

Memorandum

To: CHAIR AND COMMISSIONERS

CTC Meeting: January 14, 2009

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

From: CINDY McKIM
Chief Financial Officer

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

Subject: **RESOLUTION OF NECESSITY - APPEARANCE**

RECOMMENDATION:

The California Department of Transportation (Department) recommends the California Transportation Commission (Commission) adopt Resolutions of Necessity (Resolution) C-20039 and C-20040 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, stipulating specific findings identified under Section 1245.230 of the Code of Civil Procedure, which are:

1. The public interest and necessity require the proposed project.
2. The proposed project is planned and located in a manner that will be most compatible with the greatest public good and the least private injury.
3. This property is necessary for the proposed project.
4. An offer to acquire the property in compliance with Government Code Section 7267.2 has been made to the owner of record.

In this case, the property owner is contesting the Resolutions and has requested an appearance before the Commission to challenge the adoption of the Resolutions. The owner does not contest the need for the project but does contest the drainage impacts to his parcels. The owner's objections and the Department's response are contained in Attachments B and C.

BACKGROUND:

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

C-20039 - Jarvis Properties, a California Limited Partnership; John L. McDonnell, Jr., Trustee, etc., et al.

05-Mon-101-PM 91.5 - Parcel 10397-1; 11124-1 - EA 0161E9.

Right of Way Certification (RWC) Date: 10/01/09; Ready to List (RTL) Date: 02/01/10.

Conventional highway - construct interchanges and operational improvements. Authorizes condemnation of land in fee for a State highway, extinguishment of abutter's rights of access, together with all of those certain improvements which straddle the right of way line with an easement to enter the remaining ownership to remove such improvements. Located in the city of Salinas at the southwest corner of Russell Road and Main Street and at 2369 North Main Street. Assessor's Parcel Numbers (APN)s 253-012-066, -065. Attachment B

C-20040 - John L. McDonnell, Jr., Trustee, etc., et al.

05-Mon-101-PM 91.6 - Parcel 10395-1, 2, 3 - EA 0161E9.

RWC Date: 10/01/09; RTL Date: 02/01/10. Conventional highway - construct interchanges and operational improvements. Authorizes condemnation of land in fee for a State highway, extinguishment of abutter's rights of access, a permanent easement for drainage, easements for access to drainage area to be conveyed to County of Monterey, together with all of those certain improvements which straddle the right of way line with an easement to enter the remaining ownership to remove such improvements. Located in the city of Salinas at 432 Espinosa Road. APN 253-012-053. Attachment C

Attachments:

Attachment A - Project Information

Exhibit A-1 through A-3 - Project Maps

Attachment B - Parcel Panel Report for Jarvis Properties (Resolution C-20039)

Exhibit B1 through B-4 - Jarvis Photos and Maps

Attachment C - Parcel Panel Report for John L. McDonnell, Jr., Trustee (Resolution C-20040)

Exhibits C-1 through C-3 - McDonnell Photos and Maps

PROJECT INFORMATION

PROJECT DATA	05-Mon-101-PM R 91.2/100.4 Expenditure Authorization (EA) 05-0161E9
<u>Location:</u>	US Route (Route) 101 north of the city of Salinas in Monterey County
<u>Limits:</u>	From 0.3 miles north of Boronda Road to 0.7 miles south of San Juan Road
<u>Cost:</u>	Programmed construction cost: \$173,190,000 Current right of way cost estimate: \$64,147,000
<u>Funding Source:</u>	Regional Improvement Program, Interregional Improvement Program, local funds, and federal demonstration funds
<u>Number of Lanes:</u>	Existing: Four-lane Expressway Proposed: Four-lane Expressway and Freeway
<u>Proposed Major Features:</u>	New Interchanges: Sala Road, San Miguel Canyon Road, and Crazy Horse Canyon Road Other: Russell/Espinosa undercrossing, Blackie/Reese overcrossing, multiple local road improvements, median barrier, and drainage basins
<u>Traffic:</u>	Existing (year 2010): 68,000 Annual Daily Traffic (ADT) Proposed (year 2030): 97,000 ADT

NEED FOR THE PROJECT

The Route 101 project, named the Prunedale Improvement Project (PIP), is located north of the city limits of Salinas in a small-unincorporated community known as Prunedale. Route 101 physically divides the community of Prunedale and at times is difficult to get from one side of the community to the other. This project was derived as a phased approach to solving safety, operational, and capacity concerns on Route 101 in the vicinity of Prunedale and Salinas.

The purpose of this project is to:

- Improve safety along Route 101 and intersecting local roadways.
- Improve traffic flow along existing Route 101.
- Improve accessibility to area homes, businesses, and services.

A combination of high traffic volumes, numerous uncontrolled access points, inadequate local road circulation network, and existing nonstandard geometric features have contributed to operational and safety concerns along Route 101 within the project limits. Traffic conflicts are generated by turning and merge/diverge movements from local roads and driveways, which lead to substantial delays, long queues for traffic turning left to or from Route 101, and a higher than

average concentration of collisions at several locations. Traffic congestion and turning conflicts contribute to pronounced speed differentials that intensify the difficulty motorists experience when attempting to enter and exit Route 101. These factors also contribute to the higher than average collision rates.

There are 15 primary local road intersections and approximately 52 driveways identified along this section of Route 101, 24 of which allow left-turn movements across Route 101 traffic. Of the 15 local road intersections, five currently have higher than average concentrations of collisions--Russell Road/Espinosa Road, Blackie Road/Reese Circle, Messick Road North, Crazy Horse Canyon Road, and Echo Valley Road.

Inordinately long left-turn delays from northbound Route 101 onto San Miguel Canyon Road were addressed by the completion of an interchange project in 2002. Peak period delays are still common for motorists turning left onto Espinosa, Blackie, Tustin, Moro, and Echo Valley Roads from northbound Route 101. Left-turn delays from southbound Route 101 occur at Ralph Lane, Reese Circle, Pesante Road, Messick Road, and Crazy Horse Canyon Road. Pesante Road serves the Prunedale Elementary School, school bus parking lot, and the local area fire station, as well as residences. High through traffic volumes on Route 101 contribute to turning movement delays for all users.

During the peak hours, Route 101 currently operates between a level of service (LOS) D and E on the highway mainline. Due to congested conditions along the highway, five intersections along Route 101 currently operate at LOS F during the peak hour--Russell Road/Espinosa Road, Blackie Road/Reese Circle, Pesante Road, Crazy Horse Canyon Road, and Echo Valley Road. The remaining at-grade intersections operate at LOS E during the peak hour.

Forecasts indicate additional capacity is required to meet future travel demands within this corridor. Mainline LOS is calculated to drop from LOS D or E to LOS E or F as the current highway approaches or even exceeds capacity. Gaps in mainline traffic will continue to become smaller and less frequent as traffic volumes increase, and collisions involving turning movements will likely increase as a consequence. The increased congestion will exacerbate the conflict between local and through-traffic and further restrict local circulation.

During the afternoon peak hours, LOS analysis indicates that most intersections and mainline segments within the project limits would operate at LOS F in the year 2030 under the no-build scenario. In addition, the ramp junctions for the northbound on-ramp and southbound off-ramp at the Boronda Road/Route 101 interchange would operate at a LOS F with the potential for queuing onto the freeway at the ramp divergence.

Construction of the preferred alternative would improve traffic operations, safety, and local circulation by reducing traffic conflicts, consolidating or reducing access points, separating local road traffic from State highway traffic, constructing local road improvements, and constructing median barrier. The preferred alternative would eliminate all left turn conflicts within the project

limits by closing existing gaps in the median barrier with a new barrier, reducing the likelihood of broad-side and head-on collisions--the most common types of collisions associated with left turn movements and areas without median barriers.

PROJECT PLANNING AND LOCATION

For many years, the County of Monterey and the Department of Transportation (Department) attempted to develop a bypass project for the Prunedale area. It became apparent that funding for the bypass would be difficult, if not impossible to obtain. In 2002, the Transportation Agency for Monterey County (TAMC) passed a resolution that stated that TAMC, along with the Department, would take a phased approach to addressing transportation needs along Route 101. The Department would construct safety and traffic operational improvements first, followed by congestion and long-term capacity relief improvements. This project would provide significant safety and operational improvements to the Route 101 corridor. Specific improvement locations were derived based upon traffic volume and accident history data.

At the southern end of the project, it is proposed to construct a new section of access-controlled, four-lane elevated freeway from 0.2 miles north of the Boronda Road interchange to approximately White Road. Other improvements within this segment include the construction of undercrossing structures at Russell/Espinosa Roads. Russell and Espinosa Roads will be connected under the freeway to enhance circulation and eliminate left turn conflicts on Route 101. Other local road improvements will also be constructed to enhance local circulation. A new local road interchange will be constructed approximately 0.6 miles north of Russell/ Espinosa Road. The new interchange will connect to Harrison Road to the east via the new local road (Sala Road).

A two-lane overcrossing structure is proposed approximately 1,000 feet south of the existing Blackie Road/Reese Circle/Route 101 intersection. A new local road will be constructed from the existing intersection of Blackie Road and Prunedale South Road, extending to the south and over Route 101 via the new overcrossing structure. The new local road will connect to Reese Circle approximately 425 feet east of Cross Road. Improvements and/or modifications to Cross Road, Reese Circle, Pesante Road, Orchard Road, and Pollock Lane will occur to enhance local circulation.

The southbound off-ramp at the San Miguel Canyon Road interchange will be modified from its current configuration to accommodate both left and right turn movements at the ramps' intersection with San Miguel Canyon Road. Local road improvements will also be constructed on San Miguel Canyon and Prunedale North Roads to enhance local circulation.

A new interchange is proposed at the Crazy Horse Canyon Road/Route 101 intersection. Echo Valley Road will be realigned approximately 1,500 feet to the south to match up with Crazy Horse Canyon Road via an overcrossing structure at Route 101. Ramps will be constructed, creating a tight diamond interchange. Various other local road improvements will be constructed to enhance local circulation in the vicinity of this interchange. Concrete median barriers will be constructed in all "gaps" that exist between Boronda Road and the new Crazy Horse Canyon/Echo Valley Road interchange, eliminating all left turns to and from Route 101.

LOCATION MAP

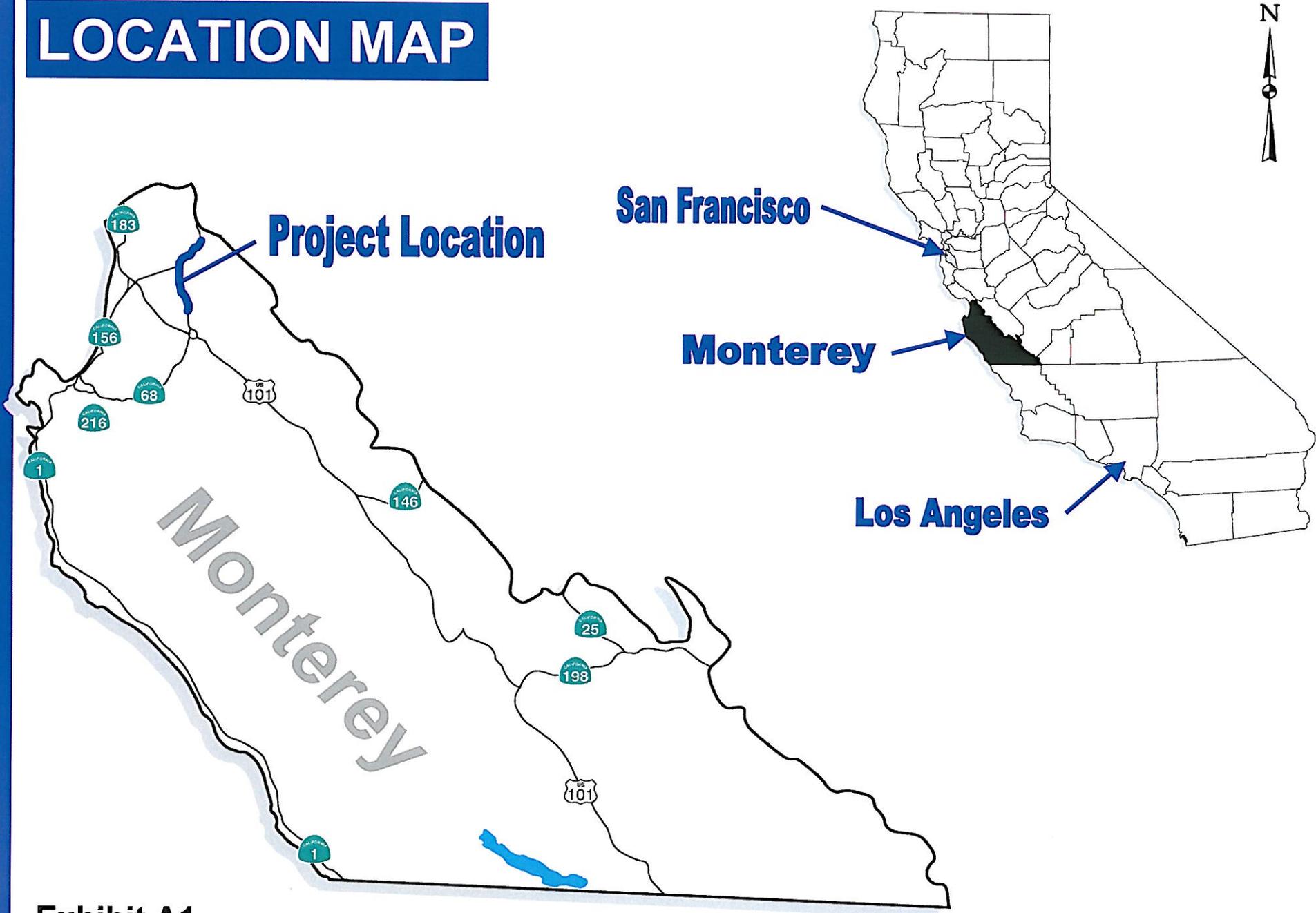


Exhibit A1

NOT TO SCALE

Project Location

**Blackie/Reese OC
(New)**

Jarvis Properties

**Sala Rd
Interchange
(New)**

To Monterey

**San Miguel Canyon Rd
Interchange
(Modifications)**

Boronda Rd

Espinosa Rd

Route 101

Route 101

To
San Francisco

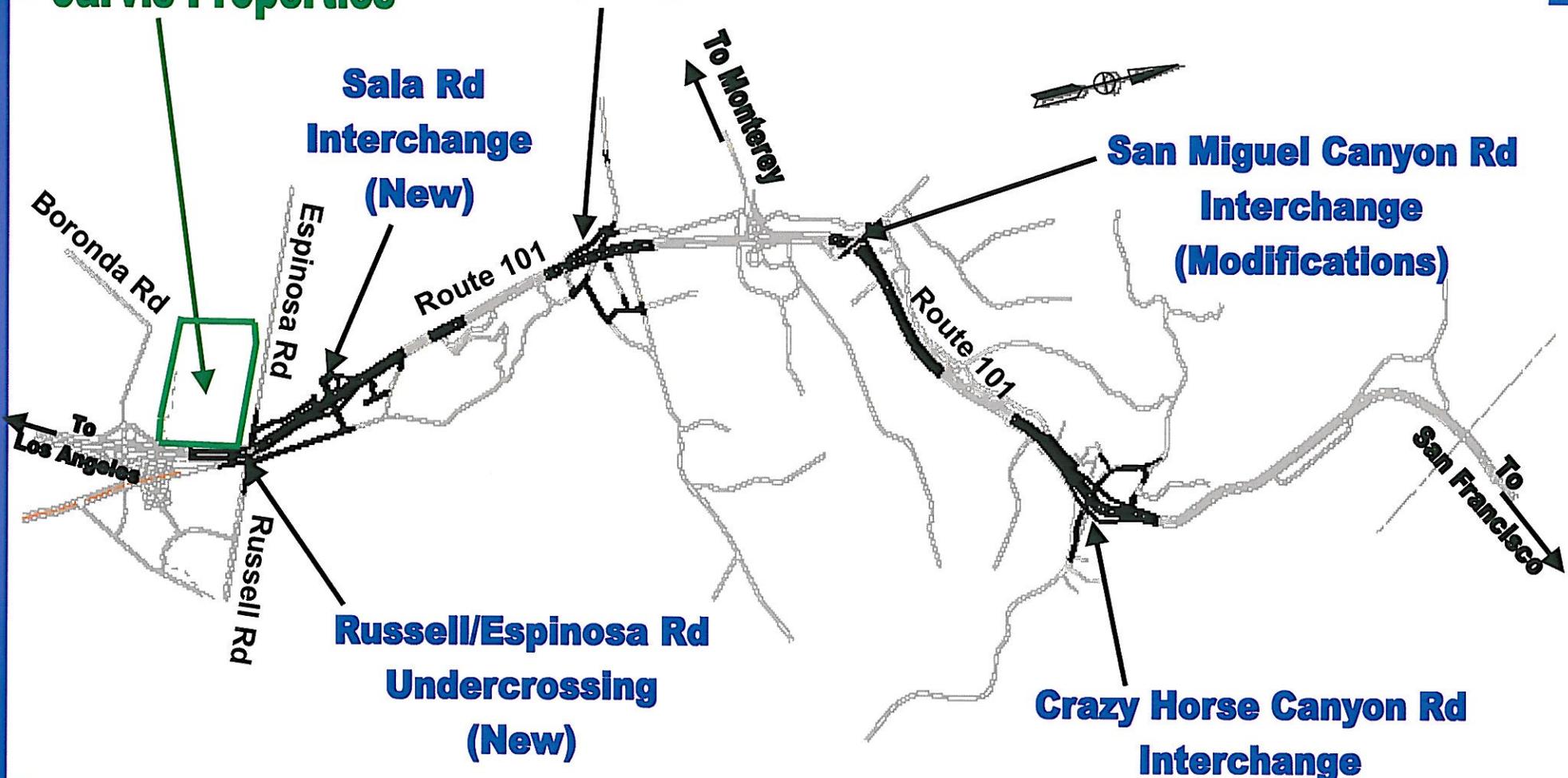
To
Los Angeles

Russell Rd

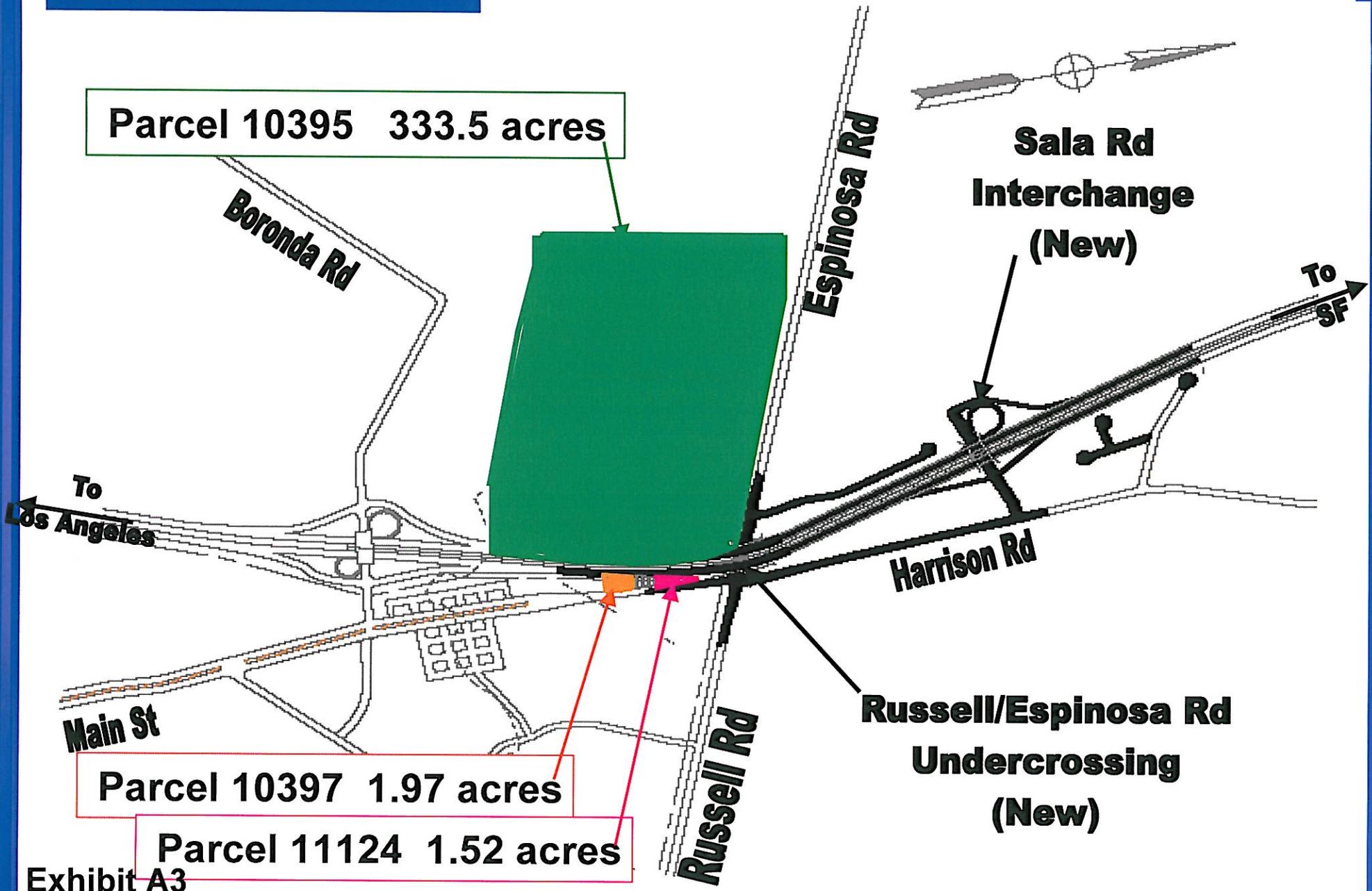
**Russell/Espinosa Rd
Undercrossing
(New)**

**Crazy Horse Canyon Rd
Interchange
(New)**

Exhibit A2



Parcel Location



PARCEL PANEL REPORT

PARCEL DATA

Property Owner: Jarvis Properties, a California Limited Partnership; John L. McDonnell, Jr., Trustee of the Jarvis Replacement Administrative Trust, etc., et al.

Parcel Location: 10397 - East of US Route (Route) 101 near the intersection of Main Street and Russell Road
Assessor's Parcel Number 253-012-066
11124 - 2369 North Main Street
Assessor's Parcel Number 253-012-065

Present Use: 10397 - Vacant
Zoned Commercial Retail
11124 - Multi-Family Residential
Zoned Commercial Retail

Area of Property: 10397 - 1.97 acres
11124 - 1.52 acres

Area Required: 10397 - 0.13 acres (5,663 square feet) in fee
11124 - 0.03 acres (1,307 square feet) in fee

PARCEL DESCRIPTION

Parcel 10397, Assessor's Parcel Number 253-012-066 is located in Salinas, in Monterey County, and is vacant, relatively flat, and rectangular in shape. It is slightly less than two acres in size and has driveway access to North Main Street. Access to the highway is restricted. The parcel is zoned Commercial Retail.

Parcel 11124, Assessor's Parcel Numbers 253-012-065, is located at 2369 North Main Street, in Salinas, in Monterey County. The property is triangular in shape with a flat topography and is adjacent to Route 101 on its western border with access denial; on its eastern border it is adjacent to a narrow strip of land owned by the State, fronting North Main Street. This property has access denial along the State property fronting North Main Street with the exception of two access openings measuring 20 feet and 30 feet in width.

Parcel 11124 is improved with three cottages, detached garages, and various outbuildings. The project will impact the detached garage of the larger residence and naturally occurring trees and shrubs.

NEED FOR SUBJECT PROPERTY

The California Department of Transportation (Department) proposes to construct a concrete barrier and soundwall along the easterly right of way line of Route 101, adjacent to the property. The proposed acquisition will allow access for maintenance and repair work that may be necessary on the planned right of way fence and soundwall barrier.

Additionally, several drainage inlets will be constructed between the subject parcels and Route 101. In order to properly maintain these inlets the Department requires the proposed acquisition, which will allow access for the Department's maintenance crews to perform their work. If the Department is unable to access and maintain these new drainage inlets, over time the inlets will fill with sediment and become plugged, resulting in flooding of both the State highway and adjacent private properties during heavy storm events.

The proposed project requires a fee acquisition of 5,663 square feet from parcel 10397 and a fee acquisition of 1,307 square feet from parcel 11124. The proposed acquisition will facilitate maintenance of newly constructed drainage improvements by the Department. Approximately 253 square feet of an existing garage will be impacted by the proposed fee acquisition from parcel 11124. This impact has been accounted for in the property appraisal and included in the offer of just compensation.

The project alignment was chosen to cause the least private harm while ensuring the greatest public good. This particular stretch of highway presents many safety concerns to the State, making this project extremely important with regard to the greatest public good. The Department's original easement proposal was for a 20-foot strip of land on the southern most edge of parcel 10397. The property owner was concerned that this proposal would significantly impact the "developable" portion of their property and suggested the current alternative. The Department was able to modify the easement area as proposed by the property owner, minimizing impact to the subject property, while maintaining the greatest public good.

RESOLUTION OF NECESSITY REVIEW PANEL REPORT

The Condemnation Review Panel (Panel) met at the Department's Sacramento office on May 30, 2008. The Panel members included Donald Grebe, Panel Chair, Department Headquarters (HQ's) Division of Right of Way and Land Surveys; Samuel Law, Department San Francisco Legal Division; Linda Fong, Department HQ's Division of Design; and Deborah Gebers, Department HQ's Division of Right of Way and Land Surveys, Secretary to the Panel. Representing the property owners, Jarvis Properties, a California Limited Partnership and John L. McDonnell, Jr., Trustee of the Jarvis Replacement Administrative Trust, were John McDonnell, Trustee; Les Hausrath, Legal Counsel; and Jeff Grote, Engineering Consultant.

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 Department's Chief Engineer. The

property owner does not contest the purpose and need for the project. The outstanding concern of the Jarvis Properties is that they believe the project design presents risks for serious problems and adverse impacts of flood damage and soil erosion on their remaining property.

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

Owner:

The property owner expressed concern about the project as it was initially proposed, believing that the design interfered with development potential of the parcel and that the proposed easement encumbered the most developable portion of parcel 10397.

Department:

Based upon a January 8, 2008 meeting with representatives of the property owner, the Department modified the proposed access easement. The initial proposal was a 20-foot easement for the entire southern edge of parcel 10397. The amended, and currently proposed, acquisition is less intrusive to the remaining parcel and will still allow the Department's maintenance crews adequate access to maintain the drainage facilities.

Owner:

The property owner expressed concern that drainage problems on the west side of Route 101 will result in water backing up on his properties on the east side.

Department:

The Department has analyzed the existing and proposed culvert crossing and has determined that the west side of the project will not affect the east side. In fact the project reduces the flow to the east side by 6 cubic feet per second. The Department has expressed to the property owner that the drainage issues on the east side are the responsibility of the City of Salinas and the County of Monterey and that they need to work with them to resolve local drainage issues.

Owner:

The property owner has requested that the Department exchange the proposed acquisition needed from these two parcels with an excess piece of land that is owned by the State and runs parallel to their property along the eastern border fronting North Main Street.

Department Response:

The Department has agreed in principle to an exchange if an agreement can be reached. The details of the exchange will need to be determined through continued negotiations and will be included in the agreement. A portion of the State-owned land proposed to be included in the exchange will be used during the project's construction, as a temporary construction easement (TCE) for the contractor. When the TCE is no longer needed, the property may be released, subject to approval by the California Transportation Commission as part of the potential land exchange with the property owner.

DEPARTMENT'S CONTACTS

The following contacts have been made with the property owner:

Type of Contact	Number of Contacts
Mailing of information	10+
E-Mail of information	12+
Telephone contacts	8+
Personal / meeting contacts	6+

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 project 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 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 MAY 30, 2008**

Donald Grebe, HQ's Division of Right of Way and Land Surveys, Panel Chair
Samuel Law, San Francisco Legal Office Attorney, Panel Member
Linda Fong, HQ's Division of Design, Panel Member
Deborah Gebers, HQ's Division of Right of Way and Land Surveys, Panel Secretary

John McDonnell, Trustee of the Property
Les Hausrath, Attorney for the owner of the Property
Jeff Grote, Representative for the Jarvis Trust

Richard Krumholz, District 5 Director
Rory Quince, Central Region Design
Tom Fisher, Central Region Design
David Franke, Central Region Design
Jamie Lupo, Central Region Right of Way

Parcel Impacts

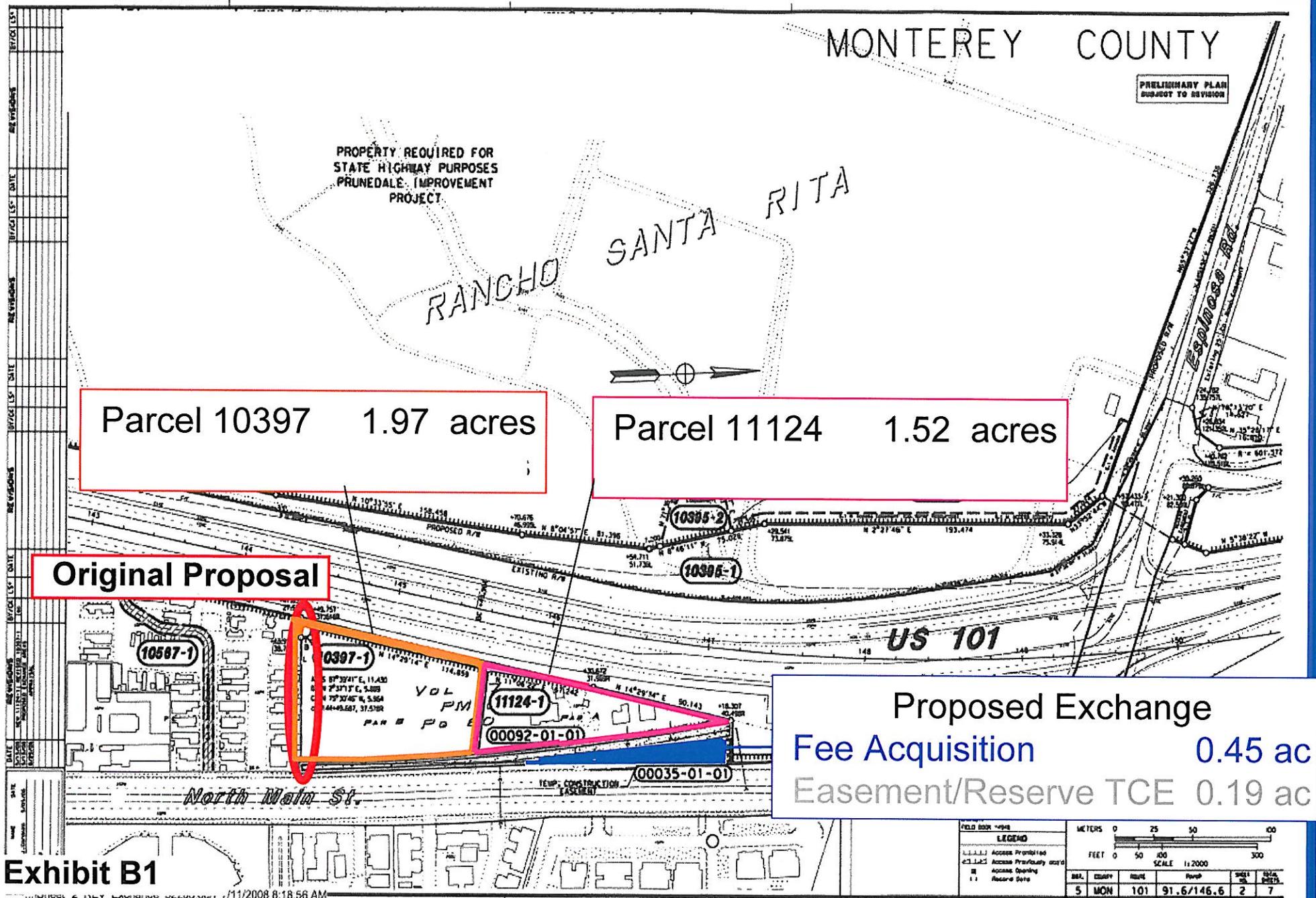


Exhibit B1

DEPARTMENT OF TRANSPORTATION

STATE HIGHWAY
US 101

IN MONTEREY COUNTY
PRUNEDALE IMPROVEMENT PROJECT

South End Portion
KP R146.8/161.6
(PM R91.2/100.4)
EA 0161E2

End Work
KP R161.6
(PM R100.4)

To
San Jose

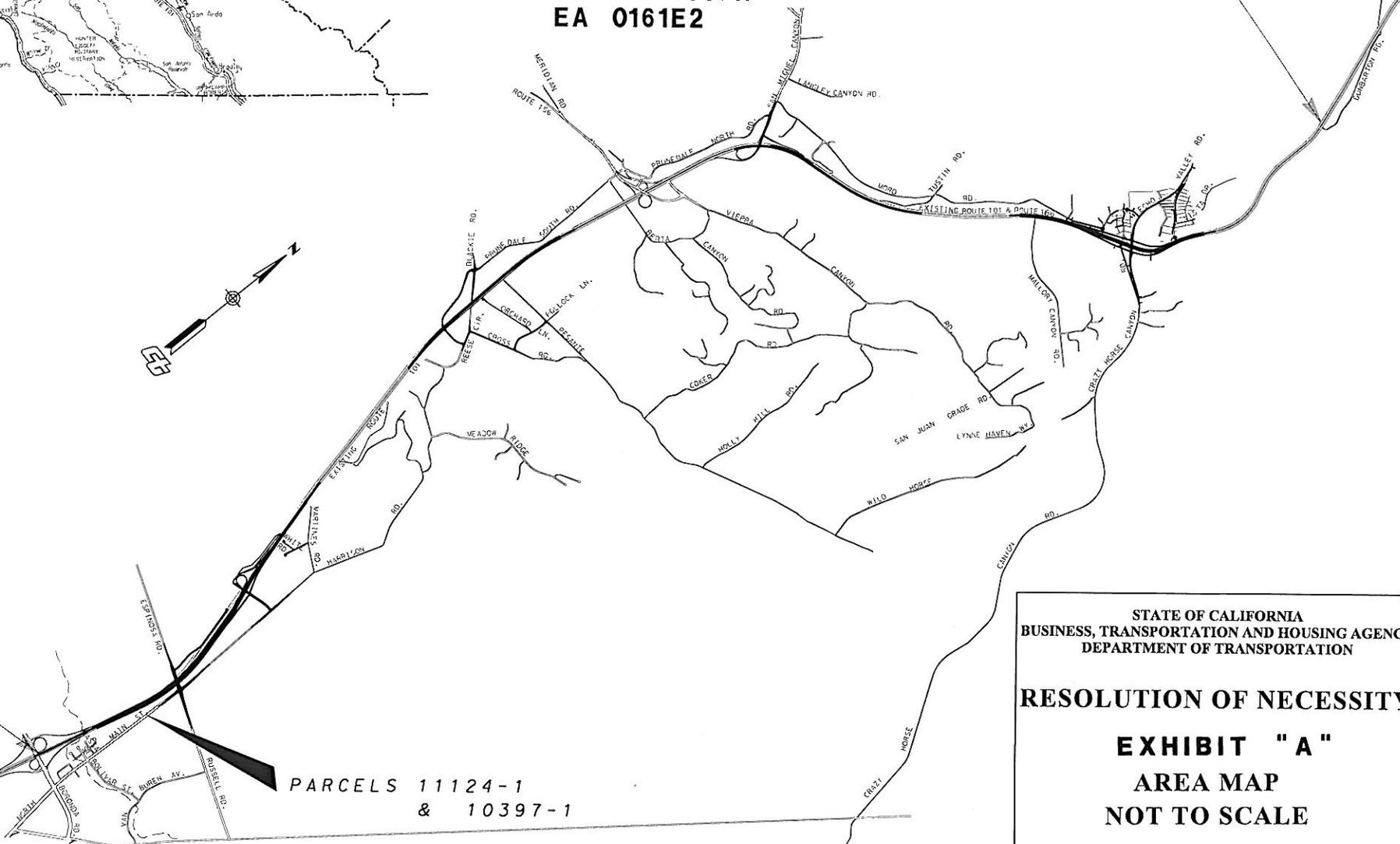
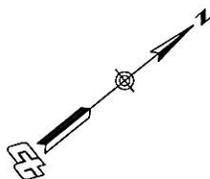
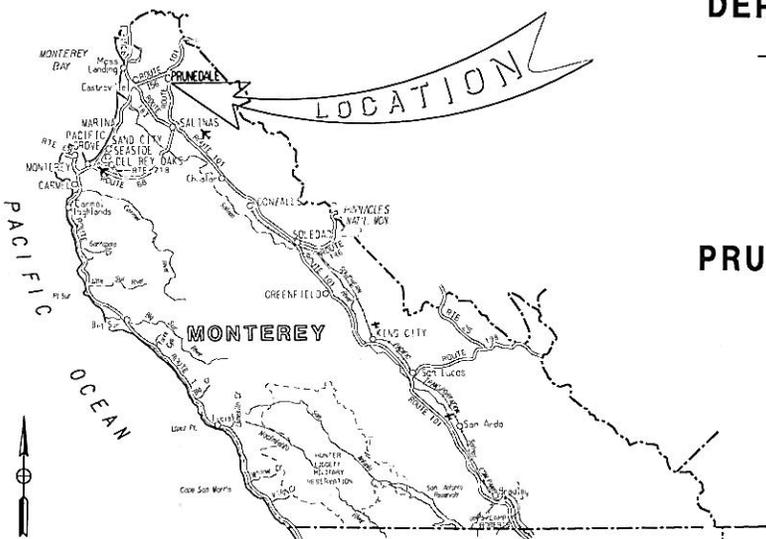


Exhibit B2

in Work
R146.8
R91.2)

To
Salinas

PARCELS 11124-1
& 10397-1

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

RESOLUTION OF NECESSITY

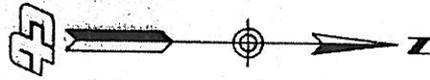
EXHIBIT "A"
AREA MAP
NOT TO SCALE

DISTRICT	COUNTY	ROUTE	POST MILE
05	MON	101	91.6

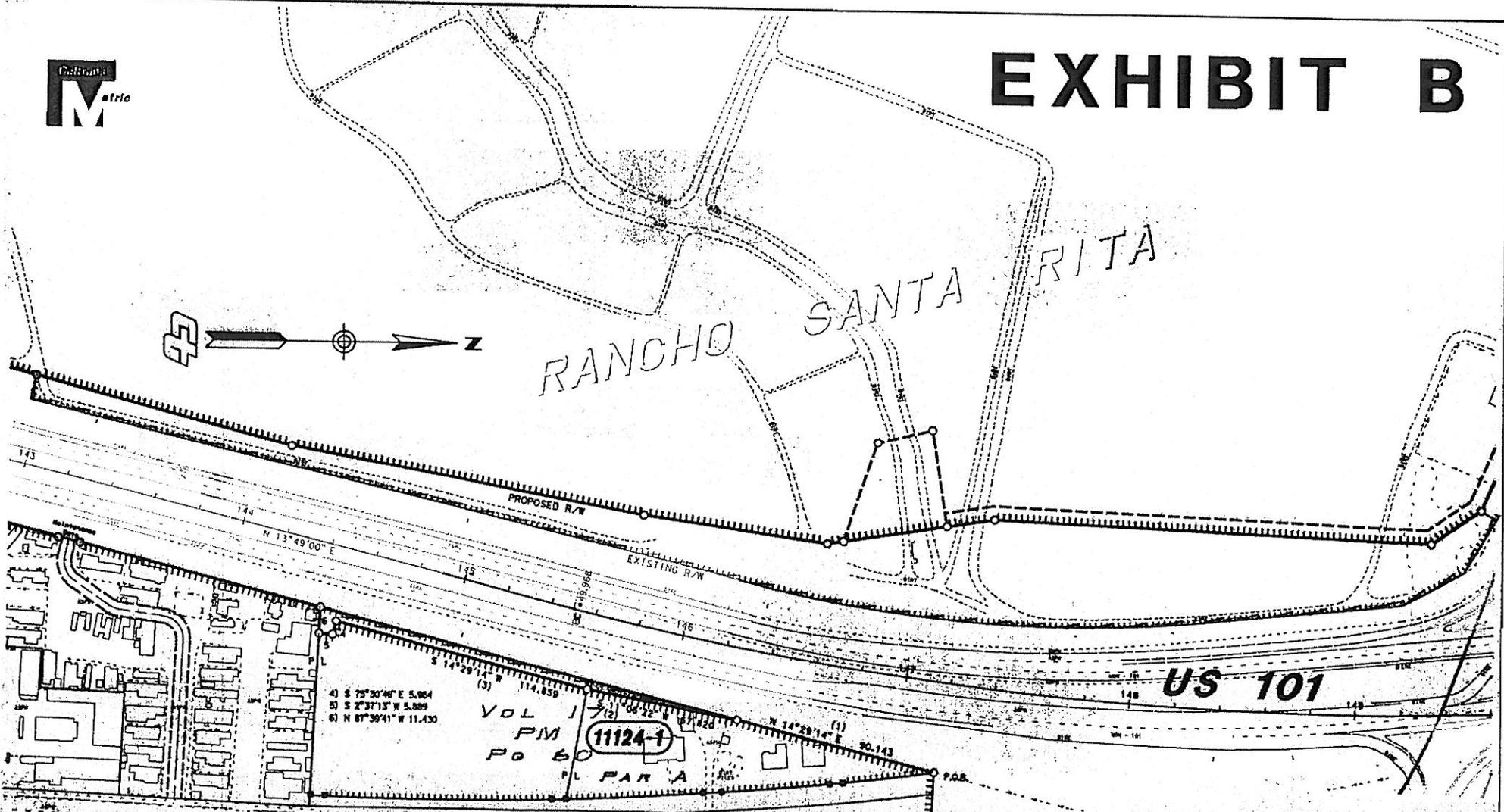
Exhibit B2



EXHIBIT B



RANCHO SANTA RITA



US 101

North Main St.

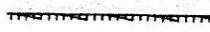
MONTEREY COUNTY

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

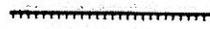
RESOLUTION OF NECESSITY PARCEL 11124



PARCEL 11124-1 FEE



ACCESS PREVIOUSLY ACQUIRED



ACCESS PROHIBITED

PL

PROPERTY LINE



ACCESS OPENING

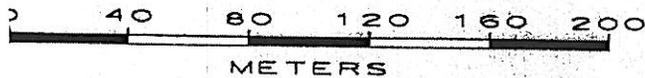


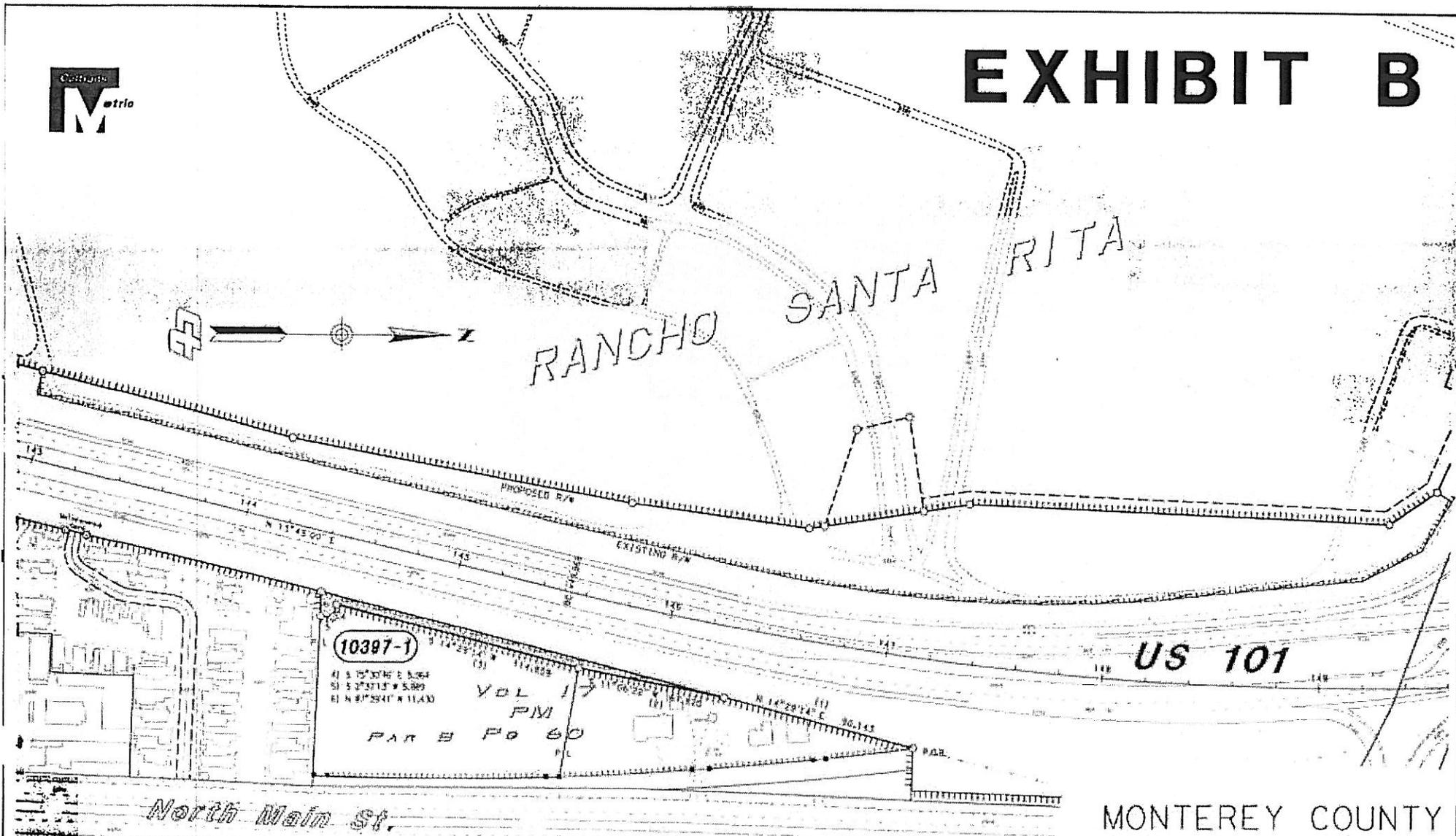
Exhibit B3

DISTRICT	COUNTY	ROUTE	POST MILE
05	MON	101	91.6

Exhibit B3



EXHIBIT B



10397-1
 4) S 15°30'46\"/>

VOL 17
 PM
 PAR 9 PG 60

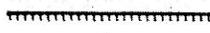
US 101

North Main St.

MONTEREY COUNTY

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

RESOLUTION OF NECESSITY PARCEL 10397

-  **PARCEL 10397-1 FEE**
-  **ACCESS PREVIOUSLY ACQUIRED**
-  **ACCESS PROHIBITED**
-  **PROPERTY LINE**
-  **ACCESS OPENING**



DISTRICT	COUNTY	ROUTE	POST MILE
05	MON	101	91.6

PARCEL PANEL REPORT

PARCEL DATA

Property Owner: John L. McDonnell, Jr., Trustee of the Jarvis Replacement Administrative Trust

Parcel Location: West of US Route (Route) 101, adjacent to the State highway and south of (and adjacent to) Espinosa Road
432 Espinosa Road, Salinas
Assessor's Parcel Number 253-012-053

Present Use: Farm
Zoned Farmlands (F/40)

Area of Property: 333.5 acres

<u>Area Required:</u>	10395-1	4.53 acres in fee
	10395-2	0.37 acres for drainage easement
	<u>10395-3</u>	<u>0.43 acres for county access easement</u>
	Total	5.33 acres in fee and easement

PARCEL DESCRIPTION

The subject parcel is located on the west side of Route 101, south of Espinosa Road at 432 Espinosa Road, Prunedale, in Monterey County and is identified as Assessor's Parcel Number 253-012-053. The property is approximately 333.5 acres, rectangular in shape, with approximately 1,000 feet of frontage along Route 101 and 1,300 feet of frontage on Espinosa Road. There is no access to the highway. The topography is level and the zoning is F/40, farmland. The property is currently being farmed.

The parcel is improved with a house and various outbuildings and an old fruit stand that is no longer in use. The fencing along Route 101 is state owned access control fencing.

The project proposes to acquire 4.53 acres in fee, 0.37 acres for a drainage easement, and 0.43 acres for an access easement. The acquisition areas are irregular in shape and have no major improvements.

NEED FOR SUBJECT PROPERTY

This parcel is needed for a safety improvement project and to satisfy drainage requirements for the project. Without the required parcels the California Department of Transportation (Department) would have no other means to contain and control storm water runoff. The subject property is adjacent to Route 101 and an existing drainage ditch, making it the only logical

location for the proposed drainage facilities. Other adjacent properties are highly developed or too far away to feasibly tie into the existing drainage system. The property and easements required for the Prunedale Improvement Project constitute less than two percent of the total parcel.

The proposed parcel acquisition of 5.33 acres includes:

- Parcel 10395-1 is a fee acquisition of a 4.53-acre irregular strip. The parcel fronts both Espinosa Road and Route 101, and is needed for the overpass planned at that location and for the construction of a series of drainage basins designed to accommodate peak flows for the project and surrounding watershed and to meter the amount of water flowing into the “Jarvis Ditch”.
- Parcel 10395-2 is a 0.37-acre drainage easement that is necessary to construct three drainage holding basins to collect storm water for proper runoff control.
- Parcel 10395-3 is a 0.43-acre access easement that would allow Monterey County staff the ability to access and maintain drainage improvements constructed as part of the project, including maintenance of the “Jarvis Ditch”.

RESOLUTION OF NECESSITY REVIEW PANEL REPORT

The Condemnation Review Panel (Panel) met at the Department’s Sacramento office on May 30, 2008. The Panel members included Donald Grebe, Panel Chair, Department Headquarters (HQ’s) Division of Right of Way and Land Surveys; Samuel Law, Department San Francisco Legal Division; Linda Fong, Department HQ's Division of Design; and Deborah Gebers, Department HQ's Division of Right of Way and Land Surveys, Secretary to the Panel. Representing the property owners, John L. McDonnell, Jr., Trustee of the Jarvis Replacement Administrative Trust, were John McDonnell, Trustee, Les Hausrath, Legal Counsel, and Jeff Grote.

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 Department’s Chief Engineer. The property owner does not contest the purpose and need for the project. The outstanding concern of the owner is that they believe the project design presents risk of serious problems and adverse impacts of flood damage and soil erosion on their remaining property.

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

Owner:

The property owner contends that the project and Department’s proposed acquisition will potentially have serious impacts on the drainage and hydrology affecting the property owner’s land, including the following:

- The project as designed will result in a surcharge in the existing drainage “Jarvis Ditch” that crosses the property, which will cause overtopping of the ditch resulting in flooding, further erosion of the ditch, and loss of valuable farm land.
- There has been a long history of flooding.
- The property owner suggests that alternative solutions in terms of drainage design may exist and is willing to continue a dialog with the Department to identify such solutions.

Department Response:

Meetings were held with John L. McDonnell, Jr., Trustee and Jeff Grote, consultant to the property owner, on numerous occasions to discuss the property owner’s concerns. The status of the Department’s drainage design and hydrology analysis was discussed. While said items are not 100 percent complete, the Department believes it has ample information to state that the project will not negatively impact the property.

- The Department design will accommodate 100-year storm events.
- The Department plans to construct three holding basins for runoff in the proposed acquisition area to minimize the flow of water entering the existing drainage ditch (on the subject property) at any given time.
- The three drainage basins to be constructed on the property would also benefit the remainder parcel by limiting the flow of water into the “Jarvis Ditch” and alleviating the concerns of the property owner about erosion and deterioration of the ditch over time.
- The outfall structures on the basins have been designed such that the basins will meet approved Design Pollution Best Management Practice and will provide storm water quality benefits.
- As the property owner mentions, there is a long history of overtopping of the ditch and subsequent flooding on the property, although that is not caused by highway runoff. Highway runoff is an insignificant contributor to the total amount of water that enters the ditch. The majority of the water entering the ditch is from the surrounding watershed and is due to existing flow patterns.
- The Department is negotiating with Monterey County Water Resources Agency to help finance construction of grade control structures in the Jarvis Ditch. The goal is to improve the long-term stability of the ditch and increase the level of erosion protection. Negotiations are still under way. Agreement has been made in principle, and the State’s contribution of \$100,000 is unlikely to change.

The proposed acquisition area is necessary for the project. The proposed fee acquisition is for the purpose of constructing drainage facilities, which will in fact limit the amount of water entering the existing drainage ditch at any one time. Without those holding basins, water will enter the existing ditch in quantities and at velocities that would be detrimental to the efficient operation of the ditch. The drainage easement and access easement are needed so that Monterey County staff can properly maintain the new drainage facilities.

Owner:

The owner has expressed concern that the leach field for a nearby trailer park, located on the east side of Route 101, is a source of contaminated water that pollutes the fields during heavy storm events.

Department:

The Department has designed the drainage facilities for the project to minimize the extent practicable the amount of contaminants that could possibly enter the drainage system.

Owner:

The property owner objects to the alignment of the project and states that the project is not planned or located in a manner that will be most compatible with the greatest public good and least private injury. The claim is that a modified design is likely to produce less impact on the property, and that a different design solution would require different, and perhaps lesser, property interests from the property owner.

Department:

This particular stretch of highway presents many safety concerns to the Department. This project will alleviate many of the safety issues, identifying this project as extremely important with regard to the greatest public good.

The project has undergone extensive environmental studies and review, and public meetings have been held. Prior to arriving at the selected alternative many alternatives and options were considered, including a bypass. The project has taken into account local area residents and business concerns in arriving at the best alternative that causes the least private injury while ensuring the greatest public good. The project report and the environmental document were approved March 2006. The project has been designed to meet applicable design standards with the exception of the conform areas, where certain nonstandard features exist and are being perpetuated. This proposed alignment was selected because it is the least private harm and ensures the greatest public good. This particular stretch of highway presents many safety concerns to the Department, and this project will alleviate many, making this project extremely important with regard to the greatest public good.

DEPARTMENT'S CONTACTS

The following contacts have been made with the property owner:

Type of Contact	Number of Contacts
Mailing of information	10+
E-Mail of information	12+
Telephone contacts	8+
Personal / meeting contacts	6+

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 project 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 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 MAY 30, 2008**

Donald Grebe, HQ's Division of Right of Way and Land Surveys, Panel Chair
Samuel Law, San Francisco Legal Office Attorney, Panel Member
Linda Fong, HQ's Division of Design, Panel Member
Deborah Gebers, HQ's Division of Right of Way and Land Surveys, Panel Secretary

John McDonnell, Trustee of the Property
Les Hausrath, Attorney for the owner of the Property
Jeff Grote, Representative for the Jarvis Trust

Richard Krumholz, District 5 Director
Rory Quince, Central Region Design
Tom Fisher, Central Region Design
David Franke, Central Region Design
Jamie Lupo, Central Region Right of Way

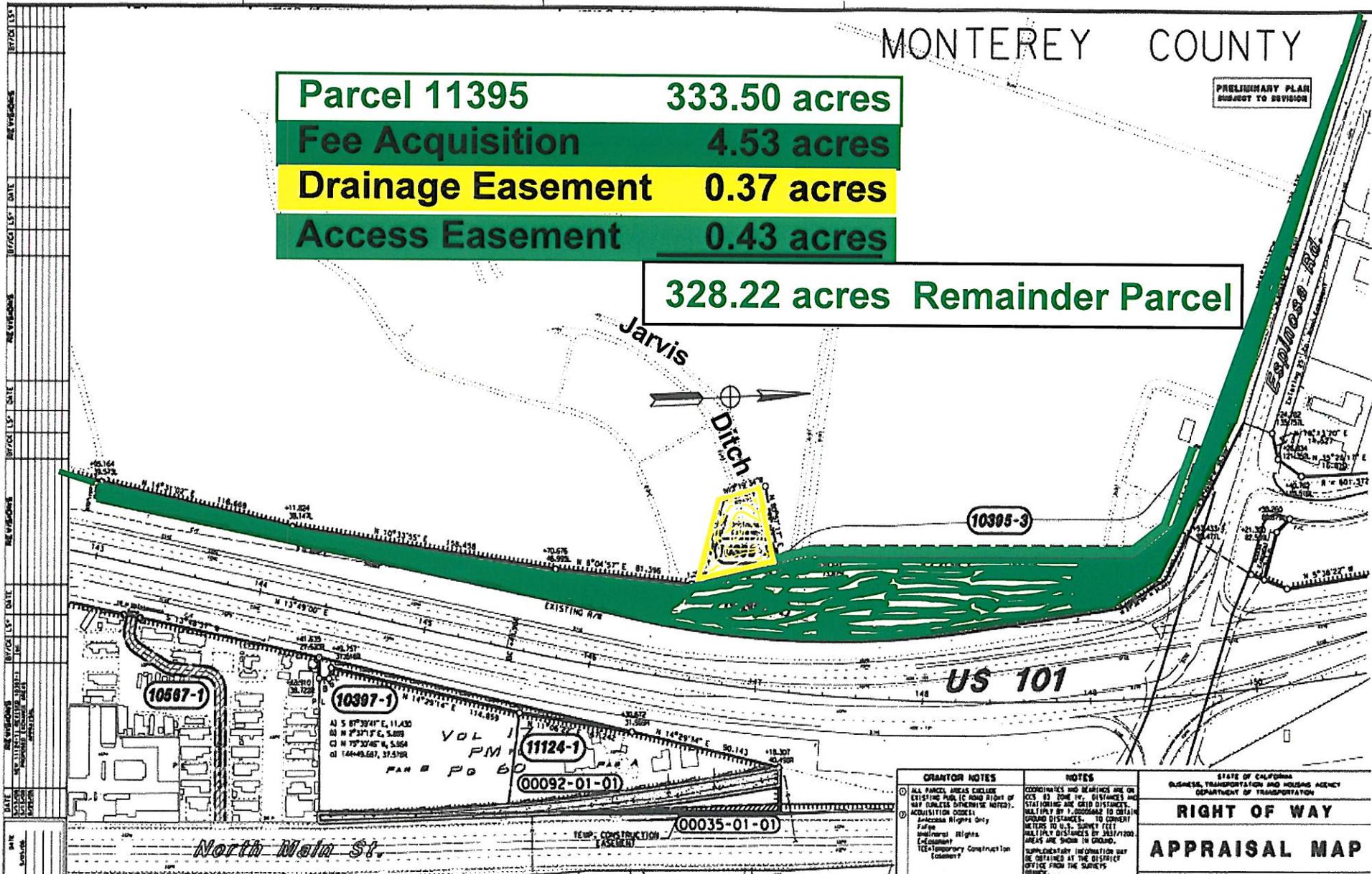
Parcel Impacts – West Side

MONTEREY COUNTY

PRELIMINARY PLAN
SUBJECT TO REVISION

Parcel 11395	333.50 acres
Fee Acquisition	4.53 acres
Drainage Easement	0.37 acres
Access Easement	0.43 acres

328.22 acres Remainder Parcel



GRANTOR NOTES

- ALL PARCEL AREAS ENCLOSED EXISTING PUBLIC ROAD RIGHTS OF WAY (UNLESS OTHERWISE NOTED).
- ACQUISITION CODES:
 (A) Access Rights Only
 (B) Easement Rights
 (C) Temporary Construction Easement

NOTES

COORDINATES AND BEARINGS ARE ON FACE OF THIS PLAN. DISTANCES ARE STATIONING AND GRID DISTANCES. MULTIPLY BY 1.0000046 TO OBTAIN GROUND DISTANCES. TO CONVERT METERS TO U.S. SURVEY FEET MULTIPLY DISTANCES BY 3.28084. AREAS ARE GIVEN IN GROUND.

SPRINKLER INFORMATION MAY BE OBTAINED AT THE DISTRICT OFFICE FROM THE SURVEY DIVISION.

FIELD BOOK #498

LEGEND

Access Proposed
 Access Priority
 Access Opening
 Record Data

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

**RIGHT OF WAY
 APPRAISAL MAP**

METERS 0 25 50 100
 FEET 0 50 100 200 300
 SCALE 1:2000

DIST.	ESSEY	ROUTE	POST MILE	FILE NO.	PLAN SHEET
5	MON	101	91.6/146.6	2	7

Exhibit C1

DEPARTMENT OF TRANSPORTATION

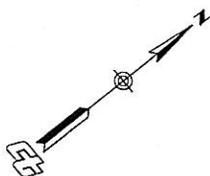
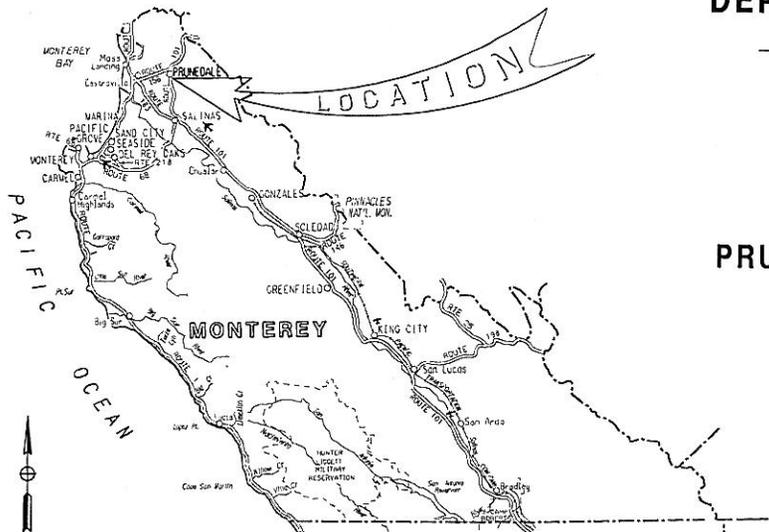
STATE HIGHWAY
US 101

IN MONTEREY COUNTY
PRUNEDALE IMPROVEMENT PROJECT

South End Portion
KP 146.8 to 149.0
(PM 91.2 to 100.4)
EA 0161E2

End Work
KP R161.6
(PM R100.4)

To
San Jose



10395-3
10395-2
PARCEL 10395-1

Begin Work
at R146.8
(at R91.2)

To
Salinas

Exhibit C2

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

RESOLUTION OF NECESSITY

EXHIBIT "A"
AREA MAP
NOT TO SCALE

DISTRICT	COUNTY	ROUTE	POST MILE
05	MON	101	91.6

Exhibit C2

EXHIBIT B

MONTEREY COUNTY

Iron Bar
14-PM-26
N69°11'54"W
209.305

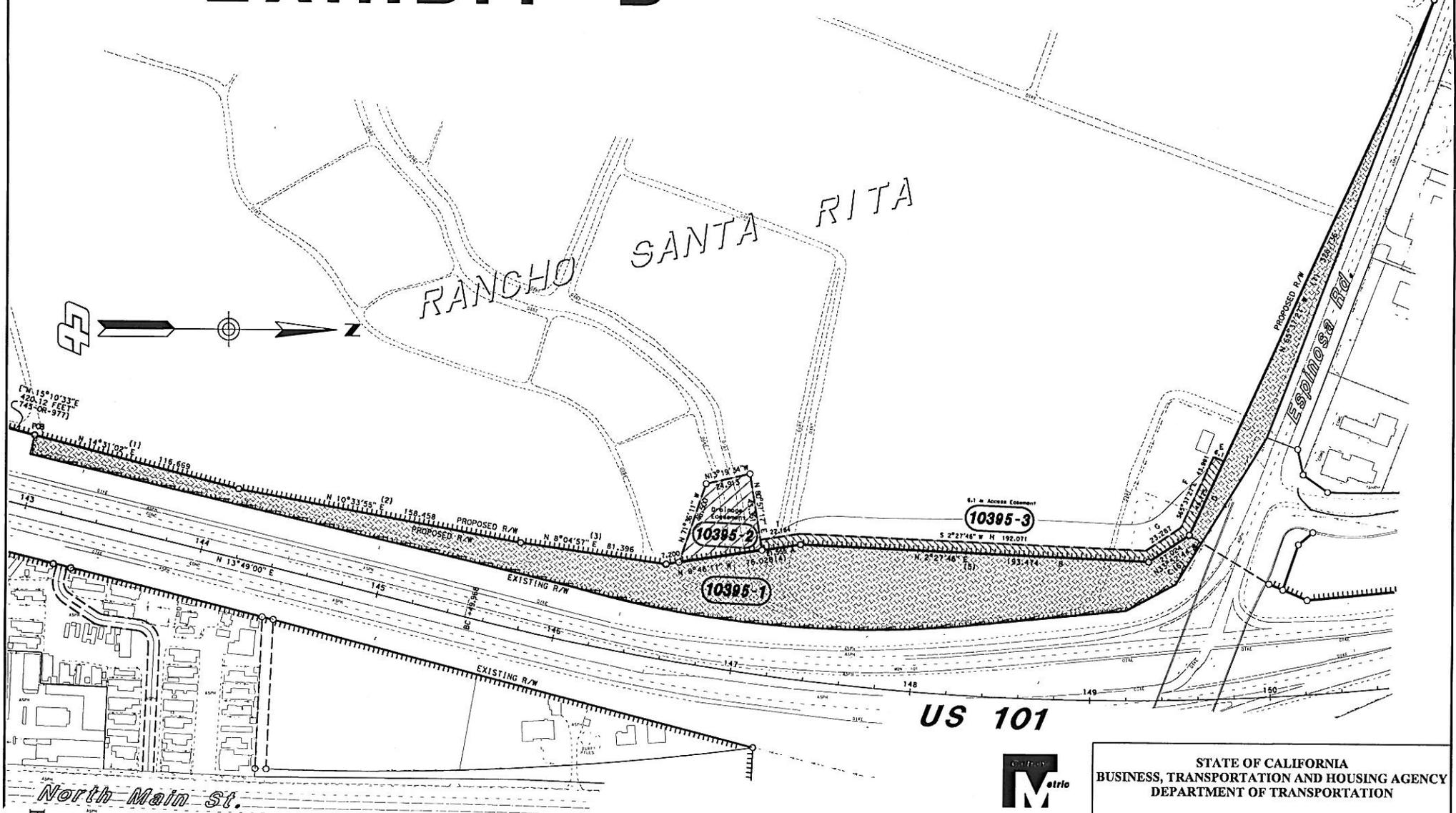


Exhibit C3

ACCESS PREVIOUSLY ACQUIRED
ACCESS PROHIBITED



-  PARCEL 10395-1 FEE
-  10395-2 DRAINAGE EASEMENT
(County of Monterey Water Resources)
-  10395-3 ACCESS EASEMENT
(County of Monterey Water Resources)



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

RESOLUTION OF NECESSITY PARCEL 10395

DISTRICT	COUNTY	ROUTE	POST MILE
05	MON	101	91.6