

# Memorandum

To: CHAIR AND COMMISSIONERS

CTC Meeting: January 19-20, 2005

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

From: CINDY McKIM  
Chief Financial Officer

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

Ref: APPEARANCE

## RECOMMENDATION:

The Department of Transportation (Department) recommends the California Transportation Commission (Commission) adopt Resolution of Necessity C-18987, 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 is requesting a resolution at this time. Adoption of Resolution of Necessity C-18987 will assist the Department in the continuation of the orderly sequence of events required to meet construction schedules.

### C-18987 - MRCD-Parson 99, Inc.; Viacom Outdoor (Lessee)

10-Mer-99-KP 20.5 - Parcel 14960 - EA: 363109 - Certification Date: 05/01/05 - RTL Date: 05/01/05 - (Mission Avenue IC/FWY Conversion). Authorizes condemnation of land in fee for a State highway, all of those certain improvements which straddle the right of way line with an easement to enter the remaining ownership to remove such improvements, and extinguishment of abutter's rights of access. Located in the city of Merced at 207 Parsons Avenue.

## SUMMARY OF ISSUES

Mr. Steven Hassing is the owner of MRCD-Parson 99, Inc., located on the northeasterly side of existing State Route 99, in Merced. Mr. Hassing does not contest the need for the project; his objection is to the need for his parcel and his contention that a valid offer of compensation has not been made. The following is a description of the concerns, which Mr. Hassing has expressed, and the Department's response.

**Owner:**

“The Department’s project could be designed to avoid this parcel.”

**Department Response:**

The proposed project is constrained by the Union Pacific Railroad to the west. The only option to avoid this parcel is to shorten the freeway extension. In shortening the freeway, the frontage road tie-ins would have to be reconfigured, and non-standard tapers for the Mission Avenue Interchange could present a safety issue. Changing the frontage road system would have negative impacts for the local circulation plan and pending land use developments that were configured based on this approved frontage road system, negotiated through the Merced County Association of Governments.

If the transition were moved to the south, the frontage road on the west side of Route 99 would be affected. This would cause access issues, local circulation issues, and utility issues, as well as impacting additional parcels.

**Owner:**

“The Department has not made a valid offer of compensation for the proposed acquisition.”

**Department Response:**

The Department provided a written offer for the full amount of the Department’s appraisal to the property owner in compliance with Government Code 7267.2. Mr. Hassing has issue with the amount of compensation being offered to him. He has been notified that issues related to compensation are outside the purview of the Commission.

Attachments

## **Resolution of Necessity Appearance Fact Sheet**

<b><u>PROJECT DATA:</u></b>	10-Mer-99-KP 16.4/20.6, EA 363109
<u>Location:</u>	State Route 99 in the city of Merced, in Merced County
<u>Limits:</u>	From just south of McHenry Road (KP 16.4) to 0.4 km south of the Childs Avenue Overcrossing (KP 20.6)
<u>Cost:</u>	Current construction cost estimate \$49,000,000 Current right of way cost estimate \$12,445,000
<u>Funding Source:</u>	STIP-2004/2005 FY
<u>Number of Lanes:</u>	Existing: 4 lanes (Expressway) Proposed: 6 lanes (Freeway)
<u>Proposed Major Features</u>	Construction of a diamond interchange at Mission Avenue with a southbound loop on-ramp, frontage roads, and realignment of local roads.
<u>Traffic:</u>	Existing annual average daily traffic (AADT) (year 2000): 40,000 Proposed AADT (year 2025): 63,000
<b><u>PARCEL DATA:</u></b>	
<u>Property Owner:</u>	MRCD-Parson 99 Inc.
<u>Parcel Location:</u>	Assessor's Parcel Number (APN) 061-240-038 and 061-240-53, is located on Parsons Avenue east of Route 99
<u>Present Use:</u>	Single family residence, detached garage and four signboards
<u>Zoning:</u>	Commercial
<u>Area of Property:</u>	1.944 ha (4.8 acres)
<u>Area Required:</u>	Parcel 14960 = 0.416ha (1.03 acres)

## **RESOLUTION OF NECESSITY REVIEW PANEL REPORT**

The Resolution of Necessity Review Panel (Panel) met November 1, 2004 in Stockton. The Panel members consisted of Vern Rhinehart, Department of Transportation (Department) Headquarters (HQ's) Right of Way; Richard B. Williams, Department HQ's Legal Division; Linda Fong, Department HQ's Division of Design; and Deborah Gebers, Department HQ's Right of Way, was Secretary to the Panel. Mr. Steven Hassing, owner of MRCD-Parson 99, Inc., appeared on his own behalf to challenge the resolution. The challenge was based on the need for the parcel, as well as his belief that an offer of just compensation was not made. Mr. Hassing indicated he does not contest the need for the project.

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 primary purpose of this project is to improve safety and operations along the State Route 99 corridor between McHenry Road and Childs Avenue in Merced County, through the elimination of at-grade turning movements, including median crossings and private driveways and upgrading from expressway to freeway. Converting Route 99 to a full freeway has long been a priority objective of the Commission, the Department, and the Merced County Association of Governments (MCAG).

The accident rate on this portion of Route 99 is 1.47 accidents per million vehicle miles (ACCS/MVM) which is higher than 1.07 (ACCS/MVM) the expected accident rate for similar facilities statewide. This portion of Route 99 has a fatality rate nearly three times the statewide average for the same type of highway.

Vehicles pulling on and off the expressway cause substantial inefficiency and loss of route capacity. Operational problems caused by the at-grade intersections are compounded in the winter when seasonal dense fog appears in the Central Valley. The Union Pacific Railroad runs parallel to Route 99 on the west side of the highway. The proximity of the Union Pacific Railroad to Route 99 poses another safety concern for trucks pulling on and off the expressway.

The current (year 2000) annual average daily traffic (AADT) for Route 99 is 40,000 with the projected AADT (year 2025) to be 63,000. This means for this segment of Route 99, it would operate at Level of Service (LOS) F in 2025 without these improvements.

The purpose of this project is to correct problems identified above and summarized below:

- Reduce accident and fatalities on Route 99 within the project area.
- Safer controlled access to Route 99.
- Upgrade from expressway to freeway consistent with the Route Concept Report for Route 99.
- Eliminate direct access and cross traffic on Route 99 including driveways.

- Provide for capacity on Route 99 through the project's twenty-year planning horizon.
- Maintain consistency with local and regional land use and circulation planning.

### **PROJECT PLANNING AND LOCATION**

The project proposes to convert Route 99 from a four-lane expressway to a six-lane freeway on new alignment, in Merced County, from just south of McHenry Road (KP 16.4) to 0.4 km south of the Childs Avenue Overcrossing (KP 20.6). The project includes construction of a diamond interchange at Mission Avenue, frontage roads and realignment of local roads as necessary.

In March 1999, local officials requested the Department to design an interchange on a new Mission Avenue alignment. MCAG, the City and County of Merced concurred that an interchange on a new Mission alignment would be consistent with local and regional land use and circulation planning. In a meeting held on October 1999, the Department presented the Mission Interchange and freeway conversion project to the local officials who immediately adopted the Mission Interchange as the only alternative consistent with their planning.

A Public Hearing for this project was held on December 5, 2000. The Environmental Document for this project was approved on April 16, 2001. This is a State Transportation Improvement Program (STIP) project programmed for construction Capital Funds in FY 2004-05. The current construction cost estimate is \$49 million.

### **NEED FOR SUBJECT PROPERTY**

This property is needed for the mainline lanes, clear recovery area and for side ditches for storm water runoff.

This parcel is needed and cannot be avoided, as it is in the area where the realigned portion of Route 99 ties back into the existing alignment, just south of the Childs Avenue Interchange. The District Design branch, responsible for preparing the project plans, re-examined the need for the property to see if the scope of work could be reduced or if another strategy could be used to minimize, or possibly eliminate the need for the property. The proposed project is constrained by the Union Pacific Railroad to the west. The only option to avoid this parcel is to shorten the freeway extension. In shortening the freeway, the frontage road tie-ins would have to be reconfigured and non-standard tapers for the Mission Avenue Interchange could present a safety issue. Changing the frontage road system would have negative impacts for the local circulation plan and pending land use developments that were configured based on this approved frontage road system, negotiated through the Merced County Association of Governments. The transition would affect the frontage road on the west side of Route 99 if the transition were moved to the south. This would cause access issues; local circulation issues, and utility issues. Moreover, additional parcels would be impacted.

The project requires a partial acquisition of 1.03 acres of the 4.8 acre parcel and the removal of a single-family residence, detached garage and four advertising signs.

In summary, options to avoid this parcel would be very costly, would impact other properties and would not be in the best interest of the State and with the least private injury.

The following is a description of the concerns, which Mr. Hassing has expressed and the Department's response.

**Owner:**

"The Department's project could be designed to avoid this parcel."

**Department Response:**

The proposed project is constrained by the Union Pacific Railroad to the west. The only option to avoid this parcel is to shorten the freeway extension. In shortening the freeway, the frontage road tie-ins would have to be reconfigured, and non-standard tapers for the Mission Avenue Interchange could present a safety issue. Changing the frontage road system would have negative impacts for the local circulation plan and pending land use developments that were configured based on this approved frontage road system, negotiated through the Merced County Association of Governments.

If the transition were moved to the south, the frontage road on the west side of Route 99 would be affected. This would cause access issues, local circulation issues, and utility issues, as well as impacts additional parcels.

**Owner:**

"The Department has not made a valid offer of compensation for the proposed acquisition."

**Department Response:**

The Department provided a written offer for the full amount of the Department's appraisal to the property owner in compliance with Government Code 7267.2. Mr. Hassing has issue with the amount of compensation being offered to him. He has been notified that issues related to compensation are outside the purview of the Commission.

**PARCEL DESCRIPTION**

The subject parcel is identified as Assessor's parcel numbers (APN) 061-240-038 and 061-240-53 in the city of Merced, in Merced County. The approximate area of the property is 4.8 acres or 1.944 hectares. The property is mostly triangular in shape, zoned Thoroughfare Commercial (CT), is level to grade, and has access to Parsons Street. The property is improved with a single-family residence built in 1920, 216 square foot detached garage, and four advertising signs.

**STATUTORY OFFER TO PURCHASE**

The Department has appraised the subject property and offered the full amount of the appraisal to the owners of record.

**PANEL RECOMMENDATION**

The Panel concludes that the District'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 California Transportation Commission.

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VERNON V. RHINEHART  
Office of Project Delivery  
Division of Right of Way and Land Surveys  
Panel Chair

I concur with the Panel's recommendation:

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J. MIKE LEONARDO  
Acting Chief Engineer

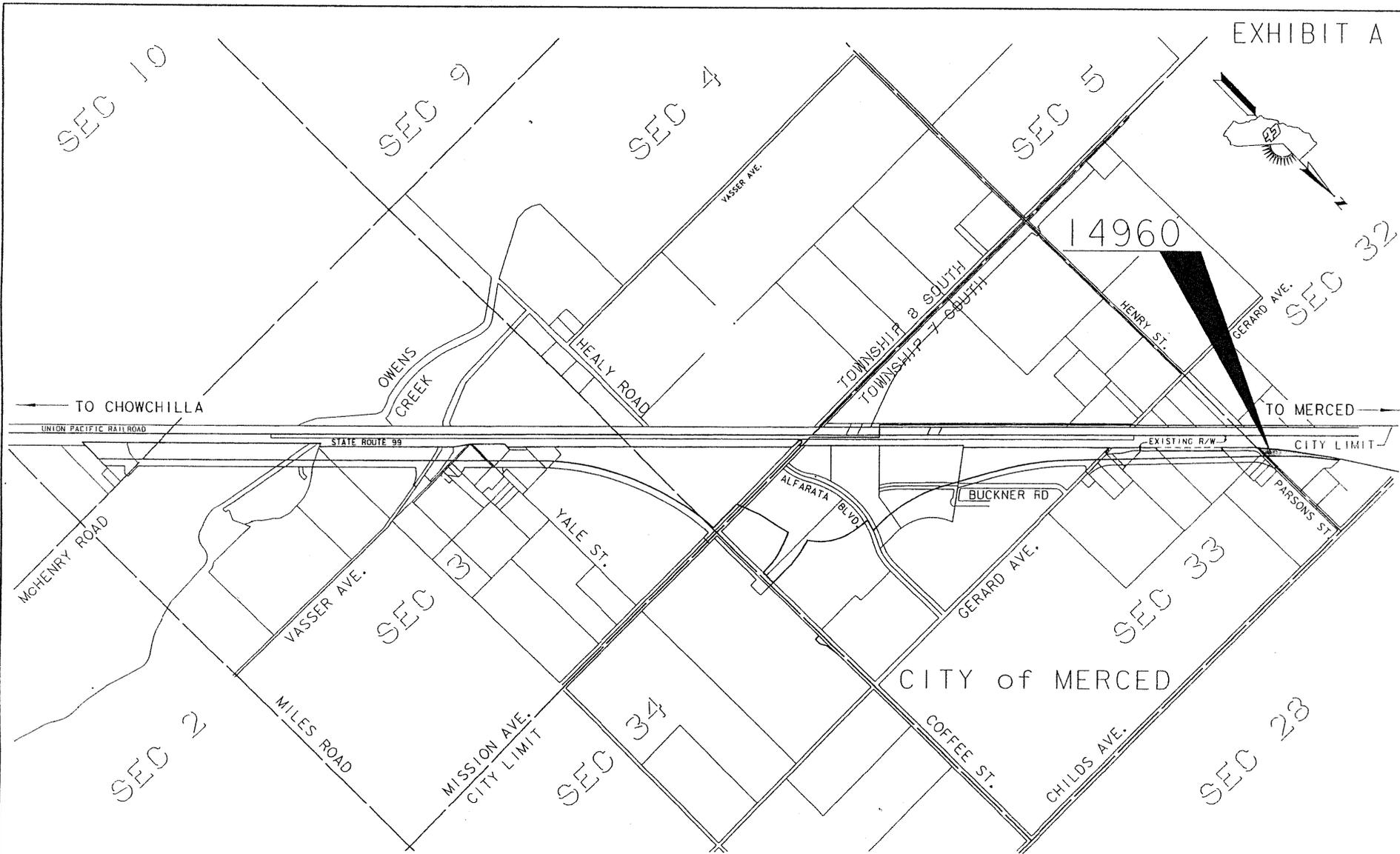
**PERSONS ATTENDING SECOND LEVEL REVIEW PANEL  
HEARING ON NOVEMBER 1, 2004**

Vern Rhinehart, Headquarters Right of Way, Panel Chair  
Richard B. Williams, Headquarters Attorney, Panel Member  
Linda Fong, Headquarters Design, Panel Member  
Deborah Gebers, Headquarters Right of Way, Panel Secretary

Steve Hassing, Property Owner

Kome Ajise, District 10, District Director  
Randeem Walter, Chief, Central Region Right Of Way  
Jack Walker, Central Region, Design  
Jorge Granados, Central Region, Chief Design  
Peter Jemerigbe, District 10, Project Management  
Sharon Parsons, Central Region, Senior Right of Way  
Ken Cozad, Headquarters, Design

EXHIBIT A



NO SCALE

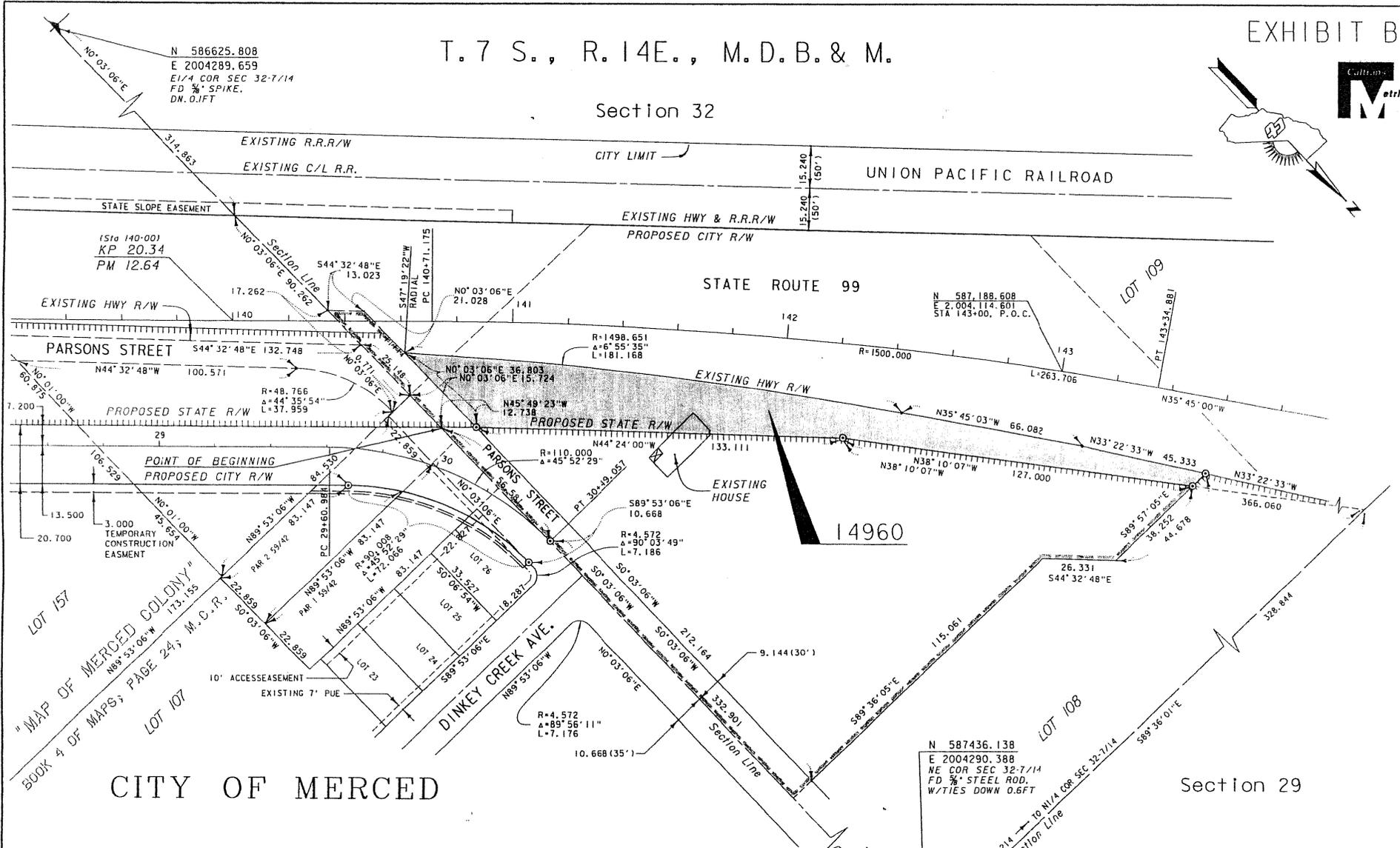
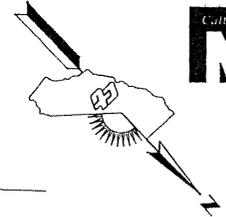
### RESOLUTION OF NECESSITY AREA MAP

10-Mer-99 K.P. 20.5



T. 7 S., R. 14 E., M. D. B. & M.

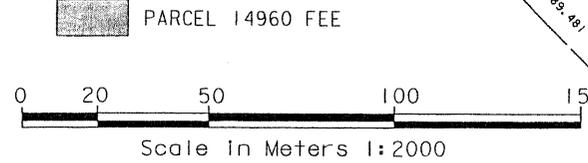
Section 32



CITY OF MERCED

CONVERSION FACTOR: This survey is in meters. Multiply by 3937/1200 to convert to feet.

This survey is based on the California Coordinate System of 1983, Zone 3. Units are in meters and bearings and distances are on grid. Multiply by 1.00003581 to convert to ground distances.



RESOLUTION OF NECESSITY MAP  
10-Mer-99 K.P. 20.5