

## REPORT TO CITY COUNCIL

Approved by:

Department Director

Arnoldo Rodriguez, City Manager

Council Meeting of: February 6, 2019

Agenda Number: B-8

**SUBJECT: CONSIDERATION OF A RESOLUTION APPROVING FIRST AMENDMENT TO LETTER OF UNDERSTANDING DATED MAY 17, 2018 WITH THE UNION PACIFIC RAILROAD COMPANY FOR THE PURCHASE OF FOUR PARCELS OF REAL PROPERTY AND ONE EASEMENT FOR THE OLIVE AVENUE RECONSTRUCTION PROJECT AND AUTHORIZING THE MAYOR TO EXECUTE THE AMENDMENT, ACCEPTANCE OF RELEASE AND QUITCLAIM OF EASEMENT, ACCEPTANCE OF QUITCLAIM DEEDS FOR FIVE PARCELS OF REAL PROPERTY, AUTHORIZING THE CITY CLERK TO CERTIFY AND RECORD THE QUITCLAIM EASEMENT AND QUITCLAIM DEEDS AND APPROVING ASSIGNMENT AND ASSUMPTION AGREEMENT, AUTHORIZING THE MAYOR TO EXECUTE THE AGREEMENT**

### RECOMMENDATION:

That City Council approve a Resolution:

1. Approving the First Amendment to Letter of Understand for the Purchase of Real Property and acceptance of Release and Quitclaim of Easement, Quitclaim Deeds and Assignment and Assumption Agreement.
2. Authorizing the Mayor to execute the First Amendment to Letter of Understanding.
3. Authorizing the Mayor to execute the Assignment and Assumption Agreement.
4. Authorizing City Clerk to Certify the Quitclaim Deeds and the Release and Quitclaim Easement and cause them to be recorded with the Madera County Recorder.

## **SUMMARY:**

The Letter of Understanding (LOU) needs to be amended as staff was were unable to complete the land acquisition by October 31, 2018 as specified in the original document. The acquisition of real property from the Union Pacific Railroad Company (UPRR) consists of portions of unimproved vacant land from three large parcels for street right of way and for severance, the total acquisition of one small parcel and an existing easement. Also, required by UPRR is the acceptance of the assignment and assumption of leases and licenses to the extent they may affect the real property and the tenant agreement with existing lessee who owns a storage building on the small parcel. The adopted Fiscal Year (FY) 2018/19 Budget includes \$735,000 of Regional Surface Transportation Program (RSTP) funds for right of way acquisition and construction.

## **DISCUSSION:**

The format of the sales process in the LOU is seller control oriented instead of our normal City/buyer controlled right of way acquisition agreement. The purchase of the right of way will only become effective after the City provides the documents and information requested by UPRR. The original LOU required closing and payment be completed on or before October 31, 2018. City's submittal and UPRR's review of the documents were not able to be completed by October 31, 2018. Therefore, UPRR has prepared the First Amendment to the Letter of Understanding and is attached hereto.

The requested documents included a survey of the property and legal descriptions of the sale area. These items were completed, reviewed and approved by UPRR engineering staff. Additional effort was required by UPRR to format the documents to meet their requirements and for review by their legal staff. The final area of the property for sale is 31,266 square feet. The value of the property is \$6.50 per square feet as noted in the Letter of Understanding dated May 17, 2018. This value is the same as the appraised value of land acquired by the city from other parcels along Olive Avenue. Therefore, the final cost is \$203,299.

Also, the preparation of additional documents to address a lease with a tenant on one of the parcels was necessary. UPRR requires the City to accept the Lease Agreement with the tenant and become the lessor of the agreement.

The land acquisition from UPRR for the widening of Olive Avenue is consistent with the Official Plan Line (OPC) for an Arterial Street having a 100 foot right of way width. In addition to the purchase of land for street right of way, UPRR property will be purchased to replace land taken for street right of way from one parcel to restore their lost operational land and eliminate severance costs. An aerial photo showing the property to be acquired is included an attachment in addition to one with in the Quitclaim Deed Exhibit attached hereto. The Quit Claim Deed attachment also includes the legal descriptions for the following parcels:

Parcel No. 1 acquisition is a small corner of vacant land of a parcel at the E Street and Fourteenth Street intersection consisting of 881 sq. ft.

Parcel No. 2 acquisition is a triangular parcel of 12,095 sq. ft. that requires the acquisition of the entire parcel as the remainder property after the take for street right of way will be unusable for any purpose by the UPRR. The existing tenant owned storage building on this parcel will need to be removed to construct the street. Relocation assistance will be provided to the tenant.

Parcel No. 3 acquisition consists of vacant land for street right of way and vacant land for the existing City water well site to maintain access and operational functions. The land area to be acquired is 4,232 sq. ft.

Parcel No. 4 acquisition consists of vacant land for street right of way and vacant land for the adjacent parcel to replace the occupied land taken for street right of way. This replacement land will replace the land taken for customer parking and propane dispensary service. The land area to be acquired is 10,648 sq. ft.

Parcel No. 5 acquisition consists of an existing UPRR 15 feet wide access easement upon the City's water well site that encumbers the use of the property and is needed to replace the land taken for street right of way. The land area is 1,366 sq. ft.

UPRR also requires the execution of a Release and Quitclaim of Easement document for Parcel No. 5 listed above and the Release and Quitclaim of Easement Exhibit is attached hereto.

UPRR has prepared an Assignment and Assumption Agreement whereby UPRR assigns and transfers to the City of Madera all of UPRR's rights, title, and interest in and to the leases and licenses to the extent the licenses affect the real property as described in Parcels 1, 2, 3, and 4 above and a Lease of Property (Industrial Lease to Lessee) for the operation and maintenance of Lessee owned building for storage of non-hazardous materials only and for no other purpose. The Assignment and Assumption Agreement Exhibit is attached hereto.

The building on Parcel No. 2 will need to be removed to construct the Olive Avenue widening improvements. City staff and the City's Relocation Agent have been in contact with the owners of the building and relocation assistance will be available to them.

The project will consist of widening and reconstructing Olive Avenue between Gateway Drive and Roosevelt Street to Arterial Street Standards with four travel lanes and completing the arterial street standard improvements on Olive Avenue between Roosevelt Street and Knox Street. The Project will include new UPRR crossing protection and signal, installation of traffic signals at the Roosevelt Street and Knox Street intersections. The project also includes street widening improvements to meet Collector Street Standards on Knox Street between Neplus Way and Olive Avenue.

In April 1996, the City of Madera adopted a Mitigated Negative Declaration for the East Olive Plan Line and Building Setback Project (East Olive Avenue Plan Line) for the widening of Olive Avenue to a 100 foot right of way arterial standard street. The Mitigated Negative Declaration was adopted based on an Initial Study in conformance with the California Environmental Quality Act (CEQA). On November 10, 2015, the City of Madera Planning Commission approved an Addendum to the Mitigated Negative Declaration for the Adoption of the East Olive Plan Line to include Olive Avenue between Gateway Drive and Knox Street. The approval of the addendum was based on an analysis of the proposed project within the Environmental Assessment, Initial Study and Mitigated Negative Declaration prepared by staff pursuant to the CEQA Section 15164.

#### **FINANCIAL IMPACT:**

There will be no impact to the City's General Fund for the right of way and construction costs for the Project. Regional Surface Transportation Program Federal Exchange funds included in the adopted FY 2018/19 City Budget, will be used to purchase the right-of-way.

#### **CONSISTENCY WITH THE VISION MADERA 2025 PLAN:**

Action 126 - This project supports this strategy for providing clean, attractive streets that are safe and aesthetically pleasing. The requested action is for improvement of infrastructure and is not in conflict with any of the actions or goals contained in the plan.

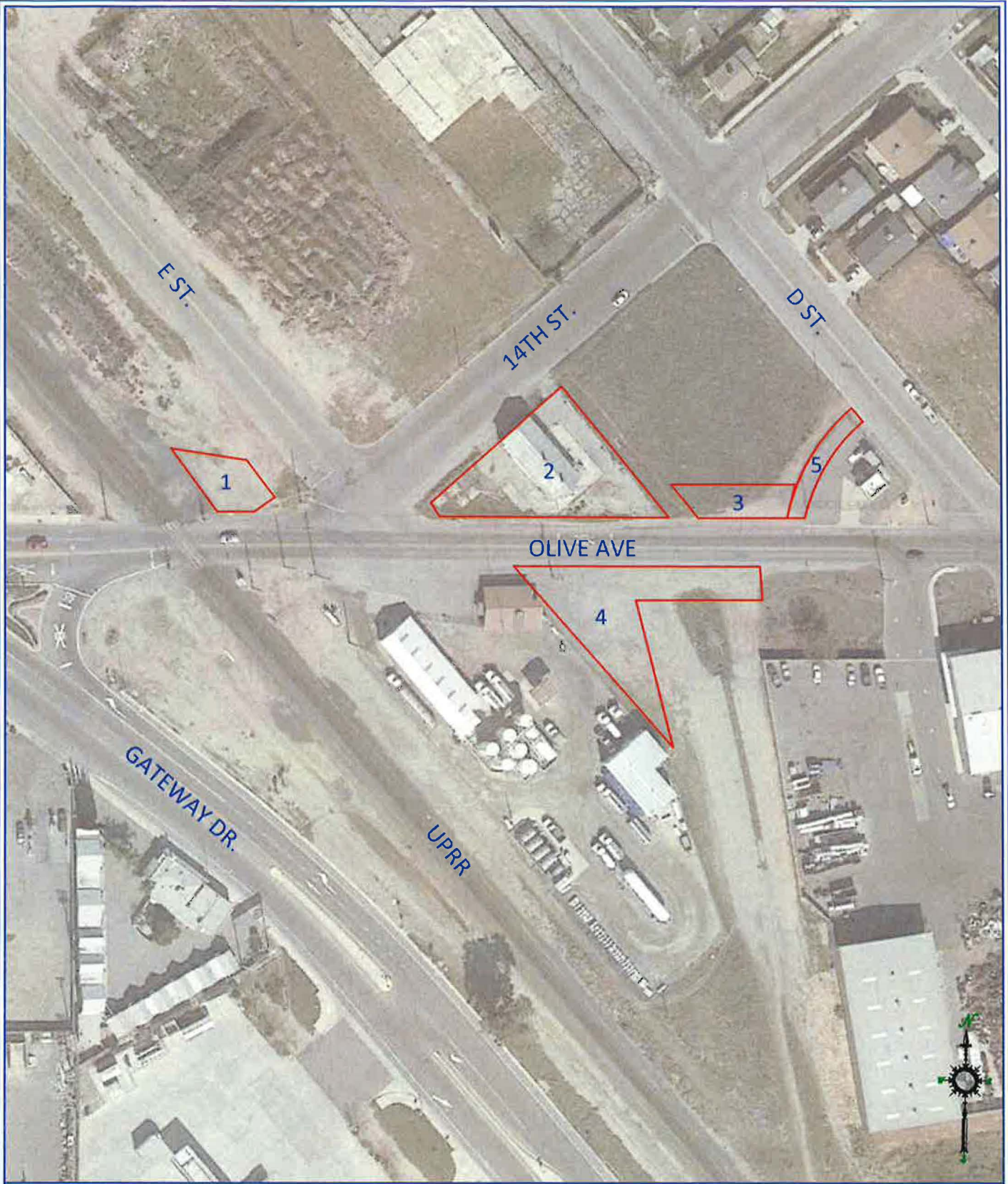
#### **ALTERNATIVES:**

While the project design and right acquisition is consistent with the General Plan and Official Plan Line, Council has the prerogative to consider other alternatives that include amending or canceling the agreement. Such changes might result in delay of the project or inability move it forward without acquisitions included in this action.

#### **ATTACHMENTS:**

1. Aerial Exhibit
2. Resolution
3. Assignment and Assumption Agreement
4. First Amendment to Letter of Understanding Dated May 17, 2018
5. Quitclaim Deed
6. Release and Quitclaim of Easement

**ATTACHMENT 1**



PROPERTY TO BE ACQUIRED

**ATTACHMENT 2**

**RESOLUTION NO. 19 - \_\_\_\_\_**

**A RESOLUTION OF THE COUNCIL OF THE CITY OF MADERA, CALIFORNIA, APPROVING FIRST AMENDMENT TO LETTER OF UNDERSTANDING DATED MAY 17, 2018 WITH THE UNION PACIFIC RAILROAD COMPANY FOR THE PURCHASE OF FOUR PARCELS OF REAL PROPERTY AND ONE EASEMENT FOR THE OLIVE AVENUE, BETWEEN GATEWAY DRIVE AND KNOX STREET, WIDENING AND RECONSTRUCTION PROJECT, AND AUTHORIZING THE MAYOR TO EXECUTE THE AMENDMENT, ACCEPTANCE OF RELEASE AND QUITCLAIM EASEMENT, ACCEPTANCE OF QUITCLAIM DEEDS FOR FIVE PARCELS OF REAL PROPERTY, AUTHORIZING THE CITY CLERK TO CERTIFY AND RECORD THE QUITCLAIM EASEMENT AND QUITCLAIM DEEDS AND APPROVING ASSIGNMENT AND ASSUMPTION AGREEMENT AND AUTHORIZING THE MAYOR TO EXECUTE THE AGREEMENT**

**WHEREAS**, the City has approved the Olive Avenue, Gateway Drive to Knox Street, Widening and Reconstruction Project, (the Project); and

**WHEREAS**, the acquisition of real property for right of way is necessary for the Project; and

**WHEREAS**, the UPRR has prepared their standard Letter of Understanding for sale of real property with a sales price of \$203,229.00 for the proposed real property to be acquired based on a cost of \$6.50 per square foot; and

**WHEREAS**, the five parcels of property to be acquired is more specifically described in the legal descriptions attached to the Quitclaim Deed and Quitclaim Easement; and

**WHEREAS**, In April 1996, the City of Madera adopted a Mitigated Negative Declaration for the East Olive Plan Line and Building Setback Project (East Olive Avenue Plan Line) for the widening of Olive Avenue to a 100 foot right of way arterial standard street. The Mitigated Negative Declaration was adopted based on an Initial Study in conformance with the California Environmental Quality Act (CEQA). The Addendum to the Mitigated Negative Declaration for the widening of East Olive Avenue to 100 foot right of way arterial standard was approved by the Madera Planning Commission of November 10, 2015; and

**WHEREAS**, the Amendment to Letter Agreement, easement and quitclaim deeds and Assignment and assumption Agreement has been submitted to City Council for consideration and they are on file in the office of the City Clerk.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MADERA**

Hereby resolves, finds, determines and orders as follows:

1. The above recitals are true and correct.



2. The City Council of the City of Madera approves First Amendment to Letter of Understanding Dated May 17,2018, acceptance of Quitclaim Deed, acceptance of Release and Quitclaim Easement and acceptance of Assignment and Assumption Agreement, copies of which are on file in the Office of the City Clerk and referred to for particulars.
3. The Mayor is authorized to execute the First Amendment to Letter of Understanding and Assignment and Assumption Agreement.
4. The City Clerk is authorized to certify the Quitclaim Deed and the Release and Quitclaim Easement and cause them to be recorded with the Madera County Recorder.
5. The Finance Director is authorized to prepare the required payments for the acquisition of the interest in the parcels of land using Regional Surface Transportation Program funds.
6. This resolution is effective immediately upon adoption.

\* \* \* \* \*

**ATTACHMENT 3**

**ASSIGNMENT AND ASSUMPTION AGREEMENT**

FOR VALUE RECEIVED, UNION PACIFIC RAILROAD COMPANY, a Delaware corporation ("Assignor"), ASSIGNS AND TRANSFERS to THE CITY OF MADERA ("Assignee"), its successors and assigns, all of Assignor's right, title and interest in and to the leases and licenses (collectively, "Licenses") to the extent the Licenses affect the real property ("Property") described on Exhibit A, which Licenses are listed on Exhibit B.

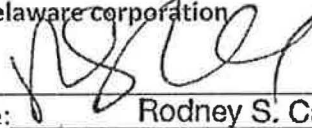
Assignee agrees to (a) perform all of the obligations of Assignor pursuant to the Licenses as they relate to the Property accruing on and after the date hereof, and (b) indemnify, defend and hold Assignor harmless from and against any and all claims, causes of actions and expenses (including reasonable attorney's fees) incurred by Assignor and arising out of (1) Assignee's failure to comply with terms of the Licenses as they relate to the Property on and after the date hereof, or (2) claims under the Licenses as they relate to the Property by the licensees named in the Licenses accruing on and after the date hereof.

This assignment is made and accepted without recourse against Assignor as to the performance by any party under such Licenses.

All exhibits attached to this Agreement are incorporated herein for all purposes.

Dated the \_\_\_\_ day of \_\_\_\_\_, 2019.

**UNION PACIFIC RAILROAD COMPANY,**  
a Delaware corporation

By:   
Title: Rodney S. Carroll  
General Director - Real Estate

**CITY OF MADERA**

By: \_\_\_\_\_  
Title: \_\_\_\_\_

Union Pacific Railroad Company  
Exhibit A  
LEGAL DESCRIPTION

**Sale Parcels**

**SBE 872-20-SU, Owner: Union Pacific Railroad**

All that portion of the southwest quarter of Section 19, Township 11 South, Range 18 East, Mount Diablo Base and Meridian, according to the map of Lankershim Addition, Book 4, Page 31, Fresno County Records, and Record of Survey, Book 46, Page 106, Madera County Records, being more particularly described as follows:

Commencing at the south quarter corner of said Section 19; thence N89° 05' 19"W Along the south line of said Section 19, a distance of 1093.40 feet, to the point of Intersection of said section line with the northeasterly right-of-way line of the Union Pacific Railroad; thence N39° 53' 19"W, a distance of 39.63 feet, to the Intersection of the north right-of-way line of Olive Avenue with the northeasterly Right-of-way line of the Union Pacific Railroad, being THE TRUE POINT OF BEGINNING;

Thence N39° 53' 19"W, along said railroad right-of-way line, a distance of 67.37 feet; thence S89° 05' 19"E, parallel with, and 81.00 feet distant from the south line of said Section 19, a distance of 66.05 feet to a point on the southwesterly right-of-way line of 'E' Street; thence southeasterly, along said 'E' Street right-of-way line, S39° 53' 19"E, a distance of 39.84 feet to a point on the northwesterly right-of-way line of 14th Street; thence S50° 17' 31"W, a distance of 32.01 feet to a point on the north right-of-way line of Olive Avenue; thence, along said Olive Avenue right-of-way line, N89° 05' 19"W, a distance of 23.76 feet to THE TRUE POINT OF BEGINNING.

Containing 2,928 square feet, more or less.

APN 011-182-001

**APN 011-201-002, Owner UPRR**

All that portion of the southwest quarter of Section 19, Township 11 South, Range 18 East, Mount Diablo Base and Meridian, according to the map of Lankershim Addition, Book 4, Page 31, Fresno County Records, and Record of Survey, Book 46, Page 106, and map of Sierra Vista Homes Subdivision, Volume 46, Page 58, both of Madera County Records, being more particularly described as follows:

Commencing at the south quarter corner of said Section 19; thence N89° 05' 19"W, along the south line of said Section 19, a distance of 921.65 feet, to the point of intersection of said section line with the prolongation of the northeast right-of-way line of 'E' Street; thence N39° 53' 19"W, a distance of 39.68 feet, to the intersection of the north right-of-way line of Olive Avenue with the northeast right-of-way line of 'E' Street, being THE TRUE POINT OF BEGINNING;

Thence N39° 53' 19"W, along said 'E' Street right-of-way line, a distance of 16.33 feet to a point of intersection with the southeast right-of-way line of 14th Street; thence along said 14th Street right-of-way line N50° 17' 31"E, a distance of 150.00 feet to a point on the southwest right-of-way line of an

alley; thence S39° 42' 29"E, along said alley right-of-way line, a distance of 144.94 feet to a point on the north right-of-way line of Olive Avenue; thence, along said Olive Avenue right-of-way line, N89° 05' 19"W, a distance of 197.58 feet to THE TRUE POINT OF BEGINNING.

Containing 12,092 square feet, more or less.

APN 011-201-002

**APN 011-300-002, Owner Union Pacific Railroad**

All that portion of the northeast quarter of the northwest quarter of Section 30, Township 11 South, Range 18 East, Mount Diablo Base and Meridian, in the City of Madera, County of Madera, State of California, according to Record of Survey, recorded April 17, 1986, in Book 32, Page 20, Madera County Records, being more particularly described as follows:

Commencing at the north quarter corner of said Section 30; thence N89° 05' 19"W, along the north line of said Section 30, a distance of 667.30 feet; thence S0° 54' 41"W, at a right angle to said section line, a distance of 15.00 feet, to a point on the south right-of-way line of Olive Avenue, which is the northeast property corner of parcel APN 011-300-002, being THE TRUE POINT OF BEGINNING;

Thence S9° 03' 03"E, along the east boundary of said parcel, a distance of 28.56 feet; thence N86° 38' 47"W, a distance of 108.08 feet; thence S9° 03' 03"E, a distance of 129.83 feet to a point on the west boundary of said parcel; thence N39° 53' 19"W, along said west boundary, a distance of 200.00 feet to a point on the south right-of-way line of Olive Avenue; thence S89° 05' 19"E, along said right-of-way line, a distance of 211.27 feet to THE TRUE POINT OF BEGINNING.

Containing 10,648 square feet, more or less.

APN 011-300-002

**APN 011-201-001, Owner: UPRR**

All that portion of the southwest quarter of Section 19, Township 11 South, Range 18 East, Mount Diablo Base and Meridian, according to the map of Lankershim Addition, Book 4, Page 31, Fresno County Records, and the map of Sierra Vista Homes subdivision, Book 46, Page 58, Madera County Records, being more particularly described as follows:

Commencing at the south quarter corner of said Section 19; thence N89° 05' 19"W, along the south line of said Section 19, a distance of 446.13 feet, to the point of intersection of said line with the centerline of the 'D' Street right-of-way; thence, along said 'D' Street centerline N39° 52' 58"W, a distance of 39.63 feet; thence N89° 05' 19"W, a distance of 52.84 feet to the southeast corner of Block 43 of said Lankershim Addition; thence, along the south line of said Block 43, N89° 05' 19"W, a distance of 122.60 feet, to THE TRUE POINT OF BEGINNING;

Thence, along the south line of said Block 43, being also the north right-of-way line of Olive Avenue, N89° 05' 19"W, a distance of 76.21 feet, to the intersection with the northeast right-of-way line of an alley; thence, along said alley right-of-way, N39° 42' 29"W, a distance of 35.96 feet; thence along a non-tangent curve, concave to the south, having a radius of 5011.00 feet, through a central angle of 1° 16' 38" (tangent to said curve at last mentioned point bears S89° 04' 79"E, and the chord of said curve bears S87° 43' 48"E, 111.70 feet), through an arc length of 111.70 feet; thence N0° 54' 42"E, a distance of 79.48 feet; thence N50° 17' 31"E, a distance of 15.67 feet, to a point on the southwest right-of-way line of 'D' Street; thence, along said 'D' Street right-of-way line, S39° 53' 31"E, a distance of 41.02 feet, to a point on a non-tangent curve, concave to the southeast, having a radius of 382.25 feet, through a central angle of 14° 39' 04" (tangent to said curve at last mentioned point bears S39° 36' 47"W, and the chord of said curve bears S32° 17' 15"W, 97.48 feet), through an arc length of 97.75 feet to THE TRUE POINT OF BEGINNING.

Containing 4,232 square feet.

APN 011-201-001

Union Pacific Railroad Company  
Real Estate Department, Omaha, NE  
Date 11-27-2018  
Fld. No. 01633-17  
RRM

**Exhibit 'B'**  
**Union Pacific Railroad Company**  
**Agreements to be Assigned**  
**Sale Folder 1633-17**

AUDIT	FOLDER	PARTY NAME	PURPOSE	COUNTY	CITY	ST	SUBDIVISION	MP START	MP END	ANNUAL AMT	DISPOSITION	CONTAINED
251049	2091-89	Scott and Melissa Chase	Lease: Industrial	Madera	MADERA	CA	Fresno	184	0	\$0.00	Assigned	Totally

**ATTACHMENT 4**



**FIRST AMENDMENT TO LETTER OF UNDERSTANDING  
DATED MAY 17, 2018**

**THIS FIRST AMENDMENT TO THAT CERTAIN LETTER OF UNDERSTANDING DATED MAY 17, 2018** (hereinafter to be referred to as the "First Amendment") is made and entered as of the \_\_\_\_\_ day of \_\_\_\_\_, 201\_\_\_\_, by and between **UNION PACIFIC RAILROAD COMPANY**, a Delaware corporation ("Seller") and **CITY OF MADERA**, ("Buyer").

**WHEREAS**, Buyer and Seller have heretofore entered into that certain Letter of Understanding dated May 17, 2018 (hereinafter, the "Initial LOU") in connection with Buyer's proposed purchase of Seller's real estate situated in Madera, Madera County, California, as more particularly described therein and herein, (the "Property"); and

**WHEREAS**, Seller and Buyer wish to enter into this First Amendment to modify the Initial LOU as hereinafter set forth.

**NOW, THEREFORE**, it is agreed between Seller and Buyer as follows:

1. Article 8. A. shall be amended to read as follows:

"Closing will occur on or before February 25, 2019 ("Closing Date"). The Closing will be deemed to occur upon payment of the Sale Price by cashier's or certified check, and delivery of the deed. All Closing costs, including transfer taxes and excise taxes, will be paid by Buyer."

2. This First Amendment is supplemental to the Initial LOU and nothing herein contained shall be construed as amending or modifying the same, except as herein specifically provided.

**IN WITNESS WHEREOF**, Seller and Buyer have each duly executed this First Amendment as of the date first herein written.

**SELLER:**

**UNION PACIFIC RAILROAD COMPANY**

By: \_\_\_\_\_  


**Rodney S. Carroll**

Title: General Director - Real Estate :

**BUYER:**

**CITY OF MADERA**

By: \_\_\_\_\_

Title: \_\_\_\_\_

**ATTACHMENT 5**

**RECORDING REQUESTED BY  
AND WHEN RECORDED MAIL TO:**

City of Madera  
205 W. Fourth Street  
Madera, California 93637

**MAIL TAX STATEMENTS TO:**

City of Madera  
205 W. Fourth Street  
Madera, California 93637

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*(Space Above for Recorder's Use Only)*

APN \_\_\_\_\_

No Documentary Transfer Tax  
applicable on this instrument, which  
is a Release and Quitclaim to a public entity.

1633-17

**QUITCLAIM DEED**

**UNION PACIFIC RAILROAD COMPANY**, a Delaware corporation (formerly known as Southern Pacific Transportation Company, a Delaware corporation, successor in interest through merger with Southern Pacific Company, a Delaware corporation) ("Grantor"), in consideration of the sum of Ten Dollars (\$10.00), and other valuable consideration to it duly paid, the receipt whereof is hereby acknowledged, does hereby REMISE, RELEASE and forever QUITCLAIM unto **CITY OF MADERA**, a California municipal corporation, whose address is 205 W. Fourth Street, Madera, California 93637 ("Grantee"), and unto its successors and assigns forever, all of Grantor's right, title, interest, estate, claim and demand, both at law and in equity, of, in, and to the real estate (the "Property") situated in the City and County of Madera, State of California, described in **Exhibit A**, attached hereto and made a part hereof.

EXCEPTING FROM THIS QUITCLAIM AND RESERVING UNTO GRANTOR, its successors and assigns, forever, all minerals and all mineral rights of every kind and character now known to exist or hereafter discovered underlying the Property, including, without limiting the generality of the foregoing, oil and gas and rights thereto, together with the sole, exclusive and perpetual right to explore for, remove and dispose of said minerals by any means or methods suitable to Grantor, its successors and assigns, but without entering upon or using the surface of the Property, and in such manner as not to damage the surface of the Property, or to interfere with the use thereof by Grantee, its successors or assigns.

The Property is quitclaimed by Grantor subject to the following covenants, conditions and restrictions which Grantee, by the acceptance of this Quitclaim Deed, covenants for itself, its successors and assigns, faithfully to keep, observe and perform:

Restriction on Use. The Property must not be used for (i) residential, (ii) lodgings or accommodations (including, without limitation, hotels, motels, boarding houses, dormitories, hospitals, nursing homes, or retirement centers), or (iii) educational or child-care facilities (including, without limitation, schools, kindergartens or day-care centers).

The foregoing and following covenants, conditions and restrictions shall run with the Property, and a breach of the foregoing and following covenants, conditions and restrictions, or the continuance thereof, may, at the option of Grantor, its successors or assigns, be enjoined, abated or remedied by appropriate proceedings.

**Environmental Covenants:**

(a) "As Is" Sale. Grantee, for itself, its successors and assigns, including any successor owner of any interest in the Property, acknowledges and agrees that the Property has been sold and quitclaimed by Grantor in an "AS IS" condition, with all faults, and Grantee acknowledges that the Property may have been used for railroad and/or industrial purposes, among other uses. Grantor does not make any representations or warranties of any kind whatsoever, either express or implied, with respect to the Property; in particular, without limitation, Grantor makes no representations or warranties with respect to the use, condition, title, occupation or management of the Property, or compliance with applicable statutes, laws, codes, ordinances, regulations, requirements (collectively, "Condition of the Property"). Grantee acknowledges and agrees that the Property has been sold and quitclaimed on the basis of Grantee's own independent investigation of the physical and environmental conditions of the Property. Grantee assumes the risk that adverse physical and environmental conditions may not have been revealed by its investigation.

(b) Release and Indemnity. GRANTEE, FOR ITS ITSELF, ITS SUCCESSORS AND ASSIGNS, INCLUDING ANY SUCCESSOR OWNER OF ANY INTEREST IN THE PROPERTY, HEREBY RELEASES GRANTOR, AND, TO THE MAXIMUM EXTENT PERMITTED BY LAW, INDEMNIFIES, DEFENDS AND SAVES HARMLESS GRANTOR, ITS AFFILIATES, THEIR EMPLOYEES, AGENTS, OFFICERS, SUCCESSORS AND ASSIGNS, FROM AND AGAINST ANY AND ALL SUITS, ACTIONS, CAUSES OF ACTION, LEGAL OR ADMINISTRATIVE PROCEEDINGS, CLAIMS, DEMANDS, FINES, PUNITIVE DAMAGES, LOSSES, COSTS, LIABILITIES AND EXPENSES, INCLUDING ATTORNEYS' FEES, IN ANY WAY ARISING OUT OF OR CONNECTED WITH THE KNOWN OR UNKNOWN CONDITION OF THE PROPERTY (INCLUDING, WITHOUT LIMITATION, ANY CONTAMINATION IN, ON, UNDER OR ADJACENT TO THE PROPERTY BY ANY HAZARDOUS OR TOXIC SUBSTANCE OR

MATERIAL), OR ANY FEDERAL, STATE OR LOCAL LAW, ORDINANCE, RULE OR REGULATION APPLICABLE THERETO, INCLUDING, WITHOUT LIMITATION, THE TOXIC SUBSTANCES CONTROL ACT, THE COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION AND LIABILITY ACT, AND THE RESOURCE CONSERVATION AND RECOVERY ACT. THE FOREGOING WILL APPLY REGARDLESS OF ANY NEGLIGENCE OR STRICT LIABILITY OF GRANTOR, ITS AFFILIATES, OR THEIR EMPLOYEES, AGENTS OR OFFICERS. WITH RESPECT TO THE FOREGOING, GRANTEE EXPRESSLY WAIVES THE BENEFITS AND PROTECTIONS OF SECTION 1542 OF THE CIVIL CODE OF THE STATE OF CALIFORNIA, WHICH READS AS FOLLOWS:

**1542. Certain Claims Not Affected by General Release.**

A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor.

*(Remainder of page intentionally left blank.)*

IN WITNESS WHEREOF, the undersigned has executed this Quitclaim Deed as of December 19<sup>th</sup>, 2018.

**UNION PACIFIC RAILROAD COMPANY,  
a Delaware corporation**

Attest:

*B.J. Kubat*  
Assistant Secretary

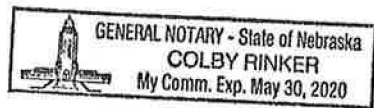
By: *Chris Doble*  
Name: Chris D. Goble  
Title: Assistant Vice President – Real Estate

(Seal)

STATE OF NEBRASKA     )  
   ) ss.  
COUNTY OF DOUGLAS    )

The foregoing instrument was acknowledged before me this 19<sup>th</sup> day of December, 2018, by Chris D. Goble and *B.J. Kubat*, Assistant Vice President – Real Estate and Assistant Secretary of UNION PACIFIC RAILROAD COMPANY, a Delaware corporation, on behalf of the corporation.

WITNESS my hand and official seal.



*Colby Rinker*  
Notary Public

(Seal)

Grantee hereby accepts this Quitclaim Deed and agrees for itself, its successors and assigns, to be bound by the covenants set forth herein.

Dated this \_\_\_\_\_ day of December, 2018.

**CITY OF MADERA,  
a California municipal corporation**

By: \_\_\_\_\_

Its: \_\_\_\_\_

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA )  
  ) ss.  
COUNTY OF MADERA )

On \_\_\_\_\_, 2018, before me, \_\_\_\_\_,  
Notary Public, personally appeared \_\_\_\_\_, of CITY OF  
MADERA, who proved to me on the basis of satisfactory evidence to be the person whose name is  
subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her  
authorized capacity, and that by his/her signature on the instrument the person, or the entity upon  
behalf of which the person acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California  
that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

\_\_\_\_\_  
Notary Public

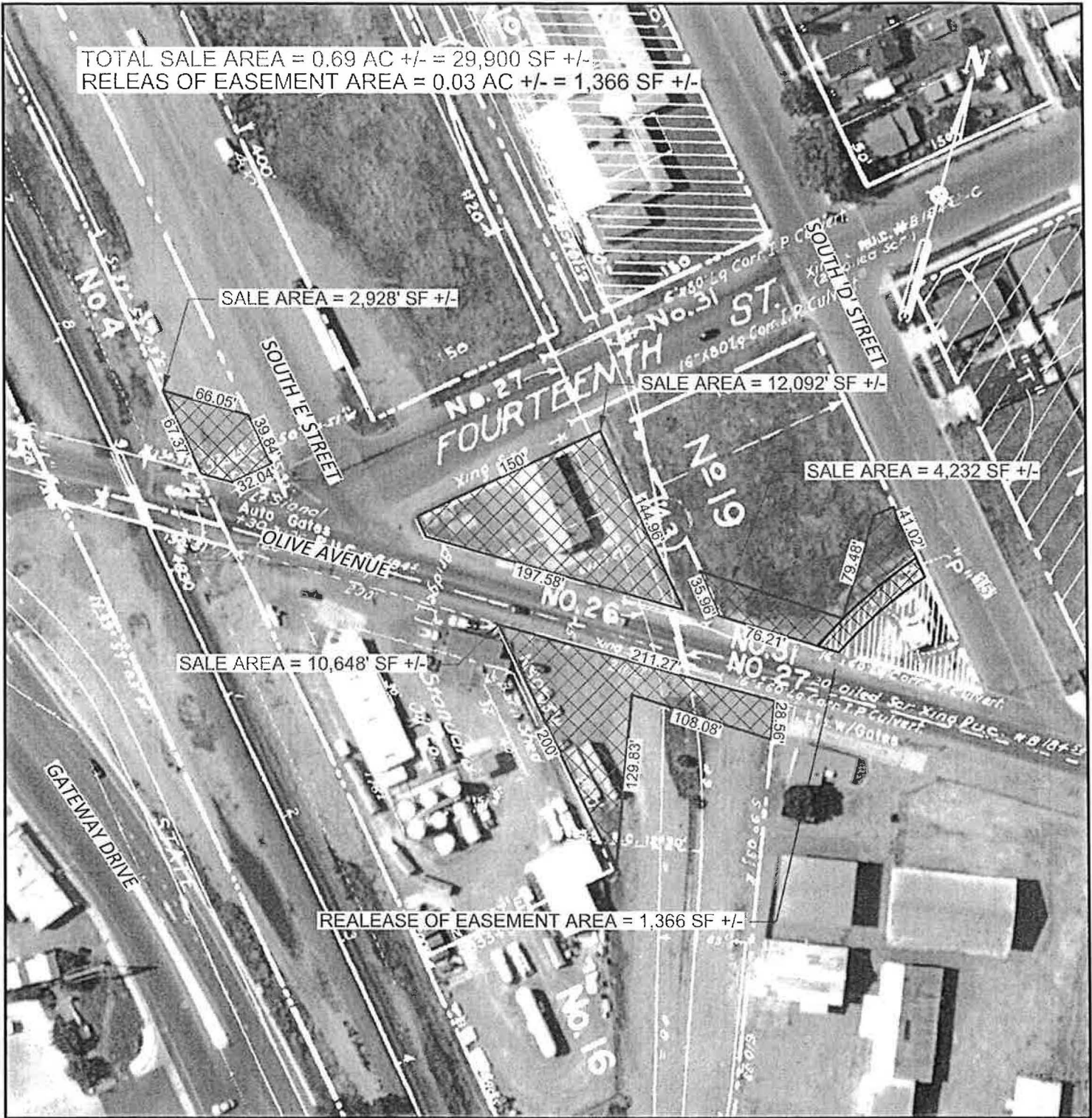
(Seal)



**EXHIBIT A**

**LEGAL DESCRIPTION OF THE PROPERTY  
(TO BE ATTACHED)**

TOTAL SALE AREA = 0.69 AC +/- = 29,900 SF +/-  
 RELEASES OF EASEMENT AREA = 0.03 AC +/- = 1,366 SF +/-



**LEGEND:**

- SALE AREA ..... [Hatched Box]
- RELEASE OF EASEMENT AREA.. [Hatched Box]
- UPRRCO. R/W OUTLINED ..... [Dashed Line]

NOTE: BEFORE YOU BEGIN ANY WORK, SEE AGREEMENT FOR FIBER OPTIC PROVISIONS.

EXHIBIT "A"

UNION PACIFIC RAILROAD COMPANY

MADERA, MADERA COUNTY, CA

M.P. 184.51 -- FRESNO SUB.

SP CA V-104 / S-23B

SCALE: 1" = 100'

OFFICE OF REAL ESTATE

OMAHA, NEBRASKA DATE: 11-27-2018

RRM FILE: 1633-17

CADD FILENAME	0163317.DGN
SCAN FILENAME	0163317-CA10423B.TIF

Union Pacific Railroad Company  
Exhibit A  
LEGAL DESCRIPTION

**Sale Parcels**

**SBE 872-20-SU, Owner: Union Pacific Railroad**

All that portion of the southwest quarter of Section 19, Township 11 South, Range 18 East, Mount Diablo Base and Meridian, according to the map of Lankershim Addition, Book 4, Page 31, Fresno County Records, and Record of Survey, Book 46, Page 106, Madera County Records, being more particularly described as follows:

Commencing at the south quarter corner of said Section 19; thence N89° 05' 19"W Along the south line of said Section 19, a distance of 1093.40 feet, to the point of Intersection of said section line with the northeasterly right-of-way line of the Union Pacific Railroad; thence N39° 53' 19"W, a distance of 39.63 feet, to the Intersection of the north right-of-way line of Olive Avenue with the northeasterly Right-of-way line of the Union Pacific Railroad, being THE TRUE POINT OF BEGINNING;

Thence N39° 53' 19"W, along said railroad right-of-way line, a distance of 67.37 feet; thence S89° 05' 19"E, parallel with, and 81.00 feet distant from the south line of said Section 19, a distance of 66.05 feet to a point on the southwesterly right-of-way line of 'E' Street; thence southeasterly, along said 'E' Street right-of-way line, S39° 53' 19"E, a distance of 39.84 feet to a point on the northwesterly right-of-way line of 14th Street; thence S50° 17' 31"W, a distance of 32.01 feet to a point on the north right-of-way line of Olive Avenue; thence, along said Olive Avenue right-of-way line, N89° 05' 19"W, a distance of 23.76 feet to THE TRUE POINT OF BEGINNING.

Containing 2,928 square feet, more or less.

APN 011-182-001

**APN 011-201-002, Owner UPRR**

All that portion of the southwest quarter of Section 19, Township 11 South, Range 18 East, Mount Diablo Base and Meridian, according to the map of Lankershim Addition, Book 4, Page 31, Fresno County Records, and Record of Survey, Book 46, Page 106, and map of Sierra Vista Homes Subdivision, Volume 46, Page 58, both of Madera County Records, being more particularly described as follows:

Commencing at the south quarter corner of said Section 19; thence N89° 05' 19"W, along the south line of said Section 19, a distance of 921.65 feet, to the point of intersection of said section line with the prolongation of the northeast right-of-way line of 'E' Street; thence N39° 53' 19"W, a distance of 39.68 feet, to the intersection of the north right-of-way line of Olive Avenue with the northeast right-of-way line of 'E' Street, being THE TRUE POINT OF BEGINNING;

Thence N39° 53' 19"W, along said 'E' Street right-of-way line, a distance of 16.33 feet to a point of intersection with the southeast right-of-way line of 14th Street; thence along said 14th Street right-of-way line N50° 17' 31"E, a distance of 150.00 feet to a point on the southwest right-of-way line of an

alley; thence S39° 42' 29"E, along said alley right-of-way line, a distance of 144.94 feet to a point on the north right-of-way line of Olive Avenue; thence, along said Olive Avenue right-of-way line, N89° 05' 19"W, a distance of 197.58 feet to THE TRUE POINT OF BEGINNING.

Containing 12,092 square feet, more or less.

APN 011-201-002

**APN 011-300-002, Owner Union Pacific Railroad**

All that portion of the northeast quarter of the northwest quarter of Section 30, Township 11 South, Range 18 East, Mount Diablo Base and Meridian, in the City of Madera, County of Madera, State of California, according to Record of Survey, recorded April 17, 1986, in Book 32, Page 20, Madera County Records, being more particularly described as follows:

Commencing at the north quarter corner of said Section 30; thence N89° 05' 19"W, along the north line of said Section 30, a distance of 667.30 feet; thence 50° 54' 41"W, at a right angle to said section line, a distance of 15.00 feet, to a point on the south right-of-way line of Olive Avenue, which is the northeast property corner of parcel APN 011-300-002, being THE TRUE POINT OF BEGINNING;

Thence S9° 03' 03"E, along the east boundary of said parcel, a distance of 28.56 feet; thence N86° 38' 47"W, a distance of 108.08 feet; thence S9° 03' 03"E, a distance of 129.83 feet to a point on the west boundary of said parcel; thence N39° 53' 19"W, along said west boundary, a distance of 200.00 feet to a point on the south right-of-way line of Olive Avenue; thence S89° 05' 19"E, along said right-of-way line, a distance of 211.27 feet to THE TRUE POINT OF BEGINNING.

Containing 10,648 square feet, more or less.

APN 011-300-002

**APN 011-201-001, Owner: UPRR**

All that portion of the southwest quarter of Section 19, Township 11 South, Range 18 East, Mount Diablo Base and Meridian, according to the map of Lankershim Addition, Book 4, Page 31, Fresno County Records, and the map of Sierra Vista Homes subdivision, Book 46, Page 58, Madera County Records, being more particularly described as follows:

Commencing at the south quarter corner of said Section 19; thence N89° 05' 19"W, along the south line of said Section 19, a distance of 446.13 feet, to the point of intersection of said line with the centerline of the 'D' Street right-of-way; thence, along said 'D' Street centerline N39° 52' 58"W, a distance of 39.63 feet; thence N89° 05' 19"W, a distance of 52.84 feet to the southeast corner of Block 43 of said Lankershim Addition; thence, along the south line of said Block 43, N89° 05' 19"W, a distance of 122.60 feet, to THE TRUE POINT OF BEGINNING;

Thence, along the south line of said Block 43, being also the north right-of-way line of Olive Avenue, N89° 05' 19"W, a distance of 76.21 feet, to the intersection with the northeast right-of-way line of an alley; thence, along said alley right-of-way, N39° 42' 29"W, a distance of 35.96 feet; thence along a non-tangent curve, concave to the south, having a radius of 5011.00 feet, through a central angle of 1° 16' 38" (tangent to said curve at last mentioned point bears S89° 04' 79"E, and the chord of said curve bears S87° 43' 48"E, 111.70 feet), through an arc length of 111.70 feet; thence N0° 54' 42"E, a distance of 79.48 feet; thence N50° 17' 31"E, a distance of 15.67 feet, to a point on the southwest right-of-way line of 'D' Street; thence, along said 'D' Street right-of-way line, S39° 53' 31"E, a distance of 41.02 feet, to a point on a non-tangent curve, concave to the southeast, having a radius of 382.25 feet, through a central angle of 14° 39' 04" (tangent to said curve at last mentioned point bears S39° 36' 47"W, and the chord of said curve bears S32° 17' 15"W, 97.48 feet), through an arc length of 97.75 feet to THE TRUE POINT OF BEGINNING.

Containing 4,232 square feet.

APN 011-201-001

Union Pacific Railroad Company  
Real Estate Department, Omaha, NE  
Date 11-27-2018  
Fld. No. 01633-17  
RRM

**ATTACHMENT 6**

**RECORDING REQUESTED BY  
AND WHEN RECORDED MAIL TO:**

City of Madera  
205 W. Fourth Street  
Madera, California 93637

**MAIL TAX STATEMENTS TO:**

City of Madera  
205 W. Fourth Street  
Madera, California 93637

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*(Space Above for Recorder's Use Only)*

APN \_\_\_\_\_

No Documentary Transfer Tax  
applicable on this instrument, which  
is a Release and Quitclaim to a public entity.

1633-17

**RELEASE AND QUITCLAIM OF EASEMENT**

This RELEASE AND QUITCLAIM OF EASEMENT, made this 19<sup>th</sup> day of December, 2018, by **UNION PACIFIC RAILROAD COMPANY**, a Delaware corporation ("Grantor"), to **CITY OF MADERA**, a California municipal corporation ("Grantee").

**RECITALS:**

WHEREAS, by that certain Instrument dated October 3, 1969 from Southern Pacific Company ("SPC") to Grantee, recorded on October 31, 1969, in Book 1046, Page 136 in the official records of Madera County, California ("1969 Instrument"), SPC reserved unto itself, its successors and assigns, an easement for railroad and transportation purposes ("Railroad Easement") across, along, over and upon real property in Madera County, State of California, as legally described in the 1969 Instrument ("Easement Property").

WHEREAS, SPC merged with and into Southern Pacific Transportation Company, a Delaware corporation, which changed its name to Union Pacific Railroad Company, a Delaware corporation, effective February 1, 1998.

WHEREAS, Grantee desires the cancellation and release of the Railroad Easement reserved by SPC in the 1969 Instrument across, along, over and upon the Easement

Property legally described in the 1969 Instrument, and Grantor is willing that such Railroad Easement across, along, over and upon the Easement Property legally described in the 1969 Instrument be cancelled and released.

**AGREEMENT:**


NOW, THEREFORE, Grantor, in consideration of the premises and in consideration of the sum of Ten Dollars (\$10.00) and other valuable consideration to it in hand paid, the receipt of which is hereby confessed and acknowledged, for itself, its successors and assigns, does hereby REMISE, RELEASE AND QUITCLAIM to Grantee, its successors and assigns, forever, all of its right, title, interest, estate, claim and demand, both at law and in equity, which it has by reason of the Railroad Easement across, along, over and upon the Easement Property legally described in the 1969 Instrument, it being the intent hereof to release only the right of Grantor with respect to said Railroad Easement, and to leave in full force and effect all other provisions of said 1969 Instrument, and all other rights reserved therein.

IN WITNESS WHEREOF, Grantor has caused these presents to be sealed with its corporate seal and to be signed by its authorized officers, the day and year first herein written.

Attest:

**UNION PACIFIC RAILROAD COMPANY,  
a Delaware corporation**

  
\_\_\_\_\_  
Assistant Secretary

By:   
\_\_\_\_\_  
Name: Chris D. Goble  
Title: Assistant Vice President – Real Estate

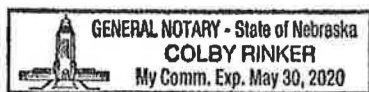
(Seal)




STATE OF NEBRASKA )  
 ) ss.  
COUNTY OF DOUGLAS )

The foregoing instrument was acknowledged before me this 19<sup>th</sup> day of December, 2018, by Chris D. Goble and B.J. Kubat, Assistant Vice President – Real Estate and Assistant Secretary of UNION PACIFIC RAILROAD COMPANY, a Delaware corporation, on behalf of the corporation.

WITNESS my hand and official seal.



(Seal)

  
Notary Public

Union Pacific Railroad Company  
Exhibit A  
LEGAL DESCRIPTION

**Release of Easement Area**

**APN 011-201-001, Owner UPRR**

All that portion of the southwest quarter of Section 19, Township 11 South, Range 18 East, Mount Diablo Base and Meridian, according to the map of Lankershim Addition, Book 4, Page 31, Fresno County Records, and the map of Sierra Vista Homes subdivision, Book 46, Page 58, Madera County Records, being more particularly described as follows:

A strip of land, 15.00 feet in width, lying southeasterly of, and contiguous to, the below described curve, having a radius of 382.25 feet, and an arc length of 97.75 feet; said curve being further described as follows:

Commencing at the south quarter corner of said Section 19; thence N89° 05' 19"W, along the south line of said Section 19, a distance of 446.13 feet, to the point of intersection of said section line with the centerline of the 'D' Street right-of-way; thence, along said 'D' Street centerline, N39° 52' 58"W, a distance of 39.63 feet; thence N89° 05' 19"W, a distance of 52.84 feet to the southeast corner of Block 43 of said map of Lankershim Addition; thence along the south line of said Block 43, N89° 05' 19"W, a distance of 122.60 feet, to THE TRUE POINT OF BEGINNING;

Thence northerly, on said curve, concave easterly, having a radius of 382.25 feet, through a central angle of 14° 39' 04" (tangent to said curve at last mentioned point bears North 24° 57' 43" East, and chord of said curve bears North 32° 17' 15" East, 97.48 feet) through an arc length of 97.75 feet to an end point on the northeasterly line of said Block 43.

Containing 1,366 square feet.

APN 011-201-001

Union Pacific Railroad Company  
Real Estate Department, Omaha, NE  
Date 11-27-2018  
Fld. No. 01633-17  
RRM