Decision 04-11-016 November 19, 2004

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of the San Diego Metropolitan Transit Development Board and the City of San Diego for an order authorizing construction of an at-grade crossing on two existing light rail vehicle tracks at Fenton Parkway in the City of San Diego, California.	Application 02-04-050 (Filed April 30, 2002; Supplement filed January 26, 2004)

O P I N I O N

Summary

This decision grants San Diego Metropolitan Transit Development Board's (MTDB) and City of San Diego's (City) request to construct, as part of the proposed Mission City Parkway Project (Project), an at-grade highway-rail crossing (crossing) on two existing light rail vehicle (LRV) tracks at Fenton Parkway in San Diego, San Diego County.

Discussion

MTDB and City request authority to extend Fenton Parkway across two existing San Diego Trolley, Inc. (SDTI) LRV tracks, as part of the City's proposed Project. The Project also includes the construction of Mission City Parkway, a new two-lane major collector street with a 45-mile-per-hour design speed. This proposed roadway will extend north from Camino Del Sol North via a bridge, across San Diego River and connect with the existing Fenton Parkway. Currently, Fenton Parkway terminates in a cul-de-sac just north of the existing

SDTI tracks. The SDTI Light Rail Transit (LRT) system presently operates within an MTDB right-of-way with a semi-exclusive alignment classification, as stated in General Order (GO) 143-B, Section 9.04(b)(1).

MTDB will construct the new crossing of Fenton Parkway and the SDTI tracks. The new crossing will be adjoined to the existing Fenton Parkway LRT Station, approximately 350 feet north of the San Diego River, and along the existing Fenton Parkway and proposed Mission City Parkway road alignments. MTDB and SDTI will construct a parking lot between the Fenton Parkway LRT Station and the San Diego River to accommodate park-and-ride patrons. MTDB and SDTI will maintain the crossing and associated warning devices.

The warning devices at the proposed crossing at Fenton Parkway will consist of two CPUC Standard No. 9s (flashing light signals with automatic gates, as defined in GO 75-C). Raised medians will separate each direction of the two-lane roadway. Shown in Appendix A, attached to the order, are detailed drawings of the typical warning devices and crossing section. Shown in Appendix B, attached to the order, are detailed drawings of the proposed crossing design.

The LRT currently operates at 15-minute headways. "I" Street will intersect the new Fenton Parkway/Mission City Parkway extension approximately 30 feet south of the proposed crossing and provide access to Stadium Road and the Qualcomm Stadium parking lot to the east. Due to the proposed crossing's proximity to Qualcomm Stadium and the associated "I" Street, City and MTDB will take additional measures to control the flow of vehicular and LRT traffic at the proposed crossing during events at the stadium. During such times, the LRT will operate at four-minute headways. The automatic gates at the crossing will remain in a horizontal position to deny

vehicular access across the LRV tracks during an event. San Diego Police Department (SDPD) will deny access, by means of installing temporary traffic barricades, across the LRV tracks to Fenton Parkway traffic headed south. The barricades will direct motor vehicles to turn around in a designated area located within the raised median break adjacent to the proposed driveway that will access an existing shopping center and library. City will divert traffic headed north on the proposed Mission City Parkway to the east along "I" Street and into the stadium parking lot by means of a temporary traffic barricade (placed approximately 15 feet south of the LRV tracks) and coordinated by SDPD. City prepared a Traffic Management Plan to address stadium events.

When there are no events at the stadium, City will eliminate access to "I" Street by means of a permanent locked gate to deny vehicular turning movements from the proposed Mission City Parkway and Fenton Parkway.

The proposed crossing will be constructed on the east side of the existing Fenton Parkway LRT Station. The station is within the track circuit limits of the proposed crossing. Consequently, when LRVs stop in the station, the gates will be activated at the proposed crossing. In Resolution SX-37, dated March 15, 2001, the Commission approved the installation of forestalling equipment by MTDB to delay the activation of crossing warning devices by LRVs stopped at near-side stations. To improve traffic flow at the proposed crossing, MTDB proposes to install forestalling equipment, as approved in Commission Resolution SX-37. The forestalling equipment will delay the activation of the gates; thus, reducing the time the proposed crossing is closed to vehicles and pedestrians. The Commission's Consumer Protection and Safety Division – Rail Crossings Engineering Section (RCES) concurs that the forestalling equipment will improve traffic flows at the proposed crossing by reducing the time the crossing is closed.

At the proposed crossing, MTDB requests an exemption from GO 72-B. MTDB requests approval to install a rubber-rail interface at the proposed crossing to reduce the flangeway width in the concrete slabs to approximately 1 inch. The reduced width of the flangeway will enhance safety for bicyclists and pedestrians, including persons in wheelchairs; to provide an improved automotive ride; and to reduce maintenance costs. RCES concurs that the rubber-rail interface will enhance the safety of the proposed crossing by narrowing the flangeway width.

MTDB requests an exemption from Section 7.1 of GO 75-C to allow the installation of electronic bells rather than standard iron bells on both Standard No. 9 warning devices. MTDB determined that electronic bells are necessary to control noise transfer during the activation of the warning devices at the proposed crossing. The Application states that MTDB currently is utilizing electronic bells on numerous crossings for MTDB's Bayside Extension in the Downtown San Diego area and for the Mission Valley West Extension (Hazard Center). MTDB stated that the electronic bells for the proposed crossing will meet American Railway and Engineering Maintenance-of-Way Association (AREMA) requirements and will be similar or equal to the specifications in Exhibit F attached to the Application. MTDB will use light emitting diode lights in lieu of standard incandescent lights on the automatic gates of the Standard No. 9 warning devices. RCES concurs with MTDB's proposal to install electronic bells on the warning devices at the proposed crossing provided that the electronic bells meet AREMA requirements and will be similar or equal to the specifications in Exhibit F attached to the Application.

MTDB is the lead agency for this project under the California Environmental Quality Act of 1970 (CEQA, as amended in 1982) as stated in

Public Resources Code Section 21000 et seq. On November 10, 1992, MTDB filed a Notice of Determination (NOD) with the San Diego County Clerk. The NOD found – for the "Mission Valley West Light Rail Transit Project – Modification to provide for undercrossing at Morena Boulevard" – "the project, as modified, will not have a significant effect on the environment." MTDB prepared, pursuant to the provisions of CEQA, an Environmental Impact Report (EIR) for this project. MTDB completed the NOD on October 27, 1992. In the NOD, MTDB determined that the project will not have significant adverse effects on the environment. A copy of the NOD is included in Appendix C attached to the order.

The Commission is a responsible agency for this project under CEQA. CEQA requires that the Commission consider the environmental consequences of a project subject to its discretionary approval. In particular, to comply with CEQA, a responsible agency must consider the lead agency's Environmental Impact Report or Negative Declaration prior to acting upon or approving the project (CEQA Guideline Section 15050(b)). The specific activities that a responsible agency must conduct are contained in CEQA Guideline Section 15096.

The Commission reviewed and considered the lead agency's environmental documents and finds them adequate for our decision-making purposes. Safety, transportation, and noise are within the scope of the Commission's permitting process. The NOD did not identify environmental impacts related to safety, transportation, and noise.

MTDB's environmental documents are adequate for our decision-making purposes and MTDB reasonably concluded that the proposed crossing would not have a significant effect on the environment. Accordingly, we adopt the NOD for purposes of our project approval.

MTDB states that it is not feasible to grade-separate the crossing due to the proximity of proposed crossing to the adjacent flood control channel (San Diego River), existing elevations of the LRT track and station, the presence of existing underground sewer and storm drain systems, current right-of-way constraints, non-compliance with street design standards, overall traffic control issues, and conflicts with existing commercial and multi-family ingress and egress points. RCES concurs with MTDB's assertion in the Application that a separation of grades of the proposed crossing would be impracticable.

RCES staff inspected the site of the proposed crossing. After reviewing the need for and the safety of the proposed crossing, RCES recommends that the Commission grant MTDB's request.

The Application is in compliance with the Commission's filing requirements, including Rule 38 of Rules of Practice and Procedure, which relates to the construction of a public highway across a railroad. Shown in Appendix A attached to the order are details of the proposed warning device, crossing section, and CPUC Crossing Number. Shown in Appendix B attached to the order are detailed drawings of the proposed crossing.

In Resolution ALJ 176-3088, dated May 16, 2002, and published in the Commission Daily Calendar on May 17, 2002, the Commission preliminarily categorized this application as ratesetting, and preliminarily determined that hearings were not necessary. Since no protests were filed, this preliminary determination remains correct. Given these developments a public hearing is not necessary, and it is not necessary to disturb the preliminary determinations made in Resolution ALJ 176-3088.

This is an uncontested matter in which the decision grants the relief requested. Accordingly, pursuant to Public Utilities Code Section 311(g)(2), the

otherwise applicable 30-day period for public review and comment is being waived.

Assignment of Proceeding

Richard Clark is the assigned Examiner in this proceeding.

Findings of Fact

1. Notice of the Application was published in the Commission's Daily Calendar on May 7, 2002. There are no unresolved matters or protests; a public hearing is not necessary.

2. MTDB requests authority, under Public Utilities Code Sections 1201-1205, to construct the proposed crossing of Fenton Parkway of MTDB's SDTI LRT tracks.

3. Public convenience and necessity require construction of the proposed crossing.

4. Public safety requires installation at the proposed crossing of two CPUC Standard No. 9 warning devices as further described in GO 75-C.

5. MTDB will ensure that the automatic gates at the crossing shall remain in a horizontal position to deny vehicular access across the LRV tracks during events at Qualcomm Stadium. When there are no events at Qualcomm Stadium, City will have the responsibility to eliminate access to "I" Street by means of a permanent locked gate to deny vehicular turning movements from the proposed Mission City Parkway and Fenton Parkway.

6. When there are events at Qualcomm Stadium, City, through its Police Department and by the installation of temporary traffic barricades a minimum of 15 feet north of the LRV tracks, will have the responsibility to deny LRV track access to vehicular traffic on southerly Fenton Parkway. City also will have the responsibility to ensure that the barricades require motor vehicles to turn around

in a designated area located within the raised median break adjacent to the proposed driveway that will access an existing shopping center and library. City, furthermore, will divert traffic headed north on the proposed Mission City Parkway to the east along "I" Street and into the stadium parking lot by using temporary traffic barricades, placed a minimum of 15 feet south of the LRV tracks and coordinated by City's Police Department.

7. MTDB is the lead agency for this project under CEQA, as amended.

8. MTDB filed a NOD with the San Diego County Clerk, prepared an EIR, and found – for the "Mission Valley West Light Rail Transit Project – Modification to provide for undercrossing at Morena Boulevard" – "the project, as modified, will not have significant effect on the environment." Since the modification will not have any new significant adverse effects on the environment, and does not otherwise fall within the circumstances of Public Resources Code Section 21166, no subsequent EIR or supplement to the prior EIR is required. Mitigation measures were not made a condition of the approval of the project. A Statement of Overriding Considerations was not adopted for the project.

9. The Commission is a responsible agency for this project, and has reviewed and considered the lead agency's NOD and EIR.

10. Safety, transportation, and noise are within the scope of the Commission's permitting process.

11. The lead agency did not identify environmental impacts related to safety, transportation, and noise.

12. MTDB requested an exemption from Section 7.1 of GO 75-C to allow the installation of electronic bells rather than standard iron bells on both Standard No. 9 warning devices at the proposed crossing.

13. MTDB requested approval to install forestalling equipment, as approved in Commission Resolution SX-37, to improve traffic flow at the proposed crossing. The forestalling equipment will delay the activation of the gates; thus, reducing the time the proposed crossing is closed to vehicles and pedestrians.

14. MTDB requested an exemption from GO 72-B, to allow the use of a rubber-rail interface within the flangeway of the proposed concrete slab crossing surface.

Conclusions of Law

1. The Application is uncontested and a public hearing is not necessary.
2. The Application should be granted as set forth in the following order.

O R D E R

IT IS ORDERED that:

1. San Diego Metropolitan Transit Development Board (MTDB) and City of San Diego (City) are authorized to construct the proposed Fenton Parkway at-grade highway-rail crossing (crossing), identified as CPUC Crossing No. 81MV-8.71, over MTDB's San Diego Trolley, Inc. (SDTI) light rail transit tracks in San Diego, San Diego County, at the location, and substantially as described in and as shown by plans attached to the Application and as shown by plans in Appendices A and B attached to this order.

2. MTDB shall install two Standard No. 9 (flashing light signals with automatic gates, as described in General Order (GO) 75-C) warning devices, as described in Appendix A attached to this order.

3. MTDB shall ensure that the automatic gates at the crossing shall remain in a horizontal position to prevent vehicular access across the light rail vehicle (LRV) tracks during events at Qualcomm Stadium.

4. The City shall provide the following traffic controls and operations during pre-event, event and post-events phases at Qualcomm Stadium, as determined in its Traffic Management Plan:

a. Install temporary barricades a minimum of 15 feet north of the LRV tracks to prevent vehicles traveling southbound on Fenton Parkway across the tracks. Motorists that encounter the barricades shall be diverted in the opposite direction through a median break on Fenton Parkway adjacent to the proposed access driveway for the existing shopping center and library.

b. Install temporary barricades a minimum of 15 feet south of the LRV tracks to direct vehicles traveling northbound on Mission City Parkway to eastbound "I" Street and the Qualcomm Stadium parking lot.

5. When there are no events at Qualcomm Stadium, the City shall eliminate access to "I" Street by means of a permanent locked gate that will deny vehicular turning movements from the proposed Mission City Parkway and Fenton Parkway.

6. MTDB is authorized an exemption from Section 7.1 of GO 75-C to allow the installation of electronic bells rather than standard iron bells on both Standard No. 9 warning devices at the crossing. The electronic bells shall meet American Railway and Engineering Maintenance-of-Way Association requirements and shall equal or exceed the specifications in Exhibit F attached to the Application. In all other respects, GO 75-C shall remain in full force and effect.

7. MTDB is authorized to install and to operate forestalling equipment as a means to delay the activation of crossing warning devices by LRVs stopped at the existing Fenton Parkway Light Rail Transit Station and to improve traffic flow at the proposed crossing. MTDB shall install, operate, and maintain the

forestalling equipment as approved in Commission Resolution SX-37, dated March 15, 2001.

8. MTDB is authorized an exemption from GO 72-B to allow the use of a rubber-rail interface within the flangeway of the proposed concrete slab crossing surface. In all other respects, GO 72-B shall remain in full force and effect.

9. Clearances and walkways shall conform to GO 143-B.

10. MTDB and SDTI shall bear maintenance costs in accordance with an agreement between MTDB and SDTI. MTDB and City shall bear construction costs in accordance with an agreement between MTDB and City. Should MTDB, SDTI, and City fail to agree, the Commission will apportion the costs of construction and maintenance by further order.

11. Within 30 days after completion of the work under this order, MTDB shall notify the Commission's Consumer Protection and Safety Division – Rail Crossings Engineering Section in writing, by submitting a completed standard Commission Form G (Report of Changes at Highway Grade Crossings and Separations) of the completion of the authorized work.

12. This authorization shall expire if not exercised within two years unless time is extended or if the above conditions are not complied with. The Commission may revoke or modify authorization if public convenience, necessity, or safety so require.

13. The Application is granted as set forth above.

14. Application 02-04-050 is closed.

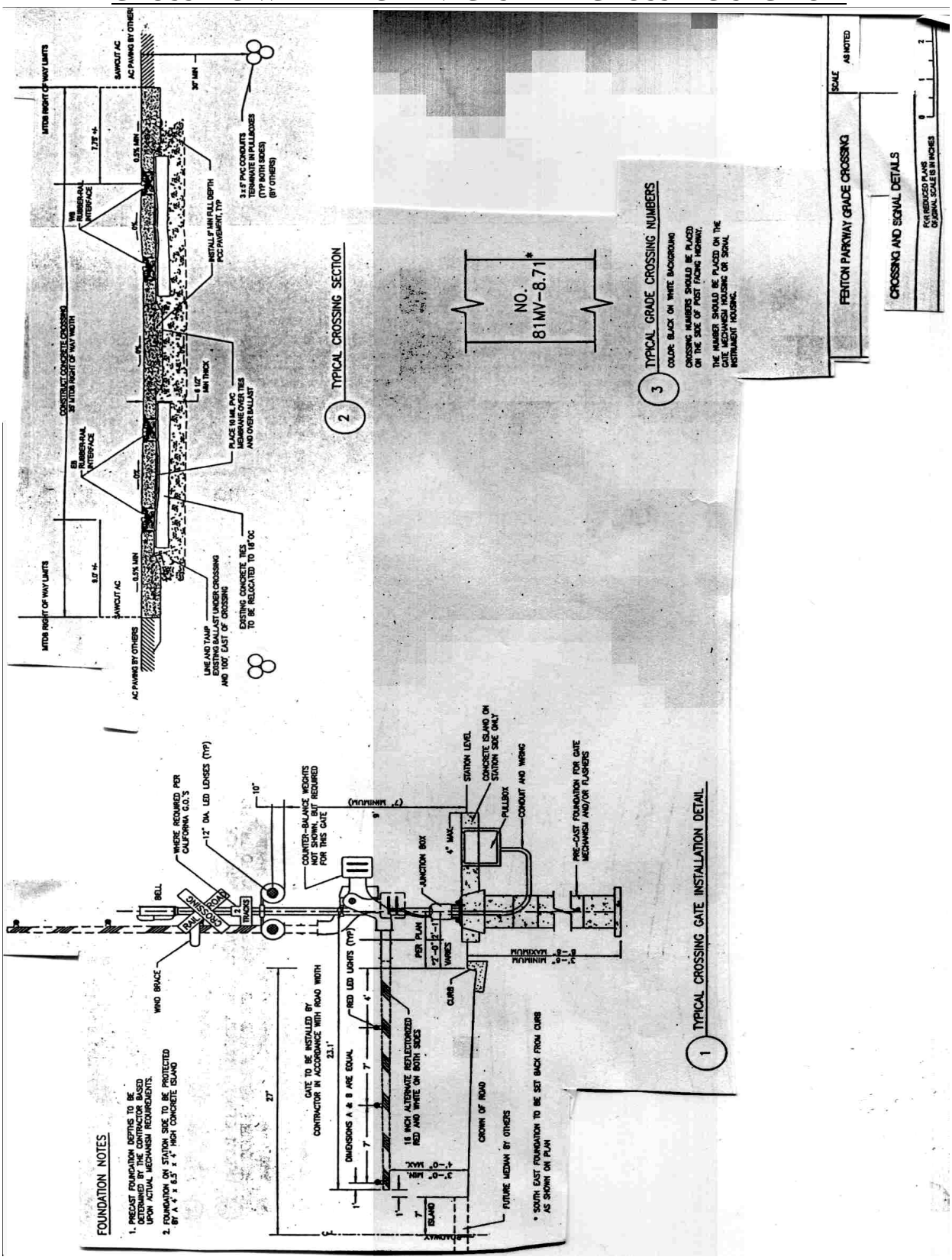
This order becomes effective 30 days from today.

Dated November 19, 2004, at San Francisco, California.

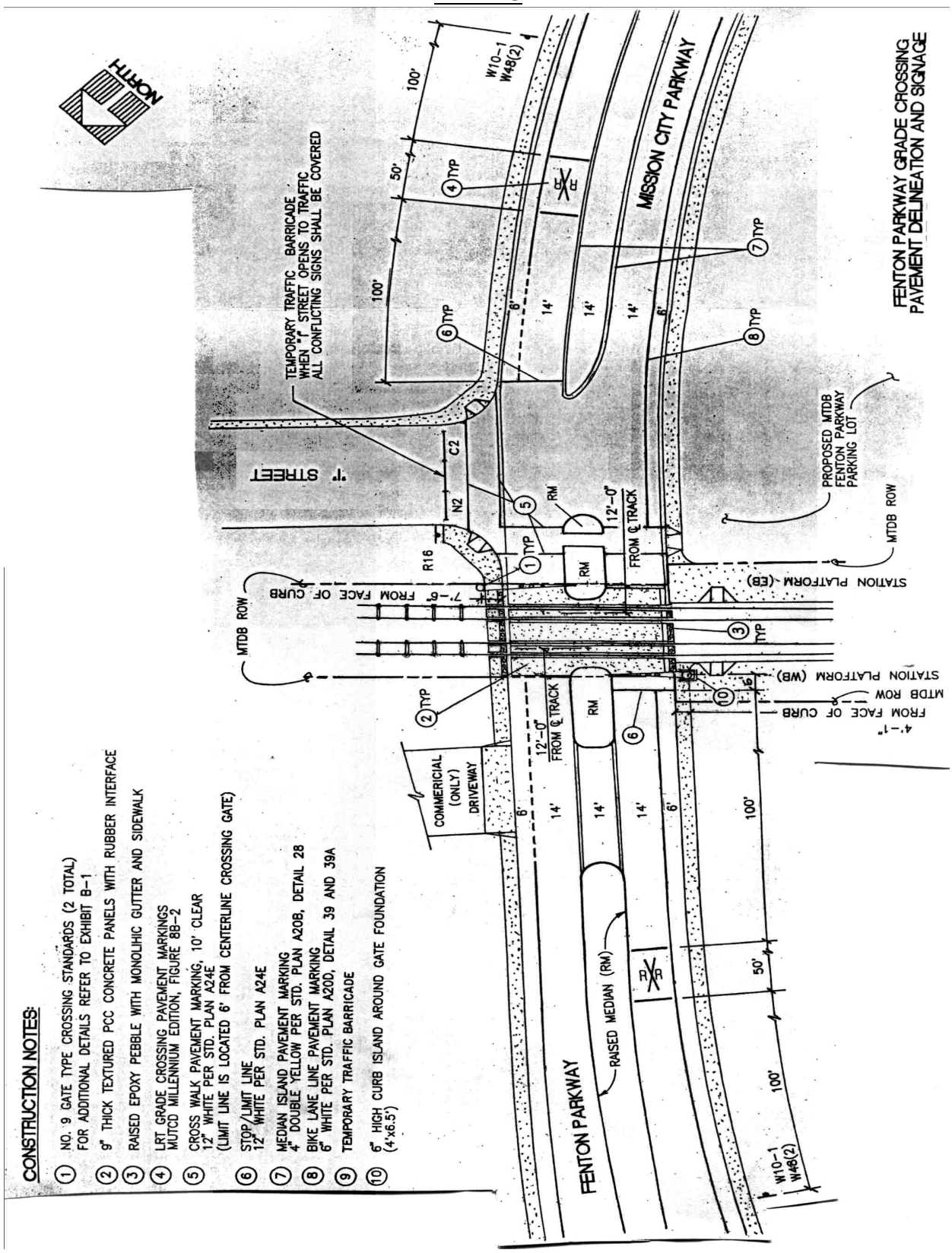
MICHAEL R. PEEVEY
President
CARL W. WOOD
LORETTA M. LYNCH
GEOFFREY F. BROWN
SUSAN P. KENNEDY
Commissioners

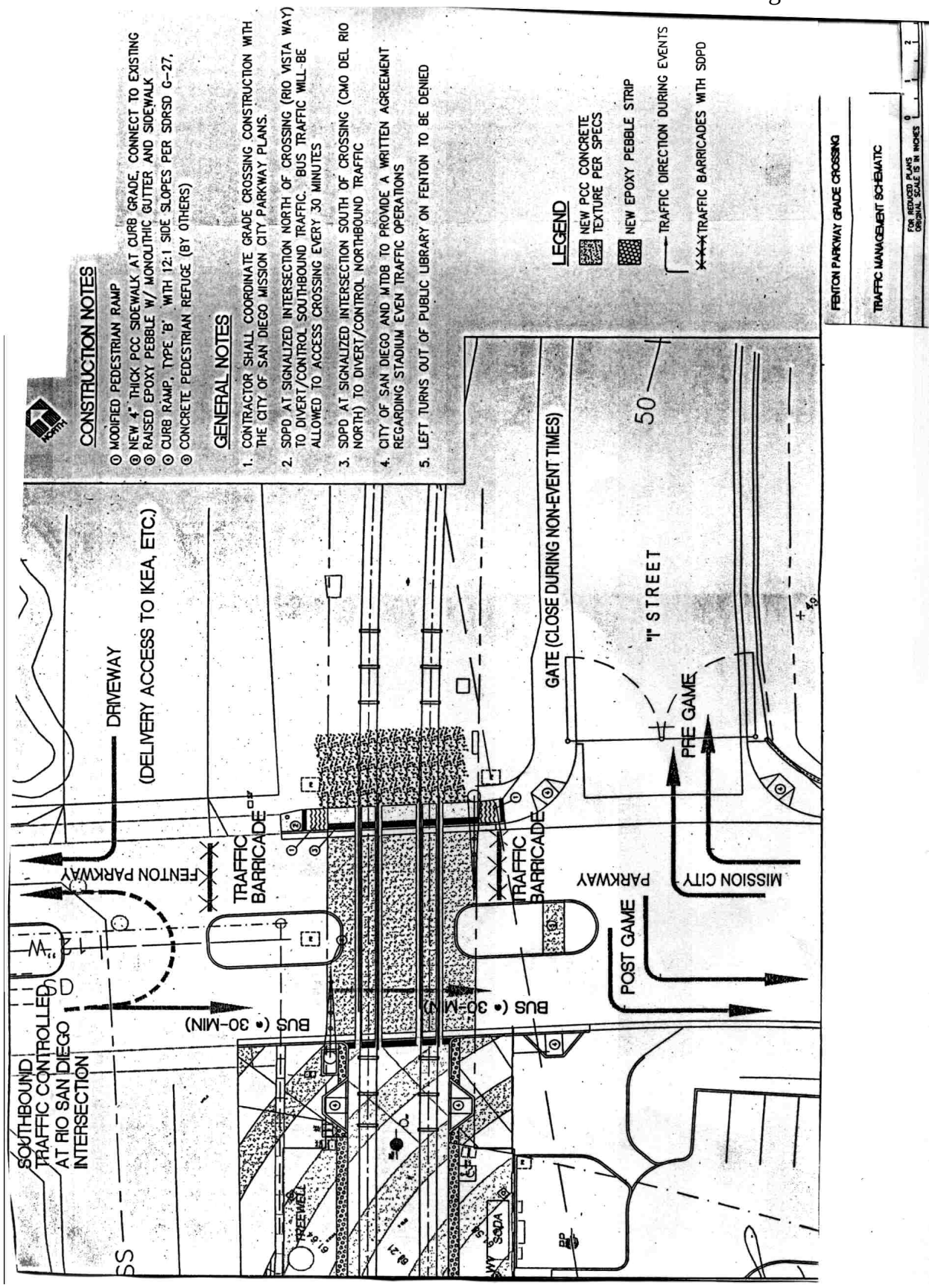
APPENDIX A

CROSSING WARNING DEVICES AND CROSSING SECTION



APPENDIX B
PLANS




CONSTRUCTION NOTES
① MODIFIED PEDESTRIAN RAMP
② NEW 4" THICK PCC SIDEWALK AT CURB GRADE, CONNECT TO EXISTING
③ RAISED EPOXY PEBBLE W/ MONOLITHIC GUTTER AND SIDEWALK
④ CURB RAMP, TYPE "B" WITH 12:1 SIDE SLOPES PER SDRSD G-27,
⑤ CONCRETE PEDESTRIAN REFUGE (BY OTHERS)
GENERAL NOTES
1. CONTRACTOR SHALL COORDINATE GRADE CROSSING CONSTRUCTION WITH THE CITY OF SAN DIEGO MISSION CITY PARKWAY PLANS.
2. SDPD AT SIGNALIZED INTERSECTION NORTH OF CROSSING (RIO VISTA WAY) TO DIVERT/CONTROL SOUTHBOUND TRAFFIC. BUS TRAFFIC WILL BE ALLOWED TO ACCESS CROSSING EVERY 30 MINUTES
3. SDPD AT SIGNALIZED INTERSECTION SOUTH OF CROSSING (CMO DEL RIO NORTH) TO DIVERT/CONTROL NORTHBOUND TRAFFIC
4. CITY OF SAN DIEGO AND MTDB TO PROVIDE A WRITTEN AGREEMENT REGARDING STADIUM EVEN TRAFFIC OPERATIONS
5. LEFT TURNS OUT OF PUBLIC LIBRARY ON FENTON TO BE DENIED
LEGEND
NEW PCC CONCRETE TEXTURE PER SPECS
NEW EPOXY PEBBLE STRIP
TRAFFIC DIRECTION DURING EVENTS
TRAFFIC BARRICADES WITH SDPD
FENTON PARKWAY GRADE CROSSING
TRAFFIC MANAGEMENT SCHEMATIC
FOR REDUCED PLANS ORIGINAL SCALE IS IN INCHES
DRIVEWAY
(DELIVERY ACCESS TO IKEA, ETC.)
FENTON PARKWAY
TRAFFIC BARRICADE
SOUTHBOUND TRAFFIC CONTROLLED AT RIO SAN DIEGO INTERSECTION
BUS (@ 30-MIN)
GATE (CLOSE DURING NON-EVENT TIMES)
"I" STREET
PRE GAME
POST GAME
MISSION CITY PARKWAY
50

APPENDIX C

ENVIRONMENTAL DOCUMENT

NOTICE OF DETERMINATION

TO: Office of Planning and Research
1400 Tenth Street, Room 121
Sacramento, CA 95814

County Clerk
County of San Diego
P.O. Box 1750
San Diego, CA 92101-2422

FROM: San Diego Metropolitan Transit Development Board
1255 Imperial Avenue, Suite 1000
San Diego, CA 92101

Annette J. Evans, Clerk
NOV 10 1992
BY _____ DEPUTY

Filing of Notice of Determination in compliance with Section 21108 or 21152 of the Public Resources Code.
SUBJECT

Mission Valley West Light Rail Transit Project - Modification to provide for undercrossing at Morena Boulevard
PROJECT TITLE

90010961	Metropolitan Transit Development Board	(619) 231-1466
STATE CLEARINGHOUSE NUMBER (If submitted to Clearinghouse)	**LEAD AGENCY**	**AREA CODE/TELEPHONE/EXTENSION**

San Diego, California; San Diego County
PROJECT LOCATION (Include county)

PROJECT DESCRIPTION:

This is to advise that the San Diego Metropolitan Transit Development Board
(LEAD AGENCY)
has approved the above-described modification to the project on October 22, 1992, and has made the following determinations regarding the above-described modification to the project:

1. The project, as modified, will not have a significant effect on the environment.

2. An Environmental Impact Report (EIR) was previously prepared for this project, pursuant to the provisions of CEQA. Since this modification will not have any new significant adverse effects on the environment, and does not otherwise fall within the circumstances of Public Resources Code § 21166, no subsequent EIR or supplement to the prior EIR is required.

3. Mitigation measures were not made a condition of the approval of the project.

4. A statement of Overriding Considerations was not adopted for this project.

5. Findings were not made pursuant to the provisions of CEQA.

This is to certify that the final EIR, with comments and responses and record of project approval, including the record of approval for the modification, is available to the general public at:

1255 Imperial Avenue, Suite 1000, San Diego, CA 92101 (contact person: Harvey Estrada)

	October 27, 1992	General Manager
SIGNATURE (Public Agency)	**DATE**	**TITLE**

By: _____
Date received for filing at OPR:

FILED IN THE OFFICE OF THE COUNTY CLERK, SAN DIEGO COUNTY ON NOV 10 1992
POSTED NOV 10 1992 REMOVED DEC 10 1992
RETURNED TO AGENCY ON 12/11/92
DEPUTY _____