHWESTERLY RIGHT OF WAY LINE OF CAJON BOULEVARD; THENCE ALONG SAID SOUTHWESTERLY LINE SOUTH 38°54'04" EAST 20.00 FEET TO THE TRUE POINT OF BEGINNING.

CONTAINING 7,878 SQUARE FEET, MORE OR LESS.

PARCEL B-1

COMMENCING AT THE MOST NORTHERLY CORNER OF THAT CERTAIN LAND AS SHOWN ON A MAP RECORDED IN BOOK 42, PAGE 88 OF RECORDS OF SURVEY, RECORDS OF SAID COUNTY, BEING A POINT ON THE SOUTHWESTERLY RIGHT OF WAY LINE OF CAJON BOULEVARD; THENCE SOUTH 38°54'04" EAST 1076.85 FEET ALONG SAID SOUTHWESTERLY RIGHT OF WAY LINE TO THE SOUTHEASTERLY LINE OF THE LAND DESCRIBED AS TRACT NO. 420 IN THE QUITCLAIM DEED TO THE SAN BERNARDINO FLOOD CONTROL DISTRICT RECORDED APRIL 20, 1950 IN BOOK 2564, PAGE 41 OFFICIAL RECORDS, RECORDS OF SAID COUNTY; THENCE CONTINUING ALONG SAID SOUTHWESTERLY RIGHT OF WAY LINE SOUTH 38°54'04" EAST 173.27 FEET TO THE TRUE POINT OF BEGINNING; THENCE LEAVING SAID SOUTHWESTERLY RIGHT OF WAY LINE SOUTH 68°40'53" WEST 374.97 FEET; THENCE SOUTH 51°06'03" WEST 156.69 FEET; THENCE NORTH 38°53'57" WEST 49.65 FEET; THENCE SOUTH 68°40'53" WEST 34.33 FEET TO SAID SOUTHEASTERLY LINE OF THE SAN BERNARDINO FLOOD CONTROL DISTRICT LAND; THENCE ALONG SAID SOUTHEASTERLY LINE SOUTH 51°06'03" WEST 297.30 FEET; THENCE LEAVING SAID SOUTHEASTERLY LINE NORTH 64°03'27" EAST 866.23 FEET TO SAID SOUTHWESTERLY RIGHT OF WAY LINE OF CAJON BOULEVARD; THENCE ALONG SAID SOUTHWESTERLY LINE NORTH 38°54'04" WEST 20.95 FEET TO THE TRUE POINT OF BEGINNING.

CONTAINING 30,710 SQUARE FEET, MORE OR LESS.

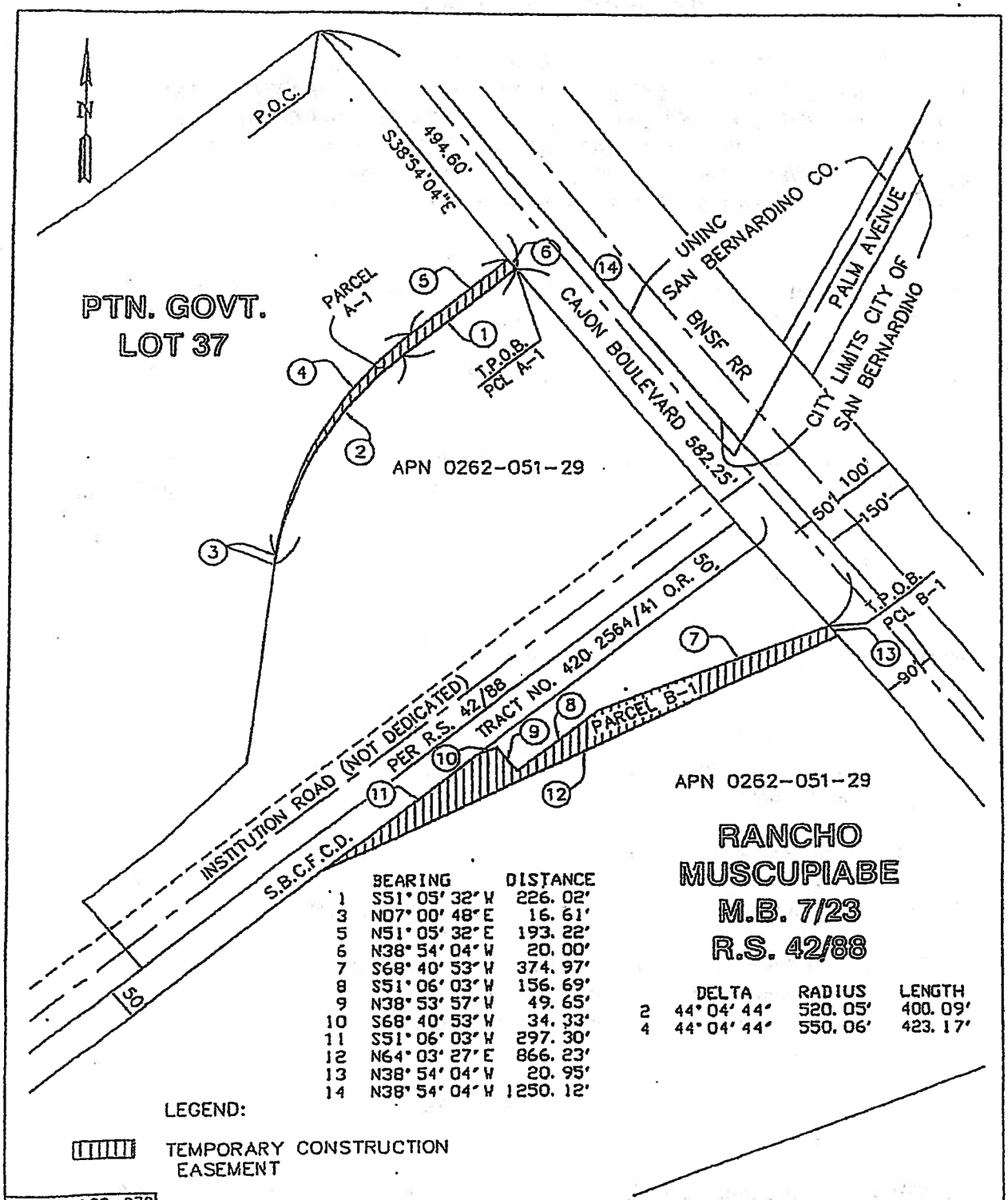
ALL AS MORE PARTICULARLY SHOWN ON EXHIBIT B ATTACHED HERETO AND MADE A PART HEREOF.

DATED THIS 16TH DAY OF NOVEMBER, 2011.

Gwen-Vera del Castillo

GWEN-VERA DEL CASTILLO, PLS 5108

EXHIBIT "F"



	BEARING	DISTANCE
1	S51° 05' 32" W	226. 02'
3	N07° 00' 48" E	16. 61'
5	N51° 05' 32" E	193. 22'
6	N38° 54' 04" W	20. 00'
7	S68° 40' 53" W	374. 97'
8	S51° 06' 03" W	156. 69'
9	N38° 53' 57" W	49. 65'
10	S68° 40' 53" W	34. 33'
11	S51° 06' 03" W	297. 30'
12	N64° 03' 27" E	866. 23'
13	N38° 54' 04" W	20. 95'
14	N38° 54' 04" W	1250. 12'

	DELTA	RADIUS	LENGTH
2	44° 04' 44"	520. 05'	400. 09'
4	44° 04' 44"	550. 06'	423. 17'

JOB #: 108-078		COAST SURVEYING, INC.
DATE: 11-14-11	APN 0262-051-29	15031 PARKWAY LOOP, SUITE B
SCALE: 1"=200'		TUSTIN, CA 92780-6527 (714) 918-6266
SHEET 1 OF 1		

RESOLUTION NO. 13-026

A RESOLUTION OF THE SAN BERNARDINO COUNTY TRANSPORTATION COMMISSION FINDING AND DETERMINING THAT THE PUBLIC INTEREST AND NECESSITY REQUIRE THE ACQUISITION BY EMINENT DOMAIN OF INTERESTS IN CERTAIN REAL PROPERTY FOR PUBLIC USE AND AUTHORIZING AND DIRECTING CONDEMNATION OF PORTIONS OF APN NO. 0266-041-62

WHEREAS, the San Bernardino County Transportation Commission (the "Commission") is undertaking the Palm Avenue Grade Separation Project (the "Project") that necessitates the Commission to acquire by eminent domain portions of the property located on the Southeasterly corner of Palm Avenue and Industrial Parkway, in the City of San Bernardino, California; and

WHEREAS, the Project is intended to improve public safety, decrease traffic congestion and improve passenger rail operations by building grade separations between the roadway and the rail lines; and

WHEREAS, the Project requires the acquisition of property interests from private parties; and

WHEREAS, the Project will be a transportation improvement project serving the public interest; and

WHEREAS, subsection (a) of the California Public Utilities Code section 130220.5, authorizes the Commission to exercise the power of eminent domain to acquire these property interests for public use by condemnation; and

WHEREAS, the real property required for the Project includes a roadway easement as legally described in Exhibit "A" and depicted in Exhibit "B" and located on the Southeasterly corner of Palm Avenue and Industrial Parkway, in the City of San Bernardino, California; and

WHEREAS, the hereinafter described real property required for the Project includes a temporary construction easement as legally described in Exhibit "C" and depicted in Exhibit "D" and located on the Southeasterly corner of Palm Avenue and Industrial Parkway, in the City of San Bernardino, California; and

WHEREAS, reasonable pedestrian and vehicular access to the remainder property will be maintained during construction; and

WHEREAS, in accordance with section 1245.235 of the California Code of Civil Procedure, on September 6, 2012 there was mailed a Notice of Hearing on the Intent of the Commission to adopt a Resolution of Necessity for acquisition by eminent domain of the interests in real property described and depicted in Exhibits "A" through "D" herein. The Notice

of Hearing was mailed to the listed address of all persons whose names appear on the last equalized county assessment roll as having an interest in the property described and depicted in Exhibits "A" through "D" (collectively the "Property"); and

WHEREAS, the Commission provided written notice to the City of San Bernardino as required by subsection (c) of California Public Utilities Code section 130220.5; and

WHEREAS, the Project, including all amendments thereto, together with the staff reports, environmental documents and all other evidence presented to the Commission at the times the Project and the amendments thereto were adopted, are incorporated herein by this reference and made a part hereof as though fully set forth herein; and

WHEREAS, pursuant to section 1245.235 of the California Code of Civil Procedure, the Commission scheduled a hearing for October 3, 2012 at 10:00 a.m. at Santa Fe Depot---SANBAG Lobby 1st Floor, 1170 W. 3rd Street, San Bernardino, California and gave to each person whose property is to be acquired notice and a reasonable opportunity to appear at said hearing and to 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 Commission and each person whose property is to be acquired by eminent domain was afforded an opportunity to be heard on those matters specified in the Commission's notice of intention to conduct a hearing on whether to adopt a Resolution of Necessity as referred to in section 1240.030 of the California Code of Civil Procedure; and

WHEREAS, the Commission may adopt a Resolution of Necessity pursuant to section 1240.040 of the California Code of Civil Procedure.

NOW, THEREFORE, by a vote of two-thirds or more of its members, the San Bernardino County Transportation Commission does hereby find, determine, resolve and order as follows:

Section 1. Incorporation of Findings and Recitals. The above findings and recitals are true and correct and are incorporated herein in full by this reference.

Section 2. Compliance with California Code of Civil Procedure. The Commission has complied with the requirements of section 1245.235 of the California Code of Civil Procedure regarding notice and hearing.

Section 3. Public Use. The public use for which the Property is to be acquired is for the construction and future maintenance of the Project, a public transportation improvement, as more fully described hereinabove. Subsection (a) of California Public Utilities Code section 130220.5 authorizes the Commission to acquire by eminent domain property and interests in property necessary for such purpose and for all uses incidental or convenient thereto.

Section 4. Necessity.

(a) The Project is necessary to improve public safety, decrease traffic congestion and improve passenger rail operations by building grade separations between the roadway and the rail lines; and

(b) The public interest and necessity require the acquisition by eminent domain proceedings of a roadway easement as legally described in Exhibit "A" and depicted in Exhibit "B" and a temporary construction easement as legally described in Exhibit "C" and depicted in Exhibit "D" attached to this Resolution of Necessity.

Section 5. Description of Property Interests. The property interests to be acquired are more particularly described and depicted in Exhibits "A" through "D" attached hereto and incorporated herein by reference.

Section 6. Findings. The Commission hereby finds, determines and declares each of the following:

(a) The public interest and necessity require the proposed Project;

(b) The Project is planned or located in the manner that will be most compatible with the greatest public good and least private injury;

(c) The above-described property interests, as described and depicted in Exhibits "A" through "D", are necessary for the proposed Project;

(d) The offer required by section 7267.2 of the California Government Code has been made to the owner or owners of record; and

(e) All conditions and statutory requirements necessary to exercise the power of eminent domain ("the right to take") to acquire the Property have been complied with by the Commission.

Section 7. Existing Public Use(s). Pursuant to sections 1240.510 and 1240.610 of the Code of Civil Procedure, to the extent that any of the real property to be acquired is already devoted to a public use, the use proposed by this Project is a more necessary public use than the use to which the real property, or any portion thereof, is already devoted, or, in the alternative, is a compatible public use which will not unreasonably interfere with or impair the continuance of the public use to which the real property, or any portion thereof, is already devoted.

Section 8. Authority to Exercise Eminent Domain. The Commission is hereby authorized and empowered to acquire a roadway easement as legally described in Exhibit "A" and depicted in Exhibit "B" and a temporary construction easement as legally described in Exhibit "C" and depicted in Exhibit "D", including the improvements thereon, if any, by eminent domain for the Project.

Section 9. Further Activities. Legal Counsel for the Commission ("Counsel") is hereby authorized and empowered to acquire the hereinabove described interests in real property in the name of and on behalf of the Commission by eminent domain, and is authorized to institute and prosecute such legal proceedings as may be required in connection therewith. 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 and to permit the Commission to take possession of and use real property at the earliest possible time. Counsel is further authorized to correct any errors in this Resolution of Necessity or to make or agree to non-material changes in the legal descriptions of the real property that are deemed necessary for the conduct of the eminent domain action or other proceedings or transactions required to acquire the interests in the subject real property.

Section 10. Effective Date. This Resolution shall take effect upon adoption.

Adopted by the San Bernardino County Transportation Commission on October 3, 2012, by the following vote:

AYES:

NOES:

ABSENT:

_____
Janice Rutherford, Chairperson
San Bernardino County Transportation Commission

ATTEST:

_____
Vicki Watson,
Clerk of the Commission

EXHIBIT "A"

RIGHT OF WAY
ATTACHMENT TO LEGAL DESCRIPTION
APN: 0266-041-62

The property identified in the attached legal description and map shall be for right of way purposes to facilitate the construction and use of the Palm Avenue Grade Separation Project.

Reasonable pedestrian and vehicular access to the remainder property will be maintained during construction.

The San Bernardino County Transportation Commission is expressly granted the right to convey, transfer or assign the right of way.

Coast Surveying, Inc.
September 30, 2011

LEGAL DESCRIPTION
RIGHT OF WAY
APN 0266-041-62

THAT PORTION OF REMAINDER PARCEL OF PARCEL MAP NO. 14577, IN THE CITY OF SAN BERNARDINO, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 174, PAGES 18 AND 19 OF PARCEL MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, ALSO BEING A PORTION OF RANCHO MUSCUPIABE, AS PER MAP RECORDED IN BOOK 7, PAGE 23 OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY DESCRIBED AS FOLLOWS:

BEGINNING AT THE MOST WESTERLY CORNER OF SAID REMAINDER PARCEL; THENCE ALONG THE NORTHWESTERLY LINE OF SAID PARCEL, ALSO BEING THE SOUTHEASTERLY RIGHT OF WAY LINE OF PALM AVENUE (88 FEET WIDE), NORTH 27°16'35" EAST 268.28 FEET TO A NORTHERLY CORNER OF SAID PARCEL; THENCE ALONG THE NORTHEASTERLY LINE OF SAID PARCEL SOUTH 42°18'11" EAST 42.69 FEET; THENCE LEAVING SAID NORTHEASTERLY LINE SOUTH 27°16'35" WEST 78.00 FEET; THENCE SOUTH 06°50'19" EAST 30.99 FEET; THENCE SOUTH 28°05'03" EAST 154.47 FEET; THENCE SOUTH 32°30'44" EAST 1169.88 FEET TO THE SOUTHWESTERLY LINE OF SAID PARCEL, ALSO BEING THE NORTHEASTERLY RIGHT OF WAY LINE OF INDUSTRIAL PARKWAY (80 FEET WIDE), SAID POINT ALSO BEING A POINT ON A NONTANGENT CURVE CONCAVE NORTHEASTERLY HAVING A RADIUS OF 560.00 FEET, A RADIAL BEARING TO SAID POINT BEARS SOUTH 48°03'25" WEST; THENCE NORTHWESTERLY 29.65 FEET ALONG SAID CURVE AND ALONG SAID NORTHEASTERLY RIGHT OF WAY LINE THROUGH A CENTRAL ANGLE OF 03°02'00"; THENCE CONTINUING ALONG SAID NORTHEASTERLY RIGHT OF WAY LINE NORTH 38°54'35" WEST 1276.72 FEET TO THE POINT OF BEGINNING.

CONTAINING 2.459 ACRES, MORE OR LESS.

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

DATED THIS 3RD DAY OF OCTOBER, 2011.

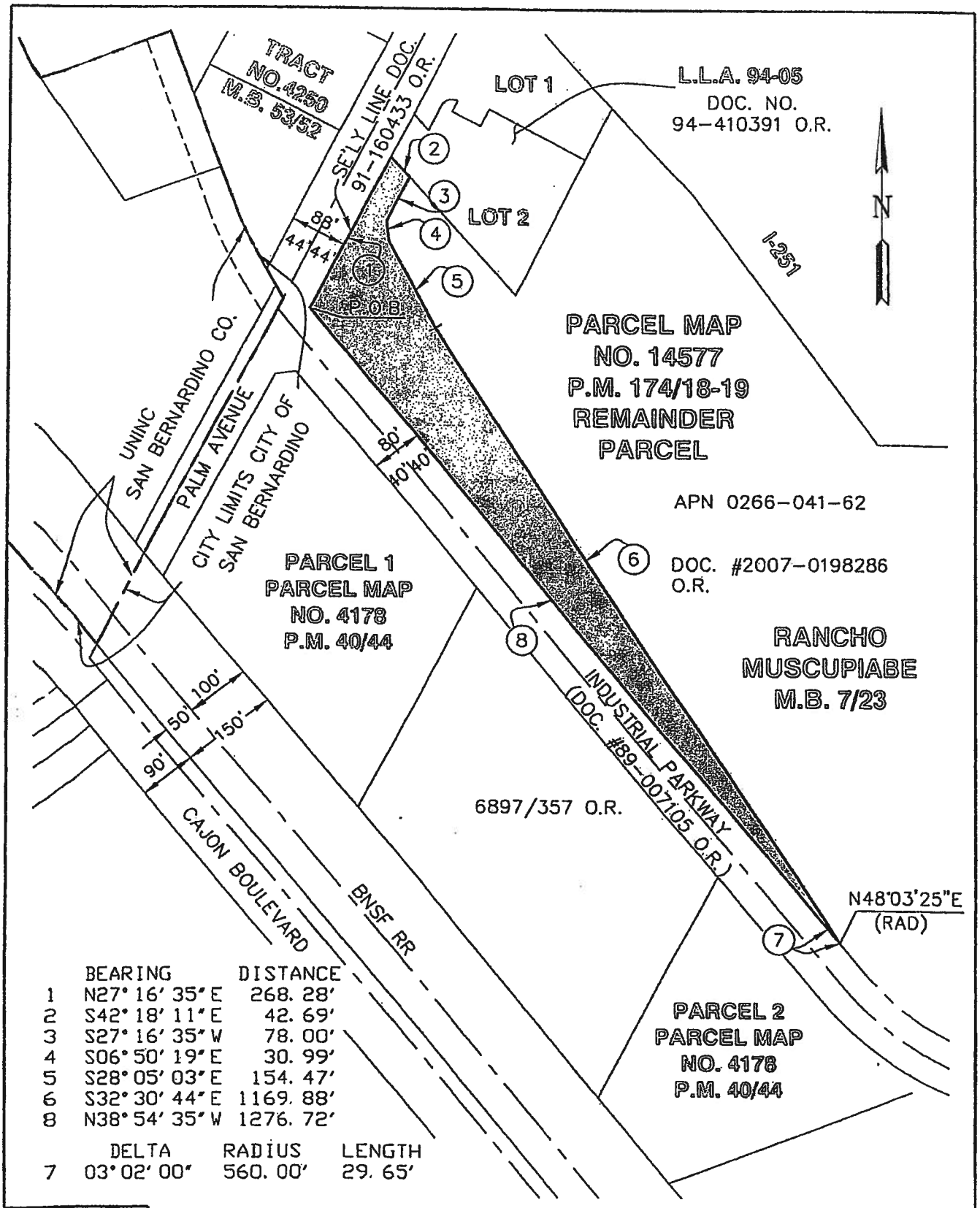
Gwen-Vera del Castillo

GWEN-VERA DEL CASTILLO, PLS 5108

LICENSED LAND SURVEYOR
GWEN-VERA DEL CASTILLO
L.S. 5108
STATE OF CALIFORNIA

JN 103078

EXHIBIT "B"



	BEARING	DISTANCE
1	N27° 16' 35" E	268. 28'
2	S42° 18' 11" E	42. 69'
3	S27° 16' 35" W	78. 00'
4	S06° 50' 19" E	30. 99'
5	S28° 05' 03" E	154. 47'
6	S32° 30' 44" E	1169. 88'
8	N38° 54' 35" W	1276. 72'

	DELTA	RADIUS	LENGTH
7	03° 02' 00"	560. 00'	29. 65'

JOB #: 108-078	EXHIBIT	COAST SURVEYING, INC.
DATE: 8-23-11	APN 0266-041-62	15031 PARKWAY LOOP, SUITE B
SCALE: 1"=200'	RIGHT OF WAY	TUSTIN, CA 92780-6527 (714) 918-6266
SHEET 1 OF 1		

EXHIBIT "C"

TEMPORARY CONSTRUCTION EASEMENT
ATTACHMENT TO LEGAL DESCRIPTION
APN: 0266-041-62

The parcel of land in the attached legal description and map is to be used for temporary construction purposes in connection with the construction of the Palm Avenue Grade Separation Project. The right of usage acquired for the temporary construction easement parcel described in the attached legal description and depicted in the attached map shall be for a period of twenty-four (24) months.

Reasonable pedestrian and vehicular access to the remainder property will be maintained during construction.

The San Bernardino County Transportation Commission is expressly granted the right to convey, transfer or assign the easement rights described above.

LEGAL DESCRIPTION
TEMPORARY CONSTRUCTION EASEMENT
APN 0266-041-62

THAT PORTION OF REMAINDER PARCEL OF PARCEL MAP NO. 14577, IN THE CITY OF SAN BERNARDINO, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 174, PAGES 18 AND 19 OF PARCEL MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, ALSO BEING A PORTION OF RANCHO MUSCUPIABE, AS PER MAP RECORDED IN BOOK 7, PAGE 23 OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY DESCRIBED AS FOLLOWS:

COMMENCING AT THE MOST WESTERLY CORNER OF SAID REMAINDER PARCEL; THENCE ALONG THE NORTHWESTERLY LINE OF SAID PARCEL, ALSO BEING THE SOUTHEASTERLY RIGHT OF WAY LINE OF PALM AVENUE (88 FEET WIDE), NORTH 27°16'35" EAST 268.28 FEET TO A NORTHERLY CORNER OF SAID PARCEL; THENCE ALONG THE NORTHEASTERLY LINE OF SAID PARCEL SOUTH 42°18'11" EAST 42.69 FEET TO THE TRUE POINT OF BEGINNING; THENCE CONTINUING ALONG SAID NORTHEASTERLY LINE SOUTH 42°18'11" EAST 22.41 FEET; THENCE LEAVING SAID NORTHEASTERLY LINE SOUTH 27°16'35" WEST 94.39 FEET; THENCE SOUTH 32°30'44" EAST 1319.80 FEET; THENCE SOUTH 51°05'27" WEST 15.10 FEET TO THE SOUTHWESTERLY LINE OF SAID PARCEL, ALSO BEING THE NORTHEASTERLY RIGHT OF WAY LINE OF INDUSTRIAL PARKWAY (80 FEET WIDE); THENCE LEAVING SAID SOUTHWESTERLY LINE NORTH 32°30'44" WEST 1169.88 FEET; THENCE NORTH 28°05'03" WEST 154.47 FEET; THENCE NORTH 06°50'19" WEST 30.99 FEET; THENCE NORTH 27°16'35" EAST 78.00 FEET TO THE TRUE POINT OF BEGINNING.

CONTAINING 20,796 SQUARE FEET, MORE OR LESS.

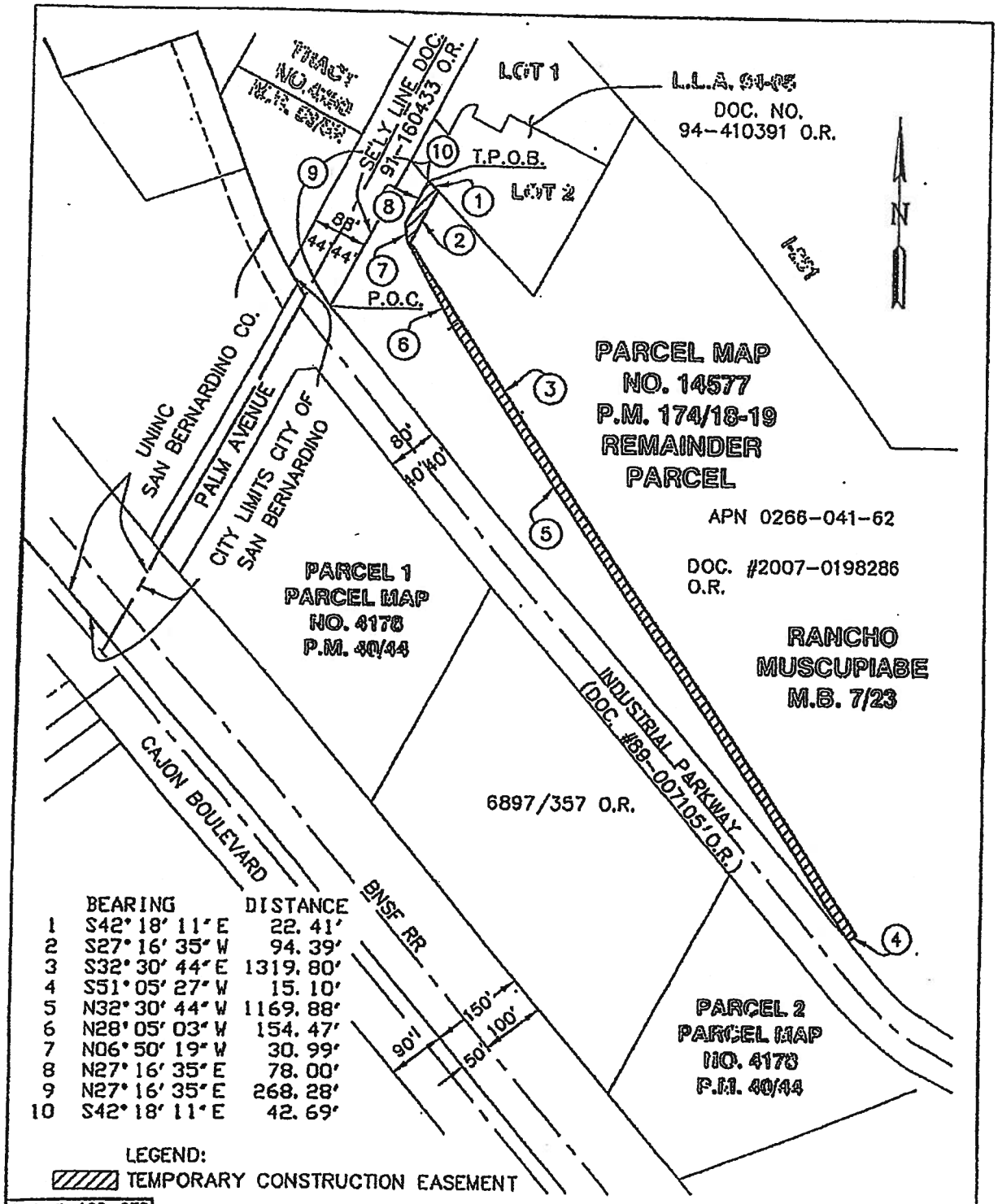
ALL AS MORE PARTICULARLY SHOWN ON EXHIBIT B ATTACHED HERETO AND MADE A PART HEREOF.

DATED THIS 3RD DAY OF OCTOBER, 2011.

Gwen-Vera del Castillo

GWEN-VERA DEL CASTILLO, PLS 5108

EXHIBIT "D"



	BEARING	DISTANCE
1	S42° 18' 11" E	22.41'
2	S27° 16' 35" W	94.39'
3	S32° 30' 44" E	1319.80'
4	S51° 05' 27" W	15.10'
5	N32° 30' 44" W	1169.88'
6	N28° 05' 03" W	154.47'
7	N06° 50' 19" W	30.99'
8	N27° 16' 35" E	78.00'
9	N27° 16' 35" E	268.28'
10	S42° 18' 11" E	42.69'

LEGEND:

TEMPORARY CONSTRUCTION EASEMENT

JOB #: 108-078		
DATE: 8-23-11		
SCALE: 1"=200'	APN 0266-041-62	COAST SURVEYING, INC.
SHEET 1 OF 1		15031 PARKWAY LOOP, SUITE B TUSTIN, CA 92780-6527 (714) 918-6266

RESOLUTION NO. 13-027

A RESOLUTION OF THE SAN BERNARDINO COUNTY TRANSPORTATION COMMISSION FINDING AND DETERMINING THAT THE PUBLIC INTEREST AND NECESSITY REQUIRE THE ACQUISITION BY EMINENT DOMAIN OF AN INTEREST IN CERTAIN REAL PROPERTY FOR PUBLIC USE AND AUTHORIZING AND DIRECTING CONDEMNATION OF A PORTION OF APN NO. 0266-041-69

WHEREAS, the San Bernardino County Transportation Commission (the "Commission") is undertaking the Palm Avenue Grade Separation Project (the "Project") that necessitates the Commission to acquire by eminent domain a portion of the property located at 5985 Palm Avenue in the City of San Bernardino, California; and

WHEREAS, the Project is intended to improve public safety, decrease traffic congestion and improve passenger rail operations by building grade separations between the roadway and the rail lines; and

WHEREAS, the Project requires the acquisition of property interests from private parties; and

WHEREAS, the Project will be a transportation improvement project serving the public interest; and

WHEREAS, subsection (a) of the California Public Utilities Code section 130220.5, authorizes the Commission to exercise the power of eminent domain to acquire these property interests for public use by condemnation; and

WHEREAS, the real property required for the Project includes a temporary construction easement as legally described in Exhibit "A" and depicted in Exhibit "B" and located at 5985 Palm Avenue in the City of San Bernardino, California; and

WHEREAS, reasonable pedestrian and vehicular access to the remainder property will be maintained during construction; and

WHEREAS, in accordance with section 1245.235 of the California Code of Civil Procedure, on September 6, 2012 there was mailed a Notice of Hearing on the Intent of the Commission to adopt a Resolution of Necessity for acquisition by eminent domain of the interest in real property described and depicted in Exhibits "A" and "B" herein. The Notice of Hearing was mailed to the listed address of all persons whose names appear on the last equalized county assessment roll as having an interest in the property described and depicted in Exhibits "A" and "B" (the "Property"); and

WHEREAS, the Commission provided written notice to the City of San Bernardino as required by subsection (c) of California Public Utilities Code section 130220.5; and

WHEREAS, the Project, including all amendments thereto, together with the staff reports, environmental documents and all other evidence presented to the Commission at the times the Project and the amendments thereto were adopted, are incorporated herein by this reference and made a part hereof as though fully set forth herein; and

WHEREAS, pursuant to section 1245.235 of the California Code of Civil Procedure, the Commission scheduled a hearing for October 3, 2012 at 10:00 a.m. at Santa Fe Depot---SANBAG Lobby 1st Floor, 1170 W. 3rd Street, San Bernardino, California and gave to each person whose property is to be acquired notice and a reasonable opportunity to appear at said hearing and to 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 Commission and each person whose property is to be acquired by eminent domain was afforded an opportunity to be heard on those matters specified in the Commission's notice of intention to conduct a hearing on whether to adopt a Resolution of Necessity as referred to in section 1240.030 of the California Code of Civil Procedure; and

WHEREAS, the Commission may adopt a Resolution of Necessity pursuant to section 1240.040 of the California Code of Civil Procedure.

NOW, THEREFORE, by a vote of two-thirds or more of its members, the San Bernardino County Transportation Commission does hereby find, determine, resolve and order as follows:

Section 1. Incorporation of Findings and Recitals. The above findings and recitals are true and correct and are incorporated herein in full by this reference.

Section 2. Compliance with California Code of Civil Procedure. The Commission has complied with the requirements of section 1245.235 of the California Code of Civil Procedure regarding notice and hearing.

Section 3. Public Use. The public use for which the Property is to be acquired is for the construction and future maintenance of the Project, a public transportation improvement, as more fully described hereinabove. Subsection (a) of California Public Utilities Code section 130220.5 authorizes the Commission to acquire by eminent domain property and interests in property necessary for such purpose and for all uses incidental or convenient thereto.

Section 4. Necessity.

(a) The Project is necessary to improve public safety, decrease traffic congestion and improve passenger rail operations by building grade separations between the roadway and the rail lines; and

(b) The public interest and necessity require the acquisition by eminent domain proceedings of a temporary construction easement as legally described in Exhibit "A" and depicted in Exhibit "B" attached to this Resolution of Necessity.

Section 5. Description of Property Interests. The property interest to be acquired is more particularly described and depicted in Exhibits "A" and "B" attached hereto and incorporated herein by reference.

Section 6. Findings. The Commission hereby finds, determines and declares each of the following:

(a) The public interest and necessity require the proposed Project;

(b) The Project is planned or located in the manner that will be most compatible with the greatest public good and least private injury;

(c) The above-described property interest, as described and depicted in Exhibits "A" and "B", are necessary for the proposed Project;

(d) The offer required by section 7267.2 of the California Government Code has been made to the owner or owners of record; and

(e) All conditions and statutory requirements necessary to exercise the power of eminent domain ("the right to take") to acquire the Property have been complied with by the Commission.

Section 7. Existing Public Use(s). Pursuant to sections 1240.510 and 1240.610 of the Code of Civil Procedure, to the extent that any of the real property to be acquired is already devoted to a public use, the use proposed by this Project is a more necessary public use than the use to which the real property, or any portion thereof, is already devoted, or, in the alternative, is a compatible public use which will not unreasonably interfere with or impair the continuance of the public use to which the real property, or any portion thereof, is already devoted.

Section 8. Authority to Exercise Eminent Domain. The Commission is hereby authorized and empowered to acquire a temporary construction easement as legally described in Exhibit "A" and depicted in Exhibit "B", including the improvements thereon, if any, by eminent domain for the Project.

Section 9. Further Activities. Legal Counsel for the Commission ("Counsel") is hereby authorized and empowered to acquire the hereinabove described interests in real property in the name of and on behalf of the Commission by eminent domain, and is authorized to institute and prosecute such legal proceedings as may be required in connection therewith. 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 and to permit the Commission to take possession of and use real property at the earliest possible time. Counsel is further authorized to correct any errors in this Resolution of Necessity or to make or agree to non-

material changes in the legal descriptions of the real property that are deemed necessary for the conduct of the eminent domain action or other proceedings or transactions required to acquire the interest in the subject real property.

Section 10. Effective Date. This Resolution shall take effect upon adoption.

Adopted by the San Bernardino County Transportation Commission on October 3, 2012, by the following vote:

AYES:

NOES:

ABSENT:

_____
Janice Rutherford, Chairperson
San Bernardino County Transportation Commission

ATTEST:

_____
Vicki Watson,
Clerk of the Commission

EXHIBIT "A"

TEMPORARY CONSTRUCTION EASEMENT
ATTACHMENT TO LEGAL DESCRIPTION
APN: 0266-041-69

The parcel of land in the attached legal description and map is to be used for temporary construction purposes in connection with the construction of the Palm Avenue Grade Separation Project. The right of usage acquired for the temporary construction easement parcel described in the attached legal description and depicted in the attached map shall be for a period of twenty-four (24) months.

Reasonable pedestrian and vehicular access to the remainder property will be maintained during construction.

The San Bernardino County Transportation Commission is expressly granted the right to convey, transfer or assign the easement rights described above.

Coast Surveying, Inc.
September 30, 2011

EXHIBIT "A"
LEGAL DESCRIPTION
TEMPORARY CONSTRUCTION EASEMENT
APN 0266-041-69

THAT PORTION OF LOT 1 OF CERTIFICATE OF COMPLIANCE FOR LOT LINE ADJUSTMENT NO. 94-05, IN THE CITY OF SAN BERNARDINO, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, RECORDED OCTOBER 6, 1994 AS INSTRUMENT NO. 94-410391 OFFICIAL RECORDS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWESTERLY CORNER OF SAID LOT 1, SAID POINT ALSO BEING ON THE SOUTHEASTERLY RIGHT OF WAY LINE OF PALM AVENUE (88 FEET WIDE); THENCE ALONG THE NORTHWESTERLY LINE OF SAID LOT 1 NORTH 27°16'35" EAST 91.87 FEET; THENCE LEAVING SAID NORTHWESTERLY LINE SOUTH 62°43'25" EAST 40.00 FEET; THENCE SOUTH 27°16'35" WEST 44.88 FEET TO THE SOUTHWESTERLY LINE OF SAID LOT 1, BEING A POINT ON A NONTANGENT CURVE CONCAVE SOUTHEASTERLY HAVING A RADIUS OF 20.00 FEET, A RADIAL BEARING TO SAID POINT BEARS NORTH 09°33'42" WEST; THENCE ALONG SAID GENERALLY SOUTHWESTERLY LINE OF SAID LOT 1 THE FOLLOWING THREE COURSES:

1. SOUTHWESTERLY 18.56 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 53°09'43";
2. SOUTH 27°16'35" WEST 42.89 FEET;
3. NORTH 42°18'11" WEST 34.15 FEET TO THE POINT OF BEGINNING.

CONTAINING 3,528 SQUARE FEET, MORE OR LESS.

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

DATED THIS 3RD DAY OF OCTOBER, 2011.

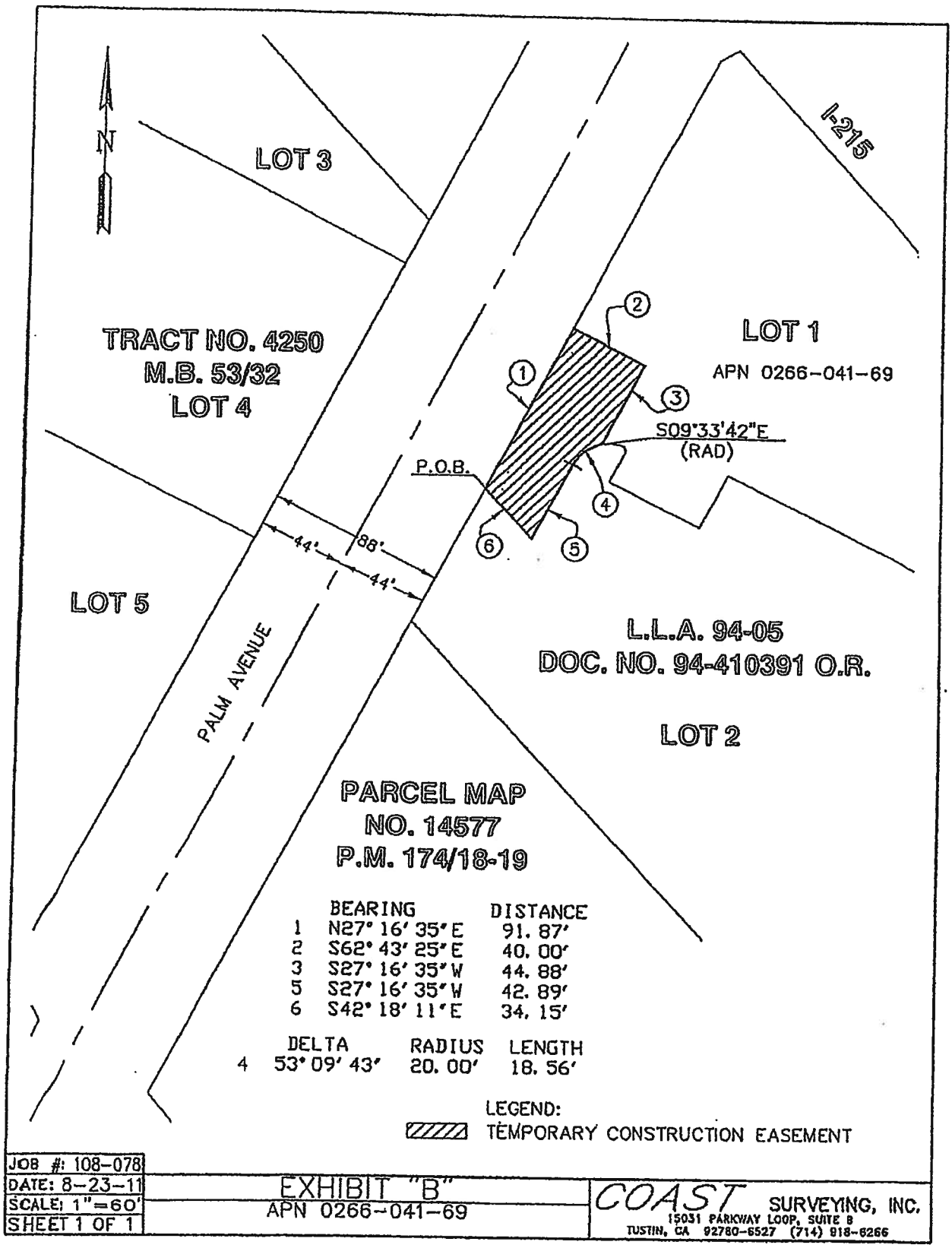
Gwen-Vera del Castillo

GWEN-VERA DEL CASTILLO, PLS 5108

LICENSED LAND SURVEYOR
GWEN-VERA DEL CASTILLO
L.S. 5108
STATE OF CALIFORNIA

JN 108078

EXHIBIT "B"



JOB #: 108-078	EXHIBIT "B"	COAST SURVEYING, INC.
DATE: 8-23-11	APN 0266-041-69	15031 PARKWAY LOOP, SUITE B
SCALE: 1"=60'		TUSTIN, CA 92780-6527 (714) 918-6266
SHEET 1 OF 1		

RESOLUTION NO. 13-028

A RESOLUTION OF THE SAN BERNARDINO COUNTY TRANSPORTATION COMMISSION FINDING AND DETERMINING THAT THE PUBLIC INTEREST AND NECESSITY REQUIRE THE ACQUISITION BY EMINENT DOMAIN OF AN INTEREST IN CERTAIN REAL PROPERTY FOR PUBLIC USE AND AUTHORIZING AND DIRECTING CONDEMNATION OF A PORTION OF APN NO. 0266-041-70

WHEREAS, the San Bernardino County Transportation Commission (the "Commission") is undertaking the Palm Avenue Grade Separation Project (the "Project") that necessitates the Commission to acquire by eminent domain a portion of the property located at 5975 Palm Avenue in the City of San Bernardino, California; and

WHEREAS, the Project is intended to improve public safety, decrease traffic congestion and improve passenger rail operations by building grade separations between the roadway and the rail lines; and

WHEREAS, the Project requires the acquisition of property interests from private parties; and

WHEREAS, the Project will be a transportation improvement project serving the public interest; and

WHEREAS, subsection (a) of the California Public Utilities Code section 130220.5, authorizes the Commission to exercise the power of eminent domain to acquire these property interests for public use by condemnation; and

WHEREAS, the real property required for the Project includes a temporary construction easement as legally described in Exhibit "A" and depicted in Exhibit "B" and located at 5975 Palm Avenue in the City of San Bernardino, California; and

WHEREAS, reasonable pedestrian and vehicular access to the remainder property will be maintained during construction; and

WHEREAS, in accordance with section 1245.235 of the California Code of Civil Procedure, on September 6, 2012 there was mailed a Notice of Hearing on the Intent of the Commission to adopt a Resolution of Necessity for acquisition by eminent domain of the interest in real property described and depicted in Exhibits "A" and "B" herein. The Notice of Hearing was mailed to the listed address of all persons whose names appear on the last equalized county assessment roll as having an interest in the property described and depicted in Exhibits "A" and "B" (the "Property"); and

WHEREAS, the Commission provided written notice to the City of San Bernardino as required by subsection (c) of California Public Utilities Code section 130220.5; and

WHEREAS, the Project, including all amendments thereto, together with the staff reports, environmental documents and all other evidence presented to the Commission at the times the Project and the amendments thereto were adopted, are incorporated herein by this reference and made a part hereof as though fully set forth herein; and

WHEREAS, pursuant to section 1245.235 of the California Code of Civil Procedure, the Commission scheduled a hearing for October 3, 2012 at 10:00 a.m. at Santa Fe Depot---SANBAG Lobby 1st Floor, 1170 W. 3rd Street, San Bernardino, California and gave to each person whose property is to be acquired notice and a reasonable opportunity to appear at said hearing and to 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 Commission and each person whose property is to be acquired by eminent domain was afforded an opportunity to be heard on those matters specified in the Commission's notice of intention to conduct a hearing on whether to adopt a Resolution of Necessity as referred to in section 1240.030 of the California Code of Civil Procedure; and

WHEREAS, the Commission may adopt a Resolution of Necessity pursuant to section 1240.040 of the California Code of Civil Procedure.

NOW, THEREFORE, by a vote of two-thirds or more of its members, the San Bernardino County Transportation Commission does hereby find, determine, resolve and order as follows:

Section 1. Incorporation of Findings and Recitals. The above findings and recitals are true and correct and are incorporated herein in full by this reference.

Section 2. Compliance with California Code of Civil Procedure. The Commission has complied with the requirements of section 1245.235 of the California Code of Civil Procedure regarding notice and hearing.

Section 3. Public Use. The public use for which the Property is to be acquired is for the construction and future maintenance of the Project, a public transportation improvement, as more fully described hereinabove. Subsection (a) of California Public Utilities Code section 130220.5 authorizes the Commission to acquire by eminent domain property and interests in property necessary for such purpose and for all uses incidental or convenient thereto.

Section 4. Necessity.

(a) The Project is necessary to improve public safety, decrease traffic congestion and improve passenger rail operations by building grade separations between the roadway and the rail lines; and

(b) The public interest and necessity require the acquisition by eminent domain proceedings of a temporary construction easement as legally described in Exhibit "A" and depicted in Exhibit "B" attached to this Resolution of Necessity.

Section 5. Description of Property Interests. The property interest to be acquired is more particularly described and depicted in Exhibits "A" and "B" attached hereto and incorporated herein by reference.

Section 6. Findings. The Commission hereby finds, determines and declares each of the following:

(a) The public interest and necessity require the proposed Project;

(b) The Project is planned or located in the manner that will be most compatible with the greatest public good and least private injury;

(c) The above-described property interest, as described and depicted in Exhibits "A" and "B", are necessary for the proposed Project;

(d) The offer required by section 7267.2 of the California Government Code has been made to the owner or owners of record; and

(e) All conditions and statutory requirements necessary to exercise the power of eminent domain ("the right to take") to acquire the Property have been complied with by the Commission.

Section 7. Existing Public Use(s). Pursuant to sections 1240.510 and 1240.610 of the Code of Civil Procedure, to the extent that any of the real property to be acquired is already devoted to a public use, the use proposed by this Project is a more necessary public use than the use to which the real property, or any portion thereof, is already devoted, or, in the alternative, is a compatible public use which will not unreasonably interfere with or impair the continuance of the public use to which the real property, or any portion thereof, is already devoted.

Section 8. Authority to Exercise Eminent Domain. The Commission is hereby authorized and empowered to acquire a temporary construction easement as legally described in Exhibit "A" and depicted in Exhibit "B", including the improvements thereon, if any, by eminent domain for the Project.

Section 9. Further Activities. Legal Counsel for the Commission ("Counsel") is hereby authorized and empowered to acquire the hereinabove described interests in real property in the name of and on behalf of the Commission by eminent domain, and is authorized to institute and prosecute such legal proceedings as may be required in connection therewith. 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 and to permit the Commission to take possession of and use real property at the earliest possible time. Counsel is further authorized to correct any errors in this Resolution of Necessity or to make or agree to non-

material changes in the legal descriptions of the real property that are deemed necessary for the conduct of the eminent domain action or other proceedings or transactions required to acquire the interest in the subject real property.

Section 10. Effective Date. This Resolution shall take effect upon adoption.

Adopted by the San Bernardino County Transportation Commission on October 3, 2012, by the following vote:

AYES:

NOES:

ABSENT:

_____
Janice Rutherford, Chairperson
San Bernardino County Transportation Commission

ATTEST:

_____
Vicki Watson,
Clerk of the Commission

EXHIBIT "A"

TEMPORARY CONSTRUCTION EASEMENT
ATTACHMENT TO LEGAL DESCRIPTION
APN: 0266-041-70

The parcel of land in the attached legal description and map is to be used for temporary construction purposes in connection with the construction of the Palm Avenue Grade Separation Project. The right of usage acquired for the temporary construction easement parcel described in the attached legal description and depicted in the attached map shall be for a period of twenty-four (24) months.

Reasonable pedestrian and vehicular access to the remainder property will be maintained during construction.

The San Bernardino County Transportation Commission is expressly granted the right to convey, transfer or assign the easement rights described above.

EXHIBIT "A"
LEGAL DESCRIPTION
TEMPORARY CONSTRUCTION EASEMENT
APN 0266-041-70

THAT PORTION OF LOT 2 OF CERTIFICATE OF COMPLIANCE FOR LOT LINE ADJUSTMENT NO. 94-05, IN THE CITY OF SAN BERNARDINO, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, RECORDED OCTOBER 6, 1994 AS INSTRUMENT NO. 94-410391 OF OFFICIAL RECORDS; IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, DESCRIBED AS FOLLOWS:

BEGINNING AT THE MOST WESTERLY CORNER OF SAID LOT 2, SAID POINT ALSO BEING ON THE SOUTHEASTERLY RIGHT OF WAY LINE OF PALM AVENUE (88 FEET WIDE); THENCE ALONG THE NORTHWESTERLY LINE OF SAID LOT NORTH 27°16'35" EAST 76.83 FEET TO THE NORTHWESTERLY CORNER OF SAID LOT; THENCE ALONG THE GENERALLY NORTHEASTERLY LINE OF SAID LOT THE FOLLOWING THREE COURSES:

1. SOUTH 42°18'11" EAST 34.15 FEET;
2. NORTH 27°16'35" EAST 42.89 FEET TO THE BEGINNING OF A CURVE CONCAVE SOUTHEASTERLY HAVING A RADIUS OF 20.00 FEET;
3. NORTHEASTERLY 18.56 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 53°09'43";

THENCE NONTANGENT SOUTH 27°16'35" WEST 128.04 FEET; THENCE SOUTH 42°18'11" EAST 22.41 FEET; THENCE SOUTH 27°16'35" WEST 10.67 FEET TO THE SOUTHWESTERLY LINE OF SAID LOT 2; THENCE ALONG SAID SOUTHWESTERLY LINE NORTH 42°18'11" WEST 65.10 FEET TO THE POINT OF BEGINNING.

CONTAINING 3,743 SQUARE FEET, MORE OR LESS.

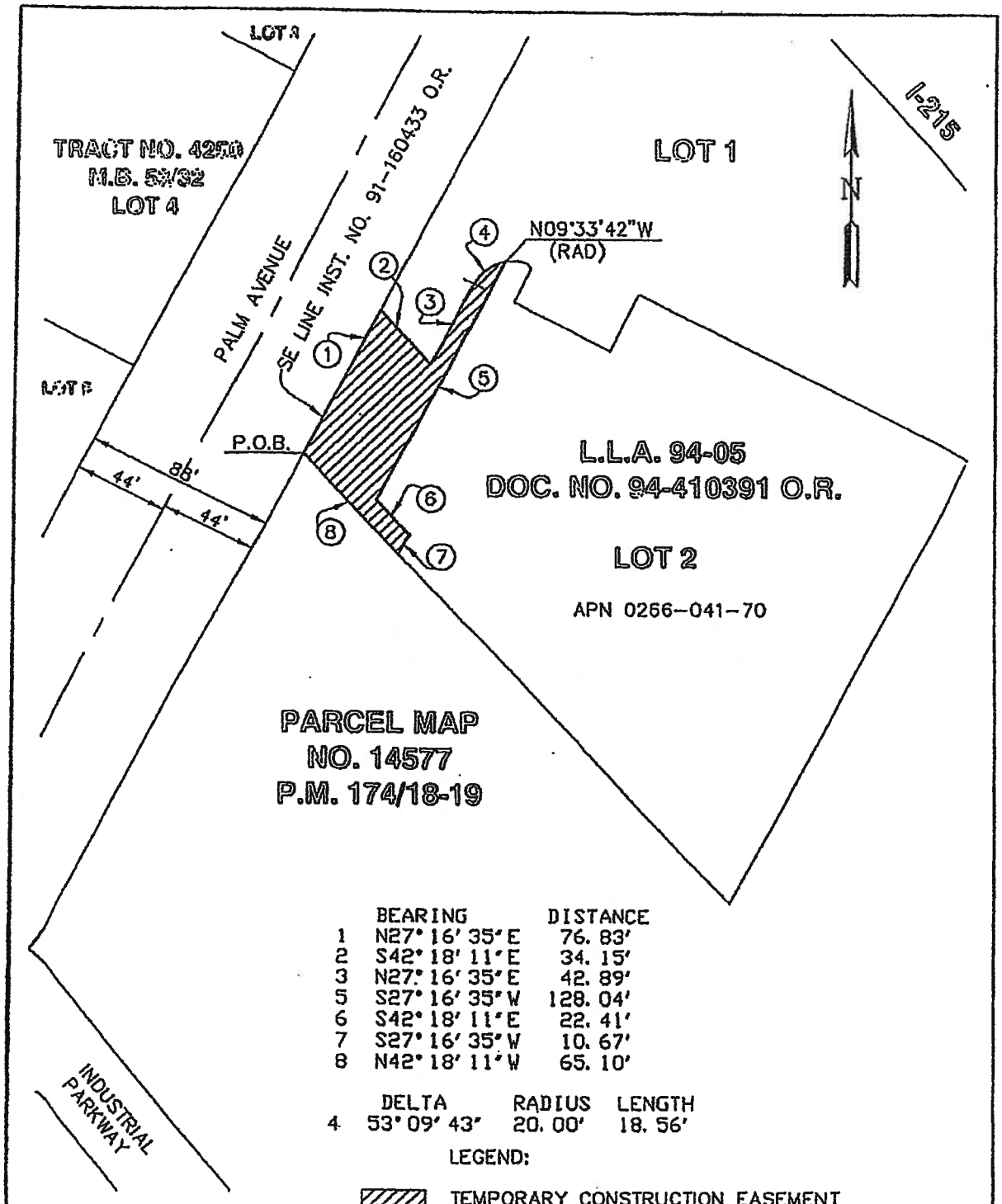
ALL AS MORE PARTICULARLY SHOWN ON EXHIBIT B ATTACHED HERETO AND MADE A PART HEREOF.

DATED THIS 23RD DAY OF SEPTEMBER, 2011.

Gwen-Vera del Castillo

GWEN-VERA DEL CASTILLO, PLS 5108

EXHIBIT "B"



	BEARING	DISTANCE
1	N27° 16' 35" E	76. 83'
2	S42° 18' 11" E	34. 15'
3	N27° 16' 35" E	42. 89'
5	S27° 16' 35" W	128. 04'
6	S42° 18' 11" E	22. 41'
7	S27° 16' 35" W	10. 67'
8	N42° 18' 11" W	65. 10'

	DELTA	RADIUS	LENGTH
4	53° 09' 43"	20. 00'	18. 56'

LEGEND:

▨ TEMPORARY CONSTRUCTION EASEMENT

JOB #: 108-078	EXHIBIT "B"	COAST SURVEYING, INC.
DATE: 8-23-11	APN 0266-041-70	15031 PARKWAY LOOP, SUITE B
SCALE: 1"=60'		TUSTIN, CA 92780-6527 (714) 918-6266
SHEET 1 OF 1		

Governments SANBAG Working Together

San Bernardino Associated Governments

1170 W. 3rd Street, 2nd Floor San Bernardino, CA 92410-1715
Phone: (909) 884-8276 Fax: (909) 885-4407 Web: www.sanbag.ca.gov

TRANSPORTATION MEASURE I

San Bernardino County Transportation Commission ■ San Bernardino County Transportation Authority
San Bernardino County Congestion Management Agency ■ Service Authority for Freeway Emergencies

Minute Action

AGENDA ITEM: 27

Date: October 3, 2012

Subject: Hearings to Consider Resolutions of Necessity for Parcels for the Laurel Street Grade Separation Project in the City of Colton.

Recommendations:* Acting as the San Bernardino County Transportation Commission:

1. Conduct public hearings to consider condemnation of real property required for the Laurel Street Grade Separation project (Project) in the City Colton, and

2. By at least a two-thirds majority, adopt Resolutions of Necessity Nos. 13-029, 13-030, 13-031, and 13-034 and authorize and direct general counsel, or her designees, to prepare, commence, and prosecute proceedings in eminent domain for the purpose of acquiring necessary right-of-way and real property interests from the following property owners: Colton Industrial Park, LP (Assessor's Parcel Number (APN) 0160-241-11); R.J. & R. property (APNs 0160-241-56 and 0160-241-59); Thomas Hayward (APNs 0160-241-57 and 0160-241-58); and Ernesto & Ivelisse Alcala (APN 0161-081-10).

*

Approved
Board of Directors

Date: _____

Moved: *Second:*

In Favor: *Opposed:* *Abstained:*

Witnessed: _____

COG		CTC	X	CTA		SAFE		CMA	

Check all that apply.

BRD1210a-pm

http://portal.sanbag.ca.gov/mgmt/APOR-Mgmnt/Shared%20Documents/RES%2013-029.DOC
http://portal.sanbag.ca.gov/mgmt/APOR-Mgmnt/Shared%20Documents/Attachments%20RES%2013-029.pdf
http://portal.sanbag.ca.gov/mgmt/APOR-Mgmnt/Shared%20Documents/RES%2013-030.DOC
http://portal.sanbag.ca.gov/mgmt/APOR-Mgmnt/Shared%20Documents/Attachments%20RES%2013-030.pdf
http://portal.sanbag.ca.gov/mgmt/APOR-Mgmnt/Shared%20Documents/RES%2013-031.DOC
http://portal.sanbag.ca.gov/mgmt/APOR-Mgmnt/Shared%20Documents/Attachments%20RES%2013-031.pdf
http://portal.sanbag.ca.gov/mgmt/APOR-Mgmnt/Shared%20Documents/RES%2013-034.DOC
http://portal.sanbag.ca.gov/mgmt/APOR-Mgmnt/Shared%20Documents/Attachments%20RES%2013-034.pdf

Background:

The Laurel Street Grade Separation Project will improve safety and reduce traffic delays along Laurel Street by separating pedestrians and vehicles from train traffic on six tracks along the Burlington Northern Santa Fe Railway Company (BNSF) rail line. SANBAG is the lead agency for the design, right-of-way, and construction phases according to Memorandum of Understanding (MOU) No. C10201 between SANBAG, the City of Colton, Union Pacific Railroad (UPRR), and BNSF, and Construction Cooperative Agreement No. C12037 between SANBAG and the City of Colton.

SANBAG has made steady progress towards the start of construction on the Laurel Street Grade Separation project. Staff will submit 100% Plans, Specifications, and Estimates to the Commission for final review and approval by the end of this year. One of the remaining critical path items is right-of-way acquisition. The SANBAG Board has approved appraisals and authorized offers for properties required for the grade separation project. SANBAG's right-of-way agent, Overland, Pacific, and Cutler (OPC) sent offers to each property owner and some parcels are being acquired through negotiated sale. While SANBAG and OPC continue to negotiate with property owners of the subject parcels, not all parcels will be acquired through a negotiated sale. Although negotiations are ongoing, dialogues with the property owners for the parcels listed have not yet resulted in settlements, and these parcels may need to be acquired through eminent domain which requires compliance with a statutorily prescribed process. During the eminent domain process, SANBAG's right-of-way agent will continue to negotiate with the property owners and attempt to achieve negotiated sales for the necessary property interests.

SANBAG, acting as the County Transportation Commission, is authorized to acquire property by eminent domain pursuant to California Public Utilities Code Section 130220.5. On September 5, 2012, the Board scheduled a public hearing for October 3, 2012, for the Board acting as the Commission to consider adopting Resolutions of Necessity regarding the parcels listed in Exhibit "A", located in the County of San Bernardino and the City of Colton.

The adoption of the attached Resolutions of Necessity by the Commission allows for the eminent domain process to proceed, which results in obtaining legal rights to the property needed for the project. Since the process takes several months, it is necessary to start this process now to ensure that the property is obtained in time for construction of the Project to commence in 2013 as scheduled.

In order to adopt the Resolutions of Necessity, the Commission must make five findings discussed below for each of the parcels. The issue of just compensation value for these property interests is not addressed by these resolutions and is not to be considered at the hearings. The five necessary findings are:

1. The public interest and necessity require the Project.

   This project will increase safety, reduce traffic delay, and establish a railroad quiet zone crossing by separating Laurel Street and the BNSF tracks. It was estimated that in 2012, 50 trains crossed the Laurel Street/BNSF railroad crossing daily; this number is projected to double up to 100 trains daily in 2035. The gate "down time" in 2010 is 2.5 hours a day and is expected to increase to 4 hours daily in 2035. The project would remove the requirement for vehicles to stop while trains are passing. In addition, the project would enhance safety by separating vehicles and pedestrians from six railroad tracks and a future Metrolink track. The project is also a component of quiet zone improvements within the City limits and would reduce train noise related impacts by removing the requirements for trains to blow their horns as they pass the crossing.

2. The Project is planned and located in the manner that will be most compatible with the greatest public good and least private injury.

   The project is being constructed as an underpass along the existing alignment of Laurel Street with proposed retaining walls to minimize right-of-way impacts to adjacent properties. The proposed design minimizes the property required, but includes: full takes, partial takes, and temporary easements. During the preliminary design phase, project planners and engineers considered six alternatives that would provide access to adjacent properties whose access would be affected by the proposed underpass. Each alternative was assessed based on the needs and constraints of each property owner and Staff and OPC have also had numerous communications with the property owners about their needs in order to design the project in a manner that causes the least private injury while accomplishing the greatest public good through construction of the Project.

3. The properties sought to be acquired are necessary for the Project.

   While some of the project is being constructed within existing right-of-way, some acquisition from the subject properties are needed to allow the construction of a new bridge, retaining walls, drainage systems, and required utility relocations. In addition to the permanent easements required from each property, temporary construction easements (TCE) are also required for construction of the improvements.

   - A permanent roadway easement is needed from Colton Industrial Park, LP property (APN 0160-241-11) to accommodate a portion of a cul-de-sac that will be constructed on 8th Street and to accommodate construction of

a retaining wall along Laurel Street. A drainage easement will also be required as part of the drainage improvements proposed as part of the project to divert and collect storm water. A subsurface utility easement is required along the same area as the drainage easement.

- A permanent access easement is needed from the R.J.&R. property (APNs 0160-241-56 and 0160-241-59) to allow access to an adjacent property that would be land locked as a result of lowering Laurel Street. Project planners and engineers considered six access alternatives and have determined, based on the assessment of impacts and discussions with property owners, that the design proposed is the alternative with the least private injury to the greatest public good. A permanent subsurface utility easement will also be required along the same area as the access easement.

- A permanent subsurface utility easement is needed from the Thomas Hayward property (APNs 0160-241-57 and 0160-241-58) for utility relocations as part of the project.

- A permanent roadway easement is needed to accommodate a portion of a cul-de-sac that will be constructed on 8th Street and a subsurface utility easement is needed from the Ernesto Alcala property (APN 0161-081-10) for utility relocations as part of the project.

4. Offers required by Section 7267.2 of the Government Code have been made to the owner or owners of record.

   The subject properties were appraised and offers for the full amount of the appraisals were made to the owner or owners of record in accordance with Section 7267.2 of the Government Code.

   - The first offer for the Colton Industrial Park LP property (APN 0160-241-11) was made on 5/04/12.
   - The first offer for the R. J. & R. property (APNs 0160-241-56 and 0160-241-59) was made on 5/17/12
   - The first offer for the Thomas Hayward property (APNs 0160-241-57 and 0160-241-58) was made on 5/25/12
   - The first offer for the Ernesto & Ivelisse Alcala property (APN 0161-081-10) was made on 5/07/12

5. All conditions and statutory requirements necessary to exercise the power of eminent domain to acquire the properties have been complied with.

   The Commission has complied with all conditions and requirements to exercise the power of eminent domain.

Upon completion of the project, the Commission will transfer properties acquired for this project to the City of Colton.

Financial Impact: This item has no impact on the adopted SANBAG Fiscal Year 2012/2013 budget. Task No. 0884.

Reviewed By: This item was reviewed by the Major Projects Committee on September 13, 2012. SANBAG General Counsel has approved this item as to form.

Responsible Staff: Khalil Saba, Project Manager

RESOLUTION NO. 13-029

A RESOLUTION OF THE SAN BERNARDINO COUNTY TRANSPORTATION COMMISSION FINDING AND DETERMINING THAT THE PUBLIC INTEREST AND NECESSITY REQUIRE THE ACQUISITION BY EMINENT DOMAIN OF INTERESTS IN CERTAIN REAL PROPERTY FOR PUBLIC USE AND AUTHORIZING AND DIRECTING CONDEMNATION OF PORTIONS OF APN NO. 0160-241-11

WHEREAS, the San Bernardino County Transportation Commission (the "Commission") is undertaking the Laurel Street Grade Separation Project (the "Project") that necessitates the Commission to acquire by eminent domain portions of the property located at 209 W. Laurel, Colton, California; and

WHEREAS, the Project is intended to improve public safety, decrease traffic congestion and improve passenger rail operations by building grade separations between the roadway and the rail lines; and

WHEREAS, the Project requires the acquisition of property interests from private parties; and

WHEREAS, the Project will be a transportation improvement project serving the public interest; and

WHEREAS, subsection (a) of the California Public Utilities Code section 130220.5, authorizes the Commission to exercise the power of eminent domain to acquire these property interests for public use by condemnation; and

WHEREAS, the real property required for the Project includes a roadway easement as legally described in Exhibit "A" and depicted in Exhibit "B" and located at 209 W. Laurel Street, Colton, California; and

WHEREAS, the real property required for the Project includes a drainage easement as legally described in Exhibit "C" and depicted in Exhibit "D" and located at 209 W. Laurel Street, Colton, California; and

WHEREAS, the hereinafter described real property required for the Project includes a public utilities easement as legally described in Exhibit "E" and depicted in Exhibit "F" and located at 209 W. Laurel Street, Colton, California; and

WHEREAS, the hereinafter described real property required for the Project includes a temporary construction easement as legally described in Exhibit "G" and depicted in Exhibit "H" and located at 209 W. Laurel Street, Colton, California; and

WHEREAS, reasonable pedestrian and vehicular access to the subject property will be maintained during construction; and

WHEREAS, in accordance with section 1245.235 of the California Code of Civil Procedure, on September 6, 2012 there was mailed a Notice of Hearing on the Intent of the Commission to adopt a Resolution of Necessity for acquisition by eminent domain of the interests in real property described and depicted in Exhibits "A" through "H" herein. The Notice of Hearing was mailed to the listed address of all persons whose names appear on the last equalized county assessment roll as having an interest in the property described and depicted in Exhibits "A" through "H"; and

WHEREAS, the Commission provided written notice to the City of Colton as required by subsection (c) of California Public Utilities Code section 130220.5; and

WHEREAS, the Project, including all amendments thereto, together with the staff reports, environmental documents and all other evidence presented to the Commission at the times the Project and the amendments thereto were adopted, are incorporated herein by this reference and made a part hereof as though fully set forth herein; and

WHEREAS, pursuant to section 1245.235 of the California Code of Civil Procedure, the Commission scheduled a hearing for October 3, 2012, at 10:00 a.m. at Santa Fe Depot---SANBAG Lobby 1st Floor, 1170 W. 3rd Street, San Bernardino, California and gave to each person whose property is to be acquired notice and a reasonable opportunity to appear at said hearing and to 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 Commission and each person whose property is to be acquired by eminent domain was afforded an opportunity to be heard on those matters specified in the Commission's notice of intention to conduct a hearing on whether to adopt a Resolution of Necessity as referred to in section 1240.030 of the California Code of Civil Procedure; and

WHEREAS, the Commission may adopt a Resolution of Necessity pursuant to section 1240.040 of the California Code of Civil Procedure.

NOW, THEREFORE, by a vote of two-thirds or more of its members, the San Bernardino County Transportation Commission does hereby find, determine, resolve and order as follows:

Section 1. Incorporation of Findings and Recitals. The above findings and recitals are true and correct and are incorporated herein in full by this reference.

Section 2. Compliance with California Code of Civil Procedure. The Commission has complied with the requirements of section 1245.235 of the California Code of Civil Procedure regarding notice and hearing.

Section 3. Public Use. The public use for which the interests in the Property are to be acquired is for the construction and future maintenance of the Project, a public transportation improvement, as more fully described hereinabove. Subsection (a) of California Public Utilities Code section 130220.5 authorizes the Commission to acquire by eminent domain property and interests in property necessary for such purpose and for all uses incidental or convenient thereto.

Section 4. Necessity.

(a) The Project is necessary to improve public safety, decrease traffic congestion and improve passenger rail operations by building grade separations between the roadway and the rail lines; and

(b) The public interest and necessity require the acquisition by eminent domain proceedings of a roadway easement as legally described in Exhibit "A" and depicted in Exhibit "B", a drainage easement as legally described in Exhibit "C" and depicted in Exhibit "D", a public utility easement as legally described in Exhibit "E" and depicted in Exhibit "F" and a temporary construction easement as legally described in Exhibit "G" and depicted in Exhibit "H" attached to this Resolution of Necessity.

Section 5. Description of Property Interests. The property interests to be acquired are more particularly described and depicted in Exhibits "A" through "H" attached hereto and incorporated herein by reference.

Section 6. Findings. The Commission hereby finds, determines and declares each of the following:

(a) The public interest and necessity require the proposed Project;

(b) The Project is planned or located in the manner that will be most compatible with the greatest public good and least private injury;

(c) The above-described property interests, as described and depicted in Exhibits "A" through "H", are necessary for the proposed Project;

(d) The offer required by section 7267.2 of the California Government Code has been made to the owner or owners of record; and

(e) All conditions and statutory requirements necessary to exercise the power of eminent domain ("the right to take") to acquire the Property have been complied with by the Commission.

Section 7. Existing Public Use(s). Pursuant to sections 1240.510 and 1240.610 of the Code of Civil Procedure, to the extent that any of the real property to be acquired is already devoted to a public use, the use proposed by this Project is a more necessary public use than the use to which the real property, or any portion thereof, is already devoted, or, in the alternative, is

a compatible public use which will not unreasonably interfere with or impair the continuance of the public use to which the real property, or any portion thereof, is already devoted.

Section 8. Authority to Exercise Eminent Domain. The Commission is hereby authorized and empowered to acquire a roadway easement as legally described in Exhibit "A" and depicted in Exhibit "B", a drainage easement as legally described in Exhibit "C" and depicted in Exhibit "D", a public utility easement as legally described in Exhibit "E" and depicted in Exhibit "F" and a temporary construction easements as legally described in Exhibit "G" and depicted in Exhibit "H", including the improvements thereon, if any, by eminent domain for the Project.

Section 9. Further Activities. Legal Counsel for the Commission ("Counsel") is hereby authorized and empowered to acquire the hereinabove described interests in real property in the name of and on behalf of the Commission by eminent domain, and is authorized to institute and prosecute such legal proceedings as may be required in connection therewith. 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 and to permit the Commission to take possession of and use real property at the earliest possible time. Counsel is further authorized to correct any errors in this Resolution of Necessity or to make or agree to non-material changes in the legal descriptions of the real property that are deemed necessary for the conduct of the eminent domain action or other proceedings or transactions required to acquire the interests in the subject real property.

Section 10. Effective Date. This Resolution shall take effect upon adoption.

Adopted by the San Bernardino County Transportation Commission on October 3, 2012, by the following vote:

AYES:

NOES:

ABSENT:

_____

Janice Rutherford, Chairperson
San Bernardino County Transportation Commission

ATTEST:

_____

Vicki Watson,
Clerk of the Commission

EXHIBIT A

ROADWAY EASEMENT
ATTACHMENT TO LEGAL DESCRIPTION
APN: 0160-241-11

The property identified in the attached legal description and map shall be for right of way purposes to facilitate the construction and use of the Laurel Street Grade Separation Project.

Reasonable pedestrian and vehicular access to the remainder property will be maintained during construction.

The San Bernardino County Transportation Commission is expressly granted the right to convey, transfer or assign the right of way.

EXHIBIT 'A'
Legal Description

That certain portion of Block 12, Colton Land and Water Company Subdivision, in the City of Colton, County of San Bernardino, State of California, as shown on the map recorded in Book 1, Page 40 of Maps, in the Office of the County Recorder of said County, being a portion of Parcel B conveyed in the deed to CIP Investments, L.P., recorded March 30, 2006 as Document No. 2006-0216405, Official Records of said County, described as follows:

BEGINNING at the intersection of the northwesterly line of Eighth Street, 80 feet wide, as shown on map filed in Book 28, Page 79 of Records of Survey, in the Office of the County Recorder of said County, with the northerly line of Laurel Street, 66 feet wide, also as shown on said map;

Thence along the northwesterly line of said Eighth Street, North 18°21'19" East 95.89 feet;

Thence leaving said northwesterly line, South 66°16'22" West 12.24 feet;

Thence South 42°18'27" West 14.62 feet;

Thence South 18°20'31" West 75.26 feet;

Thence parallel with the northerly line of said Laurel Street, South 89°42'12" West 159.88 feet;

Thence South 81°24'58" West 19.95 feet;

Thence South 00°10'17" East 1.04 feet to the northerly line of said Laurel Street;

Thence along said northerly line, North 89°42'12" East 194.13 feet to the **POINT OF BEGINNING.**

The above described parcel contains 2024 square feet (0.046 acres), more or less.

The bearings and distances shown in the above description are on the California Coordinate System of 1983 (2007.00), Zone 5. Divide distances shown in the above description by 0.99994626 to obtain ground distances.

As shown on Exhibit 'B', attached hereto and made a part hereof.

This real property description has been prepared by me, or under my direction, in conformance with the Professional Land Surveyors' Act.

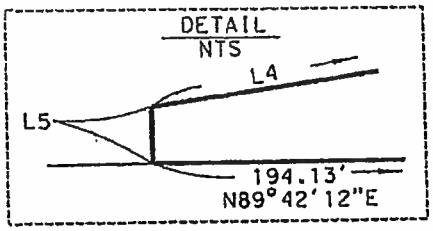
2-2-2012

Ryan M. Versteeg, P.L.S. 7809 Date

P:\T\TRAN00000004\0600INFO\SV\Office\Legals\0160-241-11 RW.docx

EXHIBIT B

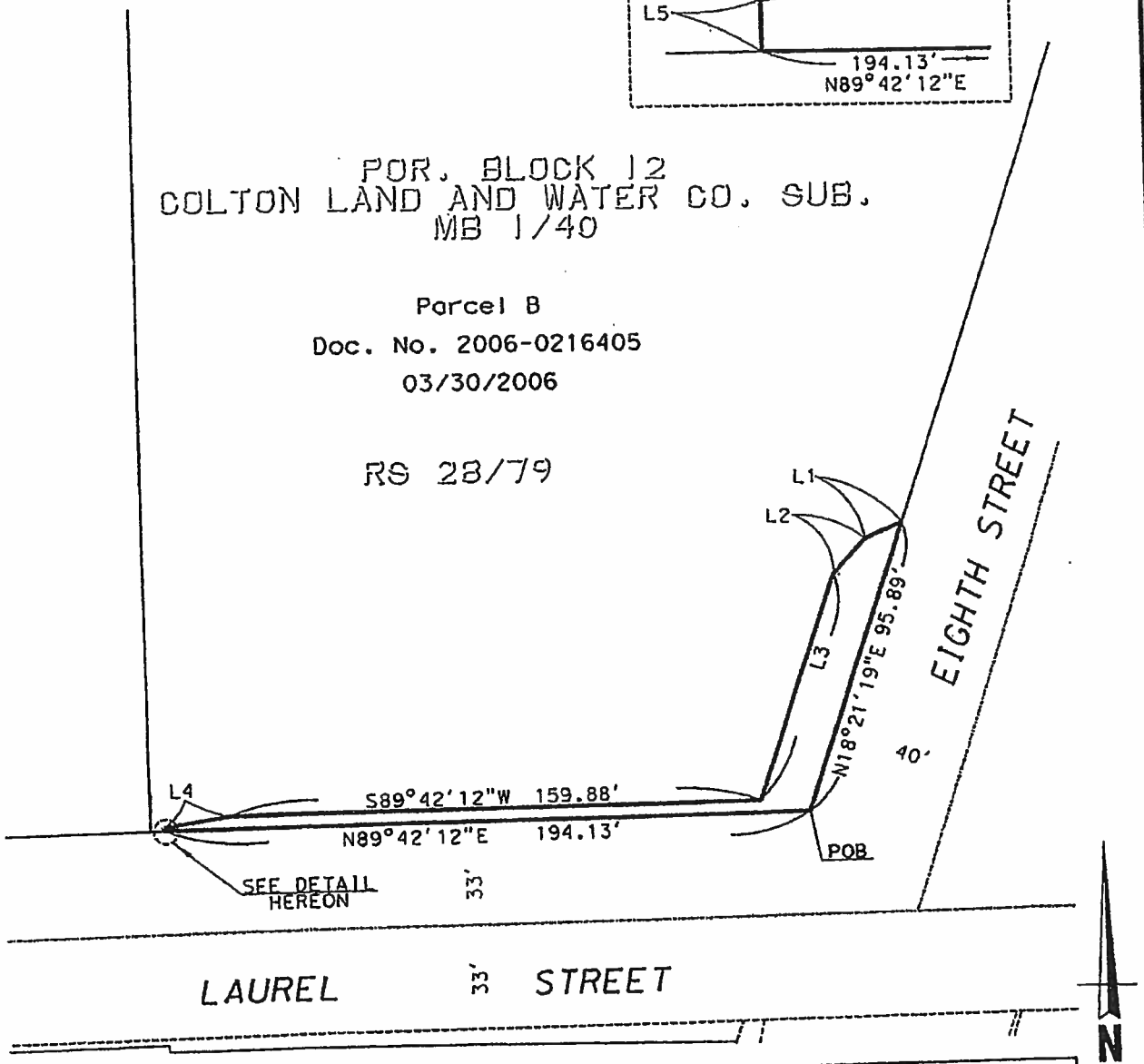
EXHIBIT 'B'



POR. BLOCK 12
COLTON LAND AND WATER CO. SUB.
MB 1/40

Parcel B
Doc. No. 2006-0216405
03/30/2006

RS 28/79



LINE TABLE		
LINE	BEARING	LENGTH
L1	S66°16'22"W	12.24'
L2	S42°18'27"W	14.62'
L3	S18°20'31"W	75.26'
L4	S81°24'58"W	19.95'
L5	S00°10'17"E	1.04'

LEGEND

———	PROPERTY LINES
▭	EASEMENT AREA
POB	POINT OF BEGINNING
AREA	2,024±SQUARE FEET

DAVID EVANS AND ASSOCIATES INC.
4200 Concours, Suite 200
Ontario California 91764
Phone: 909.481.5750

EXHIBIT 'B'	COUNTY: SAN BERNARDINO	CITY: COLTON	CHECKED BY: RMVE
		ROAD EASEMENT	DRAWN BY: KXG
JOB NO.: TRAN0000-0004			DATE: 01/03/12
SHEET: 1 / TOTAL: 1	APN: 0160-241-11		SCALE: 1"=50'

EXHIBIT C

DRAINAGE EASEMENT
ATTACHMENT TO LEGAL DESCRIPTION
APN: 0160-241-11

This permanent, subsurface, nonexclusive drainage easement allows the San Bernardino County Transportation Commission, and its employees, agents, representatives and contractors the right to use the property in the attached legal description and map for the purpose of _____ (please describe the purpose of the drainage easement).

There shall not be constructed any improvements within the easement area that would impede the rights as defined herein. The affected portion of the easement area will be backfilled to grade with dirt or with pavement material. Once the drainage facilities are in place, the surface of the easement area may be used for access or automobile parking purposes.

Reasonable pedestrian and vehicular access to the remainder property will be maintained during construction.

The San Bernardino County Transportation Commission is expressly granted the right to convey, transfer or assign the easement rights described above.

EXHIBIT 'A'
Legal Description

That certain portion of Block 12, Colton Land and Water Company Subdivision, in the City of Colton, County of San Bernardino, State of California, as shown on the map recorded in Book 1, Page 40 of Maps, in the Office of the County Recorder of said County, being a portion of Parcel B conveyed in the deed to CIP Investments, L.P., recorded March 30, 2006 as Document No. 2006-0216405, Official Records of said County, lying southerly and southeasterly of the following described line:

COMMENCING at the southwesterly corner of said Parcel B;

Thence along the westerly of said Parcel B, North 00°23'32" West 16.93 feet to the **TRUE POINT OF BEGINNING;**

Thence leaving said westerly line along a line parallel with the northerly line of Laurel Street, 66 feet wide, as shown on map filed in Book 28, Page 79 of Records of Survey, in the Office of the County Recorder of said County, North 89°42'12" East 177.67 feet;

Thence leaving said parallel line North 53°23'15" East 43.54 feet to the **POINT OF TERMINUS** on the northwesterly line of Eighth Street, 80 feet wide, as shown on map filed in Book 28, Page 79 of Records of Survey, in the Office of the County Recorder of said County.

EXCEPTING THEREFROM that portion described as follows:

BEGINNING at the intersection of the northwesterly line of Eighth Street, 80 feet wide, as shown on map filed in Book 28, Page 79 of Records of Survey, in the Office of the County Recorder of said County, with the northerly line of Laurel Street, 66 feet wide, also as shown on said map;

Thence along the northwesterly line of said Eighth Street, North 18°21'19" East 95.89 feet;

Thence leaving said northwesterly line, South 66°16'22" West 12.24 feet;

Thence South 42°18'27" West 14.62 feet;

Thence South 18°20'31" West 75.26 feet;

Thence parallel with the northerly line of said Laurel Street, South 89°42'12" West 159.88 feet;

Thence South 81°24'58" West 19.95 feet;

Thence South 00°10'17" East 1.04 feet to the northerly line of said Laurel Street;

Thence along said northerly line, North 89°42'12" East 194.13 feet to the **POINT OF BEGINNING.**

The above described parcel contains 2520 square feet (0.058 acres), more or less.

The bearings and distances shown in the above description are on the California Coordinate System of 1983 (2007.00), Zone 5. Divide distances shown in the above description by 0.99994626 to obtain ground distances.

As shown on Exhibit 'B', attached hereto and made a part hereof.

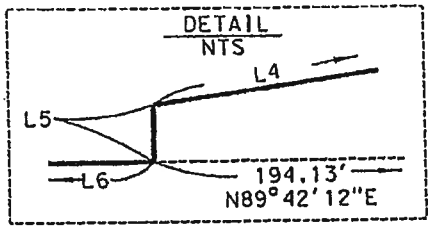
This real property description has been prepared by me, or under my direction, in conformance with the Professional Land Surveyors' Act.

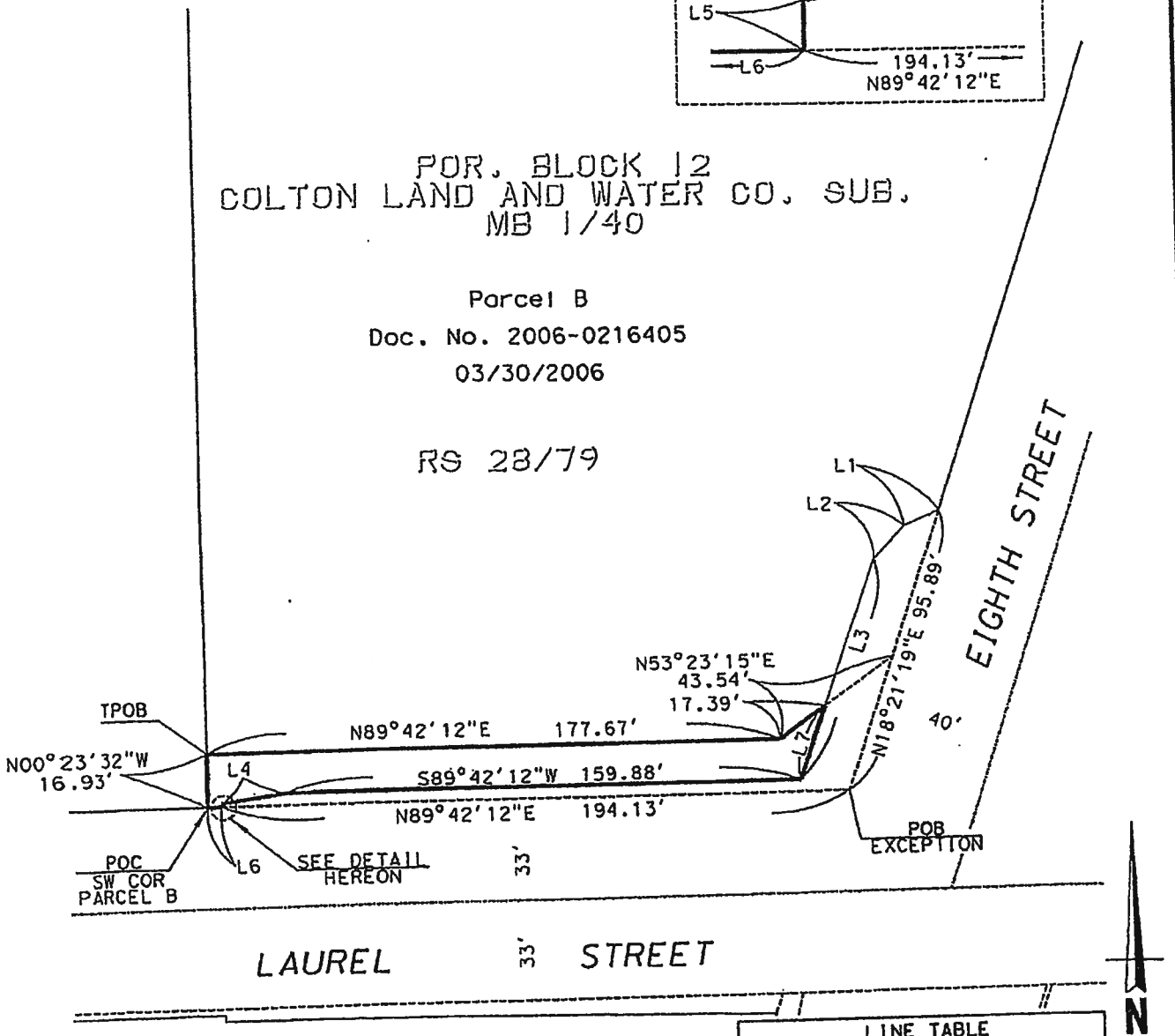
2-2-2012

Ryan M. Versteeg, P.L.S. 7809 Date

EXHIBIT D

EXHIBIT 'B'





LINE TABLE		
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L3	S18°20'31"W	75.26'
L4	S81°24'58"W	19.95'
L5	S00°10'17"E	1.04'
L6	N89°42'12"E	4.17'
L7	N18°20'31"E	24.61'

LEGEND

———	PROPERTY LINES
▭	EASEMENT AREA
POB	POINT OF BEGINNING
TPOB	TRUE POINT OF BEGINNING
POC	POINT OF COMMENCEMENT
AREA	2,520±SQUARE FEET

DAVID EVANS AND ASSOCIATES INC.
4200 Concours, Suite 200
Ontario California 91764
Phone: 909.481.5750

EXHIBIT 'B'	COUNTY: SAN BERNARDINO	CITY: COLTON	CHECKED BY: RMVE
	DRAINAGE EASEMENT		DRAWN BY: KXG
JOB NO.: TRAN0000-0004			DATE: 01/03/12
SHEET: 1 / TOTAL: 1	APN: 0160-241-11		SCALE: 1"=50'

EXHIBIT E

PUBLIC UTILITIES EASEMENT
ATTACHMENT TO LEGAL DESCRIPTION
APN: 0160-241-11

This permanent, subsurface, nonexclusive utility easement allows the San Bernardino County Transportation Commission, and its employees, agents, representatives and contractors the right to use the property in the attached legal description and map for the purpose of constructing, maintaining, repairing, relocating and adjusting, as applicable, utility facilities.

There shall not be constructed any improvements within the easement area that would impede the rights as defined herein. The affected portion of the easement area will be backfilled to grade with dirt or with pavement material. Once the utilities are in place, the surface of the easement area may be used for access or automobile parking purposes.

Reasonable pedestrian and vehicular access to the remainder property will be maintained during construction.

The San Bernardino County Transportation Commission is expressly granted the right to convey, transfer or assign the easement rights described above.

EXHIBIT 'A'
Legal Description

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COMMENCING at the southwesterly corner of said Parcel B;

Thence along the westerly of said Parcel B, North 00°23'32" West 16.93 feet to the **TRUE POINT OF BEGINNING;**

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Thence leaving said northwesterly line, South 66°16'22" West 12.24 feet;

Thence South 42°18'27" West 14.62 feet;

Thence South 18°20'31" West 75.26 feet;

Thence parallel with the northerly line of said Laurel Street, South 89°42'12" West 159.88 feet;

Thence South 81°24'58" West 19.95 feet;

Thence South 00°10'17" East 1.04 feet to the northerly line of said Laurel Street;

Thence along said northerly line, North 89°42'12" East 194.13 feet to the **POINT OF BEGINNING.**

The above described parcel contains 2520 square feet (0.058 acres), more or less.

The bearings and distances shown in the above description are on the California Coordinate System of 1983 (2007.00), Zone 5. Divide distances shown in the above description by 0.99994626 to obtain ground distances.

As shown on Exhibit 'B', attached hereto and made a part hereof.

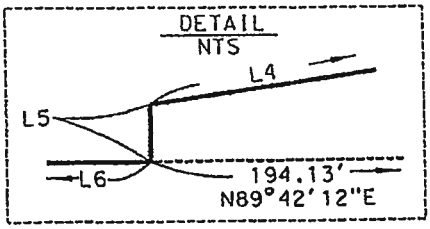
This real property description has been prepared by me, or under my direction, in conformance with the Professional Land Surveyors' Act.

2-2-2012

Ryan M. Versteeg, P.L.S. 7809 Date

EXHIBIT F

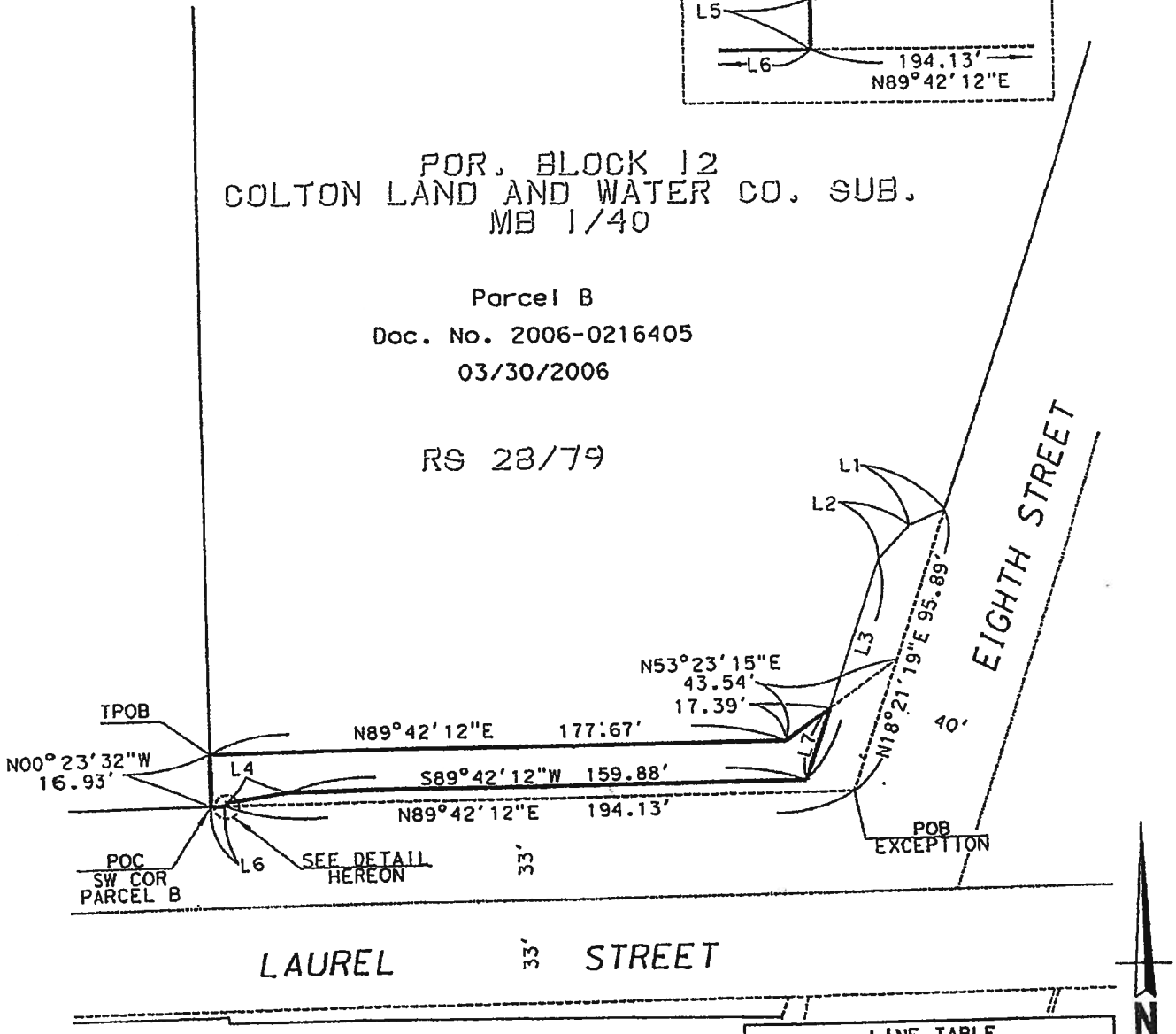
EXHIBIT 'B'



POR. BLOCK 12
COLTON LAND AND WATER CO. SUB.
MB 1/40

Parcel B
Doc. No. 2006-0216405
03/30/2006

RS 28/79



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L4	S81°24'58"W	19.95'
L5	S00°10'17"E	1.04'
L6	N89°42'12"E	4.17'
L7	N18°20'31"E	24.61'

LEGEND

———	PROPERTY LINES
▭	EASEMENT AREA
POB	POINT OF BEGINNING
TPOB	TRUE POINT OF BEGINNING
POC	POINT OF COMMENCEMENT
AREA	2,520±SQUARE FEET

DAVID EVANS AND ASSOCIATES INC.
4200 Concours, Suite 200
Ontario California 91764
Phone: 909.481.5750

EXHIBIT 'B'	COUNTY: SAN BERNARDINO	CITY: COLTON	CHECKED BY: RMVE
		PUBLIC UTILITIES EASEMENT	DRAWN BY: KXG
JOB NO.: TRAN0000-0004			DATE: 01/03/12
SHEET: 1 / TOTAL: 1	APN: 0160-241-11		SCALE: 1"=50'

EXHIBIT G

TEMPORARY CONSTRUCTION EASEMENT
ATTACHMENT TO LEGAL DESCRIPTION
APN: 0160-241-11

The parcel of land in the attached legal description and map is to be used for temporary construction purposes in connection with the construction of the Laurel Street Grade Separation Project. The right of usage acquired for the temporary construction easement parcel described in the attached legal description and depicted in the attached map shall be for a period of eighteen (18) months.

Reasonable pedestrian and vehicular access to the remainder property will be maintained during construction.

The San Bernardino County Transportation Commission is expressly granted the right to convey, transfer or assign the easement rights described above.

EXHIBIT 'A'
Legal Description

That certain portion of Block 12, Colton Land and Water Company Subdivision, in the City of Colton, County of San Bernardino, State of California, as shown on the map recorded in Book 1, Page 40 of Maps, in the Office of the County Recorder of said County, being a portion of Parcel B conveyed in the deed to CIP Investments, L.P., recorded March 30, 2006 as Document No. 2006-0216405, Official Records of said County, lying southerly and southeasterly of the following described line:

COMMENCING at the southwesterly corner of said Parcel B;

Thence along the westerly of said Parcel B, North 00°23'32" West 16.93 feet to the **TRUE POINT OF BEGINNING;**

Thence leaving said westerly line along a line parallel with the northerly line of Laurel Street, 66 feet wide, as shown on map filed in Book 28, Page 79 of Records of Survey, in the Office of the County Recorder of said County, North 89°42'12" East 94.89 feet;

Thence leaving said parallel line North 54°16'37" East 176.30 feet to the **POINT OF TERMINUS** on the northwesterly line of Eighth Street, 80 feet wide, as shown on map filed in Book 28, Page 79 of Records of Survey, in the Office of the County Recorder of said County.

EXCEPTING THEREFROM that portion described as follows:

BEGINNING at the intersection of the northwesterly line of Eighth Street, 80 feet wide, as shown on map filed in Book 28, Page 79 of Records of Survey, in the Office of the County Recorder of said County, with the northerly line of Laurel Street, 66 feet wide, also as shown on said map;

Thence along the northwesterly line of said Eighth Street, North 18°21'19" East 95.89 feet;

Thence leaving said northwesterly line, South 66°16'22" West 12.24 feet;

Thence South 42°18'27" West 14.62 feet;

Thence South 18°20'31" West 75.26 feet;

Thence parallel with the northerly line of said Laurel Street, South 89°42'12" West 159.88 feet;

Thence South 81°24'58" West 19.95 feet;

Thence South 00°10'17" East 1.04 feet to the northerly line of said Laurel Street;

Thence along said northerly line, North 89°42'12" East 194.13 feet to the **POINT OF BEGINNING.**

The above described parcel contains 6960 square feet (0.160 acres), more or less.

The bearings and distances shown in the above description are on the California Coordinate System of 1983 (2007.00), Zone 5. Divide distances shown in the above description by 0.99994626 to obtain ground distances.

As shown on Exhibit 'B', attached hereto and made a part hereof.

This real property description has been prepared by me, or under my direction, in conformance with the Professional Land Surveyors' Act.

2-6-2012

Ryan M. Versteeg, P.L.S. 7809 Date

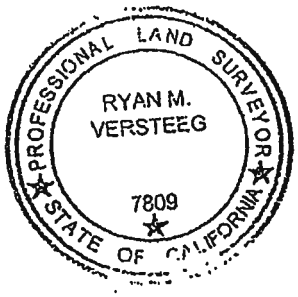
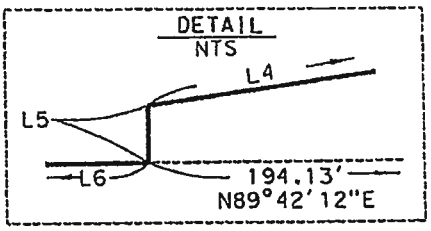
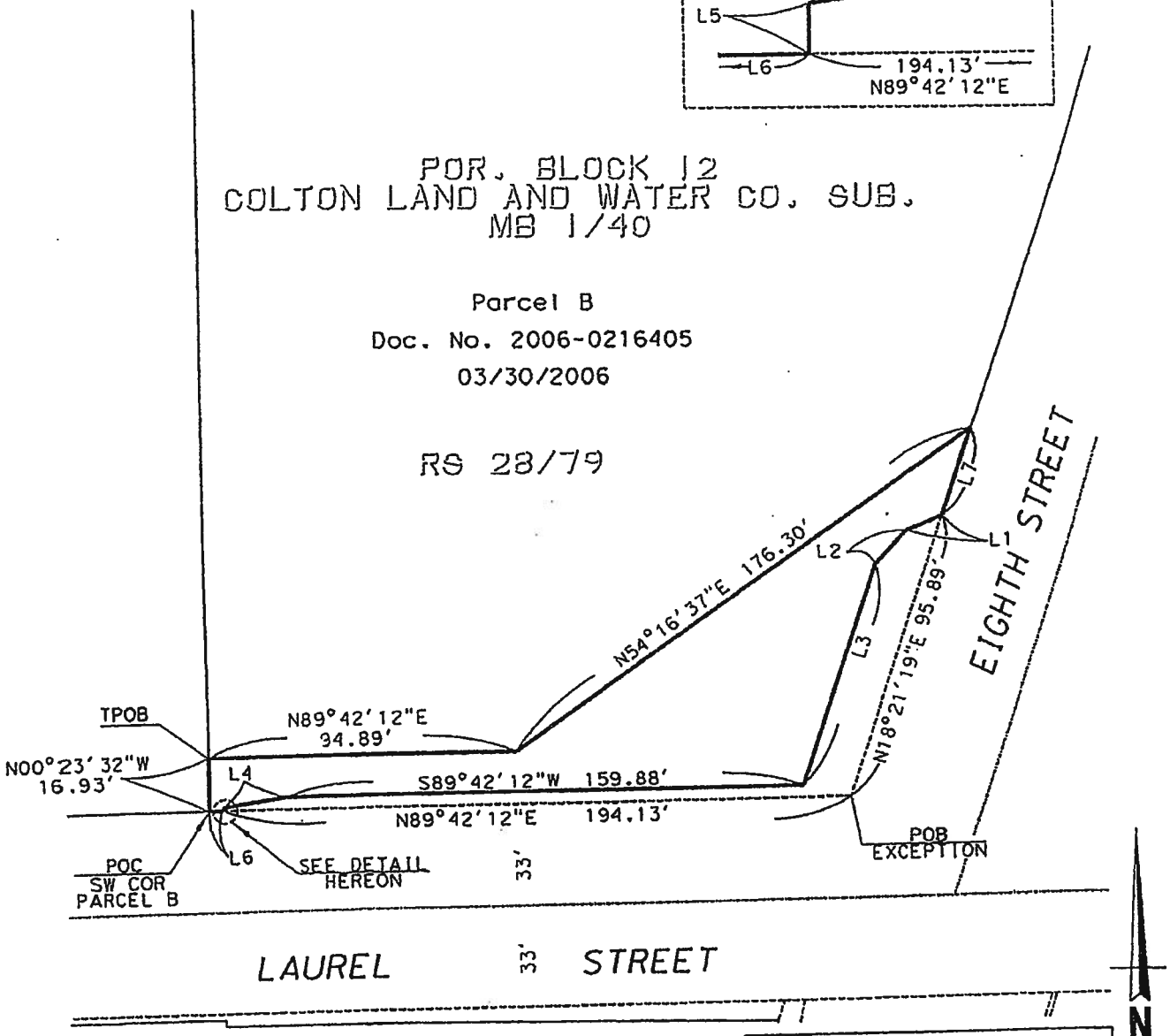


EXHIBIT H

EXHIBIT 'B'





LEGEND

———	PROPERTY LINES
▭	EASEMENT AREA
AREA:	6,960±SQUARE FEET
POB	POINT OF BEGINNING
TPOB	TRUE POINT OF BEGINNING
POC	POINT OF COMMENCEMENT

LINE TABLE		
LINE	BEARING	LENGTH
L1	S66°16'22"W	12.24'
L2	S42°18'27"W	14.62'
L3	S18°20'31"W	75.26'
L4	S81°24'58"W	19.95'
L5	S00°10'17"E	1.04'
L6	N89°42'12"E	4.17'
L7	S18°21'19"W	29.83'

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EXHIBIT 'B'	COUNTY: SAN BERNARDINO	CITY: COLTON	CHECKED BY: RMVE
JOB NO.: TRAN0000-0004	TEMPORARY CONSTRUCTION EASEMENT		DRAWN BY: KXG
SHEET: 1 / TOTAL: 1	APN: 0160-241-11		DATE: 01/03/12
			SCALE: 1"=50'

RESOLUTION NO. 13-030

A RESOLUTION OF THE SAN BERNARDINO COUNTY TRANSPORTATION COMMISSION FINDING AND DETERMINING THAT THE PUBLIC INTEREST AND NECESSITY REQUIRE THE ACQUISITION BY EMINENT DOMAIN OF INTERESTS IN CERTAIN REAL PROPERTY FOR PUBLIC USE AND AUTHORIZING AND DIRECTING CONDEMNATION OF PORTIONS OF APN NO. 0160-241-56 AND 0160-241-59

WHEREAS, the San Bernardino County Transportation Commission (the "Commission") is undertaking the Laurel Street Grade Separation Project (the "Project") that necessitates the Commission to acquire by eminent domain portions of the property located at 263-269 W. Laurel Street, in the City of Colton, California; and

WHEREAS, the Project is intended to improve public safety, decrease traffic congestion and improve passenger rail operations by building grade separations between the roadway and the rail lines; and

WHEREAS, the Project requires the acquisition of property interests from private parties; and

WHEREAS, the Project will be a transportation improvement project serving the public interest; and

WHEREAS, subsection (a) of the California Public Utilities Code section 130220.5, authorizes the Commission to exercise the power of eminent domain to acquire these property interests for public use by condemnation; and

WHEREAS, the real property required for the Project includes an access easement as legally described in Exhibit "A" and depicted in Exhibit "B" and located at 263-269 W. Laurel Street, Colton, California; and

WHEREAS, the real property required for the Project includes a public utility easement as legally described in Exhibit "C" and depicted in Exhibit "D" and located at 263-269 W. Laurel Street, Colton, California; and

WHEREAS, the real property required for the Project includes a temporary construction easement as legally described in Exhibit "E" and depicted in Exhibit "F" and located at 263-269 W. Laurel Street, Colton, California; and

WHEREAS, reasonable pedestrian and vehicular access to the subject property will be maintained during construction; and

WHEREAS, in accordance with section 1245.235 of the California Code of Civil Procedure, on September 6, 2012, there was mailed a Notice of Hearing on the Intent of the

Commission to adopt a Resolution of Necessity for acquisition by eminent domain of the interests in real property described and depicted in Exhibits "A" through "F" herein. The Notice of Hearing was mailed to the listed address of all persons whose names appear on the last equalized county assessment roll as having an interest in the property described and depicted in Exhibits "A" through "F"; and

WHEREAS, the Commission provided written notice to the City of Colton as required by subsection (c) of California Public Utilities Code section 130220.5; and

WHEREAS, the Project, including all amendments thereto, together with the staff reports, environmental documents and all other evidence presented to the Commission at the times the Project and the amendments thereto were adopted, are incorporated herein by this reference and made a part hereof as though fully set forth herein; and

WHEREAS, pursuant to section 1245.235 of the California Code of Civil Procedure, the Commission scheduled a hearing for October 3, 2012, at 10:00 a.m. at Santa Fe Depot---SANBAG Lobby 1st Floor, 1170 W. 3rd Street, San Bernardino, California and gave to each person whose property is to be acquired notice and a reasonable opportunity to appear at said hearing and to 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 Commission and each person whose property is to be acquired by eminent domain was afforded an opportunity to be heard on those matters specified in the Commission's notice of intention to conduct a hearing on whether to adopt a Resolution of Necessity as referred to in section 1240.030 of the California Code of Civil Procedure; and

WHEREAS, the Commission may adopt a Resolution of Necessity pursuant to section 1240.040 of the California Code of Civil Procedure.

NOW, THEREFORE, by a vote of two-thirds or more of its members, the San Bernardino County Transportation Commission does hereby find, determine, resolve and order as follows:

Section 1. Incorporation of Findings and Recitals. The above findings and recitals are true and correct and are incorporated herein in full by this reference.

Section 2. Compliance with California Code of Civil Procedure. The Commission has complied with the requirements of section 1245.235 of the California Code of Civil Procedure regarding notice and hearing.

Section 3. Public Use. The public use for which the interests in the Property are to be acquired is for the construction and future maintenance of the Project, a public transportation improvement, as more fully described hereinabove. Subsection (a) of California Public Utilities Code section 130220.5 authorizes the Commission to acquire by eminent domain property and interests in property necessary for such purpose and for all uses incidental or convenient thereto.

Section 4. Necessity.

(a) The Project is necessary to improve public safety, decrease traffic congestion and improve passenger rail operations by building grade separations between the roadway and the rail lines; and

(b) The public interest and necessity require the acquisition by eminent domain proceedings of an access easement as legally described in Exhibit "A" and depicted in Exhibit "B", a public utility easement as legally described in Exhibit "C" and depicted in Exhibit "D", and a temporary construction easement as legally described in Exhibit "E" and depicted in Exhibit "F", attached to this Resolution of Necessity.

Section 5. Description of Property Interests. The property interests to be acquired are more particularly described and depicted in Exhibits "A" through "F" attached hereto and incorporated herein by reference.

Section 6. Findings. The Commission hereby finds, determines and declares each of the following:

(a) The public interest and necessity require the proposed Project;

(b) The Project is planned or located in the manner that will be most compatible with the greatest public good and least private injury;

(c) The above-described property interests, as described and depicted in Exhibits "A" through "F", are necessary for the proposed Project;

(d) The offer required by section 7267.2 of the California Government Code has been made to the owner or owners of record; and

(e) All conditions and statutory requirements necessary to exercise the power of eminent domain ("the right to take") to acquire the Property have been complied with by the Commission.

Section 7. Existing Public Use(s). Pursuant to sections 1240.510 and 1240.610 of the Code of Civil Procedure, to the extent that any of the real property to be acquired is already devoted to a public use, the use proposed by this Project is a more necessary public use than the use to which the real property, or any portion thereof, is already devoted, or, in the alternative, is a compatible public use which will not unreasonably interfere with or impair the continuance of the public use to which the real property, or any portion thereof, is already devoted.

Section 8. Authority to Exercise Eminent Domain. The Commission is hereby authorized and empowered to acquire an access easement as legally described in Exhibit "A" and depicted in Exhibit "B", a public utility easement as legally described in Exhibit "C" and depicted in Exhibit "D", and a temporary construction easement as legally described in Exhibit

"E" and depicted in Exhibit "F", including the improvements thereon, if any, by eminent domain for the Project.

Section 9. Further Activities. Legal Counsel for the Commission ("Counsel") is hereby authorized and empowered to acquire the hereinabove described interests in real property in the name of and on behalf of the Commission by eminent domain, and is authorized to institute and prosecute such legal proceedings as may be required in connection therewith. 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 and to permit the Commission to take possession of and use real property at the earliest possible time. Counsel is further authorized to correct any errors in this Resolution of Necessity or to make or agree to non-material changes in the legal descriptions of the real property that are deemed necessary for the conduct of the eminent domain action or other proceedings or transactions required to acquire the interests in the subject real property.

Section 10. Effective Date. This Resolution shall take effect upon adoption.

Adopted by the San Bernardino County Transportation Commission on October 3, 2012, by the following vote:

AYES:

NOES:

ABSENT:

_____

Janice Rutherford, Chairperson
San Bernardino County Transportation Commission

ATTEST:

_____

Vicki Watson,
Clerk of the Commission

EXHIBIT A

ACCESS EASEMENT
ATTACHMENT TO LEGAL DESCRIPTION
APN: 0160-241-56 AND 0160-241-59

This permanent, nonexclusive access easement allows the San Bernardino County Transportation Commission, and its employees, agents, representatives and contractors the right to use the property in the attached legal description and map for the purpose of _____ (please describe the purpose of the access easement).

There shall not be constructed any improvements within the easement area that would impede the rights as defined herein. The affected portion of the easement area will be paved.

Reasonable pedestrian and vehicular access to the remainder property will be maintained during construction.

The San Bernardino County Transportation Commission is expressly granted the right to convey, transfer or assign the easement rights described above.

EXHIBIT 'A'
Legal Description

Those portions of Parcels 1 and 2 of Parcel Map No. 3489, in the City of Colton, County of San Bernardino, State of California, as shown on the map filed in Book 31, Page 69 of Parcel Maps, in the Office of the County Recorder of said County, described as follows:

BEGINNING at the southwesterly corner of said Parcel 1;

Thence along the westerly lines of said Parcels 1 and 2, North 00°23'33" West 186.19 feet;

Thence parallel with the southerly line of said Parcel 1, North 89°42'12" East 180.26 feet to the easterly line of said Parcel 2;

Thence along said easterly line, South 00°23'55" East 40.00 feet to the northerly line of the southerly 5.00 feet of said Parcel 2;

Thence along said northerly line, South 89°42'12" West 128.99 feet to the beginning of a curve concave southeasterly having a radius of 30.00 feet;

Thence southwesterly along said curve 47.12 feet through a central angle of 90°00'00";

Thence South 00°17'48" East 116.19 feet to the southerly line of said Parcel 1;

Thence along said Parcel 1, South 89°42'12" West 21.02 feet to the **POINT OF BEGINNING.**

The above described parcel contains 10,495 square feet, more or less.

The bearings and distances shown in the above description are on the California Coordinate System of 1983 (2007.00), Zone 5. Divide distances shown in the above description by 0.99994626 to obtain ground distances.

As shown on Exhibit 'B', attached hereto and made a part hereof.

This real property description has been prepared by me, or under my direction, in conformance with the Professional Land Surveyors' Act.

2-2-2012

Ryan M. Versteeg, P.L.S. 7809 Date

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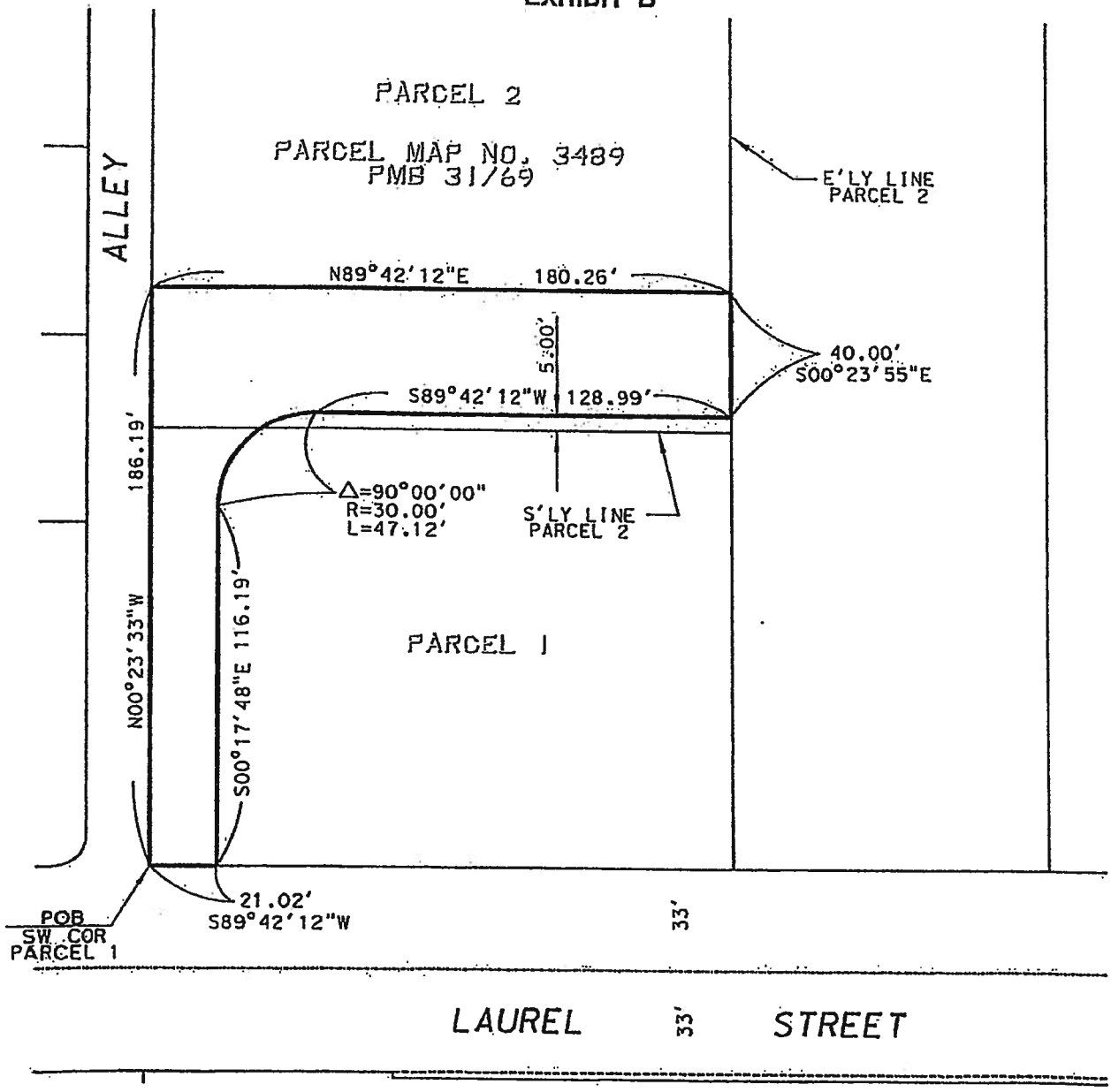
EXHIBIT B

EXHIBIT 'B'



LEGEND

———	PROPERTY LINES
▭	EASEMENT AREA
POB	POINT OF BEGINNING
AREA	10,495±SQUARE FEET

N

DAVID EVANS AND ASSOCIATES INC.
4200 Concours, Suite 200
Ontario California 91764
Phone: 909.481.5750

EXHIBIT 'B'	COUNTY: SAN BERNARDINO	CITY: COLTON	CHECKED BY: RMVE
	ACCESS EASEMENT		DRAWN BY: KXG
JOB NO.: TRAN0000-0004			DATE: 01/24/12
SHEET: 1 / TOTAL: 1	APN: 0160-241-56, 0160-241-59		SCALE: 1"=50'

EXHIBIT C

PUBLIC UTILITIES EASEMENT
ATTACHMENT TO LEGAL DESCRIPTION
APN: 0160-241-56 AND 0160-241-59

This permanent, subsurface, nonexclusive utility easement allows the San Bernardino County Transportation Commission, and its employees, agents, representatives and contractors the right to use the property in the attached legal description and map for the purpose of constructing, maintaining, repairing, relocating and adjusting, as applicable, utility facilities.

There shall not be constructed any improvements within the easement area that would impede the rights as defined herein. The affected portion of the easement area will be backfilled to grade with dirt or with pavement material. Once the utilities are in place, the surface of the easement area may be used for access or automobile parking purposes.

Reasonable pedestrian and vehicular access to the remainder property will be maintained during construction.

The San Bernardino County Transportation Commission is expressly granted the right to convey, transfer or assign the easement rights described above.

EXHIBIT 'A'
Legal Description

Parcel A

The southerly 15.00 feet of Parcel 2 of Parcel Map No. 3489, in the City of Colton, County of San Bernardino, State of California, as shown on the map filed in Book 31, Page 69 of Parcel Maps, in the Office of the County Recorder of said County.

Parcel B

That portion of Parcel 1 of Parcel Map No. 3489, in the City of Colton, County of San Bernardino, State of California, as shown on the map filed in Book 31, Page 69 of Parcel Maps, in the Office of the County Recorder of said County, lying southerly of the following described line:

BEGINNING at a point on the westerly line of said Parcel 1, lying distant thereon North 00°23'33" West 4.83 from from the southwesterly corner of said Parcel 1;

Thence North 89°35'20" East 180.28 feet to a POINT OF TERMINUS on the easterly line of said Parcel 1, lying distant thereon North 00°23'55" West 5.19 feet from the southeasterly corner of said Parcel 1.

The above described parcels contain 3606 square feet, more or less.

The bearings and distances shown in the above description are on the California Coordinate System of 1983 (2007.00), Zone 5. Divide distances shown in the above description by 0.99994626 to obtain ground distances.

As shown on Exhibit 'B', attached hereto and made a part hereof.

This real property description has been prepared by me, or under my direction, in conformance with the Professional Land Surveyors' Act.

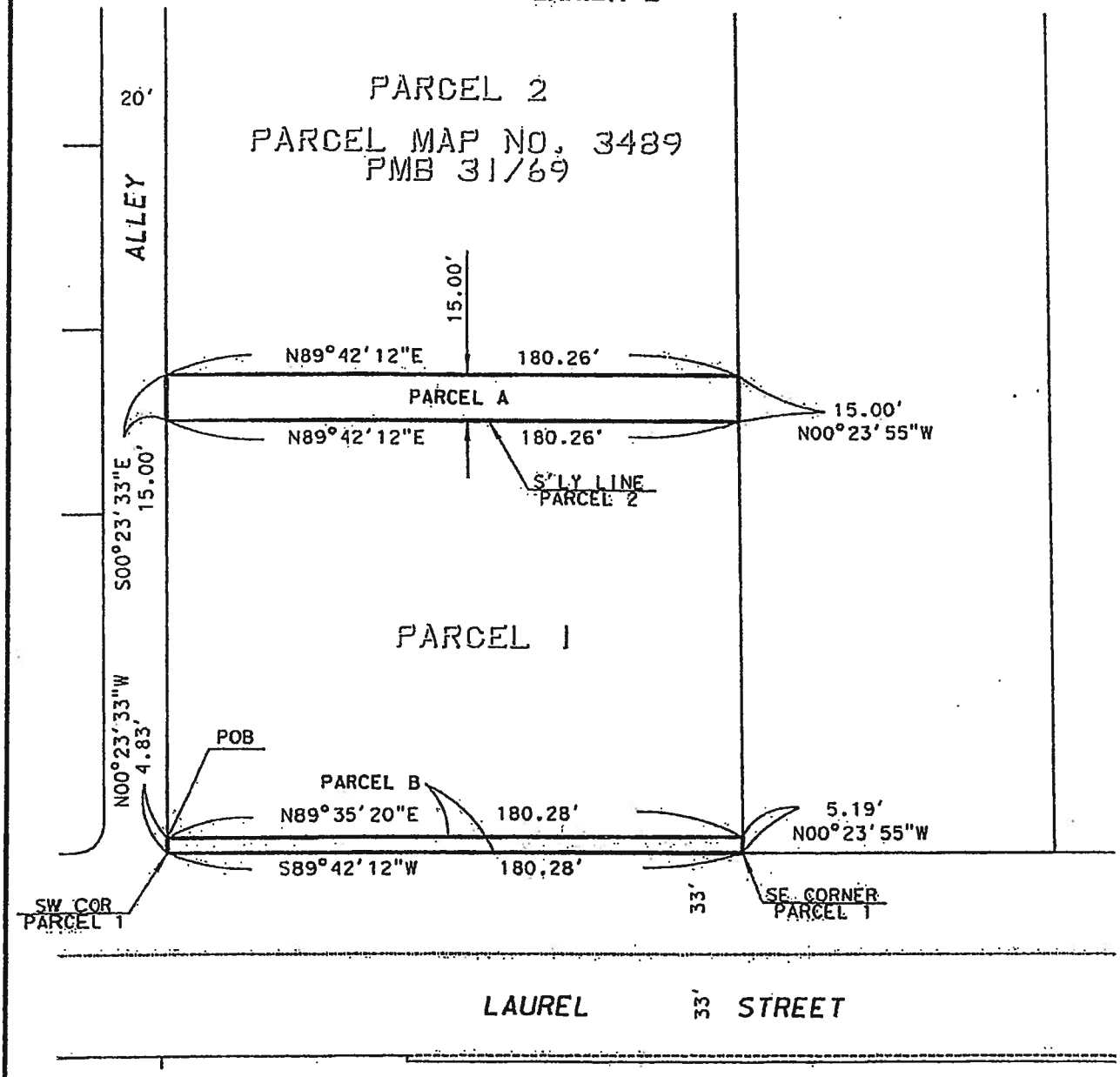
1-26-2012

Ryan M. Versteeg, P.L.S. 7809 Date

P:\T\TRAN00000004\0600INFO\SV\Office\Legals\0160-241-56-59 PUE.docx

EXHIBIT D

EXHIBIT 'B'



LEGEND

———	PROPERTY LINES
▭	EASEMENT AREA
POT	POINT OF BEGINNING
AREA	3,606±SQUARE FEET

N

DAVID EVANS AND ASSOCIATES INC.
4200 Concours, Suite 200
Ontario California 91764
Phone: 909.481.5750

EXHIBIT 'B'	COUNTY: SAN BERNARDINO	CITY: COLTON	CHECKED BY: RMVE
	PUBLIC UTILITIES EASEMENT		DRAWN BY: KXG
JOB NO: TRAN0000-0004			DATE: 01/24/12
SHEET: 1 / TOTAL: 1	APN: 0160-241-56, 0160-241-59		SCALE: 1"=50'

EXHIBIT E

TEMPORARY CONSTRUCTION EASEMENT
ATTACHMENT TO LEGAL DESCRIPTION
APN: 0160-241-56 AND 0160-241-59

The parcel of land in the attached legal description and map is to be used for temporary construction purposes in connection with the construction of the Laurel Street Grade Separation Project. The right of usage acquired for the temporary construction easement parcel described in the attached legal description and depicted in the attached map shall be for a period of eighteen (18) months.

Reasonable pedestrian and vehicular access to the remainder property will be maintained during construction.

The San Bernardino County Transportation Commission is expressly granted the right to convey, transfer or assign the easement rights described above.

EXHIBIT 'A'
Legal Description

Those portions of Parcels 1 and 2 of Parcel Map No. 3489, in the City of Colton, County of San Bernardino, State of California, as shown on the map filed in Book 31, Page 69 of Parcel Maps, in the Office of the County Recorder of said County, described as follows:

BEGINNING at the southwesterly corner of said Parcel 1;

Thence along the westerly lines of said Parcels 1 and 2, North 00°23'33" West 191.19 feet;

Thence parallel with the southerly line of said Parcel 1, North 89°42'12" East 106.14 feet;

Thence North 00°17'48" West 19.82 feet;

Thence North 89°36'05" East 5.63 feet;

Thence North 00°23'55" West 10.45 feet;'

Thence North 89°36'05" East 68.45 feet to the easterly line of said Parcel 2;

Thence along said easterly line, South 00°23'55" East 80.41 feet to the southeasterly corner of said Parcel 2;

Thence along the southerly line of said Parcel 2, South 89°42'12" West 129.00 feet to the beginning of a curve concave southeasterly having a radius of 25.00 feet;

Thence southwesterly along said curve 39.27 feet through a central angle of 90°00'00;

Thence South 00°17'48" East 91.19 feet;

Thence parallel with the southerly line of said Parcel 1, North 89°42'12" East 52.48 feet;

Thence South 00°24'39" East 20.02 feet;

Thence North 89°35'20" East 101.73 feet to the easterly line of said Parcel 1;

Thence along said easterly line, South 00°23'55" East 5.19 feet to the southeasterly corner of said Parcel 1;

Thence along the southerly line of said Parcel 1, South 89°42'12" West 180.28 feet to the **POINT OF BEGINNING.**

The above described parcel contains 16,857 square feet, more or less.

The bearings and distances shown in the above description are on the California Coordinate System of 1983 (2007.00), Zone 5. Divide distances shown in the above description by 0.99994626 to obtain ground distances.

As shown on Exhibit 'B', attached hereto and made a part hereof.

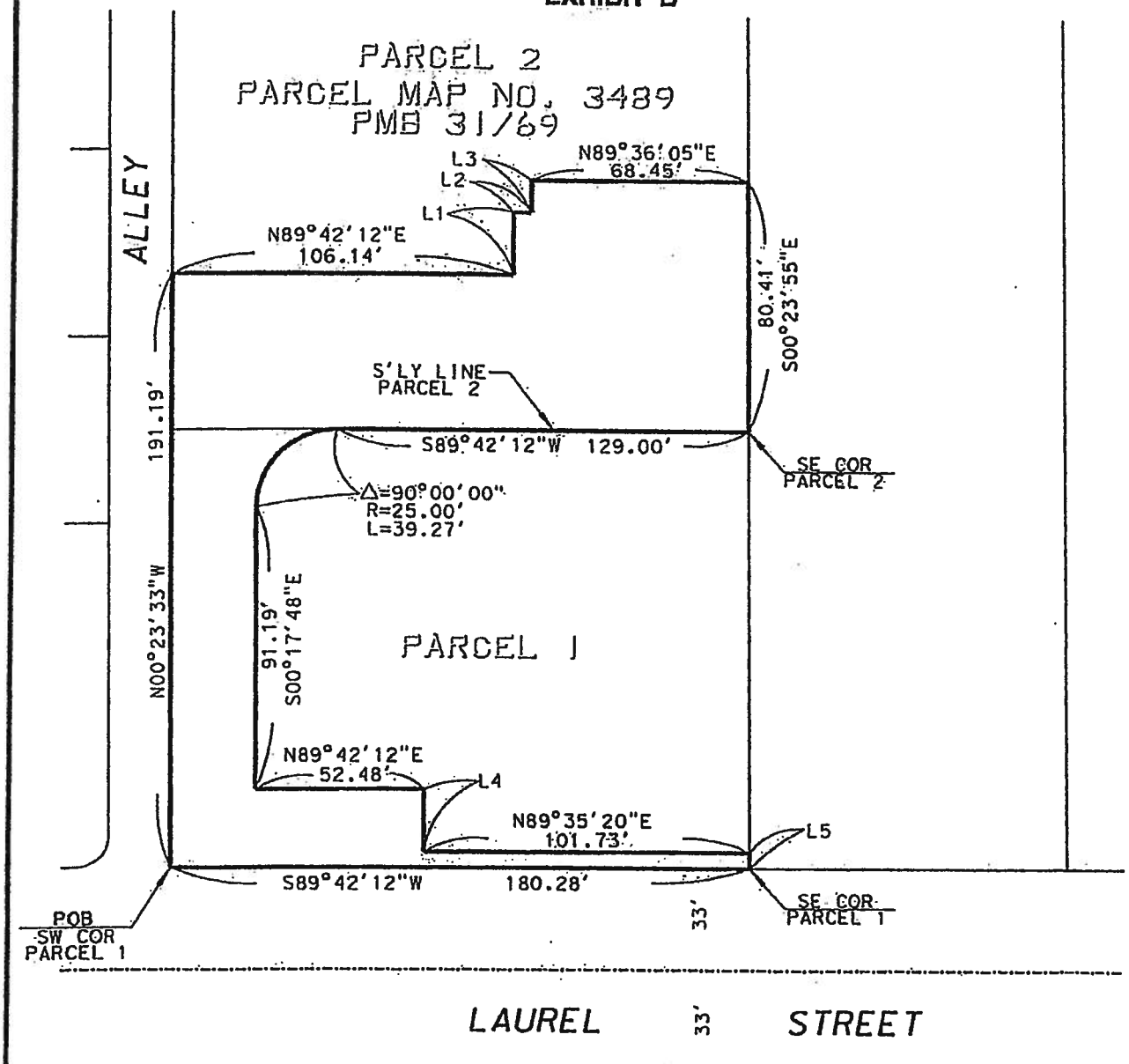
This real property description has been prepared by me, or under my direction, in conformance with the Professional Land Surveyors' Act.

1-26-2012

Ryan M. Versteeg, P.L.S. 7809 Date

EXHIBIT F

EXHIBIT 'B'



LINE TABLE		
LINE	BEARING	LENGTH
L1	N00°17'48"W	19.82'
L2	N89°36'05"E	5.63'
L3	N00°23'55"W	10.45'
L4	S00°24'39"E	20.02'
L5	S00°23'55"E	5.19'

LEGEND

———	PROPERTY LINES
▭	EASEMENT AREA
POB	POINT OF BEGINNING
AREA	16,857±SQUARE FEET

N

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Phone: 909.481.5750

EXHIBIT 'B'	COUNTY: SAN BERNARDINO	CITY: COLTON	CHECKED BY: RMVE
	TEMPORARY CONSTRUCTION EASEMENT		DRAWN BY: KXG
JOB NO.: TRAN0000-0004			DATE: 01/24/12
SHEET: 1 TOTAL: 1	APN: 0160-241-56, 0160-241-59		SCALE: 1"=50'

RESOLUTION NO. 13-031

A RESOLUTION OF THE SAN BERNARDINO COUNTY TRANSPORTATION COMMISSION FINDING AND DETERMINING THAT THE PUBLIC INTEREST AND NECESSITY REQUIRE THE ACQUISITION BY EMINENT DOMAIN OF INTERESTS IN CERTAIN REAL PROPERTY FOR PUBLIC USE AND AUTHORIZING AND DIRECTING CONDEMNATION OF PORTIONS OF APN NO. 0160-241-57 AND 0160-241-58

WHEREAS, the San Bernardino County Transportation Commission (the "Commission") is undertaking the Laurel Street Grade Separation Project (the "Project") that necessitates the Commission to acquire by eminent domain portions of the property located at 241 and 255 W. Laurel Street, in the City of Colton, California; and

WHEREAS, the Project is intended to improve public safety, decrease traffic congestion and improve passenger rail operations by building grade separations between the roadway and the rail lines; and

WHEREAS, the Project requires the acquisition of property interests from private parties; and

WHEREAS, the Project will be a transportation improvement project serving the public interest; and

WHEREAS, subsection (a) of the California Public Utilities Code section 130220.5, authorizes the Commission to exercise the power of eminent domain to acquire these property interests for public use by condemnation; and

WHEREAS, the real property required for the Project includes public utility easement as legally described in Exhibit "A" and depicted in Exhibit "B" and located at 241 and 255 W. Laurel Street, Colton, California; and

WHEREAS, the real property required for the Project includes temporary construction easement as legally described in Exhibit "C" and depicted in Exhibit "D" and located at 241 and 255 W. Laurel Street, Colton, California; and

WHEREAS, reasonable pedestrian and vehicular access to the subject property will be maintained during construction; and

WHEREAS, in accordance with section 1245.235 of the California Code of Civil Procedure, on September 6, 2012, there was mailed a Notice of Hearing on the Intent of the Commission to adopt a Resolution of Necessity for acquisition by eminent domain of the interests in real property described and depicted in Exhibits "A" through "D" herein. The Notice of Hearing was mailed to the listed address of all persons whose names appear on the last

equalized county assessment roll as having an interest in the property described and depicted in Exhibits "A" through "D"; and

WHEREAS, the Commission provided written notice to the City of Colton as required by subsection (c) of California Public Utilities Code section 130220.5; and

WHEREAS, the Project, including all amendments thereto, together with the staff reports, environmental documents and all other evidence presented to the Commission at the times the Project and the amendments thereto were adopted, are incorporated herein by this reference and made a part hereof as though fully set forth herein; and

WHEREAS, pursuant to section 1245.235 of the California Code of Civil Procedure, the Commission scheduled a hearing for October 3, 2012, at 10:00 a.m. at Santa Fe Depot---SANBAG Lobby 1st Floor, 1170 W. 3rd Street, San Bernardino, California and gave to each person whose property is to be acquired notice and a reasonable opportunity to appear at said hearing and to 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 Commission and each person whose property is to be acquired by eminent domain was afforded an opportunity to be heard on those matters specified in the Commission's notice of intention to conduct a hearing on whether to adopt a Resolution of Necessity as referred to in section 1240.030 of the California Code of Civil Procedure; and

WHEREAS, the Commission may adopt a Resolution of Necessity pursuant to section 1240.040 of the California Code of Civil Procedure.

NOW, THEREFORE, by a vote of two-thirds or more of its members, the San Bernardino County Transportation Commission does hereby find, determine, resolve and order as follows:

Section 1. Incorporation of Findings and Recitals. The above findings and recitals are true and correct and are incorporated herein in full by this reference.

Section 2. Compliance with California Code of Civil Procedure. The Commission has complied with the requirements of section 1245.235 of the California Code of Civil Procedure regarding notice and hearing.

Section 3. Public Use. The public use for which the interests in the Property are to be acquired is for the construction and future maintenance of the Project, a public transportation improvement, as more fully described hereinabove. Subsection (a) of California Public Utilities Code section 130220.5 authorizes the Commission to acquire by eminent domain property and interests in property necessary for such purpose and for all uses incidental or convenient thereto.

Section 4. Necessity.

(a) The Project is necessary to improve public safety, decrease traffic congestion and improve passenger rail operations by building grade separations between the roadway and the rail lines; and

(b) The public interest and necessity require the acquisition by eminent domain proceedings of a public utility easement as legally described in Exhibit "A" and depicted in Exhibit "B", and a temporary construction easement as legally described in Exhibit "C" and depicted in Exhibit "D" attached to this Resolution of Necessity.

Section 5. Description of Property Interests. The property interests to be acquired are more particularly described and depicted in Exhibits "A" through "D" attached hereto and incorporated herein by reference.

Section 6. Findings. The Commission hereby finds, determines and declares each of the following:

(a) The public interest and necessity require the proposed Project;

(b) The Project is planned or located in the manner that will be most compatible with the greatest public good and least private injury;

(c) The above-described property interests, as described and depicted in Exhibits "A" through "D", are necessary for the proposed Project;

(d) The offer required by section 7267.2 of the California Government Code has been made to the owner or owners of record; and

(e) All conditions and statutory requirements necessary to exercise the power of eminent domain ("the right to take") to acquire the Property have been complied with by the Commission.

Section 7. Existing Public Use(s). Pursuant to sections 1240.510 and 1240.610 of the Code of Civil Procedure, to the extent that any of the real property to be acquired is already devoted to a public use, the use proposed by this Project is a more necessary public use than the use to which the real property, or any portion thereof, is already devoted, or, in the alternative, is a compatible public use which will not unreasonably interfere with or impair the continuance of the public use to which the real property, or any portion thereof, is already devoted.

Section 8. Authority to Exercise Eminent Domain. The Commission is hereby authorized and empowered to acquire a public utility easement as legally described in Exhibit "A" and depicted in Exhibit "B", and a temporary construction easement as legally described in Exhibit "C" and depicted in Exhibit "D", including the improvements thereon, if any, by eminent domain for the Project.

Section 9. Further Activities. Legal Counsel for the Commission ("Counsel") is hereby authorized and empowered to acquire the hereinabove described interests in real property in the name of and on behalf of the Commission by eminent domain, and is authorized to institute and prosecute such legal proceedings as may be required in connection therewith. 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 and to permit the Commission to take possession of and use real property at the earliest possible time. Counsel is further authorized to correct any errors in this Resolution of Necessity or to make or agree to non-material changes in the legal descriptions of the real property that are deemed necessary for the conduct of the eminent domain action or other proceedings or transactions required to acquire the interests in the subject real property.

Section 10. Effective Date. This Resolution shall take effect upon adoption.

Adopted by the San Bernardino County Transportation Commission on October 3, 2012, by the following vote:

AYES:

NOES:

ABSENT:

_____

Janice Rutherford, Chairperson
San Bernardino County Transportation Commission

ATTEST:

_____

Vicki Watson,
Clerk of the Commission

EXHIBIT A

PUBLIC UTILITIES EASEMENT
ATTACHMENT TO LEGAL DESCRIPTION
APN: 0160-241-57 AND 0160-241-58

This permanent, subsurface, nonexclusive utility easement allows the San Bernardino County Transportation Commission, and its employees, agents, representatives and contractors the right to use the property in the attached legal description and map for the purpose of constructing, maintaining, repairing, relocating and adjusting, as applicable, utility facilities.

There shall not be constructed any improvements within the easement area that would impede the rights as defined herein. The affected portion of the easement area will be backfilled to grade with dirt or with pavement material. Once the utilities are in place, the surface of the easement area may be used for access or automobile parking purposes.

Reasonable pedestrian and vehicular access to the remainder property will be maintained during construction.

The San Bernardino County Transportation Commission is expressly granted the right to convey, transfer or assign the easement rights described above.

EXHIBIT 'A'
Legal Description

Those portions of Parcels 1 and 2 of Parcel Map No. 7889, in the City of Colton, County of San Bernardino, State of California, as shown on the map filed in Book 80, Page 2 of Parcel Maps, in the Office of the County Recorder of said County, described as follows:

BEGINNING at the southwesterly corner of said Parcel 1;

Thence along the westerly line of said Parcel 1, North 00°23'55" West 156.19 feet;

Thence leaving said westerly line, North 89°42'12" East 99.12 feet;

Thence South 00°00'00" East 146.43 feet;

Thence North 89°44'10" East 82.10 feet to the easterly line of said Parcel 2;

Thence along said easterly line South 00°23'32" East 9.71 feet to the southeasterly corner of said Parcel 2;

Thence along the southerly lines of Parcel 2 and Parcel 1, South 89°42'12" West 180.20 feet to the **POINT OF BEGINNING.**

EXCEPTING THEREFROM that portion described as follows:

COMMENCING at the southwesterly corner of said Parcel 1;

Thence along the southerly line of said Parcel 1, North 89°42'12" East 22.94 feet;

Thence North 00°15'50" West 9.80 feet to the **TRUE POINT OF BEGINNING;**

Thence North 00°15'50" West 131.37 feet;

Thence North 89°42'12" East 65.75 feet;

Thence South 00°00'00" East 131.41 feet;

Thence South 89°44'10" West 65.14 feet to the **TRUE POINT OF BEGINNING.**

The above described parcel contains 7,597 square feet, more or less.

The bearings and distances shown in the above description are on the California Coordinate System of 1983 (2007.00), Zone 5. Divide distances shown in the above description by 0.99994626 to obtain ground distances.

As shown on Exhibit 'B', attached hereto and made a part hereof.

This real property description has been prepared by me, or under my direction, in conformance with the Professional Land Surveyors' Act.

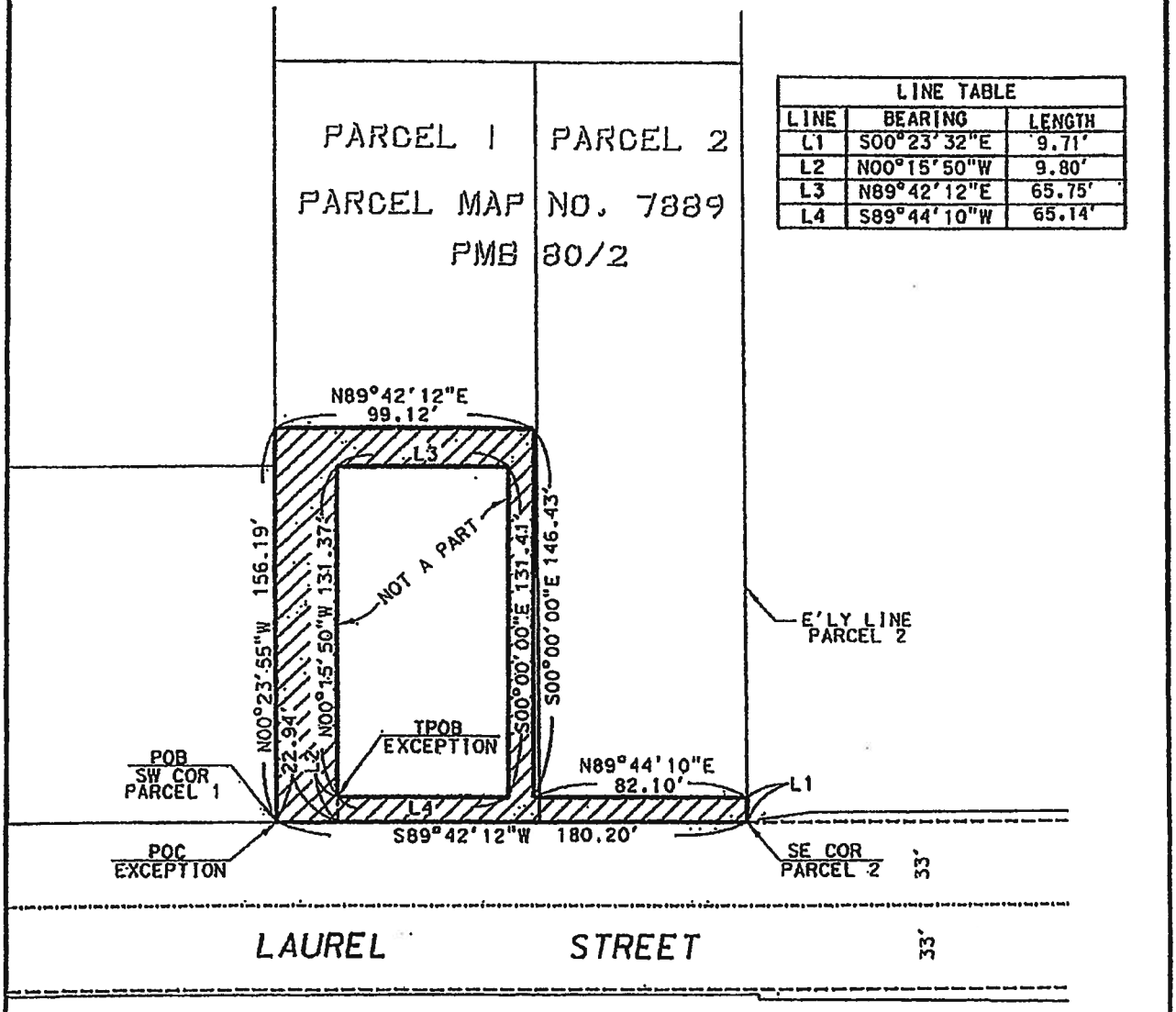
1-26-2012

Ryan M. Versteeg, P.L.S. 7809 Date

P:\T\TRAN00000004\0600INFO\SV\Office\Legals\0160-241-57-58 PUE.docx

EXHIBIT B

EXHIBIT 'B'



LINE TABLE		
LINE	BEARING	LENGTH
L1	S00°23'32"E	9.71'
L2	N00°15'50"W	9.80'
L3	N89°42'12"E	65.75'
L4	S89°44'10"W	65.14'

LEGEND

———	PROPERTY LINES
▨	EASEMENT AREA
POB	POINT OF BEGINNING
TPOB	TRUE POINT OF BEGINNING
POC	POINT OF COMMENCEMENT
AREA	7,597±SQUARE FEET

N

DAVID EVANS AND ASSOCIATES INC.
4200 Concours, Suite 200
Ontario California 91764
Phone: 909.481.5750

EXHIBIT 'B'	COUNTY: SAN BERNARDINO	CITY: COLTON	CHECKED BY: RMVE
	PUBLIC UTILITIES EASEMENT		DRAWN BY: KXG
JOB NO.: TRAN0000-0004			DATE: 01/26/12
SHEET: 1 TOTAL: 1	APN: 160-241-57, 160-241-58		SCALE: 1"=60'

EXHIBIT C

TEMPORARY CONSTRUCTION EASEMENT
ATTACHMENT TO LEGAL DESCRIPTION
APN: 0160-241-57 AND 0160-241-58

The parcel of land in the attached legal description and map is to be used for temporary construction purposes in connection with the construction of the Laurel Street Grade Separation Project. The right of usage acquired for the temporary construction easement parcel described in the attached legal description and depicted in the attached map shall be for a period of eighteen (18) months.

Reasonable pedestrian and vehicular access to the remainder property will be maintained during construction.

The San Bernardino County Transportation Commission is expressly granted the right to convey, transfer or assign the easement rights described above.

EXHIBIT 'A'
Legal Description

Those portions of Parcels 1 and 2 of Parcel Map No. 7889, in the City of Colton, County of San Bernardino, State of California, as shown on the map filed in Book 80, Page 2 of Parcel Maps, in the Office of the County Recorder of said County, described as follows:

BEGINNING at the southwesterly corner of said Parcel 1;

Thence along the westerly line of said Parcel 1, North 00°23'55" West 191.19 feet;

Thence leaving said westerly line, North 89°42'12" East 27.43 feet;

Thence South 00°17'48" East 35.00 feet;

Thence North 89°42'12" East 91.22 feet;

Thence South 00°17'48" East 15.01 feet;

Thence South 89°42'12" West 19.55 feet;

Thence South 00°00'00" East 91.42 feet;

Thence North 89°44'10" East 40.42 feet;

Thence South 00°15'50" East 40.00 feet;

Thence North 89°44'10" East 41.51 feet to the easterly line of said Parcel 2;

Thence along said easterly line South 00°23'32" East 9.71 feet to the southeasterly corner of said Parcel 2;

Thence along the southerly lines of Parcel 2 and Parcel 1, South 89°42'12" West 180.20 feet to the **POINT OF BEGINNING.**

EXCEPTING THEREFROM that portion described as follows:

COMMENCING at the southwesterly corner of said Parcel 1;

Thence along the southerly line of said Parcel 1, North 89°42'12" East 22.94 feet;

Thence North 00°15'50" West 9.80 feet to the **TRUE POINT OF BEGINNING;**

Thence North 00°15'50" West 131.37 feet;

Thence North 89°42'12" East 65.75 feet;

Thence South 00°00'00" East 91.41 feet;

Thence South 89°44'10" West 28.36 feet;

Thence South 00°15'50" East 40.00 feet;

Thence South 89°44'10" West 36.96 feet to the **TRUE POINT OF BEGINNING.**

The above described parcel contains 11,601 square feet, more or less.

The bearings and distances shown in the above description are on the California Coordinate System of 1983 (2007.00), Zone 5. Divide distances shown in the above description by 0.99994626 to obtain ground distances.

As shown on Exhibit 'B', attached hereto and made a part hereof.

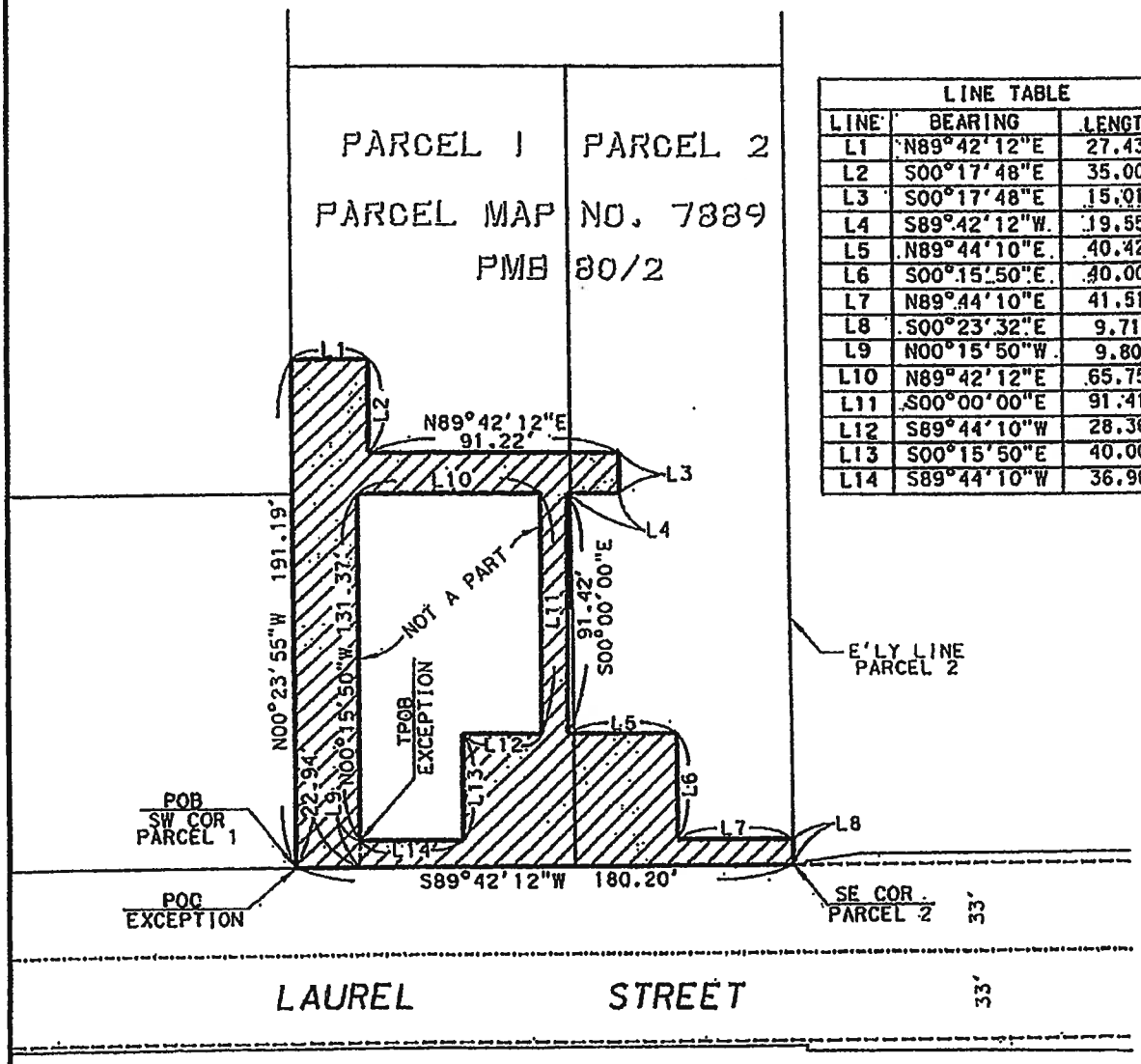
This real property description has been prepared by me, or under my direction, in conformance with the Professional Land Surveyors' Act.

2-1-2012

Ryan M. Versteeg, P.L.S. 7809 Date

EXHIBIT D

EXHIBIT 'B'



LINE TABLE		
LINE	BEARING	LENGTH
L1	N89°42'12"E	27.43'
L2	S00°17'48"E	35.00'
L3	S00°17'48"E	15.01'
L4	S89°42'12"W.	19.55'
L5	N89°44'10"E.	40.42'
L6	S00°15'50"E.	40.00'
L7	N89°44'10"E	41.51'
L8	S00°23'32"E	9.71'
L9	N00°15'50"W.	9.80'
L10	N89°42'12"E	65.75'
L11	S00°00'00"E	91.41'
L12	S89°44'10"W	28.36'
L13	S00°15'50"E	40.00'
L14	S89°44'10"W	36.96'

LEGEND

———	PROPERTY LINES
▨	EASEMENT AREA
POB	POINT OF BEGINNING
TPOB	TRUE POINT OF BEGINNING
POC	POINT OF COMMENCEMENT
AREA	11,601±SQUARE FEET

N

DAVID EVANS AND ASSOCIATES INC.
4200 Concours, Suite 200
Ontario California 91764
Phone: 909.481.5750

EXHIBIT 'B'	COUNTY: SAN BERNARDINO	CITY: COLTON	CHECKED BY: RMVE
JOB NO.: TRAN0000-0004	TEMPORARY CONSTRUCTION EASEMENT		DRAWN BY: KXG
SHEET: 1 / TOTAL: 1	APN: 160-241-57, 160-241-58		DATE: 01/25/12
			SCALE: 1"=60'

RESOLUTION NO. 13-034

A RESOLUTION OF THE SAN BERNARDINO COUNTY TRANSPORTATION COMMISSION FINDING AND DETERMINING THAT THE PUBLIC INTEREST AND NECESSITY REQUIRE THE ACQUISITION BY EMINENT DOMAIN OF INTERESTS IN CERTAIN REAL PROPERTY FOR PUBLIC USE AND AUTHORIZING AND DIRECTING CONDEMNATION OF PORTIONS OF APN NO. 0161-081-10

WHEREAS, the San Bernardino County Transportation Commission (the "Commission") is undertaking the Laurel Street Grade Separation Project (the "Project") that necessitates the Commission to acquire by eminent domain portions of the property located at 1295 N. 8TH Street, in the City of Colton, California; and

WHEREAS, the Project is intended to improve public safety, decrease traffic congestion and improve passenger rail operations by building grade separations between the roadway and the rail lines; and

WHEREAS, the Project requires the acquisition of property interests from private parties; and

WHEREAS, the Project will be a transportation improvement project serving the public interest; and

WHEREAS, subsection (a) of the California Public Utilities Code section 130220.5, authorizes the Commission to exercise the power of eminent domain to acquire these property interests for public use by condemnation; and

WHEREAS, the real property required for the Project includes a public utility easement as legally described in Exhibit "A" and depicted in Exhibit "B" and located at 1295 N. 8th Street, Colton, California; and

WHEREAS, the real property required for the Project includes a roadway easement as legally described in Exhibit "C" and depicted in Exhibit "D" and located at 1295 N. 8th Street, Colton, California; and

WHEREAS, the real property required for the Project includes a temporary construction easement as legally described in Exhibit "E" and depicted in Exhibit "F" and located at 1295 N. 8th Street, Colton, California; and

WHEREAS, reasonable pedestrian and vehicular access to the subject property will be maintained during construction; and

WHEREAS, in accordance with section 1245.235 of the California Code of Civil Procedure, on September 6, 2012, there was mailed a Notice of Hearing on the Intent of the Commission to adopt a Resolution of Necessity for acquisition by eminent domain of the

interests in real property described and depicted in Exhibits "A" through "F" herein. The Notice of Hearing was mailed to the listed address of all persons whose names appear on the last equalized county assessment roll as having an interest in the property described and depicted in Exhibits "A" through "F"; and

WHEREAS, the Commission provided written notice to the City of Colton as required by subsection (c) of California Public Utilities Code section 130220.5; and

WHEREAS, the Project, including all amendments thereto, together with the staff reports, environmental documents and all other evidence presented to the Commission at the times the Project and the amendments thereto were adopted, are incorporated herein by this reference and made a part hereof as though fully set forth herein; and

WHEREAS, pursuant to section 1245.235 of the California Code of Civil Procedure, the Commission scheduled a hearing for October 3, 2012 at 10:00 a.m. at Santa Fe Depot---SANBAG Lobby 1st Floor, 1170 W. 3rd Street, San Bernardino, California and gave to each person whose property is to be acquired notice and a reasonable opportunity to appear at said hearing and to 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 Commission and each person whose property is to be acquired by eminent domain was afforded an opportunity to be heard on those matters specified in the Commission's notice of intention to conduct a hearing on whether to adopt a Resolution of Necessity as referred to in section 1240.030 of the California Code of Civil Procedure; and

WHEREAS, the Commission may adopt a Resolution of Necessity pursuant to section 1240.040 of the California Code of Civil Procedure.

NOW, THEREFORE, by a vote of two-thirds or more of its members, the San Bernardino County Transportation Commission does hereby find, determine, resolve and order as follows:

Section 1. Incorporation of Findings and Recitals. The above findings and recitals are true and correct and are incorporated herein in full by this reference.

Section 2. Compliance with California Code of Civil Procedure. The Commission has complied with the requirements of section 1245.235 of the California Code of Civil Procedure regarding notice and hearing.

Section 3. Public Use. The public use for which the interests in the Property are to be acquired is for the construction and future maintenance of the Project, a public transportation improvement, as more fully described hereinabove. Subsection (a) of California Public Utilities Code section 130220.5 authorizes the Commission to acquire by eminent domain property and interests in property necessary for such purpose and for all uses incidental or convenient thereto.

Section 4. Necessity.

(a) The Project is necessary to improve public safety, decrease traffic congestion and improve passenger rail operations by building grade separations between the roadway and the rail lines; and

(b) The public interest and necessity require the acquisition by eminent domain proceedings of a public utility easement as legally described in Exhibit "A" and depicted in Exhibit "B", a roadway easement as legally described in Exhibit "C" and depicted in Exhibit "D", and a temporary construction easement as legally described in Exhibit "E" and depicted in Exhibit "F", attached to this Resolution of Necessity.

Section 5. Description of Property Interests. The property interests to be acquired are more particularly described and depicted in Exhibits "A" through "F" attached hereto and incorporated herein by reference.

Section 6. Findings. The Commission hereby finds, determines and declares each of the following:

(a) The public interest and necessity require the proposed Project;

(b) The Project is planned or located in the manner that will be most compatible with the greatest public good and least private injury;

(c) The above-described property interests, as described and depicted in Exhibits "A" through "F", are necessary for the proposed Project;

(d) The offer required by section 7267.2 of the California Government Code has been made to the owner or owners of record; and

(e) All conditions and statutory requirements necessary to exercise the power of eminent domain ("the right to take") to acquire the Property have been complied with by the Commission.

Section 7. Existing Public Use(s). Pursuant to sections 1240.510 and 1240.610 of the Code of Civil Procedure, to the extent that any of the real property to be acquired is already devoted to a public use, the use proposed by this Project is a more necessary public use than the use to which the real property, or any portion thereof, is already devoted, or, in the alternative, is a compatible public use which will not unreasonably interfere with or impair the continuance of the public use to which the real property, or any portion thereof, is already devoted.

Section 8. Authority to Exercise Eminent Domain. The Commission is hereby authorized and empowered to acquire a public utility easement as legally described in Exhibit "A" and depicted in Exhibit "B", a roadway easement as legally described in Exhibit "C" and depicted in Exhibit "D", and a temporary construction easement as legally described in Exhibit "E" and depicted in Exhibit "F", including the improvements thereon, if any, by eminent domain for the Project.

Section 9. Further Activities. Legal Counsel for the Commission ("Counsel") is hereby authorized and empowered to acquire the hereinabove described interests in real property in the name of and on behalf of the Commission by eminent domain, and is authorized to institute and prosecute such legal proceedings as may be required in connection therewith. 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 and to permit the Commission to take possession of and use real property at the earliest possible time. Counsel is further authorized to correct any errors in this Resolution of Necessity or to make or agree to non-material changes in the legal descriptions of the real property that are deemed necessary for the conduct of the eminent domain action or other proceedings or transactions required to acquire the interests in the subject real property.

Section 10. Effective Date. This Resolution shall take effect upon adoption.

Adopted by the San Bernardino County Transportation Commission on October 3, 2012, by the following vote:

AYES:

NOES:

ABSENT:

_____

Janice Rutherford, Chairperson
San Bernardino County Transportation Commission

ATTEST:

_____

Vicki Watson,
Clerk of the Commission

EXHIBIT A

PUBLIC UTILITIES EASEMENT
ATTACHMENT TO LEGAL DESCRIPTION
APN: 0161-081-10

This permanent, subsurface, nonexclusive utility easement allows the San Bernardino County Transportation Commission, and its employees, agents, representatives and contractors the right to use the property in the attached legal description and map for the purpose of constructing, maintaining, repairing, relocating and adjusting, as applicable, utility facilities.

There shall not be constructed any improvements within the easement area that would impede the rights as defined herein. The affected portion of the easement area will be backfilled to grade with dirt or with pavement material. Once the utilities are in place, the surface of the easement area may be used for access or automobile parking purposes.

Reasonable pedestrian and vehicular access to the remainder property will be maintained during construction.

The San Bernardino County Transportation Commission is expressly granted the right to convey, transfer or assign the easement rights described above.

EXHIBIT 'A'
Legal Description

The northerly 7.50 feet of that certain portion of Lot 11 in Block 2 of Brink Subdivision of a part of Blocks 17 and 22 of Colton Land and Water Company's Addition to the City of Colton, in the City of Colton, County of San Bernardino, State of California, as shown on the map recorded in Book 14, Page 38 of Maps, in the Office of the County Recorder of said County, conveyed in the deed to Woodrow Miller, recorded January 17, 1958 in Book 4416, Page 332, Official Records of said County.

The above described parcel contains 740 square feet, more or less.

The bearings and distances shown in the above description are on the California Coordinate System of 1983 (2007.00), Zone 5. Divide distances shown in the above description by 0.99994626 to obtain ground distances.

As shown on Exhibit 'B', attached hereto and made a part hereof.

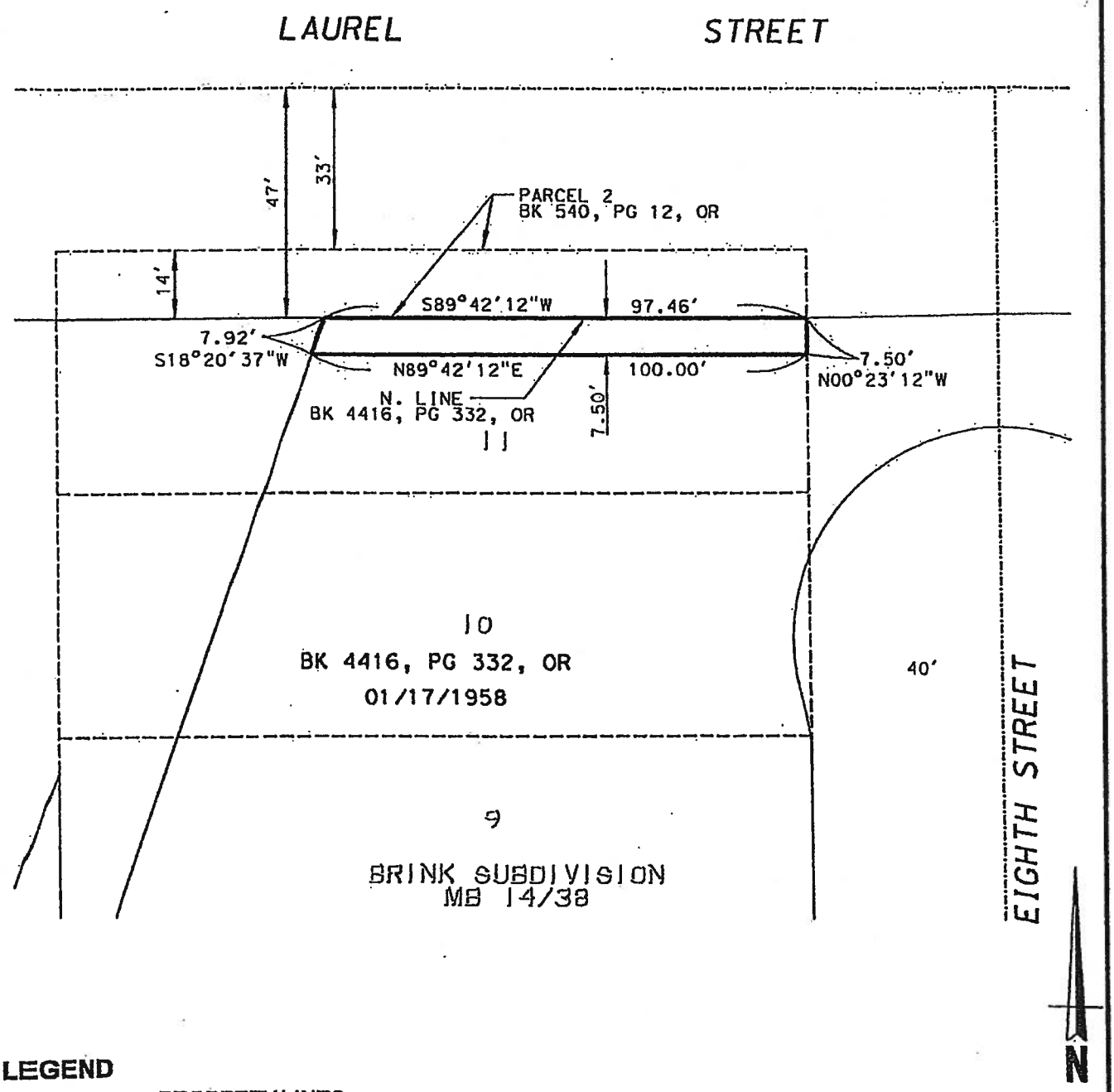
This real property description has been prepared by me, or under my direction, in conformance with the Professional Land Surveyors' Act.

1-26-2012

Ryan M. Versteeg, P.L.S. 7809 Date

EXHIBIT B

EXHIBIT 'B'



LEGEND

PROPERTY LINES

EASEMENT AREA

AREA: 740± SQUARE FEET

DAVID EVANS AND ASSOCIATES INC.
4200 Concours, Suite 200
Ontario California 91764
Phone: 909.481.5750

EXHIBIT 'B'	COUNTY: SAN BERNARDINO	CITY: COLTON	CHECKED BY: RMVE
JOB NO.: TRAN0000-0004	PUBLIC UTILITIES EASEMENT		DRAWN BY: KXG
SHEET: 1 / TOTAL: 1	APN: 0161-081-10		DATE: 01/04/12
			SCALE: 1"=30'

EXHIBIT C

ROADWAY EASEMENT
ATTACHMENT TO LEGAL DESCRIPTION
APN: 0161-081-10

The property identified in the attached legal description and map shall be for right of way purposes to facilitate the construction and use of the Laurel Street Grade Separation Project.

Reasonable pedestrian and vehicular access to the remainder property will be maintained during construction.

The San Bernardino County Transportation Commission is expressly granted the right to convey, transfer or assign the right of way.

EXHIBIT 'A'
Legal Description

That certain portion of Lots 9 and 10 in Block 2 of Brink Subdivision of a part of Blocks 17 and 22 of Colton Land and Water Company's Addition to the City of Colton, in the City of Colton, County of San Bernardino, State of California, as shown on the map recorded in Book 14, Page 38 of Maps, in the Office of the County Recorder of said County, conveyed in the deed to Woodrow Miller, recorded January 17, 1958 in Book 4416, Page 332, Official Records of said County, described as follows:

COMMENCING at the southeasterly corner of the northerly 14 feet of said Lot 11;

Thence along the easterly line of said Lots 11 and 10, South 00°23'12" East 48.88 feet to the **TRUE POINT OF BEGINNING**, being the beginning of a non-tangent curve concave easterly having a radius of 43.50 feet, a radial line to said curve bears North 67°14'45" West;

Thence southerly along said curve 29.21 feet through a central angle of 38°28'34" to the beginning of a reverse curve concave westerly having a radius of 68.84 feet;

Thence southerly along said curve 10.12 feet through a central angle of 08°25'32" to the easterly line of said Lot 9;

Thence along the easterly line of said Lots 9 and 10, North 00°23'12" West 38.52 feet to the **TRUE POINT OF BEGINNING.**

The above described parcel contains 83 square feet, more or less.

The bearings and distances shown in the above description are on the California Coordinate System of 1983 (2007.00), Zone 5. Divide distances shown in the above description by 0.99994626 to obtain ground distances.

As shown on Exhibit 'B', attached hereto and made a part hereof.

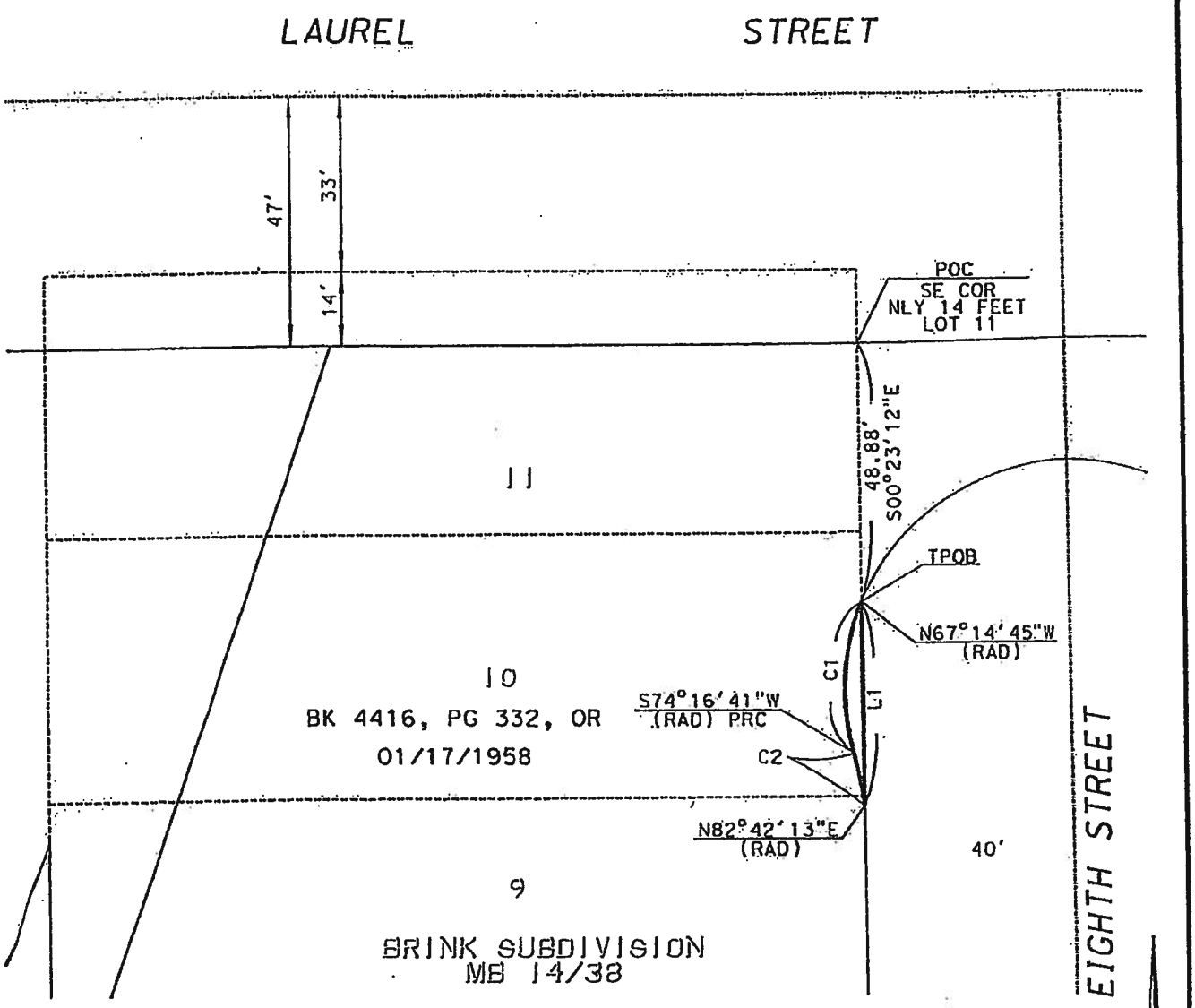
This real property description has been prepared by me, or under my direction, in conformance with the Professional Land Surveyors' Act.

1-26-2012

Ryan M. Versteeg, P.L.S. 7809 — Date

EXHIBIT D

EXHIBIT 'B'



LEGEND

———	PROPERTY LINES
▭	EASEMENT AREA
POC	POINT OF COMMENCEMENT
TPOB	TRUE POINT OF BEGINNING
PRC	POINT OF REVERSE CURVE
RAD	RADIAL
AREA:	83± SQUARE FEET

CURVE TABLE			
CURVE	DELTA	RADIUS	LENGTH
C1	38°28'34"	43.50'	29.21'
C2	08°25'32"	68.84'	10.12'

LINE TABLE		
LINE	BEARING	LENGTH
L1	N00°23'12"W	38.52'

DAVID EVANS AND ASSOCIATES INC.
4200 Concours, Suite 200
Ontario California 91764
Phone: 909.481.5750

EXHIBIT 'B'	COUNTY: SAN BERNARDINO	CITY: COLTON	CHECKED BY: RMVE
	ROAD EASEMENT		DRAWN BY: KXG
JOB NO.: TRAN0000-0004			DATE: 01/04/12
SHEET: 1 / TOTAL: 1	APN: 0161-081-10		SCALE: 1"=30'

EXHIBIT E

TEMPORARY CONSTRUCTION EASEMENT
ATTACHMENT TO LEGAL DESCRIPTION
APN: 0161-081-10

The parcel of land in the attached legal description and map is to be used for temporary construction purposes in connection with the construction of the Laurel Street Grade Separation Project. The right of usage acquired for the temporary construction easement parcel described in the attached legal description and depicted in the attached map shall be for a period of eighteen (18) months.

Reasonable pedestrian and vehicular access to the remainder property will be maintained during construction.

The San Bernardino County Transportation Commission is expressly granted the right to convey, transfer or assign the easement rights described above.

EXHIBIT 'A'
Legal Description

That certain portion of Lots 9, 10 and 11 in Block 2 of Brink Subdivision of a part of Blocks 17 and 22 of Colton Land and Water Company's Addition to the City of Colton, in the City of Colton, County of San Bernardino, State of California, as shown on the map recorded in Book 14, Page 38 of Maps, in the Office of the County Recorder of said County, conveyed in the deed to Woodrow Miller, recorded January 17, 1958 in Book 4416, Page 332, Official Records of said County, described as follows:

BEGINNING at the southeasterly corner of the northerly 14.00 feet of said Lot 11;

Thence along the easterly line of said Lots 11 and 10, South 00°23'12" East 48.88 feet to the beginning of a non-tangent curve concave easterly having a radius of 43.50 feet, a radial line to said curve bears North 67°14'45" West;

Thence southerly along said curve 29.21 feet through a central angle of 38°28'34" to the beginning of a reverse curve concave westerly having a radius of 68.84 feet;

Thence southerly along said curve 10.12 feet through a central angle of 08°25'32" to the easterly line of said Lot 9;

Thence along the easterly line of said Lot 9, South 00°23'12" East 8.28 feet;

Thence leaving said easterly line, South 89°36'48" West 5.00 feet to a line parallel with and distant 5.00 feet westerly from the easterly line of said Lots 9, 10 and 11;

Thence along said parallel line, North 00°23'12" West 88.19 feet to a line parallel with and distant 7.50 feet from the southerly line of the northerly 14.00 feet of said Lot 11;

Thence along said parallel line, South 89°42'12" West 95.00 feet to the westerly line of the land conveyed in said Book 4416, Page 332, Official Records;

Thence along said westerly line, North 18°20'37" East 7.92 feet to said southerly line;

Thence along said southerly line, North 89°42'12" East 97.46 feet to the **POINT OF BEGINNING.**

The above described parcel contains 1098 square feet, more or less.

The bearings and distances shown in the above description are on the California Coordinate System of 1983 (2007.00), Zone 5. Divide distances shown in the above description by 0.99994626 to obtain ground distances.

As shown on Exhibit 'B', attached hereto and made a part hereof.

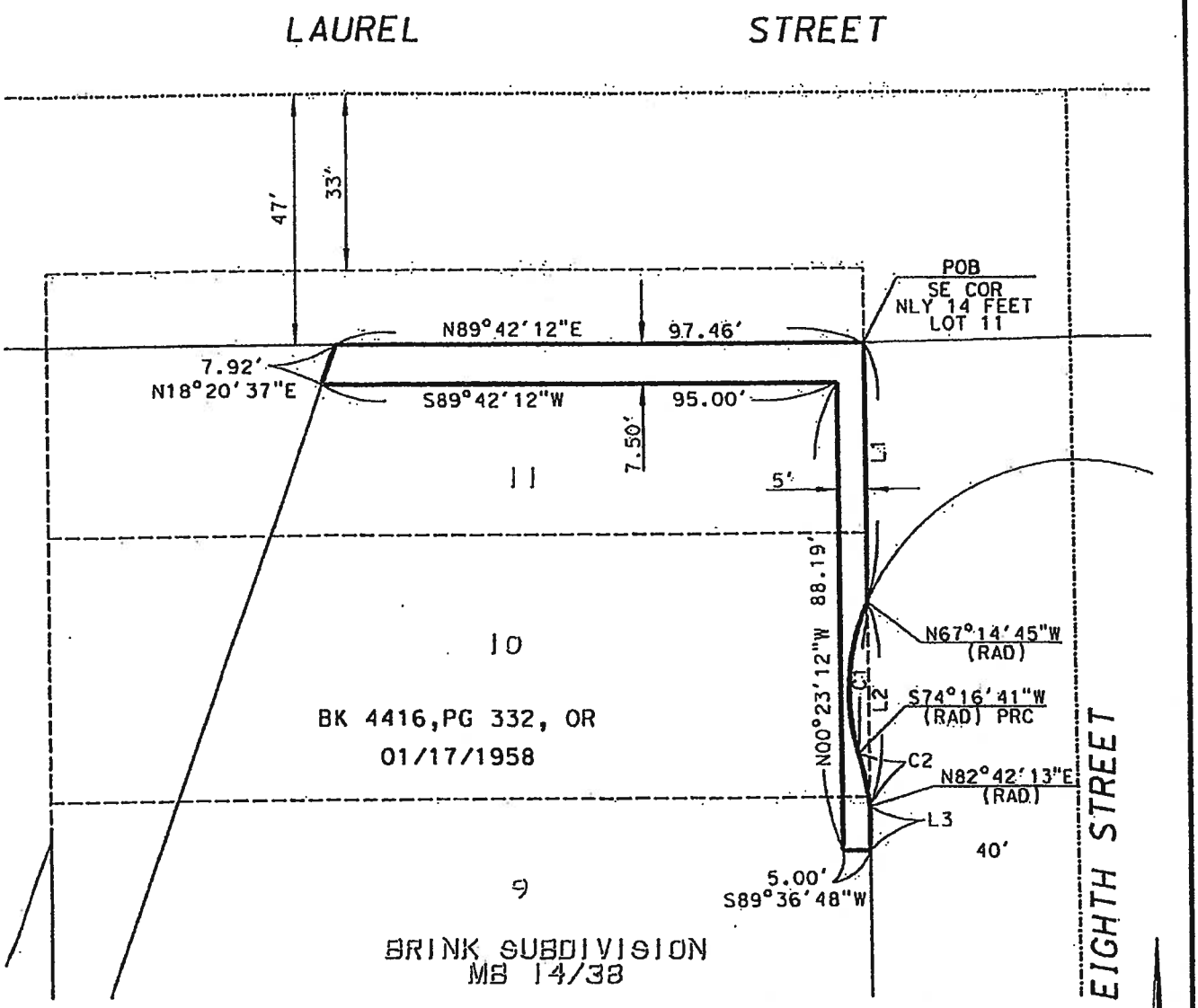
This real property description has been prepared by me, or under my direction, in conformance with the Professional Land Surveyors' Act.

2-1-2012

Ryan M. Versteeg, P.L.S. 7809 Date

EXHIBIT F

EXHIBIT 'B'



LEGEND

———	PROPERTY LINES
▭	EASEMENT AREA
POB	POINT OF BEGINNING
RAD	RADIAL
PRC	POINT OF REVERSE CURVE
AREA:	1,098± SQUARE FEET

CURVE TABLE			
CURVE	DELTA	RADIUS	LENGTH
C1	38°28'34"	43.50'	29.21'
C2	08°25'32"	68.84'	10.12'

LINE TABLE		
LINE	BEARING	LENGTH
L1	S00°23'12"E	48.88'
L2	N00°23'12"W	38.52'
L3	S00°23'12"E	8.28'

DAVID EVANS AND ASSOCIATES INC.
4200 Concours, Suite 200
Ontario California 91764
Phone: 909.481.5750

EXHIBIT 'B'	COUNTY: SAN BERNARDINO	CITY: COLTON	CHECKED BY: RMVE
	TEMPORARY CONSTRUCTION EASEMENT		DRAWN BY: KXG
JOB NO.: TRAN0000-0004			DATE: 01/04/12
SHEET: 1 / TOTAL: 1	APN: 0161-081-10		SCALE: 1"=30'

Governments SANBAG Working Together

San Bernardino Associated Governments

1170 W. 3rd Street, 2nd Floor San Bernardino, CA 92410-1715
Phone: (909) 884-8276 Fax: (909) 885-4407 Web: www.sanbag.ca.gov

TRANSPORTATION MEASURE I

San Bernardino County Transportation Commission ■ San Bernardino County Transportation Authority
San Bernardino County Congestion Management Agency ■ Service Authority for Freeway Emergencies

Minute Action

AGENDA ITEM: 28

Date: October 3, 2012

Subject: Award Construction Contract No. C12224 for Interstate 10 (I-10)/Cherry Avenue Project

Recommendation:* 1. Award Construction Contract No. C12224 to Ortiz Enterprises, Inc. for the I-10/Cherry Avenue Interchange Project in the amount of $49,190,134.21.

2. Approve Allowances/Contingency for Contract No. C12224 on the I-10/Cherry Avenue Interchange Project in the amount of $5,282,315.79.

Background: **This item provides for award of a new contract based on the competitive low bid process.** In July 2012, the Board of Directors authorized release of Invitation for Bid (IFB) No. C12224 and authorized staff to proceed directly to the Board with a recommendation for award of a construction contract for the Interstate 10/Cherry Avenue Interchange Project. The engineer's construction cost estimate was $49.6 million. With supplemental items, agency furnished items, and contingency, the total project was estimated at $55.4 million.

Bids were opened on August 28, 2012. San Bernardino Associated Governments (SANBAG) received two (2) bids from prime contractors (Exhibit A). At the bid opening Ortiz Enterprises, Inc. was identified as the lowest bidder at $49,190,134.21 followed by Steve P. Rados, Inc.

*

Approved
Board of Directors

Date: _____

Moved: *Second:*

In Favor: *Opposed:* *Abstained:*

Witnessed: _____

COG		CTC		CTA	X	SAFE		CMA	

Check all that apply.

BRD1210a-cc

Attachment: C12224 http://portal.sanbag.ca.gov/mgmt/APOR-Mgmnt/Shared%20Documents/C12224.docx

$52,254,039.03. The two bids were reviewed by staff for compliance with the IFB requirements.

Ortiz Enterprises, Inc. bid documents were complete and in order in accordance with the IFB requirements. Based on documentation provided on bid day Ortiz did not meet the Underutilized Disadvantage Business Enterprise (UDBE) goal of 7.17%. Ortiz documented only a 4.4% UDBE participation. Per the bid requirements within 4 business days after bid date bidders are required to provide Good Faith Efforts (GFE) documentation of their UDBE outreach. Both SANBAG staff and our on-call Disadvantaged Business Enterprise (DBE) compliance consultant reviewed Ortiz GFE documented efforts in reaching out to UDBE firms to participate in the project. Based on this review it was concluded that Ortiz's GFE's were adequate as defined by 49 CFR Part 26, Appendix A and the IFB requirements Staff recommends Ortiz Enterprises, Inc. be deemed the lowest responsive, responsible bidder and the construction Contract No. C12224 for the I-10/Cherry Avenue Interchange Project be awarded to Ortiz Enterprises, Inc. in the amount of $49,190,134.21.

Staff is also recommending approval of Allowances/Contingency for Contract No. C12224 on the I-10/Cherry Avenue Interchange Project consisting of supplemental items, agency furnished materials, and contingency for a total amount of $5,282,315.79 (See Exhibit B).

With the addition of Allowances/Contingency the total construction cost is $54,472,450.00. This low bid amount is approximately $500,000 or 1 % under the Engineer's Estimate for the total cost of the project.

Financial Impact: This item is consistent with the Fiscal Year 2012/2013 budget. Funding for the contract is provided under Task No. 0826 I-10 Cherry Avenue Interchange.

Reviewed By: At the July 2012 Board meeting, approval was given to take award of Contract No. C12224 directly to the Board without prior Committee review. SANBAG General Counsel and Contract Administrator have reviewed this item and the Contract.

Responsible Staff: Garry Cohoe, Director of Project Delivery

BRD1210a-cc
Attachment: C12224

Exhibit A

#	Bidder	Final Bid Amount
1	Ortiz Enterprises, Inc.	$ 49,190,134.21
2	Steve P. Rados, Inc.	$ 52,254,039.03

Exhibit B

Item	Item Description	Amount
	SUPPLEMENTAL WORK	
1	FEDERAL TRAINEE PROGRAM	$ 9,600.00
2	JUST IN TIME TRAINING	$ 1,500.00
3	ADDED TRAFFIC CONTROL AS DIRECTED	$ 60,000.00
4	DISPOSAL OF REMOVED PLANT MATERIAL AS DIRECTED	$ 10,000.00
5	REPAIR EXISTING IRRIGATION SYSTEM AS DIRECTED	$ 5,000.00
6	REPLACE EXISTING PLANT MATERIAL AS DIRECTED	$ 5,000.00
7	APPLY PESTICIDES AS DIRECTED	$ 8,000.00
8	WATER POLLUTION CONTROL MAINTENANCE SHARING	$ 20,000.00
9	ADDITIONAL WATER POLLUTION CONTROL MEASURES	$ 100,000.00
10	STORM WATER SAMPLING AND ANALYSIS	$ 20,000.00
11	SHARED PARTNERING COST	$ 70,000.00
12	COMPENSATION PRICE INDEX FLUCTUATIONS PAVING ASPHALT	$ 200,000.00
13	DISPUTES REVIEW BOARD COST SHARING	$ 30,000.00
14	TRAFFIC MANAGEMENT PLAN PUBLIC INFORMATION OUTREACH	$ 20,000.00
15	MAINTAIN EXISTING ELECTRICAL SYSTEM ALLOWANCE	$ 10,000.00
16	INCENTIVE FOR HOT MIX ASPHALT (QC/QA)	$ 60,000.00
17	EXISTING PROPERTY LINE FENCE AND WALL ADJUSTMENTS (SW 697)	$ 100,000.00
18	GRAFFITI REMOVAL AS DIRECTED	$ 30,000.00
19	CALTRANS CONSTRUCTION SAFETY REVIEW	$ 25,000.00
20	**SUBTOTAL (1)**	**$ 784,100.00**
	AGENCY FURNISHED MATERIALS AND EXPENSES	
21	RAILROAD FLAGGING	$ 292,000.00
22	COZEEP CONTRACT	$ 300,000.00
23	**SUBTOTAL (2)**	**$ 592,000.00**
	CONTINGENCIES	
24	CONTINGENCIES (8% of Construction Contract)	$ 3,906,215.79
25	**SUBTOTAL (3)**	**$ 3,906,215.79**
	Total ALLOWANCES AND CONTINGENCY	**$ 5,282,315.79**
	SUMMARY	
1	Construction Contract C12224	$ 49,190,134.21
2	Supplemental Work Items	$ 784,100.00
3	Agency Furnished Items	$ 592,000.00
4	Contingency (8%)	$ 3,906,215.79
	TOTAL	**$ 54,472,450.00**

BRD1210a-cc
Attachment: C12224 http://portal.sanbag.ca.gov/mgmt/APOR-Mgmnt/Shared%20Documents/C12224.docx

Governments SANBAG Working Together

CONTRACT SUMMARY SHEET

Contract No. C12224 Amendment No. _____

By and Between

San Bernardino County Transportation Authority and Ortiz Enterprises, Inc.

Contract Description Interstate 10 (I-10) / Cherry Avenue Interchange Construction

Board of Director's Meeting Date: October 3, 2012

Overview of BOD Action: Approval of Bid award for construction contract.

Is this a Sole-Source procurement? ☐ Yes ☒ No

CONTRACT OVERVIEW

Original Contract Amount	$	49,190,134.21	**Original Contingency Amount**	$	5,282,315.79
Revised Contract Amount *Inclusive of prior amendments*	$		**Revised Contingency Amount** *Inclusive of prior amendments*	$	
Current Amendment Amount	$		**Contingency Amendment**	$	
TOTAL CONTRACT VALUE	$	49,190,134.21	**TOTAL CONTINGENCY VALUE**	$	5,282,315.79
TOTAL BUDGET AUTHORITY *(contract value + contingency)*				$	54,472,450.00

Contract Start Date	**Current Contract Expiration Date**	**Revised Contract Expiration Date**
10/3/12	6/30/17	

Has the contract term been amended? ☒ No ☐ Yes - please explain.

FINANCIAL INFORMATION

☒ Budget authority for this contract currently exists in Task No. 0826.

☐ A Budget Amendment is required.

How are we funding current FY?

☒ Federal Funds ☒ State Funds ☒ Local Funds ☐ TDA Funds ☒ Measure I Funds

*Provide Brief Overview of the **Overall** Funding for the duration of the Contract:*

TCIF, Measure I, C/o Fontana, County of San Bdo funds for this FY. Federal earmark IMD funds to be allocated in future FY's of $1.225 M.

☒ Payable ☐ Receivable

CONTRACT MANAGEMENT INFORMATION

Check all applicable boxes:

☒ Retention? If yes, indicate % 5%.

☐ Disadvantaged Business Enterprise (DBE) Goal _____ % ☒ Underutilized DBE (UDBE) Goal 7.17 %

Garry Cohoe		
Task Manager (Print Name)	Signature	Date 9/25/12
Chad Costello		
Project Manager (Print Name)	Signature	Date 9/13/12
Jeffery Hill		
Contracts Manager (Print Name)	Signature	Date 9/20/12
William Stawarski		
Chief Financial Officer Signature (Print Name)	Signature	Date 9/25/12 AZ

CONTRACT C12224

BY AND BETWEEN

SAN BERNARDINO ASSOCIATED GOVERNMENTS

AND

ORTIZ ENTERPRISES, INC.

FOR

I-10/CHERRY AVENUE INTERCHANGE IMPROVEMENT PROJECT

This Contract, is effective on the Effective Date as defined herein, by and between San Bernardino County Transportation Authority (referred to hereinafter as "AUTHORITY"), whose address is 1170 W. 3rd Street, 2nd Floor, San Bernardino, California 92410-1715; and, Ortiz Enterprises, Inc. (referred to hereinafter as "CONTRACTOR") whose address is 6 Cushing Way, Suite 200, Irvine, CA 92618. AUTHORITY and CONTRACTOR are each a "Party" and collectively the "Parties" herein.

RECITALS:

WHEREAS, AUTHORITY has determined that it requires construction of I-10 Cherry Avenue Interchange Project; and

WHEREAS, the work described herein cannot be performed by the employees of AUTHORITY; and

WHEREAS, CONTRACTOR has certified that they have the requisite personnel, experience, materials, and equipment and is fully capable and qualified to perform these services identified herein.

NOW, THEREFORE, the Parties hereto agree as follows:

ARTICLE 1. CONTRACT DOCUMENTS

The complete Contract includes all of the following Contract Documents:

a) The Contract terms and conditions;

b) Bidder's Bid dated August 28, 2012.

c) California Department of Transportation Standard Plans, dated 2006, the Standard Specifications dated 2006, and the Labor Surcharge and Equipment Rental Rates in effect on the date the work is accomplished.

d) Drawings, entitled I-10 Cherry Avenue Interchange Project.

e) Addenda No's 1, 2, & 3.

f) Project Plans dated September 8, 2011; and Special Provisions dated July 11, 2012.

ARTICLE 2. PAYMENT

CONTRACTOR agrees to perform all work set forth and particularly described in this Contract, incorporated herein by reference, in consideration of the Base Bid to be paid by AUTHORITY in the amount of $49,190,134.21.

ARTICLE 3. PAYMENT AND PERFORMANCE BONDS

CONTRACTOR will furnish a Payment bond, in the form provided by AUTHORITY in the IFB, in an amount equal to one hundred percent (100%) of the contract price, and a faithful Performance bond in the form provided by AUTHORITY in the IFB, in an amount equal to one hundred percent (100%) of the contract price, said bonds, to be secured from a surety company satisfactory to AUTHORITY within ten (10) working days of the Notice of Award of this Contract and prior to the commencement of work under this Contract. Bonds shall remain in full force and effect for a period of one (1) year following the date of filing of the Notice of Completion. Notwithstanding any other provision set forth in this Contract, performance by a Surety or Guarantor of any obligation of CONTRACTOR shall not relieve CONTRACTOR of any of its obligations thereunder.

ARTICLE 4. RETENTION/PROMPT PAYMENT

Pursuant to CFR 26.29, CONTRACTOR is required to pay all subcontractors for satisfactory performance no later than 7 days from when the CONTRACTOR receives payment from the AUTHORITY. AUTHORITY shall hold retainage from CONTRACTOR of five percent (5%) from each invoice, and shall make prompt and regular incremental acceptances of portions, as determined by AUTHORITY of the contract work and pay retainage to the CONTRACTOR based on these acceptances. The CONTRACTOR or subcontractor(s) shall return all monies withheld in retention from all subcontractors within 30 days after receiving payment for work satisfactorily completed and accepted including incremental acceptances of portions of the contract work. Any delay or postponement of payment may take place only for good cause and with AUTHORITY's prior written approval. Any violation of these provisions shall subject CONTRACTOR to the penalties, sanctions, and other remedies specified in Section 7108.5 of the California Business and Professions Code. This requirement shall not be construed to limit or impair any contractual, administrative or judicial remedies otherwise available to the CONTRACTOR or subcontractor in the event of; a dispute involving late payment or nonpayment by the CONTRACTOR; deficient subcontractor performance and/or non-compliance by a subcontractor. This Article applies to DBE and non-DBE contractors.

ARTICLE 5. COMPENSATION

AUTHORITY agrees to pay, and CONTRACTOR agrees to accept in full payment for the work outlined in the Contract documents, the sum of $ **FORTY NINE MILLION ONE HUNDRED NINETY THOUSAND ONE HUNDRED THIRTY FOUR DOLLARS AND TWENTY ONE CENTS (49,190,134.21)**, subject to additions and deductions, if any, in accordance with said documents [including without limit that compensation due for unit price work shall be the actual number of such units performed multiplied by the unit price]. Payment shall not be made more often than once each thirty (30) days, nor shall the amount be paid in excess of ninety-five percent (95%) of the Contract at time of completion. Payment requests shall not be deemed properly completed unless certified payrolls and any other mandatory submittals have been properly completed and submitted for each week worked during the time period covered by said payment request. Final payment to be made after acceptance of the Project. The Bid Schedule presented on the next page is incorporated into this Contract by this reference.

ITEM NO	CONTRACT ITEMS	UNIT	QUANTITY	PRICE	AMOUNT
1	PROGRESS SCHEDULE (CRITICAL PATH METHOD)	LS	1	20000	$ 20,000
2	TIME RELATED OVERHEAD	WDAY	470	5500	$ 2,585,000
3	TEMPORARY FENCE (TYPE CL-6)	LF	2,810	6	$ 16,860
4	TEMPORARY ACTIVE TREATMENT SYSTEM	LS	1	100000	$ 100,000
5	CONSTRUCTION SITE MANAGEMENT	LS	1	12000	$ 12,000
6	PREPARE STORM WATER POLLUTION PREVENTION PLAN	LS	1	90000	$ 90,000
7	TEMPORARY FIBER ROLL	LF	15,600	3	$ 46,800
8	TEMPORARY SILT FENCE	LF	27,400	3	$ 82,200
9	TEMPORARY CONCRETE WASHOUT FACILITY	EA	12	1000	$ 12,000
10	TEMPORARY CONSTRUCTION ENTRANCE	EA	14	2500	$ 35,000
11	TEMPORARY COVER	SQYD	2,000	2	$ 4,000
12	TEMPORARY CHECK DAM	LF	7,890	6	$ 47,340
13	MOVE-IN/MOVE-OUT (TEMPORARY EROSION CONTROL)	EA	9	600	$ 5,400
14	TEMPORARY DRAINAGE INLET PROTECTION	EA	145	300	$ 43,500
15	TEMPORARY HYDRAULIC MULCH (POLYMER STABILIZED FIBER MATRIX)	SQYD	445,000	0.5	$ 222,500
16	STREET SWEEPING	LS	1	120000	$ 120,000
17	TEMPORARY CLEAR WATER DIVERSION	LS	1	210000	$ 210,000
18	RAIN EVENT ACTION PLAN	EA	69	250	$ 17,250
19	STORM WATER ANNUAL REPORT	EA	3	2000	$ 6,000
20	STORM WATER SAMPLING AND ANALYSIS DAY	EA	39	560	$ 21,840
21	CONSTRUCTION AREA SIGNS	LS	1	60000	$ 60,000
22	TRAFFIC CONTROL SYSTEM	LS	1	265000	$ 265,000
23	TYPE III BARRICADE	EA	24	200	$ 4,800
24	TEMPORARY PAVEMENT MARKING (PAINT)	SQFT	2,330	2.3	$ 5,359
25	TEMPORARY TRAFFIC STRIPE (PAINT)	LF	163,000	0.15	$ 24,450
26	CHANNELIZER (SURFACE MOUNTED)	EA	790	50	$ 39,500
27	TEMPORARY PAVEMENT MARKER	EA	8,380	3	$ 25,140
28	TEMPORARY TERMINAL SECTION (TYPE K)	EA	2	3500	$ 7,000
29	TEMPORARY SIGNAL SYSTEM (TEMPORARY LOCATION 1)	LS	1	$ 30,000.00	$ 30,000
30	TEMPORARY SIGNAL SYSTEM (TEMPORARY LOCATION 2)	LS	1	$ 20,000.00	$ 20,000
31	TEMPORARY SIGNAL SYSTEM (TEMPORARY LOCATION 3)	LS	1	$ 35,000.00	$ 35,000
32	TEMPORARY SIGNAL SYSTEM (TEMPORARY LOCATION 4)	LS	1	$ 10,000.00	$ 10,000
33	PORTABLE CHANGEABLE MESSAGE SIGN	EA	4	10000	$ 40,000
34	TEMPORARY RAILING (TYPE K)	LF	36,700	10	$ 367,000
35	TEMPORARY CRASH CUSHION MODULE	EA	170	250	$ 42,500
36	REMOVE YELLOW THERMOPLASTIC TRAFFIC STRIPE (HAZARDOUS WASTE)	LF	21,600	0.33	$ 7,128
37	NOISE MONITORING	LS	1	11000	$ 11,000
38	ABANDON CULVERT	LF	430	45	$ 19,350
39	REMOVE FENCE	LF	10,600	4	$ 42,400
40	REMOVE METAL BEAM GUARD RAILING	LF	2,740	10	$ 27,400
41	REMOVE DOUBLE THRIE BEAM BARRIER	LF	2,180	10	$ 21,800
42	REMOVE IRRIGATION FACILITY	LS	1	20000	$ 20,000
43	REMOVE THERMOPLASTIC TRAFFIC STRIPE	LF	75,000	0.21	$ 15,750
44	REMOVE PAVEMENT MARKER	EA	5,050	0.65	$ 3,283
45	REMOVE ROADSIDE SIGN	EA	50	95	$ 4,750

ITEM NO.	CONTRACT ITEMS	UNIT	QUANTITY	PRICE	AMOUNT
46	REMOVE SIGN STRUCTURE	EA	2	3500	$ 7,000
47	REMOVE BRIDGE MOUNTED SIGN	EA	2	500	$ 1,000
48	REMOVE CULVERT	LF	2,030	42	$ 85,260
49	REMOVE INLET	EA	14	1600	$ 22,400
50	REMOVE HEADWALL	EA	13	2500	$ 32,500
51	REMOVE MANHOLE	EA	1	7000	$ 7,000
52	REMOVE CONCRETE PAVEMENT	CY	430	34	$ 14,620
53	REMOVE ASPHALT CONCRETE SURFACING	EA	7,110	$0.50	$ 3,555
54	REMOVE ASPHALT CONCRETE OVERSIDE DRAIN	LF	1	180	$ 180
55	REMOVE RETAINING WALL, LOCATION A	LF	1	19000	$ 19,000
56	REMOVE RETAINING WALL, LOCATION B	CY	1	25000	$ 25,000
57	RELOCATE BUSINESS SIGN	LS	1	9200	$ 9,200
58	REMOVE CONCRETE (CURB AND GUTTER)	LF	15,830	2.5	$ 39,575
59	REMOVE CONCRETE SIDEWALK	LF	2,460	0.35	$ 861
60	REMOVE CONCRETE (CHANNEL)	LS	1,720	68	$ 116,960
61	REMOVE CONCRETE BARRIER	EA	900	14	$ 12,600
62	PREPARE CONCRETE BRIDGE DECK SURFACE	LS	8,297	$10.00	$ 82,970
63	REMOVE BOX CULVERT	CY	220	130	$ 28,600
64	BRIDGE REMOVAL	CY	1	$120,000.00	$ 120,000
65	BRIDGE REMOVAL (PORTION), LOCATION A	LS	1	$40,000.00	$ 40,000
66	BRIDGE REMOVAL (PORTION), LOCATION B	LS	1	$40,000.00	$ 40,000
67	CLEARING AND GRUBBING	CY	1	50000	$ 50,000
68	REMOVE TREE	CY	82	700	$ 57,400
69	DEVELOP WATER SUPPLY	LS	1	50000	$ 50,000
70	ROADWAY EXCAVATION	SQYD	199,000	16	$ 3,184,000
71	ROADWAY EXCAVATION (Type Y-1) (Aerially Deposited Lead)	SQYD	14,100	8	$ 112,800
72	LEAD COMPLIANCE PLAN	SQYD	1	8000	$ 8,000
73	ADL BURIAL LOCATION REPORT	SQFT	1	5000	$ 5,000
74	STRUCTURE EXCAVATION (BRIDGE)	SQFT	8,230	$67.00	$ 551,410
75	STRUCTURE EXCAVATION (RETAINING WALL)	LS	20,209	$12.50	$ 252,613
76	STRUCTURE BACKFILL (BRIDGE)	LS	5,134	$44.00	$ 225,896
77	STRUCTURE BACKFILL (SLURRY CEMENT)	LS	57	$100.00	$ 5,700
78	STRUCTURE BACKFILL (RETAINING WALL)	LS	16,949	$27.00	$ 457,623
79	STRUCTURE BACKFILL (CHANNEL)	LF	11,600	22	$ 255,200
80	PERVIOUS BACKFILL MATERIAL (RETAINING WALL)	LS	1,424	$33.00	$ 46,992
81	DITCH EXCAVATION	CY	1,340	24	$ 32,160
82	EARTH RETAINING STRUCTURE, LOCATION A	CY	17,422	$46.00	$ 801,412
83	EARTH RETAINING STRUCTURE, LOCATION B	CY	13,865	$46.00	$ 637,790
84	EARTH RETAINING STRUCTURE, LOCATION C	TON	12,450	$46.00	$ 572,700
85	HIGHWAY PLANTING	TON	1	160000	$ 160,000
86	GRAVEL (MISCELLANEOUS AREAS) (3/4" BURGUNDY)	TON	3,490	6	$ 20,940
87	GRAVEL (MISCELLANEOUS AREAS) (2 1/2" BURGUNDY)	LS	10,600	7	$ 74,200
88	ROCK BLANKET	LF	25,300	57	$ 1,442,100
89	EROSION CONTROL (HYDROSEED)	TON	17,600	0.11	$ 1,936
90	ROLLED EROSION CONTROL PRODUCT (BLANKET)	TON	5,040	2.5	$ 12,600
91	MAINTAIN EXISTING PLANTED AREAS	CY	1	2000	$ 2,000
92	PLANT ESTABLISHMENT WORK	CY	1	47000	$ 47,000
93	MAINTAIN EXISTING IRRIGATION FACILITIES	LF	1	7000	$ 7,000

ITEM NO	CONTRACT ITEMS	UNIT	QUANTITY	PRICE	AMOUNT
94	IRRIGATION SYSTEM	LF	1	180000	$ 180,000
95	NPS 3 SUPPLY LINE (BRIDGE)	SQYD	675	$75.00	$ 50,625
96	8" CORRUGATED HIGH DENSITY POLYETHYLENE PIPE CONDUIT	SQYD	640	75	$ 48,000
97	FINISHING ROADWAY	CY	1	5000	$ 5,000
98	CLASS 2 AGGREGATE BASE	CY	11,600	26	$ 301,600
99	AGGREGATE BASE (APPROACH SLAB)	LB	34	$255.00	$ 8,670
100	LEAN CONCRETE BASE	LB	7,150	108	$ 772,200
101	LEAN CONCRETE BASE RAPID SETTING	LB	720	273	$ 196,560
102	HOT MIX ASPHALT (TYPE A)	SQFT	3,200	74	$ 236,800
103	HOT MIX ASPHALT (TYPE A) (BOND BREAKER)	SQFT	3,640	92	$ 334,880
104	HOT MIX ASPHALT (TYPE C)	SQFT	15,100	73	$ 1,102,300
105	DATA CORE	SQFT	1	10000	$ 10,000
106	PLACE HOT MIX ASPHALT DIKE (TYPE C)	LF	25	120	$ 3,000
107	PRIME COAT	LB	39	1300	$ 50,700
108	TACK COAT	LB	14	800	$ 11,200
109	JOINTED PLAIN CONCRETE PAVEMENT	EA	16,100	160	$ 2,576,000
110	JOINTED PLAIN CONCRETE PAVEMENT (RAPID STRENGTH CONCRETE)	EA	1,600	372	$ 595,200
111	SEAL PAVEMENT JOINT	EA	77,200	2.6	$ 200,720
112	SEAL ISOLATION JOINT	LF	32,000	2.2	$ 70,400
113	REPAIR SPALLED JOINTS	LF	900	20	$ 18,000
114	GRIND EXISTING CONCRETE PAVEMENT	LF	18,000	4	$ 72,000
115	FURNISH STEEL PILING (HP 14x89)	LF	3,703	$46.00	$ 170,338
116	DRIVE STEEL PILE (HP 14x89)	LF	99	$1,250.00	$ 123,750
117	16" CAST-IN-DRILLED-HOLE CONCRETE PILING (SOUND WALL)	LF	4,304	$76.00	$ 327,104
118	24" CAST-IN-DRILLED-HOLE CONCRETE PILING (SOUND WALL)	LF	23	$140.00	$ 3,220
119	PRESTRESSING CIP CONCRETE	LF	1	$100,000.00	$ 100,000
120	STRUCTURAL CONCRETE (CHANNEL)	EA	16,841	210	$ 3,536,610
121	STRUCTURAL CONCRETE, BRIDGE FOOTING	EA	1,106	$160.00	$ 176,960
122	STRUCTURAL CONCRETE, DECK OVERLAY	EA	63	$1,150.00	$ 72,450
123	STRUCTURAL CONCRETE, BRIDGE	EA	3,842	$500.00	$ 1,921,000
124	STRUCTURAL CONCRETE, RETAINING WALL	LF	6,312	$266.00	$ 1,678,992
125	STRUCTURAL CONCRETE, BARRIER SLAB	EA	807	$325.00	$ 262,275
126	STRUCTURAL CONCRETE, APPROACH SLAB (TYPE R)	LF	181	$1,000.00	$ 181,000
127	STRUCTURAL CONCRETE, APPROACH SLAB (TYPE N MOD)	CY	450	$560.00	$ 252,000
128	MINOR CONCRETE (MINOR STRUCTURE)	CY	157	1250	$ 196,250
129	MINOR CONCRETE (SOUND WALL)	SQYD	320	$345.00	$ 110,400
130	PAVING NOTCH EXTENSION	CY	115	$305.00	$ 35,075
131	ANTI-GRAFFITI COATING	LB	34,211	$0.60	$ 20,527
132	FRACTURED RIB TEXTURE	LF	15,866	$7.75	$ 122,962
133	ARCHITECTURAL TREATMENT (TYPE A)	SQYD	6,252	$13.50	$ 84,402
134	ARCHITECTURAL TREATMENT (TYPE B)	EA	3,996	$19.00	$ 75,924
135	ARCHITECTURAL TREATMENT (TYPE C)	EA	20,441	$14.00	$ 286,174
136	DRILL AND BOND DOWEL	EA	790	$10.00	$ 7,900
137	FURNISH PRECAST PRESTRESSED CONCRETE GIRDER (100'-110')	EA	13	$30,000.00	$ 390,000
138	ERECT PRECAST PRESTRESSED CONCRETE GIRDER	EA	13	$5,000.00	$ 65,000
139	FURNISH POLYESTER CONCRETE OVERLAY	EA	539	$50.00	$ 26,950
140	PLACE POLYESTER CONCRETE OVERLAY	EA	5,266	$5.00	$ 26,330
141	SOUND WALL (BARRIER) (MASONRY BLOCK)	LF	15,867	$15.00	$ 238,005

ITEM NO.	CONTRACT ITEMS	UNIT	QUANTITY	PRICE	AMOUNT
142	SOUND WALL (MASONRY BLOCK)	LF	45,528	$15.00	$ 682,920
143	JOINT SEAL (MR 1")	LF	156	$175.00	$ 27,300
144	JOINT SEAL (MR 1 1/2")	LF	141	$200.00	$ 28,200
145	JOINT SEAL (MR 2")	LF	135	$214.00	$ 28,890
146	BAR REINFORCING STEEL (BRIDGE)	LF	1,100,228	$1.05	$ 1,155,239
147	BAR REINFORCING STEEL (RETAINING WALL)	LF	692,604	$0.82	$ 567,935
148	BAR REINFORCING STEEL (BOX CULVERT)	LF	2,226,719	1.02	$ 2,271,253
149	FURNISH SIGN STRUCTURE (TUBULAR)	LF	41,700	5.5	$ 229,350
150	INSTALL SIGN STRUCTURE (TUBULAR)	SQFT	41,700	0.25	$ 10,425
151	FURNISH LAMINATED PANEL SIGN (1"-TYPE A)	LF	450	25	$ 11,250
152	FURNISH SINGLE SHEET ALUMINUM SIGN (0.063"-UNFRAMED)	LF	1,030	13	$ 13,390
153	FURNISH SINGLE SHEET ALUMINUM SIGN (0.080"-UNFRAMED)	LF	460	14	$ 6,440
154	FURNISH SINGLE SHEET ALUMINUM SIGN (0.063"-FRAMED)	LF	110	16	$ 1,760
155	60" CAST-IN-DRILLED-HOLE CONCRETE PILE (SIGN FOUNDATION)	EA	99	1250	$ 123,750
156	METAL (ROADSIDE SIGN)	EA	2,210	7	$ 15,470
157	METAL (BARRIER MOUNTED SIGN)	LS	750	17	$ 12,750
158	ROADSIDE SIGN - ONE POST	LS	53	375	$ 19,875
159	ROADSIDE SIGN - TWO POST	LS	5	1100	$ 5,500
160	INSTALL SIGN (STRAP AND SADDLE BRACKET METHOD)	LS	50	100	$ 5,000
161	PREPARE AND STAIN CONCRETE	LS	167,089	$1.15	$ 192,152
162	18" SLOTTED PLASTIC PIPE	LS	2,080	120	$ 249,600
163	18" REINFORCED CONCRETE PIPE	LS	75	166	$ 12,450
164	24" REINFORCED CONCRETE PIPE	LS	6,550	101	$ 661,550
165	30" REINFORCED CONCRETE PIPE	LS	1,760	170	$ 299,200
166	36" REINFORCED CONCRETE PIPE	LS	150	190	$ 28,500
167	96" REINFORCED CONCRETE PIPE	LS	1,200	805	$ 966,000
168	JACKED 30" REINFORCED CONCRETE PIPE (CLASS IV)	LS	140	1100	$ 154,000
169	24" SLOTTED CORRUGATED STEEL PIPE (.079" THICK)	LS	300	110	$ 33,000
170	WELDED STEEL PIPE CASING (BRIDGE)	LS	140	$295.00	$ 41,300
171	24" CONCRETE FLARED END SECTION	LS	3	2200	$ 6,600
172	CURB OPENING CATCH BASIN	SQFT	24	6000	$ 144,000
173	30" DRAINAGE MANHOLE	SQFT	11	5000	$ 55,000
174	96" DRAINAGE MANHOLE	LS	7	10000	$ 70,000
175	12" SEWER CLAY PIPE (EXTRA STRENGTH)	LS	180	230	$ 41,400
176	SEWER MANHOLE	LS	1	10500	$ 10,500
177	SEWER CONCRETE ENCASEMENT	LS	30	350	$ 10,500
178	ROCK SLOPE PROTECTION (1/4 TON, METHOD B)	LS	61	95	$ 5,795
179	ROCK SLOPE PROTECTION (BACKING NO. 3, METHOD B)	CY	5	$1,200.00	$ 6,000
180	CONCRETE (DITCH LINING)	CY	340	350	$ 119,000
181	ROCK SLOPE PROTECTION FABRIC	CY	70	$18.00	$ 1,260
182	ROCK SLOPE PROTECTION FABRIC (TYPE A)	CY	150	5	$ 750
183	MINOR CONCRETE (CURB, GUTTER, SIDEWALK, CURB RAMP AND DRIVEWAY)	CY	1,100	343	$ 377,300
184	MINOR CONCRETE (GUTTER)	CY	150	$390.00	$ 58,500
185	MISCELLANEOUS IRON AND STEEL	SQFT	32,423	1.3	$ 42,150
186	MISCELLANEOUS METAL (BRIDGE)	SQFT	498	$7.10	$ 3,536
187	CHAIN LINK FENCE (TYPE CL-6)	SQFT	2,400	22	$ 52,800
188	VEGETATION CONTROL (MINOR CONCRETE)	LF	110	30	$ 3,300

ITEM NO	CONTRACT ITEMS	UNIT	QUANTITY	PRICE	AMOUNT
189	10' SINGLE SWING CHAIN LINK GATE (TYPE CL-6)	CY	3	2500	$ 7,500
190	10' DOUBLE SWING CHAIN LINK GATE (TYPE CL-6)	LF	1	1600	$ 1,600
191	24' CHAIN LINK GATE (TYPE CL-6)	EA	1	3000	$ 3,000
192	DELINEATOR (CLASS 1)	LF	240	50	$ 12,000
193	CHAIN LINK RAILING (TYPE 7)	LF	593	$63.00	$ 37,359
194	CHAIN LINK RAILING (TYPE 7 MOD)	LS	702	$120.00	$ 84,240
195	CHAIN LINK RAILING (TYPE 7 MOD1)	CY	571	$70.00	$ 39,970
196	CHAIN LINK RAILING (TYPE 7 MOD2)	CY	487	$90.00	$ 43,830
197	TUBULAR HANDRAILING	CY	81	$60.00	$ 4,860
198	CONCRETE BARRIER (TYPE 26A)	CY	81	$164.00	$ 13,284
199	CONCRETE BARRIER (TYPE 26 MOD)	CY	259	$164.00	$ 42,476
200	CONCRETE BARRIER (TYPE 26 MOD1)	CY	708	$164.00	$ 116,112
201	CONCRETE BARRIER (TYPE 26A MOD)	CY	475	$164.00	$ 77,900
202	CABLE RAILING	CY	2,110	$15.00	$ 31,650
203	TRANSITION RAILING (TYPE WB)	CF	5	4300	$ 21,500
204	END CAP (TYPE TC)	SQFT	5	730	$ 3,650
205	ALTERNATIVE FLARED TERMINAL SYSTEM	SQFT	4	2500	$ 10,000
206	CONCRETE BARRIER (TYPE 60)	SQFT	3,810	66	$ 251,460
207	CONCRETE BARRIER (TYPE 60C)	SQFT	6,240	71	$ 443,040
208	CONCRETE BARRIER (TYPE 60D)	SQFT	2,200	65	$ 143,000
209	CONCRETE BARRIER (TYPE 60R)	LF	300	78	$ 23,400
210	CONCRETE BARRIER (TYPE 736B)	EA	2,080	95	$ 197,600
211	CONCRETE BARRIER (TYPE 736A)	EA	1,941	$100.00	$ 194,100
212	CONCRETE BARRIER (TYPE 736 MOD)	CF	341	$133.00	$ 45,353
213	CONCRETE BARRIER (TYPE 736 MOD1)	SQFT	1,247	$86.00	$ 107,242
214	CONCRETE BARRIER (TYPE 736S)	SQFT	1,400	$105.00	$ 147,000
215	4" THERMOPLASTIC TRAFFIC STRIPE	SQFT	59,800	0.41	$ 24,518
216	6" THERMOPLASTIC TRAFFIC STRIPE	LF	870	1.3	$ 1,131
217	8" THERMOPLASTIC TRAFFIC STRIPE	LF	15,100	0.85	$ 12,835
218	8" THERMOPLASTIC TRAFFIC STRIPE (BROKEN 12-3)	LF	3,050	0.8	$ 2,440
219	THERMOPLASTIC PAVEMENT MARKING	LB	6,950	2.9	$ 20,155
220	4" THERMOPLASTIC TRAFFIC STRIPE (BROKEN 6-1)	LB	1,240	0.75	$ 930
221	4" THERMOPLASTIC TRAFFIC STRIPE (BROKEN 36-12)	SQFT	41,900	0.3	$ 12,570
222	4" THERMOPLASTIC TRAFFIC STRIPE (BROKEN 17-7)	LF	19,300	0.3	$ 5,790
223	4" THERMOPLASTIC TRAFFIC STRIPE (BROKEN 16-8)	CY	2,640	0.5	$ 1,320
224	PAVEMENT MARKER (NON-REFLECTIVE)	SQYD	3,720	1.2	$ 4,464
225	PAVEMENT MARKER (RETROREFLECTIVE)	CY	3,170	3	$ 9,510
226	MAINTAINING EXISTING TRAFFIC MANAGEMENT SYSTEM ELEMENTS DURING CONSTRUCTION	LB	1	6,000.00	$ 6,000
227	SIGNAL AND LIGHTING (LOCATION 1 - SLOVER AVE - CITY LOCATION)	LF	1	140,000.00	$ 140,000
228	SIGNAL AND LIGHTING (LOCATION 2 - EB ENTRANCE AND EXIT RAMPS)	LF	1	160,000.00	$ 160,000
229	SIGNAL AND LIGHTING (LOCATION 3 - WB ENTRANCE AND EXIT RAMPS)	LF	1	110,000.00	$ 110,000
230	SIGNAL AND LIGHTING (LOCATION 4 - VALLEY BLVD - CITY LOCATION)	LF	1	45,000.00	$ 45,000
231	LIGHTING (TEMPORARY)	LF	1	40,000.00	$ 40,000
232	LIGHTING (CITY STREET)	LF	1	12,000.00	$ 12,000
233	COMMUNICATION CONDUIT (BRIDGE)	LF	1	12,000.00	$ 12,000
234	MODIFY COMMUNICATION SYSTEM	LF	1	170,000.00	$ 170,000
235	ELECTRIC SERVICE (IRRIGATION)	LF	1	19,000.00	$ 19,000

ITEM NO	CONTRACT ITEMS	UNIT	QUANTITY	PRICE	AMOUNT
236	RAMP METERING SYSTEM (LOCATION 1)	LF	1	75,000.00	$ 75,000
237	RAMP METERING SYSTEM (LOCATION 2)	LF	1	75,000.00	$ 75,000
238	RAMP METERING SYSTEM (LOCATION 3)	LF	1	90,000.00	$ 90,000
239	MODIFY LIGHTING AND SIGN ILLUMINATION	LF	1	230,000.00	$ 230,000
240	CONTRACTOR FURNISHED CONSTRUCTION OF ELECTRICAL DISTRIBUTION SYSTEM IMPROVEMENTS	LF	1	80,000.00	$ 80,000
241	MOBILIZATION @ 10%	LS	1	$ 4,900,000.00	$ 4,900,000
	Total				$49,190,134.21

ARTICLE 6. TAXES, DUTIES AND FEES

Except to the extent expressly provided otherwise elsewhere in this Contract, CONTRACTOR shall pay when due, and the compensations set forth in this Contract shall be inclusive of all a) local, municipal, state, and federal sales and use taxes; b) excise taxes; c) taxes on personal property owned by CONTRACTOR; and d) all other governmental fees and taxes or charges of whatever nature applicable to CONTRACTOR to enable it to conduct business.

ARTICLE 7. AVAILABILITY OF FUNDS

The award and performance of this Contract is contingent on the availability of funds. If funds are not allocated or available for the continuance of work performed by the CONTRACTOR, work directly or indirectly involved may be suspended or terminated by AUTHORITY at the end of the period for which funds are available. When AUTHORITY becomes aware that any portion of work, which will or may be affected by a shortage of funds, it will notify CONTRACTOR within fifteen (15) days. Nothing herein shall relieve AUTHORITY from its obligation to compensate CONTRACTOR for work performed pursuant to this Contract. No penalty shall accrue to AUTHORITY in the event this provision is exercised.

ARTICLE 8. DOCUMENTATION AND RIGHT TO AUDIT

CONTRACTOR shall provide AUTHORITY, the U.S. Department of Transportation (DOT), the Comptroller General of the United States, the State of California, or other authorized representatives or agents of AUTHORITY, access to CONTRACTOR's records which are directly related to this Contract for the purpose of inspection, auditing or copying. CONTRACTOR shall maintain all records related to this Contract in an organized way in the original format, electronic and hard copy, conducive to professional review and audit, for a period of three (3) years from the date of final payment by AUTHORITY, except in the event of litigation or settlement of claims arising out of this Contract in which case CONTRACTOR agrees to maintain records through the conclusion of all such litigation, appeals or claims related to this Contract. CONTRACTOR further agrees to maintain separate records for costs of work performed by change order. CONTRACTOR shall allow AUTHORITY or its representatives of agents to reproduce any materials as reasonably necessary. This Article applies to all subcontractors at any tier that is performing work under this Contract.

ARTICLE 9. SCHEDULE

CONTRACTOR agrees to complete the work within the time period as stipulated in the Special Provisions attached herein. CONTRACTOR shall incur no costs and shall not perform or furnish any work, services or equipment under this Contract, unless and until the AUTHORITY has issued a written Notice To Proceed (NTP).

ARTICLE 10. CONTRACTORS LICENSE

CONTRACTOR agrees that he is currently the holder of a valid license as a CONTRACTOR in the State of California and that the license is the correct class of license for the work described in the project plans and specifications. CONTRACTOR further agrees to maintain license through the entire duration of Contract.

ARTICLE 11. NONDISCRIMINATION/ EQUAL EMPLOYMENT OPPORTUNITY

11.1 CONTRACTOR agrees to comply with the regulations relative to nondiscrimination in federally assisted programs of the Department of transportation (DOT), Title 49 CFR Part 21 as they may be amended from time to time, which are herein incorporated by this reference and made part of this Contract. The following minimum specific requirement activities of the Equal Employment Opportunity (EEO):

11.1.1 CONTRACTOR will work with the AUTHORITY and the Federal Government in carrying out EEO obligations and in their review of his/her activities under the Contract.

11.2.1 CONTRACTOR will accept as his operating policy the following statement: "It is the policy of this company to assure that applicants are employed, and that employees are treated during employment, without regard to their race, religion, sex, color, national origin, age or disability. Such action shall include: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship, pre-apprenticeship, and/or on-the-job training."

11.2 EEO Officer: CONTRACTOR will designate and submit to the AUTHORITY in writing the EEO Officer who will have the responsibility for and must be capable of effectively administering and promoting an active CONTRACTOR program of EEO and who must be assigned adequate AUTHORITY and responsibility to do so.

11.3 Dissemination of Policy: All members of the CONTRACTOR's staff who are authorized to hire, supervise, promote, and discharge employees, or who recommend such action, or who are substantially involved in such action, will be made fully cognizant of, and will implement, the CONTRACTOR's EEO policy and contractual responsibilities to provide EEO in each grade and classification of employment. To ensure that the above agreement will be met, the following actions will be taken as a minimum:

11.3.1 Periodic meetings of supervisory and personnel office employees will be conducted before the start of work and then not less often than once every six months, at which time the CONTRACTOR's EEO policy and its implementation will be reviewed and explained. The meetings will be conducted by the EEO Officer.

11.3.2 All new supervisory or personnel office employees will be given a thorough indoctrination by the EEO Officer, covering all major aspects of the CONTRACTOR's EEO obligations within thirty days following their reporting for duty with the CONTRACTOR.

11.3.3 All personnel who are engaged in direct recruitment for the project will be instructed by the EEO Officer in the CONTRACTOR's procedures for locating and hiring minority group employees.

11.3.4 Notices and posters setting forth the CONTRACTOR's EEO policy will be placed in areas readily accessible to employees, applicants for employment and potential employees.

11.3.5 CONTRACTOR's EEO policy and the procedures to implement such policy will be brought to the attention of employees by means of meetings, employee handbooks, or other appropriate means.

11.4 Recruitment: When advertising for employees, CONTRACTOR will include in all advertisements for employees the notation: "An Equal Opportunity Employer." All such advertisements will be placed in publications having a large circulation among minority groups in the area from which the project work force would normally be derived.

11.4.1 CONTRACTOR will, unless precluded by a valid bargaining agreement, conduct systematic and direct recruitment through public and private employee referral sources likely to yield qualified minority group applicants. To meet this requirement, CONTRACTOR will identify sources of potential minority group employees, and establish with such identified sources procedures whereby minority group applicants may be referred to CONTRACTOR for employment consideration.

11.4.2 In the event CONTRACTOR has a valid bargaining agreement providing for exclusive hiring hall referrals, he is expected to observe the provisions of that agreement to the extent that the system permits CONTRACTOR's compliance with EEO contract provisions. (The DOL has held that where implementation of such agreements has the effect of discriminating against minorities or women, or obligates the CONTRACTOR to do the same, such implementation violates Executive Order 11246, as amended.)

11.4.3 CONTRACTOR will encourage his present employees to refer minority group applicants for employment. Information and procedures with regard to referring minority group applicants will be discussed with employees.

11.5 Personnel Actions: Wages, working conditions, and employee benefits shall be established and administered, and personnel actions of every type, including hiring, upgrading, promotion, transfer, demotion, layoff, and termination, shall be taken without regard to race, color, religion, sex, national origin, age or disability. The following procedures shall be followed:

11.5.1 CONTRACTOR will conduct periodic inspections of project sites to insure that working conditions and employee facilities do not indicate discriminatory treatment of project site personnel.

11.5.2 CONTRACTOR will periodically evaluate the spread of wages paid within each classification to determine any evidence of discriminatory wage practices.

11.5.3 CONTRACTOR will periodically review-selected personnel actions in depth to determine whether there is evidence of discrimination. Where evidence is found, the CONTRACTOR will promptly take corrective action. If the review indicates that the discrimination may extend beyond the actions reviewed, such corrective action shall include all affected persons.

11.5.4 CONTRACTOR will promptly investigate all complaints of alleged discrimination made to the CONTRACTOR in connection with his obligations under this Contract, will attempt to resolve such complaints, and will take appropriate corrective action within a reasonable time. If the investigation indicates that the discrimination may affect persons other than the complainant, such corrective action shall include such other persons. Upon completion of each investigation, the CONTRACTOR will inform every complainant of all of his avenues of appeal.

11.6 Training and Promotion: CONTRACTOR will assist in locating, qualifying, and increasing the skills of minority group and women employees, and applicants for employment.

11.6.1 Consistent with CONTRACTOR' work force requirements and as permissible under Federal and State regulations, the CONTRACTOR shall make full use of training programs, i.e., apprenticeship, and on-the-job training programs for the geographical area of contract performance. Where feasible, 25 percent of apprentices or trainees in each occupation shall be in their first year of apprenticeship or training. In the event a special provision for training is provided under this contract, this subparagraph will be superseded as indicated in the special provision.

11.6.2 CONTRACTOR will advise employees and applicants for employment of available training programs and entrance requirements for each.

11.6.3 CONTRACTOR will periodically review the training and promotion potential of minority group and women employees and will encourage eligible employees to apply for such training and promotion.

11.7 Unions: If CONTRACTOR relies in whole or in part upon unions as a source of employees, CONTRACTOR will use his/her best efforts to obtain the cooperation of such unions to increase opportunities for minority groups and women within the unions, and to effect referrals by such unions of minority and female employees. Actions by CONTRACTOR either directly or through a CONTRACTOR's association acting, as agent will include the procedures set forth below:

11.7.1 CONTRACTOR will use best efforts to develop, in cooperation with the unions, joint training programs aimed toward qualifying more minority group members and women for membership in the unions and increasing the skills of minority group employees and women so that they may qualify for higher paying employment.

11.7.2 CONTRACTOR will use best efforts to incorporate an EEO clause into each union agreement to the end that such union will be contractually bound to refer applicants without regard to their race, color, religion, sex, national origin, age or disability.

11.7.3 CONTRACTOR is to obtain information as to the referral practices and policies of the labor union except that to the extent such information is within the exclusive possession of the labor union and such labor union refuses to furnish such information to CONTRACTOR, CONTRACTOR shall so certify to the AUTHORITY and shall set forth what efforts have been made to obtain such information.

11.7.4 In the event the union is unable to provide CONTRACTOR with a reasonable flow of minority and women referrals within the time limit set forth in the collective bargaining agreement, CONTRACTOR will, through independent recruitment efforts, fill the employment vacancies without regard to race, color, religion, sex, national origin, age or disability; making full efforts to obtain qualified and/or qualifiable minority group persons and women. (The DOL has held that it shall be no excuse that the union with which CONTRACTOR has a collective bargaining agreement providing for exclusive referral failed to refer minority employees.) In the event the union referral practice prevents CONTRACTOR from meeting the obligations pursuant to Executive Order 11246, as amended, and these special provisions, such CONTRACTOR shall immediately notify the AUTHORITY.

11.8 CONTRACTOR shall not discriminate on the grounds of race, color, religion, sex, national origin, age or disability in the selection and retention of subcontractors, including procurement of materials and leases of equipment. CONTRACTOR shall notify all potential subcontractors and suppliers of his/her EEO obligations under this Contract. Disadvantaged business enterprises (DBE), as defined in 49 CFR Part 23 shall have equal opportunity to compete for and perform subcontracts, which the CONTRACTOR enters into pursuant to this contract. CONTRACTOR will use his best efforts to solicit bids from and to utilize DBE subcontractors or subcontractors with meaningful minority group and female representation among their employees. CONTRACTOR shall obtain lists of DBE construction firms from AUTHORITY DBE Liaison. CONTRACTOR will use his best efforts to ensure subcontractor compliance with their EEO obligations.

11.9 Records and Reports: CONTRACTOR shall keep such records as necessary to document compliance with the EEO requirements. Such records shall be retained for a period of three (3) years following completion of the contract work and shall be available at reasonable times and places for inspection by authorized representatives of the AUTHORITY. The records kept by the CONTRACTOR shall document the following: The number of minority and non-minority group members and women employed in each work classification on the project; the progress and efforts being made in cooperation with unions, when applicable, to increase employment opportunities for minorities and women; the progress and efforts being made in locating, hiring, training, qualifying, and upgrading minority and female employees; and the progress and efforts being made in securing the services of DBE subcontractors or subcontractors with meaningful minority and female representation among their employees.

11.9.1 CONTRACTOR will submit an annual report to the AUTHORITY each July for the duration of the project, indicating the number of minority, women, and non-minority group employees currently engaged in each work classification required by the contract work. This information is to be reported on Form FHWA-1391. If on-the-job training is being required by special provision, CONTRACTOR will be required to collect and report training data.

ARTICLE 12. CONFLICT OF INTEREST

CONTRACTOR agrees that it presently has no interest financial or otherwise and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services required under this Contract. CONTRACTOR further agrees that in the performance of this Contract, no person having any such interest shall be employed. CONTRACTOR is obligated to fully disclose to AUTHORITY, in writing, of any conflict of interest issues as soon as they are known to CONTRACTOR and to comply with AUTHORITY Policy 10102 regarding disclosure. CONTRACTOR acknowledges that no member or delegate to, the Congress of the U.S. shall have any interest, direct or indirect, in this Contract or the benefits thereof.

ARTICLE 13. PROPRIETARY RIGHTS/CONFIDENTIALITY

13.1 If, as part of this Contract, CONTRACTOR is required to produce materials, documents data, or information ("Products"), then CONTRACTOR, if requested by AUTHORITY, shall deliver to AUTHORITY the original of all such products which shall become the

property of AUTHORITY.

13.2 All materials, documents, data or information obtained from AUTHORITY's data files or any AUTHORITY medium furnished to CONTRACTOR in the performance of this Contract will at all times remain the property of AUTHORITY. Such data or information may not be used or copied for direct or indirect use outside of this Project by CONTRACTOR without the express written consent of AUTHORITY.

13.3 Except as reasonably necessary for the performance of Services, CONTRACTOR and its employees and agents shall hold in confidence the materials and information referred to in this Article, which are produced by CONTRACTOR for AUTHORITY in the performance and completion of CONTRACTOR's Services under this Contract, until released in writing by AUTHORITY, except to the extent such materials and information become a part of public domain information through no fault of CONTRACTOR, or its employees or agents.

13.4 CONTRACTOR shall not use AUTHORITY's name or photographs of the Project in any professional publication, magazine, trade paper, newspaper, seminar or other medium without first receiving the express written consent of AUTHORITY.

13.5 All press releases relating to the Project or this Contract, including graphic display information to be published in newspapers, magazines, and other publications, are to be made only by AUTHORITY unless otherwise agreed to by CONTRACTOR and AUTHORITY.

13.6 CONTRACTOR agrees that it, and its employees, agents, and subcontractors will hold confidential and not divulge to third parties without the prior written consent of AUTHORITY, any information obtained by CONTRACTOR from or through AUTHORITY in connection with CONTRACTOR's performance of this Contract, unless (a) the information was known to CONTRACTOR prior to obtaining same from AUTHORITY pursuant to a prior contract; or (b) the information was obtained at the time of disclosure to CONTRACTOR, or thereafter becomes part of the public domain, but not as a result of the fault or an unauthorized disclosure of CONTRACTOR or its employees, agents, or subcontractors, or (c) the information was obtained by CONTRACTOR from a third party who did not receive the same, directly or indirectly, from AUTHORITY and who had, to CONTRACTOR's knowledge and belief, the right to disclose the same.

ARTICLE 14. TERMINATION

14.1 Termination for Convenience - AUTHORITY shall have the right at any time, with or without cause, to terminate further performance of Services by giving thirty (30) calendar days written notice to CONSULTANT specifying the date of termination. On the date of such termination stated in said notice, CONSULTANT shall promptly discontinue performance of Services and shall preserve work in progress and completed work ("Work"), pending AUTHORITY's instruction, and shall turn over such Work in accordance with AUTHORITY's instructions. CONTRACTOR shall deliver to AUTHORITY, in accordance with AUTHORITY instructions, all deliverables prepared by CONTRACTOR or its subcontracts or furnished to CONTRACTOR by AUTHORITY. Upon such delivery, CONTRACTOR may then invoice AUTHORITY for payment in accordance with the terms hereof. If CONTRACTOR has fully and completely performed all obligations under this Contract up to the date of termination, CONTRACTOR shall be

entitled to receive from AUTHORITY as complete and full settlement for such termination a pro rata share of the contract cost and a pro rata share of any fixed fee, for such Services satisfactorily executed to the date of termination. CONTRACTOR shall be entitled to receive the actual cost incurred by CONTRACTOR to return CONTRACTOR's field tools and equipment, if any, to it or its suppliers' premises, or to turn over work in progress in accordance with AUTHORITY's instructions plus the actual cost necessarily incurred in effecting the termination.

14.2 Termination for Cause - In the event CONTRACTOR shall file a petition in bankruptcy court, or shall make a general assignment for the benefit of its creditors, or if a petition in bankruptcy court shall be filed against CONTRACTOR or a receiver shall be appointed on account of its solvency, or if CONTRACTOR shall default in the performance of any express obligation to be performed by it under this Contract and shall fail to immediately correct (or if immediate correction is not possible, shall fail to commence and diligently continue action to correct) such default within ten (10) calendar days following written notice thereof, AUTHORITY may, without prejudice to any other rights or remedies AUTHORITY may have, (a) hold in abeyance further payments to CONTRACTOR; (b) stop any services of CONTRACTOR or its subcontractors related to such failure until such failure is remedied; and/or (c) terminate this Contract by written notice to CONTRACTOR specifying the date of termination. In the event of such termination by AUTHORITY, AUTHORITY may take possession of the deliverables and finish Services by whatever method AUTHORITY may deem expedient. A waiver by AUTHORITY of one default of CONTRACTOR shall not be considered to be a waiver of any subsequent default of CONTRACTOR, nor be deemed to waive, amend, or modify any term of this Contract.

14.2.1 In the event of termination, CONTRACTOR shall deliver to AUTHORITY all finished and unfinished products prepared under this Contract by CONTRACTOR or its subcontractors or furnished to CONTRACTOR by AUTHORITY.

14.3 All claims for compensation or reimbursement of costs under any of the foregoing provisions shall be supported by documentation submitted to AUTHORITY, satisfactory in form and content to AUTHORITY and verified by AUTHORITY. In no event shall CONTRACTOR be entitled to any prospective profits or any damages because of such termination.

ARTICLE 15. INSURANCE

Without in anyway affecting the indemnity herein provided and in addition thereto the CONTRACTOR shall, at the CONTRACTOR's expense, and prior to commencement of any work, procure and maintain in full force insurance from the beginning of the work through final acceptance by AUTHORITY. In addition, CONTRACTOR shall maintain completed operations coverage with a carrier acceptable to AUTHORITY through the expiration of the patent deficiency in construction statute of repose set forth in Section 337.1 of the Code of Civil Procedure. The policies shall be written by a carrier authorized to do business in the State of California with a Best rating of A-VII or better, and shall be written with at least the following limits of liability:

15.1 Workers' Compensation and Employer's Liability Insurance – Workers' Compensation insurance shall be provided in an amount and form to meet all applicable requirements of the Labor Code of the State of California. Employer's Liability Insurance shall be provided in amounts not less than:

(a) $1,000,000 for each accident for bodily injury by accident.
(b) $1,000,000 policy limit for bodily injury by disease.
(c) $1,000,000 for each employee for bodily injury by disease.

The policy must contain the following endorsement, which must be stated on the certificate of insurance: Alternate Employer endorsement ISO form WC 00 03 01 A (or a substitute form providing equivalent coverage) showing the Union Pacific Railroad in the schedule as the alternate employer (or a substitute form providing equivalent coverage).

15.2 Liability Insurance – CONTRACTOR shall carry General Liability and Umbrella or Excess Liability Insurance covering all operations performed by or on behalf of the Contractor providing insurance for bodily injury liability, and property damage liability for the limits of liability indicated below and including coverage for:

(a) Premises and Operations coverage, with no exclusion or limitation for the perils of Explosion, Collapse or underground Operations;
(b) No limitation or exclusion for CONTRACTOR's liability arising out of work performed by its subcontractors; Products and completed operations.
(c) No limitation or exclusion to the definition of Products and Completed Operations coverage as contained in the ISO CF 00 01 12 04 or its equivalent;
(d) No limitation or exclusion to the definition of "Insured Contract" as contained in the ISO Commercial General Liability form CG 00 01 12 04 or its equivalent.

15.2.1 Liability Limits/Additional Insureds - Insurance shall be written on ISO occurrence form CG 00 01 12 04 (or its equivalent) and the policy must contain the following endorsement, which must be stated on the certificate of insurance:

(a) Contractual Liability - Railroads ISO form CG 24 17 10 01 (or a substitute form providing equivalent coverage) showing "Union Pacific Railroad Company Property" as the Designated Job Site.

(b) Designated Construction Project(s) General Aggregate Limit ISO Form CG 25 03 03 97 (or a substitute form providing equivalent coverage) showing the project on the form schedule.

The limits of liability shall be at least:

(a) $2,000,000 for each occurrence (combined single limit for bodily injury and property damage).

(b) $2,000,000 aggregate for products-completed operations.

(c) $10,000,000 general aggregate. This general aggregate limit shall apply separately to the Contractor's work under this Agreement.

(d) $5,000,000 umbrella or excess liability. Combined total Commercial General Liability and Excess Liability limits of $25,000,000 will be required for projects with a contract value in excess of $25,000,000.

(e) Umbrella or excess policy shall follow form over the CONTRACTOR's General Liability coverage and shall provide a separate aggregate limit for products and completed operations coverage. The umbrella or excess policy shall contain a clause stating that it takes effect (drops down) in the event the primary limits are impaired or exhausted.

15.3 AUTHORITY, the State of California, the County of San Bernardino, the City of Fontana shall be named as additional insureds with respect to liability arising out of or connected with work or operations performed by or on behalf of the CONTRACTOR under this Contract. Coverage for such additional insureds shall not extend to liability:

(a) Arising from any defective or substandard condition of the Roadway which existed at or prior to the time the CONTRACTOR commenced work, unless such condition has been changed by the work or scope of the work requires the CONTRACTOR to maintain existing Roadway facilities and the claim arises from the CONTRACTOR' failure to maintain; or

(b) For claims occurring after the work is completed and accepted unless these claims are directly related to alleged acts or omissions of the CONTRACTOR which occurred during the course of the work; or

(c) To the extent prohibited by Section 11580.04 of the Insurance Code.

15.3.1 The policy shall stipulate that the insurance afforded the additional insureds shall apply as primary insurance. Any other insurance or self-insurance maintained by AUTHORITY will be excess only and shall not be called upon to contribute with this insurance. Such additional insured coverage shall be provided by a policy provision or by an endorsement providing coverage at least as broad as Additional Insured (Form B) endorsement form CG 2010 07 04 and CG 20 37 07 04, as published by the Insurance Services Office (ISO).

15.4 Automotive Liability Insurance – CONTRACTOR shall carry automobile liability insurance, including coverage for all owned hired and non-owned automobiles. The primary limits of liability shall not be less than $5,000,000 combined single limit each accident for bodily injury and property damage. Umbrella or excess liability coverage used to meet the limits required under "Liability Limits/Additional Insureds," shall also apply to automobile liability.

The policy must contain the following endorsements, which must be stated on the certificate of insurance:

(a) Designated Insured Endorsement ISO form CA 20 48 02 99 (or a substitute form providing equivalent coverage) in favor of AUTHORITY, their authorized officers, employees, agents, and volunteers.

(b) Coverage for Certain Operations in Connection with Railroads ISO form CA 20 70 10 01 (or a substitute form providing equivalent coverage) showing "Union Pacific Railroad Company Property" as the designated job site.

(c) Motor Carrier Act Endorsement-Hazardous materials clean up (MCS-90) if required by law.

15.5 Railroad Protective Liability Insurance – CONTRACTOR shall carry Railroad Protective Liability Insurance written on ISO occurrence form CG 00 35 12 04 (or a substitute form providing equivalent coverage) naming UPRR as a Named Insured and the AUTHORITY, the State of California, and the City of Fontana as additional insured, covering all operations by or on behalf of CONTRACTOR providing insurance for bodily injury liability, and property damage liability. The limits of liability shall not be less than $5,000,000 per occurrence and aggregate of $10,000,000. A binder stating the policy is in place must be submitted to AUTHORITY and UPRR before the work may be commenced and until the original policy is forwarded to AUTHORITY.

15.6 Builder's Risk Insurance – CONTRACTOR shall purchase and maintain, in a company or companies lawfully authorized to do business in the jurisdiction in which the Project is located, property insurance written on a builder's risk "Special Form Cause of Loss" or equivalent policy form in an amount equal to the not to exceed amount of the Contract, plus the cost of materials supplied or installed by others on a full replacement cost basis. The Builder's Risk policy shall include a soft cost endorsement that covers AUTHORITY's soft costs equal to twenty percent (20%) of the contracts full value. Soft costs are defined as certain expenses, in addition to labor and materials, required to complete the project that has been delayed due to unexpected physical damage and include, but are not limited to the following; legal/accounting fees, design or other professional fees, financing costs, taxes, general administration, lease expenses, permit fees and insurance premiums. This insurance shall include interests of AUTHORITY, CONTRACTOR and its sub-contractors in the Project as insureds as their interest may appear. The insurance shall cover without limitation, loss or damage to the work arising from the perils covered under "Special Form Cause of Loss" form coverage including, without duplication of coverage for theft, fire, lightning, explosion, or hail, smoke aircraft or vehicles, riot or civil commotion, vandalism, malicious mischief, collapse, earthquake, flood, windstorm, false-work, testing and delay of startup, temporary buildings, property in transit and while stored at a temporary location, debris removal including demolition occasioned by enforcement of any applicable legal requirements, and shall cover reasonable compensation for CONTRACTOR's services and expenses required as a result of such loss. During the Project construction period, the AUTHORITY, CONTRACTOR and its sub-contractors shall mutually waive all rights of recovery for damages caused by fire or other perils covered by the Builders Risk "Special Form Cause of Loss" insurance. All applicable policies of insurance covering the work or the property of the CONTRACTOR or sub-contractor shall be endorsed to provide a waiver of subrogation in favor of the AUTHORITY, CONTRACTOR and sub-contractors-as their interest may appear.

15.7 Waiver of Subrogation Rights - CONTRACTOR shall require the carriers of the above required coverage's to waive all rights of subrogation against AUTHORITY, the State of California, the City of Fontana, the County of San Bernardino and its authorized officers, employees, agents and volunteers, CONTRACTOR and subcontractors by endorsement to the policy.

15.8 Policy Forms, Endorsements and Certificates – CONTRACTOR's General Liability Insurance shall be provided under General Liability policy form No. CG 00 01 12 04 as published by the Insurance Services Office (ISO) or under a policy form at least as broad as policy form No. CG 00 01 12 04.

15.9 Proof of Insurance – Evidence of insurance in a form acceptable to AUTHORITY, including the required "additional insured" endorsements, shall be provided within 10 business days after Notice of Award is given to CONTRACTOR. Prior to commencing any work, CONTRACTOR shall furnish AUTHORITY with a certificate(s) of insurance, executed by a duly authorized representative of each insurer, showing compliance with the insurance requirements set forth in this Article. If the insurance company elects to cancel or non-renew coverage for any reason, CONTRACTOR will provide AUTHORITY 30 days written notice of such cancellation or nonrenewal. If the policy is cancelled for nonpayment of premium, CONTRACTOR will provide AUTHORITY 10 days written notice. Certificates of Insurance, as evidence of required insurance, for the General Liability, Auto Liability and Umbrella-Excess Liability policies shall set forth deductible amounts applicable to each policy and all exclusions which are added by endorsement to each policy, and shall also include the Contract Number and Project Manager's name on the face of the certificate. AUTHORITY may expressly allow deductible clauses, which it does not consider excessive, overly broad, or harmful to interests of AUTHORITY. Standard ISO form No. CG 00 01 12 04 or similar exclusions will be allowed provided they are not inconsistent with the requirements of this section. Allowance of any additional exclusion is at the discretion of AUTHORITY. Regardless of the allowance of exclusions or deductions by AUTHORITY, CONTRACTOR shall be responsible for any deductible amount and shall warrant that the coverage provided to AUTHORITY is consistent with the requirements of this section. CONTRACTOR shall require provide certified copies of all insurance policies required within ten (10) days of AUTHORITY's written request of said copies.

15.10 Enforcement – AUTHORITY may take any steps as are necessary to assure CONTRACTOR's compliance with its insurance obligations as identified within this Article. Failure to continuously maintain insurance coverage as provided herein is a material breach of Contract. In the event the CONTRACTOR fails to maintain any insurance coverage required, AUTHORITY may, but is not required to, maintain this coverage and charge the expense to the CONTRACTOR or terminate this Contract. The required insurance shall be subject to the approval of AUTHORITY, but any acceptance of insurance certificates by AUTHORITY shall in no way limit or relieve the CONTRACTOR of the CONTRACTOR's duties and responsibilities under the Contract to indemnify, defend and hold harmless AUTHORITY, the State of California, the County of San Bernardino, the City of Fontana and their authorized officers, employees, agents and volunteers. Insurance coverage in the minimum amounts set forth herein shall not be construed to relieve the CONTRACTOR for liability in excess of such coverage, nor shall it preclude AUTHORITY from taking other actions as is available to it under any other provision of the contract or law. Failure of AUTHORITY to enforce in a timely manner any of the provisions of this section shall not act as a waiver to enforcement of any of these

provisions at a later date.

15.11 Miscellaneous – Nothing contained in this Contract is intended to make the public or any member thereof a third party beneficiary of the Insurance or Indemnity provisions of the Contract, nor is any term, condition or other provision of the Contract intended to establish a standard of care owed to the public or any member thereof.

ARTICLE 16. INDEMNITY

CONTRACTOR agrees to indemnify, defend (with counsel reasonably approved by AUTHORITY) and hold harmless the AUTHORITY, the State of California, the County of San Bernardino, the City of Fontana and their authorized officers, employees, agents and volunteers (indemnitees) from any and all claims, actions, losses, damages, and/or liability arising out of this Contract from any cause whatsoever, including the acts, errors, or omissions of any person and for any costs or expenses incurred by the indemnitees on account of any claim except where such indemnification its prohibited by law. This indemnification provision shall apply regardless of the existence or degree of fault of indemnitees. CONTRACTOR's indemnification provision shall apply regardless of the existence or degree of fault of indemnitees. CONTRACTOR's indemnification obligation applies to the indemnitees' "passive" negligence but does not apply to the indemnitees' "sole" or "active" negligence or "willful misconduct" within the meaning of Civil Code Section 2782.

ARTICLE 17. OWNERSHIP OF DOCUMENTS

All deliverables, including but not limited to, drawings, reports, worksheets, and other data developed by CONTRACTOR under this Contract shall become the property of AUTHORITY when prepared, whether delivered to AUTHORITY or not.

ARTICLE 18. INDEPENDENT CONTRACTOR

CONTRACTOR is and shall be at all times an independent CONTRACTOR. Accordingly, all work provided by CONTRACTOR shall be done and performed by CONTRACTOR under the sole supervision, direction and control of CONTRACTOR. AUTHORITY shall rely on CONTRACTOR for results only, and shall have no right at any time to direct or supervise CONTRACTOR or CONTRACTOR's employees in the performance or as to the manner, means and methods by which work is to be performed. All workers furnished by CONTRACTOR pursuant to this Contract, and all representatives of CONTRACTOR shall be and remain the employees or agents of CONTRACTOR or of CONTRACTOR's subcontractors at all times, and shall not at any time or for any purpose whatsoever be considered employees or agents of AUTHORITY.

ARTICLE 19. ATTORNEY'S FEES

If any legal action is instituted to enforce or declare any party's rights hereunder, each party, including the prevailing party, must bear its own costs and attorneys' fees. This Article shall not apply to those costs and attorneys' fees directly arising from any third party legal action against a party hereto and payable under the Indemnification provision.

ARTICLE 20. BONDS

As a condition of issuance of the Notice To Proceed, CONTRACTOR agrees to furnish to AUTHORITY a satisfactory Payment Bond in an amount equal to one hundred percent (100%) of the original contract amount and a Performance Bond in an amount equal to one hundred percent (100%) of the original contract amount. These bonds shall be secured from a surety company (ies) admitted in the state of California and satisfactory to AUTHORITY. Bonds shall remain in force and effect for a period of one year following the date of filing of Notice of Completion. If the contract price is increased, AUTHORITY may in its sole discretion, require an increase in the amount of the bonds or new bonds covering the increased amount. These bonds are to be in effect from Notice To Proceed through the term of this Contract.

ARTICLE 21. PRECEDENCE

The Contract documents consist of these general terms and conditions and the specifications, drawings and special provisions referenced herein and incorporated by this reference. The following order of precedence shall apply: a) this Contract and all attachments; b) IFB provisions; c) CONTRACTOR's Bid; all other documents, if any, cited herein or incorporated by reference.

ARTICLE 22. COMMUNICATIONS/NOTICES

All notices and communications permitted or required to be given hereunder shall be deemed duly given (a) upon actual delivery, if delivery is personally made; or (b) upon delivery into the United States Mail if delivery is by postage paid certified mail (return receipt requested), fax or private courier. Each such notice shall be sent to the respective party at the address indicated below or to any other address as the respective parties may designate from time to time by a notice given in accordance with this Article. A change in address may be made by notifying the other Party in writing. All communications pursuant to or in connection with this Contract shall be marked with AUTHORITY' contract number.

To CONTRACTOR	To AUTHORITY
Ortiz Enterprises, Inc.	San Bernardino Associated Governments
6 Cushing Way, Suite 200	1170 W. 3rd Street, 2nd Floor
Irvine, CA 92618	San Bernardino, CA 92410-1715
Attn: Patrick Ortiz	Attn: Garry Cohoe
	Cc: Contracts Administrator
Phone: 949 753-1414	Phone: (909) 884-8276

ARTICLE 23. GOVERNING LAW AND VENUE

This Contract shall be subject to the law and jurisdiction of the State of California. The Parties acknowledge and agree that this Contract was entered into and intended to be performed in whole or substantial part in San Bernardino County, California. The Parties agree that the venue for any action or claim brought by any party to this Contract will be the Superior Court of California, San Bernardino County, District Civil Division. Each Party hereby waives any law or rule of court, which would allow them to request or demand a change of venue. If any action or claim concerning this Contract is brought by any third party, the Parties hereto agree to use their best efforts to obtain a change of venue to the Superior Court of California, San Bernardino County, District Civil Division.

ARTICLE 24. FEDERAL, STATE AND LOCAL LAWS

CONTRACTOR warrants that in performance of this Contract, it shall comply with all applicable federal, State and local laws, ordinances, rules and regulations.

ARTICLE 25. FEDERAL CHANGES

CONTRACTOR shall at all times comply with all applicable Federal Highways Administration (FHWA) regulations, policies, procedures and directives, including without limitation those listed directly or by reference in this Contract, as they may be amended time to time through the term of this Contract. CONTRACTOR's failure to comply shall constitute a material breach of Contract.

ARTICLE 26. LIQUIDATED DAMAGES

Should CONTRACTOR fail to complete all work within the time specified herein, including any written authorized changes, the actual damages to AUTHORITY for the delay will be difficult or impossible to determine. Therefore, in lieu of actual damages, CONTRACTOR shall pay AUTHORITY the sum of $10,500 per each calendar day of delay as identified in the weekly statement of working days issued by the AUTHORITY. AUTHORITY shall not withhold liquidated damages if the delay is determined by AUTHORITY to be excusable in accordance with the Force Majeure article of this Contract. AUTHORITY may extend the period of performance of this Contract when in its sole judgment, sufficient justification to do so.

ARTICLE 27. ASSIGNMENT

CONTRACTOR agrees not to sell, transfer, or otherwise dispose of any contract part either voluntarily or by operation of law without prior written consent from AUTHORITY.

ARTICLE 28. SUBCONTRACTS

28.1 CONTRACTOR shall perform with its own organization contract work amounting to not less **than 30 percent** (or a greater percentage if specified elsewhere in the Contract) of the total original contract price, excluding any specialty items designated by AUTHORITY. Specialty items may be performed by subcontract and the amount of any such specialty items performed may be deducted from the total original contract price before computing the amount of work required to be performed by CONTRACTOR' own organization (23 CFR 635).

28.1.1 "Its own organization" shall be construed to include only workers employed and paid directly by the prime CONTRACTOR and equipment owned or rented by the prime CONTRACTOR, with or without operators. Such term does not include employees or equipment of a subcontractor, assignee, or agent of the prime CONTRACTOR.

28.1.2 "Specialty Items" shall be construed to be limited to work that requires highly specialized knowledge, abilities, or equipment not ordinarily available in the type of contracting organizations qualified and expected to bid on the contract as a whole and in general are to be limited to minor components of the overall contract. The contract amount upon which the requirements set forth in this Contract is computed

includes the cost of material and manufactured products, which are to be purchased or produced by the CONTRACTOR under the contract provisions.

28.2 CONTRACTOR shall furnish (a) a competent superintendent or supervisor who is employed by the firm, has full authority to direct performance of the work in accordance with the Contract requirements, and is in charge of all construction operations (regardless of who performs the work) and (b) such other of its own organizational resources (supervision, management, and engineering services) as AUTHORITY determines is necessary to assure the performance of the Contract.

28.3 No portion of the Contract shall be sublet, assigned or otherwise disposed of except with the written consent of AUTHORITY, or authorized representative, and such consent when given shall not be construed to relieve CONTRACTOR of any responsibility for the fulfillment of the contract. Written consent will be given only after AUTHORITY has assured that each subcontract is evidenced in writing and that it contains all pertinent provisions and requirements of the prime contract. CONTRACTOR does not have the right to make any substitutions of any subcontractor listed in its Bid, except in accordance with the State of California Public Contract Code, Section 4100 et. seq. AUTHORITY's consent to substitution shall not be deemed to relieve CONTRACTOR of its obligation to fully comply with the requirements of this Contract. CONTRACTOR shall be responsible for all acts and omissions of its employees, subcontractors and their employees. CONTRACTOR is responsible for coordinating all work performed by the subcontractors. AUTHORITY reserves the right, but not the obligation, to review the subcontractor agreements for this project and to require any modifications so as to conform to the requirements set forth in this Contract.

ARTICLE 29. COORDINATION WITH OTHER CONTRACTS

AUTHORITY may undertake or award other contracts for work, and CONTRACTOR shall cooperate fully with the other CONTRACTOR's and AUTHORITY's employees or agents and carefully fit its own work to such additional work as may be directed by AUTHORITY. CONTRACTOR shall not commit or permit any act, which will interfere with the performance of work by any other CONTRACTOR or by AUTHORITY.

ARTICLE 30. PREVAILING WAGE REQUIREMENTS

30.1 All laborers and mechanics employed or working upon the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the CONTRACTOR and such laborers and mechanics.

30.2 Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of this Article; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in herein. Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, that the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under of this section) and the Davis-Bacon poster (WH1321) shall be posted at all times by the CONTRACTOR and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

30.3 AUTHORITY shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under this Contract shall be classified in conformance with the wage determination. AUTHORITY shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met: (1) The work to be performed by the classification requested is not performed by a classification in the wage determination; and (2) The classification is utilized in the area by the construction industry; and (3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

30.4 If CONTRACTOR and the laborers and mechanics to be employed in the classification (if known), or their representatives, and AUTHORITY agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by AUTHORITY to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the AUTHORITY or will notify AUTHORITY within the 30-day period that additional time is necessary.

30.5 In the event the CONTRACTOR, the laborers or mechanics to be employed in the classification or their representatives, and AUTHORITY do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), AUTHORITY shall refer the questions, including the views of all interested parties and the recommendation of AUTHORITY, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise AUTHORITY or will notify the AUTHORITY within the 30-day period that additional time is necessary.

30.6 The wage rate (including fringe benefits where appropriate) determined pursuant to this section, should be paid to all workers performing work in the classification under this Contract from the first day on which work is performed in the classification.

30.7 Whenever the minimum wage rate prescribed in the Contract for a class of laborers or

mechanics includes a fringe benefit which is not expressed as an hourly rate, the CONTRACTOR shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

30.8 If CONTRACTOR does not make payments to a trustee or other third person, the CONTRACTOR may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the CONTRACTOR, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the CONTRACTOR to set aside in a separate account assets for the meeting of obligations under the plan or program.

30.9 Withholding - AUTHORITY shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the CONTRACTOR under this Contract or any other Federal contract with the same prime CONTRACTOR, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime CONTRACTOR, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the CONTRACTOR or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), all or part of the wages required by this Contract, AUTHORITY may, after written notice to CONTRACTOR, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

30.10 Payrolls and basic records - Payrolls and basic records relating thereto shall be maintained by CONTRACTOR during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work (or under the United States Housing Act of 1937, or under the Housing Act of 1949, in the construction or development of the project). Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described herein, daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, CONTRACTOR shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits.

30.11 Apprenticeship - If CONTRACTOR employs apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

30.12 Payroll - CONTRACTOR shall submit weekly for each week in which any contract work

is performed a copy of all payrolls to the (write in name of appropriate Federal agency) if the agency is a party to the contract, but if the agency is not such a party, the CONTRACTOR will submit the payrolls to the applicant, sponsor, or owner, as the case may be, for transmission to AUTHORITY. The payrolls submitted shall set out accurately and completely all of the information required to be maintained Regulations, 29 CFR Part 5. This information may be submitted in any form desired. Optional Form WH347 is available for this purpose and may be purchased from the Superintendent of Documents (Federal Stock Number 029005000141), U.S. Government Printing Office, Washington, DC 20402. CONTRACTOR is responsible for the submission of copies of payrolls by all subcontractors.

30.12.1 Each payroll submitted shall be accompanied by a Statement of Compliance, signed by the CONTRACTOR or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following: (1) That the payroll for the payroll period contains the information required to be maintained under Regulations, 29 CFR part 5 and that such information is correct and complete; (2) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3; (3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

This project is financed in part with state bond funds, and therefore, all of the statutes, rules and regulations by the State of California Department of Industrial Relations (DIR) Division of Labor Standards Enforcement (DLSE) requirements applicable to the work being performed will apply to this project. As of January 1, As of January 1, 2012, projects that receive state bond funding are subject to State of California Division of Labor Standards Enforcement (DLSE) Compliance Monitoring Unit requirements.

The Compliance Monitoring Unit or "CMU" is a new component within the DLSE that was created to monitor and enforce prevailing wage requirements on public works projects that receive state bond funding and on other projects that are legally required to use the CMU. By actively monitoring compliance on an ongoing basis while work is being performed, the CMU will play a special role in ensuring that public works construction workers are promptly paid the proper prevailing wage rates and in helping maintain a level playing field for contractors who comply with the law. The DLSE has prepared a Webinar presentation and provided links to frequently asked questions available on their CMU website www.dir.ca.gov/cmu.

Contractors Responsibility

a. Comply with all prevailing wage and other public works requirements, including but not limited to all relevant notice and posting requirements, keeping certified payroll records in accordance with Labor Code section 1776, and ensuring that subcontractors working under you comply with these

requirements.

b. In lieu of submitting paper copies of certified payroll to SANBAG's Construction Manager, submit certified payroll records (CPRs) directly to the CMU and SANBAG using the CMU's eCPR system – My LCM. CPRs must be submitted at least monthly, or more frequently if required by the public works contract.

c. Require subcontractors working under you to submit certified payroll records (CPRs) to the CMU, the awarding body, and the prime contractor using the CMU's eCPR system – My LCM.

e. Directions on how to file electronic payroll reports can be found on the CMU website. My LCM eliminates the need for contractors to submit paper prevailing wage documents and forms while providing an online database of all certified payroll reports. All contract-specific wage rates and classifications are available within My LCM.

30.12.2 The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH347 shall satisfy the requirement for submission of the Statement of Compliance required by this section. The falsification of any of the above certifications may subject the CONTRACTOR or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code.

30.12.3 CONTRACTOR or subcontractor shall make the records required under of this section available for inspection, copying, or transcription by authorized representatives of the AUTHORITY or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If CONTRACTOR or subcontractor fails to submit the required records or to make them available, the Federal agency may, after written notice to CONTRACTOR, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

30.13 Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the CONTRACTOR as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, which is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice

performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a CONTRACTOR is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in CONTRACTOR's or subcontractors registered program shall be observed.

30.13.1 Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the CONTRACTOR will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

30.14 Trainees - Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate that is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the CONTRACTOR will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved. The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended and 29 CFR Part 30.

30.15 Compliance with Copeland Act requirements - CONTRACTOR shall comply with the

requirements of 29 CFR Part 3, which are incorporated by reference in this Contract. CONTRACTOR or subcontractor shall insert in any subcontracts the clauses contained in 29 CFR 5.5 (a)(1) through (10) and such other clauses as AUTHORITY may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. CONTRACTOR shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.

30.16 Contract termination – debarment- A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the Contract, and for debarment as a CONTRACTOR and a subcontractor as provided in 29 CFR 5.12.

30.17 Compliance with Davis-Bacon and Related Act requirements - All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this Contract.

30.18 Disputes concerning labor standards - Disputes arising out of the labor standards provisions of this Contract shall not be subject to the general disputes clause of this Contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the CONTRACTOR (or any of its subcontractors) and AUTHORITY, the U.S. Department of Labor, or the employees or their representatives.

30.19 Certification of eligibility- (i) By entering into this Contract, CONTRACTOR certifies that neither it (nor he or she) nor any person or firm who has an interest in CONTRACTOR's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1). No part of this Contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1). The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

30.20 Contract Work Hours and Safety Standards Act- AUTHORITY shall cause or require the following clauses set forth in paragraphs (b)(1), (2), (3), and (4) of this section in full in any contract in an amount in excess of $100,000 and subject to the overtime provisions of the Contract Work Hours and Safety Standards Act. These clauses shall be inserted in addition to the clauses required by 5.5(a) or 4.6 of part 4 of this title. As used in this paragraph, the terms laborers and mechanics include watchmen and guards.

30.21 Overtime requirements- No CONTRACTOR or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

30.22 Violation; liability for unpaid wages; liquidated damages - In the event of any violation of the clause set forth in paragraph (b)(1) of this section the CONTRACTOR and any subcontractor responsible therefore shall be liable for the unpaid wages. In addition, such CONTRACTOR and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to

such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in this section, in the sum of $10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in this section.

30.22.1 Withholding for unpaid wages and liquidated damages - AUTHORITY shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by CONTRACTOR or subcontractor under any such contract or any other Federal contract with the same prime CONTRACTOR, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime CONTRACTOR, such sums as may be determined to be necessary to satisfy any liabilities of such CONTRACTOR or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in this section.

30.23 Subcontracts - CONTRACTOR or subcontractor shall insert in any subcontracts the clauses set forth in this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. CONTRACTOR shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in this section.

30.23.1 In addition to the clauses contained in paragraph (b), in any contract subject only to the Contract Work Hours and Safety Standards Act and not to any of the other statutes cited in 5.1, AUTHORITY shall insert a clause requiring that the CONTRACTOR or subcontractor shall maintain payrolls and basic payroll records during the course of the work and shall preserve them for a period of three years from the completion of the contract for all laborers and mechanics, including guards and watchmen, working on the contract. Such records shall contain the name and address of each such employee, social security number, correct classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid. Further, AUTHORITY shall insert in any such contract a clause providing that the records to be maintained under this paragraph shall be made available by CONTRACTOR or subcontractor for inspection, copying, or transcription by authorized representatives of AUTHORITY and the Department of Labor, and the CONTRACTOR or subcontractor will permit such representatives to interview employees during working hours on the job.

ARTICLE 31. SAFETY

31.1 In the performance of this Contract, CONTRACTOR shall comply with all applicable federal, State, and local laws governing safety, health, and sanitation (23 CFR 635). The CONTRACTOR shall provide all safeguards, safety devices and protective equipment and take any other needed actions as it determines, or as AUTHORITY may determine, to be reasonably necessary to protect the life and health of employees on the job and the safety of the public and to protect property in connection with the performance of the work covered by the contract. It is a condition of this Contract, and shall be made a condition of each subcontract, which the CONTRACTOR enters into pursuant to this Contract, that

CONTRACTOR and any subcontractor shall not permit any employee, in performance of this Contract, to work in surroundings or under conditions which are unsanitary, hazardous or dangerous to his/her health or safety, as determined under construction safety and health standards (29 CFR 1926) promulgated by the Secretary of Labor, in accordance with Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 333).

31.2 Pursuant to 29 CFR 1926.3, it is a condition of this Contract that the Secretary of Labor or authorized representative thereof, shall have right of entry to any site of contract performance to inspect or investigate the matter of compliance with the construction safety and health standards and to carry out the duties of the Secretary under Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 333).

ARTICLE 32. UNDERUTILIZED DISADVANTAGE BUSINESS ENTERPRISES

32.1 AUTHORITY, as a recipient of federal financial assistance, is required to implement a Underutilized Disadvantaged Business Program in accordance with Federal regulation 49 CFR Part 26 issued by the U.S. Department of Transportation (DOT). The AUTHORITY has set a contract specific goal of **7.17%** for this project. CONTRACTOR shall furnish all documentation satisfactory to AUTHORITY that the work committed to UDBE's was actually performed by UDBE's. Requests for progress payments shall include a summary of payments (Form 315) actually made to UDBE's during the invoice period, which includes a total of all payments made to **all** subcontractors under this Contract. UDBE participation shall be credited toward the overall UDBE goal only when payments are actually made to the UDBE firms. CONTRACTOR shall submit on the 15th of every month to AUTHORITY' Contract Compliance Officer, Form 315. Upon completion of the Contract, CONTRACTOR shall submit "Final Report-Utilization of Disadvantaged Business Enterprises-First Tier Subcontractors", Form 17-F and submit with the final invoice.

32.2 CONTRACTOR shall carry out all applicable requirements of 49 CFR Part 26 in the award and administration of this DOT-assisted contract. Failure by CONTRACTOR to carry out these requirements is material breach of this Contract, which may result in the termination of this Contract or such other remedy, as AUTHORITY may deem appropriate.

ARTICLE 33. NONSEGREGATED FACILITIES

33.1 CONTRACTOR, subcontractor, material supplier, or vendor, as appropriate, certifies that the firm does not maintain or provide for its employees any segregated facilities at any of its establishments, and that the firm does not permit its employees to perform their services at any location, under its control, where segregated facilities are maintained. CONTRACTOR agrees that a breach of this certification is a violation of the EEO provisions of this Contract. The firm further certifies that no employee will be denied access to adequate facilities on the basis of sex or disability.

33.2 As used in this certification, the term "segregated facilities" means any waiting rooms, work areas, restrooms and washrooms, restaurants and other eating areas, time-clocks, locker rooms, and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees which are segregated by explicit directive, or are, in fact, segregated on the basis of race, color, religion, national origin, age or disability, because of habit, local custom, or otherwise. The

only exception will be for the disabled when the demands for accessibility override (e.g. disabled parking).

33.3 CONTRACTOR agrees that it has obtained or will obtain identical certification from proposed subcontractors or material suppliers prior to award of subcontracts or consummation of material supply agreements of $10,000 or more and that it will retain such certifications in its files.

ARTICLE 34. RECORD OF MATERIALS, SUPPLIES AND LABOR

CONTRACTOR agrees to become familiar with the list of specific materials and supplies contained in Form FHWA-47, "Statement of Materials and Labor Used by CONTRACTOR of Highway Construction Involving Federal Funds," prior to the commencement of work under this Contract. CONTRACTOR shall also maintain a record of the total cost of all materials and supplies purchased for and incorporated in the work, and also of the quantities of those specific materials and supplies listed on Form FHWA-47, and in the units shown on Form FHWA-47. CONTRACTOR shall furnish, upon the completion of the Contract, to AUTHORITY on Form FHWA-47 together with the data required in this Article relative to materials and supplies, a final labor summary of all contract work indicating the total hours worked and the total amount earned. At the CONTRACTOR's option, either a single report covering all contract work or separate reports for the CONTRACTOR and for each subcontract shall be submitted.

ARTICLE 35. FALSE STATEMENTS CONCERNING HIGHWAY PROJECTS

CONTRACTOR agrees that in order to assure high quality and durable construction in conformity with approved plans and specifications and a high degree of reliability on statements and representations made by engineers, CONTRACTOR's suppliers, and workers on Federal-aid highway projects, it is essential that all persons concerned with the project perform their functions as carefully, thoroughly, and honestly as possible. Willful falsification, distortion, or misrepresentation with respect to any facts related to the project is a violation of Federal law. To prevent any misunderstanding regarding the seriousness of these and similar acts, the following notice shall be posted on each Federal-aid highway project (23 CFR 635) in one or more places where it is readily available to all persons concerned with the project:

NOTICE TO ALL PERSONNEL ENGAGED ON FEDERAL-AID HIGHWAY PROJECTS
18 U.S.C. 1020 reads as follows:

"Whoever, being an officer, agent, or employee of the United States, or of any State or Territory, or whoever, whether a person, association, firm, or corporation, knowingly makes any false statement, false representation, or false report as to the character, quality, quantity, or cost of the material used or to be used, or the quantity or quality of the work performed or to be performed, or the cost thereof in connection with the submission of plans, maps, specifications, contracts, or costs of construction on any highway or related project submitted for approval to the Secretary of Transportation; or

Whoever knowingly makes any false statement, false representation, false report or false claim with respect to the character, quality, quantity, or cost of any work performed or to be performed, or materials furnished or to be furnished, in connection with the construction of any highway or related project approved by the Secretary of Transportation; or

Whoever knowingly makes any false statement or false representation as to material fact in any statement, certificate, or report submitted pursuant to provisions of the Federal-aid Roads Act approved July 1, 1916, (39 Stat. 355), as amended and supplemented;

Shall be fined not more than $10,000 or imprisoned not more than 5 years or both."

ARTICLE 36. GRATUITIES, REBATES, KICK BACKS OR OTHER UNLAWFUL CONSIDERATION

36.1 CONTRACTOR, its employees, agents or representatives shall not offer or give to an officer, official or employee of AUTHORITY, gifts, entertainment, payments, loans or other gratuities to influence the award of a contract or obtain favorable treatment under a contract.

36.2 CONTRACTOR warrants that this Contract was not obtained or secured through rebates, kickbacks, or other unlawful consideration, either promised or paid to any SANBAG employee. For breach or violation of this warranty, SANBAG shall have the right in its discretion; to terminate the Contract without liability; to pay only of the value of the work actually performed; or to deduct from the contract price; or otherwise recover the full amount of such rebate, kickback or other unlawful consideration.

ARTICLE 37. CONFIDENTIALITY

Any AUTHORITY materials to which the CONTRACTOR or its agents has access to or materials prepared by the CONTRACTOR during the term of this Contract shall be held in confidence by the CONTRACTOR, who shall exercise all reasonable precautions to prevent disclosure of confidential information to anyone except as authorized by AUTHORITY. CONTRACTOR shall not release any reports, information of promotional materials or allow for the use of any photos of the project for any purposes without written approval from AUTHORITY.

ARTICLE 38. CONVICT LABOR

In connection with the performance of work under this Contract, CONTRACTOR agrees not to employ any person, undergoing sentence of imprisonment at hard labor. This Article does not include convicts who are on parole or probation.

ARTICLE 39. INSPECTION OF SITE

CONTRACTOR acknowledges that it has investigated and satisfied itself as to the conditions affecting the work including, but not restricted to, those bearing upon transportation, disposal, handling and storage of materials, availability of labor, water, electricity and roads and uncertainties of weather, river stages, tides or similar conditions at the site, the conformation and conditions of the ground, the character of equipment and facilities needed preliminary to and during prosecution of the work. CONTRACTOR fully acknowledges that it has satisfied itself as to the character, quality and quantity of surface and subsurface materials or obstacles to be encountered insofar as this information is reasonably ascertainable from an inspection of the site, including all exploratory work done by AUTHORITY, as well as from information presented by the drawings and specifications made a part of this Contract. Any failure by CONTRACTOR to acquaint itself with the available information will not relieve it from responsibility for the difficulty of cost of successfully or interpretations made by CONTRACTOR on the basis of the information made available by AUTHORITY.

ARTICLE 40. RECYCLED PRODUCTS

CONTRACTOR shall comply with all the requirements of Section 6002 of the Resource Conservation and Recovery Act as amended, (42 USC 6962), including but not limited to the 40 CFR Part 247 and Executive Order 12873, as applicable. CONTRACTOR agrees to include this Article in all of its subcontracts.

ARTICLE 41. CLEAN WATER REQUIREMENTS

CONTRACTOR shall comply with all applicable standards, orders, or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et. seq. CONTRACTOR shall report each violation to AUTHORITY and understands and agrees that AUTHORITY who will in turn, report each violation as required to assure notification to FHWA and appropriate Environmental Protection Agency (EPA) Regional Office. CONTRACTOR shall include this requirement in each subcontract exceeding $100,000.

ARTICLE 42. DEBARMENT AND SUSPENSION CERTIFICATION

The CONTRACTOR's signature affixed herein, shall constitute a certification under penalty of perjury under the laws of the State of California, that the CONTRACTOR has complied with Title 49, Code of Federal Regulations, Part 29, Debarment and Suspension Certificate, which certifies that he/she or any person associated therewith in the capacity of owner, partner, director, officer or manager, is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any Federal agency within the past three (3) years; does not have a proposed debarment pending; and has not been indicted, convicted, or had a civil judgment rendered against it by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past three (3) years. Any exceptions to this certification must be disclosed to SANBAG as soon as it as known. Exceptions will not necessarily result in denial of recommendation for award, but will be considered in determining CONTRACTOR responsibility. Disclosures must indicate to whom exceptions apply, the agency and dates of action.

ARTICLE 43. PROHIBITION OF EXPENDING SANBAG, STATE OR FEDERAL FUNDS FOR LOBBYING

43.1 CONTRACTOR certifies to the best of his or her knowledge and belief that :

43.1.1 – No state, federal or local agency appropriated funds have been paid, or will be paid by-or-on-behalf of the CONTRACTOR to any person for influencing or attempting to influence an officer or employee of any state or federal agency; a Member of the State Legislator or Congress; or any employee of a Member of the Legislature or Congress, in connection with the awarding of any state of federal loan; the entering into any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any state or federal contract, grant, loan, or cooperative agreement.

43.1.2 – This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, US Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each failure.

43.1.3 – CONTRACTOR also agrees by signing this Contract that he or she shall require that the language of this certification be included in all lower-tier subcontracts,

which exceed $100,000, and that all such sub recipients shall certify and disclose accordingly.

ARTICLE 44. SEVERABILITY

The partial or complete invalidity in whole or in part, of any one or more of the provisions of this Contract shall not affect the validity or continuing force and effect of any other provision.

ARTICLE 45. FORCE MAJEURE

CONTRACTOR shall not be in default of this Contract in the event that the work performed by CONTRACTOR is temporarily interrupted or discontinued for any of the following reasons; riots, wars, sabotage, acts of terrorism, civil disturbances, insurrection, explosion, pandemics, quarantines, acts of God, acts of government, and fires, severe weather, or other catastrophic events which are beyond the reasonable control of CONTRACTOR and which CONTRACTOR could not reasonably be expected to have prevented or controlled. Other catastrophic events do not include the financial inability of the CONTRACTOR to perform or failure of the CONTRACTOR to obtain any necessary permits or licenses from other governmental agencies or the right to use the facilities of any public utility where such failure is due solely to the acts or omissions of the CONTRACTOR.

ARTICLE 46. INCORPORATION OF RECITALS

The Recitals stated above are true and correct and are hereby incorporated into this Contract.

ARTICLE 47. EFFECTIVE DATE

The date that this Contract is executed by AUTHORITY shall be the Effective Date of this Contract.

IN WITNESS WHEREOF, the Parties hereto have executed this Contract on the day and year first written below, but effective as of the day and year first set forth above.

CONTRACTOR

By: _____
Patrick A. Ortiz
President & Treasurer

Date: _____

Licensed in accordance with an act providing for registration of contractors.

_____
License Number

_____
Federal Employer
Identification Number

SAN BERNARDINO COUNTY TRANSPORTATION AUTHORITY

By: _____
Janice Rutherford
President, Board of Directors

Date: _____

APPROVED AS TO FORM

By: _____
Eileen Teichert
General Counsel

CONCURRENCE

By: _____
Jeffery Hill
Contracts Administrator

Governments SANBAG Working Together

San Bernardino Associated Governments

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TRANSPORTATION MEASURE I

- San Bernardino County Transportation Commission
- San Bernardino County Transportation Authority
- San Bernardino County Congestion Management Agency
- Service Authority for Freeway Emergencies

Minute Action

AGENDA ITEM: 29

Date: October 3, 2012

Subject: Federal Legislative Presentation

Recommendation:* Receive presentation by Steve Palmer, SANBAG's Federal advocate.

Background: Mr. Palmer will provide a presentation on issues in Washington D.C.

The presentation will cover the key points of the new "MAP-21" Surface Transportation law and how federal highway and transit policy is structured for the next two years. It will also include information on the appropriations process, budget sequestration, and the items Congress may consider in the lame duck session.

Financial Impact: There is no impact to the FY 2012/2013 SANBAG Budget.

Reviewed By: This item has not received prior committee review.

Responsible Staff: Eric Haley, Acting Director, Legislative Affairs

*

Approved
Board of Directors

Date: _____

Moved: *Second:*

In Favor: *Opposed:* *Abstained:*

Witnessed: _____

COG	X	CTC	X	CTA	X	SAFE	X	CMA	X

Check all that apply.

BRD1210b-eh

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TRANSPORTATION MEASURE I

■ San Bernardino County Transportation Commission ■ San Bernardino County Transportation Authority
■ San Bernardino County Congestion Management Agency ■ Service Authority for Freeway Emergencies

Minute Action

AGENDA ITEM: 30

Date: October 3, 2012

Subject: Renaming the Administrative Committee and Reclassifying Major Projects Committee Meetings as Board Study Sessions for Metro Valley Issues

Recommendation:* 1. Rename the Administrative Committee as the General Policy Committee and change the membership to include three city members from each subregion and count Board Officers towards that city membership number.

2. Reclassify the Major Projects Committee Meetings as Board of Directors Study Sessions for Metro Valley Issues.

Background: On September 5, 2012, the Board of Directors approved a plan to eliminate the Plans and Programs Committee. To help SANBAG operate more efficiently, the Board directed that the items usually considered by the Plans and Programs Committee be allocated to the Administrative Committee, the Major Projects Committee, or the Mountain/Desert Committee depending on the subject.

By taking this action it became apparent that the Administrative Committee would have a broader range of topics than in the past like countywide issues that affect both the Valley and Mountain/Desert areas as an example. Because of this, Board Members have expressed an interest in renaming the Administrative Committee to reflect this broader role.

*

Approved
Board of Directors

Date: _____

Moved: *Second:*

In Favor: *Opposed:* *Abstained:*

Witnessed: _____

COG	X	CTC	X	CTA	X	SAFE	X	CMA	X

Check all that apply.
BRD1210b-dab

Names that have been suggested are:

- Administration, Plans and Programs Committee
- Administrative, Legislative and Regional Policy Committee
- Regional Council
- Policy Committee
- General Policy Committee

The name "General Policy Committee" is being recommended because it is a succinct name that reflects a broad area of jurisdiction. This committee will handle every topic not specifically covered by another committee and thus a broad name is appropriate.

While discussing this subject at the Administrative Committee meeting on September 12, 2012, the Committee discussed the need for equal representation on the committee. As the Committee is currently structured, there is always an imbalance of city members between the geographic subregions if you count the Board Officers. For example, this year there are two designated city representatives for each subregion and the Board Vice President is from the Mountain/Desert Region and the Past President is from the East Valley subregion. Counting the Board Officers, the East Valley and Mountain/Desert subregions each have three city representatives while the West Valley subregion has only two city representatives. The Administrative Committee has therefore recommended to the Board that the new General Policy Committee have three city representatives from each subregion. The County representatives would continue to be selected as they are currently with one County representative for each subregion and the County representatives that are Board Officers. This year it means that there are four County representatives on the Committee. Next year, when two County representatives will be Board Officers, all five members of the County Board of Supervisors will be on the committee.

A second issue related to committee organization deals with the Major Projects Committee. As it is currently configured, the Major Projects Committee has 19 members representing all of the cities and county supervisorial districts in the Valley region. This number of members constitutes a quorum of the Board of Directors and the Major Projects Committee must be identified as a meeting of the Board of Directors or have its membership reduced to 14 members or less to be considered as a committee of the Board.

A few methods have been looked at to address this issue. One is to reduce the size of the Committee to get below a quorum of the Board of Directors from the current 19 members to 14 members but this would mean disenfranchising five current members. Another method would be to split the Committee into two subcommittees representing the East Valley and the West Valley. This has the

disadvantage of adding another committee after we just eliminated one. It also has the disadvantage of fragmenting the discussion of the allocation of Measure I Valley funds. These funds are in a single pot and are not split by east and west. Recommendations could not be made by one committee without affecting the other. It would be better if a single group could continue to discuss issues specific to the Valley.

In order to keep a single Valley group while addressing the Board quorum issue, it is recommended that the Major Projects Committee be reclassified as a Study Session of the Board of Directors, with limited jurisdiction to address Metro Valley Issues only. In practice this Study Session of the Board for Metro Valley Issues would operate much as the Major Projects Committee does today. Even though it would be a Board Meeting, the Board could establish a rule for itself to designate a Valley Board Member to preside over these Study Sessions instead of the Board President. This would essentially mimic the way in which a Major Projects Committee Chairperson currently presides over the Major Projects Committee and would avoid potential issues that would occur when the Board Presidency rotates to a Mountain/Desert representative. Even though all members of the Board would be able to attend and vote, it would be clear that the focus of the agendas would only be on the Metro Valley issues so there would be minimal interest for Mountain/Desert members to attend. Also, it would be recommended that the rules of the Board be amended to provide that no final Board decision would be made at a Study Session. The Study Session would be for discussion of and providing direction on Metro Valley issues. Final Board actions would only take place at what is currently the regular meeting of the Board on the first Wednesday of the month. This change in the rules would help keep the Valley members and the Mountain/Desert members on an equal footing. The Mountain/Desert Committee is not a quorum of the Board and must have its decisions ratified by the full Board. So keeping a similar arrangement for Metro Valley issues is fair, involves the entire Board in final decisions, and does not require members to attend additional meetings beyond what they are attending today.

Financial Impact: This item is not anticipated to have an impact on the adopted SANBAG budget.

Reviewed By: This item was reviewed and unanimously recommended for approval by the Administrative Committee on September 12, 2012.

Responsible Staff: Duane A. Baker, Director of Management Services

BRD1210b-dab

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TRANSPORTATION MEASURE I

■ San Bernardino County Transportation Commission ■ San Bernardino County Transportation Authority
■ San Bernardino County Congestion Management Agency ■ Service Authority for Freeway Emergencies

Minute Action

AGENDA ITEM: 31

Date: October 3, 2012

Subject: Memorandum of Understanding for the Implementation of a Property Assessed Clean Energy (PACE) Program

Recommendation:*

1. Approve the Memorandum of Understanding between SANBAG and its member agencies that wish to participate in the PACE Program.

2. Direct that this Memorandum of Understanding (MOU) be distributed to each city, town and the County with a request that they consider participating in the PACE Program.

Background: On November 2, 2011, the Board of Directors directed staff to proceed with the steps necessary to create a regional energy efficiency and water conservation improvement loan program as defined by Assembly Bill (AB) 811 and AB 474 and commonly referred to as a Property Assessed Clean Energy (PACE) Program. On August 1, 2012, the Board of Directors approved a number of contracts with a team of firms for the formation and on-going operation of a PACE Program.

One of the first steps in the formation of a PACE Program is to have each individual city, town and the County consider if they want to participate in the program. Though SANBAG is taking the lead on creating a PACE Program, each individual jurisdiction must decide whether they want to participate or not. SANBAG is requesting that each agency that wants to participate indicate that

*

Approved
Board of Directors

Date: _____

Moved: *Second:*

In Favor: *Opposed:* *Abstained:*

Witnessed: _____

COG	X	CTC		CTA		SAFE		CMA	

Check all that apply.

BRD1210c-dab
http://portal.sanbag.ca.gov/mgmt/APOR-Mgmnt/Shared%20Documents/C13041.doc

desire by having their legislative body approve this Memorandum of Understanding (MOU).

This MOU states that SANBAG is establishing a PACE Program and generally will be responsible for all aspects of financing and administering the Program. The MOU further states that the term is 20 years and that participating jurisdictions may withdraw from the PACE Program with 90 days notice.

If approved by the SANBAG Board of Directors, each member jurisdiction will be asked to approve the MOU. To help each member jurisdiction in their consideration, below is basic information on how the PACE Program will work and some of the expected benefits.

How does a PACE program work?
SANBAG and an interested property owner enter into a contractual agreement to finance the installation of eligible renewable energy, energy efficiency, or water efficiency improvements that are permanently fixed to the property. Examples of eligible improvements include:

- Air sealing and weatherization
- Insulation
- Cool roof systems
- Duct sealing
- High efficiency heat and air conditioning
- Attic fans and whole house fans
- High efficiency and tank less water heaters
- Weatherized doors, windows and window film
- High efficiency pool pumps and heaters
- Solar photovoltaic systems
- Solar thermal water heating
- Small wind turbines
- High efficiency toilets and shower heads
- Weather based irrigation control systems
- Drip irrigation
- Gray water systems
- Commercial light fixture replacements
- Commercial boiler improvements
- Commercial refrigeration improvements

SANBAG loans the property owner the funds for the improvement. The amount of the loan plus a fixed interest amount is repaid through an assessment on the property tax bill for the property. The term of the loan can be from 5 to 20 years.

SANBAG gets the funds to loan by selling bonds to private investors secured by the property tax assessments paid by the property owners. SANBAG has been able to secure commitments from private investors for up to $200 million.

What are the benefits of a PACE program?
There are two primary types of benefits from a PACE program. The first type of benefit is economic. Economic benefits include:

- Lower utility bills for property owners
- Increased property value due to improvements
- Investment of millions of dollars in local economy through contractors and suppliers
- Jobs

The second type of benefit is environmental and the benefits include:

- Lower greenhouse gas emissions due to reduced energy use
- Reduce air pollution due to reduced energy use
- Conservation of water

The PACE program can serve as a conduit to get millions of dollars in private investment circulating in the local economy. The program can help residential property owners lower their energy bills. The program can help commercial property owners and businesses lower their energy and water costs which could help make them more competitive. This private investment can help create jobs for contractors, installers, and suppliers of the materials used for these improvements. All of this economic benefit also directly benefits our environment by reducing greenhouse gas emissions, delaying construction of new power plants, helping the common goal of energy security, and conserving one of California's most precious resources – water.

Why a regional PACE program makes sense.
Any individual agency can implement a PACE program. However, there are some real advantages to taking this regional approach. This approach allows agencies large and small to participate. This is a real benefit to smaller agencies that may not have the staff or volume of interested property owners to make sense for a stand-alone program. This approach provides for a uniform application process for property owners regardless of what community they are in. This also allows for the program to be marketed on a regional basis which is more cost effective and reaches more people. A regional program is able to attract more private capital because the larger market means larger investment opportunity.

Next Steps

This MOU is the first step in the process to establish the PACE Program in San Bernardino County. While jurisdictions are considering joining the PACE Program by approving the MOU, SANBAG and its consultant team will be preparing a Resolution of Intention to form the PACE Program and will be drafting the legally required PACE Program Report. SANBAG will also formally notify affected water and electric service providers of the PACE Program.

After a number of jurisdictions have approved the MOU, SANBAG will set a public hearing to formally establish the PACE Program. At the public hearing, SANBAG will consider resolutions authorizing issuance of bonds for the PACE Program and a resolution directing the filing of judicial validation actions covering the PACE Program bonds.

Staff believes that there are benefits that each of SANBAG's member jurisdictions and their residents can gain from a PACE program. In addition, we are recommending a process that would not impact SANBAG's or any member agency's budget. For these reasons SANBAG staff is recommending the Board of Directors approve the MOU and its distribution to all SANBAG member agencies.

Financial Impact: This item will not have an impact on the adopted SANBAG budget.

Reviewed By: This item was reviewed and unanimously recommended for approval by the Administrative Committee on September 12, 2012. This item was also reviewed by the City/County Manager's Technical Advisory Committee on September 13, 2012. SANBAG General Counsel has reviewed this item and a draft of the Memorandum of Understanding.

Responsible Staff: Duane A. Baker, Director of Management Services

BRD1210c-dab

MEMORANDUM OF UNDERSTANDING
BY AND AMONG THE SAN BERNARDINO ASSOCIATED GOVERNMENTS
AND
[INSERT CITY OR COUNTY NAMES]

FOR IMPLEMENTATION OF
A PROPERTY ASSESSED CLEAN ENERGY PROGRAM (PACE)
TO FINANCE THE INSTALLATION OF
DISTRIBUTED GENERATION RENEWABLE ENERGY SOURCES,
ENERGY OR WATER EFFICIENCY IMPROVEMENTS OR
ELECTRIC VEHICLE CHARGING INFRASTRUCTURE

This Memorandum of Understanding ("MOU") is entered into as of [INSERT DATE OF APPROVAL BY SANBAG BOARD OF DIRECTORS] between the SAN BERNARDINO ASSOCIATED GOVERNMENTS ("SANBAG"), a joint powers authority formed under Government Code sections 6500 et seq., and [INSERT CITY OR COUNTY NAMES] ("Participating Entities"), each a general law or charter city or a county formed under the Constitution and the laws of the State of California. SANBAG and the Participating Entities are sometimes collectively referred to in this MOU as the "Parties" or individually as a "Party."

RECITALS

WHEREAS, the County of San Bernardino and various cities within such county have entered into an "Amended Agreement for the Joint Exercise of Powers Relative to the San Bernardino Associated Governments" last amended October 17, 1975 (the "JPA"), to create SANBAG; and

WHEREAS, Participating Entities are each signatories to the JPA; and

WHEREAS, the purpose of the JPA is to improve and coordinate governmental services on a countywide, subregional and regional basis through the establishment of SANBAG as a cooperative association of governments; and

WHEREAS, Chapter 29 of Part 3 of Division 7 of the California Streets and Highways Code (commencing with Section 5898.12) ("Chapter 29") permits cities and counties to establish contractual assessment programs to finance the installation of distributed generation renewable energy sources, energy or water efficiency improvements or electric vehicle charging infrastructure that are permanently fixed to residential, commercial, industrial, agricultural, or other real property; and

WHEREAS, the parties to the JPA, as cities and counties, have the common power to implement and administer contractual assessment programs pursuant to Chapter 29 which programs are commonly referred to as a property assessed clean energy (the "PACE Program") to finance installation of such improvements within their respective jurisdictions; and

WHEREAS, SANBAG and Participating Entities believe that the establishment by SANBAG of a single, countywide PACE Program would improve and coordinate the provision of such a PACE Program within the jurisdictions of Participating Entities and SANBAG and Participating Entities

desire to enter into this MOU in order to authorize SANBAG to implement and administer such a PACE Program on behalf of Participating Entities.

NOW, THEREFORE, it is mutually understood and agreed by SANBAG and the Participating Entities as follows:

AGREEMENT

Section 1: Establishing the PACE Program

SANBAG will undertake proceedings pursuant to Chapter 29 to establish a PACE Program to make such contractual assessment financing available to eligible property owners within the jurisdictional boundaries of Participating Entities.

Section 2: Establishing Eligible Improvements

SANBAG shall identify the kinds of distributed generation renewable energy sources, energy or water efficiency improvements or electric vehicle charging infrastructure that may be financed ("Eligible Improvements") under the PACE Program.

Section 3: Boundary of Program

SANBAG, in coordination with Participating Entities, shall describe the boundaries of the area within which contractual assessments under the PACE Program may be entered into, which may include the entire jurisdictional area of each of the Participating Entities or a lesser portion thereof.

Section 4: Financing the Installation of Eligible Improvements

SANBAG shall develop and implement a plan for the financing of the purchase and installation of the Eligible Improvements under the PACE Program.

Section 5: Ongoing Administration

SANBAG shall be responsible for the ongoing administration of the PACE Program, including but not limited to producing education plans to raise public awareness of the PACE Program, soliciting, reviewing and approving applications from property owners who freely and willingly consent to participate in the PACE Program, establishing assessment contracts for property owners participating in the PACE Program, establishing and collecting assessments due under the PACE Program, and providing reports as required by Chapter 29. The PACE Program will be administered in accordance with the JPA.

Section 6: Phased Implementation

The Parties recognize and agree that implementation of the PACE Program as a whole can and may be phased as other parties to the JPA elect to enter into the MOU. The Participating Entities entering into this MOU will obtain the benefits of and incur the obligations imposed by this MOU in its jurisdictional area, irrespective of whether other parties to the JPA enter into the MOU.

Section 7: Term

The term of this MOU shall be for twenty (20) years unless modified or extended pursuant to this MOU.

Section 8: Termination

Upon ninety (90) days written notice, a Participating Entity may terminate its participation in the PACE Program through this MOU.

Section 9: Environmental Review

SANBAG shall be the lead agency under the California Environmental Quality Act for any environmental review that may required in implementing or administering the PACE Program under this MOU.

Section 10: Cooperative Effort

Participating Entities shall cooperate with SANBAG by providing information and other assistance in order for SANBAG to meet its obligations hereunder. Participating Entities recognize that one of their responsibilities related to the PACE Program will include any permitting or inspection requirements as established by the Participating Entities pertaining to the installation of Eligible Improvements within their respective jurisdictions.

Section 11: Miscellaneous Provisions

11.1 Notice. Any and all communications and/or notices in connection with this MOU shall be either hand-delivered or sent by United States first class mail, postage prepaid, and addressed to the respective Parties at the addresses set forth in Exhibit A attached hereto and incorporated herein by this reference.

11.2 Entire MOU. This MOU, together with the JPA, constitutes the entire agreement among the Parties regarding the subject matter of this MOU. This MOU supersedes any and all other agreements, either oral or in writing, among the Parties with respect to the subject matter hereof and contains all of the covenants and agreements among them with respect to said matters, and each Party acknowledges that no representation, inducement, promise of agreement, oral or otherwise, has been made by the other Party or anyone acting on behalf of the other Party that is not embodied herein.

11.3 Successors and Assigns. This MOU and each of its covenants and conditions shall be binding on and shall inure to the benefit of the Parties and their respective successors and assigns. A Party may only assign or transfer its rights and obligations under this MOU with prior written approval of the other Parties, which approval shall not be unreasonably withheld.

11.4 Attorney's Fees. If any action at law or equity, including any action for declaratory relief is brought to enforce or interpret the provisions of this MOU, each Party to the litigation shall bear its own attorney's fees and costs.

11.5 Governing Law. This MOU shall be governed by and construed in accordance with the laws of the State of California, as applicable.

11.6 No Third Party Beneficiaries. This MOU shall not create any right or interest in the public, or any member thereof, as a third party beneficiary hereof, nor shall it authorize anyone not a Party to this MOU to maintain a suit for personal injuries or property damages under the provisions of this MOU. The duties, obligations, and responsibilities of the Parties to this MOU with respect to third party beneficiaries shall remain as imposed under existing state and federal law.

11.7 Severability. In the event one or more of the provisions contained in this MOU is held invalid, illegal or unenforceable by any court of competent jurisdiction, such portion shall be deemed severed from this MOU and the remaining parts of this MOU shall remain in full force and effect as though such invalid, illegal, or unenforceable portion had never been a part of this MOU.

11.8 Headings. The paragraph headings used in this MOU are for the convenience of the Parties and are not intended to be used as an aid to interpretation.

11.9 Amendment. No amendment, modification, alteration or variation of the terms of this MOU shall be valid unless made in writing and signed by the Parties hereto and no oral understanding or agreement pertaining to the subject matter of this MOU and not incorporated herein shall be binding on any of the Parties hereto.

(signature pages to follow)

IN WITNESS WHEREOF, THE PARTIES HERETO have executed this MOU to be in effect as of the date last signed below.

SAN BERNARDINO ASSOCIATED GOVERNMENTS ("SANBAG")

By: _____ Date: _____
Title: _____
San Bernardino Associated Governments

By: _____ Date: _____

By: _____ Date: _____
Legal Counsel

PARTICIPATING ENTITIES

EXHIBIT A

NOTICE ADDRESSES FOR THE PARTIES

Governments SANBAG Working Together

San Bernardino Associated Governments

1170 W. 3rd Street, 2nd Floor San Bernardino, CA 92410-1715
Phone: (909) 884-8276 Fax: (909) 885-4407 Web: www.sanbag.ca.gov

TRANSPORTATION MEASURE I

■ San Bernardino County Transportation Commission ■ San Bernardino County Transportation Authority
■ San Bernardino County Congestion Management Agency ■ Service Authority for Freeway Emergencies

Minute Action

AGENDA ITEM: 32

Date: October 3, 2012

Subject: Council of Governments Action Plan

Recommendation:* Approve the creation of a COG Council.

Background: On August 22, 2012, the Board of Directors conducted a Council of Governments (COG) Workshop. The goal of the workshop was to provide direction to SANBAG staff on the role, structure, and funding of a COG.

At the Workshop the role of a COG was discussed along with what the important issues were that were facing our region. This discussion revealed a very strong correlation between the important issues identified by the Workshop participants and the issues identified in the Countywide Vision. These types of issues lend themselves to the type of regional action and focus that a COG can generate.

In regards to COG funding, it was clear that an increase in COG dues paid by member agencies were not favored at this time by most Board Members. This is due largely to the financial constraints faced by most agencies. The preferences for funding COG activities at this time were to use existing dues, to look for outside grants, to pursue programs that fund themselves, and to use other funding sources available to SANBAG.

Finally, as the Board discussed the structure that a COG should take, there was no clear direction. The Board did have extensive discussions but no clear consensus

*

Approved
Board of Directors

Date: _____

Moved: *Second:*

In Favor: *Opposed:* *Abstained:*

Witnessed: _____

COG	X	CTC		CTA		SAFE		CMA	

Check all that apply.
BRD1210e-dab

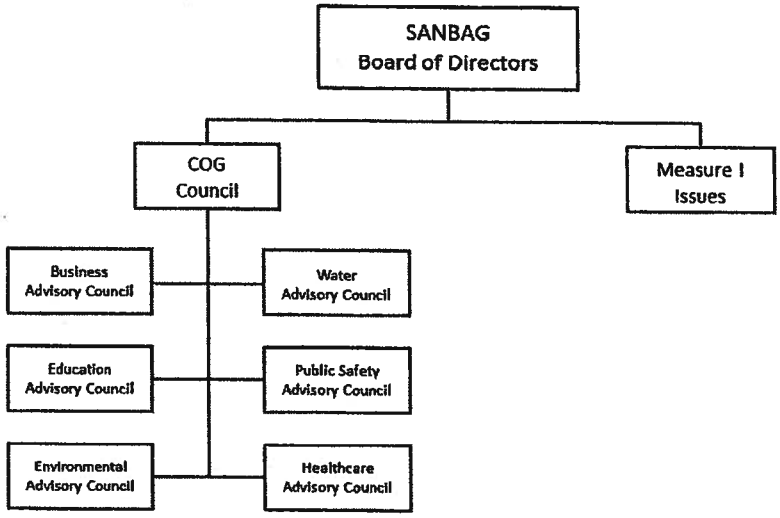
was found. Realizing that the Board wants to see progress in SANBAG carrying out its role as a COG and that discussions to settle items of structure could impede immediate progress; SANBAG staff is recommending a short term proposal to allow COG work to move forward.

The proposal is to create a new COG Council. The COG Council would be made up of SANBAG Board Members representing each of SANBAG's subregions: East Valley, West Valley, and Mountain/Desert. In addition, the COG Council would afford opportunities for other stakeholders like school districts, water districts, business leaders and other interested parties to participate. Staff is recommending a total of 12 members for the COG Council. If membership is based strictly on geographic equity, then the COG Board would consist of 3 city members and one County Supervisor for each of the three subregions. If membership is based on population or population and assessed valuation, as it is in calculating the COG dues that member agencies pay to SANBAG, then the COG Council would consist of 4 city members from the West Valley, 3 city members from the East Valley and 2 city members from the Mountain/Desert and one County Supervisor from each of the three subregions.

The COG Council would then form advisory councils that would focus on specific subject areas like water, education, jobs/economy, healthcare, environment, and public safety. These advisory councils would have 3 or 4 COG Council Members and a number of outside stakeholders. As an example, the education advisory council could have members from the County Superintendent of Schools, local school board members, local business leaders interested in education, school foundation members, and school and college administrators. This is just an example and is not a definitive list. The membership of the Countywide Vision element groups would be a source for identifying advisory council members, as would the input from our SANBAG Board Members and the City/County Manager's Technical Advisory Committee.

The advisory councils would be the point of contact between the COG Council and the groups working in the community on a particular subject area. Much of the actual work on programs will take place outside of the COG. In those cases, the COG can be the focus to coordinate communication and cooperation. Vision element programs, though specific to a certain subject area like education or healthcare, have community-wide implications. It is in the COG advisory councils that these community-wide implications are discussed, the areas of necessary cooperation are planned, and the means to communicate to the broader community the action that is required.

The COG Council and its advisory councils would be organized as follows:



In practice, the full COG Council may not need to meet every month. However, it is expected that at least some of the advisory councils would meet each month to coordinate their work. There would always be a connection back from the COG Council to the full SANBAG Board. Any funding decisions for the COG Council would have to go through the full SANBAG Board. Also the COG Council would report back to the full SANBAG Board periodically and as identified by COG Council Members.

Staff support for the COG Council would be coordinated through the Director of Management Services and would involve his staff and staff from other SANBAG Departments as required. In addition, short term contract staff could be added to help provide staff assistance during this start-up period. The funding for this staff support would be available for no more than two years and would have to be replaced by other funding beyond the first two years.

There are a number of items that the COG Council will continue from SANBAG's current work program. There are also a number of action items from the Countywide Vision that can become immediate work program items for the COG. These work program items include:

- Property Assessed Clean Energy Program
- Regional Joint Solar Power Purchase Agreements
- Energy Leadership Program
- Regional Greenhouse Gas Inventory and Reduction Plan
- Education Vision Element – Cradle to Career Initiative
- Jobs/Economy Vision Element – Establish our County as a business friendly model
- Water Vision Element – Countywide water inventory and plan for sharing water resources and meeting future need

SANBAG staff feels that this arrangement will allow SANBAG as a COG to proceed with important regional tasks with a limited budget. During the next two years, the SANBAG Board can evaluate the work program and the structure and give additional direction to staff to help the COG better meet their needs.

Financial Impact: This item has no direct financial impact and is consistent with the adopted SANBAG budget. Additional actions in the future regarding COG programs may have financial impacts and will be brought to the Board of Directors for review and action at the appropriate time. An example would involve programming LTF Planning funds during the first two years of this COG initiative. If that becomes necessary, then a separate item will be brought to the Board. It should be noted that diverting LTF Planning funds will make those funds unavailable for future projects.

Reviewed By: This item has not received prior policy or technical advisory committee review.

Responsible Staff: Duane A. Baker, Director of Management Services

AGENCY REPORTS

South Coast
Air Quality Management District
21865 Copley Drive, Diamond Bar, CA 91765-4178
(909) 396-2000 • www.aqmd.gov

Members of the Governing Board:

Chairman
Dr. William A. Burke
Speaker of the Assembly
Appointee

Vice Chairman
Dennis R. Yates
Mayor, Chino
Cities of San Bernardino County

Michael D. Antonovich
Supervisor
County of Los Angeles

John J. Benoit
Supervisor, Fourth District
County of Riverside

Michael A. Cacciotti
Mayor, South Pasadena
Cities of Los Angeles County/
Eastern Region

Josie Gonzales
Supervisor, Fifth District
County of San Bernardino

Ronald O. Loveridge
Mayor, Riverside
Cities of Riverside County

Joseph K. Lyou, Ph.D.
Governor's Appointee

Judith Mitchell
Councilmember, Rolling Hills Estates
Cities of Los Angeles County/
Western Region

Shawn Nelson
Supervisor, Fourth District
County of Orange

Dr. Clark E. Parker, Sr.
Senate Rules Appointee

Jan Perry
Councilmember, 9th District
City of Los Angeles Representative

Miguel A. Pulido
Mayor, Santa Ana
Cities of Orange County

September 12, 2012

To: Mayors and Councilmembers

From: Dennis R. Yates, Mayor/City of Chino
Vice Chairman, South Coast AQMD Governing Board
Representative, Cities of San Bernardino County

Attached is the agenda item and outcome of the September 7, 2012 AQMD Governing Board meeting.

PUBLIC HEARING ITEM AT THE SEPTEMBER 7, 2012 BOARD MEETING

Amend Rule 1110.2 – Emissions from Gaseous- and Liquid-Fueled Engines
(Continued from the July 13, 2012 Board Meeting.)

Consistent with staff's Technology Assessment findings, the proposed amendments would re-establish the previously adopted emission limits for biogas-powered internal combustion engines. The proposed amendment would provide additional time for compliance, a compliance option for a longer averaging time for engines with superior performance in achieving lower mass emissions, a compliance option that further extends the effective dates for certain engines in exchange for a compliance flexibility fee, and include other clarifications. This action is to adopt the resolution: 1) Receiving and filing the Technology Assessment Report; 2) Certifying the CEQA Addendum to the 2008 Environmental Assessment; and 3) Amending Rule 1110.2.

VOTES: 8 Yes, 1 No; 1 Abstain; 3 Absent

PUBLIC HEARING ITEM SCHEDULED FOR THE OCTOBER 5, 2012 BOARD MEETING

No hearing items scheduled for the October 5th Board meeting.

Also attached, for your information, is the *AQMD Advisor* for September.

ADDITIONAL INFORMATION

SANBAG Representatives on SCAG Committees

APPOINTING/ELECTING AUTHORITY	REGIONAL COUNCIL (12:00 noon)	POLICY COMMITTEES (Regional Council Members Serve on One Each) (Subregional Appointments) (County Commissions Appoint One to TC) (10:00 a.m.)		
		Community, Economic, and Human Development	Energy and Environment	Transportation
District 6 (Grand Terrace, Colton, Loma Linda, Redlands, Yucaipa)	J. Harrison	J. Harrison		
District 7 (San Bernardino, Highland)	L. McCallon	L. McCallon		
District 8 (Rialto, Fontana)	D. Robertson	D. Robertson		
District 9 (Rancho Cucamonga, Upland, Montclair)	P. Eaton			P. Eaton
District 10 (Chino, Chino Hills, Ontario)	E. Graham		E. Graham	
District 11 (Barstow, Big Bear, Needles, Twentynine Palms, Yucca Valley)	B. Jahn	B. Jahn		
District 65 (Adelanto, Apple Valley, Hesperia, Victorville)	G. Coleman	G. Coleman		
San Bernardino County	G. Ovitt			G. Ovitt
SANBAG Acting as County Transportation Commission	A. Wapner			A. Wapner
SANBAG Subregional Appointees*		Julie McIntyre	Vacant (J. Williams)	R. McEachron
		Vacant (Mike Leonard)	Vacant (E. Scott)	Vacant (A. Wapner)
		Ray Musser		

*One appointee to each policy committee for a total of three appointees per subregion, plus one additional appointee for every SCAG District over three in the subregion. SANBAG has a total of seven subregional appointees to the policy committees.

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Rules of Appointment

1. SANBAG policy stipulates that all SANBAG appointees be SANBAG Board Members.
2. SCAG President appoints Regional Council members to Standing and Policy Committees.

Terms of Appointment

Terms of appointment are two years, commencing on adjournment of the annual General Assembly in May of each year. Even-numbered District representatives' terms expire in even-numbered years; odd-numbered District representatives expire in odd-numbered years.

Stipend Summary

SCAG Regional Council members receive a $120 stipend for attendance and travel to SCAG sponsored meetings. Regional Council members may also receive reimbursement for public transit expenses or a mileage reimbursement. Parking is validated at SCAG's downtown Los Angeles office for RC members. RC members are eligible to receive up to six (6) per diem stipends per month. Both RC members and Subregional Appointees, if eligible, may receive reimbursement ($150 + taxes) for lodging (please review SCAG rules before making expenditure). Subregional Appointees shall receive a $120 stipend for up to four Policy or Task Force meetings per month.

Meeting Information

The regular meetings of SCAG Regional Council and Policy Committees are on the 1st Thursday of each month at the SCAG offices located at 818 West 7th Street, 12th Floor in Los Angeles. Generally, the Policy Committee meetings start at 10 AM and Regional Council meetings start at 12:15 PM.

Policy Committees

Community, Economic, and Human Development: Provides policy recommendations to the Regional Council on subjects of housing, land use, resource, economic, community development, infrastructure, employment, and regional disaster preparedness issues. Reviews and recommends to the Planning Committee revisions to the Housing, Economy, Growth Management, Human Resources, and Finance Chapters of the Regional Comprehensive Plan and Guide.

Energy and Environment: Acts as the policy advisory committee to the Regional Council on environmental issues, including air and water, hazardous, solid waste management, natural resources conservation, and energy conservation Reviews the Environmental Impact Report of the Regional Comprehensive Plan and Guide. Provides recommendations to the Planning Committee on state and federal legislative proposals and administrative guidelines affecting environmental quality, resource conservation.

Transportation and Communications: Acts as the policy advisory committee to the Regional Council on all regional matters pertaining to the movement of goods and people on land, water, and air. Reviews and recommends to the Regional Council all major utility development plans. Addresses the location, size, or capacity, timing, and impact of facilities.

SANBAG Policy Committee Membership

COMMITTEE	PURPOSE	MEMBERSHIP	TERMS
Administrative Committee Membership consists of 12 SANBAG Board Members: SANBAG President, Vice President, and Immediate Past President 3 East Valley (2 City, 1 County) 3 West Valley (2 City, 1 County) 3 Mt/Desert (2 City, 1 County) City members shall be SANBAG Board Members elected by caucus of city SANBAG Board Members within the subarea. All Policy Committee Chairs are included in this policy committee. Note: Should the chairs of the Commuter Rail & Transit and either the Major Projects or Mountain/Desert committees all be from the East Valley, all from the West Valley, or all from the Mountain/Desert, additional members will be added to maintain geographical balance. Supervisors collectively select their representatives. The SANBAG Vice President shall serve as Chair of the Administrative Committee.	Makes recommendations to Board of Directors and: (1) Provides general policy oversight which spans the multiple program responsibilities of the organization and maintains the comprehensive organization integrity; (2) Provides policy direction with respect to administrative issues, policies, budget, finance, audit, and personnel issues for the organization; (3) Serves as policy review committee for any program area that lacks active policy committee oversight. Committee has authority to approve contracts in excess of $25,000 with notification to the Board of Directors.	Mike Leonard, Hesperia, Vice President (Chair) Janice Rutherford, Supervisor, President (Vice Chair) Larry McCallon, Highland, Past President <u>West Valley</u> L. Dennis Michael, Rancho Cucamonga Ed Graham, Chino Hills Gary Ovitt, Supervisor <u>East Valley</u> Pat Morris, San Bernardino (Chair - CRTC) Richard Riddell, Yucaipa (Chair – MPC) Neil Derry, Supervisor <u>Mountain/Desert</u> Julie McIntyre, Barstow (Chair - MDC) Jim Harris, Twentynine Palms Brad Mitzelfelt, Supervisor	6/30/2013 6/30/2013 6/30/2013 6/30/2013 6/30/2013 6/30/2013 6/30/2013 6/30/2013 6/30/2013 6/30/2013 6/30/2013 6/30/2013
Commuter Rail & Transit Committee Membership consists of 11 SANBAG Board Members: 9 Valley-members, two being Southern California Regional Rail Authority (SCRRA) primary (*) and two being SCRRA alternate (**) members. 2 Mountain/Desert Board Members who serve on the Board of a Mountain/Desert transit agency. SCRRA members and alternates serve concurrent with their term on the SCRRA Board of Directors as appointed by the SANBAG Board. Other members are appointed by the SANBAG President for 2-year terms.	Provides policy guidance and recommendations to the SANBAG Board of Directors and Southern California Regional Rail Authority (SCRRA) delegates with respect to commuter rail and transit service. * SCRRA Primary Member ** SCRRA Alternate Member	Pat Morris, San Bernardino* (Chair) Paul Eaton, Montclair* (Vice Chair) Pete Aguilar, Redlands Neil Derry, Supervisor Bill Jahn, Big Bear Lake Mike Leonard, Hesperia Larry McCallon, Highland** L. Dennis Michael, Rancho Cucamonga Ray Musser, Upland Richard Riddell, Yucaipa Alan Wapner, Ontario**	Indeterminate (6/30/2013) Indeterminate (6/30/2013) 12/31/2012 12/31/2012 12/31/2012 12/31/2012 Indeterminate 12/31/2012 12/31/2012 12/31/2012 Indeterminate

SANBAG Policy Committee Membership

COMMITTEE	PURPOSE	MEMBERSHIP	TERMS
Mountain/Desert Committee Membership consists of 11 SANBAG Board Members from each Mountain/Desert jurisdiction and County Supervisors representing the First, Second, and Third Districts.	Provides ongoing policy level oversight related to the full array of SANBAG responsibilities as they pertain specifically to the Mountain/Desert subregion. The Committee also meets as the Mountain/Desert Measure I Committee as it carries out responsibilities for Measure I Mountain/Desert Expenditure Plan.	Julie McIntyre, Barstow (Chair) Edward Paget, Needles (Vice Chair) Neil Derry, Supervisor Jim Harris, Twentynine Palms George Huntington, Yucca Valley Bill Jahn, Big Bear Lake Mike Leonard, Hesperia Ryan McEachron, Victorville Brad Mitzelfelt, Supervisor Rick Roelle, Apple Valley Janice Rutherford, Supervisor Cari Thomas, Adelanto	Indeterminate (6/30/2013) Indeterminate (6/30/2013) Indeterminate Indeterminate Indeterminate Indeterminate Indeterminate Indeterminate Indeterminate Indeterminate Indeterminate Indeterminate
Major Projects Committee Membership consists of 19 SANBAG Board Members from jurisdictions in the Valley and County Supervisors representing areas in the Valley.	Provides policy guidance and recommendations to the Board of Directors on issues related to the Measure I Major Projects in the Valley.	Richard Riddell, Yucaipa (Chair) Michael Tahan, Fontana (Vice Chair) Pete Aguilar, Redlands Neil Derry, Supervisor Paul Eaton, Montclair Josie Gonzales, Supervisor Ed Graham, Chino Hills Larry McCallon, Highland L. Dennis Michael, Rancho Cucamonga Patrick Morris, San Bernardino Ray Musser, Upland Gary Ovitt, Supervisor Rhodes "Dusty" Rigsby, Loma Linda Janice Rutherford, Supervisor Ed Scott, Rialto Walt Stanckiewitz, Grand Terrace Alan Wapner, Ontario Dennis Yates, Chino Sarah Zamora, Colton	Indeterminate (6/30/2013) Indeterminate (6/30/2013) Indeterminate Indeterminate Indeterminate Indeterminate Indeterminate Indeterminate Indeterminate Indeterminate Indeterminate Indeterminate Indeterminate Indeterminate Indeterminate Indeterminate Indeterminate Indeterminate Indeterminate

Policy Committee Meeting Times

Administrative Committee	Second Wednesday, 9:00 a.m., SANBAG Offices
Commuter Rail & Transit Committee	Third Thursday, 12:00 noon, SANBAG Offices
Major Projects Committee	Second Thursday following the SANBAG Board meeting, 9:00 a.m., SANBAG Offices
Mountain/Desert Committee	Third Friday, 9:00 a.m., Apple Valley

NOTE: Policy Committee meetings will not be held in July of each year (effective 9/5/12).

SANBAG Ad Hoc Committees

COMMITTEE	PURPOSE	MEMBERSHIP
Audit Subcommittee of the Administrative Committee In November 2008, the Board approved the creation of an Audit Subcommittee of the Administrative Committee to strengthen the financial oversight function of the Board. Additional SANBAG Board Members may be appointed annually at the discretion of the Board President.	The responsibilities of the Audit Subcommittee shall be to: • Provide a direct contact between the independent auditor and the Board of Directors before, during and after the annual audit. • Work with the auditor and SANBAG staff on reviewing and implementing practices and controls identified in the annual audit.	Audit Subcommittee (for FY 2011-2012 Audit) - SANBAG President – Janice Rutherford, Supervisor - Vice President – Mike Leonard, Hesperia - Immediate Past President – Larry McCallon, Highland - Presidential Appointment – Walt Stanckiewitz, Grand Terrace
Ad Hoc Committee on Litigation with San Bernardino County Flood Control District In January 2007, the SANBAG President was authorized to appoint an ad hoc review committee of SANBAG Board Members who do not represent local jurisdictions party to the San Bernardino County Flood Control District vs. SANBAG litigation relative to the Colonies Development. In April 2008, the role of this committee was expanded to include the Cactus Basin litigation.	Reviews and provides guidance on litigation with San Bernardino County Flood Control District regarding the Colonies Development and the Cactus Basin in Rialto.	Pat Morris, San Bernardino, Chair Richard Riddell, Yucaipa Larry McCallon, Highland
Contracting Process In July 2012, the SANBAG Board President appointed this ad hoc committee to strengthen SANBAG's procurement policies and procedures.	Reviews SANBAG's contracting policies and procedures and makes recommendations to improve them.	Michael Tahan, Fontana - Chair Dennis Yates, Chino Alan Wapner, Ontario Walt Stanckiewicz, Grand Terrace Julie McIntyre, Barstow
Bylaws In July 2012, the SANBAG Board President appointed this ad hoc committee to review SANBAG's bylaws and recommend changes to strengthen SANBAG's corporate governance	Reviews SANBAG's bylaws and make recommendations to the Board on any necessary changes.	Rhodes "Dusty" Rigsby, Loma Linda - Chair Pat Morris, San Bernardino Mike Leonard, Hesperia Larry McCallon, Highland
Budget Process In July 2012, the SANBAG Board President appointed this ad hoc committee to review SANBAG's budget preparation process and final budget document and make recommendations to help improve communication and transparency of SANBAG's budget to elected officials and the general public.	Reviews SANBAG's budget adoption process and final budget document and make recommendations on changes to improve the process and the final budget document to make them more useful and informative to Board Members and the public.	Pete Aguilar, Redlands - Chair Kevin Ryan - Principal Transportation Planner, City of Fontana Sam Racadio – Council Member, City of Highland Mike Podegracz, P.E. – City Manager, City of Hesperia

SANBAG Policy Committee Membership

SANBAG Technical Advisory Committees

COMMITTEE	PURPOSE	MEETING SCHEDULE
Transportation Technical Advisory Committee (TTAC) Committee membership consists of a primary staff representative of each SANBAG member agency designated by the City Manager or County Administrative Officer.	SANBAG's Transportation Technical Advisory Committee was formed by SANBAG management to provide input to SANBAG staff on technical transportation-related matters and formulation of transportation-related policy recommendations to the SANBAG Board of Directors. The TTAC is not a Brown Act committee.	Generally meets on the first Monday of each month at 1:30 PM, at SANBAG.
City/County Manager's Technical Advisory Committee (CCM TAC) The committee is made up of up to two representatives of the County Administrator's Office and the city manager or administrator from each city and town in the County.	SANBAG's City/County Manager's Technical Advisory Committee was established in the Joint Powers Authority that established SANBAG. The primary role of the committee is to provide a forum for the chief executives of SANBAG's member agencies to become informed about and discuss issues facing SANBAG. It also provides a forum for the discussion of items of mutual concern and a way to cooperate regionally in addressing those concerns. The CCM TAC is a Brown Act Committee.	Meets on the first Thursday of each month at 10:00 AM, at SANBAG.
Public and Specialized Transportation Advisory and Coordinating Council (PASTACC) Membership consists of 13 members appointed by the SANBAG Board of Directors 3 representing Public Transit Providers 1 representing County Dept. of Public Works 1 representing the Consolidated Transportation Services Agency 5 representing Social Service Providers	Subject to the Transportation Development Act (TDA) Section 99238 – establishes PASTACC's statutory responsibilities: (1)Review and make recommendations to SANBAG on annual Unmet Transit Needs, Federal Transit Administration and Measure I Program applications and reports. (2) Assist SANBAG in developing public outreach approach on updating the Coordinated Public Transit/Human Services Transportation Plan and disseminate information in reference to State law and recommendations as they relate to transit and specialized transit. (3) Monitor and make recommendations on Federal regulatory processes as they relate to transit and specialized transit. (4)Address any special issues of PASTACC voting and non-voting members. The PASTACC is a Brown Act committee.	Meets the second Tuesday every other even month at 10:00 AM, at SANBAG.
Planning and Development Technical Forum (PDTF) Committee membership consists of a primary staff representative of each SANBAG member agency designated by the City Manager or County Chief Executive Officer.	The SANBAG Planning and Development Technical Forum was formed by SANBAG management to provide an opportunity for interaction among planning and development representatives of member agencies on planning issues of multijurisdictional importance. The PDTF is not a Brown Act Committee.	Meets the 4th Wednesday of each month at 2:00 p.m. at the Depot (in the SCAG Office).

SANBAG Policy Committee Membership

SANBAG Technical Advisory Committees

COMMITTEE	PURPOSE	MEETING SCHEDULE
Project Development Teams	Project Development Teams (PDTs) are assembled for all major project development activities by SANBAG staff. Teams are generally composed of technical representatives from SANBAG, member jurisdictions appropriate to the project, Caltrans, and other major stakeholder entities that have significant involvement in the project. PDTs make recommendations related to approaches to project development, evaluation of alternatives, and technical solutions. PDTs meet on a regular basis throughout the project phase to review progress and to provide technical input required for project development. The PDTs are not Brown Act Committees.	Varies with the PDT, at SANBAG.

SANBAG Acronym List

This list provides information on acronyms commonly used by transportation planning professionals. This information is provided in an effort to assist SANBAG Board Members and partners as they participate in deliberations at SANBAG Board meetings. While a complete list of all acronyms which may arise at any given time is not possible, this list attempts to provide the most commonly-used terms. SANBAG staff makes every effort to minimize use of acronyms to ensure good communication and understanding of complex transportation processes.

AB	Assembly Bill
ACE	Alameda Corridor East
ACT	Association for Commuter Transportation
ADA	Americans with Disabilities Act
ADT	Average Daily Traffic
APTA	American Public Transportation Association
AQMP	Air Quality Management Plan
ARRA	American Recovery and Reinvestment Act
ATMIS	Advanced Transportation Management Information Systems
BAT	Barstow Area Transit
CALACT	California Association for Coordination Transportation
CALCOG	California Association of Councils of Governments
CALSAFE	California Committee for Service Authorities for Freeway Emergencies
CARB	California Air Resources Board
CEQA	California Environmental Quality Act
CMAQ	Congestion Mitigation and Air Quality
CMIA	Corridor Mobility Improvement Account
CMP	Congestion Management Program
CNG	Compressed Natural Gas
COG	Council of Governments
CPUC	California Public Utilities Commission
CSAC	California State Association of Counties
CTA	California Transit Association
CTC	California Transportation Commission
CTC	County Transportation Commission
CTP	Comprehensive Transportation Plan
DBE	Disadvantaged Business Enterprise
DEMO	Federal Demonstration Funds
DOT	Department of Transportation
EA	Environmental Assessment
E&D	Elderly and Disabled
E&H	Elderly and Handicapped
EIR	Environmental Impact Report (California)
EIS	Environmental Impact Statement (Federal)
EPA	Environmental Protection Agency
FHWA	Federal Highway Administration
FSP	Freeway Service Patrol
FRA	Federal Railroad Administration
FTA	Federal Transit Administration
FTIP	Federal Transportation Improvement Program
GFOA	Government Finance Officers Association
GIS	Geographic Information Systems
HOV	High-Occupancy Vehicle
ICTC	Interstate Clean Transportation Corridor
IEEP	Inland Empire Economic Partnership
ISTEA	Intermodal Surface Transportation Efficiency Act of 1991
IIP/ITIP	Interregional Transportation Improvement Program
ITS	Intelligent Transportation Systems
IVDA	Inland Valley Development Agency
JARC	Job Access Reverse Commute
LACMTA	Los Angeles County Metropolitan Transportation Authority
LNG	Liquefied Natural Gas
LTF	Local Transportation Funds

MAGLEV	Magnetic Levitation
MARTA	Mountain Area Regional Transportation Authority
MBTA	Morongo Basin Transit Authority
MDAB	Mojave Desert Air Basin
MDAQMD	Mojave Desert Air Quality Management District
MOU	Memorandum of Understanding
MPO	Metropolitan Planning Organization
MSRC	Mobile Source Air Pollution Reduction Review Committee
NAT	Needles Area Transit
NEPA	National Environmental Policy Act
OA	Obligation Authority
OCTA	Orange County Transportation Authority
PA&ED	Project Approval and Environmental Document
PASTACC	Public and Specialized Transportation Advisory and Coordinating Council
PDT	Project Development Team
PNRS	Projects of National and Regional Significance
PPM	Planning, Programming and Monitoring Funds
PSE	Plans, Specifications and Estimates
PSR	Project Study Report
PTA	Public Transportation Account
PTC	Positive Train Control
PTMISEA	Public Transportation Modernization, Improvement and Service Enhancement Account
RCTC	Riverside County Transportation Commission
RDA	Redevelopment Agency
RFP	Request for Proposal
RIP	Regional Improvement Program
RSTIS	Regionally Significant Transportation Investment Study
RTIP	Regional Transportation Improvement Program
RTP	Regional Transportation Plan
RTPA	Regional Transportation Planning Agencies
SB	Senate Bill
SAFE	Service Authority for Freeway Emergencies
SAFETEA-LU	Safe Accountable Flexible Efficient Transportation Equity Act – A Legacy for Users
SCAB	South Coast Air Basin
SCAG	Southern California Association of Governments
SCAQMD	South Coast Air Quality Management District
SCRRA	Southern California Regional Rail Authority
SHA	State Highway Account
SHOPP	State Highway Operations and Protection Program
SOV	Single-Occupant Vehicle
SRTP	Short Range Transit Plan
STAF	State Transit Assistance Funds
STIP	State Transportation Improvement Program
STP	Surface Transportation Program
TAC	Technical Advisory Committee
TCIF	Trade Corridor Improvement Fund
TCM	Transportation Control Measure
TCRP	Traffic Congestion Relief Program
TDA	Transportation Development Act
TEA	Transportation Enhancement Activities
TEA-21	Transportation Equity Act for the 21st Century
TMC	Transportation Management Center
TMEE	Traffic Management and Environmental Enhancement
TSM	Transportation Systems Management
TSSDRA	Transit System Safety, Security and Disaster Response Account
USFWS	United States Fish and Wildlife Service
VCTC	Ventura County Transportation Commission
VVTA	Victor Valley Transit Authority
WRCOG	Western Riverside Council of Governments

San Bernardino Associated Governments

Governments
SANBAG
Working Together

MISSION STATEMENT

To enhance the quality of life for all residents, San Bernardino Associated Governments (SANBAG) will:

- Improve cooperative regional planning

- Develop an accessible, efficient, multi-modal transportation system

- Strengthen economic development efforts

- Exert leadership in creative problem solving

To successfully accomplish this mission, SANBAG will foster enhanced relationships among all of its stakeholders while adding to the value of local governments.

Approved June 2, 1993
Reaffirmed March 6, 1996