

**RESOLUTION OF THE BOARD OF SUPERVISORS OF ORANGE COUNTY,
CALIFORNIA, ACTING AS THE GOVERNING BOARD OF THE ORANGE COUNTY
FLOOD CONTROL DISTRICT, DETERMINING THE NECESSITY OF ACQUISITION
BY EMINENT DOMAIN OF REAL PROPERTY**

September 10, 2019

WHEREAS, this Resolution of Necessity (“Resolution”) seeks to acquire property interests in the real property currently owned by John Bos and Andi Bos, Trustees of the Bos Grandchildren’s Trust dated May 31, 2002 and Bos Legacy Limited Partnership, a California limited partnership (“Owners”), which real property is located at 16305 & 16395 Euclid Avenue in Chino, CA 91708, and which Subject Property Interests are described as follows:

Fee simple title to real property that is legally described and depicted by Exhibits A and B attached to the proposed Resolution, which fee simple area is referred to by the District as Project Parcel No. 46-995, and which covers San Bernardino County Assessor’s Parcel No. 1056-281-02, 1056-281-03 and 1056-281-04 (“Subject Property Interests”).

WHEREAS, on or before August 21, 2019, pursuant to the requirements of California Code of Civil Procedure section 1245.235, the Clerk of the Board (“Clerk”) mailed notice to the Owners at the address shown by the last equalized San Bernardino County assessment roll, of the intention of the Orange County Board of Supervisors (“Board”), acting in its capacity as the governing board of the District, to adopt this Resolution to acquire the Subject Property Interests for purposes of the District’s Santa Ana River Mainstem/Prado Dam Project (“Project”), through eminent domain proceedings, and of the date set for a hearing thereon of September 10, 2019;

WHEREAS, said notice by the Clerk notified the Owners of their right to appear and to be heard at a September 10, 2019 hearing before the Board on the following matters: (a) whether the public interest and necessity require the Project; (b) whether the Project is planned or located

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in the manner that will be most compatible with the greatest public good and the least private injury; (c) whether the Subject Property Interests sought to be acquired are necessary for the Project; and (d) whether the offer required by section 7267.2 of the Government Code has been made to the owner(s) of record;

WHEREAS, on September 10, 2019, the Board conducted a public hearing and heard and considered public comments, if any, and evidence presented, regarding the Project and regarding the proposed eminent domain acquisition of the Subject Property Interests; and,

WHEREAS, at the close of the public hearing and after the opportunity for open and public discussion among the Board, the Board voted, by more than the statutorily required two-thirds' majority of the Board membership, to adopt this Resolution to acquire the Subject Property Interests necessary for the Project through eminent domain proceedings.

NOW, THEREFORE, IT IS HEREBY RESOLVED that this Board finds and determines as follows:

1. Under the California Environmental Quality Act ("CEQA"):

a. Final Environmental Impact Report ("EIR") No. 583 was previously certified on November 28, 1989 and reflects the independent judgment of the District as Lead Agency. Final Supplemental Environmental Impact Statement/Report No. 583 ("EIS") was previously certified on December 19, 2001 and reflects the independent judgment of the Orange County Planning Commission as Lead Agency. Final EIR No. 583 and Final EIS No. 583, which were prepared and satisfy the requirements of CEQA for the Santa Ana River Mainstem Project, as well as the Prado Dam Project, respectively, adequately addressed and fully analyzed the condemnation action proposed herein, which is a necessary included element contemplated as part of the whole Project.

b. The circumstances of the Project are substantially the same as when Final EIR No. 583 and Final EIS No. 583 were adopted, and Final EIR No. 583 and Final EIS No. 583 adequately addressed the effects of the proposed project. No substantial changes have been made in the Project, no substantial changes have occurred in the circumstances under which the Project is being undertaken, and no new information of substantial importance to the Project which was not known or could not have been known when the

prior EIR No. 583 and EIS No. 583 were certified has become known in relation to this proposed condemnation action. Thus, no further CEQA review is required.

c. Final EIR No. 583 and Final EIS No. 583 are adequate to satisfy the requirements of CEQA for the proposed condemnation action.

d. All mitigation measures are fully enforceable pursuant to CEQA Public Resources Code Section 21081.6(b) and have either been adopted as conditions, incorporated as part of the Project design, or included in the procedures of Project implementation.

2. The public interest and necessity require the Project for the purposes specified by California uncodedified Water Code, Act 5682, section 2, also referred to as Water Code App. Sections 36-1 et seq. (the "Orange County Flood Control Act"), including but not limited to the control of flood and storm waters in order to protect the safety, health and welfare of residents and properties within the County of Orange from the potentially devastating effects of a 190-year flood/storm event.

3. The District is authorized to acquire the Subject Property Interests and to exercise the power of eminent domain for the public uses set forth herein under the California Constitution, the California eminent domain law (Code of Civil Procedure Sections 1230.010 et seq., and 1240.010 et seq., including without limitation Section 1240.110), Government Code Section 25350.5, and the Orange County Flood Control Act. The Subject Property Interests are located in Riverside County and the District is exercising its power of eminent domain extraterritorially pursuant to, inter alia, Sections 2 and 16 of the Orange County Flood Control Act.

4. The Project is planned and located in the manner that will be the most compatible with the greatest public good and least private injury.

5. The Subject Property Interests are necessary for the Project. It is necessary that the District acquire the Subject Property Interests to carry out the Project's essential flood control purposes. If the Subject Property Interests were not acquired, the Project could not proceed as planned, which in turn would result in inadequate flood protection downstream of the Prado Dam, potential flooding of, or damage to, State Route 91, and a significant risk of property damage, personal injury, and/or loss of life suffered by those downstream in Orange County.

6. The Subject Property Interests will be used for the Project, which constitutes a valid public use. Therefore, the Subject Property Interests will in fact be a public use.

7. In conformance with Sections 7267.1 and 7267.2 of the California Government Code and Board of Supervisors Resolution 67-612, an appraisal was prepared covering the Subject Property Interests. An offer based on said appraisal was made to the Owner of the Subject Property Interests, and a written statement showing the appraised value of the Subject Property Interests and summarizing the basis of that valuation was also delivered to the Owner.

8. To the extent the Subject Property Interests are already devoted to a public use, the use of the Subject Property Interests for the District's Project is a compatible use that will not unreasonably interfere with or impair the continuance of the public use as it presently exists or may reasonably be expected to exist in the future (California Code of Civil Procedure Section 1240.510), or the use of the Subject Property Interests for the Project is a more necessary public use than is the presently existing public use (California Code of Civil Procedure Section 1240.610).

IT IS FURTHER RESOLVED that the Subject Property Interests be acquired by the District, and that the County Counsel of the County of Orange and/or outside counsel, Murphy &

Evertz, pursuant to its existing contract with the District as previously authorized by this Board for purposes of representing the District in condemnation matters (collectively, "District's Counsel"), are hereby directed and authorized to institute eminent domain proceedings for the foregoing acquisition, to do, perform, and carry out all necessary proceedings and steps incident to acquiring the Subject Property Interests, to correct any errors or to make or agree to non-material changes in the legal description of the Subject Property Interests as may be necessary for the conduct of the action or other proceedings or transactions required to acquire the Subject Property Interests, and to seek and obtain an order for prejudgment possession of some or all of the Subject Property Interests at such time as District's Counsel deems it to be necessary and appropriate.

IT IS FURTHER RESOLVED that the Orange County Auditor-Controller is directed and authorized to encumber required funds (from Fund 404-080-404-LS09-4100, Job No. ESP2063) and to issue checks, as necessary and requested by County Counsel, in the total amount of up to \$9,105,000.00, the total estimated fair market value of the Subject Property Interests as of the date of value of the appraisal, which was the basis of the purchase offer made to the Owner; and to encumber such additional funds, and issue such additional checks as may be requested by County Counsel as and if necessary to satisfy any court orders for higher deposits or payment of greater compensation, and as necessary to pay for title insurance and other fees following transfer of ownership of the Subject Property Interests to the District. Using those encumbered funds and the check or checks issued by the Auditor-Controller, District's Counsel are hereby directed and authorized to make deposits of estimated compensation with the State Treasury's Condemnation Deposits Fund in an amount up to \$9,105,000.00.

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EXHIBIT A
LEGAL DESCRIPTION

May 6, 1991

Santa Ana River - Prado
Facility No.: E01PD

Parcel No. 46-995
Page 1 of 2

All of A.P. 1056-281-02,
1056-281-03 & 1056-281-04
San Bernardino County
Contract Area I

All of Lots 20, 21, 34, 35 and 39, in Section 31, Township 2 South, Range 7 West, San Bernardino Base and Meridian, in the County of San Bernardino, State of California, according to Map of Subdivision of part of the Rancho Santa Ana Del Chino, as per Plat recorded in Book 6 of Maps, Page 15, Records of said County.

EXCEPTING therefrom that portion thereof described as follows:

That portion of Lots 20, 21, 35 and of fractional Lots 34 and 39 in Section 31, Township 2 South, Range 7 West, San Bernardino Base and Meridian, as said Lots are shown on a Map of Subdivision of part of Rancho Santa Ana Del Chino, said portions being more particularly described as follows:

Beginning at a point on intersection of East line of said fractional Lots 34 and 39, with center line of Pine Avenue, 60 feet wide, distant along said center line N.72°56'22"E., 1013.72 feet from an iron bolt marking intersection of center line of said Pine Avenue with center line of Euclid Avenue, 200 feet wide; thence along said center line S.72°56'22"W., 801.82 feet to a point, said point being distant along said center line, N.72°56'22"E., 211.90 feet from said iron bolt; thence N.53°27'30"E., 107.49 feet; thence N.17°31'10"E., 110.35 feet; thence N.41°21'10"E., 152.39 feet; thence N.24°20'00"E., 110.98 feet; thence N.0°32'10"W., 165.30 feet; thence N.10°22'20"W., 89.60 feet; thence N.20°05'50"E., 333.26 feet; thence N.44°03'30"E., 287.37 feet; thence N.1°02'30"W., 148.61 feet; thence N.42°12'30"E., 112.78 feet; thence N.74°56'50"E., 142.04 feet to a point in the East line of said Lot 21, said point being distant along said East line S.0°18'20"W., 92.10 feet from a 2 inch iron pipe marking Northeast corner of said Lot 21; thence along East line of said Lot 21 and of Lots 20, 35 and of fractional Lots 34 and 39, S.0°18'20"W., 1191.45 feet to the point of beginning.

ALSO EXCEPTING that portion of Lots 39, 34 and 35, as granted to the State of California for highway purposes by Instrument No. 57, recorded April 15, 1949 in Book 2388, Page 244, Official Records, described as follows:

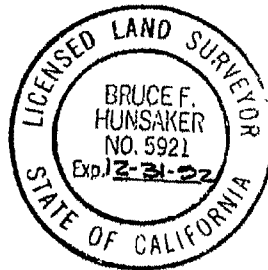
Parcel No. 46-995

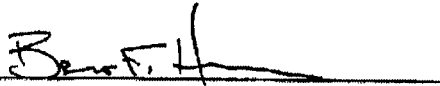
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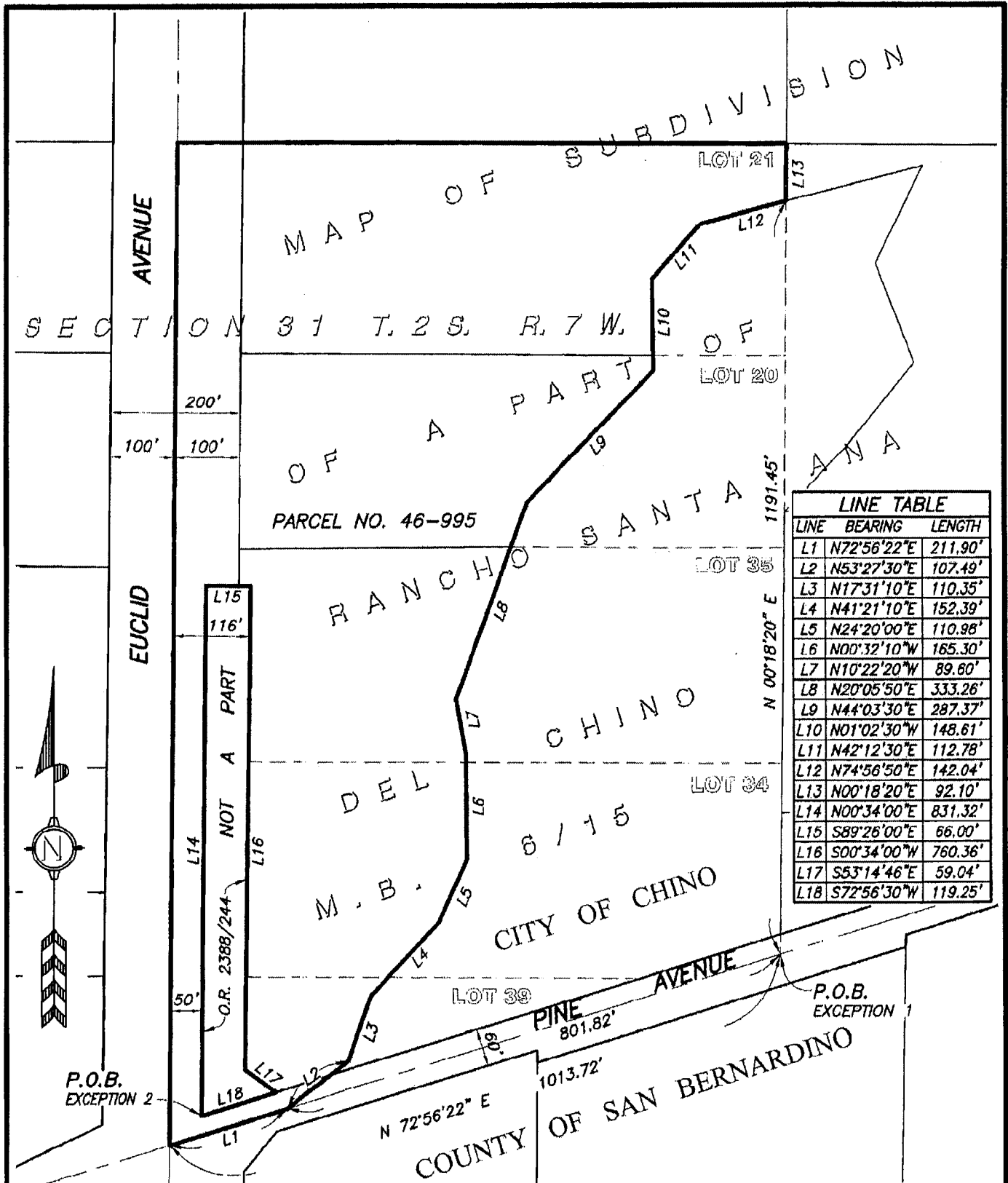
Beginning at the intersection of the Northerly line of Pine Avenue, 60 feet wide, and a line drawn parallel with and distant Easterly 50 feet, measured at right angles, from the center line of Euclid Avenue; thence, along said parallel line, N.0°34'E., 831.32 feet; thence S.89°26'E., 66 feet; thence S.0°34'W., 760.36 feet; thence S.53°14'46"E., 59.04 feet to a point in the said Northerly line of Pine Avenue; thence along the said Northerly line, S.72°56'30"W., 119.25 feet to the point of beginning.

"Certified to be the true and correct legal description as disclosed by the public records of San Bernardino County".

Hunsaker and Associates
Riverside/San Bernardino, Inc.




Bruce F. Hunsaker, L.S. 5921
My License Expires: 12-31-92



OC PUBLIC WORKS
OC SURVEY
RIGHT - OF - WAY

ROW ID # 2000-119

SCALE : 1" = 200'

EXHIBIT "B"

SHEET 1 OF 1

PROJECT : PRADO BASIN BOS PARCEL (PARCEL NO. 46-995)