

## COUNTY OF LOS ANGELES OFFICE OF THE COUNTY COUNSEL

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March 08, 2011

The Honorable Board of Supervisors County of Los Angeles 383 Kenneth Hahn Hall of Administration 500 West Temple Street Los Angeles, California 90012 ADOPTED

BOARD OF SUPERVISORS COUNTY OF LOS ANGELES

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March 8, 2011

SACHI A. HAMAI EXECUTIVE OFFICER

Dear Supervisors:

SETTLEMENT OF CONDEMNATION CASE
PEOPLE OF THE STATE OF CALIFORNIA, ACTING BY AND THROUGH
THE DEPARTMENT OF TRANSPORTATION v. LOS ANGELES COUNTY
FLOOD CONTROL DISTRICT, ET AL, LOS ANGELES SUPERIOR COURT
CASE NUMBER BC404877, AND CONSOLIDATED ACTIONS

#### **SUBJECT**

Recommendation to settle four consolidated eminent domain actions by the State of California, Department of Transportation ("Caltrans") against the Los Angeles County Flood Control District ("District") to acquire real property interests from the District along Tujunga Wash and Burbank Western System - La Tuna Canyon Lateral ("Burbank Channel") in the City of Los Angeles to construct improvements in connection with the Interstate 5 HOV Lane Improvement Project ("Project").

#### IT IS RECOMMENDED THAT YOUR BOARD:

Authorize the Office of the County Counsel to settle the four consolidated eminent domain lawsuits by accepting total compensation in the amount of \$862,800, plus interest, at the statutorily-prescribed rate, from the date of possession, March 1, 2010, to the date of payment, and to stipulate to the interlocutory judgment and final order of condemnation, as described herein.

#### PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION

A proposed settlement of these consolidated condemnation actions has been reached with representatives of Caltrans and the Los Angeles County Department of Public Works. Your Board's authorization is required to accept the agreed compensation from Caltrans and for County Counsel to stipulate to the interlocutory judgment and final order of condemnation.

The Honorable Board of Supervisors 3/8/2011 Page 2

#### **Implementation of Strategic Plan Goals**

The Countywide Strategic Plan directs the provisions of Operational Effectiveness (Goal 1). The revenues received from this settlement will help promote fiscal responsibility for the operation and maintenance of flood control facilities and avoid litigation costs that would be incurred should the cases proceed to trial

#### **Strategic Asset Management Principles Compliance**

Not Applicable

#### FISCAL IMPACT/FINANCING

Caltrans will pay to the District the sum of \$862,800 for the acquisition of the property interests, plus interest, at the statutorily-prescribed rate, from the date of possession, March 1, 2010, to the date of payment of the settlement funds. This amount will be paid and deposited into the District fund.

#### FACTS AND PROVISIONS/LEGAL REQUIREMENTS

Article I, section 19, of the California Constitution and the Eminent Domain Law (California Code of Civil Procedure, Part 3, Title 7, commencing with section 1230.510) require that the owner of property condemned by a public agency be compensated for the fair market value of the property interests taken.

This requirement of just compensation applies to the condemnation of property owned by a private entity as well as property owned by a public entity like the District.

Caltrans filed the four eminent domain actions to acquire fee and/or easement interests in parcels of land owned by the District along Tujunga Wash and the Burbank Channel to construct improvements in connection with the Project. The District and Caltrans have reached a tentative settlement as follows:

- a. Caltrans will pay the District \$862,800, plus interest, at the statutorily-prescribed rate, from March 1, 2010, the date of possession, to the date of payment of the settlement funds.
- b. The District will grant Caltrans fee title and/or easement interests over the parcels described in the attached legal descriptions.
- c. Caltrans agrees not to perform any construction until plans and specifications have been approved by the Chief Engineer of the District.
- d. Caltrans agrees to indemnify and hold harmless the District for any liability to which the District may be subjected as a result of the grants of rights.

The Department of Public Works concurs with County Counsel that the proposed settlement is appropriate and reasonable.

#### **ENVIRONMENTAL DOCUMENTATION**

The settlement of these eminent domain actions does not meet the definition of a project as defined in California Environmental Quality Act (CEQA) section 21065 because it solely pertains to the amount of just compensation Caltrans will pay to the District for the compelled acquisition of the District's property interests, and as such, there is no discretionary act by the District that will cause a direct physical change or a reasonably foreseeable indirect physical change to the environment.

#### **CONTRACTING PROCESS**

Not Applicable

#### <u>IMPACT ON CURRENT SERVICES (OR PROJECTS)</u>

There will be no impact to County's services as a result of the proposed settlement.

#### CONCLUSION

The proposed settlement is reasonable to both parties and is in the best interest of the District. It is requested that the Executive Officer of the Board of Supervisors return one conformed copy of this letter to the Office of the County Counsel and two copies to the Department of Public Works, Survey/Mapping & Property Management Division.

Respectfully submitted,

ROBERT E. KALUNIAN

**Acting County Counsel** 

ASO:TH:Im

**Enclosures** 

c: William T Fujioka, Chief Executive Officer Chief Executive Officer

Chelin Bedin

Sachi A. Hamai, Executive Officer Board of Supervisors

Gail Farber, Director Department of Public Works

### **ATTACHMENT**

# LEGAL DESCRIPTION OF PARCELS BEING ACQUIRED BY CALTRANS

#### Parcel 77973-1:

For freeway purposes, Highway easement in, to, over and across that portion of block 308 (also known as lot 308) of the Maclay Rancho, Ex Mission de San Fernando, as shown on map recorded in Book 37, Pages 5 to 16 inclusive, of Miscellaneous Records, in the office of the County Recorder of said County, described as follows:

COMMENCING at the Southwesterly corner of lot 90 as shown on map of tract number 17847, recorded in Book 500, Page 23, in the office of the county Recorder, of said county; Thence along the Southeasterly line of said tract 17847, N 48° 56' 39" E, 92.75 feet to the POINT OF BEGINNING; Thence S 31° 04' 01" E, 170.34 feet to the Northeasterly right of way line of Interstate Freeway 5, as described in Deed D1762, page 395, dated September 20, 1962; Thence along said Interstate Freeway 5 right of way, N 51° 19' 32" W, 170.49 feet to the Southeasterly line of said tract 17847; Thence along said Southeasterly line of tract 17847, N 48° 56' 39" E, 59.34 feet to the POINT OF BEGINNING.

Lands abutting said freeway shall have no right or easement of access thereto; provided, however, that part of the remaining lands shall abut upon and have access to an adjoining frontage road which will be connected to the main thoroughfare of the freeway only at such points as may be established by public authority.

only at such points as may be established by public authority.

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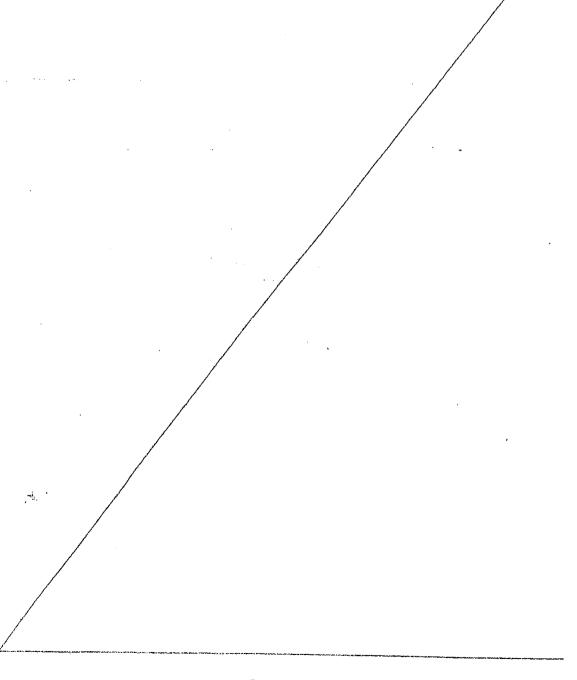
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F CALIFORNIA
3 (REV. 3-95)

For freeway purposes, that portion of Parcel 21 described in deed to the Los Angeles County Flood Control District Recorded October 14, 1977 as Document No. 77-1143281 Official Records in the Office of the County Recorder of the County of Los Angeles, State of California, described as follows:

commencing at a point in that certain course of "N.47°46'45"W., 1187.30 feet" as described in said deed, said certain course having a bearing N.47°35'24"W. for the purposes of this description, said point lying S.47°35'24"E., 319.519 meters (1048.29 feet) from the Westerly terminus of said course; thence at right angle S.42°24'36"W., 10.667 meters (35.00 feet) to the Southwesterly line of said described land and the POINT OF BEGINNING; thence leaving said southwesterly line N.45°29'24"W., 54.510 meters (178.84 feet); thence N.47°20'49"W., 66.877 meters (219.41 feet) to a curve concave Southerly having a radius of 1381.700 meters (4533.13 feet); thence Westerly through an angle of 3°05'39" an arc distance of 74.616 meters (244.80 feet); thence N.50°26'28"W., 11.733 meters (38.49 feet) to the Southwesterly line of said parcel 21; thence along said southwesterly line S.47°35'24"E., 207.646 meters (681.25 feet) to the POINT OF BEGINNING.

Lands abutting said freeway shall have no right or easement of access thereto; provided, however, that part of the remaining lands shall abut upon and have access to an adjoining frontage road which will be connected to the main thoroughfare of the freeway only at such points as may be established by public authority.

The distances shown are on the California Coordinate System, Zone 5, North American Datum of 1983. Multiply meters by 3.28083 to obtain feet, Divide distances by 0.999858 to obtain ground distances.





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#### Parcel 77863-2:

For freeway purposes, that portion of Parcel 21 described in deed to the Los Angeles County Flood Control District Recorded October 14, 1977 as Document No. 77-1143281 Official Records in the Office of the County Recorder of the County of Los Angeles, State of California, described as follows:

COMMENCING at a point in that certain course of "N.47°46'45"W., 1187.30 feet" as described in said deed, said certain course having a bearing N.47°35'24"W. for the purposes of this description, said point lying S.47°35'24"E., 88.545 meters (290.50 feet) from the Westerly terminus of said course; thence at right angle S42°24'36"W., 10.667 meters (35.00 feet) to the Southwesterly line of said described land and the POINT OF BEGINNING; thence leaving said southwesterly line N.29°46'12"W., 4.397 meters (14.43 feet); thence N.50°03'26"W., 31.255 meters (102.54 feet) to the Southwesterly line of said parcel 21; thence along said southwesterly line S.47°35'24"E., 35.411 meters (116.18 feet) to the POINT OF BEGINNING.

Lands abutting said freeway shall have no right or easement of access thereto; provided, however, that part of the remaining lands shall abut upon and have access to an adjoining frontage road which will be connected to the main thoroughfare of the freeway only at such points as may be established by public authority.

The distances shown are on the California Coordinate System, Zone 5, North American Datum of 1983. Multiply meters by 3.28083 to obtain feet, Divide

distances by 0.999858 to obtain ground distances.

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Parcel 77863-3:

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For freeway purposes, a footing easement in and to that portion of land described as Parcel 21 in deed to the Los Angeles County Flood Control District Recorded October 14, 1977 as Document No. 77-1143281 Official Records in the Office of the County Recorder of the County of Los Angeles, State of California, described as follows:

COMMENCING at a point in that certain course of "N.47°46'45"W., 1187.30 feet" as described in said deed, said certain course having a bearing N.47°35'24"W. for the purposes of this description, said point lying S.47°35'24"E., 319.519 meters (1048.29 feet) from the Westerly terminus of said course; thence at right angle S42°24'36"W., 10.668 meters (35.00 feet) to the Southwesterly line of said described land; thence leaving said southwesterly line N.45°29'24"W., 37.918 meters (124.40 feet) to the POINT OF BEGINNING; thence continuing N.45°29'24"W., 16.592 meters (54.44 feet); thence N.47°20'49"W., 66.877 meters (219.41 feet) to a curve concave Southerly having a radius of 1381.700 meters (4533.13 feet); thence Westerly through an angle of 3°05'39" an arc distance of 74.616 meters (244.80 feet); thence N.50°26'38"W., 11.733 meters (38.49 feet) to the Southwesterly line of said parcel 21; thence along said southwesterly line N.47°35'24"W., 23.328 meters (76.54 feet); thence N.29°46'12"W., 4.397 meters (14.43 feet); thence N.50°03'26"W., 31.255 meters (102.54 feet) to the Southwesterly line of said parcel 21; thence along said southwesterly line N.47°35'24"W., 53.134 meters (174.32 feet) to a curve concave Northeasterly having a radius of 2154.940 meters (7070.00 feet); thence Northwesterly along said curve through an angle of 2°08'14" an arc distance of 80.381 meters (263.72 feet) to a point of cusp; thence S.47°35'24"E., 133.464 meters (437.87 feet); thence S.50°03'26"E., 31.491 meters (103.32 feet); thence S.29°46'12"E., 7.681



meters (25.20 feet); thence S.50°26'38"E., 31.670 meters (103.90 feet) to a curve concave Northeasterly having a radius of 1383.200 meters (4538.05) feet); thence Southeasterly along said curve through an angle of 3°05'39" an arc distance of 74.697 meters (245.07 feet); thence S.47°20'49"E., 66.901 meters (219.49 feet); thence S.45°29'24"E., 16.636 meters (54.58 feet); thence S.45°17'31"W., 1.500 meters (4.92 feet) to the POINT OF BEGINNING. The distances shown are on the California Coordinate System, Zone 5, North American Datum of 1983. Multiply meters by 3.28083 to obtain feet, Divide distances by 0.999858 to obtain ground distances. Together with the right, over said land, to trim or top such trees and other foliage, and to cut such roots as may endanger or interfere with said retaining wall footings and shall have the right to enter wherever necessary for the purpose above set forth, provided however, that in making any excavation on said land it shall be in a manner as will cause the least injury to the surface of the ground, landscaping and facilities so removed or

easement.

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For freeway purposes, an easement 5.928 meters (19.45 feet) wide incidental to the maintenance, construction and reconstruction in and to that portion of land described as Parcel 21 in deed to the Los Angeles County Flood Control District Recorded October 14, 1977 as Document No. 77-1143281 Official Records in the Office of the County Recorder of the County of Los

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Angeles, State of California, described as follows:

The Southwesterly 5.928 meters (19.45 feet) measured at right angles to the Southwesterly line of said parcel 21.

EXCEPT that portion of Parcel 21 described in deed to the Los Angeles County Flood Control District Recorded October 14, 1977 as Document No. 77-1143281 Official Records in the Office of the County Recorder of the County of Los Angeles, State of California, described as follows:

COMMENCING at a point in that certain course of "N.47°46'45"W., 1187.30 feet" as described in said deed, said certain course having a bearing N.47°35'24"W. for the purposes of this description, said point lying S.47°35'24"E., 319.519 meters (1048.29 feet) from the Westerly terminus of said course; thence at right angle \$.42°24'36"W., 10.667 meters (35.00 feet) to the Southwesterly line of said described land and the POINT OF BEGINNING; thence leaving said southwesterly line N.45°29'24"W., 54.510 meters (178.84 feet); thence N.47°20'49"W., 66.877 meters 219.41 feet) to a curve concave Southerly having a radius of 1381.700 meters (4533.13 feet); thence Westerly through an angle of 3°05'39" an arc distance of 74.616

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meters (244.80 feet); thence N.50°26'28"W., 11.733 meters (38.49 feet) to the Southwesterly line of said parcel 21; thence along said southwesterly line S.47°35'24"E., 207.646 meters (681.25 feet) to the POINT OF BEGINNING.

ALSO EXCEPT that portion of Parcel 21 described in deed to the Los Angeles County Flood Control District Recorded October 14, 1977 as Document No. 77-1143281 Official Records in the Office of the County Recorder of the County of Los Angeles, State of California, described as follows:

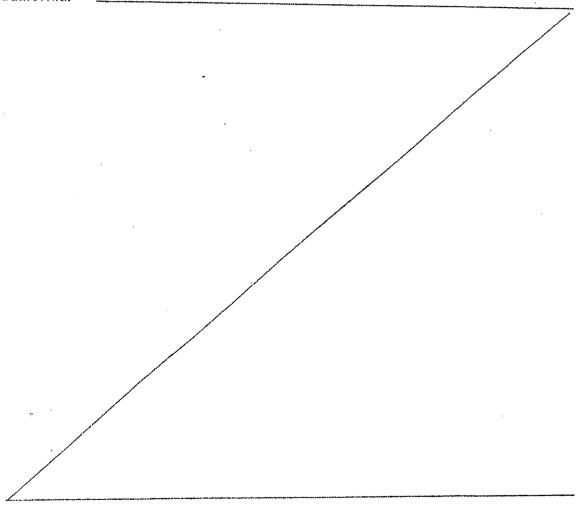
COMMENCING at a point in that certain course of "N.47°46'45"W., 1187.30 feet" as described in said deed, said certain course having a bearing N.47°35'24"W. for the purposes of this description, said point lying S.47°35'24"E., 88.545 meters (290.50 feet) from the Westerly terminus of said course; thence at right angle S42°24'36"W., 10.667 meters (35.00 feet) to the Southwesterly line of said described land and the POINT OF BEGINNING; thence leaving said southwesterly line N.29°46'12"W., 4.397 meters (14.42 feet); thence N.50°03'26"W., 31.255 meters (102.54 feet) to the Southwesterly line of said parcel 21; thence along said southwesterly line S.47°35'24"E., 35.411 meters (116.18 feet) to the POINT OF BEGINNING.

The sidelines of the above-described strip of land shall be prolonged or shortened so as to terminate Northwesterly in the Southeasterly line of Lanark St. and terminate Southeasterly in the Northwesterly line of Hollywood Way.

The distances shown are on the California Coordinate System, Zone 5, North

American Datum of 1983. Multiply meters by 3.28083 to obtain feet, Divide distances by 0.999858 to obtain ground distances.

The above-described parcel of land is to be used for maintenance, construction and reconstruction purposes and incidents thereto in connection with the construction of Route 5 freeway project designated 07-LA-5-PM. 32.7 on map F-1293-6A, F-1293-7A and F-1293-8A in the office of the Department of Transportation, State of California at Los Angeles, California.



Parcel 78715-1:

For freeway purposes, that portion of the Burbank Channel described in deed Recorded October 14, 1977 as Document No. 77-1143281 Official Records in the office of the County Recorder of the County of Los Angeles, State of California, described as follows:

COMMENCING at a point in the Southwesterly line of said channel at right angle from the Southerly terminus of that certain course of "N.47°12'29"W., 519.63 feet" described as a portion of the Centerline of said channel, said course having a bearing of N.47°01'08"W. for the purposes of this description; thence along said southwesterly line N.47°01'08"W., 127.740 meters (419.09 feet) to the POINT OF BEGINNING; thence leaving said southwesterly line N.40°26'17"W., 92.197 meters (302.48 feet); thence N.37°39'32"W., 38.538 meters (126.44 feet) to the Southwesterly line of said channel; thence along said southwesterly line the following courses S.33°57'01"E., 47.985 meters (157.43 feet) to a curve concave Northeast having a radius of 231.024 meters (757.95 feet); thence Southeasterly along the arc of said curve through an angle of 13°04'07" a arc distance of 52.694 meters (172.88 feet); thence S.47°01'08"E., 30.634 meters (100.51 feet) to the POINT OF BEGINNING.

Lands abutting said freeway shall have no right or easement of access thereto; provided, however, that part of the remaining lands shall abut upon and have access to an adjoining frontage road which will be connected to the main thoroughfare of the freeway only at such points as may be established by public authority.

The distances shown are on the California Coordinate System, Zone 5, North American Datum of 1983. Multiply meters by 3.28083 to obtain feet, Divide distances by 0.999863 to obtain ground distances.

For freeway purposes, a footing easement in and to that portion of the Burbank Channel described in deed Recorded October 14, 1977 as Document No. 77-1143281 Official Records in the office of the County Recorder of the County of Los Angeles, State of California, described as follows:

COMMENCING at a point in the Southwesterly line of said channel at right

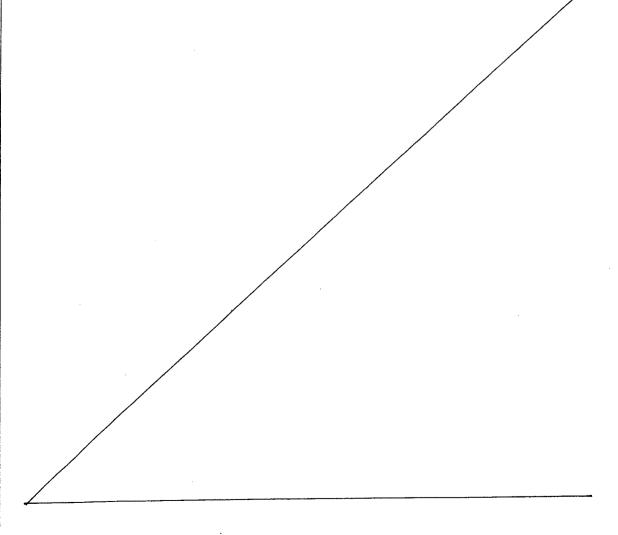
angle from the Southerly terminus of that certain course of "N.47°12'29"W., 519.63 feet" described as a portion of the Centerline of said channel, said course having a bearing of N.47°01'08"W. for the purposes of this description; thence along said southwesterly line N.47°01'08"W., 127.740 meters (419.09 feet) to the POINT OF BEGINNING; thence leaving said southwesterly line N.40°26'17"W., 87.063 meters (285.64 feet); thence N.49°33'43"E., 1.500 meters (4.92 feet); thence S.40°26'17"E., 18.351 meters (60.21 feet) to a non-tangent curve concave Northeast having a radius of 224.801 meters (737.54 feet); thence Southeasterly along said curve from a tangent which bears S.37°25'41"E. through an angle of 6°01'08" an arc distance of 23.615 meters (77.48 feet); thence S.40°26'17"E., 58.110 meters

The distances shown are on the California Coordinate System, Zone 5, North American Datum of 1983. Multiply meters by 3.28083 to obtain feet, Divide distances by 0.999863 to obtain ground distances.

(190.65 feet) to the Southwesterly line of said channel; thence

N.47°01'08"W., 13.087 meters (42.94 feet)to the POINT OF BEGINNING.

Together with the right, over said land, to trim or top such trees and other foliage, and to cut such roots as may endanger or interfere with said retaining wall footings and shall have the right to enter wherever necessary for the purpose above set forth, provided however, that in making any excavation on said land it shall be in a manner as will cause the least injury to the surface of the ground, landscaping and facilities so removed or disturbed by it, and shall be restored to as near its previous condition as possible. Together with the extinguishment of the right to erect any permanent building structure upon, in, on, above or below footing easement.



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Parcel 78715-3:

For freeway purposes, a temporary construction easement in and to that portion of the Burbank Channel described in deed Recorded October 14, 1977 as Document No. 77-1143281 Official Records in the office of the County Recorder of the County of Los Angeles, State of California, described as follows:

COMMENCING at a point in the Southwesterly line of said channel at right angle from the Southerly terminus of that certain course of "N.47°12'29"W., 519.63 feet" described as a portion of the Centerline of said channel, said course having a bearing of N.47°01'08"W. for the purposes of this description; thence along said southwesterly line N.47°01'08"W., 127.740 meters (419.09 feet); thence leaving said southwesterly line N.40°26'17"W... 92.197 meters (302.48 feet) to the POINT OF BEGINNING thence N.37°39'32"W. 38.538 meters (126.44 feet) to a point on the Southwesterly line of said channel; thence leaving said southwesterly line N.45°17'31"E. 2.559 meters (8.40 feet); thence S.38°20'19"E., 33.686 meters (110.52 feet); thence N.45°17'31"E., 1.152 meters (3.78 feet); thence S.33°57'01"E., 15.096 meters (49.53 feet) to a non-tangent curve concave Northeast having a radius of 224.801 meters (737.53 feet); thence Southeasterly along said curve from a tangent which bears \$.33°57'05"E., through an angle of 3°28'36" an arc distance of 13.641 meters (44.75 feet) to point of cusp; thence N.40°26'17"W., 18.351 meters (60.21 feet); thence S.49°33'43"W., 1.500 meters (4.92 feet); thence; N.40°26'17"W., 5.134 meters (16.84 feet) to the POINT OF BEGINNING.

The above-described parcel of land is to be used for temporary construction purposes and incidents thereto in connection with the construction of a Route10 freeway project designated 07-LA-10-PM 32.2 on maps in the office of the department of Transportation, State of California at Los Angeles, California and the rights to be acquired therein shall cease and terminate not later than December 30, 2012.

The distances shown are on the California Coordinate System, Zone 5, North American Datum of 1983. Multiply meters by 3.28083 to obtain feet, Divide distances by 0.999863 to obtain ground distances.



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For freeway purposes, a maintenance easement in and to that portion of the Burbank Channel described in deed Recorded October 14, 1977 as Document No. 77-1143281 Official Records in the office of the County Recorder of the County of Los Angeles, State of California, described as follows:

BEGINNING at a point in the Southwesterly line of said channel at right angle from the Southerly terminus of that certain course of "N.47°12'29"W., 519.63 feet" described as a portion of the Centerline of said channel, said course having a bearing of N.47°01'08"W. for the purposes of this description; thence along said southwesterly line N.47°01'08"W., 114.652 meters (376.15 feet); thence N40°26'17"W., 58.110 meters (190.65 feet) to a non-tangent curve concave Northeast having a radius of 224.801 meters (737.53 feet); thence Northwesterly along said curve from a tangent which bears S.43°26'48"E., through an angle of 3°34'19" an arc distance of 14.02 meters (45.98 feet) thence S47°01'08"E., 158.374 meters (519.60 feet) to a curve concave Southwesterly having a radius of 757.639 meters (2485.69 feet); thence S31°44'33"E., 337.652 meters (1107.78 feet) to the Northerly line of Cohasset St.; thence N88°34'55"W., 7.434 meters (24.39 feet); thence N31°44'33"W., 333.586 meters (1094.44 feet) to a curve concave Southwesterly having a radius of 751.426 meters (2465.27 feet); thence Northwesterly along said curve through an angle of 15°15'33"an arc distance of 200.120 meters (656.56 feet) to the POINT OF BEGINNING.

The distances shown are on the California Coordinate System, Zone 5, North

American Datum of 1983. Multiply meters by 3.28083 to obtain feet, Divide distances by 0.999863 to obtain ground distances. 

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T PAPER SE CALIFORNIA 13 (REV D. US) Parcel 79502-1

For freeway purposes, a maintenance easement 5.928 meters (19.45 feet) wide incidental to the maintenance, construction and reconstruction in and to that portion of land described as Parcels 22, 23 and 24 in deed to the Los Angeles County Flood Control District Recorded October 14, 1977 as Document No. 77-1143281 Official Records in the Office of the County Recorder of the County of Los Angeles, State of California, described as follows:

The Southwesterly 5.928 meters (19.45 feet) measured at right angles to the Southwesterly line of said parcels 23 and 24.

The sidelines of the above-described strip of land shall be prolonged or shortened so as to terminate Southeasterly at the Northwesterly curved line of Lanark St. having a radius of 115.824 meters (380.00 feet) as shown on Tract 19299 recorded December 21, 1951 in Book 425, page 25 of maps in the Office of the County Recorder of said county, and terminate Northwesterly at a radial line to that certain "Flood Control Center Line" curve having a radius of 1791.313 meters (5877.00 feet), described in said parcel 23 through an angle of 6°44'57" from the Southeasterly commencement of said curve an arc distance of 211.01 meters (692.28 feet).

The distances shown are on the California Coordinate System, Zone 5, North American Datum of 1983. Multiply meters by 3.28083 to obtain feet, Divide distances by 0.999859 to obtain ground distances.