

Project: Santa Claus Lane
Beach Access
Folio: 003535
Agent: RC

**RESOLUTION OF THE BOARD OF SUPERVISORS OF THE
COUNTY OF SANTA BARBARA, STATE OF CALIFORNIA**

IN THE MATTER OF INSTITUTING)
PROCEEDINGS AND MAKING A FINDING)
OF PUBLIC NECESSITY FOR THE)
ACQUISITION OF CERTAIN PROPERTY)
IN THE FIRST SUPERVISORIAL DISTRICT,)
COUNTY OF SANTA BARBARA, FROM)
JEAN B. SAXBY (005-440-002) & LAURA A.)
MALONEY & JOSEPHINE F. BABCOCK)
(005-440-003))

RESOLUTION NO. _____
(2/3 vote required)

BE IT RESOLVED, that the Board of Supervisors of the County of Santa Barbara, State of California, does hereby find and determine as follows:

A. COUNTY has approved the acquisition of two parcels of land in connection with the Santa Claus Lane Beach Access Project, hereinafter referred to as the "Project" in the real property located in the First Supervisorial District, to wit, County Assessor Parcel No. 005-440-002 and 005-440-003, hereinafter legally described.

B. That the intent is to acquire such real property for all the uses and purposes of beach access and beach use, particularly the installation and construction of a new at grade railroad crossing to allow pedestrian access onto the ocean side of the Union Pacific Railroad Company's right of way, and for purposes under the authority of:

1. Article I, Section XIX of the California Constitution;
2. Code of Civil Procedure; Section 1240.010, 1240.110, 1240.120, 1230.020 and 1240.020;
3. Government Code Section 25350.5;

C. That such certain real property within the unincorporated territory of the County of Santa Barbara, State of California, is legally described on Exhibits "A," and shown by map depiction on Exhibit "B" and attached hereto and made a part hereof;

D. That the Board of Supervisors recognizes its prior approval of Project and Notice of Exemption pursuant to California Environmental Quality Act (CEQA) guidelines; and the County has complied with environmental review process under the provisions of CEQA Guidelines adopted by the Secretary of Resources; and

E. That the acquisition of real property to be acquired herein is within the boundaries of the County and hereinafter described as necessary for the benefit of the County to legalize the crossing of the railroad as required of the Project from the Public Utilities Commission who governs such railroad crossings in the County; and

F. That pursuant to Government Code Section 1245.235, notice and an opportunity to be heard was not given to the person(s) because no persons are shown on the last equalized County assessment roll for the real property to be acquired herein and that said person(s) are difficult to find through the public record and/or deceased. A proper Appraisal Report was provided on the property interest to be acquired; and

G. Therefore, pursuant to Government Code Section 7267.2 the owner(s) were not offered just compensation for the real property hereinafter described; and

H. That the public interest and necessity require the acquisition of the real property hereinafter described, for public use purposes, namely, for a beach access and use and the need to show public ownership on either side of the railroad tracks for the Public Utility Commission to consider the County's permit application for an at grade railroad crossing in the Santa Claus Lane Beach area, in the County; and

NOW, THEREFORE it is found, determined and resolved by at least two-thirds (2/3) vote of this Governing Board, as follows:

1. The real property and real property interests to be acquired are to be acquired in fee simple interest, and located within the County's boundaries and is described as Assessor Parcel No. 005-4400-002 and 005-440-003, and as more particularly described in Exhibit "A," and shown on Exhibit "B", attached hereto and incorporated by reference herein.

2. The public interest and necessity require the Project, said Project being for the benefit of the County and, therefore, a public use, and the property described in said Exhibit "A," and shown on Exhibit "B" be taken for such public use.

3. The public use to which the real property will be put is for beach access and related and incidental purposes.

4. The property described in the Resolution is necessary for the Project. The staff report of the County is hereby incorporated by reference in support of these findings.

5. The public interest and necessity require the acquisition on said real property described herein and in said Exhibit "A," and the taking of said real property is necessary for the implementation of the Project in that the community is in great need of legal and safe public beach access in the Santa Claus Lane Beach area, for the citizens of the County and it is hereby directed that said real property described in said Exhibit "A," be acquired by the County by eminent domain proceedings as hereinafter set forth.

6. Said Project is planned and located in the manner that will be most compatible with the greatest public good and the least private injury; that said Project will benefit the general public in that it will provide public ownership on either side of the railroad tracks to create beach access in the Santa Claus Lane Beach area and that no other reasonable means of financing the implementation of the Project are available

to the community and that the aforesaid use to which the property is to be applied, i.e., public ownership on either side of the railroad tracks to obtain beach access a use authorized by law.

7. The County has complied with the environmental review process under the provisions of CEQA and the State CEQA Guidelines adopted by the Secretary of Resources by the filing with the County of its Notice of Exemption.

8. The offer to the owners required by Section 7267.2 of the Government Code will be deposited into the State Eminent Domain Account.

9. The County Counsel and General Services Departments of the County of Santa Barbara and Special Eminent Domain Counsel, the Law Offices of Oliver, Sandifer, and Murphy are authorized and directed to perform all acts necessary on behalf of the County for the acquisition of said interest in real property, and to do any and all other things in connection with such proceedings as in his/her or their judgment may be necessary or convenient to the successful conclusion of said proceeding or proceedings, including obtaining of an Order for Immediate Possession, the preparation, filing, amendment, dismissal, etc. of all pleadings and stipulations that in the opinion of Special Counsel are necessary for the processing of the litigation.

10. The Parks Department is hereby authorized to expend funds available to the County for the acquisition of the real property.

11. The Law Offices of Oliver, Sandifer, and Murphy is hereby authorized and directed to record a certified copy of this Resolution in the Office of the County Recorder of the County of Santa Barbara. It may thereafter be referred to in any acceptance by any of the officers or agents referred to hereinabove with the same effect as though a certified copy of this Resolution were attached to the document accepted.

12. That County Counsel is authorized to make such changes to the Project as he may deem appropriate to reduce any adverse impacts thereof on the owners' properties; make any such reductions in the acquisition as he may deem appropriate, including, without limitations, the authority to abandon, partially abandon, amend, partially amend, dismiss and/or partially dismiss the above-described lawsuit.

BE IT RESOLVED that the interest in the real property described on Exhibit "A," and shown on Exhibit "B" attached hereto be condemned in the name of the County of Santa Barbara for said public purposes, as specified herein and County Counsel of the County of Santa Barbara and its Special Eminent Domain Counsel are hereby authorized, empowered, and directed to prepare and prosecute in the name of the County of Santa Barbara such proceeding or proceedings in the proper Court having jurisdiction thereof, as are necessary for such acquisition, and are authorized, at their discretion to apply for an order or orders fixing the amount of such security in the way of money deposits as said Court may direct, and for an order or orders permitting said County to take immediate possession and use of said real property for the public purposes.

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PASSED AND ADOPTED by the Board of Supervisors of the County of Santa Barbara, State of California, this _____ day _____, 2008, by the following vote:

AYES;

NOES:

ABSTAINED:

ABSENT:

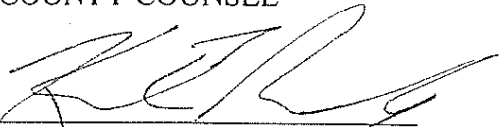
COUNTY OF SANTA BARBARA

ATTEST:
MICHAEL F. BROWN
CLERK OF THE BOARD

By: _____
Chair, Board of Supervisors

By: _____
Deputy

APPROVED AS TO FORM:
DENNIS MARSHALL
COUNTY COUNSEL



Deputy County Counsel

APPROVED AS TO ACCOUNTING FORM
ROBERT W. GEIS, C.P.A.
AUDITOR-CONTROLLER




EXHIBIT A

Legal Description

Being all that portion of the Outside Pueblo Lands of the City of Santa Barbara, in the County of Santa Barbara, State of California, described as follows:

Parcel One (APN 005-440-002)

All that land described in the Grant Deed recorded August 13, 1927 in Book 129 of Official Records, Page 480, in the office of the County Recorder of said County and State, more particularly described as follows:

Beginning at a point on the southerly line of a strip of land 100 feet wide described in the deed from Thomas A. Callis to the Southern Pacific Branch Railway Company, a corporation, dated February 11, 1887 and recorded in Book 12, Page 566 of Deeds, records of said County (commonly known as Southern Pacific Railroad Company's rights of way) distant along said southerly line 2,156.7 feet southeasterly from the intersection thereof with the west line of the tract of land described in the deed from Thomas A. Callis to John Bailard dated December 17, 1889 and recorded in Book 26, Page 223 of deeds, records of said County; thence running South 44°19'30" East along Southern Pacific Railroad Company's right of way 352.716 feet; thence South 0°07'30" East, 220 feet, more or less, to the ordinary high water mark of the Pacific Ocean; thence northwesterly along said ordinary high water mark to a point South 0°07'30" East from the point of beginning; thence North 0°07'30" West 229 feet, more or less, to the point of beginning.

Parcel Two (APN 005-440-003)

Being all that portion of land shown on the Map of the James G. Sheppard Property filed in Book 18, Page 74 of Maps and Surveys, in the office of the County Recorder of said County and State, lying southerly of the southerly line of the Southern Pacific Railroad, the same being the land described in the Trustee's Deed recorded October 25, 1961 as Instrument No. 38071 in Book 1880 of Official Records, Page 124 in the office of the County Recorder of said County and State, more particularly described as follows:

Beginning at a 2" pipe monument set at the intersection of the southerly line of said Southern Pacific Railroad with the easterly line of Bailard Tract as shown on said map; thence South 44°19' East, along said southerly line, 145.80 feet; thence leaving said southerly line South 01°18' West 193.66' to the ordinary high water mark of the Pacific Ocean; thence North 48°28'40" West along said ordinary high water mark, 130.00 feet; thence North 0°13' West, along the easterly line of said Bailard Tract, 214.34 feet to the point of beginning.

End of Descriptions

This description was prepared by me or under my direction in conformance with the requirements of the Professional Land Surveyor's Act this 3rd day of November, 2008.

Jon McKellar
PLS 7578

License Expiration Date: 31 December 2009

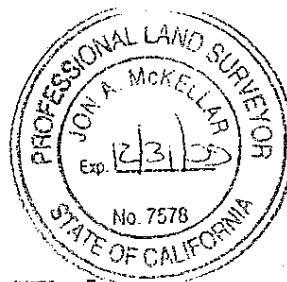
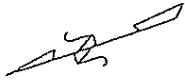


EXHIBIT A

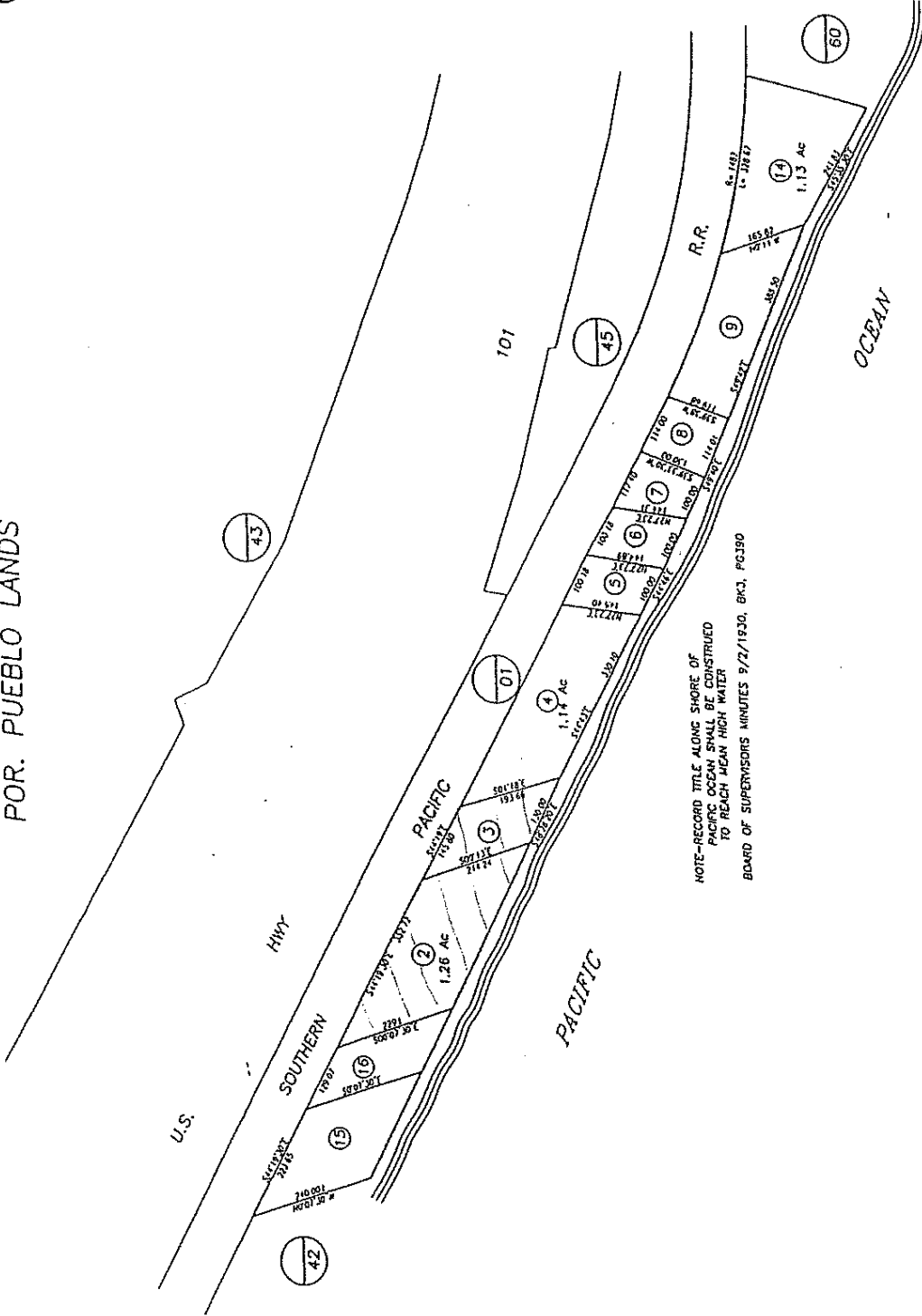
005-44

POR. PUEBLO LANDS



relation = 17'

1" = 200'
scale 1



Assessor's Map Bk, 005-Pg, 44
County of Santa Barbara, Calif.

NOTICE
Assessor Parcels are for tax assessment purposes only and do not indicate either parcel legality or a valid building file.

LD/98 01 WPD 15 & 16

EXHIBIT B