State of California
DEPARTMENT OF TRANSPORTATION

Business, Transportation and Housing Agency

Memorandum

To: CHAIR AND COMMISSIONERS

CTC Meeting: November 6-7, 2002

Reference No.: 2.4a.(2)
Action Item

From: ROBERT L. GARCIA
Chief Financial Officer

Prepared by: Brice D. Paris
Division Chief
Right of Way

Ref: **APPEARANCE**

RECOMMENDATION:

The Department of Transportation recommends the California Transportation Commission adopt Resolution of Necessary C-18651, which is the subject of this Appearance. The summary below identifies the location of and designates the nature of the property rights covered by the Resolution of Necessity. In accordance with statutory requirements, the owners have been advised that the Department of Transportation is requesting a resolution at this time. Adoption of Resolution of Necessity C-18651 will assist the Department in the continuation of the orderly sequence of events required to meet construction schedules. See Concurrent item 2.4a.(3).

C-18651 - Tim J. Burgess
08-Riv-91-KP 34.54-Parcel 17721-1,2 - EA 334842 - Certification Date: 04/03 (Freeway Interchange Project) Authorizes condemnation of land in fee for a State highway, extinguishment of abutter's rights of access, and land in fee for a public use to be conveyed to the California Department of Forestry and Fire Protection, located in the city of Riverside at 2450 Mulberry Street.

Attachment

08-Riv-91-KP 34.54
E.A. 334842
R/W Parcel No. 17721-1,2
Grantor: TIM J. BURGESS

SUMMARY OF ISSUES

PROPERTY OWNERS CONCERNS

The property owner (Tim Burgess) has stated that he does not question the design, need, or necessity for that portion of his property needed for the freeway widening (Parcel 17721-1). However, his primary concern is the acquisition of Parcel 17721-2, and whether this parcel is really necessary for the mitigation of the California Department of Forestry (CDF) facilities which are also impacted by the proposed project.

Mr. Burgess is of the opinion that the State could use Holding Street, which is adjacent to the subject property, or other sites in the area to mitigate the CDF facilities.

As an alternative to the purchase of Parcel 17721-2 as mitigation for CDF facilities, the property owner has proposed that the State could use a portion of the property located just south of the CDF property. This property is located at 2626 Mulberry Street, and is also owned by Mr. Burgess. His proposal is for the State to use that portion of this property, which fronts Mulberry Street, as opposed the back boundary of the property, which abuts the freeway. This proposal would allow this property, as well as the subject property to retain their existing freeway frontage and visibility.

In addition, Mr. Burgess feels that since it is anticipated that CDF may eventually be moving their entire facility and operations to the former March Air Force Base (MAFB) within 3-5 years, there is no need for the State to actually purchase parcel 17721-2. Therefore, he is only willing to lease this parcel to the State. This way, when and if CDF moves to MAFB, he has a guarantee that he will get this portion of his property back and regain the freeway frontage his property now enjoys. Mr. Burgess is of the opinion that if the State purchases parcel 17721-2, in the after condition his remaining property will be damaged due to the loss of freeway frontage and visibility. These are issues of compensation and will not be considered by the California Transportation Commission (CTC).

DISTRICTS RESPONSE

As previously mentioned, parcel 17721-2 is required to mitigate project impacts to the CDF property located directly south and adjacent to the subject property. All efforts have been made to minimize the size of parcel 17721-2, and CDF has identified this parcel as the only reasonable and practical location for the relocation of their facilities that are impacted as a result of the proposed project. It has been determined by all agencies involved that this parcel is by far the most logical and economic alternative. The CDF property is located at 2524 Mulberry Street, Riverside, California. This is CDF's main Southern California facility and command center. The facility has a critical role in the

management of all emergency responses with CDF's Sierra South Region, statewide and nationally. The United States Forest Service coordinates its South Zone emergency response through the same facility. The State Office of Emergency Services, the State Fire Marshall, the National Weather Service and Department of General Services Telecommunications Division are also located at the facility. Approximately 100 people work at the facility during peak operations.

The CDF facility and associated operations must remain in continued and uninterrupted operation before, during, and after the State's proposed freeway improvement project. The facility must remain capable of controlling responses to fire, flood, earthquake, hazardous materials, and terrorism, throughout all of Southern California.

Relocation of only a part of the functions now delivered from the CDF site will dilute and/or destroy the Unity of Command and management structure that is currently in place. As such, it is imperative that the mitigation and relocation of the impacted facilities, be contiguous to the exiting CDF site in order to maintain the overall integrity of CDF operations, and the general welfare and safety of the public at large.

In anticipation of the State's project, the Department (Caltrans) and CDF entered into a Memorandum of Understanding dated February 5, 2002 for the functional replacement of the CDF land and improvements which are impacted by the proposed project.

As for the property owner's request for the State to use Holding Street as the area for mitigation of the CDF's facilities, the following was determined:

Holding Street is a 66' wide public roadway that separates the Burgess Property from the CDF property located directly to the south. Upon investigation, it was found that the Holding Street area is not adequate to support the mitigation requirements and relocation of the CDF facilities. In addition, if the City was to vacate Holding Street, the southern half of the street would revert to CDF as they have the underlying ownership. However, the northern half of Holding Street, which abuts the Burgess Property, is owned in fee by the City, and therefore would mostly likely be disposed of as land excess to their needs. Lastly, and most important, Holding Street is vital to the operations of the CDF facility. Holding Street not only provides ingress and egress to the CDF site during emergency response situations, it is also utilized as a central command area for any number of emergency response vehicles to gather prior to responding to calls throughout Southern California. Therefore, even if it were possible to relocate CDF facilities in Holding Street, this would undoubtedly interrupt the operations, and Unity of Command of the facility which is crucial during emergency response situations.

In response to the property owner's request for the State to use a portion of another property under his ownership, as mitigation for the CDF facilities: This property is located at 2626 Mulberry Street, adjacent to and south of the CDF property. Upon inspection of this site, the District Design staff as well as CDF personnel concluded that this is not a viable alternative. As proposed by Mr. Burgess, he feels that the portion of this property that fronts Mulberry Street would be a suitable location for CDF's facilities. However, given the location of existing buildings and site improvements, mitigation efforts here would impair access, parking, impact an existing loading dock for trucks, and

create truck circulation problems. Thus negatively affecting the current business operations on the site both during and after construction of the project.

Also, from the standpoint of CDF this alternative negatively affects the operations of their facility and creates added security risks. Through a cooperative agreement between CDF and the California Department of Corrections (CDC), inmate crews are brought to the CDF facility on a weekly basis. Each crew consists of 15-20 inmates who are utilized for certain emergency response situations, such as fire crews, along with various maintenance duties on the CDF property. These crews are bused to the back of the CDF property from Holding Street, where they are then unloaded and loaded. For the safety and security of the inmates as well as the public, these crews must be housed on site. This is a supervisory and custodial issue for the inmates and public safety. Therefore to relocate a portion of the CDF facilities to 2626 Mulberry Street, as proposed, would create line of site issues while monitoring the inmates, and require added security measures due to increased risks associated with transporting inmate crews to CDF facilities that are not located on-site.

The property owner also opposes the purchase of parcel 17721-2. His contention is that the CDF facilities will only be relocated and housed here temporarily, until their entire operation moves to March Air Force Base. Therefore, he is only willing to lease this portion of his property. While there are plans for CDF to eventually move their entire operation and facilities to March Air Force Base within 3-5 years, there is always the possibility this may not happen due to unforeseen factors, such as funding issues. The main issue here is that the property owner feels that damages, due to loss of freeway frontage and visibility will accrue to his remaining property if the State purchases parcel 17721-2. This is a compensation issue that is outside the purview of the California Transportation Commission.

However, it should be noted that the State through the Department of General Services is currently negotiating with the property owner to lease parcel 17721-2. The prospects for finalizing a mutually acceptable lease agreement within the near future are poor due to disagreements over the terms and value of the lease.

LESSEE (UNITED RENTALS) CONCERNS:

Counsel representing the lessee stated that their main concerns are due to impacts the State's project will have on the operations of their business. Their issues are truck traffic on Mulberry Street and truck turn around room within the existing yard. United Rentals is currently working with the City of Riverside to obtain a variance to setback requirements in order to relocated some fencing, along with obtaining the appropriate permits to gain another access point from the property, to Holding Street. All indications from the city are favorable, however final approval for these concessions has yet to be granted.

DISTRICTS RESPONSE:

The issues raised by the lessee are compensatory in nature and outside the purview of the California Transportation Commission.

Resolution of Necessity Appearance Fact Sheet

PROJECT DATA 08-RIV-60/91/215-R21.3/R21.5

Location: State Route 91 in the City of Riverside in Riverside County

Limits: 60-PM 11.5-13.7, 91- PM20.3-21.6, 215-R37.7-43.9

Contract Limits: 60-Main Street to Day Street, 91-University Ave to 60/91/215 Interchange, 215- Columbia Ave. to Eucalyptus Ave.

Cost: Construction--$237,765,000; R/W--$49,338,000.00

Funding Source: 2002-STIP, Grandfather STIP, ITIP, RTIP, CMAQ(RCTC), TCRP

Number of Lanes:
Existing: 6-Lanes both directions
Proposed: 9-Lanes both directions

Proposed Major Features:

Interchanges: Reconstruct 60/91/215 Interchange, Freeway Widening, construct new Interchange at Martin Luther King Jr. Blvd., construct new truck by-pass connector on southbound I-215, extend HOV lanes from University Ave. to the 60/215 Junction.

Other: None

Traffic:	Existing (1997):	150,000 Vehicles Per Day
	Proposed (2020):	250,000 Vehicles Per Day

PARCEL DATA

Property Owner:	Tim Burgess
Parcel Location:	At corner of Holding Street and Mulberry, west of freeway
Present Use:	Industrial, one tenant
Area of Property:	129,097 s.f.
Area Required:	Parcel 17721-1 16,516.6 S.F., Fee for Freeway improvement. Parcel 17721-2 23,060.4 S.F., Fee Replacement property for California Department of Forestry.

08-Riv-91-KP 34.54
E.A.: 334842
R/W Parcel No.: 17721-1,2
Grantor: TIM J. BURGESS

RESOLUTION OF NECESSITY REVIEW PANEL REPORT

The Resolution of Necessity Review Panel met on October 10, 2002 at the Right of Way offices in San Bernardino. The Panel was chaired by Mark Zgombic of Caltrans Headquarters Right of Way and included Panel members Linda Fong, Headquarters Design Division and Jacqui Rosen, Caltrans Legal Division. The property owner Mr. Tim J. Burgess, and Mr. William Warden, counsel representing the lessee, United Rentals were in attendance.

This report summarizes the findings of the Review Panel with regard to the four criteria required for a Resolution of Necessity and makes recommendation to the Chief Engineer.

NEED FOR THE PROJECT

The project will provide additional mainline capacity on Route 91 & I-215 between Moreno Valley and Riverside, thereby facilitating the movement of people and goods and improving operational efficiency and traffic safety. The affected cities along the routes have planned for the widening and construction of the freeway for many years.

PROJECT DESIGN

Upon completion, the 60/91/215 Interchange will be reconstructed in a manner that provides increased capacity as well as improved mobility. Two existing loop ramps will be replaced with direct freeway-to-freeway connectors. In addition, the HOV lanes will be extended approximately three miles on I-215 from University Avenue to the 60/215 junction. Mainline capacity on Route 91 and I-215 will be increased by the addition of one lane in each direction. A truck bypass connector ramp will be constructed on southbound I-215 to increase traffic flow up and through the Box Springs grade.

Interstate 215 / Route 91 will include five lanes in the westbound direction (four through lanes and one auxiliary lane) and four lanes in the eastbound direction, one new local street interchange and reconstruction of four local street interchanges. The main funding source is State and Federal Sources including TCRP funding as well as local CMAQ funding.

The Record of Decision for the Final Environmental Impact Report/Statement was issued by FHWA on March 1, 2002. The current construction cost is $237,765,000. The project is programmed in the 2002 STIP. The project is tentatively scheduled for advertisement in April 2003.

Construction is scheduled to begin in October 2003 and is anticipated to be open to traffic in October of 2006.

NEED FOR SUBJECT PROPERTY

The subject parcel is located at 2450 Mulberry Street, Riverside. The site is bounded by Spruce Street on the north, the 215/91 Freeway on the east, Holding Street and the California Department of Forestry (CDF) Property on the south, and Mulberry Street on the west. The larger parcel encompasses 129,097 square feet with a depth of approximately 489 linear feet. The parcel is an irregular rectangle, losing some shape to the cul-de-sac at the end of Holding Street, which is the other frontage street.

The parcel is improved with a "Class C" industrial wholesale warehouse structure and metal canopies that are not in the proposed take areas. The site is also improved with asphalt paving, lighting and perimeter chain link fencing.

The acquisition is needed for the improvement of the existing 60/91/215 interchange. Specifically, the parcel is affected by construction of the new freeway connector from the westbound 60 to the southbound 91. The project would result in acquisition of 39,577 square feet, from a total of 129,097 square feet.

The right of way requirements for this parcel are:

1. 17721-1, consisting of 16,516.6 square feet, which is required for the construction of the new south-west bound connector ramp.
2. 17721-2, consisting of 23,060.4 square feet, is needed to replace a portion of the CDF facility directly to the south of Holding Street.

The need to acquire the parcel in question is the result of a combination of factors:

Parcel 17721-1 is required for the construction of a new freeway connector from the westbound 60 to the southbound 91. Additionally, the parcel is required for the construction of the westbound entrance ramp to Route 91 at Spruce Street. Due to the geometrics of the connector ramp the impact to this parcel cannot be avoided.

Parcel 17721-2 is required for the mitigation of impacts to the California Department of Forestry's (CDF) main Southern California command center, located directly south of the subject property. The State's project requires the relocation of CDF's 75' high communications tower, Engineering/Mechanical Building and Exercise/Shower facility. The communications tower will be replaced onto the CDF site, and the Engineering/Mechanical Building along with the Exercise/Shower facility will be replaced onto parcel 17721-2. All efforts have been made to minimize the size of Parcel 17721-2. CDF has identified this parcel as the only reasonable and practical location for the relocation of their impacted facilities. It has been determined by all agencies involved that this parcel is by far the most economic alternative.

STATUTORY OFFER TO PURCHASE

The Department has appraised the subject property and offered the full amount of the appraisal to the owners of record. The owner is not satisfied with the offer and

negotiations are continuing. Issues as to compensation are outside the purview of the California Transportation Commission.

PANEL RECOMMENDATION

The Panel Concludes that the Department's design complies with Section 1245.230 of the Code of Civil Procedure in that:

- The public interest and necessity require the proposed project.
- The proposed project is planned or located in the manner that will be most compatible with the greatest public good and least private injury.
- The property to be condemned is necessary for the proposed project.
- An offer to purchase in compliance with Government Code Section 7267.2, has been made to the owners of record.

The Panel recommends submitting a Resolution of Necessity to the CTC.

MARK A. ZGOMBIC
Panel Chair

I concur with the Panel's recommendation:

BRENT FELKER
Chief Engineer

PERSONS ATTENDING SECOND LEVEL REVIEW PANEL HEARING ON OCTOBER 10, 2002

Mark A. Zgombic, Panel Chair
Jacqui Rosen, Atty., Panel Member
Linda Fong, Design Panel Member

Tim J. Burgess, Property Owner
William Warden, Lessees Attorney
Gary Cohoe, District 8 Project Management
Mark Lancaster, District 8 Design
Cliff Shieh, District 8 Project Management
Tad Teferi, Caltrans District 8
Luis Bentancourt, HQ Design
Dana Robie, Caltrans R/W Engineering
Wayne Harrold, HQ Right of Way

Vern Rhinehart, HQ Supervisor Right of Way
Terry Arias, Caltrans Right of Way Manager
George Pink, Supervisor Right of Way
Pati Smith, Caltrans Right of Way
Anthony Rizzi, Senior Right of Way
Mike Parker, Right of Way

Curt Karlin, California Department of Forestry
Peter Peisch, California Department of Forestry
Bob Green, California Department of Forestry
Lee Delap, California Department of Forestry

Reg Eden, Department of General Services

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CHRONOLOGY OF OFFICIAL CONTACTS AND EVENTS

Significant Dates:

10-26-2002	Public Hearing Date
03-01-2002	Environmental Document Approval
04-15-2003	Advertising Date
08-15-2003	Contract Award Date
10-31-2006	Project Completion Date

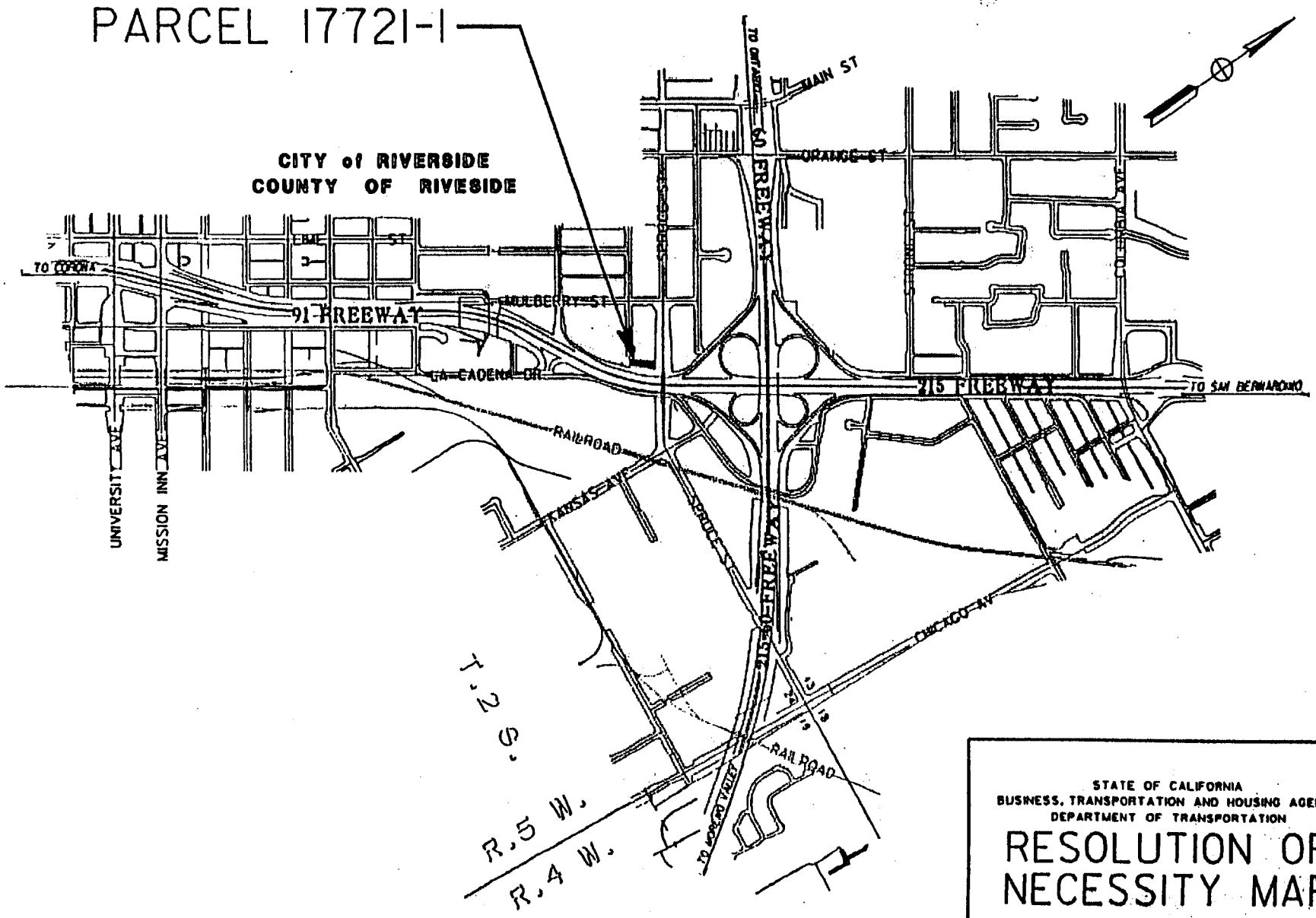
03-29-02	Agent, Mike Parker met with property owner and discussed project.
04-17-02	Mike Parker phoned property owner requesting copy of lease on the property.
04-18-02	Mike Parker received call from owner, who indicated that he would not provide copy of lease.
04-22-02	Mike Parker presented First Written Offer to owner.
04-29-02 to 6-13-02	Four telephone contacts with the property owner.
06-24-02	Preparation began for Resolution of Necessity Request.
07-09-02	Mike Parker met with property owner and representative for the lessee (United Rentals), discussed the project and provided Notices of Intent.
07-19-02	Mike Parker phoned lessee and requested copy of their lease, and called property owner to set up meeting to discuss the project.
07-24-02	Mike Parker, Anthony Rizzi, and George Pink met with owner to discuss project and status of negotiations.
07-30-02	Mike Parker scheduled First Level Review meeting with owner and lessee.
08-14-02	First Level Review Meeting held today.
08-21-02	Mark Lancaster and Vern Rhinehart met with owner to discuss the possibility of leasing parcel 17721-2.

09-03-02	Mike Parker phoned owner to confirm meeting set for 9-4-02.
09-04-02	Mike Parker, Anthony Rizzi, and George Carollo (DGS), met with owner and discussed a potential lease for parcel 17721-2.
10-01-02	Mike Parker and George Carollo (DGS) met with owner to look at and discuss comparable properties to determine a possible lease rate for parcel 17721-2.
10-03-02	Mike Parker left phone messages with the property owner and lessee to schedule Second Level Review Hearing for 10-10-02.
10-07-02	Mike Parker phoned owner regarding Second Level Hearing and followed up with a letter (via mail and fax) confirming the meeting date and time.
10-08-02	Mike Parker sent letter overnight mail and by fax to attorney for lessee. Said letter was to confirm the meeting to be held on 10-10-02.
10-10-02	Second Level Review Hearing held today with the property owner and the attorney representing the lessee.

DIST.	COUNTY	ROUTE	KILOMETER POST
08	Riv	91	34.54 KP

Caltrans Metric

EXHIBIT "A"



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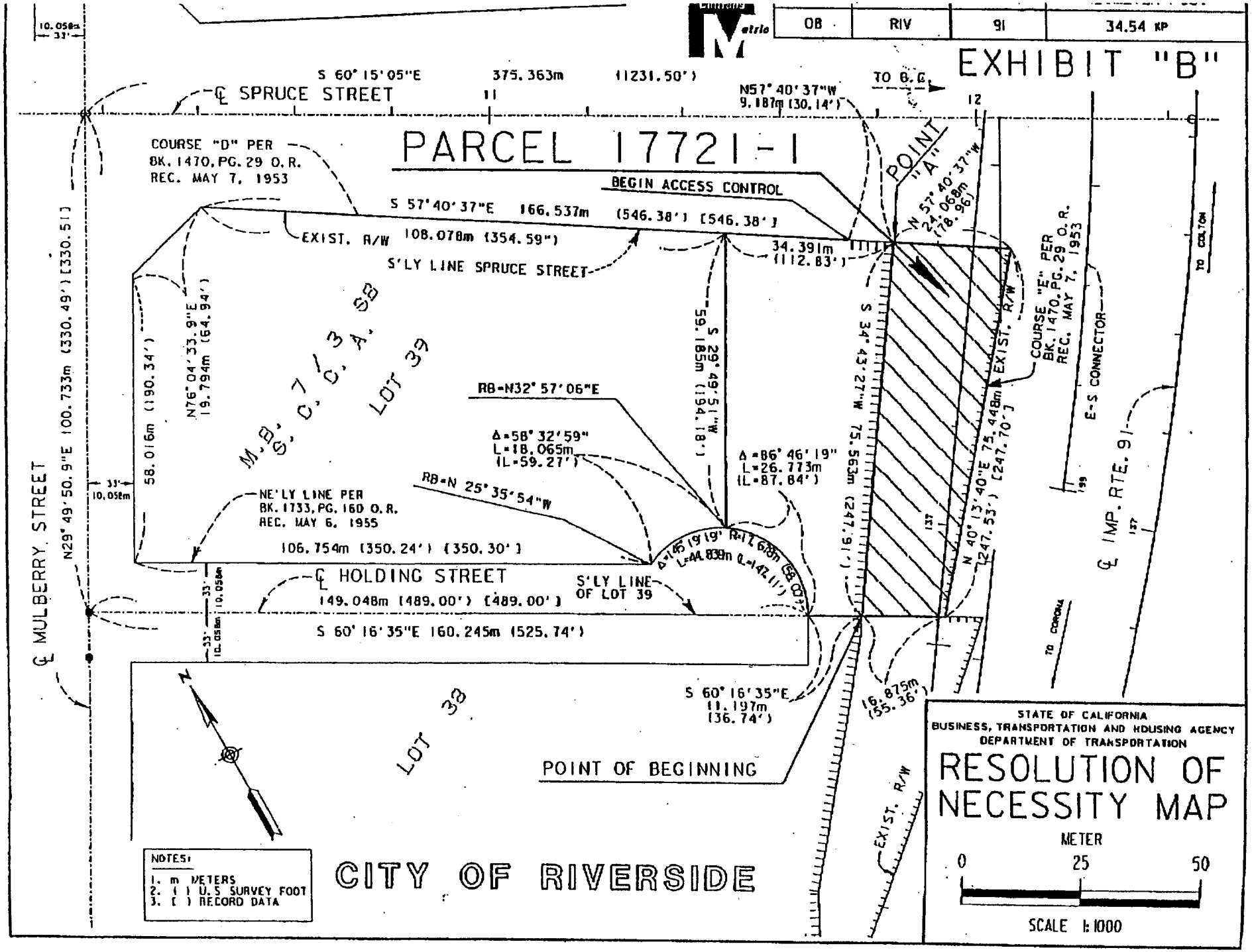
DEPARTMENT OF TRANSPORTATION

RESOLUTION OF NECESSITY MAP

NO SCALE


08 RIV 91 34.54 KP
EXHIBIT "B"
PARCEL 17721-1
℄ SPRUCE STREET
S 60° 15' 05"E 375.363m (1231.50')
N57° 40' 37"W 9.187m (30.14')
TO B.C.
POINT "A"
N 57° 40' 37"W 24.068m (78.96')
BEGIN ACCESS CONTROL
COURSE "D" PER BK. 1470, PG. 29 O.R. REC. MAY 7, 1953
S 57° 40' 37"E 166.537m (546.38') [546.38']
EXIST. R/W 108.078m (354.59")
S'LY LINE SPRUCE STREET
34.391m (112.83')
S 29° 49' 51"W 59.185m (194.18')
S 34° 43' 27"W 75.563m (247.91')
N76° 04' 33.9"E 19.794m (64.94')
58.016m (190.34')
M.B. 7/3 C.C.A. SB
LOT 39
RB=N32° 57' 06"E
Δ=58° 32' 59" L=18.065m (L=59.27')
Δ=86° 46' 19" L=26.773m (L=87.84')
RB=N 25° 35' 54"W
NE'LY LINE PER BK. 1733, PG. 160 O.R. REC. MAY 6, 1955
106.754m (350.24') (350.30')
Δ=45° 19' 19" R=17.678m L=44.839m (L=147.11')
℄ HOLDING STREET
149.048m (489.00') (489.00')
S'LY LINE OF LOT 39
S 60° 16' 35"E 160.245m (525.74')
℄ MULBERRY STREET
N29° 49' 50.9"E 100.733m (330.49') [330.51]
33' 10.058m
EXIST. R/W
COURSE "E" PER BK. 1470, PG. 29 O.R. REC. MAY 7, 1953
N 40° 13' 40"E 75.448m (247.53') [247.70']
E-S CONNECTOR
℄ IMP. RTE. 91
TO COLTON
TO CORONA
S 60° 16' 35"E 11.197m (36.74')
16.875m (55.36')
LOT 38
POINT OF BEGINNING
EXIST. R/W
CITY OF RIVERSIDE
NOTES:
1. m METERS
2. ( ) U.S SURVEY FOOT
3. [ ] RECORD DATA
STATE OF CALIFORNIA
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RESOLUTION OF NECESSITY MAP
METER
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SCALE 1:1000

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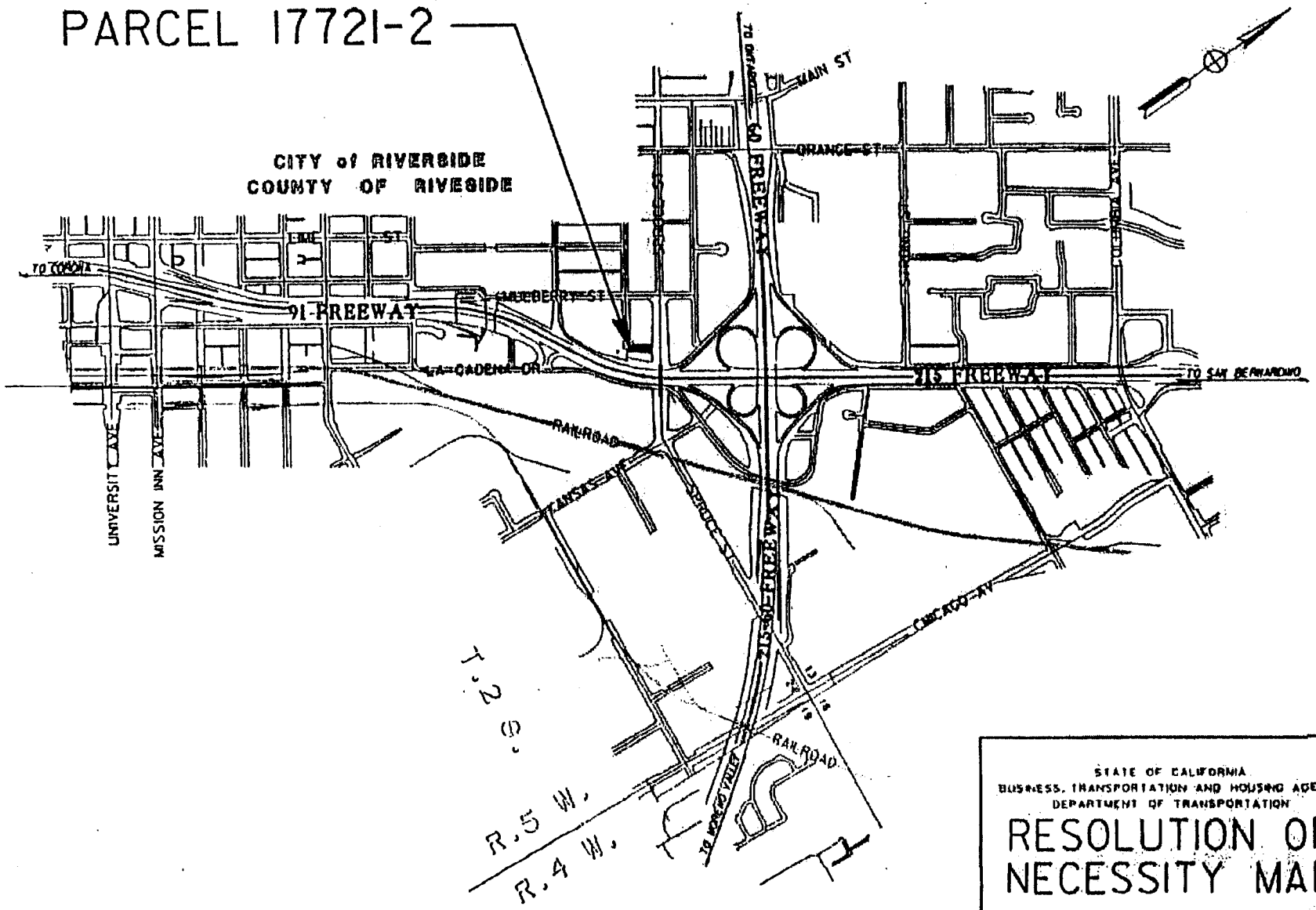
08	Riv	91	34.54 KP

Caltrans Metric

EXHIBIT "A"



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RESOLUTION OF NECESSITY MAP

NO SCALE

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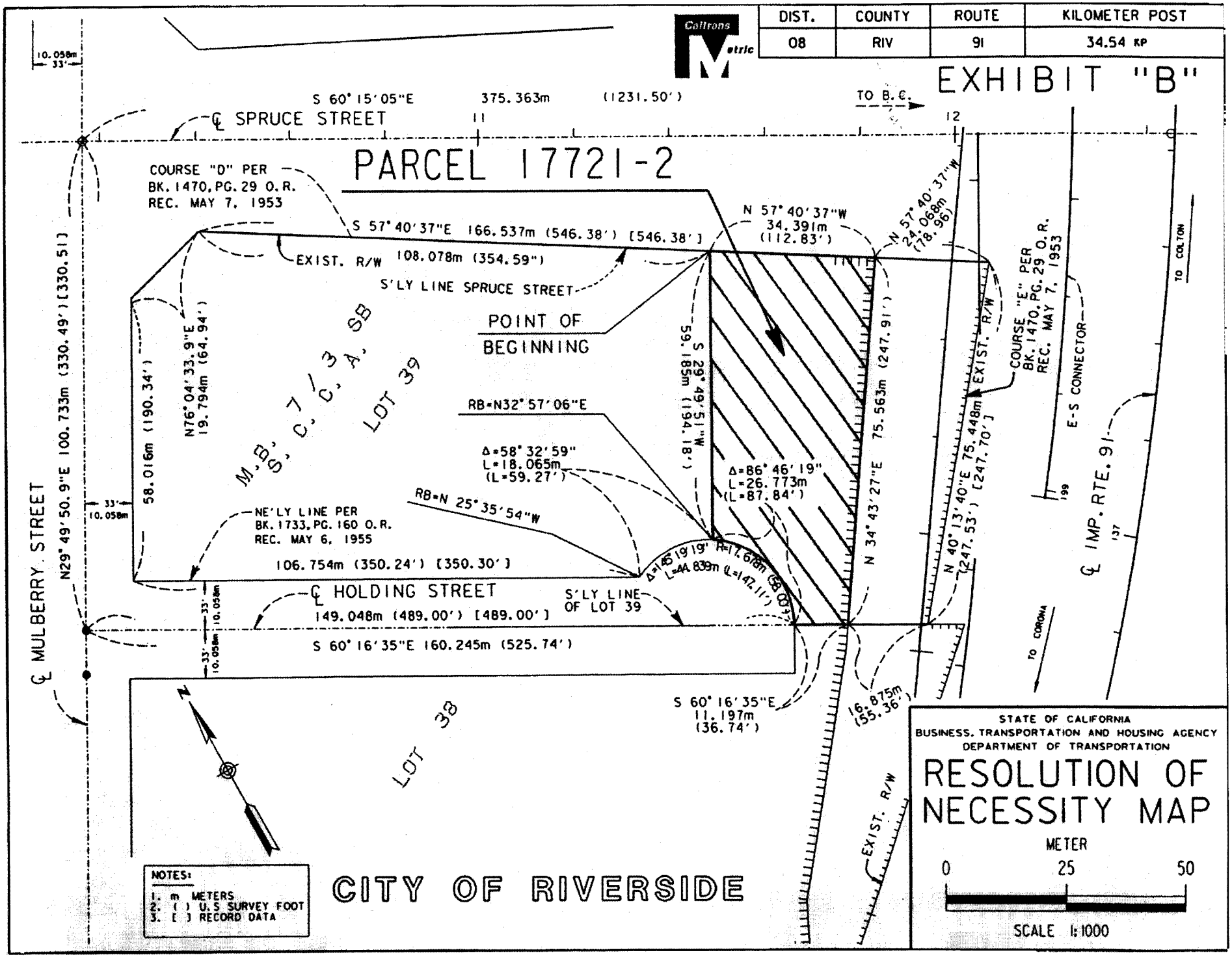
EXHIBIT "B"