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

REVISED BACKUP MATERIAL AGENDA ITEM 24

Board of Directors Meeting

**November 7, 2012
10:30 am**

Location:

San Bernardino Associated Government
Santa Fe Depot – SANBAG Lobby 1st Floor
1170 W. 3rd Street
San Bernardino, CA

Discussion Calendar

24. 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 (RON) Nos. 13-030 and 13-031 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: R.J. & R. Industrial Properties (APNs 0160-241-56 and 0160-241-59) and Thomas Hayward (APNs 0160-241-57 and 0160-241-58).

The backup material for Agenda Item No. 24 is being revised to update pages 243, 244, 263, and 264 of the Board of Directors Meeting Agenda, regarding Resolutions of Necessity Nos. RES 13-030 and RES 13-031. These updates include a reference to the Board of Directors hearing that was held on October 3, 2012 in the recitals.

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 on October 3, 2012 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, on October 3, 2012 at the Hearing on the Intent of the Commission to Adopt a Resolution of Necessity, the matter was continued to November 7, 2012. A Notice of Continuance of Hearing Regarding Adoption of a Resolution of Necessity 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 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 November 7, 2012 at 10:30 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 November 7, 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**

The property described in the attached legal description and depicted on the attached map is for a nonexclusive, permanent surface access easement for the benefit of the adjacent property, Assessor Parcel Number 0160-241-57 and 0160-241-58, the Thermal Combustion Innovators/Tom Hayward Property.

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. This access easement shall not impede the access to the remainder property of Assessor Parcel Numbers 0160-241-56 and 0160-241-59, the R.J.&R. Industrial Property.

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 $00^{\circ}23'33''$ West 186.19 feet;

Thence parallel with the southerly line of said Parcel 1, North $89^{\circ}42'12''$ East 180.26 feet to the easterly line of said Parcel 2;

Thence along said easterly line, South $00^{\circ}23'55''$ East 40.00 feet to the northerly line of the southerly 5.00 feet of said Parcel 2;

Thence along said northerly line, South $89^{\circ}42'12''$ 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 $90^{\circ}00'00''$;

Thence South $00^{\circ}17'48''$ East 116.19 feet to the southerly line of said Parcel 1;

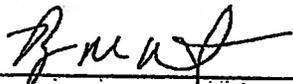
Thence along said Parcel 1, South $89^{\circ}42'12''$ West 21.02 feet to the **POINT OF BEGINNING**.

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.



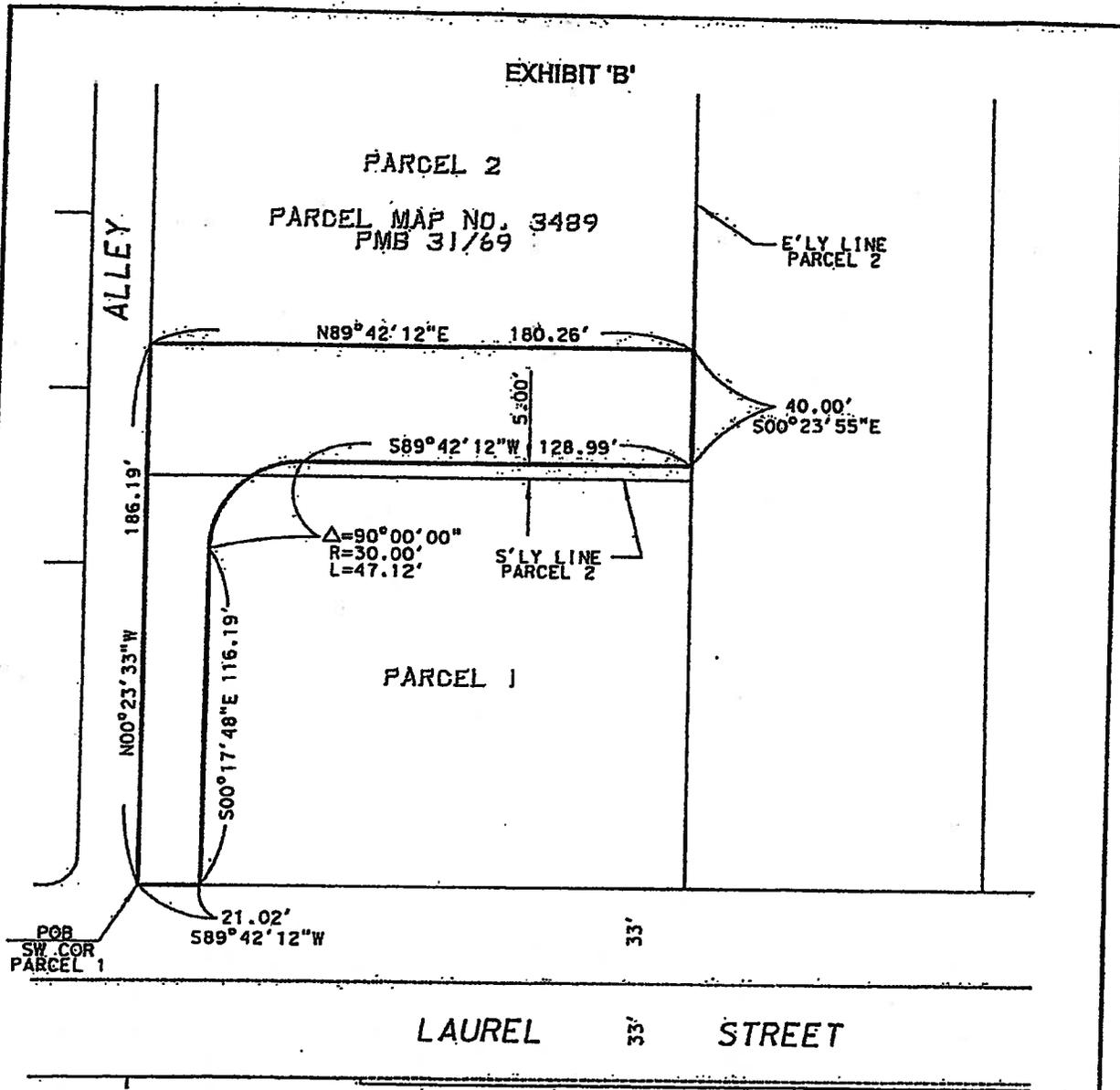
Ryan M. Versteeg, P.L.S. 7809

22-2012

Date



EXHIBIT B



LEGEND

- PROPERTY LINES
 - EASEMENT AREA
 - POINT OF BEGINNING
 - AREA
- 10,495± SQUARE FEET



DAVID EVANS AND ASSOCIATES INC.
 4200 Concourse, Suite 200
 Ontario California 91764
 Phone: 909.481.5750

EXHIBIT 'B'		COUNTY: SAN BERNARDINO	CITY: COLTON	CHECKED BY: RMVE
JOB NO.: TRAN0000-0004		ACCESS EASEMENT		
SHEET: 1	TOTAL: 1	AP# 0160-241-58, 0160-241-59		DRAWN BY: KXG
				DATE: 01/24/12
				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 $00^{\circ}23'33''$ West 4.83 from from the southwesterly corner of said Parcel 1;

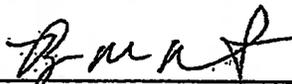
Thence North $89^{\circ}35'20''$ East 180.28 feet to a POINT OF TERMINUS on the easterly line of said Parcel 1, lying distant thereon North $00^{\circ}23'55''$ West 5.19 feet from the southeasterly corner of said Parcel 1.

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.

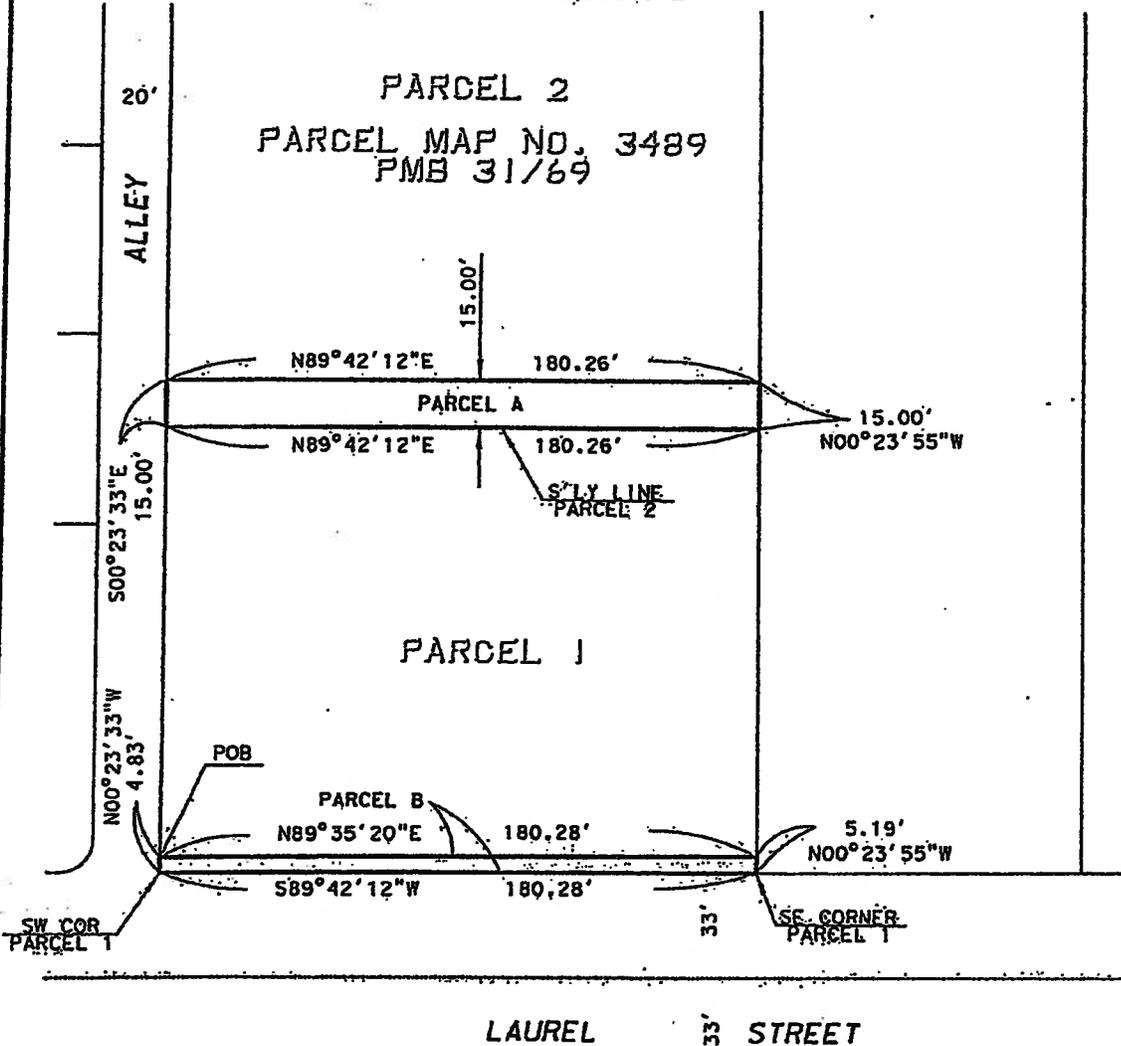


Ryan M. Versteeg, P.L.S. 7809

1-26-2012
Date

EXHIBIT D

EXHIBIT 'B'



LEGEND

-  PROPERTY LINES
-  EASEMENT AREA
-  POINT OF BEGINNING
-  3,606± SQUARE FEET



DAVID EVANS AND ASSOCIATES INC.
 4200 Concourse, Suite 200
 Ontario California 91764
 Phone: 909.481.5750

EXHIBIT 'B'		COUNTRY: SAN BERNARDINO	CITY: COLTON	CHECKED BY: RMVE
		PUBLIC UTILITIES EASEMENT		DRAWN BY: KXG
JOB NO.: TRAN0000-0004		APNs: 0160-241-58, 0160-241-59		DATE: 01/24/12
SHEET: 1	TOTAL: 1			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 $00^{\circ}23'33''$ West 191.19 feet;

Thence parallel with the southerly line of said Parcel 1, North $89^{\circ}42'12''$ East 106.14 feet;

Thence North $00^{\circ}17'48''$ West 19.82 feet;

Thence North $89^{\circ}36'05''$ East 5.63 feet;

Thence North $00^{\circ}23'55''$ West 10.45 feet;

Thence North $89^{\circ}36'05''$ East 68.45 feet to the easterly line of said Parcel 2;

Thence along said easterly line, South $00^{\circ}23'55''$ East 80.41 feet to the southeasterly corner of said Parcel 2;

Thence along the southerly line of said Parcel 2, South $89^{\circ}42'12''$ 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 $90^{\circ}00'00''$;

Thence South $00^{\circ}17'48''$ East 91.19 feet;

Thence parallel with the southerly line of said Parcel 1, North $89^{\circ}42'12''$ East 52.48 feet;

Thence South $00^{\circ}24'39''$ East 20.02 feet;

Thence North $89^{\circ}35'20''$ East 101.73 feet to the easterly line of said Parcel 1;

Thence along said easterly line, South $00^{\circ}23'55''$ East 5.19 feet to the southeasterly corner of said Parcel 1;

Thence along the southerly line of said Parcel 1, South $89^{\circ}42'12''$ 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.



Ryan M. Versteeg, P.L.S. 7809

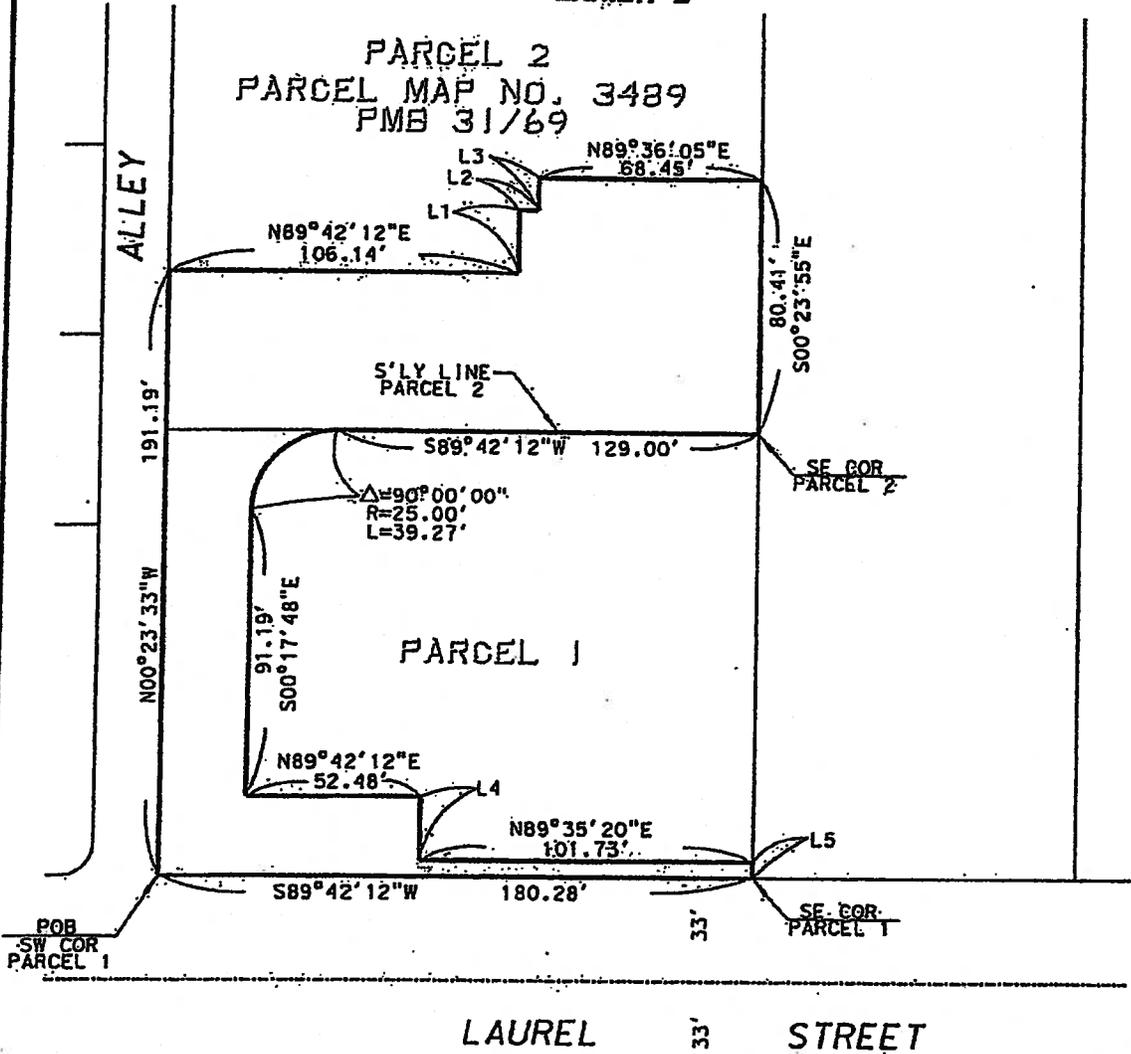
1-26-2012
Date



EXHIBIT F

EXHIBIT 'B'

PARCEL 2
 PARCEL MAP NO. 3489
 FMB 31/69



LEGEND

- PROPERTY LINES
- EASEMENT AREA
- POINT OF BEGINNING
- AREA 16,857± SQUARE FEET

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'



DAVID EVANS AND ASSOCIATES INC.
 4200 Concourse, Suite 200
 Ontario, California 91764
 Phone: 909.481.6750

EXHIBIT 'B'
 JOB NO: TRAN0000-0004
 SHEET 1 TOTAL 1

COUNTY: SAN BERNARDINO CITY: COLTON
 TEMPORARY CONSTRUCTION EASEMENT
 APN: 0160-241-36, 0160-241-59

CHECKED BY: RMVE
 DRAWN BY: KXG
 DATE: 01/24/12
 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 a 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 a 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 on October 3, 2012 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, on October 3, 2012 at the Hearing on the Intent of the Commission to Adopt a Resolution of Necessity, the matter was continued to November 7, 2012. A Notice of Continuance of Hearing Regarding Adoption of a Resolution of Necessity 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 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 November 7, 2012 at 10:30 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 November 7, 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.

Ryan M. Versteeg 1-26-2012
Ryan M. Versteeg, P.L.S. 7809 Date

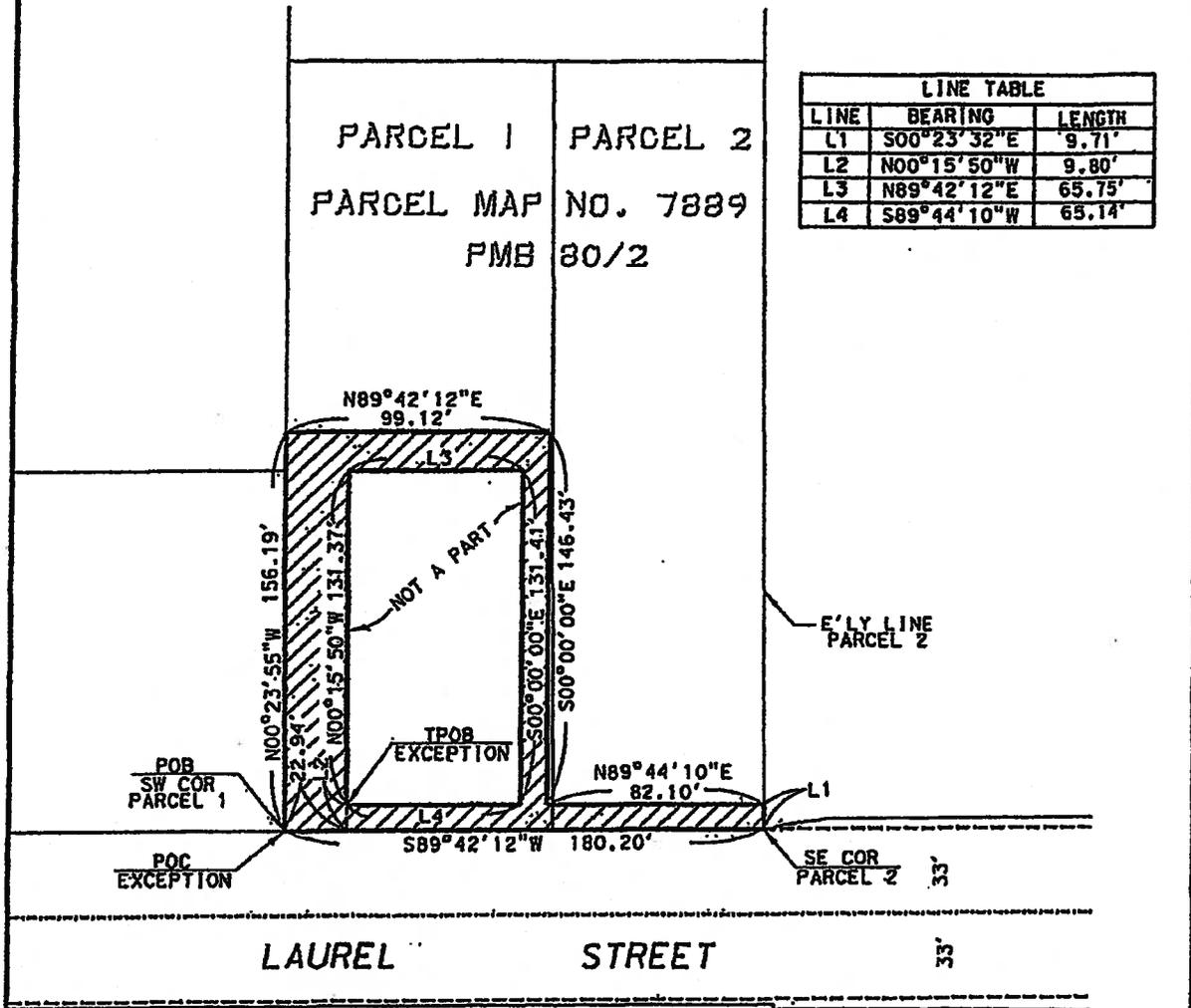


EXHIBIT B

EXHIBIT 'B'

PARCEL 1 PARCEL 2
 PARCEL MAP NO. 7889
 FMB 80/2

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



 <p>DAVID EVANS AND ASSOCIATES INC. 4200 Concourse, Suite 200 Ontario California 91764 Phone: 809.481.6760</p>	EXHIBIT 'B'		COURT SAN BERNARDINO	CITY COLTON	CHECKED BY RMAVE
	JOB NO: TRAN0000-0004		PUBLIC UTILITIES EASEMENT		
	SHEETS 1	TOTALS 1	APR 180-241-57, 180-241-58	DATE 01/25/12	
			SCALE 1"=50'		

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 $00^{\circ}23'55''$ West 191.19 feet;

Thence leaving said westerly line, North $89^{\circ}42'12''$ East 27.43 feet;

Thence South $00^{\circ}17'48''$ East 35.00 feet;

Thence North $89^{\circ}42'12''$ East 91.22 feet;

Thence South $00^{\circ}17'48''$ East 15.01 feet;

Thence South $89^{\circ}42'12''$ West 19.55 feet;

Thence South $00^{\circ}00'00''$ East 91.42 feet;

Thence North $89^{\circ}44'10''$ East 40.42 feet;

Thence South $00^{\circ}15'50''$ East 40.00 feet;

Thence North $89^{\circ}44'10''$ East 41.51 feet to the easterly line of said Parcel 2;

Thence along said easterly line South $00^{\circ}23'32''$ East 9.71 feet to the southeasterly corner of said Parcel 2;

Thence along the southerly lines of Parcel 2 and Parcel 1, South $89^{\circ}42'12''$ 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 $89^{\circ}42'12''$ East 22.94 feet;

Thence North $00^{\circ}15'50''$ West 9.80 feet to the **TRUE POINT OF BEGINNING**;

Thence North $00^{\circ}15'50''$ West 131.37 feet;

Thence North $89^{\circ}42'12''$ East 65.75 feet;

Thence South $00^{\circ}00'00''$ East 91.41 feet;

Thence South $89^{\circ}44'10''$ 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.



Ryan M. Versteeg, P.L.S. 7809

2-1-2012

Date

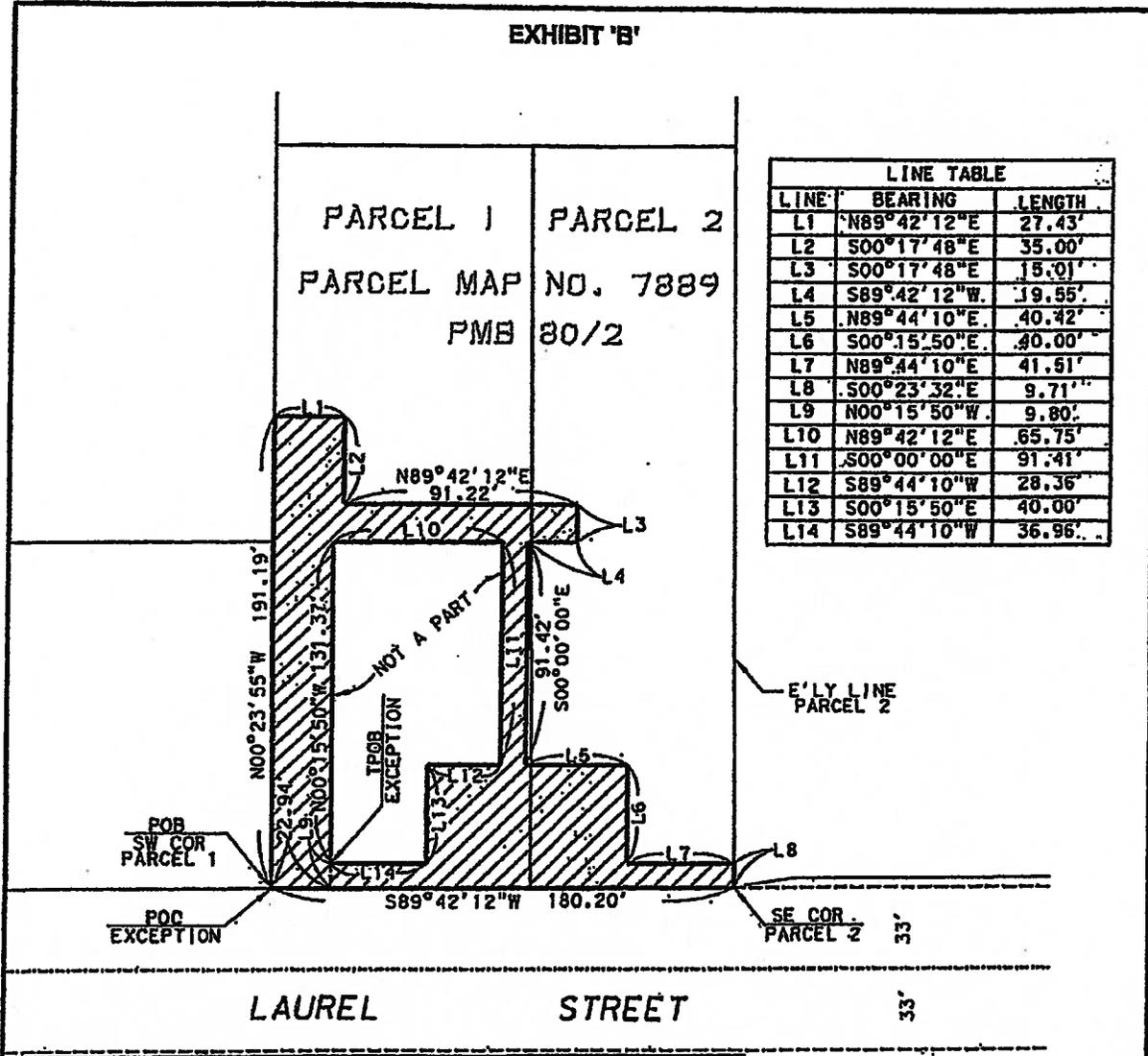


EXHIBIT D

EXHIBIT 'B'

PARCEL 1 PARCEL 2
 PARCEL MAP NO. 7889
 PMB 80/2

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



DAVID EVANS AND ASSOCIATES INC.
 4280 Concourse, Suite 200
 Ontario California 91764
 Phone: 909.481.6760

EXHIBIT 'B'		COUNTY: SAN BERNARDINO	CITY: COLTON	CHECKED BY: RMVE
		TEMPORARY CONSTRUCTION EASEMENT		
JOB NO.: TRAN0000-0004	DATE: 01/25/12	APR: 180-241-67, 180-241-68		SCALE: 1"=80'
SHEET: 1	TOTALS: 1			