

Memorandum

To: CHAIR AND COMMISSIONERS

CTC Meeting: December 13-14, 2006

Reference No.: 2.4a.(1)
Action Item

From: CINDY McKIM
Chief Financial Officer

Prepared by: Bimla G. Rhinehart
Chief
Division of Right of Way and
Land Surveys

Subject: **RESOLUTIONS OF NECESSITY - APPEARANCE**

RECOMMENDATION:

The Department of Transportation (Department) recommends the California Transportation Commission (Commission) adopt Resolution of Necessity C-19525 summarized on the following page.

ISSUE:

Prior to initiating Eminent Domain proceedings to acquire needed right of way for a programmed project, the Commission must first adopt a Resolution of Necessity (RON), stipulating specific findings identified under Section 1245.230 of the Code of Civil Procedure, which are:

1. The public interest and necessity require the project.
2. The project is planned to provide the greatest public good with the least private injury.
3. This property is required for the proposed project.
4. An offer to purchase the property in compliance with Government Code Section 7267.2 has been made to the owner of record.

In this case, the property owners are contesting the RON and have requested an appearance before the Commission to discuss the outstanding issues. The issues with the property owners are related to the design and timing of the project.

BACKGROUND:

Discussions have taken place with the owners, each of whom has been offered the full amount of the Department's appraisal and, where applicable, advised of any relocation assistance benefits to which the owners may subsequently be entitled. Adoption of the resolution will not interrupt our efforts to secure equitable settlement. In accordance with statutory requirements, each owner has been advised the Department is requesting the resolution at this time. Adoption will assist the Department in the continuation of the orderly sequence of events required to meet construction schedules.

C-19525 - Macy's California Realty, L.L.C., et al.

08-SBd-215-PM 5.37 - Parcel 18963-1, 2, 3, 4 - EA 007179.

Right of Way Certification Date: 10/02/06; Ready to List Date: 12/11/06. Freeway – widen and redesign Interstate 215. Authorizes condemnation of land in fee for a State highway, extinguishment of abutter's rights of access, a permanent easement for drainage purposes, a permanent easement for utility purposes to be conveyed to Southern California Edison, and a temporary easement for construction purposes. Located in the city of San Bernardino at 300 Inland Center Drive. Assessor's Parcel Number 0136-531-07.

Attachments

SUMMARY OF ISSUES

The property owners, Macy's California Realty, L.L.C., et al., through their representatives do not contest the need for the project. However, they have expressed concerns regarding impacts to their property as a result of the Department's proposed project.

The following is a description of the concerns expressed by representatives of the property owner, followed by the Department's response.

Owner:

Can the reconstruction of Ring Road be limited outside the normal shopping center operating hours?

Department Response:

Limiting the contractor to work outside normal shopping center hours would be impractical. This would require the Department's contractor to work nights only, which in turn dramatically increases the duration, quality, and cost of construction. Furthermore, the contractor's efficiency would be hindered and result in nighttime noise in the area. However, the Department did commit to have its contractor work outside the peak shopping season, which is from October 1st through January 31st. As such, special provisions have been placed in the bid package directing the contractor that construction activities occurring on the subject parcel shall take place only between February 1st through September 30th.

Owner:

Where will the Department's contractor begin construction?

Department Response:

In the early phases of the project, the reconstruction of Ring Road will occur first, along with construction of the northbound entrance ramp footings and retaining wall for Orange Show Road and the northbound exit ramp at Inland Center Drive. The contractor will ultimately determine the most efficient staging necessary to meet the construction requirements. However, all construction activities on the subject property shall take place during the off-peak shopping season between February 1st through September 30th.

Owner:

When will the temporary construction easement (TCE) (sub-parcel 18963-4) be needed?

Department Response:

The TCE is needed for reconstruction of Ring Road, construction of the new underground drainage facility, construction of the retaining wall, relocation of the existing Southern California Edison (SCE) facility, and to reconnect parking access roads. The TCE will be

needed for the duration of construction activities, which is estimated to last nine months. Although the exact date of construction is not known at this time, this work is anticipated to take place in the early phases of construction. Construction for the project is estimated to start in June of 2007.

Owner:

Will the proposed northbound Inland Center Drive exit ramp be at grade?

Department Response:

No, the northbound Inland Center Drive exit ramp will transition from the existing grade of Interstate 215 (I-215) mainline near Orange Show Road, to the easterly end of the new Inland Center Drive Bridge, with the height above the subject property varying from zero to approximately 25 feet.

Owner:

Will construction activities adjacent to the parking structure be completed by spring of 2008?

Department Response:

Based upon the contract stage construction plans, coupled with the owner's request for the Department's contractor to limit construction activities outside the peak shopping season, work will not be completed by spring of 2008. However, the Department anticipates construction activities to be completed by late 2008.

Owner:

Will asphalt pavement, lights, and parking lot striping be replaced?

Department Response:

Asphalt pavement will be replaced as part of the proposed construction. As for parking lot light standards and permanent re-striping of the parking lot, the Department included compensation in its offer to the owner for the relocation and replacement of these items. However, parking lot re-striping will be provided within the TCE on a temporary basis to facilitate on-site traffic circulation for shopping center patrons. Permanent parking lot re-striping will be left to the discretion of the property owner.

Owner:

What is the current planned duration of the freeway construction project?

Department Response:

The current planned duration of the freeway construction project is 600 working days or approximately 31 working months.

Owner:

During the duration of the construction contract, how long will it take to reconstruct the northern portion of Ring Road?

Department Response:

The duration of the work will be determined by the contractor's work schedule, which at this time is unknown. However, reconstruction of Ring Road is estimated to take six to nine months.

Owner:

During construction, will the Department construct a temporary Ring Road?

Department Response:

No, however, shopping center patrons will still have access to the subject property from three other northerly entrance/exits from Inland Center Drive along with two more from South "E" Street.

Owner:

Will the replacement SCE facility be underground?

Department Response:

The SCE facility will be underground with the exception of a single pole at the southern end of the property. This single above ground pole is necessary to continue the facility across the flood control channel to the south. The replacement easement for the underground SCE facility is partially located within the footprint of the reconstructed Ring Road to minimize additional impact on parking and vehicular circulation within the subject property. The SCE relocation work will begin prior to the highway contractor's construction activities and is anticipated to take approximately two months. To minimize disruption to the subject property, SCE relocation activities shall not take place during the peak shopping season (between October 1st and January 31st).

Owner:

What is the current Department schedule for the project?

Department Response:

The Department anticipates advertising the project in January 2007, have bid opening in mid April 2007, award the contract by May 2007, and start construction in June 2007.

Owner:

Has temporary parking during holiday shopping season (October 1st through January 31st) been identified?

Department Response:

Provisions in the contract documents will allow for some temporary parking striping to be established during the holiday shopping season, but this would be limited and conditional depending upon construction site conditions at the time. No parking, either temporary or permanent, will be allowed within the SCE easement.

Owner:

Will the highway contractor be expected to maintain a 24-hour work schedule for work impacting the subject property parking and circulation?

Department Response:

The normal daily work period for highway construction is 7:30 a.m. to 3:00 p.m. This provides for higher quality workmanship, safety, and lower construction costs. However, the highway contractor may independently choose to work outside this period for efficiency of operations.

Owner:

The owner expressed concerns that Department's project may affect their development agreement with the City of San Bernardino (City), primarily with respect to minimum parking and landscape buffer requirements established by said development agreement.

Department Response:

The Department has contacted the City regarding the landscape buffer requirements as they relate to the development agreement. The City has acknowledged that landscape buffer requirements on the perimeter of the subject property, i.e. adjacent to the proposed right of way, can be offset by aesthetic retaining wall treatment (palm trees and mountains) that will be included as part of the Department's project. The City is in the process of revising the existing development agreement with the property owner to document that the Department's aesthetic retaining wall treatment is a suitable replacement for existing landscape buffer requirements. Therefore, the Department's project will not alter any landscape buffer obligations required by the property owner under its development agreement with the City.

With regard to parking requirements and ratios established under the development agreement, if the Department's project results in a reduction in parking spaces, the City will not require the property owner to replace those lost spaces provided that the total number of spaces lost does not result in a reduction in the total number of parking spaces required under Chapter 19.24 of the Municipal Code. The property owner claims to have approximately 4,650 parking spaces for the entire Inland Center Mall (which includes the adjacent assessor's parcel number 0136-531-08). Per City parking standards, the minimum parking for the subject property as it exists today, requires approximately 4,000 parking spaces. As such, even if the Department did not mitigate for lost parking due to the project, per the development agreement, the City would not require the property owner to replace the lost spaces. The Department did include compensation in its offer to the property owner for the restoration of lost parking. These mitigation measures include the reconfiguration of onsite parking and the construction of an additional level on the existing parking structure. This is a compensation issue and outside the purview of the California Transportation Commission (Commission).

It should be noted that there is a 2.88 acre parcel, located adjacent to and on the northern property boundary of the subject parcel, that will become excess to the Department after

completion of the project. The Department is willing to exchange this parcel with the property owner to help mitigate for lost parking or landscaping buffer requirements. The property owners have expressed some interest in obtaining this excess parcel but have not made a firm commitment. The Department will continue discussions regarding the potential exchange of this excess parcel. Final approval of the sale or exchange of excess is subject to approval by the Commission.

Owner:

The owner expressed a concern that the distance between the proposed right of way and the parking structure in the after-condition may be too narrow to adequately and safely accommodate vehicular circulation including larger delivery trucks in this area when traveling on Ring Road.

Department Response:

The distance between the right of way line and the parking structure in the after-condition will be approximately 34 feet wide. The Department has verified that the design of Ring Road, specifically the distance between the right of way and the parking structure, meets fire department circulation requirements and is more than adequate to safely accommodate large vehicles and delivery trucks. Although the realigned Ring Road north of the parking structure is curved, it becomes tangent prior to the structure to allow adequate sight distance for vehicles approaching on Ring Road as well as those exiting the parking structure.

Owner:

The owner expressed concerns regarding the loss of parking due to the proposed project and how it will be replaced or mitigated. In addition, they feel that the Department's mitigation efforts did not account for planned future expansion of the subject property contemplated by the owners.

Department Response:

The proposed project will impact approximately 330 parking spaces. To mitigate for the loss of parking, the Department included compensation in its offer to the property owner for the restoration of lost parking. These mitigation measures include the reconfiguration of on-site parking to accommodate 80 spaces and the construction of an additional level on the existing parking structure for 260 spaces. As such, the Department provides mitigation measures for the restoration of 340 parking spaces, versus the 330 spaces that are impacted by the proposed project.

It should be noted that the property owners feel that the Department's mitigation plan to compensate for the construction of an additional level to their parking structure (the parking structure was originally designed to accommodate this additional level) was already contemplated to be used for their own future expansion plans and should not be used to mitigate parking impacts for the Department's project. They feel the Department needs to consider replacement of lost parking at another location on their property. The Department has verified with the City that the owner has not submitted any documentation to indicate any plans for future expansion of the mall. This is a compensation issue and outside the purview of the Commission.

Owner:

The owners had concerns that during construction activities for the exit ramp and bridge at Inland Center Drive and the entrance ramp at Orange Show Road, the traveling public would have difficulty getting to their property.

Department Response:

As with any major construction project, there will be some temporary inconvenience during construction. However, there will be alternate detour routes with signage established during construction to ensure that north and southbound traffic on I-215 can be directed to the subject property.

The reconstruction of the Inland Center Drive overcrossing will occur in two steps. The first step would be to widen the north and south side of the existing bridge and construct the northbound Inland Center Drive exit ramp. The second step would be to replace the remaining center portion of the existing bridge. During the first step, southbound traffic on I-215 would be detoured to "I" Street, left on Inland Center Drive, and across the bridge to get to the subject property. Northbound I-215 traffic would be detoured to "E" Street at the Orange Show Road interchange to gain access to the subject property. During the second step, northbound I-215 traffic will be able to utilize the new Inland Center Drive exit ramp to gain access to the subject property. Southbound I-215 traffic would continue to be detoured to "I" Street as explained above. At all times during reconstruction of the Inland Center Drive overcrossing, there will be at least one lane in each direction. As for reconstruction of the entrance ramp at Orange Show Road, construction activities will be phased in order to allow both north and southbound I-215 traffic to continue to utilize existing ramps.

Attachments

Resolution of Necessity Appearance Fact Sheet

PROJECT DATA 08-SBd-215-PM 2.86/6.46
Expenditure Authorization (EA) 007179

Location: Interstate 215 (I-215) in the city of San Bernardino in San Bernardino County

Limits: SBd I-215: PM 2.86-6.46; Orange Show Road to Rialto Avenue

Contract Limits: From Interstate 10 (I-10) to State Route 30 (SR 30)

Cost: Programmed construction cost: \$104,310,000
Current right of way cost estimate: \$37,460,000

Funding Source: HB5; STP, DEMO, RIP, TCRP, CMAQ, DEMO, Measure I

Number of Lanes: Existing (I-215): Three-Mixed-Flow Lanes in each direction
Proposed (I-215): Four-Mixed-Flow and One-High Occupancy Vehicle (HOV) Lane in each direction

Proposed Major Features: Reconstruct interchanges, construct new “braided” entrance and exit ramps, slip-entrance/exit ramps, freeway widening, and add HOV lane.

Traffic: Existing (year 2003): 96,000 Average Daily Traffic (ADT)
Proposed (year 2020): 144,000 ADT

PARCEL DATA

Property Owner: Macy’s California Realty, L.L.C., et al.

Parcel Location: 300 Inland Center Drive
East side of I-215 between Orange Show Road and Inland Center Drive in the city of San Bernardino, Assessor’s Parcel Number 0136-531-07

Present Use: Regional Commercial Shopping Center

Area of Property: 14.43 Acres

Area Required: Parcel 18963-1 = 1.83 acres in fee
Parcel 18963-2 = 0.41 acres in drainage easement
Parcel 18963-3 = 0.69 acres in utility easement
Parcel 18963-4 = 1.99 acres in temporary construction easement

RESOLUTION OF NECESSITY REVIEW PANEL REPORT

The Condemnation Review Panel (Panel) met at the district office in San Bernardino on September 13, 2006. The Panel members consisted of Donald Grebe, Department of Transportation (Department) Headquarters (HQ's) Division of Right of Way and Land Surveys; Eric Weisel, Department Los Angeles Legal Division; Linda Fong, Department HQ's Division of Design; and Mark Zgombic, Department HQ's Division of Right of Way and Land Surveys, Secretary to the Panel. Mr. Charles Deem, attorney for the property owner, and Skip Kuhn, Ellen Wacker, Stephen Logan, and Arun Parmar, representing the property owner, were all present at the meeting.

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

NEED FOR THE PROJECT

The project is identified as segment three of five project segments along the San Bernardino Interstate 215 (I-215) corridor. The project is needed to provide additional mainline capacity between Interstate 10 (I-10) near the city of Colton and State Route 30 (SR 30) in the city of San Bernardino, thereby facilitating the movement of people and goods, as well as improving operational efficiency and traffic safety. The affected cities along the routes have planned for the widening of the freeway for many years.

Because the surrounding areas of Riverside and San Bernardino are the fastest growing counties in the State, the existing congestion along this freeway segment is expected to worsen in the coming years due to increasing traffic demand.

PROJECT PLANNING AND LOCATION

This project, which was programmed and scheduled separately for construction under individual contracts, is the second of five project segments to undergo construction.

Segment three is located along I-215 in the city and county of San Bernardino and covers approximately 2.35 miles of high volume freeways that serve over 96,000 vehicles daily. Upon completion, the San Bernardino I-215 widening will provide increased capacity as well as improved mobility. The major elements of the project include mainline widening in each direction from three-mixed flow lanes to four-mixed flow lanes and one high occupancy vehicle (HOV) lane. Due to constrained spacing between the interchanges at Orange Show Road, Inland Center Drive, and Mill Street, various braided exit and entrance ramps, in both northbound and southbound directions, are proposed. Also included in the scope of work are various local street reconfigurations, construction of several retaining walls, widening of both the Warm Creek and Lytle Creek bridges, and replacement of the Inland Center Drive and Mill Street bridges.

The main funding sources to be used by the project are Measure I, State, and federal sources. The project is programmed in the STIP. The current estimated construction cost for this specific

project segment is \$104,310,000. The project is scheduled for advertisement in January 2007 and construction is anticipated to start in June 2007. The Record of Decision for the 1999 Final Environmental Impact Report/Statement was issued by the Federal Highway Administration on January 2, 2001.

NEED FOR SUBJECT PROPERTY

Due to the mainline widening of I-215, constrained spacing between the Orange Show Road and Inland Center Drive interchanges, and to improve the freeway level of service, the existing northbound tight-diamond entrance ramp at Orange Show Road and the exit ramp at Inland Center Drive from the I-215 freeway are being replaced with braided entrance and exit ramps. The realigned entrance ramp connecting Orange Show Road to the northbound mainline I-215 is braided with and over the realigned exit ramp from northbound mainline I-215, connecting to Inland Center Drive just west of the subject property. This braiding results in elevated portions of ramps crossing over each other.

This design necessitates the realignment of the Inland Center Drive exit ramp resulting in the need to acquire a portion of the subject property for the construction of retaining walls, concrete barriers, and drainage systems. It also results in the replacement of an existing easement in favor of Southern California Edison (SCE) for transmission lines, which will be replaced in a new SCE easement essentially within the Ring Road right of way along the western boundary of the subject parcel.

In an effort to minimize the amount of right of way needed from the subject parcel, the Department looked at other alternatives such as shifting the proposed corridor alignment further to the west, thereby avoiding the subject parcel. However, due to environmentally sensitive areas west of I-215 at this location, this alternative was not feasible. Therefore, to lessen project impacts to the subject parcel, a retaining wall up to 20 feet high and a concrete barrier will be constructed.

Alternatives to avoid any permanent right of way impacts to the subject parcel would have required either the Inland Center Drive northbound exit ramp or the Orange Show Road northbound onramp to be completely eliminated. This was not an acceptable alternative, as it would not meet level of service requirements needed for the future and would negatively impact local traffic circulation.

The right of way requirements for the subject parcel are as follows:

Parcel 18963-1: A fee acquisition of 1.83 acres along the westerly boundary of the subject property. This requirement is for the I-215 mainline widening and the construction of the new northbound Inland Center Drive offramp. Located within this area is an existing 15 foot wide SCE easement, an open drainage dike, asphalt paved Ring Road for access around the subject property, landscaping, fencing, curbing, and miscellaneous parking lot improvements.

Parcel 18963-2: A permanent drainage easement of 0.41 acres along the westerly boundary of the subject property for the construction and maintenance of an underground drainage facility that will house a 36-inch pipe. Located within this area are miscellaneous parking lot improvements. As part of the construction, this area will be asphalt paved and concrete curbed with a 6-foot high rail fence. Although, no permanent improvements can be constructed within this area, vehicular parking and interior roadways are allowed. This area will become part of the newly constructed Ring Road for vehicular traffic around the subject property.

Parcel 18963-3: A permanent utility easement of 0.69 acres along the westerly boundary of the subject property. This easement will be acquired and conveyed to SCE for the replacement of their existing easement impacted by the project. This easement is located adjacent to, and to the east of, the required drainage (parcel 18963-2). This easement is necessary to relocate and maintain the existing SCE facility. The existing SCE aerial transmission lines will be relocated underground with the exception of a single pole at the southern end of the property which is necessary to continue the facility across a flood control channel to the south. Located within this area are miscellaneous parking lot improvements. As part of the construction, this area will be asphalt paved and become part of the newly constructed Ring Road for vehicular traffic that is permitted within the easement area.

Parcel 18963-4: A temporary construction easement of 1.99 acres. This easement is necessary for access and grading during the construction of I-215, the relocation of Ring Road, reconnection of parking access roads, construction activities associated with the proposed retaining wall, drainage system, and relocation of the existing SCE facility.

Given the above, the need to acquire a portion of the subject property is necessitated primarily by the widening of I-215, the construction of the Orange Show Road northbound onramp, and the Inland Center Drive northbound exit ramp, which in turn requires the relocation of an existing drainage facility and SCE transmission line. The Department's design has taken into consideration the minimum highway design standards. The proposed right of way requirements have been reduced as much as possible to minimize impacts to the subject property, and the described impacts to the subject property cannot be avoided.

The following is a description of the concerns expressed by representatives of the property owner, followed by the Department's response:

Owner:

Can the reconstruction of Ring Road be limited outside the normal shopping center operating hours?

Department Response:

Limiting the contractor to work outside normal shopping center hours would be impractical. This would require the Department's contractor to work nights only, which in turn dramatically increases the duration, quality, and cost of construction. Furthermore, the contractor's efficiency would be hindered and result in nighttime noise in the area. However, the Department did commit to have its contractor work outside the peak shopping season, which is

from October 1st through January 31st. As such, special provisions have been placed in the bid package directing the contractor that construction activities occurring on the subject parcel shall take place only between February 1st through September 30th.

Owner:

Where will the Department's contractor begin construction?

Department Response:

In the early phases of the project, the reconstruction of Ring Road will occur first, along with construction of the northbound entrance ramp footings and retaining wall for Orange Show Road and the northbound exit ramp at Inland Center Drive. The contractor will ultimately determine the most efficient staging necessary to meet the construction requirements. However, all construction activities on the subject property shall take place during the off-peak shopping season between February 1st through September 30th.

Owner:

When will the temporary construction easement (sub-parcel 18963-4) be needed?

Department Response:

The temporary construction easement (TCE) is needed for reconstruction of Ring Road, construction of the new underground drainage facility, construction of the retaining wall, relocation of the existing SCE facility, and to reconnect parking access roads. The TCE will be needed for the duration of construction activities, which is estimated to last nine months. Although the exact date of construction is not known at this time, this work is anticipated to take place in the early phases of construction. Construction for the project is estimated to start in June of 2007.

Owner:

Will the proposed northbound Inland Center Drive exit ramp be at grade?

Department Response:

No, the northbound Inland Center Drive exit ramp will transition from the existing grade of I-215 mainline near Orange Show Road, to the easterly end of the new Inland Center Drive Bridge, with the height above the subject property varying from zero to approximately 25 feet.

Owner:

Will construction activities adjacent to the parking structure be completed by spring of 2008?

Department Response:

Based upon the contract stage construction plans, coupled with the owner's request for the Department's contractor to limit construction activities outside the peak shopping season, work will not be completed by spring of 2008. However, the Department anticipates construction activities to be completed by late 2008.

Owner:

Will asphalt pavement, lights, and parking lot striping be replaced?

Department Response:

Asphalt pavement will be replaced as part of the proposed construction. As for parking lot light standards and permanent re-striping of the parking lot, the Department included compensation in its offer to the owner for the relocation and replacement of these items. However, parking lot re-striping will be provided within the TCE on a temporary basis to facilitate on-site traffic circulation for shopping center patrons. Permanent parking lot re-striping will be left to the discretion of the property owner.

Owner:

What is the current planned duration of the freeway construction project?

Department Response:

The current planned duration of the freeway construction project is 600 working days or approximately 31 working months.

Owner:

During the duration of the construction contract, how long will it take to reconstruct the northern portion of Ring Road?

Department Response:

The duration of the work will be determined by the contractor's work schedule, which at this time is unknown. However, reconstruction of Ring Road is estimated to take six to nine months.

Owner:

During construction, will the Department construct a temporary Ring Road?

Department Response:

No, however, shopping center patrons will still have access to the subject property from three other northerly entrance/exits from Inland Center Drive along with two more from South "E" Street.

Owner:

Will the replacement SCE facility be underground?

Department Response:

The SCE facility will be underground with the exception of a single pole at the southern end of the property. This single above ground pole is necessary to continue the facility across the flood control channel to the south. The replacement easement for the underground SCE facility is partially located within the footprint of the reconstructed Ring Road to minimize

additional impact on parking and vehicular circulation within the subject property. The SCE relocation work will begin prior to the highway contractor's construction activities and is anticipated to take approximately two months. To minimize disruption to the subject property, SCE relocation activities shall not take place during the peak shopping season (between October 1st and January 31st).

Owner:

What is the current Department schedule for the project?

Department Response:

The Department anticipates advertising the project in January 2007, have bid opening in mid April 2007, award the contract by May 2007, and start construction in June 2007.

Owner:

Has temporary parking during holiday shopping season (October 1st through January 31st) been identified?

Department Response:

Provisions in contract documents will allow for some temporary parking striping to be established during the holiday shopping season, but this would be limited and conditional depending upon construction site conditions at the time. No parking, either temporary or permanent, will be allowed within the SCE easement.

Owner:

Will the highway contractor be expected to maintain a 24-hour work schedule for work impacting the subject property parking and circulation?

Department Response:

The normal daily work period for highway construction is 7:30 a.m. to 3:00 p.m. This provides for higher quality workmanship, safety, and lower construction costs. However, the highway contractor may independently choose to work outside this period for efficiency of operations.

Owner:

The owner expressed concerns that Department's project may affect their development agreement with the City, primarily with respect to minimum parking and landscape buffer requirements established by said development agreement.

Department Response:

The Department has contacted the City regarding the landscape buffer requirements as they relate to the development agreement. The City has acknowledged that landscape buffer requirements on the perimeter of the subject property, i.e. adjacent to the proposed right of way, can be offset by an aesthetic retaining wall treatment (palm trees and mountains) that will be included as part of the Department's project. The City is in the process of revising

the existing development agreement with the property owner to document that the Department's aesthetic retaining wall treatment is a suitable replacement for existing landscape buffer requirements. Therefore, the Department's project will not alter any landscape buffer obligations required by the property owner under its development agreement with the City.

With regard to parking requirements and ratios established under the development agreement, if the Department's project results in a reduction in parking spaces, the City will not require the property owner to replace those lost spaces provided that the total number of spaces lost does not result in a reduction in the total number of parking spaces required under Chapter 19.24 of the Municipal Code. The property owner claims to have approximately 4,650 parking spaces for the entire Inland Center Mall (which includes the adjacent assessor's parcel number 0136-531-08). Per City parking standards, the minimum parking for the subject property as it exists today, requires approximately 4,000 parking spaces. As such, even if the Department did not mitigate for lost parking due to the project, per the development agreement, the City would not require the property owner to replace the lost spaces. The Department did include compensation in its offer to the property owner for the restoration of lost parking. These mitigation measures include the reconfiguration of on-site parking, and the construction of an additional level on the existing parking structure. This is a compensation issue and outside the purview of the California Transportation Commission (Commission).

It should be noted that there is a 2.88 acre parcel, located adjacent to and on the northern property boundary of the subject parcel, that will become excess to the Department after completion of the project. The Department is willing to exchange this parcel with the property owner to help mitigate for lost parking or landscaping buffer requirements. The property owners have expressed some interest in obtaining this excess parcel but have not made a firm commitment. The Department will continue discussions regarding the potential exchange of this excess parcel. Final approval of the sale or exchange of excess is subject to approval by the Commission.

Owner:

The owner expressed a concern that the distance between the proposed right of way and the parking structure in the after-condition may be too narrow to adequately and safely accommodate vehicular circulation including larger delivery trucks in this area when traveling on Ring Road.

Department Response:

The distance between the right of way line and the parking structure in the after-condition will be approximately 34 feet wide. The Department has verified that the design of Ring Road, specifically the distance between the right of way and the parking structure, meets fire department circulation requirements and is more than adequate to safely accommodate large vehicles and delivery trucks. Although the realigned Ring Road north of the parking structure is curved, it becomes tangent prior to the structure to allow adequate sight distance for vehicles approaching on Ring Road as well as those exiting the parking structure.

Owner:

The owner expressed concerns regarding the loss of parking due to the proposed project and how it will be replaced or mitigated. In addition, they feel that the Department's mitigation efforts did not account for planned future expansion of the subject property contemplated by the owners.

Department Response:

The proposed project will impact approximately 330 parking spaces. To mitigate for the loss of parking, the Department included compensation in its offer to the property owner for the restoration of lost parking. These mitigation measures include the reconfiguration of on-site parking to accommodate 80 spaces and the construction of an additional level on the existing parking structure for 260 spaces. As such, the Department provides mitigation measures for the restoration of 340 parking spaces, versus the 330 spaces that are impacted by the proposed project.

It should be noted that the property owners feel that the Department's mitigation plan to compensate for the construction of an additional level to their parking structure (the parking structure was originally designed to accommodate this additional level) was already contemplated to be used for their own future expansion plans and should not be used to mitigate parking impacts for the Department's project. They feel the Department needs to consider replacement of lost parking at another location on their property. The Department has verified with the City that the owner has not submitted any documentation to indicate any plans for future expansion of the mall. This is a compensation issue and outside the purview of the Commission.

Owner:

The owners had concerns that during construction activities for the exit ramp and bridge at Inland Center Drive and the entrance ramp at Orange Show Road, the traveling public would have difficulty getting to their property.

Department Response:

As with any major construction project, there will be some temporary inconvenience during construction. However, there will be alternate detour routes with signage established during construction to ensure that north and southbound traffic on I-215 can be directed to the subject property.

The reconstruction of the Inland Center Drive overcrossing will occur in two steps. The first step would be to widen the north and south side of the existing bridge and construct the northbound Inland Center Drive exit ramp. The second step would be to replace the remaining center portion of the existing bridge. During the first step, southbound traffic on I-215 would be detoured to "I" Street, left on Inland Center Drive, and across the bridge to get to the subject property. Northbound I-215 traffic would be detoured to "E" Street at the Orange Show Road interchange to gain access to the subject property. During the second step, northbound I-215 traffic will be able to utilize the new Inland Center Drive exit ramp to

gain access to the subject property. Southbound I-215 traffic would continue to be detoured to "I" Street as explained above. At all times during reconstruction of the Inland Center Drive overcrossing, there will be at least one lane in each direction. As for reconstruction of the entrance ramp at Orange Show Road, construction activities will be phased in order to allow both north and southbound I-215 traffic to continue to utilize existing ramps.

PARCEL DESCRIPTION

The subject property is located at 300 Inland Center Drive in the city of San Bernardino, east of I-215 within the southeast quadrant of I-215 and the Inland Center Drive Interchange. Identified as Assessor's parcel number 0136-531-07, this parcel is part of the Inland Center Mall development, a regional shopping center that is comprised of five separate assessor's parcel numbers, each of which can be bought and sold as separate entities. The subject parcel has an area of 14.43 acres and is improved with a 204,178 square foot two-story retail department store with delineated parking spaces, asphalt paving, light standards, miscellaneous landscaping and planters, along with a four-level parking structure that straddles the subject parcel and the adjacent assessor's parcel number 0136-531-08. The parcel has visibility from the adjacent I-215 to the west and can be accessed from both Inland Center Drive to the north and South "E" Street to the southeast. The Department's project does not physically impact any of the main building improvements on the parcel. However, miscellaneous site improvements are affected, which consist of landscaping, asphalt paving, existing Ring Road, and parking lot improvements.

STATUTORY OFFER TO PURCHASE

The Department has appraised the subject property and offered the full amount of the appraisal to the owners of record as required by Government Code Section 7267.2.

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 rights to be condemned are 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 California Transportation Commission.

DONALD E. GREBE, Chief
Office of Project Delivery
Division of Right of Way and Land Surveys
Panel Chair

I concur with the Panel's recommendation:

RICHARD D. LAND
Chief Engineer

**PERSONS ATTENDING CONDEMNATION PANEL REVIEW MEETING
HEARING ON SEPTEMBER 13, 2006**

Donald Grebe, Headquarters Division of Right of Way and Land Surveys, Panel Chair
Eric Weisel, Los Angeles Legal Office Attorney, Panel Member
Linda Fong, Headquarters Division of Design, Panel Member
Mark Zgombic, Headquarters Division of Right of Way and Land Surveys, Panel Secretary

Charles Deem, DLA Piper, Attorney for the Owner
Ellen Wacker, Representative, The Macerich Company
Skip Kuhn, Representative, The Macerich Company
Stephen Logan, Representative, The Macerich Company
Arun Parmar, Representative, The Macerich Company / Inland Center Mall

Patty Romo, District 8 Deputy District Director, Design
Luis Betancourt, Headquarters Division of Design
Diboro Kanabolo, District 8 Design
Joe Marez, District 8 Project Management
Wendy Li, District 8 Project Management
Teresa Arias, Southern Region Right of Way Manager
Patti Smith, District 8 Right of Way Project Delivery Manager
Yoshiko Henslee, District 8 Office Chief Right of Way
Jean Colyer, District 8 Right of Way Agent

DIST.	COUNTY	ROUTE	KILOMETER POST
08	SBd.	215	8.04

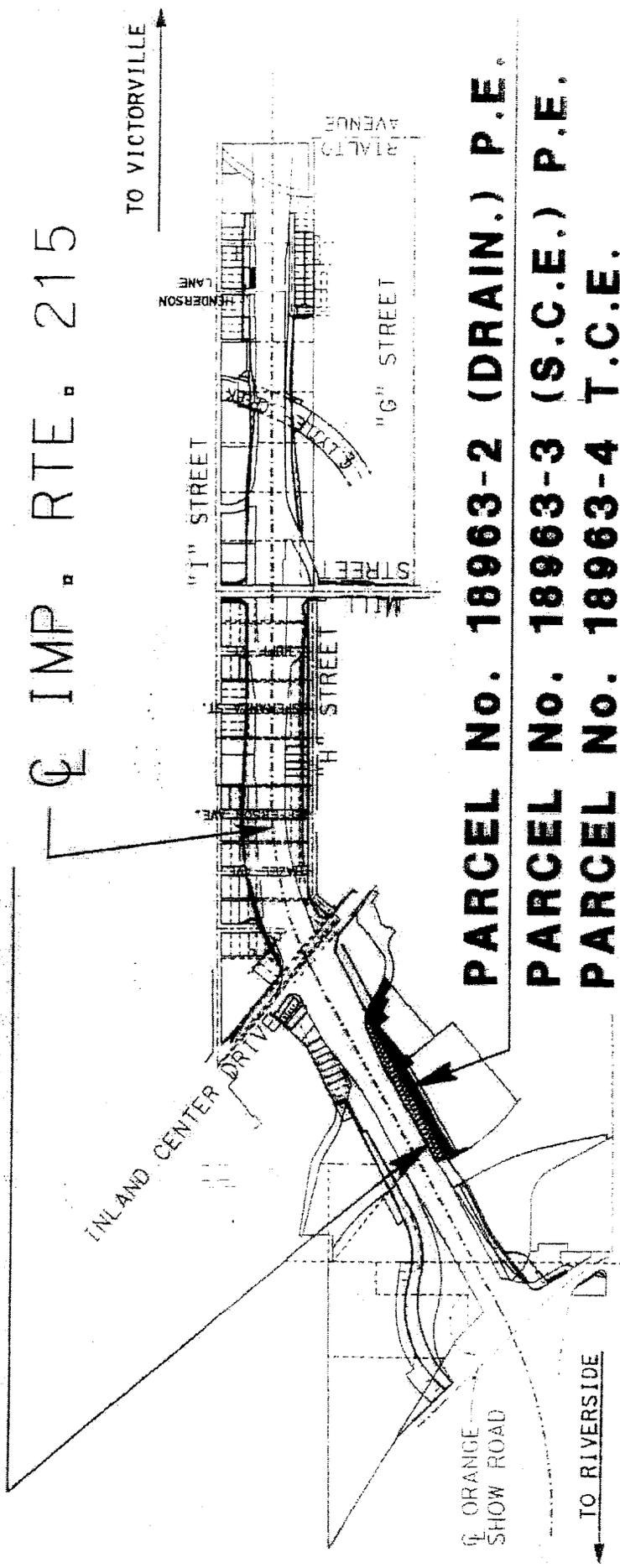


EXHIBIT "A"

**CITY OF
SAN BERNARDINO**

PARCEL No. 18963-1

IMP. RTE. 215



PARCEL No. 18963-2 (DRAIN.) P.E.
PARCEL No. 18963-3 (S.C.E.) P.E.
PARCEL No. 18963-4 T.C.E.

Lots 36 & 38, Blocks 29 & 54
 RANCHO SAN BERNARDINO

M.B. 7/2

STATE OF CALIFORNIA
 BUSINESS, TRANSPORTATION AND HOUSING AGENCY
 DEPARTMENT OF TRANSPORTATION

**RESOLUTION OF
NECESSITY MAP
NO SCALE**

REF. INFO.: DIST. #08 R/W MAP 438511-8 & -11

SHEET No. 1 OF 5

DIST.	COUNTY	ROUTE	KILOMETER POST
08	SBD	215	8.64

RANCHO SAN BERNARDINO
 POR. LOT'S 36, 38
 BLOCK 54
 M.B. 7/2

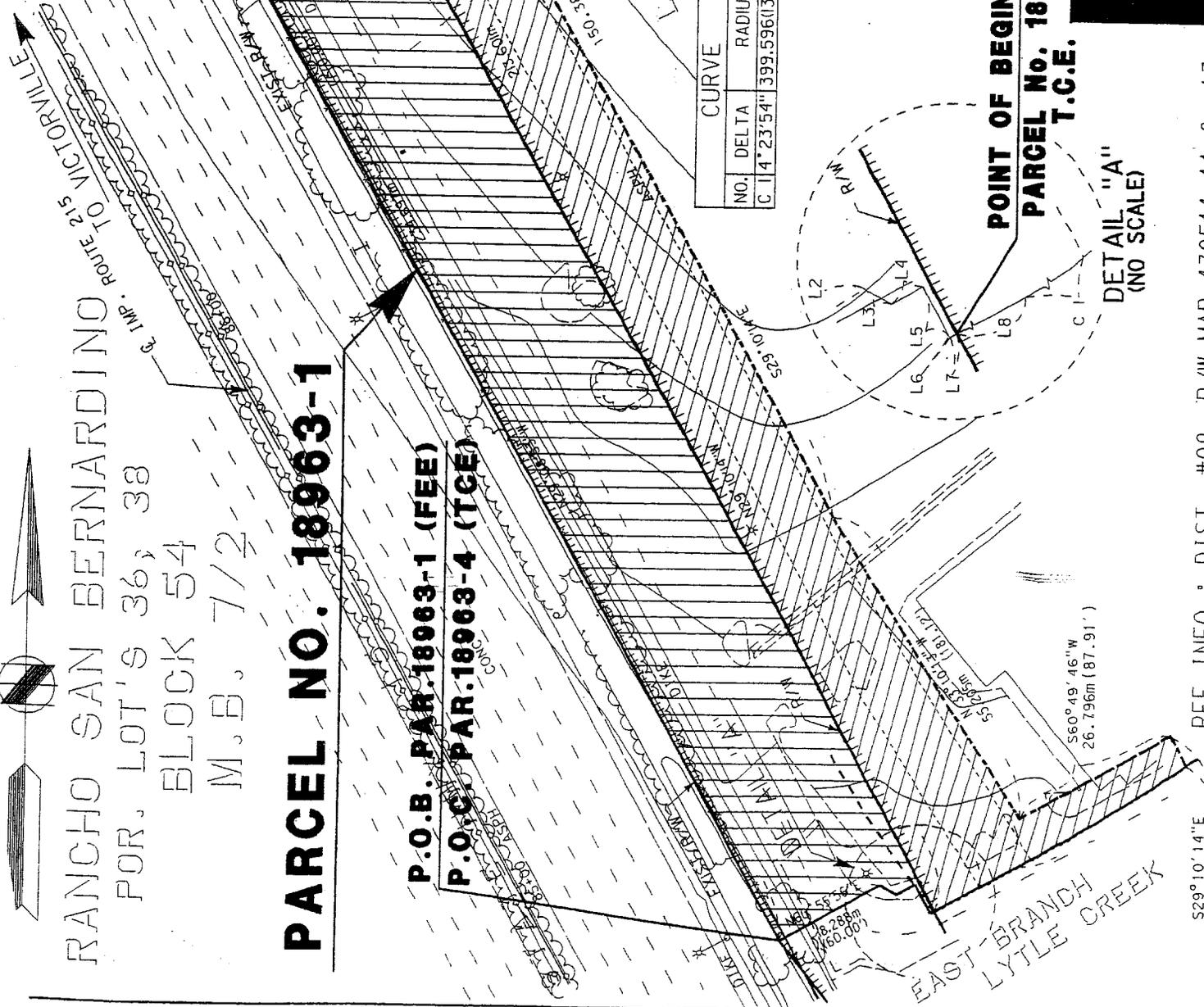
EXHIBIT "B"

PARCEL NO. 18963-1

P.O.B. PAR. 18963-1 (FEE)

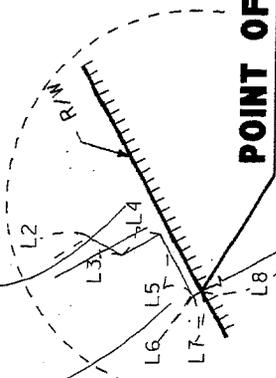
P.O.C. PAR. 18963-4 (TCE)

**PARCEL NO.
 18963-4 (T.C.E.)**



NO.	DELTA	RADIUS	LENGTH
C	14° 23' 54"	399.596 (1311.00')	30.674m (100.64')

	BEARING	DISTANCE
L2	N60° 55' 56" E	18.288m (60.00')
L3	N62° 12' 30" W	3.136m (10.29')
L4	N60° 50' 37" E	3.276m (10.75')
L5	N29° 09' 39" W	5.036m (16.52')
L6	N62° 12' 40" W	0.140m (0.46')
L7	N60° 55' 56" E	0.639m (2.10')
L8	S60° 55' 56" W	14.601m (47.90')



STATE OF CALIFORNIA
 BUSINESS, TRANSPORTATION AND HOUSING AGENCY
 DEPARTMENT OF TRANSPORTATION

**RESOLUTION OF
 NECESSITY MAP**



SCALE 1:1000

SHEET No. 2 OF 5

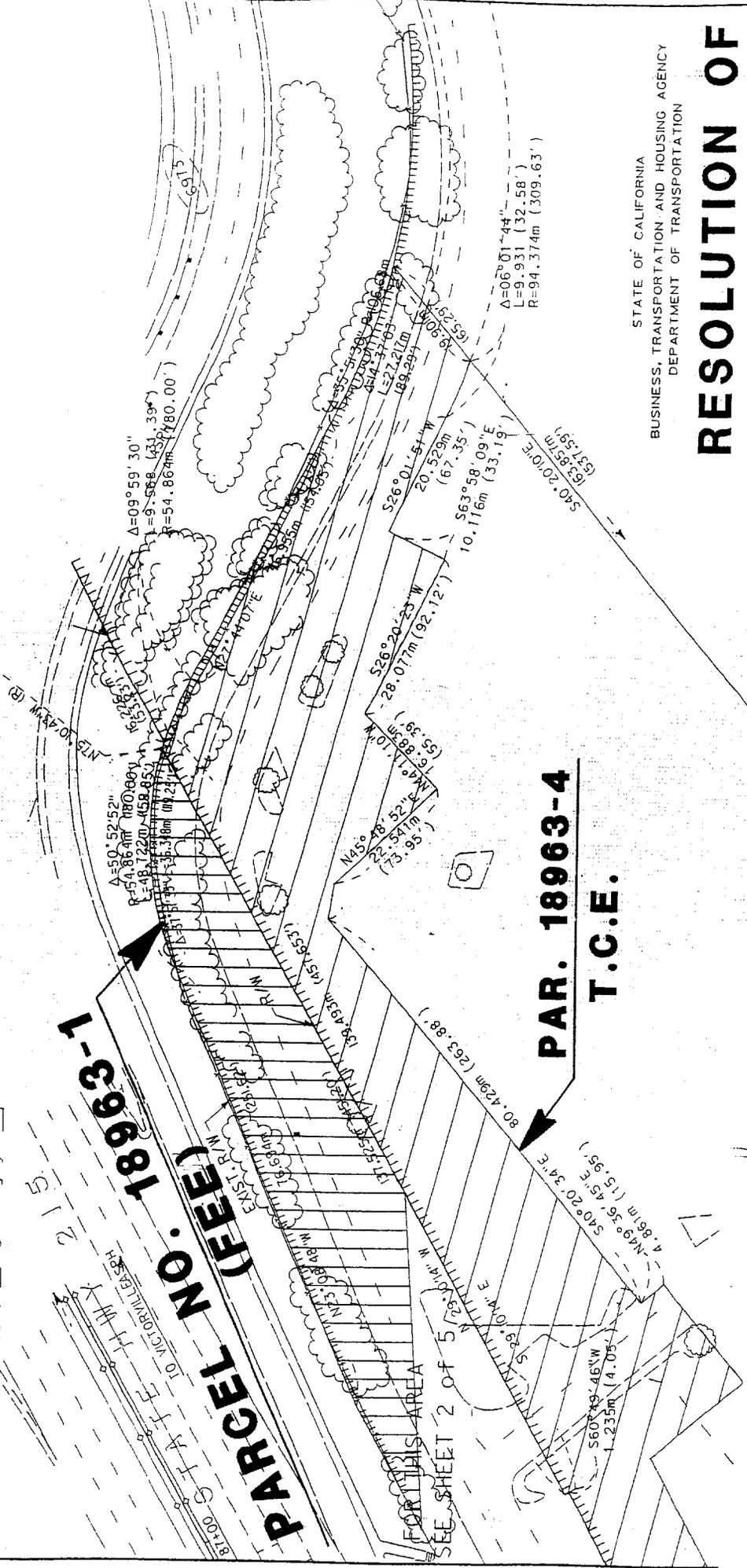
REF. INFO.: DIST. #08 R/W MAP 438511-11 & -13

S29° 10' 14" E
 5.420m (17.78')

DIST.	COUNTY	ROUTE	KILOMETER POST
08	SBd	215	8.64

RANCHO SAN BERNARDINO
 POR. LOT 38
 BLOCK 54
 M.B. 7/2

EXHIBIT "B"



STATE OF CALIFORNIA
 BUSINESS, TRANSPORTATION AND HOUSING AGENCY
 DEPARTMENT OF TRANSPORTATION

RESOLUTION OF NECESSITY MAP



SCALE 1:1000

SHEET No. 3 OF 5

REF. INFO.: DIST. #08 R/W MAP 438511-11 & -13

DIST.	COUNTY	ROUTE	KILOMETER POST
08	SBd	215	8.64

EXHIBIT "B"

RANCHO SAN BERNARDINO
 POR. LOT'S 36; 38
 BLOCK 54
 M.B. 7/2

PARCEL NO. 18963-2

DRAINAGE P.E.

P.O.C. PAR. 18963-2 & -3

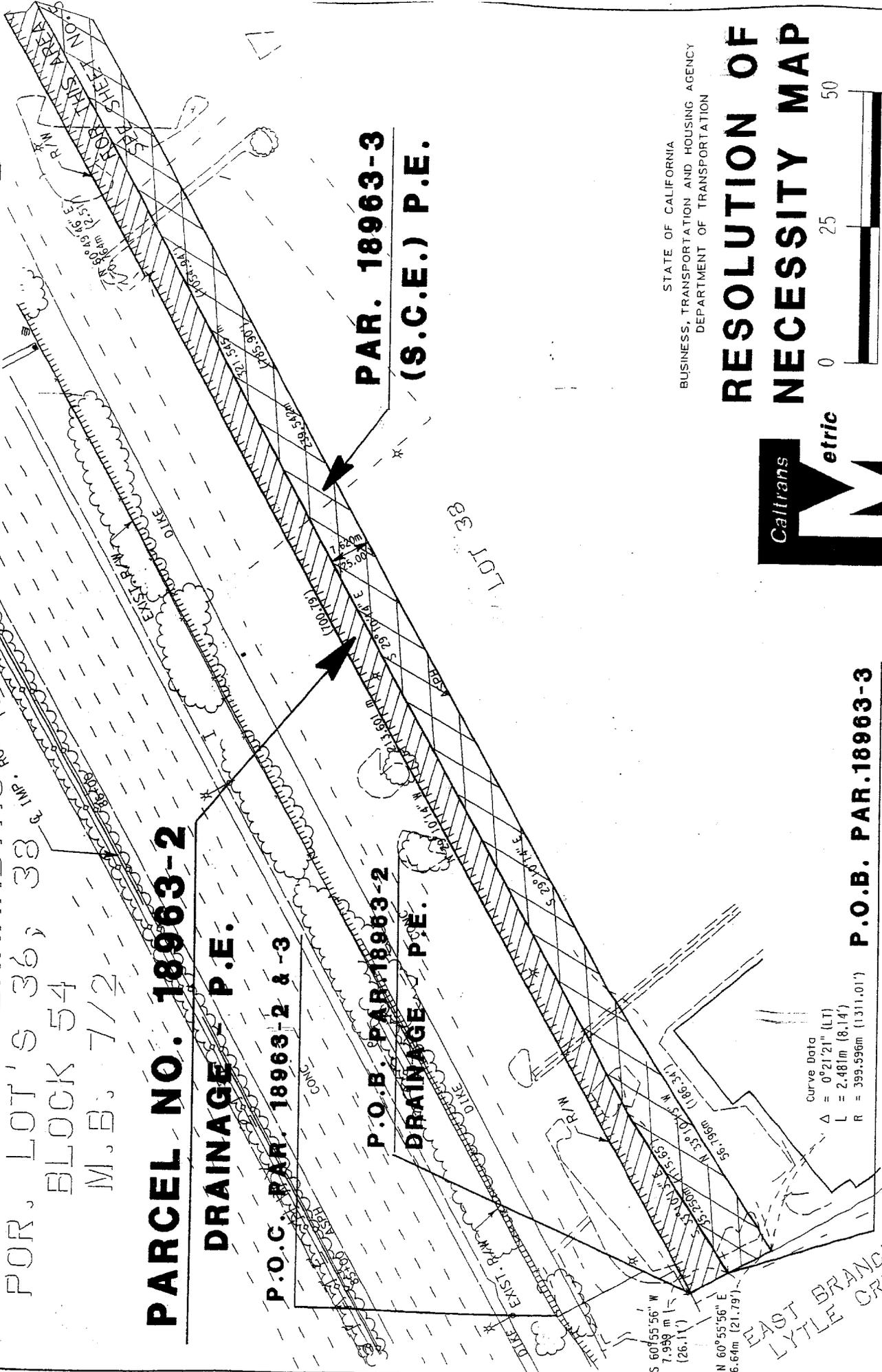
P.O.B. PAR. 18963-2

DRAINAGE P.E.

PAR. 18963-3

(S.C.E.) P.E.

ROUTE 215 TO VICTORVILLE
 1/4 M.P. ROUTE 215



Curve Data
 $\Delta = 0^\circ 21' 21''$ (LT)
 $L = 2.481m$ (8.14')
 $R = 399.596m$ (1311.01')

S 60°55'56" W
 7.959 m (26.1')
 N 60°55'56" E
 6.64m (21.79')

EAST BRANCH
 LITTLE CREEK

STATE OF CALIFORNIA
 BUSINESS, TRANSPORTATION AND HOUSING AGENCY
 DEPARTMENT OF TRANSPORTATION



RESOLUTION OF NECESSITY MAP



P.O.B. PAR. 18963-3

(S.C.E.) P.E.

REF. INFO.: DIST. #08 R/W MAP 438511-11 & -13

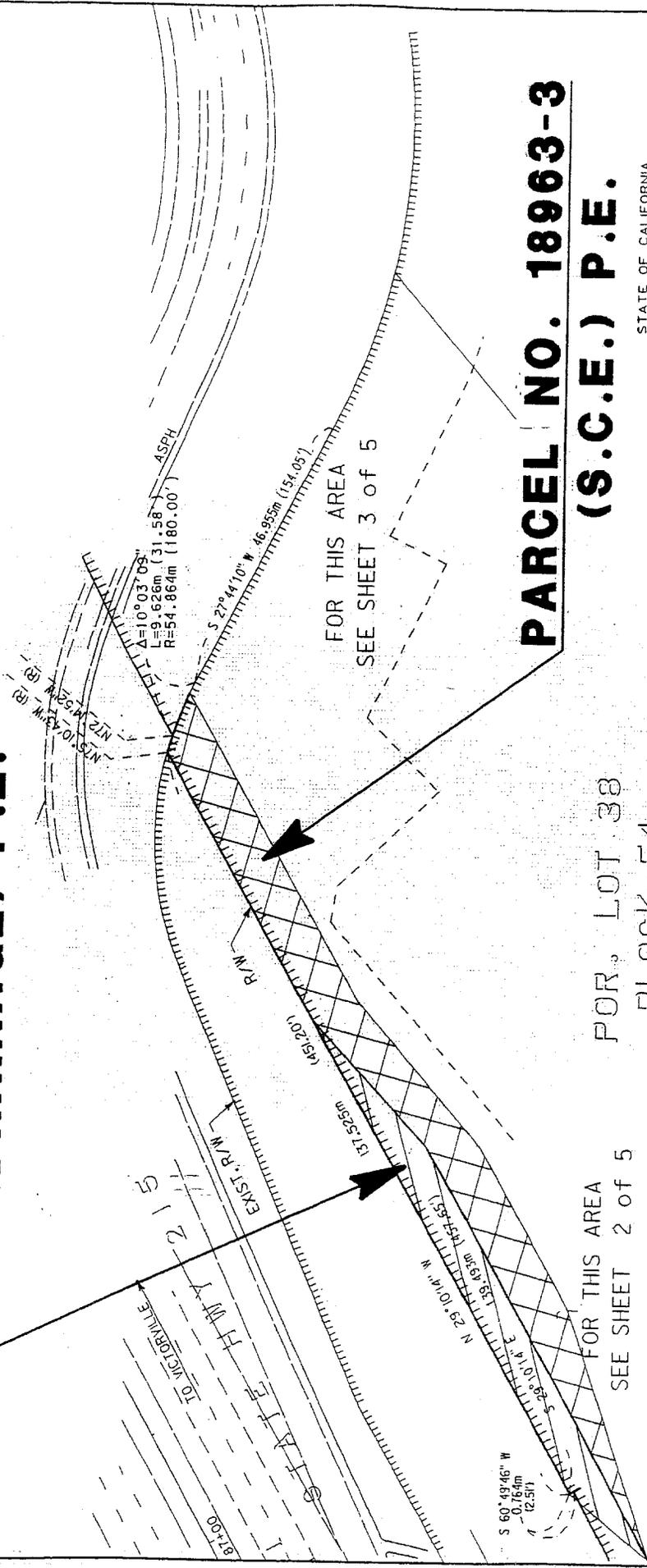
SHEET No. 4 OF 5



DIST.	COUNTY	ROUTE	KILOMETER POST
08	SBD	215	8.64

EXHIBIT "B"

**PARCEL NO. 18963-2
(DRAINAGE) P.E.**



**PARCEL NO. 18963-3
(S.C.E.) P.E.**

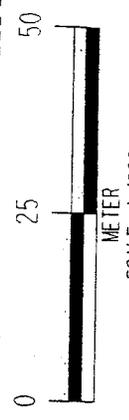
FOR LOT 38
BLOCK 54

RANCHO SAN BERNARDINO
M.B. 7/2

FOR THIS AREA
SEE SHEET 2 OF 5

STATE OF CALIFORNIA
BUSINESS, TRANSPORTATION AND HOUSING AGENCY
DEPARTMENT OF TRANSPORTATION

**RESOLUTION OF
NECESSITY MAP**



REF. INFO.: DIST. #08 R/W MAP 438511-11 & -13

SHEET No. 5 OF 5