



BOARD AGENDA

Orange County Transportation Authority Board Meeting
Orange County Transportation Authority Headquarters
Board Room - Conference Room 07-08
550 South Main Street
Orange, California
Monday, May 14, 2018 at 9:00 a.m.

Any person with a disability who requires a modification or accommodation in order to participate in this meeting should contact the OCTA Clerk of the Board, telephone (714) 560-5676, no less than two (2) business days prior to this meeting to enable OCTA to make reasonable arrangements to assure accessibility to this meeting.

Agenda Descriptions

The agenda descriptions are intended to give members of the public a general summary of items of business to be transacted or discussed. The posting of the recommended actions does not indicate what action will be taken. The Board of Directors may take any action which it deems to be appropriate on the agenda item and is not limited in any way by the notice of the recommended action.

Public Comments on Agenda Items

Members of the public may address the Board of Directors regarding any item. Please complete a speaker's card and submit it to the Clerk of the Board or notify the Clerk of the Board the item number on which you wish to speak. Speakers will be recognized by the Chairwoman at the time the agenda item is to be considered. A speaker's comments shall be limited to three (3) minutes.

Public Availability of Agenda Materials

All documents relative to the items referenced in this agenda are available for public inspection at www.octa.net or through the Clerk of the Board's office at the OCTA Headquarters, 600 South Main Street, Orange, California.

Call to Order

Invocation

Director Hennessey

Pledge of Allegiance

Vice Chairman Shaw



BOARD AGENDA

Special Calendar

Orange County Local Transportation Authority Special Calendar Matters

1. Proposed Fiscal Year 2018-19 Southern California Regional Rail Authority Budget

Jennifer Bergener

Metrolink staff will present a verbal overview of the draft Southern California Regional Rail Authority Fiscal Year 2018-19 Budget, including the Orange County Transportation Authority's proposed share of operating, rehabilitation, and capital expenses for Metrolink's commuter rail service.

2. Adopt Resolutions of Necessity for the Interstate 405 Improvement Project Between State Route 73 and Interstate 605

Joe Gallardo/James G. Beil

Overview

The Orange County Transportation Authority is implementing the Interstate 405 Improvement Project between State Route 73 and Interstate 605. The project requires acquisition of property rights from public and private parties adjacent to the existing freeway and city streets. On May 11, 2015, the Board of Directors approved acquiring right-of-way for the project. At this time, staff has been unable to reach an agreement to purchase required property rights from the subject property owners. It is now necessary for the Board of Directors to exercise its power of eminent domain by adopting resolutions of necessity in order to acquire these necessary property rights to make the properties available to meet the project delivery and construction schedules.

Recommendation

Adopt Resolutions of Necessity Nos. 2018-010, 2018-043, 2018-046, 2018-051, 2018-052, 2018-053, and 2018-054, and authorize and direct General Counsel to prepare, commence, and prosecute a proceeding in eminent domain for the purpose of acquiring necessary right-of-way and real property interests for the Interstate 405 Improvement Project between State Route 73 and Interstate 605.



BOARD AGENDA

Consent Calendar (Items 3 through 11)

All matters on the Consent Calendar are to be approved in one motion unless a Board Member or a member of the public requests separate action on a specific item.

Orange County Transportation Authority Consent Calendar Matters

3. Approval of Minutes - April 9, 2018

Approval of the amended Orange County Transportation Authority and affiliated agencies' regular meeting minutes of April 9, 2018 to Item 8 Interstate 5 (Avenida Pico to San Diego County Line) Project Status Update.

4. Approval of Minutes - April 23, 2018

Approval of the Orange County Transportation Authority and affiliated agencies' regular meeting minutes of April 23, 2018.

5. 91 Express Lanes Corona Customer Service Center Relocation Christina Runge Haidl/Kenneth Phipps

Overview

The current lease for the 91 Express Lanes Customer Service Center in Corona expires September 30, 2018. The leased space accommodates the walk-in customer service center and the call center, and the facility is shared with the Riverside County Transportation Commission. Staff has retained the brokerage services of CBRE, Inc., and has researched various relocation opportunities for the customer service center. The terms of the proposed relocation include a ten-year lease for a total of 5,009 square feet, as well as tenant improvements, at a facility owned by the Riverside County Transportation Commission.

Recommendations

- A. Authorize the Chief Executive Officer to execute Agreement No. C-8-1660 with Riverside County Transportation Commission, to cover the ten-year lease, as well as tenant improvements, for the 91 Express Lanes Corona Office, located at 301 Corporate Terrace Circle, Corona, California, in an amount not to exceed \$999,000, which represents Orange County Transportation Authority's share of the costs.



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5. (Continued)

- B. Authorize the Chief Executive Officer to execute Amendment No. 3 to Agreement C-4-0384 with CPI Properties, LLC, to cover a six-month extension to the current lease, in an amount not to exceed \$55,000. This amount reflects the total lease cost and will be shared equally with the Riverside County Transportation Commission.
- C. Authorize the Chief Executive Officer to execute Amendment No. 1 to Agreement C-6-1349 with CBRE, Inc., to cover real estate brokerage fees, in an amount not to exceed \$14,700.

6. Adopt Resolution Approving the Updated Real Property Policies and Procedures Manual

Joe Gallardo/James G. Beil

Overview

The Orange County Transportation Authority is currently acquiring and managing numerous properties required for the construction and delivery of capital improvement projects. As part of the acquisition and management process, the Orange County Transportation Authority must, by general resolution, authorize certain policies and procedures to implement this process in compliance with federal and state laws. The current Real Property Policies and Procedures Manual of May 2013 was approved by the Board of Directors on June 10, 2013. An update of the Real Property Policies and Procedures Manual is required.

Recommendation

Adopt Resolution No. 2018-050 approving the Real Property Policies and Procedures Manual, dated April 2018, to replace the current Real Property Policies and Procedures Manual of May 2013, previously adopted by the Board of Directors.



BOARD AGENDA

- 7. Cooperative Agreement with the California Department of Transportation for the Transforming Beach Boulevard Study**
Carolyn Mamaradlo/Kia Mortazavi

Overview

The Orange County Transportation Authority proposes to enter into a cooperative agreement with the California Department of Transportation to provide professional services for the Transforming Beach Boulevard Study.

Recommendation

Authorize the Chief Executive Officer or his designee to negotiate and execute Cooperative Agreement No. C-8-1648, in the amount of \$345,000, in reimbursements from the California Department of Transportation to the Orange County Transportation Authority for professional services for the Transforming Beach Boulevard Study.

Orange County Transit District Consent Calendar Matters

- 8. June 2018 Bus Service Change**
Gary Hewitt/Kia Mortazavi

Overview

The Orange County Transportation Authority implements changes to bus routes three times each year. The June 2018 bus service changes consist of minor adjustments to bus schedules in response to customer and coach operator input, as well as changes in summer demand.

Recommendation

Receive and file as an information item.



BOARD AGENDA

9. **Agreement for Bus Dock Platform Repairs at the Newport Transportation Center**
George Olivo/James G. Beil

Overview

As part of the Orange County Transportation Authority's Fiscal Year 2017-18 Budget, the Board of Directors approved a project for bus dock platform repair at the Newport Transportation Center. Bids were received in accordance with the Orange County Transportation Authority's public works procurement procedures. Board of Directors' approval is requested to execute the agreement.

Recommendation

Authorize the Chief Executive Officer to negotiate and execute Agreement No. C-8-1540 between the Orange County Transportation Authority and AMTEK Construction, the lowest responsive, responsible bidder, in the amount of \$103,333, for bus dock platform repairs at the Newport Transportation Center.

10. **Consultant Selection for Installation of a Video Surveillance System at the Santa Ana and Garden Grove Bus Bases**
George Olivo/James G. Beil

Overview

On January 22, 2018, the Orange County Transportation Authority Board of Directors authorized the release of a request for proposals for installation of a video surveillance camera system at the Santa Ana and Garden Grove bus bases. Board of Directors' approval is requested for the selection of a firm to perform the required work.

Recommendations

- A. Approve the selection of Converjint Technologies, LLC as the firm to perform installation of a video surveillance system at the Santa Ana and Garden Grove bus bases.



BOARD AGENDA**10. (Continued)**

- B. Authorize the Chief Executive Officer to negotiate and execute Agreement No. C-7-2138 between the Orange County Transportation Authority and Convergent Technologies, LLC, in the amount of \$643,298, for installation of a video surveillance system at the Santa Ana and Garden Grove bus bases.

Orange County Local Transportation Authority Consent Calendar Matters**11. Capital Programs Division - Third Quarter Fiscal Year 2017-18
Capital Action Plan Performance Metrics**

James G. Beil

Overview

The Orange County Transportation Authority's Strategic Plan key strategies and objectives to achieve the goals for Mobility and Stewardship include delivery of all Capital Action Plan projects on time and within budget. The Capital Action Plan is used to create a performance metric to assess capital project delivery progress on highway, grade separation, rail, and facility projects. This report provides an update on the Capital Action Plan delivery and performance metrics.

Recommendation

Receive and file as an information item.

Regular Calendar

There are no Regular Calendar matters.



BOARD AGENDA

Discussion Items

12. Public Comments

At this time, members of the public may address the Board of Directors regarding any items within the subject matter jurisdiction of the Board of Directors, but no action may be taken on off-agenda items unless authorized by law. Comments shall be limited to three (3) minutes per speaker, unless different time limits are set by the Chairwoman subject to the approval of the Board of Directors.

13. Chief Executive Officer's Report

14. Directors' Reports

15. Closed Session

A Closed Session will be held as follows:

Pursuant to Government Code Section 54957.6 to discuss negotiations with Teamsters Local 952 regarding the coach operators. The lead negotiator for the Orange County Transportation Authority is Maggie McJilton, Executive Director of Human Resources and Organizational Development, and for Teamsters Local 952 is Patrick Kelly or his designee.

16. Orange County Transportation Authority Fiscal Year 2018-19 Budget Workshop

Victor Velasquez/Andrew Oftelie

Overview

The Orange County Transportation Authority is developing the fiscal year 2018-19 budget, which identifies available revenues and the costs associated with providing transportation services and programs for Orange County. The proposed budget will be reviewed in detail in a two-hour informal workshop following the May 14, 2018, Orange County Transportation Authority Board of Directors' meeting.

Recommendation

Review the fiscal year 2018-19 proposed budget in a workshop setting following the regularly scheduled Orange County Transportation Authority Board of Directors' meeting on May 14, 2018.



BOARD AGENDA**17. Adjournment**

The next regularly scheduled meeting is at **9:00 a.m. on FRIDAY, May 25, 2018**, at the Orange County Transportation Authority Headquarters, 550 South Main Street, Board Room - Conference Room 07-08, Orange, California.



Proposed Fiscal Year 2018-19 Southern California Regional Rail Authority Budget



Fiscal Year (FY) 2018-19 Budget Priorities

- Continued emphasis on safe operations, with the implementation of Positive Train Control (PTC) interoperability with all host railroads as our goal.
- Improved reliability and on-time performance, through employment of Tier 4 locomotives on our lines.
- Investment in existing assets to maintain a state of good repair, by funding critical infrastructure rehabilitation projects and continuing to improve processes to accelerate project delivery.
- Increase of Farebox Revenue through advertising efforts, increasing farebox recovery ratio and reducing Member Agency funding through cost containment.
- Enhanced customer experience, by implementing upgrades to the mobile ticketing application, the installation of a modernized ticket vending system, and rehabilitation of aging passenger cars.
- Ongoing workforce development, by training and engaging employees.



Revenue Allocation by Member Agency

(\$000s)	Metro Share	OCTA Share	RCTC Share	SBCTA Share	VCTC Share	Total FY2018-19
Operating Revenue						
Farebox Revenue	\$ 42,204	\$ 22,684	\$ 7,778	\$ 10,567	\$ 2,402	\$ 85,636
Dispatching	1,099	696	12	58	256	2,120
Other Revenues	237	108	56	62	27	490
MOW Revenues	7,377	2,523	660	1,526	475	12,561
Total FY2018-19	\$ 50,917	\$ 26,010	\$ 8,507	\$ 12,213	\$ 3,159	\$ 100,806
Total FY2017-18	\$ 51,219	\$ 25,671	\$ 8,433	\$ 12,124	\$ 3,199	\$ 100,646
Over/(Under) Prior Year	\$ (302)	\$ 339	\$ 74	\$ 89	\$ (39)	\$ 160
Percentage Change	(0.6%)	1.3%	0.9%	0.7%	(1.2%)	0.2%

Note: Amounts may not foot or cross foot due to rounding



FY 2018-19 Proposed Expenditures

(\$ million)

FY2017-18 Adopted Budget	\$ 243.0	
FY2018-19 Proposed Budget	\$ 251.4	
Year Over Year Change In Expenditures	\$ 8.3	3.4%

Variance Drivers:

Train Operations & Services		\$ 8.8 M	Maintenance-of-Way		\$ (0.3 M)
Fuel	\$	(0.9 M)	Extraordinary	\$	(0.4 M)
Big Five Train Operation & Maint	\$	2.9 M	Other	\$	0.1 M
Car Maintenance	\$	0.4 M			
TVM/Revenue Collection	\$	1.5 M			
Marketing	\$	4.0 M			
Wabtec and PTC Upgrades	\$	0.4 M			
Amtrak Transfers	\$	0.2 M			
Other	\$	0.3 M			
			Administration & Services		\$ 0.8 M
			COLA & Merit- Ops	\$	0.9 M
			Other	\$	(0.1 M)
			Insurance Expense		\$ (1.0 M)
			Insurance Premiums	\$	(1.1 M)
			Other	\$	0.1 M

Note: Amounts may not foot or cross foot due to rounding



Expense Allocation by Member Agency

(\$000s)	Metro Share	OCTA Share	RCTC Share	SBCTA Share	VCTC Share	Total FY2018-19
Expenses						
Train Operations & Services	\$ 76,199	\$ 35,577	\$ 17,564	\$ 16,443	\$ 6,549	\$ 152,333
Maintenance-of-Way	21,524	8,447	3,118	5,759	2,453	41,301
Administration & Services	19,638	7,464	5,840	4,282	3,870	41,093
Insurance	8,677	3,925	1,645	1,840	543	16,629
Total FY2018-19	\$ 126,037	\$ 55,413	\$ 28,167	\$ 28,324	\$ 13,415	\$ 251,356
Total FY2017-18	\$ 122,877	\$ 53,910	\$ 26,139	\$ 27,084	\$ 13,035	\$ 243,045
Over/(Under) Prior Year	\$ 3,159	\$ 1,503	\$ 2,028	\$ 1,240	\$ 381	\$ 8,311
Percentage Change	2.6%	2.8%	7.8%	4.6%	2.9%	3.4%

Note: Amounts may not foot or cross foot due to rounding



Subsidy by Member Agency

(\$000s)	Metro Share	OCTA Share	RCTC Share	SBCTA Share	VCTC Share	Total FY2018-19
Revenues	\$ 50,917	\$ 26,010	\$ 8,507	\$ 12,213	\$ 3,159	\$ 100,806
Expenses	\$ 126,037	\$ 55,413	\$ 28,167	\$ 28,324	\$ 13,415	\$ 251,356
FY2018-19 Member Subsidy	\$ 75,120	\$ 29,403	\$ 19,660	\$ 16,111	\$ 10,256	\$ 150,550
FY2017-18 Member Subsidy	\$ 71,659	\$ 28,239	\$ 17,705	\$ 14,960	\$ 9,836	\$ 142,399
Over/(Under) Prior Year	\$ 3,461	\$ 1,164	\$ 1,954	\$ 1,151	\$ 420	\$ 8,151
Percentage Change	4.8%	4.1%	11.0%	7.7%	4.3%	5.7%

Note: Amounts may not foot or cross foot due to rounding

FY 2018-19 Rehabilitation Budget

FY2018-19 Rehabilitation Project Allocation by Funding Source

Asset / Funding Source (\$000s)	Metro Share	OCTA Share	RCTC Share	SBCTA Share	VCTC Share	OTHER Share	Total FY2018-19
Business Systems	\$ 864	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 864
Communications	1,465	544	234	231	458	44	2,975
Facilities	3,054	798	447	580	1,888	-	6,768
Fleet Vehicles	770	91	51	66	33	-	1,011
Grade Crossing	6,779	1,030	-	185	2,046	-	10,040
Information Technology	119	49	28	36	18	-	250
Rolling Stock	3,820	1,374	770	1,000	500	-	7,464
Signals	15,900	1,234	422	1,417	189	472	19,634
Stations	273	131	55	87	55	-	601
Structures	20,447	1,247	139	490	1,610	-	23,933
System - TVM	95	40	22	29	14	-	200
Track	36,909	7,560	1,193	3,631	774	-	50,067
Subtotal	\$ 90,495	\$ 14,098	\$ 3,361	\$ 7,752	\$ 7,585	\$ 516	\$ 123,807
Member Requested Special Projects							
Rolling Stock	\$ 24,118	\$ 4,009	\$ 2,248	\$ 2,916	\$ 1,458	\$ -	\$ 34,749
Signals	572	-	-	-	-	-	572
Structures	-	38,262	-	-	-	-	38,262
Track	-	-	3,456	-	-	-	3,456
Subtotal	\$ 24,690	\$ 42,271	\$ 5,704	\$ 2,916	\$ 1,458	\$ -	\$ 77,039
Total	\$ 115,185	\$ 56,369	\$ 9,065	\$ 10,668	\$ 9,043	\$ 516	\$ 200,846

Note: Amounts may not foot or cross foot due to rounding

FY 2018-19 New Capital Budget

FY2018-19 Capital Project Allocation by Funding Source

Asset / Funding Source (\$000s)	Metro Share	OCTA Share	RCTC Share	SBCTA Share	VCTC Share	OTHER Share	Total FY2018-19
Business Systems	\$ 99	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 99
Facilities	4,989	2,280	1,166	1,512	756	-	10,703
PTC Systems	1,458	-	-	-	-	-	1,458
Track	2,188	99	56	72	36	-	2,450
Total	\$ 8,733	\$ 2,379	\$ 1,221	\$ 1,584	\$ 792	\$ -	\$ 14,710

Note: Amounts may not foot or cross foot due to rounding

Timeline – Next Steps

May – June, 2018 Member Agencies Consider and Approve FY 2018-19 Budget

June 6, 2018 Required Public Posting of FY 2018-19 Budget

June 22, 2018 Request Board Approval of FY 2018-19 Budget

METROLINK MISSION

**TO PROVIDE SAFE, EFFICIENT, DEPENDABLE AND ON-TIME
TRANSPORTATION SERVICE THAT OFFERS OUTSTANDING
CUSTOMER EXPERIENCE AND ENHANCES QUALITY OF LIFE.**



SAFETY | PEOPLE | GROWTH | QUALITY | EFFICIENCY



May 14, 2018

To: Members of the Board of Directors

From: Darrell E. Johnson, Chief Executive Officer

Subject: Adopt Resolutions of Necessity for the Interstate 405 Improvement Project Between State Route 73 and Interstate 605

Overview

The Orange County Transportation Authority is implementing the Interstate 405 Improvement Project between State Route 73 and Interstate 605. The project requires acquisition of property rights from public and private parties adjacent to the existing freeway and city streets. On May 11, 2015, the Board of Directors approved acquiring right-of-way for the project. At this time, staff has been unable to reach an agreement to purchase required property rights from the subject property owners. It is now necessary for the Board of Directors to exercise its power of eminent domain by adopting resolutions of necessity in order to acquire these necessary property rights to make the properties available to meet the project delivery and construction schedules.

Recommendation

Adopt Resolutions of Necessity Nos. 2018-010, 2018-043, 2018-046, 2018-051, 2018-052, 2018-053, and 2018-054, and authorize and direct General Counsel to prepare, commence, and prosecute a proceeding in eminent domain for the purpose of acquiring necessary right-of-way and real property interests for the Interstate 405 Improvement Project between State Route 73 and Interstate 605.

Background

The acquisition of public and private properties is often required to implement transportation projects, even though extensive efforts are made during the planning and design process to avoid or minimize the impacts to public and private properties. Design-build (DB) Cooperative Agreement No. C-4-1847 between the Orange County Transportation Authority (OCTA) and the California Department of Transportation (Caltrans) was approved by the Board of Directors (Board) on June 30, 2015, and defined the roles and responsibilities of OCTA and Caltrans for final design, construction, and

right-of-way (ROW) acquisition for the Interstate 405 Improvement Project between State Route 73 (SR-73) and Interstate 605 (I-605) (Project). Pursuant to the DB cooperative agreement, OCTA is the lead implementing agency for final design, construction, and ROW acquisition for the Project. The environmental document and project report were approved by Caltrans on May 15, 2015.

Discussion

Construction of the Project will impact 288 properties between SR-73 and I-605, including 179 residential properties, 71 commercial/industrial properties, 37 public properties, and one railroad property. There are 287 properties identified as partial acquisitions, and one property is identified as a full acquisition. The full acquisition of this one property will result in the relocation of three businesses operating on the property. The real property requirements are comprised of a combination of acquisitions of fee interests (FEEs), permanent highway easements (PHEs), permanent footing easements (PFEs), temporary construction easements (TCEs), and access control rights needed to construct the proposed highway and express lane improvements for the Project. The FEEs, PHEs, PFEs, and TCEs are required for roadway and bridge construction, soundwalls, and retaining walls, drainage systems, and for the installation of above-ground and underground facilities, including electrical, telecommunication, water, sewer, gas, and storm drain systems.

Resolution No. 2018-010 pertains to the proposed acquisition of three partial FEEs, a PFE, and three TCEs over a portion of the property owned by Carolyn B. Huish Properties, a California limited partnership, as to an undivided 50 percent interest, and John M. Huish, Trustee of the Huish Land Trust (dated May 24, 1984), as to an undivided 50 percent interest (owner) and leased to Apex Parks Group, an amusement park known as "Boomers! Fountain Valley" (tenant). The acquisition of the subject partial FEEs is needed to provide additional area for the widening of Magnolia Street. The acquisition of the subject PFE is needed to provide an area underground for the location of the retaining wall footing along Magnolia Street. Two of the TCEs along Magnolia Street are needed to provide the DB contractor with sufficient work area to construct the proposed retaining wall footing and street improvements. The third TCE, abutting the freeway, is needed to provide the DB contractor with sufficient work area to install the Orange County Flood Control District's (OCFCD) underground storm drain facilities per an agreement with OCFCD. OCTA staff had intended to request adoption of a resolution of necessity (RON) at the February 26, 2018 Board meeting; however, this request was postponed to address engineering and survey requirements. Consequently,

a revised offer was presented to the property owner and additional time for negotiation was provided.

Also, the OCFCD owns a parcel that runs through the middle of the subject property described in Resolution No. 2018-010, which is utilized by the tenant. A separate offer has been presented to the OCFCD for the project's impact to this property and it is not subject to this resolution.

Resolution No. 2018-043 pertains to the proposed acquisition of a partial FEE, a PFE, a maintenance access easement (MAE), and a TCE over a portion of the property owned by Westminster Mall, LLC, a Delaware limited liability company. The acquisition of the subject partial FEE is needed for the widening of the existing street. The acquisition of the subject PFE is needed to provide an area underground for the location of the retaining wall footing. The acquisition of the subject MAE is needed to provide access for maintenance of the retaining wall. The acquisition of the subject TCE is needed to provide the DB contractor with sufficient work area to construct the proposed improvements and reconstruct the existing one-way exit from the mall to Bolsa Avenue. OCTA staff had intended to request adoption of a RON at the March 26, 2018 Board meeting; however, this request was postponed to allow additional time for further negotiations with the owner in an attempt to reach a settlement.

Resolution No. 2018-046 pertains to the proposed acquisition of a partial FEE and two TCEs over a portion of the property owned by Golden Westminster Investments, LLC, a California limited liability company. The acquisition of the subject partial FEE is needed to provide for the widening of the freeway. The acquisition of the subject TCEs is needed to provide the DB contractor with sufficient work area to accommodate the freeway widening improvements and for reconstruction of the existing entrance to the property. OCTA staff had intended to request adoption of a RON at the March 26, 2018 Board meeting; however, this request was postponed to allow additional time for further negotiations with the owner. On March 29, 2018 and on April 12, 2018, OCTA staff met with the property owner and the tenant, 99 Cents Only Stores, LLC, in an administrative review to discuss and resolve all issues regarding the acquisition in an attempt to reach a settlement.

Resolution No. 2018-051 pertains to the proposed acquisition of a PHE and a TCE over a portion of the property owned by Southern California Edison Company, a corporation. The acquisition of the subject PHE is needed to provide additional area for the widening of the freeway, construction of a retaining wall, and underground footings. The subject TCE is needed to provide the DB contractor with sufficient work area to accommodate the freeway widening improvements and construct the retaining wall.

Resolution No. 2018-052 pertains to the proposed acquisition of a PFE and a TCE over a portion of the property owned by Sovran Acquisition Limited Partnership, a Delaware limited partnership. The acquisition of the subject PFE is needed to provide an area underground for the location of retaining wall footing along the freeway. The acquisition of the subject TCE is needed to provide the DB contractor with sufficient work area to construct the proposed improvements and erect a retaining wall.

Resolution No. 2018-053 pertains to the proposed acquisition of a TCE over a portion of the property owned by Dorothy Sublett-Miller and Walter J. Miller, Successor Trustees of The Miller Family Trust, originally dated October 12, 1979 (amended/restated February 05, 2004), as to an undivided one-half interest, and Dorothy Sublett-Miller and Walter J. Miller, Successor Trustees of the Miller Family Trust, originally dated October 12, 1979 (amended/restated February 05, 2004), as to an undivided one-half interest. The acquisition of the subject TCE is needed to provide the DB contractor with sufficient work area to accommodate the freeway widening improvements, including removal and reconstruction of a sound wall. The property owner, through a legal representative, provided OCTA staff with a written notice of intent to appear and be heard on the proposed adoption of a RON (Attachment A). This written notice of intent to appear and be heard also pertains to a request regarding Resolution No. 2018-054.

Resolution No. 2018-054 pertains to the proposed acquisition of a TCE over a portion of the property owned by M. Westland, LLC, a Delaware limited liability company. The acquisition of the subject TCE is needed to provide the DB contractor with sufficient work area to accommodate the freeway widening improvements. The property owner, through a legal representative, provided OCTA staff with a written notice of intent to appear and be heard on the proposed adoption of a RON (Attachment A). This written notice of intent to appear and be heard also pertains to a request regarding Resolution No. 2018-053.

The property owners have been given substantially more time than the 30 days required by the Federal Highway Administration to consider OCTA's written purchase offer and have been contacted multiple times as described in Attachment B. These contacts include OCTA staff requesting a meeting with the property owner to conduct an OCTA policies and procedures first level review to describe the Project design and the need for the property.

In accordance with the DB contract, OCTA must secure possession of the interests in the subject properties by applicable dates in November 2018 through January 2019 to meet Project schedule deadlines. Delay in acquiring the interests in these properties will cause Project delays and can potentially subject

OCTA to a delay claim from the DB contractor. Proceeding with these RONS will ensure that Project schedules are maintained and contracted commitments are met by OCTA.

The “List of Property Owners” and “Photo Aerial Exhibits,” Attachments C and D respectively, provide information on property ownerships and locations.

Acquisition of the subject property interests is being conducted in accordance with OCTA’s Real Property Policies and Procedures and Caltrans guidelines. The required property interests were identified, engineered, and appraised by OCTA. The full appraised amount for each respective property interest was offered to the property owner under the requirements of Governmental Code Section 7267.2.

In order to proceed with the acquisition of the properties required for the Project and to comply with state and federal laws for ROW acquisition, the Board is requested to adopt the RONS for the subject properties. This action will allow OCTA to commence eminent domain proceedings to acquire the interests in real property needed for the Project.

The following resolutions are recommended:

- Resolution No. 2018-010 Carolyn B. Huish Properties, a California limited partnership, as to an undivided 50 percent interest, and John M. Huish, Trustee of the Huish Land Trust (dated May 24, 1984), as to an undivided 50 percent interest – Action is recommended for an acquisition of three partial FEEs, one PFE, and three TCEs over a portion of the property to accommodate widening of Magnolia Street, construct the proposed retaining wall, and provide working areas to construct proposed freeway improvements.
- Resolution No. 2018-043 Westminster Mall, LLC, a Delaware limited liability company – Action is recommended for an acquisition of one partial FEE, one PFE, one MAE, and one TCE over a portion of the property to provide areas for the northwest access road, construct a retaining wall, provide access to the retaining wall for maintenance purposes, and provide working areas for construction of project improvements.
- Resolution No. 2018-046 Golden Westminster Investments, LLC, a California limited liability company – Action is recommended for an acquisition of one partial FEE and two TCEs over a portion of the property to provide for the widening of the freeway, provide working areas to construct proposed freeway improvements, and reconstruct the existing entrance.

- Resolution No. 2018-051 Southern California Edison Company, a corporation – Action is recommended for an acquisition of one PHE and one TCE over a portion of the property to construct the proposed retaining wall and provide working areas to construct proposed freeway improvements.
- Resolution No. 2018-052 Sovran Acquisition Limited Partnership, a Delaware limited partnership – Action is recommended for an acquisition of one PFE and one TCE over a portion of the property to construct the proposed retaining wall and provide working area for construction of retaining wall.
- Resolution No. 2018-053 Dorothy Sublett-Miller and Walter J. Miller, Successor Trustees of The Miller Family Trust, originally dated October 12, 1979 (amended/restated February 05, 2004), as to an undivided one-half interest, and Dorothy Sublett-Miller and Walter J. Miller, Successor Trustees of the Miller Family Trust, originally dated October 12, 1979 (amended/restated February 05, 2004), as to an undivided one-half interest – Action is recommended for an acquisition of one TCE over a portion of the property to provide working area to construct proposed freeway improvements.
- Resolution No. 2018-054 M. Westland, LLC, a Delaware limited liability company – Action is recommended for an acquisition of one TCE over a portion of the property to provide working area to construct proposed freeway improvements.

The eminent domain proceedings commence with action by the Board to adopt a RON in accordance with the California Code of Civil Procedure Section 1245.240, which requires an affirmative vote of two-thirds of the Board members. The Board is requested to determine whether the following criteria have been met:

1. The public interest and necessity require the Project;
2. The Project is planned and located in the manner that will be most compatible with the greatest public good and the least private injury;
3. The property interest(s) sought to be acquired is necessary for the Project; and
4. The offer required by Section 7267.2 of the Governmental Code has been made to the owner or owners of record.

Property owners and/or the designated representative affected by a RON may request an appearance to speak to the Board when the RON is considered on matters of Project design and the impact to the subject property. The issue regarding compensation for the value of the property affected by the RON should not be discussed. In the event the Board approves the RONs (Attachments E-K), OCTA's General Counsel will proceed with litigation in order to obtain possession and ultimate use of the property interests. Staff will continue negotiations with the property owners throughout the eminent domain process with the objective of reaching an agreement on the acquisition without the necessity of trial.

Summary

The acquisition of specified real property interests is required for the construction of the Project. Statutory offers have been made to the property owners, and negotiations are ongoing. Adopting these RONs and commencing eminent domain proceedings are requested to maintain the Project delivery schedule.

Attachments

- A. Letter from David A. Robinson, Enterprise Counsel Group, to Laurena Weinert, Clerk of the Board, Orange County Transportation Authority, Dated April 13, 2018, Re: Request to be Heard & Request to Further Address Onsite Drainage Issues Resolution of Necessity for the I-405 Improvement Project 5400-5440, 5772 & 5880 Garden Grove Boulevard, Westminster, CA 92683
- B. Correspondence/Contact Summary:
Resolution No. 2018-010 Huish Properties and Trustee of the Huish Land Trust, Resolution No. 2018-043 Westminster Mall, LLC, Resolution No. 2018-046 Golden Westminster Investments, LLC, a California Limited Liability Company, Resolution No. 2018-051 Southern California Edison, Resolution No. 2018-052 Sovran Acquisition LP, Resolution No. 2018-053 Miller Family Trust, and Resolution No. 2018-054 M. Westland, LLC
- C. List of Property Owners, Interstate 405 Improvement Project Between State Route 73 and Interstate 605, Board of Directors Exhibit Matrix
- D. Photo Aerial Exhibits
- E. Resolution No. 2018-010
- F. Resolution No. 2018-043
- G. Resolution No. 2018-046
- H. Resolution No. 2018-051
- I. Resolution No. 2018-052
- J. Resolution No. 2018-053
- K. Resolution No. 2018-054

Prepared by:



Joe Gallardo
Manager, Real Property
(714) 560-5546

Approved by:



James G. Beil, P.E.
Executive Director, Capital Programs
(714) 560-5646



RECEIVED
PERSONAL SERVICE
2018 APR 16 AM 8:55
OCTA
CLERK OF THE BOARD

David A. Robinson
drobinson@ecg.law

April 13, 2018

VIA OVERNIGHT DELIVERY

CAMM N/A
Acctg N/A
Capital Prog X
Gen Counsel X

Laurena Weinert, Clerk of the Board
Orange County Transportation Authority
500 South Main Street
P.O. Box 14184
Orange, CA 92863-1584

Re: Request to be Heard & Request to Further Address Onsite Drainage Issues
Resolution of Necessity for the I-405 Improvement Project
5400-5440, 5772 & 5880 Garden Grove Boulevard, Westminster, CA 92683
Orange County Assessor's Parcel Nos.: 203-071-22, 203-102-01, 203-102-02,
203-071-23 & 203-102-03
Caltrans Parcel Nos.: 103313-1 & 103312-1

Dear Ms. Weinert:

By this letter, and in response to your letters dated March 30, 2018, M. Westland, LLC, Land Partners Co. and Dorothy Sublett Miller and Walter J. Miller, Successor Trustees of the Miller Family Trust, (the "Owners"), including their agents Brad Sublett, Dorothy W. Miller-Sublett and Enterprise Counsel Group ALC, request the opportunity to appear and be heard at the hearing presently scheduled for May 14, 2018 regarding the above-referenced matters.

In addition to requesting the opportunity to appear and be heard, we further ask that the OCTA address onsite drainage issues that will be impacted by the I-405 Improvement Project.

On January 23, 2018 and February 6, 2018, Overland, Pacific & Cutler, LLC ("Overland") sent letters to the Owners, offering to purchase temporary construction easements in connection with the I-405 Improvement Project. In response, I sent the enclosed letter dated March 23, 2018. As explained in the March 23 letter:

[W]ith respect to the properties located at 5772 and 5880 Garden Grove Boulevard (the "Mobile Home Park"), there is a sewer and storm drain located within the temporary construction easement. **Historically, improvements and utilities on the Mobile Home Park have been significantly damaged due to**

2018-108

flooding that occurs during periods of heavy rain. The sewer and storm drain within the easement are critical in avoiding catastrophic flooding. Without those drains, there are no other flood control devices sufficient to prevent widespread water damage. Thus, to adequately address the potential for the freeway widening project to interfere with those drains, the owners would like to engage in a discussion with your engineers. By addressing this issue now, our aim is to arrive at a satisfactory mutual resolution that ensures neither the mobile home park nor the I-405 Improvement Project are negatively impacted by flooding.

(Bold added.)

In other words, the catastrophic flooding issue discussed in the March 23 letter is directly related to whether the I-405 Improvement Project “is planned or located in the manner that will be most compatible with the greatest public good **and the least private injury,**” a finding that, as you have acknowledged in your March 30 letters, must be made by the OCTA pursuant to Code of Civil Procedure section 1245.230(c)(2). (Bold added.) **If the OCTA fails to resolve this issue, the likelihood of widespread flooding occurring on the subject property during the 24-month temporary construction easement is a near certainty.** I am concerned this issue will not be appropriately addressed because I have not received a substantive response to my March 23 letter.

On April 5, 2018, OCTA representative Joey Mendoza emailed me stating, “We are in the process of providing a response to your questions but would like your assistance regarding the onsite drainage concern.” My office responded to Mr. Mendoza that same day, requesting clarification as to whether the deadline to obtain the incentive payments described in Overland’s January 23 and February 6 letters would be extended. However, I have yet to receive any further response from Mr. Mendoza. I hope the request for an extension to the incentive payment deadline has not caused the OCTA to ignore my March 23 letter.

The only information I have received from the OCTA since Mr. Mendoza’s email is a copy of your March 30 letters notifying the Owners of the OCTA’s intent to adopt a Resolution of Necessity. However, we remain hopeful the OCTA will respond to my March 23 letter prior to the presently scheduled May 14 hearing. If so, perhaps we can resolve the issue of catastrophic flooding, and the acquisition of the temporary construction easement, without the necessity of a hearing let alone any further formal eminent domain proceedings.

In any event, it is the OCTA’s obligation to discuss the flooding issue with the Owners prior to the hearing. Otherwise, the OCTA will not have sufficient evidence to support any conclusion as to whether the I-405 Improvement Project is “most compatible with the greatest public good and the least private injury.” This would be critically problematic because the California Court of

Appeal has held a condemnor is prohibited from irrevocably committing itself to a taking regardless of the evidence presented at the administrative hearing. (*Santa Cruz County Redevelopment Agency v. Izant* (1995) 37 Cal.App.4th 141, 149.) The OCTA cannot simply ignore the drainage issue because it wants to widen the I-405. Moreover, if the upcoming hearing is such an ends-driven endeavor, the Owners would be forced to seek immediate judicial review of such a hearing pursuant to Code of Civil Procedure section 1245.255.

Perhaps I have received no substantive response to my March 23 letter owing to a "tyranny of the urgent" as the OCTA nears deadlines necessary to keep the I-405 Improvement Project running on schedule. However, that is all the more reason to meet with the Owners now so that we can resolve the widespread flooding issue that the OCTA is required by law to address.

We look forward to the OCTA's reply to my March 23 letter. If we are not able to resolve all issues with respect to the subject property, this letter, again, requests the opportunity to appear and be heard at the May 14, 2018 hearing before the OCTA.

Very truly yours,

ENTERPRISE COUNSEL GROUP
A Law Corporation



David A. Robinson

Enclosure

DAR:mmw



David A. Robinson
drobinson@ecg.law

March 23, 2018

VIA HAND DELIVERY

Orange County Transportation Authority
c/o Daniela Borbe & Mona Montano
Overland Pacific & Cutler, LLC
1 Jenner, Suite 200
Irvine, CA 92618

Re: Offers to Acquire Property Rights
I-405 Improvement Project
5400-5440, 5772 & 5880 Garden Grove Boulevard, Westminster, CA 92683
Orange County Assessor's Parcel Nos.: 203-071-22, 203-102-01, 203-102-02,
203-071-23 & 203-102-03
Caltrans Parcel Nos.: 103313-1 & 103312-1

Dear Ms. Borbe and Ms. Montano:

My office represents the owners of the above-referenced properties with respect to your office's letters dated January 23, 2018 and February 6, 2018 offering to acquire temporary construction easements in furtherance of the I-405 Improvement Project. I am in receipt of those letters, and the associated enclosures raise three issues that, out of an abundance of caution, we would appreciate your clarification on.

First, we suspect that per Section 7 of the "Right-of-Way Contract," OCTA is asking the property owners to provide assurances that they will bear responsibility for any losses and expenses resulting from the mere presence of any lease exceeding a period of one month, but not more broadly for a tenant's maintenance of a tort action arising out of the I-405 Improvement Project. In other words, that OCTA is not asking the property owners to provide assurances regarding any claim a tenant might make that the construction work constitutes a nuisance or has otherwise harmed the tenant (*e.g.*, by the operation of loud equipment; the existence of noxious substances such as smoke, hazardous chemicals and dust; the use of bright lights at night; etc.). Please confirm whether our understanding is correct.

Next, with respect to the properties located at 5772 and 5880 Garden Grove Boulevard (the "Mobile Home Park"), there is a sewer and storm drain located within the temporary construction easement. Historically, improvements and utilities on the Mobile Home Park have been significantly damaged due to flooding that occurs during periods of heavy rain. The sewer

and storm drain within the easement are critical in avoiding catastrophic flooding. Without those drains, there are no other flood control devices sufficient to prevent widespread water damage. Thus, to adequately address the potential for the freeway widening project to interfere with those drains, the owners would like to engage in a discussion with your engineers. By addressing this issue now, our aim is to arrive at a satisfactory mutual resolution that ensures neither the Mobile Home Park nor the I-405 Improvement Project are negatively impacted by flooding.

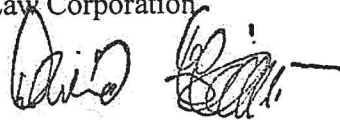
The attachment to the legal description of the temporary construction easement burdening the Mobile Home Park states: "OCTA's use and occupancy of the [temporary construction easement] will be exclusive, subject to the rights and limitations set forth below." One of the rights and limitations identified is: "Reasonable pedestrian and vehicular access to the property shall be maintained at all times." Further, Section 12 of the "Right-of-Way Contract" reads, in relevant part: "Grantor agrees to keep the Temporary Construction Easement area free and clear of all ... debris during the [forty-eight (48) month term]." It is our understanding that these provisions enable the property owner to have complete and unfettered access to the sewer and storm drain to prevent widespread flooding. However, we would like to discuss this issue with your engineering team now to avoid any future potential for damage to the Mobile Home Park or delay to the freeway construction.

Lastly, the letter and enclosures regarding the Mobile Home Park reference "5772 and 5830 Garden Grove Boulevard, Westminster, CA 92683," and Assessor's Parcel Numbers ("APN") 203-071-23 and 203-102-03. However, APN 203-071-23 and 203-102-03 are associated with 5880 Garden Grove Boulevard and 5772 Garden Grove Boulevard, respectively. Consequently, we expect all references to "5830 Garden Grove Boulevard" are in error, and that OCTA meant to identify 5880 Garden Grove Boulevard as the relevant street address. Kindly let us know if that is the case.

In order to provide both parties with sufficient time to address these issues, we request a 30-day extension—beginning from the date of receipt of the extension—to the deadline to respond to the incentive payment offers provided in the above-described letters. Thank you for your time and consideration and we look forward to hearing from you soon.

Very truly yours,

ENTERPRISE COUNSEL GROUP
A Law Corporation



David A. Robinson

DAR:mmw

Correspondence/Contact Summary

Resolution No. 2018-010
Huish Properties and Trustee of the Huish Land Trust

Date	Reason for Contact
July 22, 2016	Orange County Transportation Authority (OCTA) right-of-way (ROW) agent contacted property owner to schedule an inspection of the property with the appraiser along with owners' tenant (Apex Parks Group) and arrange for staking of the property to show impacts. Date of the same was agreed to by the owner.
July 26, 2016	OCTA ROW agent spoke to property owner's representative who cannot attend appraisal and staking meeting. OCTA ROW agent conferenced owner with representative and new date was agreed to by both.
August 15, 2016	OCTA ROW agent, OCTA counsel and OCTA appraiser met with property owner and representatives and Apex Parks Group and conducted appraisal inspection. Owner expressed their concerns with impacts to the property and business.
October 25, 2016	OCTA ROW agent received call from property owner about status of offer.
October 26, 2016	OCTA ROW agent called property owner to discuss status of appraisal, mitigation report and offer. Owner requested review of mitigation report before it is finalized. OCTA ROW agent stated she will discuss this request with OCTA and provide feedback.
October 28, 2016	OCTA ROW agent called and left message for property owner to contact agent.
October 28, 2016	OCTA ROW agent received call from general manager of Apex Parks Group (lessee) requesting status and projected start of construction. OCTA ROW agent provided requested information to Apex Parks Group.
February 28, 2017	OCTA contacts owner's son, an attorney, to set up a meeting to discuss project impacts.
March 29, 2017	OCTA, ROW agent, owner, and tenant (Apex Parks Group) representatives meet to discuss project impacts.
August 8, 2017	OCTA and OCTA ROW agents met with property owners and owners' tenant and presented offer package.
August 22, 2017	Goodwill appraiser's initial contact with Apex Parks Group requesting financial information.
August 25, 2017	Goodwill appraiser sign Apex Parks Group Non-Disclosure Agreement.
August 28, 2017	Goodwill appraiser sent lease by Apex Parks Group.
August 29, 2017	Telephone call between goodwill appraiser and Apex Parks Group re financial documents.

September 1, 2017	Goodwill appraiser receives profit and loss statements from Apex Parks Group.
September 5, 2017	Goodwill appraiser meets Apex Parks Group at subject property for inspection and interview.
September 6, 2017	Telephone call between goodwill appraiser and Apex Parks Group regarding financial documents and proposed capital improvements.
September 7, 2017	Goodwill appraiser emails APEX with questions regarding financial statements.
September 28, 2017	Apex Parks Group emails goodwill appraiser with answers to financial questions on financial statements.
October 12, 2017	Telephone call between goodwill appraiser and Apex Parks Group regarding financial documents.
September 29, 2017	OCTA ROW agent called property owner's representative about status of their review of offer package and that the sixty (60) day incentive payment acceptance would expire soon. Representative not available so agent left message with his secretary.
October 2, 2017	OCTA ROW agent emailed 50-day incentive notice to property owner's representative and requested status of their review of the offer package. OCTA ROW agent also mailed 50-day incentive notice to representative via USPS regular mail.
October 6, 2017	Apex Parks Group sends goodwill appraiser additional financial documents.
October 10, 2017	Goodwill appraiser meets Apex Parks Group at Irvine location for site inspection.
October 11, 2017	Telephone call between goodwill appraiser and Apex Parks Group regarding financial documents.
October 11, 2017	OCTA ROW agent spoke with property owner's tenant, Apex Parks Group, who stated they intended to present a counter offer in the next thirty (30) days after getting quotes from vendors. Apex Parks Group expressed some of their concerns with the project to OCTA ROW agent. Owner will be conducting own due diligence and goodwill appraisal. OCTA ROW agent informed OCTA about Apex Parks Group concerns with the offer.
October 12, 2017	Telephone call between goodwill appraiser and Apex Parks Group regarding financial documents.
October 12, 2017	Exchange of emails between Apex Parks Group, OCTA ROW agent and OCTA counsel regarding mitigation costs for Go-Karts and rebuild.
October 13, 2017	Exchange of emails between Apex Parks Group, OCTA ROW agent and OCTA counsel regarding mitigation costs for Go-Karts and rebuild.
October 30, 2017	OCTA ROW agent received email from Apex Parks Group regarding concerns with the offer/project. OCTA ROW agent forwarded these concerns to OCTA for review.

November 13, 2017	OCTA ROW agent emailed Apex Parks Group responding to their questions regarding ADA, mitigation report and goodwill appraisers.
November 14, 2017	Apex Parks Group requests a copy of the appraisal report.
November 15, 2017	OCTA ROW agent sends Apex Parks Group a copy of the appraisal report.
November 17, 2017	Apex Parks Group requests status of goodwill appraisal and advised still waiting for goodwill appraiser's calculations and then will need approval of settlement offer from OCTA.
January 10, 2018	Apex Parks Group requests a breakdown of entire compensation offer, including goodwill.
December 20, 2017	OCTA ROW agent mailed first level review letter to property owners via regular mail.
January 10, 2018	OCTA ROW agent and OCTA counsel received e-mail from Apex Parks Group stating that they are in receipt of OCTA's 1 st level review letter and are requesting offer for goodwill valuation. OCTA counsel responded to Apex Parks Group e-mail stating goodwill settlement offer being processed.
January 15, 2018	OCTA counsel sends letter to Apex Parks Group with loss of goodwill settlement offer.
January 23, 2018	OCTA ROW agent sends Apex Parks Group a spreadsheet with breakdown of entire compensation offer to Apex Parks Group, including loss of goodwill.
March 1, 2018	Letter to owner advising resolution being taken off-calendar and postponed due to small engineering and survey issues.
March 12, 2018	Revised offer package sent to owner Huish.
March 26, 2018	Apex Parks Group sends counter settlement offer to OCTA.
March 30, 2018	OCTA's counsel sent letter to property owner stating that OCTA intends to move forward with its intent to consider the adoption of a resolution of necessity on May 14, 2018.
April 13, 2018	APEX inquires at to status of adoption of resolution and impact on settlement discussions. OCTA counsel responds with offer to mediate.
April 17, 2018	OCTA counsel and Apex Parks Group confirm mediation date for May 23, 2018.
April 23, 2018	OCTA counsel called by owner and his counsel regarding potential for settlement and status of settlement discussions with Apex Parks Group.

Correspondence/Contact Summary

Resolution No. 2018-043 Westminster Mall, LLC

Date	Reason for Contact
June 16, 2016	Orange County Transportation Authority (OCTA) right-of-way (ROW) agent advised that the Westminster Mall is owned by the Washington Prime Group (WPG) and met with property owner's representatives: WPG's director of real estate development; and the mall's general manager. Agent explained the project and listened to owner's concerns.
November 9, 2017	OCTA ROW agent called and left a voice message for property owner's representative regarding presentation of an offer.
November 10, 2017	OCTA ROW agent called and left a voice message for property owner's representative regarding presentation of an offer.
November 13, 2017	OCTA ROW agent called and left a voice message for property owner's representative regarding presentation of an offer.
November 14, 2017	OCTA ROW agent mailed offer package to property owner's representative via USPS regular and certified mail. OCTA ROW agent also called and left a detail voice message for owner's representative.
November 17, 2017	OCTA ROW agent spoke with property owner's representative who confirmed receipt of the offer package. Property owner representative requested a few days to review the offer package before discussing the offer.
December 27, 2017	OCTA ROW agent called and left a detailed voice message for the property owner's representative regarding the offer package.
January 5, 2018	OCTA ROW agent called and left a voice message for the property owner's representative regarding status of the offer and requested he contact OCTA ROW agent.
January 16, 2018	OCTA ROW agent received a voice mail from property owner's representative regarding the offer. OCTA ROW agent returned call and left a voice message.
January 22, 2018	OCTA ROW agent mailed to the property owner's representatives the first level review letter via USPS regular mail at the mall location and its corporate offices in Ohio.
January 29, 2018	OCTA ROW agent attempted to contact property owner's representative regarding the offer status, but could not leave voice mail as it was full.
February 9, 2018	OCTA legal counsel mailed to property owner duplicate sets of Notice of Hearing Regarding Intent to Adopt Resolution of Necessity (one set to address appearing on last equalized County assessment roll and the other set to an address as provided on the offer letter). A copy of the notice was also sent to the City of Westminster as required by law.

February 20, 2018	Notice of Hearing document addressed as listed on County assessment roll returned from U.S. Postal service as non-deliverable. The duplicate notice of hearing sent to the property owner address as provided on the offer letter was not returned.
February 21, 2018	OCTA legal counsel confirmed proper address with County of Orange tax assessor's office.
February 25, 2018	OCTA staff spoke to property owner representative regarding status of agreement and coordinate relocation of signage.
March 6, 2018	OCTA staff spoke to property owner representative to discuss right of way requirements and administrative settlement. OCTA staff informed the property owner's representative the Resolution Hearing will be continued to a future Board meeting to allow additional time to process the R/W Contract for execution.
March 16, 2018	OCTA staff transmitted right of way requirements survey file in response to the property owner representative's request. This information is necessary to assist the Mall in relocating the existing mall sign.
March 21, 2018	OCTA staff spoke with property owner representative regarding administrative settlement. Property owner is agreeable to OCTA's offer amount, including incentive payment, as an administrative settlement and will seek approval from the Investment Committee on April 19, 2018.
March 22, 2018	OCTA staff converted and transmitted right of way requirements survey file to property owner representative to resolve compatibility issue.
March 27, 2018	OCTA staff called and left message with property owner's representative regarding settlement approval status.
March 28, 2018	OCTA staff spoke to property owner representative regarding settlement agreement approval from property owner.
April 3, 2018	OCTA staff emailed property owner representative to confirm Investment Committee approval scheduled for April 19, 2018.
April 9, 2018	Property owner representative e-mailed OCTA ROW agent that he is in communication with OCTA directly and that the approval of the offer has to go for approval to their investment committee.
April 13, 2018	OCTA staff received call from property owner representative to inform OCTA the settlement agreement is being approved by Memorandum of Approval by the Investment Committee but will not be fully executed until early May.
April 18, 2018	OCTA staff spoke with property owner representative regarding proposed location of new mall sign and potential conflict with OCTA construction activities.
April 23, 2018	OCTA staff emailed property owner representative for status update on approval of administrative settlement by Investment Committee.

April 24, 2018	OCTA staff emailed property owner representative for status update on approval of administrative settlement by Investment Committee.
April 27, 2018	OCTA staff emailed property owner representative for status update on approval of administrative settlement by Investment Committee.
April 30, 2018	OCTA's legal counsel sent letter to property owner stating that OCTA intends to move forward with its intent to consider the adoption of a resolution of necessity on May 14, 2018. OCTA ROW agent e-mailed owner stating OCTA's team's commitment to continue negotiations.

Correspondence/Contact Summary

Resolution No. 2018-046

Golden Westminster Investments, LLC, a California Limited Liability Company

Date	Reason for Contact
April 28, 2016	Orange County Transportation Authority (OCTA) right-of-way (ROW) agent responded to property owner regarding questions about project design. OCTA ROW agent to arrange a meeting for owner with the design team.
July 26, 2016	OCTA ROW agent called property owner who stated that he is ill, in the hospital and could not presently talk, and for agent to call him sometime in the future.
April 18, 2017	OCTA ROW agent left voice message for property owner requesting him to contact his tenants and coordinate access to the building. Access is requested by OCTA's ROW's consultant to study the building's interior configuration to address relocation of the building's backside exit doors.
May 1, 2017	OCTA ROW agent spoke with property owner regarding tenant coordination and inspection access.
May 18, 2017	OCTA ROW agent emailed property owner requesting access permission for OPC's architect consultant to study the building's interior configuration to address relocation of the building's backside exit doors. OCTA ROW agent proposed a meeting with owner, OCTA, OCTA's ROW consultant and design team to address owner's concerns with the project.
June 28, 2017	OCTA team met at property owner's office to discuss the project and owner's concerns regarding proposed improvements.
August 25, 2017	At the request and with the approval of the property owner, OCTA ROW agent coordinated staking of proposed improvements at the property.
November 14, 2017	OCTA ROW agent called property owner and left a voice message requesting a meeting to present the offer package.
November 15, 2017	OCTA ROW agent sent email to property owner proposing two dates and asking his availability for a meeting to present the offer package.
November 29, 2017	OCTA ROW agent called property owner and learned he is sick and cannot meet. Property owner suggested a January 2018 meeting; however, owner agreed for OCTA ROW agent to mail the offer package next week as well as emailing him a copy for review and will meet in January 2018 for offer presentation.
December 6, 2017	OCTA ROW agent mailed to property owner the offer package via GSO overnight delivery.
December 7, 2017	OCTA ROW agent received GSO delivery notification that offer package was delivered to the property owner's office on December 7, 2017.
December 8, 2017	OCTA ROW agent sent email to property owner with a copy of the offer package for his review and consideration.

January 6, 2018	OCTA ROW agent received email from property owner stating he is ill again and if it would be possible for OCTA to extend the duration of the incentive fee payment offer.
January 8, 2018	OCTA ROW agent sent email to property owner stating that she would inquire with OCTA about the extension and proceed with a meeting and offer negotiations at owner's convenience.
January 22, 2018	OCTA ROW agent received email from property owner requesting an appointment be scheduled with the OCTA team to discuss the offer. OCTA ROW agent e-mailed property owner with proposed dates/time to meet.
January 31, 2018	OCTA staff and OCTA ROW consultant met with the property owner at their offices to discuss offer and address owner's concerns with the project. OCTA expressed its commitment to addressing owner's issues and encouraged owner to obtain its own independent appraisal.
February 6, 2018	As requested by property owner, OCTA ROW agent emailed him contact information for three real estate appraisers that he has the option to use for an independent appraisal or he can select an appraiser of his own choosing.
February 9, 2018	OCTA legal counsel mailed to property owner and City of Westminster Notice of Hearing Regarding Intent to Adopt Resolution of Necessity.
February 22, 2018	Property owner e-mailed OCTA ROW agent confirming receipt of the Notice of Intent to Adopt a Resolution of Necessity from OCTA. Property owner inquired also about status of his questions regarding mitigation work.
February 23, 2018	OCTA staff received email from property owner expressing concerns relating to potential impacts to property.
February 23, 2018	OCTA staff and OCTA's ROW Consultant contacted the property owner' and discussed owner's concerns related to property visibility, parking reconfiguration and fire exit modifications. Property owner will provide OCTA with independent mitigation plan and cost estimate from architect related to these items.
February 27, 2018	OCTA staff received email from property owner which included mitigation summary prepared by the property owner's architect. The mitigation summary itemized the architect's recommended curative work to address potential impacts to the property.
March 1, 2018	Telephone conversation with OCTA, OCTA ROW agent and the property owner regarding owner's concerns with mitigation work and potential for settlement.
March 2, 2018	OCTA e-mailed the property owner to memorialize the telephone conversation the parties had a day before and the action items for each party.
March 5, 2018	In response to the property owner's request, OCTA staff emailed the property owner with engineering design plans relating to the subject property.

March 7, 2018	OCTA staff and OCTA's ROW Consultant met with the property owner and property owner's architect to review the mitigation summary report in detail. OCTA staff to evaluate mitigation summary with OCTA's real estate appraiser.
March 16, 2018	Telephone conversation with OCTA, OCTA ROW agent and the property owner regarding owner's counteroffer cost of proposed mitigation work.
March 19, 2018	OCTA staff received an email from the tenant's (99 Cents Only Stores LLC) real estate counsel requesting to discuss the Notice of Hearing sent to the property owner.
March 20, 2018	OCTA received a letter from the property owner requesting to appear and be heard by the OCTA Board of Directors at the RON hearing.
March 21, 2018	OCTA's legal counsel had a phone call with the tenant's (99 Cents Only Stores LLC) real estate counsel regarding the Notice of Hearing.
March 23, 2018	OCTA received a letter from the tenant's (99 Cents Only Stores LLC) legal counsel requesting to appear and be heard by the OCTA Board of Directors at the RON hearing.
March 26, 2018	The property owner and the tenant (99 Cents Only Stores LLC) requested to speak and be heard at the Resolution of Necessity Hearing. Both addressed their concerns to the OCTA Board of Director's and both requested a continuance to allow for additional negotiations.
March 26, 2018	OCTA staff recommended continuance of the Resolution of Necessity Hearing to be heard at the April 9, 2018 Board meeting.
March 26, 2018	OCTA staff met with the property owner and the tenant (99 Cents Only Stores LLC) to schedule a meeting to discuss the acquisition and the mitigation concerns.
March 27, 2018	OCTA staff scheduled meetings with the property owner and tenant (99 Cents Only Stores LLC).
March 29, 2018	OCTA team met with property owner and the tenant (99 Cents Only Stores LLC) and conducted combined first and second level review meeting to discuss all issue regarding the needed acquisition.
March 29, 2018	OCTA team, the property owner, and the tenant (99 Cents Only Stores LLC) scheduled a follow-up meeting to take place on April 12, 2018.
April 12, 2018	OCTA team met with the property owner and one of his tenants (99c Store) to follow-up on previous discussions and potential settlement.
April 18, 2018	OCTA ROW agent e-mailed 99c Store representative, the property owner's tenant, documents regarding proposed mitigation, for review. E-mail correspondence between OCTA ROW agent and property owner regarding mitigation and settlement costs.
April 18, 2018	OCTA's legal counsel sent letter to property owner stating that OCTA intends to move forward with its intent to consider the adoption of a resolution of necessity on May 14, 2018.

April 23, 2018	OCTA ROW agent e-mailed property owner documents for review in connection with an agreed upon settlement. Telephone conversation between OCTA ROW agent and the owner regarding the settlement documents. OCTA ROW agent e-mailed 99c Store representative (tenant on subject property) asking for an update regarding execution of documents.
April 24, 2018	E-mail correspondence between OCTA ROW agent and property owner regarding settlement documents.
April 25, 2018	E-mail correspondence between OCTA ROW agent and property owner regarding proposed changes to the settlement documents.
April 26, 2018	E-mail correspondence between OCTA ROW agent and property owner regarding proposed changes to the settlement documents.
April 27, 2018	E-mail correspondence between OCTA ROW agent and property owner regarding OCTA's response to property owner's proposed changes to the settlement documents. Telephone conversation between OCTA ROW agent and property owner regarding settlement and tenant's documents.
April 30,2018	E-mail correspondence between OCTA ROW agent and 99c Store (tenant on subject property) legal counsel regarding documents that are required to be signed by the tenants in connection with the project.

Correspondence/Contact Summary

Resolution No. 2018-051 Southern California Edison

Date	Reason for Contact
January 29, 2018	Orange County Transportation Authority (OCTA) right-of-way (ROW) agent emailed property owner (SCE) representative that an offer package is ready for presentation. SCE requested that OCTA R/W agent e-mail the offer package and send a copy via USPS mail. Agent complied with SCE's request. SCE acknowledged receipt of the offer package.
January 30, 2018	OCTA ROW agent received email from property owner's representative asking OCTA for processing fees in order to review the offer package. OCTA ROW agent forwarded SCE's request for processing fees to OCTA and WSS, OCTA's legal counsel, for review and consideration.
January 31, 2018	E-mail communication between OCTA ROW agent and SCE representative regarding project, legal descriptions and plat maps, plans and schedule. OCTA ROW agent received signed offer package certified mail receipt.
February 20, 2018	E-mail communication between OCTA ROW agent and SCE representative regarding project.
February 22, 2018	Following SCE's request, OCTA ROW agent emailed SCE the closure reports for the legal descriptions. OCTA ROW agent advised SCE about the 30-day incentive reminder letter that will be sent to them tomorrow.
February 23, 2018	OCTA ROW agent mailed 30-day incentive fee payment notice to property owner via USPS regular and certified mail.
February 26, 2018	OCTA ROW agent received emails from property owner's representative stating he received the 30-day incentive fee payment notice via mail, but that SCE will not be able to take advantage of the incentive period due to their review process.
February 27, 2018	OCTA ROW agent received email from property owner's representative requesting SCE's serial numbers be added to the L&Ps. OCTA ROW agent will confirm with team.
March 1, 2018	OCTA ROW agent received email from SCE's representative stating that SCE's Valuation team completed the appraisal review and has accepted the proposed compensation of \$67,200 for the PHE and TCE. Additionally, SCE is drafting easement documents and needs to review detailed construction plans to ensure the uses comply with SCE formats, rules and standards. Lastly, SCE requested an update on OCTA's execution of the Estimated Fee Letter and payment of the processing fee.
March 5, 2018	OCTA ROW agent received signed 30-day incentive notice certified mail receipt.

March 6, 2018	OCTA ROW agent responded to SCE's email by providing its representative with amended L&Ps that include SCE's serial numbers.
March 13, 2018	OCTA ROW agent emailed SCE's representative that, to date, there are no approved final construction plans available and that the TCE area will only be utilized to construct the freeway improvements; no plans for parking or storage. SCE insisted that they need to review the final plans for the bridge widening to confirm that there will be no interference with electric line clearance requirements.
March 14, 2018	OCTA ROW agent replied to SCE's representative that she will forward to the OCTA project team SCE's request for construction plans.
March 16, 2018	OCTA ROW agent mailed first level review letter to property owner via USPS regular mail.
March 30, 2018	OCTA legal counsel mailed out NOI letter to property owner and City via regular mail.
April 4, 2018	E-mail correspondence between OCTA ROW agent and SCE representative regarding easement language and legal and plats.

Correspondence/Contact Summary

Resolution No. 2018-052 Sovran Acquisition LP

Date	Reason for Contact
March 15, 2017	Orange County Transportation Authority (OCTA) right-of-way (ROW) team met with property owner's representatives and discussed the project and property impacts. The property owner representative requested OCTA to stake the property and that any offer to go to him. OCTA ROW agent requested staking.
November 21, 2017	OCTA ROW agent attempted to contact property owner's representative; left voice message.
November 27, 2017	OCTA ROW agent attempted to contact property owner's representative; left voice message. OCTA ROW agent sent offer package to owner via overnight mail.
November 28, 2017	OCTA ROW agent received FedEx notification of delivery of offer package to property owner and corresponded with its representative regarding offer status. Property owner stated his availability to discuss the offer on December 6 or 7.
December 6, 2017	OCTA ROW agent spoke to property owner's representative who stated the offer package has been sent to their legal department for review and was aware of the 60-day incentive period. Property owner had concerns regarding drainage and wanted to address the issue before signing any paperwork.
January 3, 2018	OCTA ROW agent mailed 30-day incentive notice to property owner via USPS regular and certified mail.
January 16, 2018	OCTA ROW agent received signed 30-day incentive notice certified mail receipt. Signed by A. Lefler.
January 17, 2018	OCTA ROW agent attempted to contact property owner's representative to discuss and provide existing and proposed drainage condition on property; left voice message.
January 18, 2018	OCTA ROW agent mailed 10-day reminder letter regarding incentive payment to property owner via regular and certified mail. OCTA ROW agent received email and correspondence that property owner retained eminent domain legal representation with Murphy & Evertz. Same letter received by OCTA staff.
January 30, 2018	OCTA ROW agent received signed 50-day incentive notice certified mail receipt. Signed by A. Lefler.
February 2, 2018	OCTA legal counsel spoke to property owner's counsel regarding acquisition and scheduling administrative first level review meeting.
February 14, 2018	OCTA ROW agent mailed first level review letter to property owner and owner's attorney via USPS regular mail.

February 15, 2018	OCTA legal counsel received email from property owner's counsel requesting that we coordinate with his office to schedule 1 st level review meeting.
February 24, 2018	OCTA legal counsel emailed property owner's counsel with proposed dates for 1 st level review meeting.
February 27, 2018	OCTA legal counsel received email from property owner's counsel with proposed date for 1 st level review meeting.
February 27, 2018	OCTA legal counsel emailed property owner's legal counsel confirming date for 1 st level review meeting.
March 8, 2018	OCTA team conducted 1 st level review meeting with property owner's legal counsel at OCTA's office.
March 30, 2018	OCTA Clerk of the Board mailed Notice of Hearing Regarding Intent to Adopt Resolution of Necessity to property owner and City of Westminster.
April 11, 2018	OCTA legal counsel received voicemail message and follow-up email from property owner's legal counsel asking for copies of various documents discussed during 1 st level review meeting.
April 11, 2018	OCTA legal counsel sent concept project drawings and drainage detail to property owner's legal counsel.
April 24, 2018	OCTA legal counsel received phone call from property owner's legal counsel requesting a meeting on the subject property with the owner's representative to review project impacts (meeting is tentatively scheduled for May 15, 2018).

Correspondence/Contact Summary

Resolution No. 2018-054

M. Westland, LLC

Date	Reason for Contact
October 24, 2016	Orange County Transportation Authority (OCTA) right-of-way (ROW) agent spoke with property owner's representative, who inquired about the project and potential impacts to property.
January 29, 2018	OCTA ROW agent spoke to the property owner representative and scheduled the offer presentation for January 31, 2018.
January 31, 2018	OCTA ROW agent met with property owner's representative to present the offer package and explain the acquisition process. Property owner's representative raised questions regarding construction of project. OCTA ROW agent stated that he will check with OCTA's team and will address the owner's representative questions as soon as possible. Property owner's representative stated that they will obtain an independent appraisal.
February 9, 2018	OCTA ROW agent emailed property owner's representative with some of the answers to his questions presented during the presentation of the offer.
February 15, 2018	OCTA ROW agent sent property owner's representative information on the off ramp in the after condition.
March 6, 2018	OCTA ROW agent spoke to property owner's representative about the exhibits provided. OCTA ROW agent mailed to property owner incentive fee payment program expiration notice via USPS regular and certified mail.
March 16, 2018	OCTA ROW agent met directly with the property owner to explain the offer package, the acquisition process and incentive fee payment program. The property owner informed OCTA ROW agent that their representative was their tenant who did not provide a copy of the offer package to them and they were not aware of the 60-day incentive fee payment period. Property owner requested that the 60-day incentive period starts as of today. Property owner stated that they will review and sign the documents as soon as possible.
March 19, 2018	OCTA ROW agent emailed and mailed to property owner and property owner's representative the first level review letter and incentive fee payment program expiration notice via USPS regular and certified mail.

March 20, 2018	OCTA ROW agent spoke to property owner who stated the offer package is being reviewed by their attorney. The property owner asked for an extension of their 60-day incentive period in light of their tenant not providing a copy of the offer to them in a timely manner.
March 23, 2018	OCTA ROW agent received attorney's representation letter and confirmed with the property owner legal representation. Property owner's attorney sent a letter to OCTA's ROW agent with the property owner's concerns regarding the offer/project.
March 26, 2018	OCTA ROW agent advised OCTA of attorney's representation letter. OCTA ROW agent provided OCTA with a copy of the property owner's attorney letter stating their concerns with the project.
March 27, 2018	OCTA ROW agent e-mailed property owner's attorney and property owner stating that their letter was forwarded to OCTA and a response will be sent to them as soon as possible.
March 30, 2018	OCTA legal counsel mailed Notice of Hearing Regarding Intent to Adopt Resolution of Necessity to Property Owners and City of Westminster.
April 5, 2018	E-mail correspondence between property owner's legal counsel and OCTA representative regarding property owner's concerns with project.
April 13, 2018	OCTA Clerk of the Board received letter from Property Owners' legal counsel regarding notice of intent to appear and be heard at Resolution of Necessity hearing, raising concerns over drainage issues.
April 16, 2018	E-mail correspondence between OCTA ROW agent and property owner and property owner's legal counsel regarding as-built drawings on subject property.
April 17, 2018	OCTA's legal counsel left voicemail message for Property Owner's legal counsel to discuss drainage issues and other concerns regarding project.
April 19, 2018	OCTA's legal counsel left voicemail message for Property Owner's legal counsel.
April 23, 2018	OCTA's legal counsel sent letter to Property Owner's legal counsel responding to concerns regarding drainage and inviting Property Owners to participate in administrative first level review meeting.

List of Property Owners
Interstate 405 Improvement Project Between State Route 73 and Interstate 605
Board of Directors Exhibit Matrix

Resolution No.	APN	CPN	Owner	Property Address	Area Needed	Type of Acquisition	Reason for Acquisition
2018-010	143-301-31 143-301-37 143-294-01 143-294-02	103010	Carolyn B. Huish Properties and John M. Huish, Trustee of the Huish Land Trust	9025 Recreation Circle and 16800 Magnolia Street, Fountain Valley	420 Sq. Ft. 1,102 Sq. Ft. 77 Sq. Ft. 5,152 Sq. Ft. 20 Sq. Ft. 152 Sq. Ft. 662 Sq. Ft.	FEE PFE FEE TCE FEE TCE TCE	Three FEE, one PFE, and three TCEs are needed to accommodate widening of Magnolia Street, construct the proposed retaining wall and provide working area to construct proposed freeway improvements.
2018-043	195-373-08	103165	Westminster Mall, LLC	6951 Bolsa Avenue, Westminster	131 Sq. Ft. 261 Sq. Ft. 1,253 Sq. Ft. 3,491 Sq. Ft.	FEE PFE MAE TCE	One partial FEE, one PFE, one MAE, and one TCE are needed to provide areas for the northwest access road, construction of a retaining wall, and access to the retaining wall for maintenance purposes
2018-046	195-353-07	103174	Golden Westminster Investments, LLC	14731 Goldenwest St, Westminster	57 Sq. Ft. 1,369 Sq. Ft. 2,915 Sq. Ft.	FEE TCE TCE	One partial FEE and two TCEs are needed to provide for the widening of the freeway, to construct proposed freeway improvements, and reconstruct the existing entrance
2018-051	139-661-26 139-661-27	102901	Southern California Edison Company	North side of I-405 Freeway, East side of Santa Ana River Channel, Costa Mesa	421 Sq. Ft. 5,938 Sq. Ft.	PHE TCE	One PHE and one TCE are needed to construct the proposed retaining wall and provide working area to construct proposed freeway improvements.

2018-052	107-212-06	103401	Sovran Acquisition Limited Partnership	8041 Edinger Avenue, Westminster	124 Sq. Ft. 1,358 Sq. Ft.	PFE TCE	One PFE and one TCE are needed to construct the proposed retaining wall and provide working area for construction of retaining wall.
2018-053	203-071-23 203-102-03	103312	Dorothy Sublett-Miller and Walter J. Miller, Successor Trustees of the Miller Family Trust	5772 and 5880 Garden Grove Boulevard, Westminster	2,135 Sq. Ft.	TCE	One TCE is needed to provide working area to construct proposed freeway improvements.
2018-054	203-071-22 203-102-01 203-102-02	103313	M. Westland, LLC	5400-5440 Garden Grove Boulevard, Westminster	605 Sq. Ft.	TCE	One TCE is needed to provide working area to construct proposed freeway improvements.

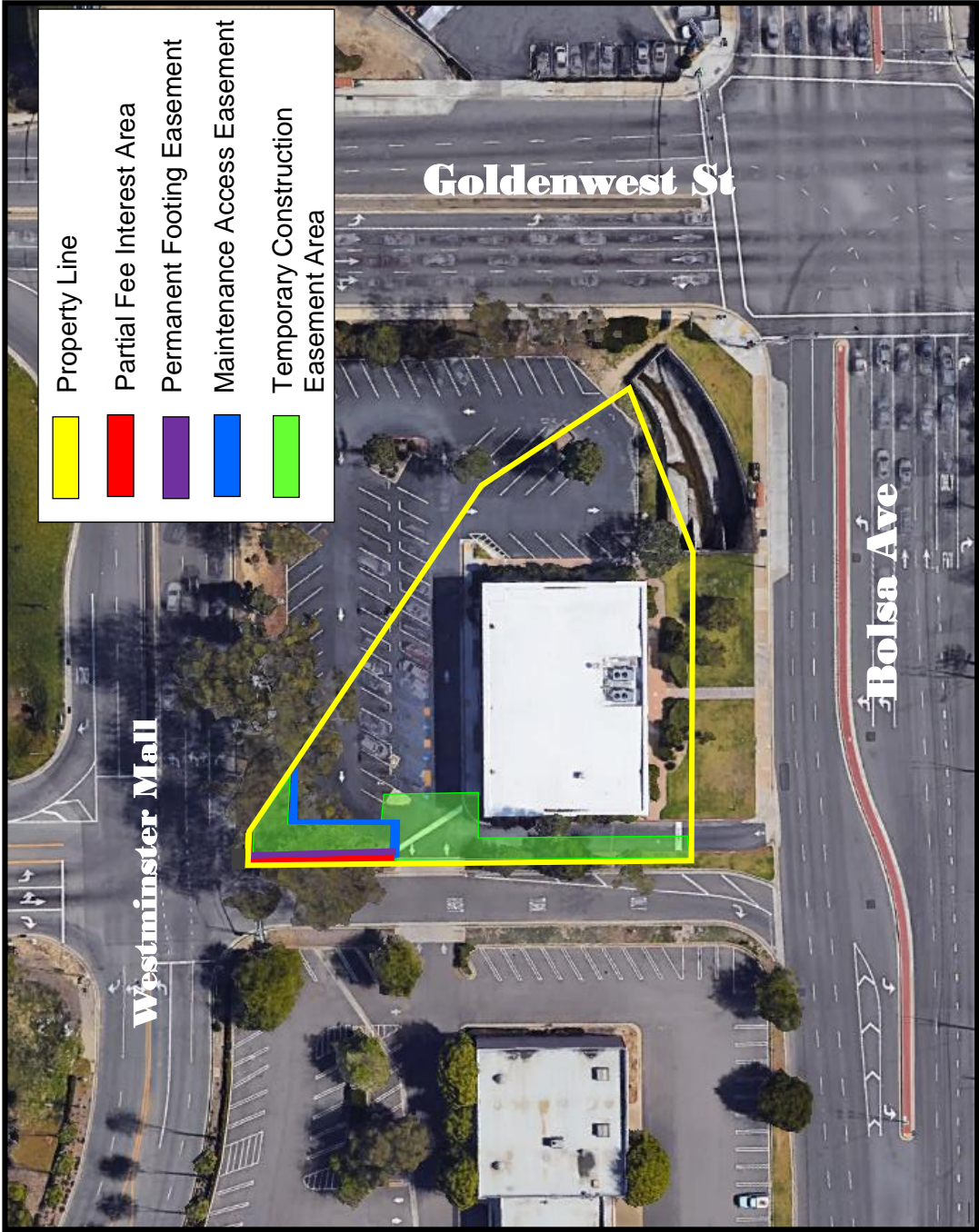
Legend

APN = Assessor's Parcel Number
 CPN = Caltrans Parcel Number
 FEE = Partial Fee
 MAE = Maintenance Access Easement
 PHE = Permanent Highway Easement
 PFE = Permanent Footing Easement
 TCE = Temporary Construction Easement

PHOTO AERIAL EXHIBITS

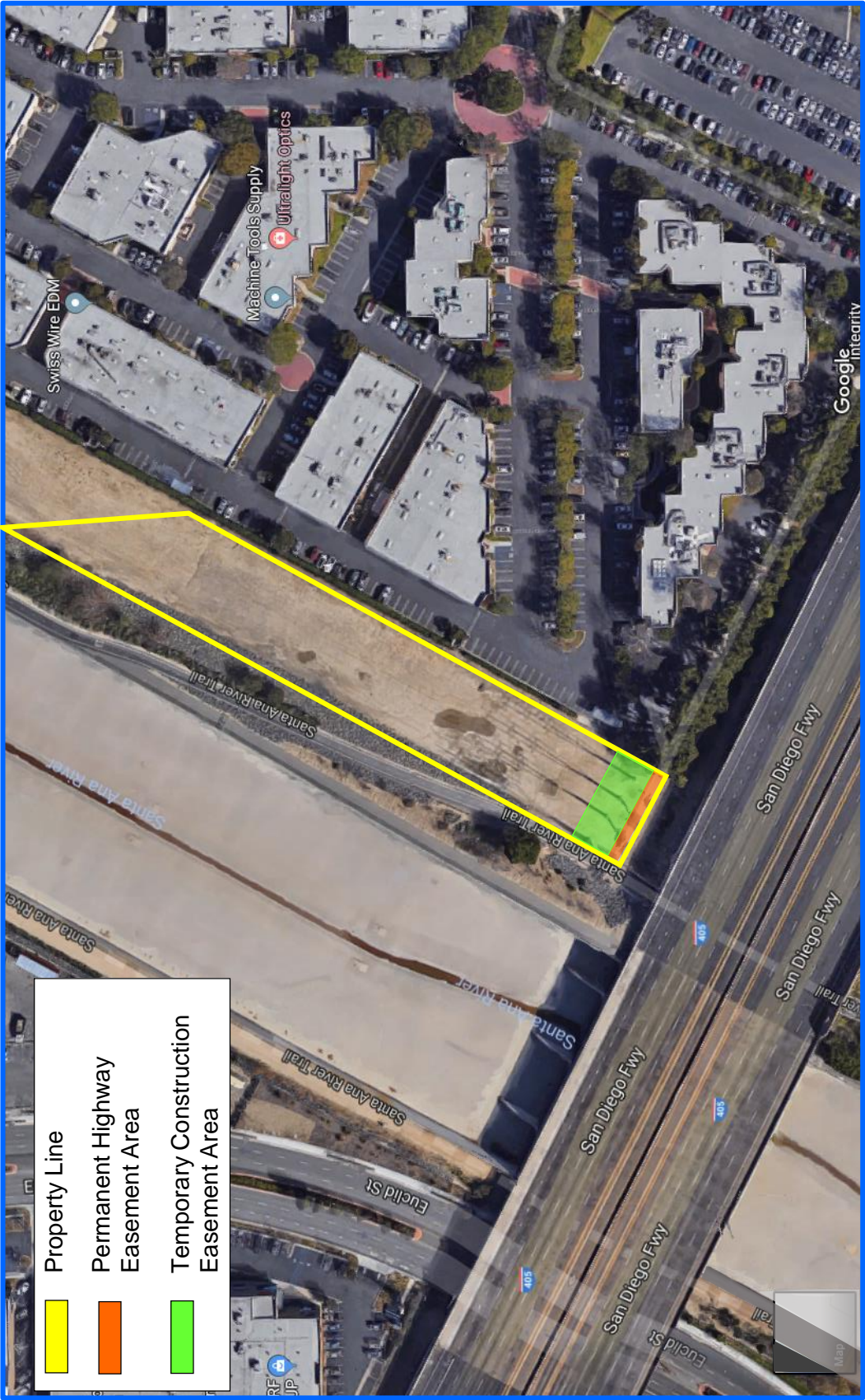
Resolution No. 2018-010 (Carolyn B. Huish)

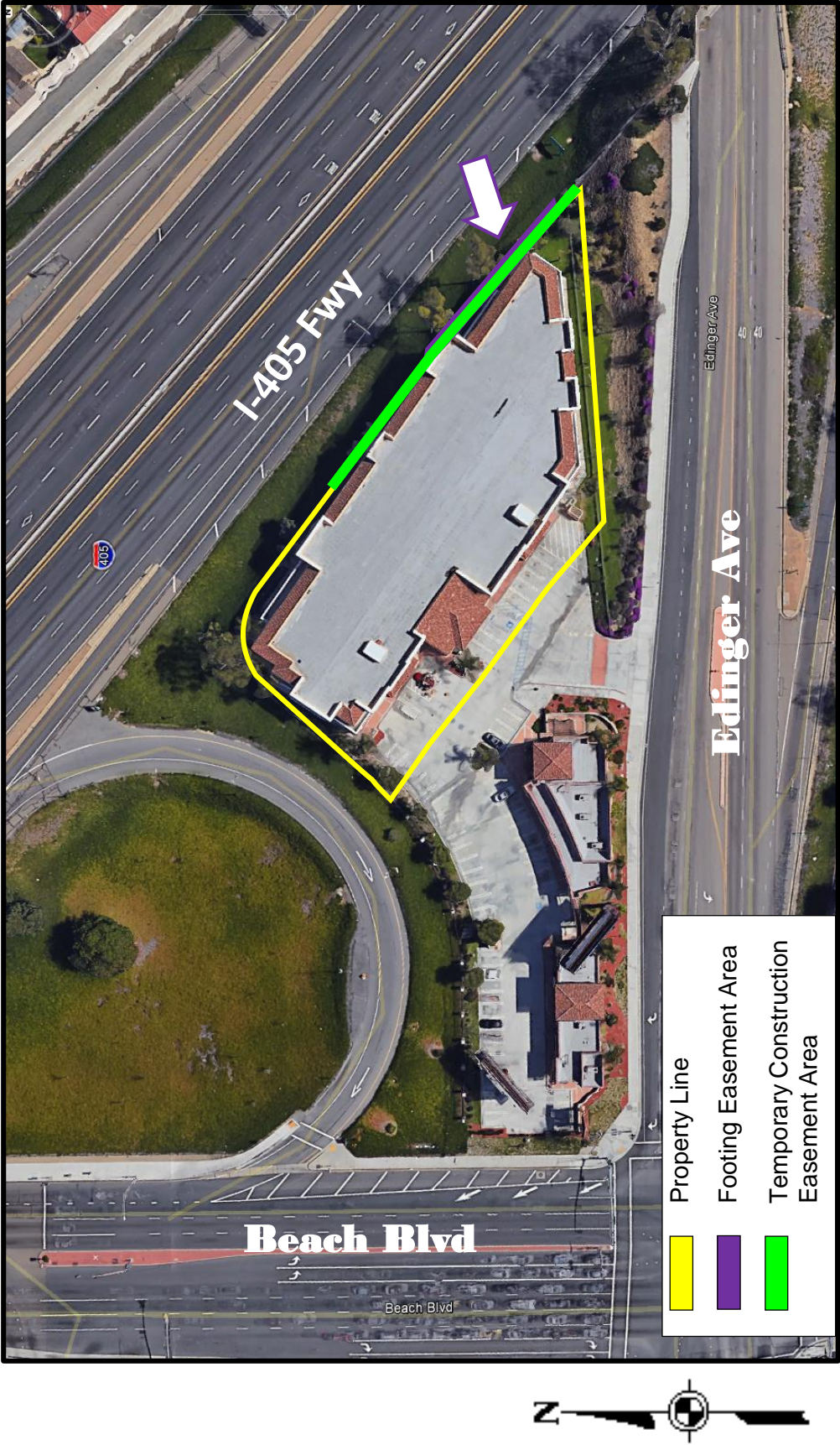


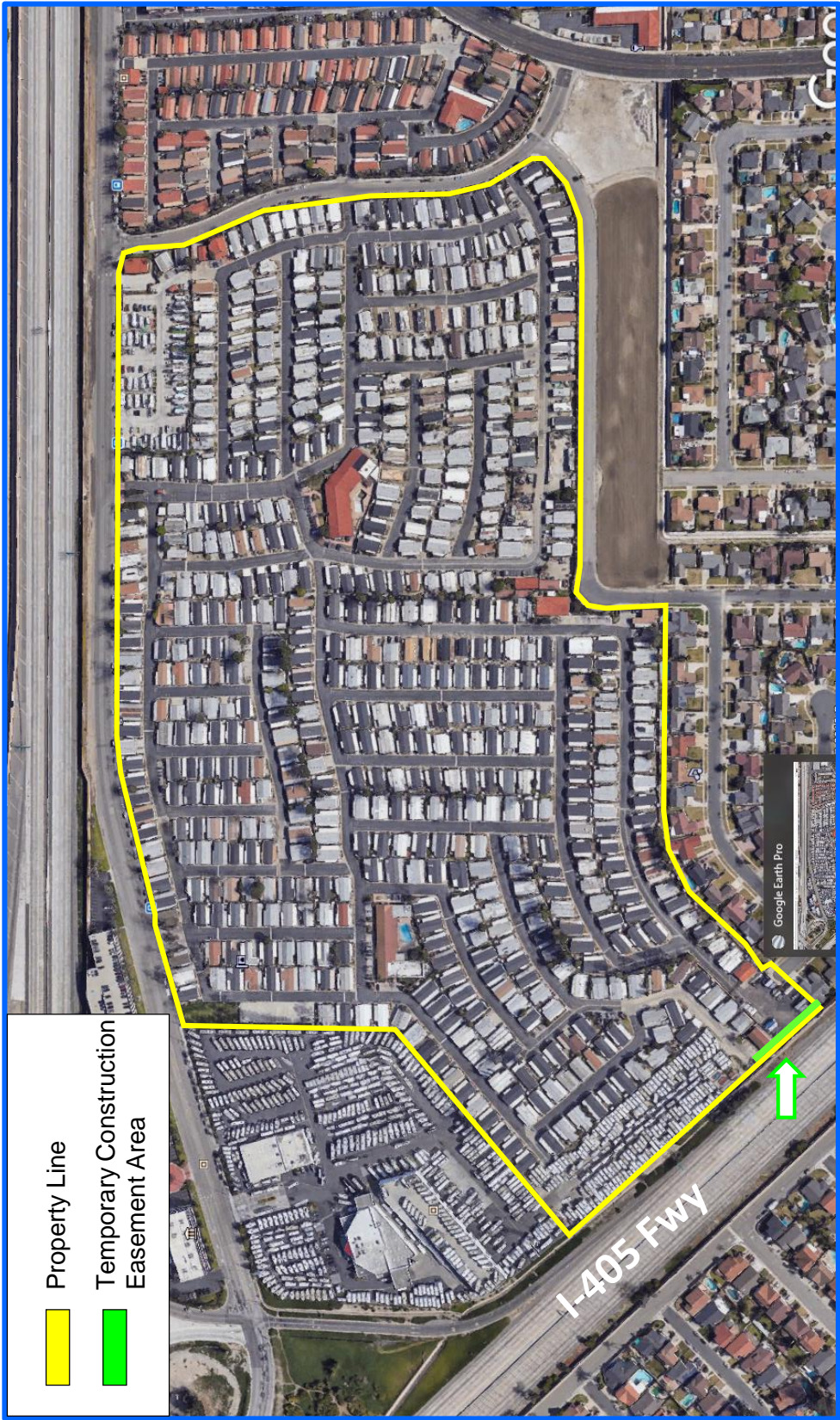


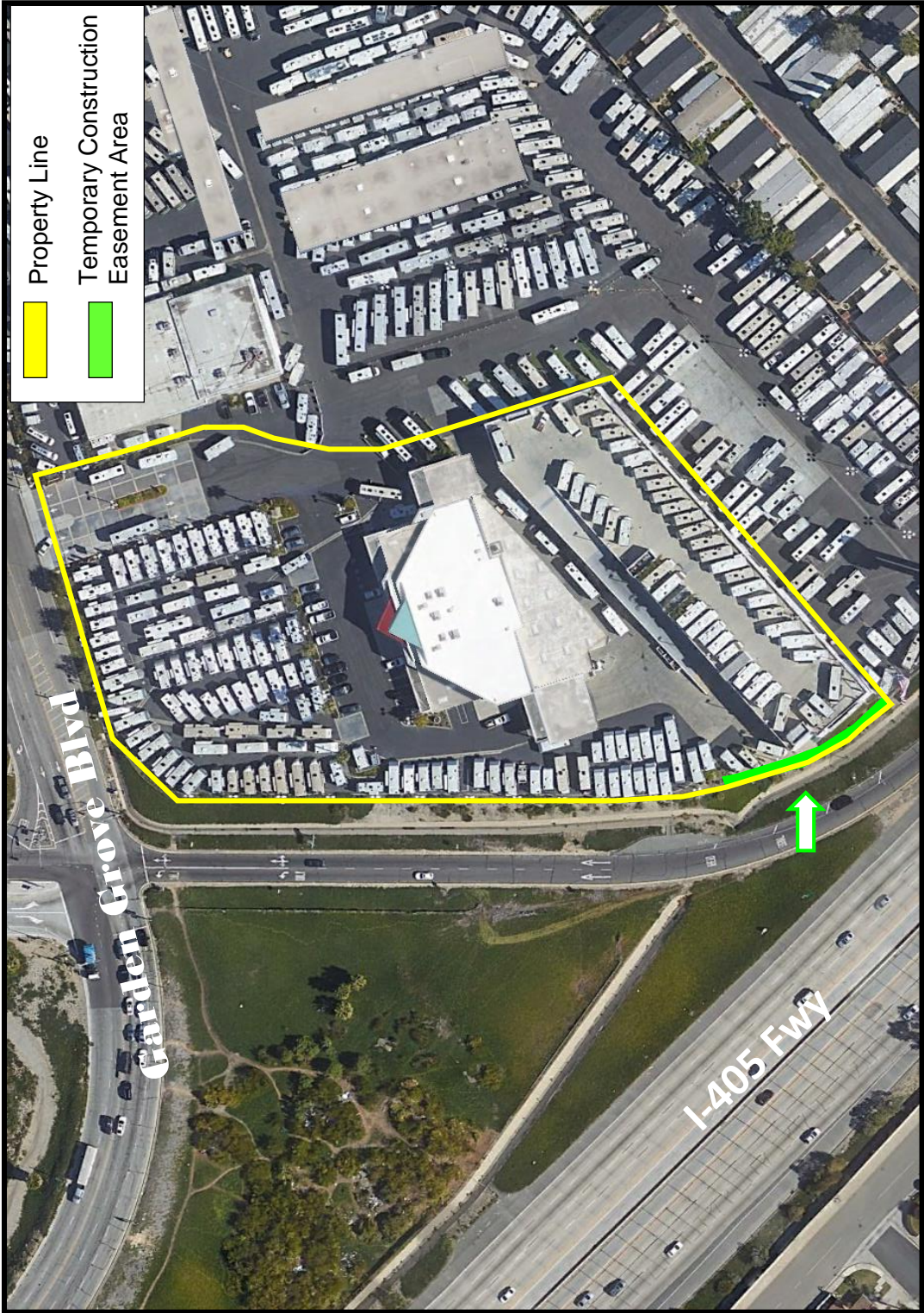


Resolution No. 2018-051 (Southern California Edison)









RESOLUTION NO. 2018-010

A RESOLUTION OF THE ORANGE COUNTY TRANSPORTATION AUTHORITY FINDING AND DETERMINING THAT THE PUBLIC INTEREST AND NECESSITY REQUIRE THE ACQUISITION BY EMINENT DOMAIN OF INTERESTS IN CERTAIN REAL PROPERTY FOR PUBLIC USE AND AUTHORIZING AND DIRECTING CONDEMNATION OF PORTIONS OF ASSESSOR PARCEL NOS. 143-294-01, 143-294-02, AND 143-301-31.

WHEREAS, the Orange County Transportation Authority (the “Authority”) is undertaking the Interstate-405 (“I-405”) Improvement Project between State Route 73 and Interstate 605, a right-of-way for freeway purposes and all public uses appurtenant thereto (the “Project”); and

WHEREAS, the Project is intended to enhance road safety, increase freeway capacity, and improve traffic and interchange operations by adding general purpose and express lanes and making improvements to freeway entrances, exits and bridges; and

WHEREAS, the Project requires the acquisition of property interests from public and private parties; and

WHEREAS, the Project will be a transportation improvement project serving the public interest; and

WHEREAS, subsection (a) of the California Public Utilities Code section 130220.5, authorizes the Authority to exercise the power of eminent domain to acquire these property interests for public use by condemnation; and

WHEREAS, on May 11, 2015, the Authority’s Board of Directors authorized the Authority to acquire property interests for the Project; and

WHEREAS, portions of the real property located at 16800 Magnolia Street and 9025 Recreation Circle, in the City of Fountain Valley, California (the "Subject Property") are required for the Project. The specific portions of the Subject Property required for the Project include a fee interest as legally described and depicted in Exhibit “A” attached hereto; a permanent footing easement as legally described and depicted in Exhibit “B” attached hereto; a fee interest as legally described and depicted in Exhibit “C” attached hereto; a temporary construction easement as legally described and depicted in Exhibit “D” attached hereto; a fee interest as legally described and depicted in Exhibit “E” attached hereto; a temporary construction easement as legally described and depicted in Exhibit “F” attached hereto; and a

temporary construction easement as legally described and depicted in Exhibit “G” attached hereto (collectively, the “Property Interests”); and

WHEREAS, reasonable vehicular and pedestrian access to and from the Subject Property will be maintained at all times; and

WHEREAS, the Authority communicated an offer of compensation to the owner or owners of record for the acquisition of the Property Interests; and

WHEREAS, in accordance with section 1245.235 of the California Code of Civil Procedure on March 30, 2018, the Authority mailed a Notice of Hearing on the Intent of the Authority to Adopt a Resolution of Necessity for acquisition by eminent domain of the Property Interests. The Notice of Hearing was mailed to the listed address of all persons whose names appear on the last equalized county assessment roll as having an interest in the Subject Property; and

WHEREAS, the Authority provided written notice to the City of Fountain Valley as required by subsection (c) of California Public Utilities Code section 130220.5; and

WHEREAS, the Project, including all amendments thereto, together with the staff reports, environmental documents and all other evidence presented to the Authority’s Board of Directors at the times the Project and the amendments thereto were adopted, are incorporated herein by this reference and made a part hereof as though fully set forth herein; and

WHEREAS, pursuant to section 1245.235 of the California Code of Civil Procedure, the Authority scheduled a hearing for May 14, 2018, at 9:00 am at 550 South Main Street, Orange, California and gave to each person whose property is to be acquired by eminent domain and whose name and address appears on the last equalized county assessment roll notice and a reasonable opportunity to appear at said hearing and to be heard on the matters referred to in section 1240.030 of the California Code of Civil Procedure; and

WHEREAS, said hearing has been held by the Authority’s Board of Directors and each person whose property is to be acquired by eminent domain was afforded an opportunity to be heard on those matters specified in the Authority’s notice of intention to conduct a hearing on whether or not to adopt a Resolution of Necessity and referred to in section 1240.030 of the California Code of Civil Procedure; and

WHEREAS, the Authority may adopt a Resolution of Necessity pursuant to section 1240.040 of the California Code of Civil Procedure.

NOW, THEREFORE, BE IT RESOLVED, by at least a two-thirds vote of the Authority's Board of Directors under Code of Civil Procedure sections 1240.030 and 1245.230, the Authority does hereby find and determine as follows:

Section 1. Incorporation of Findings and Recitals. The above findings and recitals are true and correct and are incorporated herein in full by this reference.

Section 2. Compliance with California Code of Civil Procedure. There has been compliance by the Authority with the requirements of section 1245.235 of the California Code of Civil Procedure regarding notice and hearing.

Section 3. Public Use. The public use for which the interests in the property are to be acquired is for the construction and future maintenance of the Project, a public transportation improvement, as more fully described hereinabove. Subsection (a) of California Public Utilities Code section 130220.5 authorizes the Authority to acquire by eminent domain property and interests in property necessary for such purpose and for all uses incidental or convenient thereto.

Section 4. Necessity.

(a) The proposed Project is necessary to enhance road safety, increase freeway capacity, and improve traffic and interchange operations by adding general purpose and express lanes and making improvements to freeway entrances, exits and bridges; and

(b) The public interest and necessity require the acquisition by eminent domain proceedings of the Property Interests.

Section 5. Description of Property Interests. The Property Interests sought to be acquired are more particularly described and depicted in Exhibits "A," "B," "C," "D," "E," "F," and "G" attached hereto and incorporated herein by reference.

Section 6. Findings. The Authority hereby finds, determines and declares each of the following:

- (a) The public interest and necessity require the proposed Project;
- (b) The proposed Project is planned or located in the manner that will be most compatible with the greatest public good and least private injury;
- (c) The Property Interests sought to be acquired are necessary for the proposed Project; and

- (d) The offer required by section 7267.2 of the California Government Code has been made to the owner or owners of record.

Section 7. Existing Public Use(s). Pursuant to sections 1240.510 and 1240.610 of the Code of Civil Procedure, to the extent that any of the real property to be acquired is already devoted to a public use, the use proposed by this Project is a more necessary public use than the use to which the real property, or any portion thereof, is already devoted, or, in the alternative, is a compatible public use which will not unreasonably interfere with or impair the continuance of the public use to which the real property, or any portion thereof, is already devoted.

Section 8. Authority to Exercise Eminent Domain. The Authority is hereby authorized and empowered to acquire three partial fee interests, a permanent footing easement, and three temporary construction easements as described and depicted in Exhibits "A," "B," "C," "D," "E," "F," and "G" attached hereto, including the improvements thereon, if any, by eminent domain for the proposed Project.

Section 9. Further Activities. The Authority's legal counsel ("Counsel") is hereby authorized and empowered to acquire the Property Interests in the name of and on behalf of the Authority by eminent domain, and is authorized to institute and prosecute such legal proceedings as may be required in connection therewith. Counsel is further authorized to take such steps as may be permitted and required by law, and to make such security deposits as may be required by law and/or order of court, to permit the Authority to take possession of the Property Interests at the earliest possible time.

Section 10. Effective Date. This Resolution of Necessity shall take effect upon adoption.

PASSED, APPROVED, and ADOPTED on this _____ day of _____, 2018.

LISA A. BARTLETT, CHAIRWOMAN
ORANGE COUNTY TRANSPORTATION AUTHORITY

APPROVED AS TO FORM:

JAMES M. DONICH
GENERAL COUNSEL

ATTEST:

I, Laurena Weinert, Clerk of the Board of Directors of the Orange County Transportation Authority, do hereby certify that the foregoing Resolution No. 2018-010, by the following votes:

AYES:

NOES:

ABSENT:

LAURENA WEINERT
CLERK OF THE BOARD

EXHIBIT A

PSOMAS

EXHIBIT 'A1'

LEGAL DESCRIPTION

Caltrans Parcel No. 103010-1

Fee Acquisition

APN 143-294-01

APN 143-294-02

In the City of Fountain Valley, County of Orange, State of California, being a portion of the land described in those certain Deeds recorded December 4, 1987 as Instrument No. 87-690013 and Instrument No. 87-690014, and July 29, 1998 as Instrument No. 19980489925, all of Official Records of said County described as follows:

Beginning at the intersection of the westerly line of Section 19, Township 5 South, Range 10 West, in the Rancho Las Bolsas, said westerly line being the centerline of Magnolia Street, with the northerly line of the southwest quarter of the southwest quarter of the southwest quarter of said Section 19; thence along said northerly line, North 89°06'12" East 55.16 feet to the easterly line of Parcel 2A of the Final Order of Condemnation recorded August 6, 1963 in Book 6662, Page 132 of Official Records of said County and the **True Point of Beginning**; thence along said easterly line South 3°29'53" West 92.67 feet; thence continuing along said easterly line South 6°05'21" West 0.42 feet to the northwesterly line of that certain land conveyed to Orange County Flood Control District, per deed recorded July 14, 1964 in Book 7133, Page 509 of Official Records of said County and the beginning of a non-tangent curve concave northwesterly having a radius of 122.50 feet, a radial line to said curve bears South 54°03'28" East; thence leaving said easterly line and along said northwesterly line 9.02 feet along said curve through a central angle 04°13'02"; thence leaving said northwesterly line North 1°24'32" East 95.96 feet; thence North 3°26'24" East 133.41 feet; thence North 0°34'32" West 12.68 feet to the northerly prolongation of the easterly line of Parcel 7 of State Highway Relinquishment No. 553, recorded in Book 8387, Page 528 of Official Records of said County; thence South 3°29'53" West

PSOMAS

1 156.65 feet along said prolongation and said easterly line to the **True Point of**
2 **Beginning.**

3
4 Containing 420 square feet.

5
6 See Exhibit 'A2' attached hereto and made a part hereof.

7
8 The distances shown herein are grid distances. Ground distances may be obtained by
9 dividing grid distances by the combination factor of 0.99997837

10
11 This legal description was prepared by me or under my direction.

12 Peter J. Fitzpatrick
13
14 Peter J. Fitzpatrick, PLS 6777

15
16 Feb. 24, 2018
17 Date

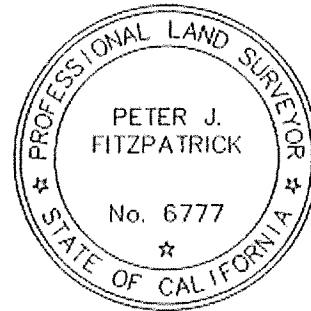
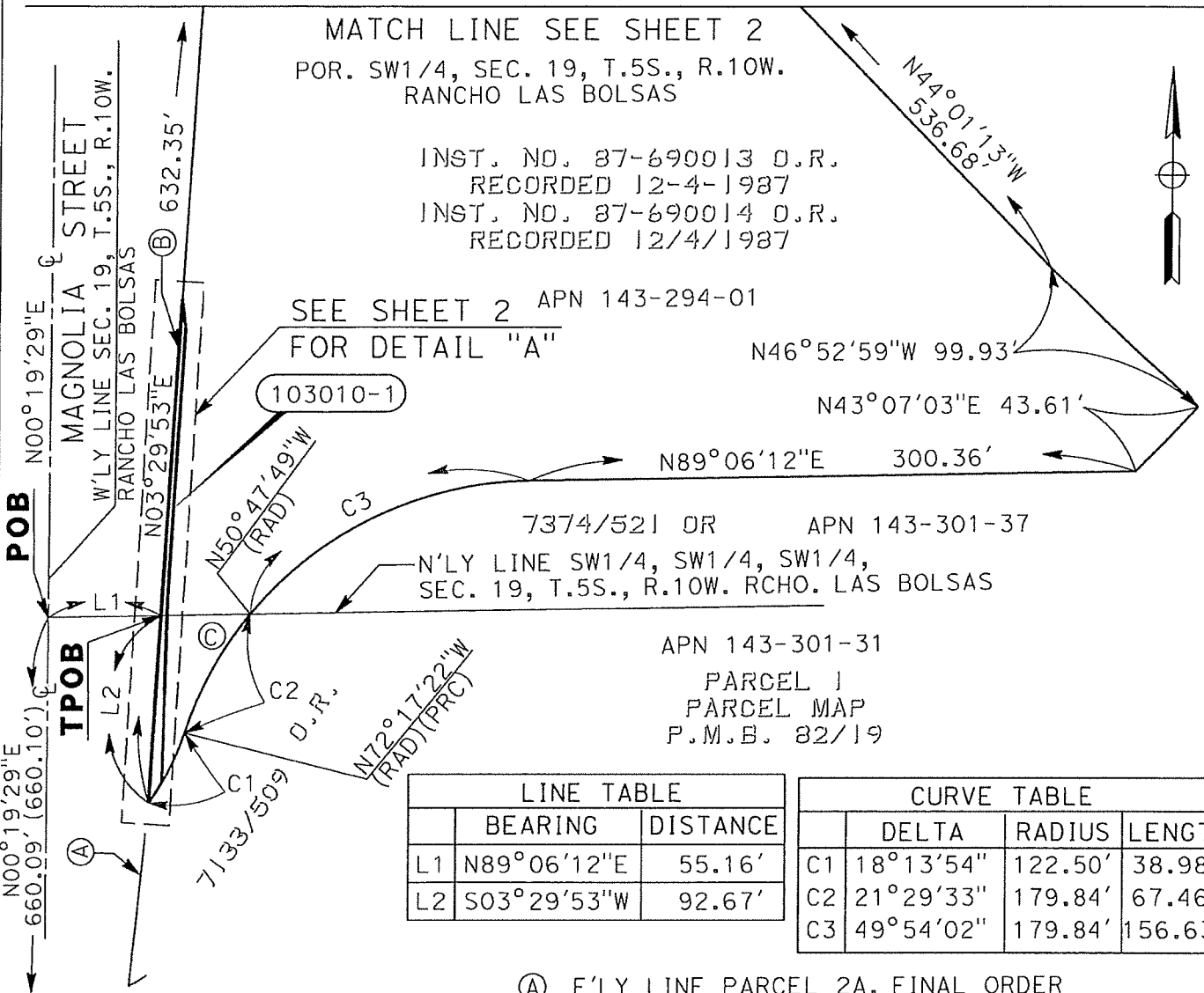


EXHIBIT A2

PARCEL#	TITLE	AREA	APN
103010-1	FEE	420 SF	143-294-01 & 02





LINE TABLE		
	BEARING	DISTANCE
L1	N89°06'12"E	55.16'
L2	S03°29'53"W	92.67'

CURVE TABLE			
	DELTA	RADIUS	LENGTH
C1	18°13'54"	122.50'	38.98'
C2	21°29'33"	179.84'	67.46'
C3	49°54'02"	179.84'	156.63'

- ① E'LY LINE PARCEL 2A, FINAL ORDER OF CONDEMNATION, BK 6662, PG 132, O.R.
- ② E'LY LINE AND N'LY PROLONGATION E'LY LINE PARCEL 7 PER STATE HIGHWAY RELINQUISHMENT NO. 553 BK 8387 / PG 528, O.R.
- ③ INST. NO. 19980489925, O.R., REC. 7/29/98 (APN 143-294-02)

LEGEND

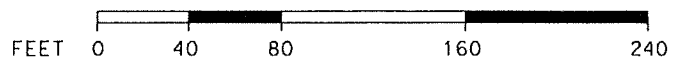
(R)	Indicates Radial Bearing
TPOB	True Point of Beginning
PQB	Point of Beginning
	Caltrans Parcel Number
	Access Prohibited

NOTES

The distances shown herein are grid distances. Ground distances may be obtained by dividing grid distances by the combination factor of 0.99997837.

103010-1

FEE ACQUISITION



PREPARED BY:

P S O M A S

3 Hutton Centre Drive, Ste. 200
Santa Ana, California 92707
(714)751-7373/(714)545-8883 (Fax)

DATE: 04-09-15

REV.: 02-24-18

EA: OF

FA#:

DISTRICT

COUNTY

ROUTE

SHEET PM

SHEET NO.

TOTAL SHEETS

12

ORANGE

405

15.11

1

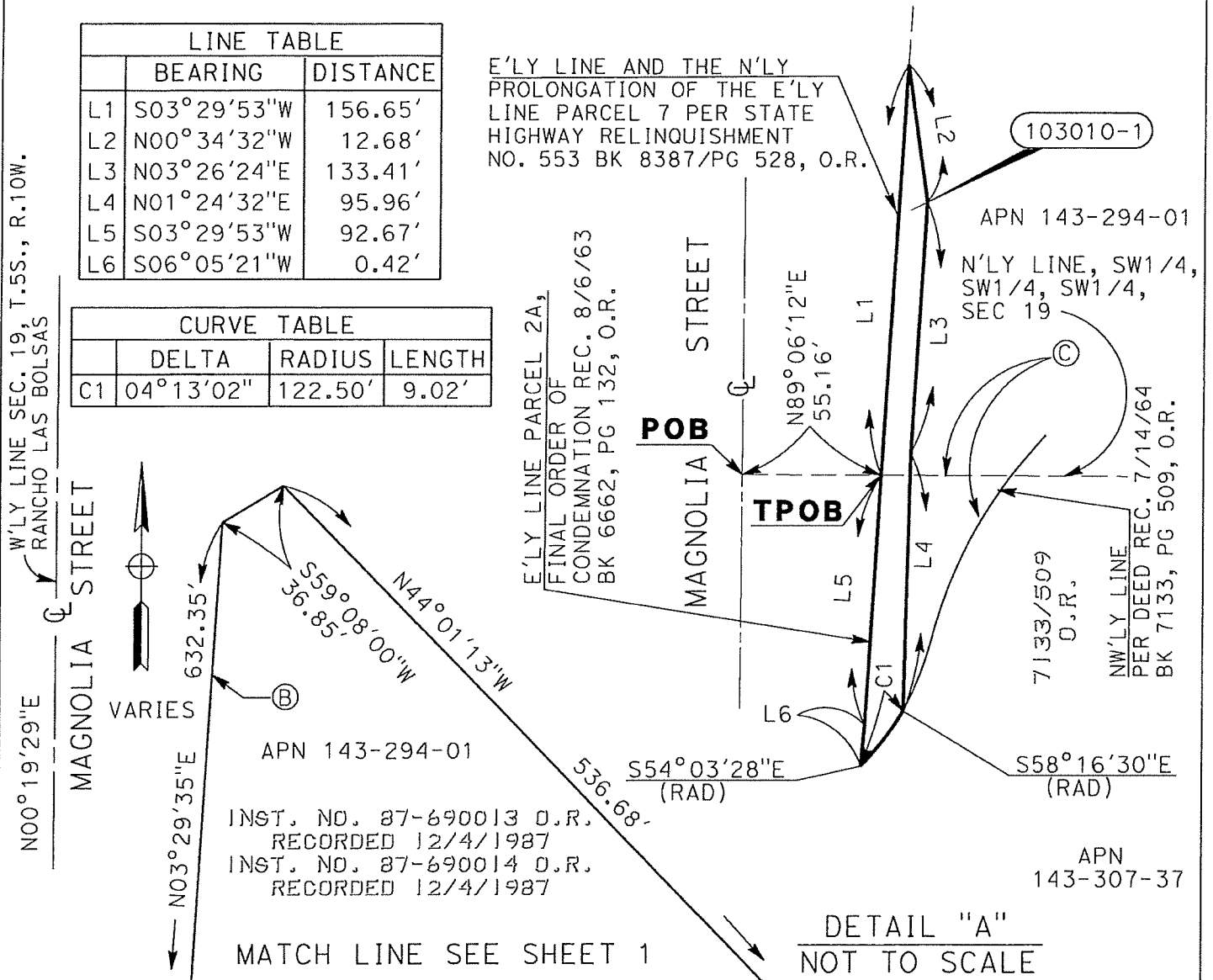
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EXHIBIT A2



PARCEL#	TITLE	AREA	APN
103010-1	FEE	420 SF	143-294-01 & 02

LINE TABLE		
	BEARING	DISTANCE
L1	S03°29'53"W	156.65'
L2	N00°34'32"W	12.68'
L3	N03°26'24"E	133.41'
L4	N01°24'32"E	95.96'
L5	S03°29'53"W	92.67'
L6	S06°05'21"W	0.42'

CURVE TABLE			
	DELTA	RADIUS	LENGTH
C1	04° 13' 02"	122.50'	9.02'



LEGEND

(R)	Indicates Radial Bearing
TPOB	True Point of Beginning
POB	Point of Beginning
	Caltrans Parcel Number
	Access Prohibited

NOTES

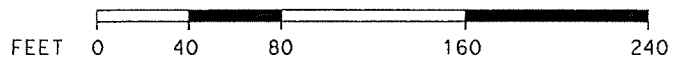
The distances shown herein are grid distances. Ground distances may be obtained by dividing grid distances by the combination factor of 0.99997837.

E'LY LINE AND N'LY PROLONGATION
 E'LY LINE PARCEL 7 PER STATE
 HIGHWAY RELINQUISHMENT NO. 553
 BK 8387/PG 528, O.R.,

© INST. NO. 19980489925, O.R.
REC. 7/29/98 (APN 143-294-02)

103010-1

FEE ACQUISITION



PREPARED BY:

P S O M A S

3 Hutton Centre Drive, Ste. 200
Santa Ana, California 92707
(714)751-7373/(714)545-8883 (Fax)

DATE: 04-09-15

REV.: 02-24-18

EA: OF

FA#:

DISTRICT

COUNTY

ROUTE

SHEET PM

SHEET NO.

TOTAL SHEETS

12

ORANGE

405

15.11

2

2

EXHIBIT B

**PERMANENT FOOTING EASEMENT
ATTACHMENT TO LEGAL DESCRIPTION
Assessor Parcel No.: 143-294-01, 143-294-02
Caltrans Parcel No.: 103010-2**

The Orange County Transportation Authority seeks to acquire a permanent footing easement in, on and under the real property described in Exhibit "B1" and depicted in Exhibit "B2" attached hereto, subject to the rights and limitations described herein ("Footing Easement"). The Footing Easement shall be used by the Orange County Transportation Authority and its employees, agents, representatives, contractors, successors, and assigns (collectively, "OCTA") for purposes of constructing, maintaining, repairing, relocating, and adjusting, as applicable, subsurface footings and appurtenances thereto in connection with the I-405 Improvement Project.

The owner and occupant(s) of the real property subject to the Footing Easement shall not construct any permanent improvements within the easement area described and depicted in the attached Exhibits "B1" and "B2", respectively, that would in any manner impede, or otherwise interfere with OCTA's rights as defined herein. OCTA will backfill to grade, with dirt, or will install pavement material, within that portion of the Footing Easement area affected by OCTA's work. The owner and occupant(s) of the real property subject to the Footing Easement will have the right to use the surface of the easement area described and depicted in the attached Exhibits "B1" and "B2", respectively, solely for access, automobile parking, or ground cover plants and grasses (i.e., no trees) whose roots do not impact the subsurface footings, or any other appurtenances that may be put in place.

The rights and obligations of OCTA and the owner of the real property subject to the Footing Easement shall run with the land and be binding upon and/or inure to the benefit of OCTA's and the property owner's respective heirs, successors and assigns.

OCTA expressly reserves the right to convey, transfer or assign the Footing Easement subject to the same rights and limitations described herein.

PSOMAS

EXHIBIT 'B1'

LEGAL DESCRIPTION

Caltrans Parcel No. 103010-2

Footing Easement

APN 143-294-01

APN 143-294-02

In the City of Fountain Valley, County of Orange, State of California, being a portion of the land described in those certain Deeds recorded December 4, 1987 as Instrument No. 87-690013 and Instrument No. 87-690014, and July 29, 1998 as Instrument No. 19980489925, all of Official Records of said County, described as follows:

Beginning at the intersection of the westerly line of Section 19, Township 5 South, Range 10 West, in the Rancho Las Bolsas, said westerly line being the centerline of Magnolia Street, with the northerly line of the southwest quarter of the southwest quarter of the southwest quarter of said Section 19; thence North 89°06'12" East 56.58 feet along said northerly line to the **True Point of Beginning**; thence leaving said northerly line South 1°24'32" West 20.65 feet; thence South 88°35'28" East 5.00 feet; thence North 1°24'32" East 31.16 feet; thence North 3°26'30" East 134.31 feet to the beginning of a non-tangent curve concave easterly and having a radius of 4979.01 feet, a radial line to said beginning bears South 89°33'17" West; thence northerly 100.51 feet along said curve through a central angle of 1°09'24" to the northerly prolongation of the easterly line of Parcel 7 of State Highway Relinquishment No. 553, recorded in Book 8387, Page 528 of Official Records of said County; thence South 3°29'53" West 88.79 feet along said easterly line; thence leaving said easterly line South 0°34'32" East 12.68 feet; thence South 3°26'24" West 133.41 feet; thence South 1°24'32" West 10.49 feet to the **True Point of Beginning**.

Containing 1102 square feet.

PSOMAS

1 See Exhibit 'B2' attached hereto and made a part hereof.

2
3 The distances shown herein are grid distances. Ground distances may be obtained by
4 dividing grid distances by the combination factor of 0.99997837.

5
6 This legal description was prepared by me or under my direction.

7 Peter J. Fitzpatrick

8
9 Peter J. Fitzpatrick, PLS 6777

10
11 Feb. 26, 2018

12 Date

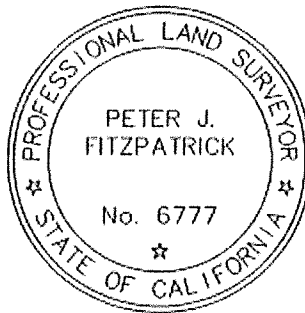
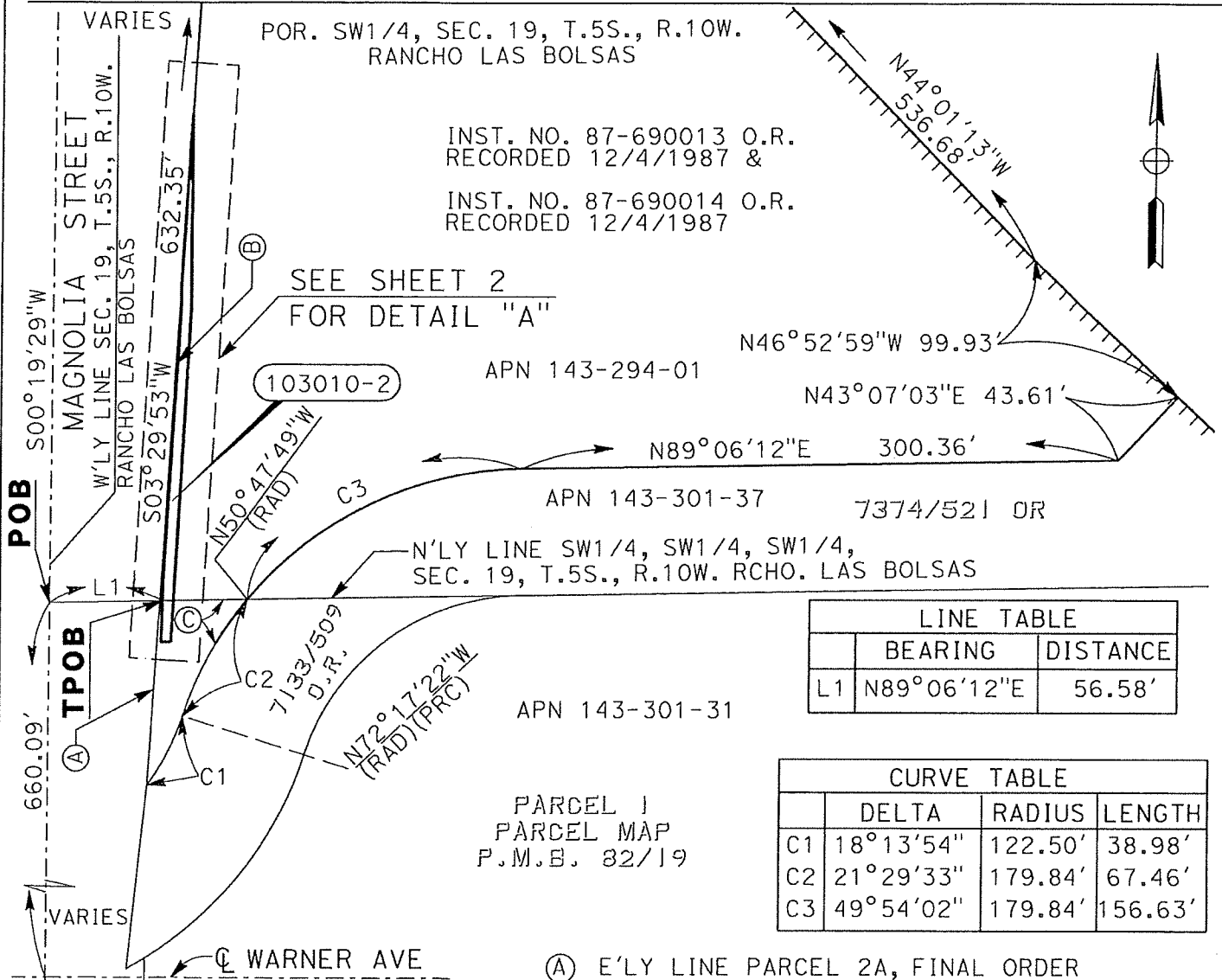


EXHIBIT B2

PARCEL#	TITLE	AREA	APN
103010-2	FOOTING ESMT	1102 SF	143-294-01 & 02

MATCH LINE SEE SHEET 2



LEGEND

- (R) Indicates Radial Bearing
- TPOB True Point of Beginning
- POB Point of Beginning
- Caltrans Parcel Number
- Access Prohibited

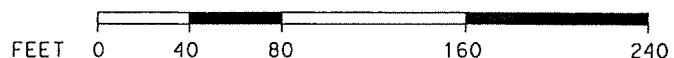
NOTES

The distances shown herein are grid distances. Ground distances may be obtained by dividing grid distances by the combination factor of 0.99997837.

- (A) E'LY LINE PARCEL 2A, FINAL ORDER OF CONDEMNATION, BK 6662, PG 132, O.R.
- (B) E'LY LINE AND N'LY PROLONGATION PARCEL 7 PER STATE HIGHWAY RELINQUISHMENT NO. 553 BOOK 8387 PAGE 528, O.R.
- (C) INSTRUMENT NO. 1998-0489925, O.R. REC. 7/29/98 (APN 143-294-02)

103010-2

FOOTING EASEMENT



PREPARED BY:

PSOMAS

3 Hutton Centre Drive, Ste. 200
Santa Ana, California 92707
(714)751-7373/(714)545-8883 (Fax)

DATE: 04-21-15

REV.: 02-24-18

EA:

FA#:

DISTRICT

COUNTY

ROUTE

SHEET PM

SHEET NO.

TOTAL SHEETS

12

ORANGE

405

15.11

1

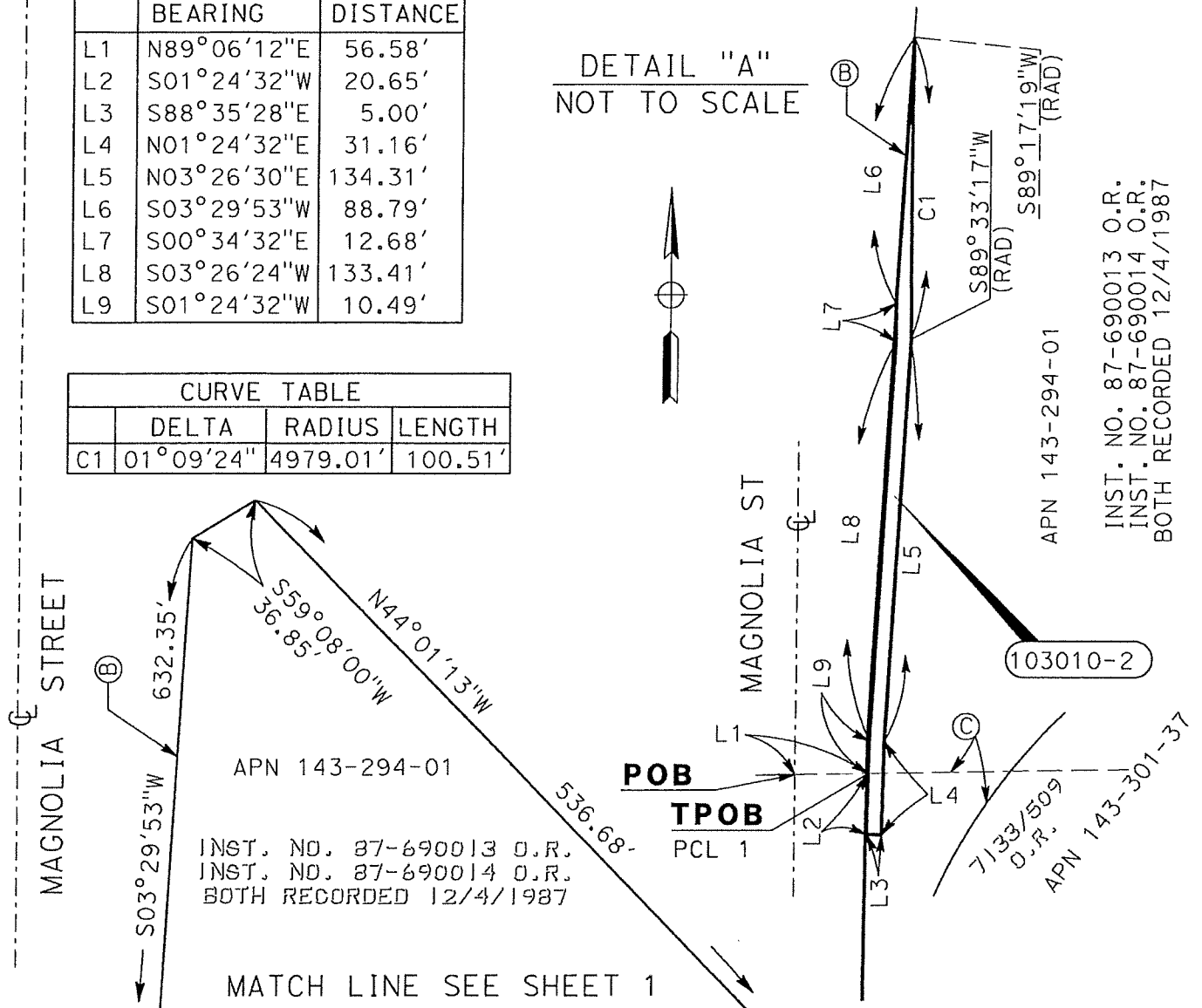
2

EXHIBIT B2

PARCEL#	TITLE	AREA	APN
103010-2	FOOTING ESMT	1102 SF	143-294-01 & 02

LINE TABLE		
	BEARING	DISTANCE
L1	N89°06'12"E	56.58'
L2	S01°24'32"W	20.65'
L3	S88°35'28"E	5.00'
L4	N01°24'32"E	31.16'
L5	N03°26'30"E	134.31'
L6	S03°29'53"W	88.79'
L7	S00°34'32"E	12.68'
L8	S03°26'24"W	133.41'
L9	S01°24'32"W	10.49'

CURVE TABLE			
	DELTA	RADIUS	LENGTH
C1	01°09'24"	4979.01'	100.51'



LEGEND

- (R) Indicates Radial Bearing
- TPOB True Point of Beginning
- POB Point of Beginning
- Caltrans Parcel Number
- Access Prohibited

(B) E'LY LINE AND N'LY PROLONGATION PARCEL 7
PER STATE HIGHWAY RELINQUISHMENT NO. 553
BOOK 8387 PAGE 528, O.R.

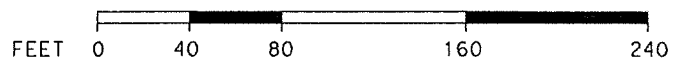
(C) INSTRUMENT NO. 1998-0489925, O.R.
REC. 7/29/98 (APN 143-294-02)

NOTES

The distances shown herein are grid distances. Ground distances may be obtained by dividing grid distances by the combination factor of 0.99997837.

103010-2

FOOTING EASEMENT



PREPARED BY:

PSOMAS

3 Hutton Centre Drive, Ste. 200
Santa Ana, California 92707
(714)751-7373/(714)545-8883 (Fax)

DATE: 04-09-15

REV.: 02-24-18

EA:

FA#:

DISTRICT	COUNTY	ROUTE	SHEET PM	SHEET NO.	TOTAL SHEETS
12	ORANGE	405	15.11	2	2

EXHIBIT C

PSOMAS

EXHIBIT 'C1'

LEGAL DESCRIPTION

Caltrans Parcel No. 103010-3

Fee Acquisition

APN 143-301-31

That portion of Parcel 1, in the City of Fountain Valley, County of Orange, State of California, per the map filed in Book 82, Page 19 of Parcel Maps, in the office of the County Recorder of said County, described as follows:

Beginning at the intersection of the westerly line of Section 19, Township 5 South, Range 10 West, in the Rancho Las Bolsas, said westerly line being the centerline of Magnolia Street, as shown on said map with the northerly line of the southwest quarter of the southwest quarter of the southwest quarter of said Section 19; thence along said westerly line South 00°19'29" West 178.14 feet; thence leaving said westerly line South 89°40'31" East 50.00 feet to the northerly terminus of that certain course on the westerly line of said Parcel 1 shown as "North 00°00'07" East 132.95 feet", said course having a bearing of North 00°19'29" East for the purpose of this description, and the **True Point of Beginning**; thence along the westerly line of said Parcel 1 South 00°19'29" West 93.03 feet to a non-tangent curve concave easterly having a radius of 6982.00 feet, a radial line to said curve bears North 88°50'19" West; thence northerly 30.17 feet along said curve through a central angle of 00°14'51"; thence North 01°24'32" East 63.97 feet to a point on the northwesterly line of said Parcel 1, said point being the beginning of a non-tangent curve concave northwesterly having a radius 186.50 feet, a radial line to said point bears South 32°34'36" East; thence southwesterly 2.04 feet along said curve and said northwesterly line through a central angle 00°37'32" to the **True Point of Beginning**.

Containing 77 square feet.

PSOMAS

See Exhibit 'C2' attached hereto and made a part hereof.

The distances shown herein are grid distances. Ground distances may be obtained by dividing grid distances by the combination factor of 0.99997837.

This legal description was prepared by me or under my direction.

Peter J. Fitzpatrick

Peter J. Fitzpatrick, PLS 6777

Feb. 26, 2018

Date

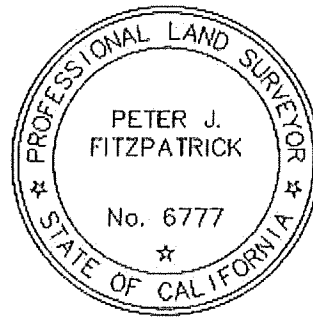
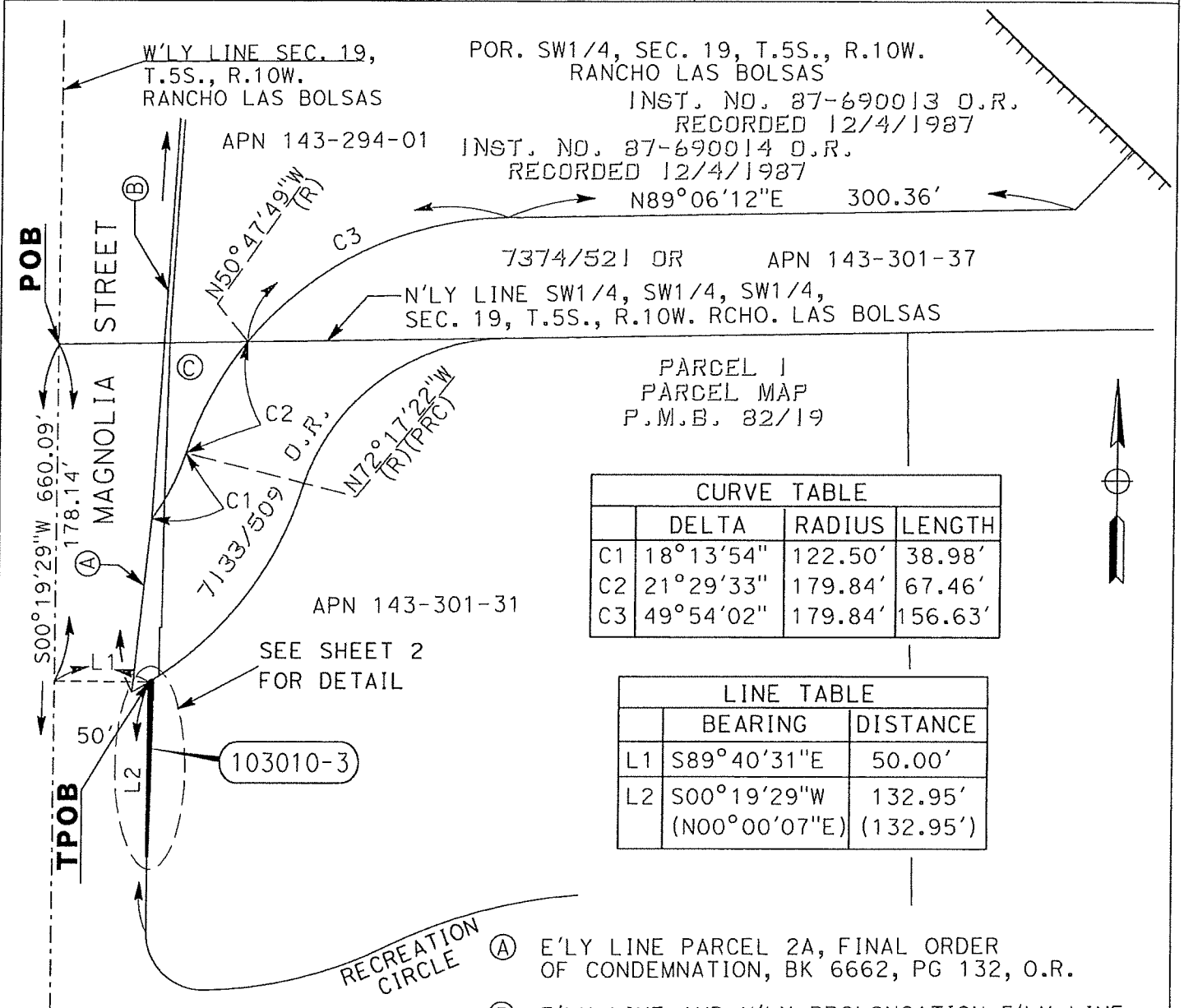


EXHIBIT C2

PARCEL#	TITLE	AREA	APN
103010-3	FEE	77 SF	143-301-31



CURVE TABLE			
	DELTA	RADIUS	LENGTH
C1	18°13'54"	122.50'	38.98'
C2	21°29'33"	179.84'	67.46'
C3	49°54'02"	179.84'	156.63'

LINE TABLE		
	BEARING	DISTANCE
L1	S89°40'31"E	50.00'
L2	S00°19'29"W (N00°00'07"E)	132.95' (132.95')

LEGEND	
(R)	Indicates Radial Bearing
TPOB	True Point of Beginning
POB	Point of Beginning
	Caltrans Parcel Number
	Access Prohibited

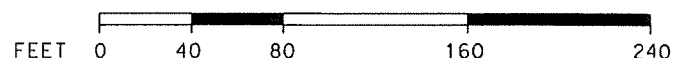
NOTES

The distances shown herein are grid distances. Ground distances may be obtained by dividing grid distances by the combination factor of 0.99997837.

- (A) E'LY LINE PARCEL 2A, FINAL ORDER OF CONDEMNATION, BK 6662, PG 132, O.R.
- (B) E'LY LINE AND N'LY PROLONGATION E'LY LINE PARCEL 7 PER STATE HIGHWAY RELINQUISHMENT NO. 553 BK 8387 / PG 528, O.R.
- (C) INST. NO. 19980489925, O.R., REC. 7/29/98 (APN 143-294-02)
- () INDICATES RECORD DIST. PER P.M.B. 82/19

103010-3

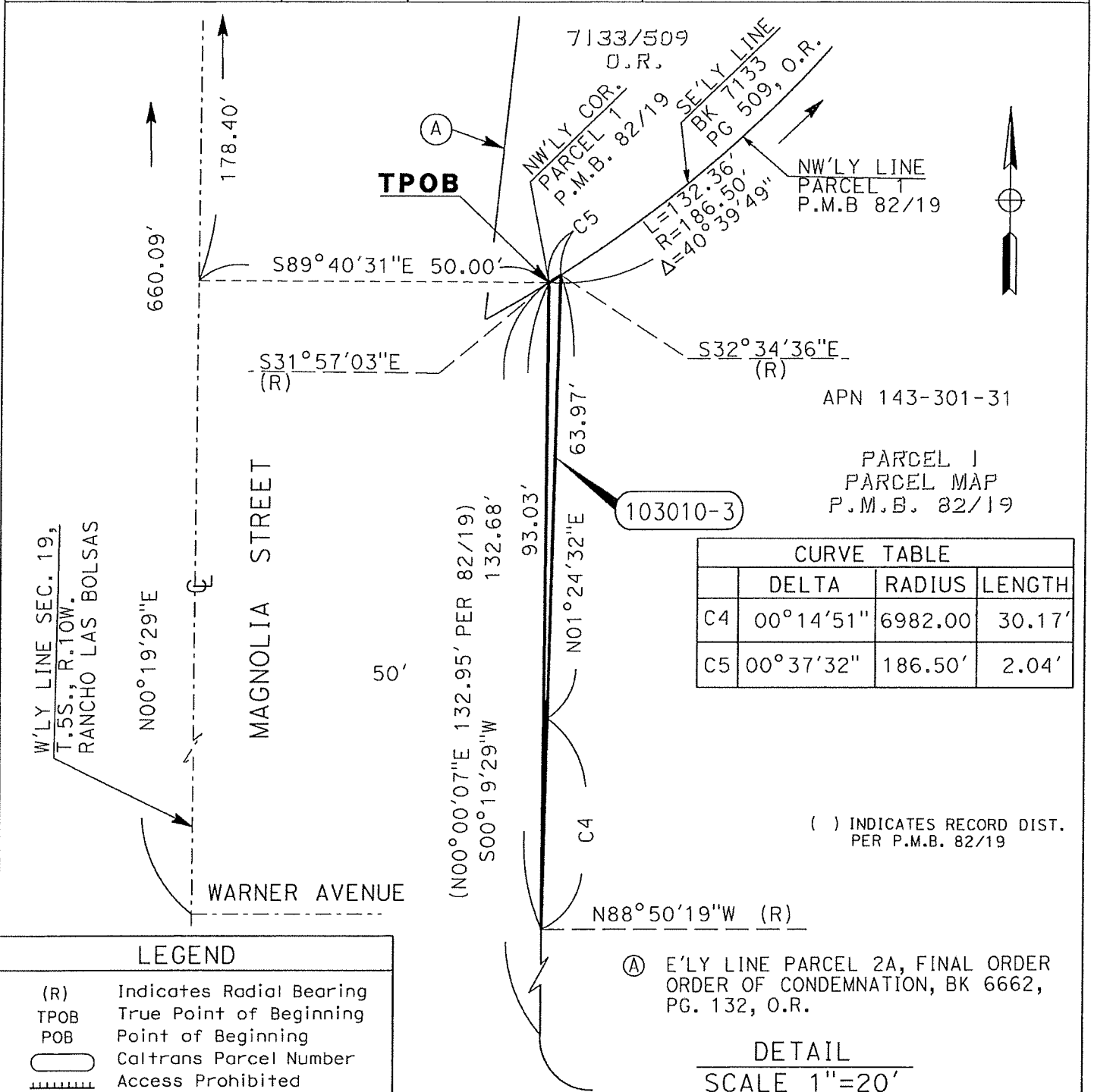
FEE ACQUISITION



<div>PREPARED BY:</div> <div>PSOMAS</div> <div>3 Hutton Centre Drive, Ste. 200 Santa Ana, California 92707 (714)751-7373/(714)545-8883 (Fax)</div>	DATE: 04-09-15		REV.3: 01-09-17		EA:	FA#:
	DISTRICT	COUNTY	ROUTE	SHEET PM	SHEET NO.	TOTAL SHEETS
	12	ORANGE	405	15.11	1	2

EXHIBIT C2

PARCEL#	TITLE	AREA	APN
103010-3	FEE	77 SF	143-301-31



LEGEND	NOTES
<p>(R) Indicates Radial Bearing</p> <p>TPOB True Point of Beginning</p> <p>POB Point of Beginning</p> <p>○ Caltrans Parcel Number</p> <p>▬ Access Prohibited</p>	<p>The distances shown herein are grid distances. Ground distances may be obtained by dividing grid distances by the combination factor of 0.99997837.</p>

PREPARED BY:		DATE: 04-09-15		REV.3: 01-09-17		EA:		FA#:	
PSOMAS		DISTRICT	COUNTY	ROUTE	SHEET PM	SHEET NO.	TOTAL SHEETS		
3 Hutton Centre Drive, Ste. 200 Santa Ana, California 92707 (714)751-7373/(714)545-8883 (Fax)		12	ORANGE	405	15.11	2	2		

EXHIBIT D

**TEMPORARY CONSTRUCTION EASEMENT
ATTACHMENT TO LEGAL DESCRIPTION**

Assessor Parcel No.: 143-294-01, 143-294-02

Caltrans Parcel No.: 103010-4

This temporary construction easement shall be in, on, over, under, and across that certain real property described in Exhibit "D1" and depicted in Exhibit "D2" attached hereto, subject to the rights and limitations set forth herein ("TCE"). The TCE shall be used by the Orange County Transportation Authority and its employees, agents, representatives, contractors, successors and assigns (collectively, "OCTA") in connection with the construction of the I-405 Improvement Project. The TCE shall be for a period of forty eight (48) months, a portion of which shall be exclusive (subject to the rights and limitations set forth below) and a portion of which shall be non-exclusive. Specifically, the actual physical construction activities within the TCE area shall be limited to a period of twenty four (24) consecutive months within the forty eight (48) month TCE period (the "Construction Period"). During the Construction Period, OCTA's use and occupancy of the TCE will be exclusive, subject to the rights and limitations set forth below. OCTA's use and occupancy of the TCE during the remaining twenty four (24) months of the TCE period will be non-exclusive.

Rights and Limitations of Use and Occupancy of TCE:

- OCTA shall provide the owner(s) and occupant(s) of the property subject to this TCE a minimum of thirty (30)-days written notice as to when the Construction Period will commence.
- During the Construction Period, OCTA may place a temporary fence around the TCE area, provided however, no fence will be placed across any driveway within the TCE area, or in a manner that would impede reasonable access to any driveway within the TCE area.
- Reasonable pedestrian and vehicular access to the property shall be maintained at all times.
- Access to the TCE area shall be from the public right of way.
- Improvements within the TCE area will be removed as needed by OCTA to allow for construction activities. All improvements so removed shall be included in the compensation paid by OCTA for this TCE.
- Prior to the termination of the Construction Period, OCTA will remove from the TCE area all construction equipment and materials including, without limitation, any temporary fence, any temporary improvements, and all construction-related debris. The TCE area will be graded and compacted to restore it to a condition that is as functionally equivalent as is practicable to its condition prior to commencement of the construction activities.

OCTA expressly reserves the right to convey, transfer, or assign the TCE subject to the same rights and limitations described herein.

PSOMAS

EXHIBIT 'D1'

LEGAL DESCRIPTION

Caltrans Parcel No. 103010-4

Temporary Construction Easement

APN 143-294-01

APN 143-294-02

In the City of Fountain Valley, County of Orange, State of California, being a portion of the land described in those certain Deeds recorded December 4, 1987 as Instrument No. 87-690013 and Instrument No. 87-690014, and July 29, 1998 as Instrument No. 19980489925, all of Official Records of said County described as follows:

Beginning at the intersection of the westerly line of Section 19, Township 5 South, Range 10 West, in the Rancho Las Bolsas, said westerly line being the centerline of Magnolia Street, with the northerly line of the southwest quarter of the southwest quarter of the southwest quarter of said Section 19, thence North 89°06'12" East 56.58 feet along said northerly line to the **True Point of Beginning**; thence leaving said northerly line South 1°24'32" West 85.47 feet to the northwesterly line of that certain land conveyed to Orange County Flood Control District per the deed recorded July 14, 1964 in Book 7133, Page 509 of Official Records of said County and the beginning of a non-tangent curve concave northwesterly having a radius 122.50 feet, a radial line to said curve bears South 58°16'30" East; thence northeasterly 29.96 feet along said curve and along said northwesterly line through a central angle 14°00'52" to a reverse curve concave southeasterly having a radius 179.84 feet; thence northeasterly 10.30 feet along said curve and along said northwesterly line through a central angle of 3°16'57"; thence leaving said northwesterly line, North 1°24'32" East 58.77 feet; thence North 3°26'24" East 134.58 feet to the beginning of a non-tangent curve concave easterly having a radius of 4969.02 feet, a radial line to said curve bears South 89°36'16" West; thence northerly along said curve 178.79 feet through a central angle 2°03'42"; thence

PSOMAS

1 North 86°30'26" West 6.97 feet to the northerly prolongation of the easterly line of
2 Parcel 7 of State Highway Relinquishment No. 533, recorded September 28, 1967 in
3 Book 8387, Page 528 of Official Records of said County; thence South 3°29'53" West
4 165.73 feet along said northerly prolongation; thence leaving said prolongation South
5 0°06'52" East 14.30 feet; thence South 3°26'24" West 133.41 feet; thence South
6 1°24'32" West 10.49 feet to the **True Point of Beginning**.

7
8 Containing 5152 square feet.

9
10 See Exhibit 'D2' attached hereto and made a part hereof.

11
12 The distances shown herein are grid distances. Ground distances may be obtained by
13 dividing grid distances by the combination factor of 0.99997837.

14
15 This legal description was prepared by me or under my direction.

16 Peter J. Fitzpatrick

17
18 Peter J. Fitzpatrick, PLS 6777

19
20 Feb. 26, 2018

21 Date

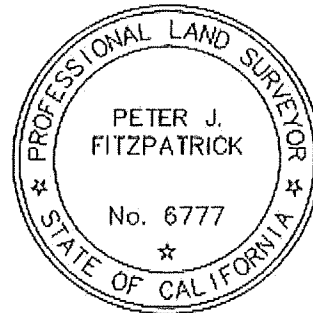
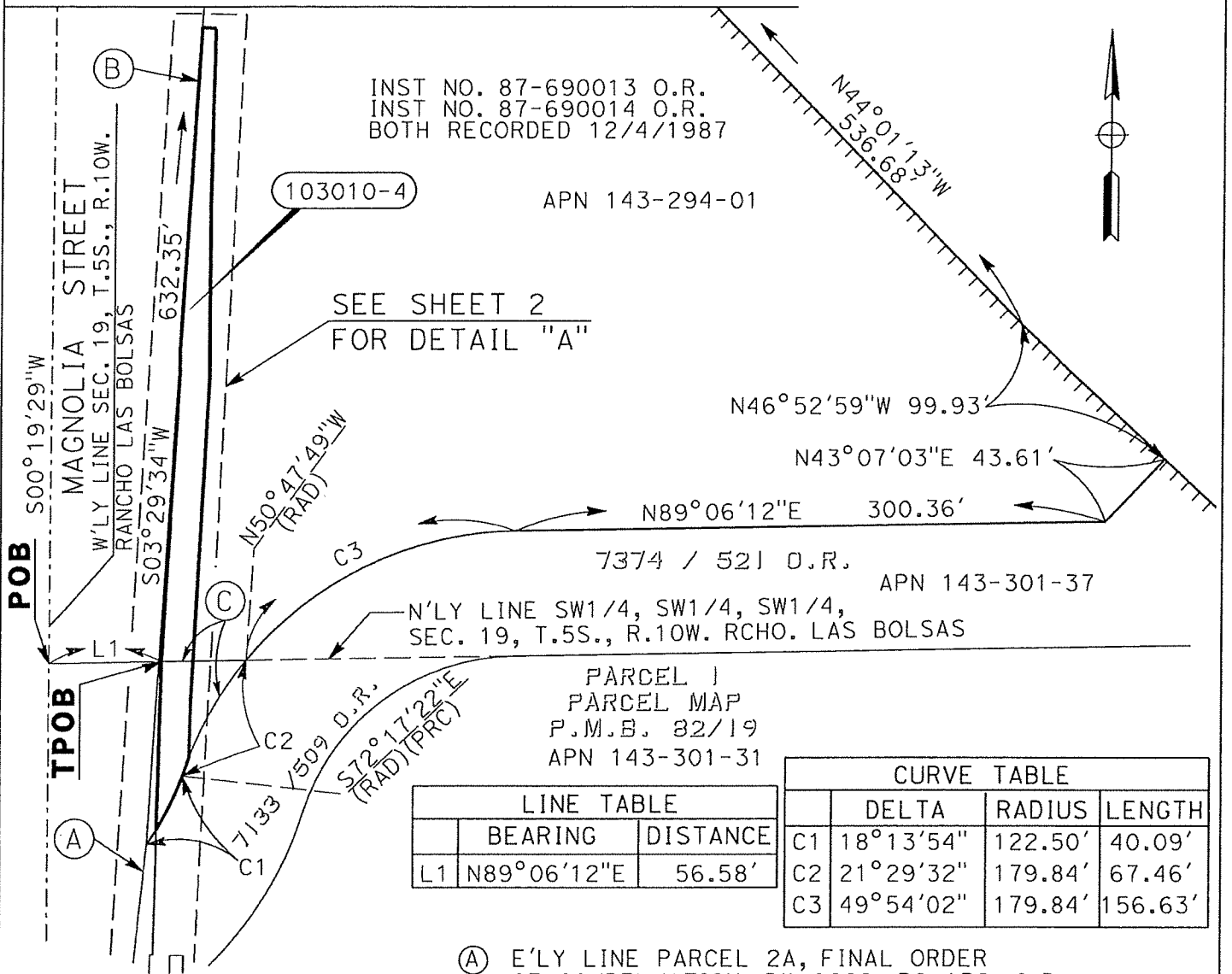


EXHIBIT D2

PARCEL#	TITLE	AREA	APN
103010-4	TCE	5152 SF	143-294-01 & 02

MATCH LINE SEE SHEET 2



LEGEND

- (R) Indicates Radial Bearing
- TPOB True Point of Beginning
- POB Point of Beginning
- Caltrans Parcel Number
- Access Prohibited

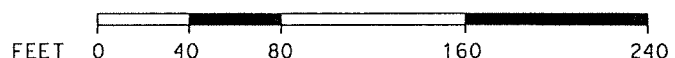
NOTES

The distances shown herein are grid distances. Ground distances may be obtained by dividing grid distances by the combination factor of 0.99997837.

- (A) E'LY LINE PARCEL 2A, FINAL ORDER OF CONDEMNATION, BK 6662, PG 132, O.R.
- (B) E'LY LINE AND N'LY PROLONGATION PARCEL 7 PER STATE HIGHWAY RELINQUISHMENT NO. 553 BOOK 8387 PAGE 528, O.R.
- (C) INSTRUMENT NO. 1998-0489925, O.R. REC. 7/29/98 (APN 143-294-02)

103010-4

TEMPORARY CONSTRUCTION EASEMENT



PREPARED BY:

PSOMAS

3 Hutton Centre Drive, Ste. 200
Santa Ana, California 92707
(714)751-7373/(714)545-8883 (Fax)

DATE: 04-21-15

REV.: 02-25-18

EA:

FA#:

DISTRICT

COUNTY

ROUTE

SHEET PM

SHEET NO.

TOTAL SHEETS

12

ORANGE

405

15.11

1

2

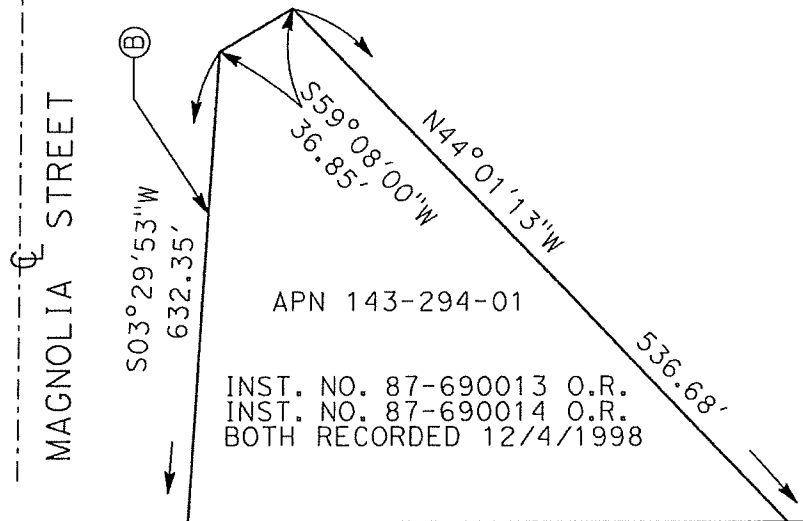
EXHIBIT D2

PARCEL#	TITLE	AREA	APN
103010-4	TCE	5152 SF	143-294-01 & 02

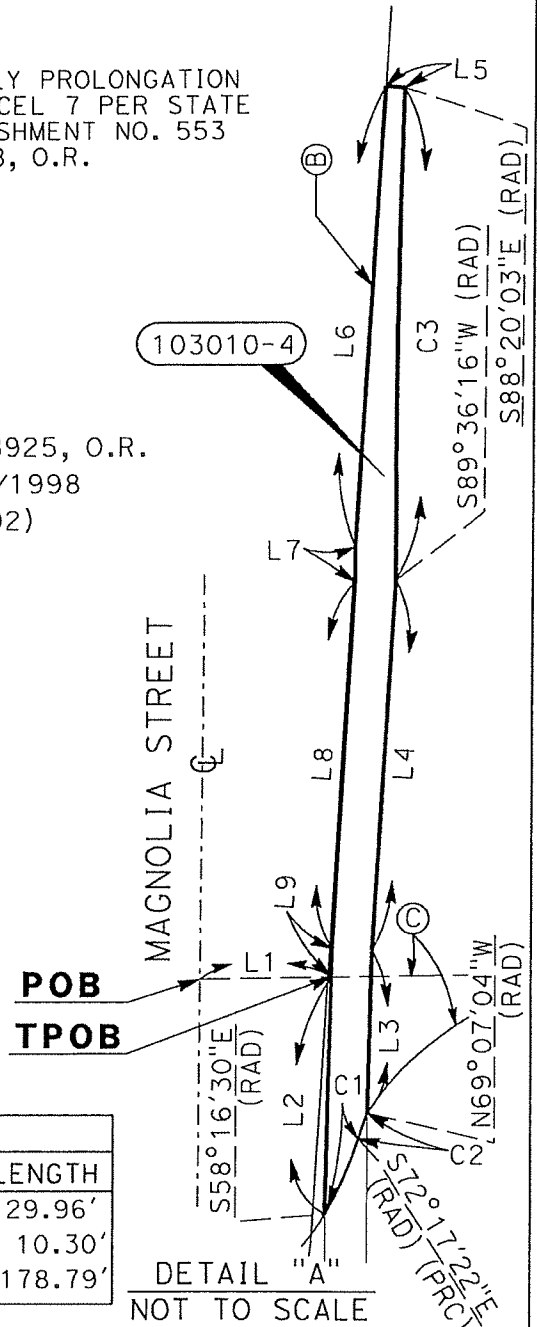
LINE TABLE		
	BEARING	DISTANCE
L1	N89°06'11"E	56.58'
L2	S01°24'32"W	85.47'
L3	N01°24'32"E	58.45'
L4	N03°26'24"E	134.58'
L5	N86°30'26"W	6.97'
L6	S03°29'53"W	167.73'
L7	S00°06'52"E	14.30'
L8	S03°26'24"W	133.41'
L9	S01°24'32"W	10.49'

Ⓑ E'LY LINE AND N'LY PROLONGATION
E'LY LINE PARCEL 7 PER STATE
HIGHWAY RELINQUISHMENT NO. 553
BK 8387 / PG 528, O.R.

Ⓒ INST. NO. 1998048925, O.R.
RECORDED 7/29/1998
(APN 143-294-02)



MATCH LINE SEE SHEET 1



LEGEND

(R) Indicates Radial Bearing
TPOB True Point of Beginning
POB Point of Beginning
○ Caltrans Parcel Number
Access Prohibited

CURVE TABLE

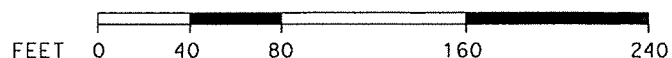
	DELTA	RADIUS	LENGTH
C1	14°00'52"	122.50'	29.96'
C2	03°16'57"	179.84'	10.30'
C3	02°03'42"	4969.02'	178.79'

NOTES

The distances shown herein are grid distances. Ground distances may be obtained by dividing grid distances by the combination factor of 0.99997837.

103010-4

TEMPORARY CONSTRUCTION EASEMENT



PREPARED BY:

PSOMAS

3 Hutton Centre Drive, Ste. 200
Santa Ana, California 92707
(714)751-7373/(714)545-8883 (Fax)

DATE: 04-21-15

REV.: 02-25-18

EA:

FA#:

DISTRICT

COUNTY

ROUTE

SHEET PM

SHEET NO.

TOTAL SHEETS

12

ORANGE

405

15.11

2

2

EXHIBIT E

PSOMAS

EXHIBIT 'E1'

LEGAL DESCRIPTION

Caltrans Parcel No. 103010-5

Fee Acquisition

APN 143-301-31

In the City of Fountain Valley, County of Orange, State of California, being a portion of Parcel 1 of the map filed in Book 82, Page 19 of Parcel Maps, Records of said County, described as follows:

Beginning at the intersection of the westerly line of Section 19, Township 5 South, Range 10 West, in the Rancho Las Bolsas, said westerly line being the centerline of Magnolia Street, with the northerly line of the southwest quarter of the southwest quarter of the southwest quarter of said Section 19; thence along said westerly line South 00°19'29" West 178.40 feet to a point thereon; thence leaving said line South 89°40'31" East 50.00 feet to the northerly terminus of that certain course on the westerly line of said Parcel shown as "North 00°00'07" East 132.95 feet" on said Parcel Map, said course having a bearing of North 00° 19'29" East for the purpose of this description, thence along the westerly and southwesterly lines of said Parcel 1 the following two (2) courses:

1. South 00°19'29" West 132.68 feet to the beginning of a curve concave northeasterly and having radius of 30.00 feet;
2. southeasterly along said curve 12.66 feet through a central angle of 24°10'36" to the **True Point of Beginning**;

thence continuing southeasterly and easterly along said southwesterly line and said curve 35.11 feet through a central angle of 67°03'26" to the beginning of a compound curve concave northerly having a radius of 225.00 feet; thence easterly continuing along southwesterly line and said curve 0.43 feet through a central angle of 00°06'32" to a point thereon; thence North 2°30'34" West 1.00 feet to a point, said point being the beginning of a non-tangent curve concave northeasterly having a radius of 30.00 feet, a

PSOMAS

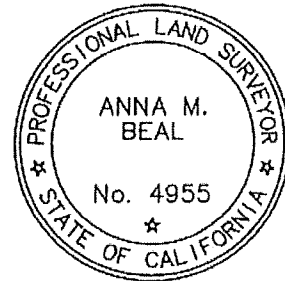
radial line to said point bears South $02^{\circ}30'34''$ East; thence westerly and northwesterly along said curve 34.87 feet through a central angle of $66^{\circ}36'00''$ to the **True Point of Beginning**

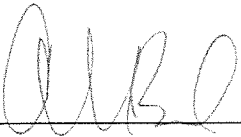
Containing 20 square feet.

See Exhibit 'E2' attached hereto and made a part hereof.

The distances shown herein are grid distances. Ground distances may be obtained by dividing grid distances by the combination factor of 0.99997837.

Prepared under the direction of





Anna M. Beal

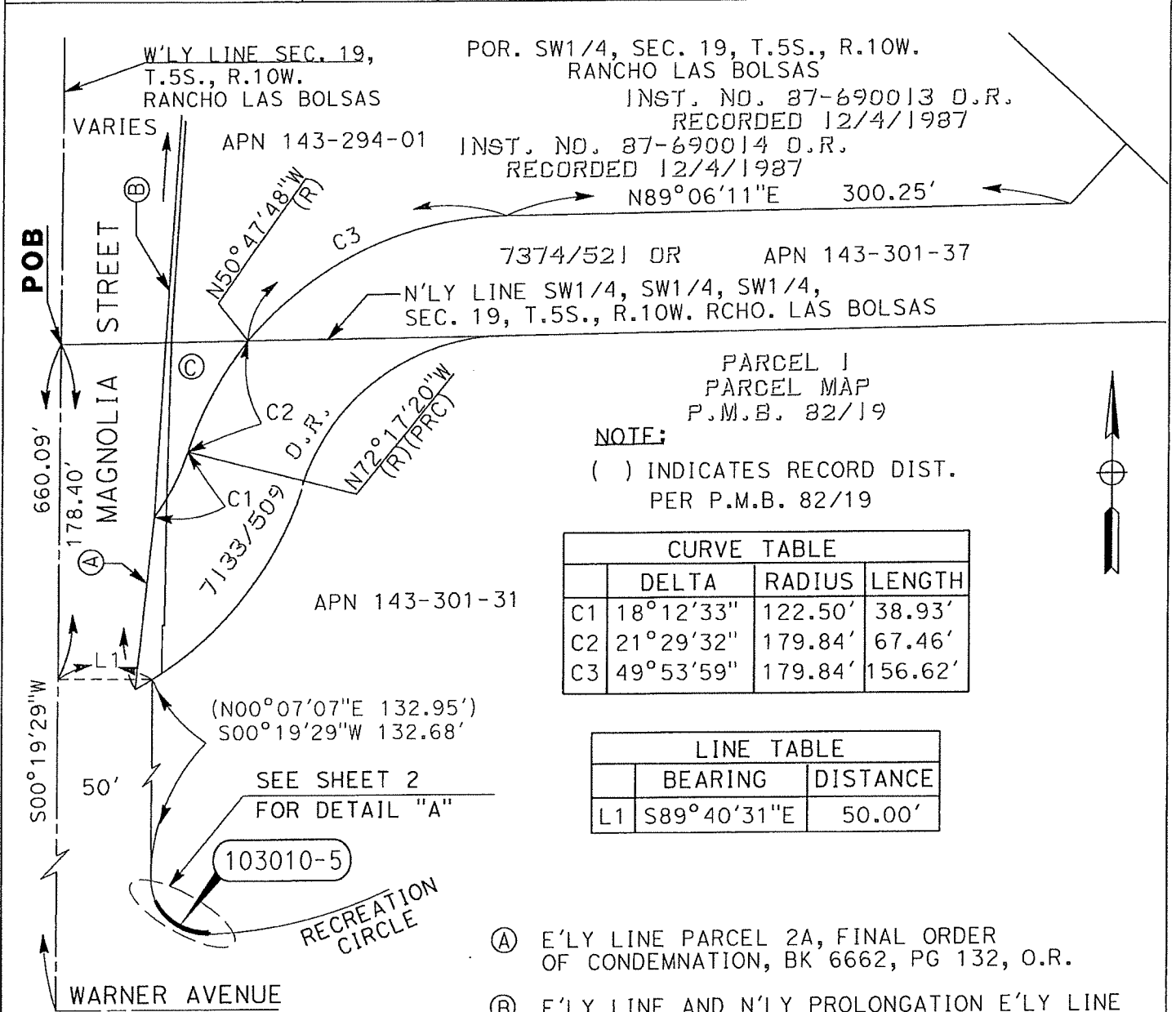
P.L.S. 4955

4/6/16

Date

EXHIBIT E2

PARCEL#	TITLE	AREA	APN
103010-5	FEE	20 SF	143-301-31



LEGEND		<p>(A) E'LY LINE PARCEL 2A, FINAL ORDER OF CONDEMNATION, BK 6662, PG 132, O.R.</p> <p>(B) E'LY LINE AND N'LY PROLONGATION E'LY LINE PARCEL 7 PER STATE HIGHWAY RELINQUISHMENT NO. 553 BK 8387 / PG 528, O.R.</p> <p>(C) INST. NO. 19980489925, O.R., REC. 7/29/98 (APN 143-294-02)</p>	
(R)	Indicates Radial Bearing		
TPOB	True Point of Beginning	<p>NOTES</p> <p>The distances shown herein are grid distances. Ground distances may be obtained by dividing grid distances by the combination factor of 0.99997837.</p>	
POB	Point of Beginning		
	Caltrans Parcel Number	<p>FEE ACQUISITION</p> <p>0 40 80 160 240</p>	
	Access Prohibited		
PREPARED BY:		DATE: 04-09-15 REV.2: 03-24-16 EA: OF FA#:	
PSOMAS		DISTRICT COUNTY ROUTE SHEET PM SHEET NO. TOTAL SHEETS	
3 Hutton Centre Drive, Ste. 200 Santa Ana, California 92707 (714)751-7373/(714)545-8883 (Fax)		12 ORANGE 405 1 2	

EXHIBIT E2

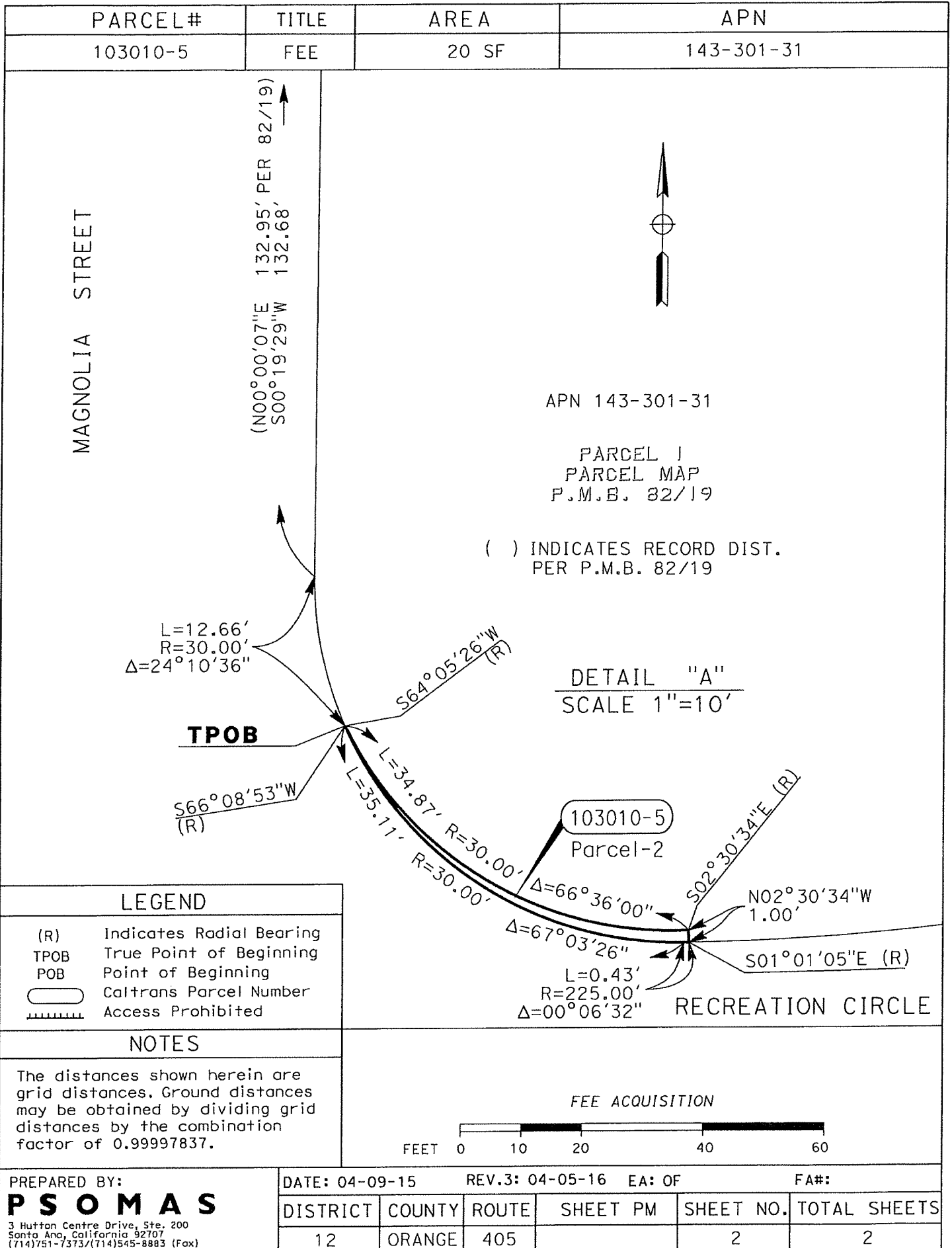


EXHIBIT F

**TEMPORARY CONSTRUCTION EASEMENT
ATTACHMENT TO LEGAL DESCRIPTION**

Assessor Parcel No.: 143-294-01

Caltrans Parcel No.: 103010-6

This temporary construction easement shall be in, on, over, under, and across that certain real property described in Exhibit "F1" and depicted in Exhibit "F2" attached hereto, subject to the rights and limitations set forth herein ("TCE"). The TCE shall be used by the Orange County Transportation Authority and its employees, agents, representatives, contractors, successors and assigns (collectively, "OCTA") in connection with the construction of the I-405 Improvement Project. The TCE shall be for a period of forty eight (48) months, a portion of which shall be exclusive (subject to the rights and limitations set forth below) and a portion of which shall be non-exclusive. Specifically, the actual physical construction activities within the TCE area shall be limited to a period of six (6) consecutive months within the forty eight (48) month TCE period (the "Construction Period"). During the Construction Period, OCTA's use and occupancy of the TCE will be exclusive, subject to the rights and limitations set forth below. OCTA's use and occupancy of the TCE during the remaining forty two (42) months of the TCE period will be non-exclusive.

Rights and Limitations of Use and Occupancy of TCE:

- OCTA shall provide the owner(s) and occupant(s) of the property subject to this TCE a minimum of thirty (30)-days written notice as to when the Construction Period will commence.
- During the Construction Period, OCTA will place a temporary fence around the TCE area.
- Access to the TCE area shall be from the public right of way.
- Except as to those improvements identified as being protected in place, improvements within the TCE area will be removed as needed by OCTA to allow for construction activities. All improvements so removed shall be included in the compensation paid by OCTA for this TCE.
- Prior to the termination of the Construction Period, OCTA will remove from the TCE area all construction equipment and materials including, without limitation, any temporary fence, any temporary improvements, and all construction-related debris. The TCE area will be graded and compacted to restore it to a condition that is as functionally equivalent as is practicable to its condition prior to commencement of the construction activities.

OCTA expressly reserves the right to convey, transfer, or assign the TCE subject to the same rights and limitations described herein.

PSOMAS

EXHIBIT 'F1'

LEGAL DESCRIPTION

Caltrans Parcel No. 103010-6

Temporary Construction Easement

APN 143-294-01

In the City of Fountain Valley, County of Orange, State of California, being a portion of the lands described in those certain Deeds recorded December 4, 1987 as Instrument No. 87-690013 and Instrument No. 87-690014, and July 29, 1998 as Instrument No. 19980489925, all of Official Records of said County described as follows:

Beginning at the northwesterly terminus of that certain course having a bearing of North 46°53'52" West as described in a deed recorded January 8, 1965 in Book 7374, Page 521 of Official Records of said County, the bearing of said course being North 46°52'59" West for the purposes of this description; thence North 46°52'59" West 8.00 feet along the northwesterly prolongation of said last course; thence South 43°07'03" West 19.00 feet; thence South 46°52'59" East 8.00 feet to the southeasterly line of said land; thence North 43°07'03" East 19.00 feet along said southeasterly line to the **Point of Beginning**.

Containing 152 square feet.

See Exhibit 'F2' attached hereto and made a part hereof.

The distances shown herein are grid distances. Ground distances may be obtained by dividing grid distances by the combination factor of 0.99997837.

PSOMAS

Prepared under the direction of

Jeremy L. Evans

Jeremy L. Evans, PLS 5282

2.11.2017

Date

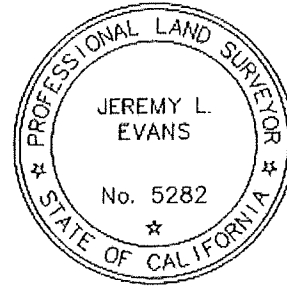
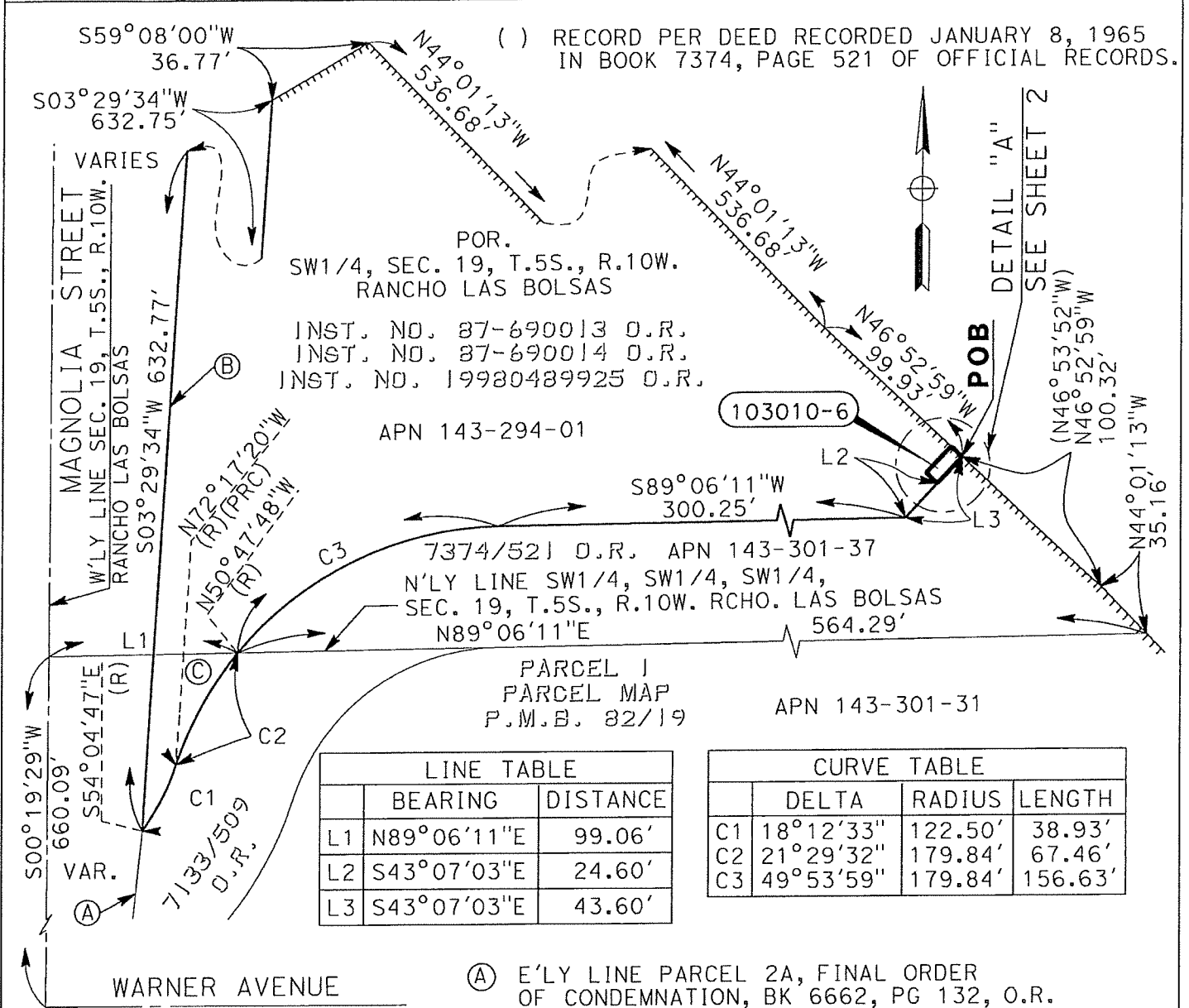


EXHIBIT F2

PARCEL#	TITLE	AREA	APN
103010-6	TCE	152 SF	143-294-01



LINE TABLE		
	BEARING	DISTANCE
L1	N89°06'11"E	99.06'
L2	S43°07'03"E	24.60'
L3	S43°07'03"E	43.60'

CURVE TABLE			
	DELTA	RADIUS	LENGTH
C1	18°12'33"	122.50'	38.93'
C2	21°29'32"	179.84'	67.46'
C3	49°53'59"	179.84'	156.63'

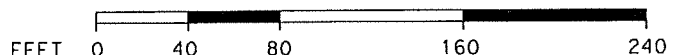
LEGEND	
(R)	Indicates Radial Bearing
TPOB	True Point of Beginning
POB	Point of Beginning
	Caltrans Parcel Number
	Access Prohibited

NOTES
The distances shown herein are grid distances. Ground distances may be obtained by dividing grid distances by the combination factor of 0.99997837.

- (A) E'LY LINE PARCEL 2A, FINAL ORDER OF CONDEMNATION, BK 6662, PG 132, O.R.
- (B) E'LY LINE AND N'LY PROLONGATION PARCEL 7 PER STATE HIGHWAY RELINQUISHMENT NO. 553 BOOK 8387 PAGE 528, O.R.
- (C) INSTRUMENT NO. 1998-0489925, O.R. REC. 7/29/98 (APN 143-294-02)

103010-6

TEMPORARY CONSTRUCTION EASEMENT



PREPARED BY:

PSOMAS

3 Hutton Centre Drive, Ste. 200
Santa Ana, California 92707
(714)751-7373/(714)545-8883 (Fax)

DATE: 04-06-16

REV.: 02-06-17

EA: OF

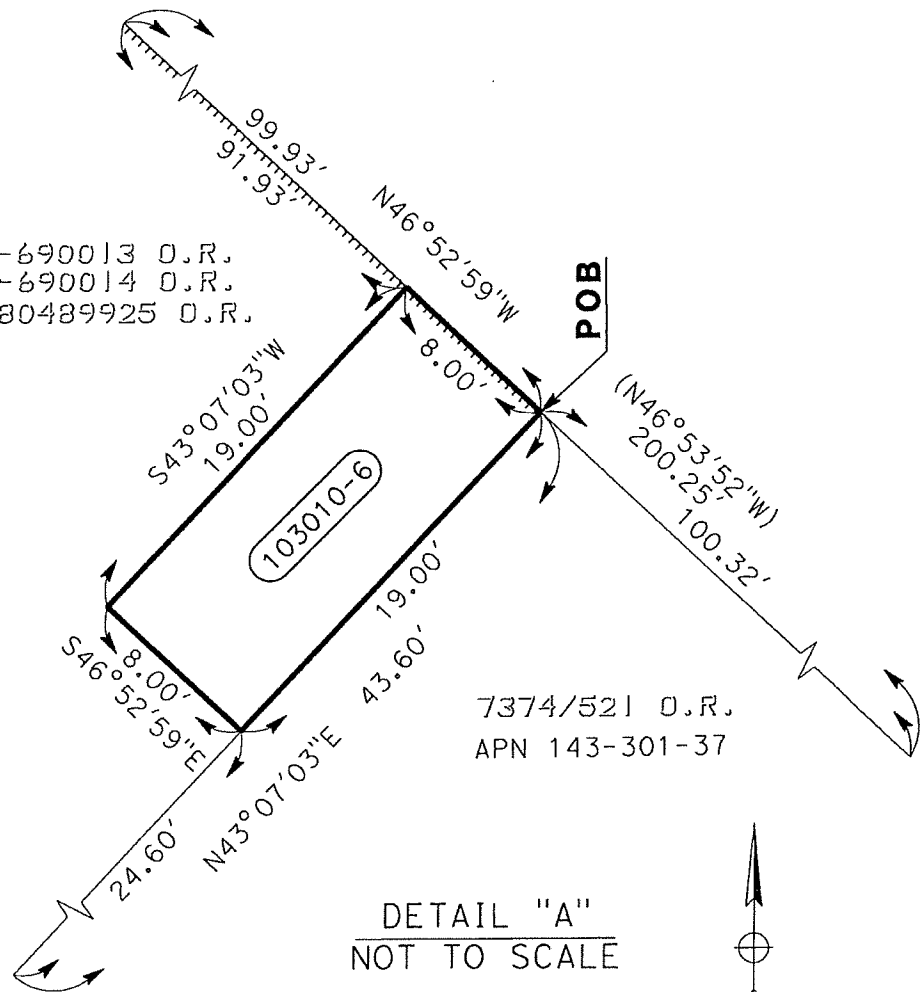
FA#:

DISTRICT	COUNTY	ROUTE	SHEET PM	SHEET NO.	TOTAL SHEETS
12	ORANGE	405	15.11	1	2

EXHIBIT F2

PARCEL#	TITLE	AREA	APN
103010-6	TCE	152 SF	143-294-01

INST. NO. 87-690013 O.R.
INST. NO. 87-690014 O.R.
INST. NO. 19980489925 O.R.



DETAIL "A"
NOT TO SCALE

LEGEND

(R) Indicates Radial Bearing
TPOB True Point of Beginning
POB Point of Beginning
() Caltrans Parcel Number
Access Prohibited

() RECORD PER DEED RECORDED JANUARY 8, 1965
IN BOOK 7374, PAGE 521 OF OFFICIAL RECORDS.

NOTES

The distances shown herein are grid distances. Ground distances may be obtained by dividing grid distances by the combination factor of 0.99997837.

103010-6

TEMPORARY CONSTRUCTION EASEMENT

PREPARED BY:

PSOMAS

3 Hutton Centre Drive, Ste. 200
Santa Ana, California 92707
(714)751-7373/(714)545-8883 (Fax)

DATE: 04-06-16

REV.: 02-07-17

EA: OF

FA#:

DISTRICT	COUNTY	ROUTE	SHEET PM	SHEET NO.	TOTAL SHEETS
12	ORANGE	405	15.11	2	2

EXHIBIT G

**TEMPORARY CONSTRUCTION EASEMENT
ATTACHMENT TO LEGAL DESCRIPTION**

Assessor Parcel No.: 143-301-31

Caltrans Parcel No.: 103010-7

This temporary construction easement shall be in, on, over, under, and across that certain real property described in Exhibit "G1" and depicted in Exhibit "G2" attached hereto, subject to the rights and limitations set forth herein ("TCE"). The TCE shall be used by the Orange County Transportation Authority and its employees, agents, representatives, contractors, successors and assigns (collectively, "OCTA") in connection with the construction of the I-405 Improvement Project. The TCE shall be for a period of forty eight (48) months, a portion of which shall be exclusive (subject to the rights and limitations set forth below) and a portion of which shall be non-exclusive. Specifically, the actual physical construction activities within the TCE area shall be limited to a period of twenty four (24) consecutive months within the forty eight (48) month TCE period (the "Construction Period"). During the Construction Period, OCTA's use and occupancy of the TCE will be exclusive, subject to the rights and limitations set forth below. OCTA's use and occupancy of the TCE during the remaining twenty four (24) months of the TCE period will be non-exclusive.

Rights and Limitations of Use and Occupancy of TCE:

- OCTA shall provide the owner(s) and occupant(s) of the property subject to this TCE a minimum of thirty (30)-days written notice as to when the Construction Period will commence.
- During the Construction Period, OCTA may place a temporary fence around the TCE area, provided however, no fence will be placed across any driveway within the TCE area or in a manner that would impede reasonable access to any driveway, or building.
- Reasonable pedestrian and vehicular access to the property shall be maintained at all times.
- Access to the TCE area shall be from the public right of way.
- Except as to those improvements identified below as being protected in place, improvements within the TCE area will be removed as needed by OCTA to allow for construction activities. All improvements so removed shall be included in the compensation paid by OCTA for this TCE.
- The following improvements within the TCE area will be protected in place:
 - Utility Box
- Prior to the termination of the Construction Period, OCTA will remove from the TCE area all construction equipment and materials including, without limitation, any temporary fence, any temporary improvements, and all construction-related debris. The TCE area will be graded and compacted to restore it to a condition that is as functionally equivalent as is practicable to its condition prior to commencement of the construction activities.

OCTA expressly reserves the right to convey, transfer, or assign the TCE subject to the same rights and limitations described herein.

PSOMAS

EXHIBIT 'G1'

LEGAL DESCRIPTION

Caltrans Parcel No. 103010-7

Temporary Construction Easement

APN 143-301-31

That portion of Parcel 1, in the City of Fountain Valley, County of Orange, State of California, per the map filed in Book 82, Page 19 of Parcel Maps, in the office of the County Recorder of said County, described as follows:

Beginning at the intersection of the westerly line of Section 19, Township 5 South, Range 10 West, in the Rancho Las Bolsas, said westerly line being the centerline of Magnolia Street as shown on said map, with the northerly line of the southwest quarter of the southwest quarter of the southwest quarter of said Section 19; thence along said westerly line, South 00°19'29" West 178.14 feet; thence leaving said westerly line South 89°40'31" East 50.00 feet to the northerly terminus of that certain course on the westerly line of said Parcel 1 shown as "North 00°00'07" East 132.95 feet", said point being on the northwesterly line of said Parcel 1, said point also being the beginning of a non-tangent curve concave northwesterly having a radius of 186.50 feet, a radial line to said point bears South 31°57'03" East; thence northeasterly 2.04 feet along said curve and said northwesterly line through a central angle 00°37'32" to the **True Point of Beginning**; thence South 01°24'32" West 63.97 feet to curve concave easterly having a radius of 6982.00 feet, a radial line to said curve bears North 88°35'28" West; thence southerly 30.17 feet along said curve through a central angle of 00°14'51" to a point on the westerly line of said Parcel 1; thence along said westerly and southwesterly line of said Parcel 1 through the following two courses:

1. South 00°19'29" West 39.92 feet to a curve concave northeasterly having a radius of 30.00 feet;

PSOMAS

2. southeasterly 12.66 feet along said curve through a central angle of $24^{\circ}10'36''$ to a non-tangent curve concave northeasterly having a radius of 30.00 feet; a radial line to said curve bears South $64^{\circ}05'26''$ West; thence southeasterly 34.87 feet along said curve through a central angle of $66^{\circ}36'00''$; thence South $02^{\circ}30'34''$ East 1.00 feet to a non-tangent curve concave northerly having a radius of 225.00 feet, a radial line to said curve bears South $01^{\circ}01'05''$ East; thence easterly 4.88 feet along said curve through a central angle of $01^{\circ}14'30''$; thence North $03^{\circ}02'56''$ West 4.00 feet to a non-tangent curve concave northerly having a radius of 221.00 feet, a radial line to said curve bears South $02^{\circ}14'44''$ East; thence westerly 5.13 feet along said curve through a central angle of $01^{\circ}19'49''$ to a compound curve concave northeasterly having a radius of 27.00 feet, a radial line to said curve bears South $00^{\circ}54'56''$ East; thence northwesterly 43.00 feet along said curve through a central angle of $91^{\circ}14'25''$; thence North $00^{\circ}19'29''$ East 116.92 feet; thence South $88^{\circ}35'28''$ East 8.41 feet; thence North $01^{\circ}24'32''$ East 23.33 feet to a point on the northwesterly line of said Parcel 1, said point being the beginning of a non-tangent curve concave northwesterly having a radius 186.50 feet, a radial line to said curve bears South $36^{\circ}22'08''$ East; thence southwesterly 12.34 feet along said curve and said northwesterly line through a central angle $03^{\circ}47'33''$ to the **True Point of Beginning**.

Containing 662 square feet.

See Exhibit 'G2' attached hereto and made a part hereof.

The distances shown herein are grid distances. Ground distances may be obtained by dividing grid distances by the combination factor of 0.99997837.

PSOMAS

1 This legal description was prepared by me or under my direction.

2 Peter J. Fitzpatrick

3 Peter J. Fitzpatrick, PLS 6777

4 Feb. 26, 2018

5 Date

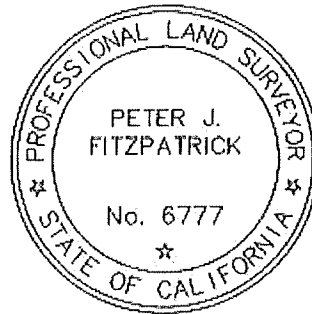
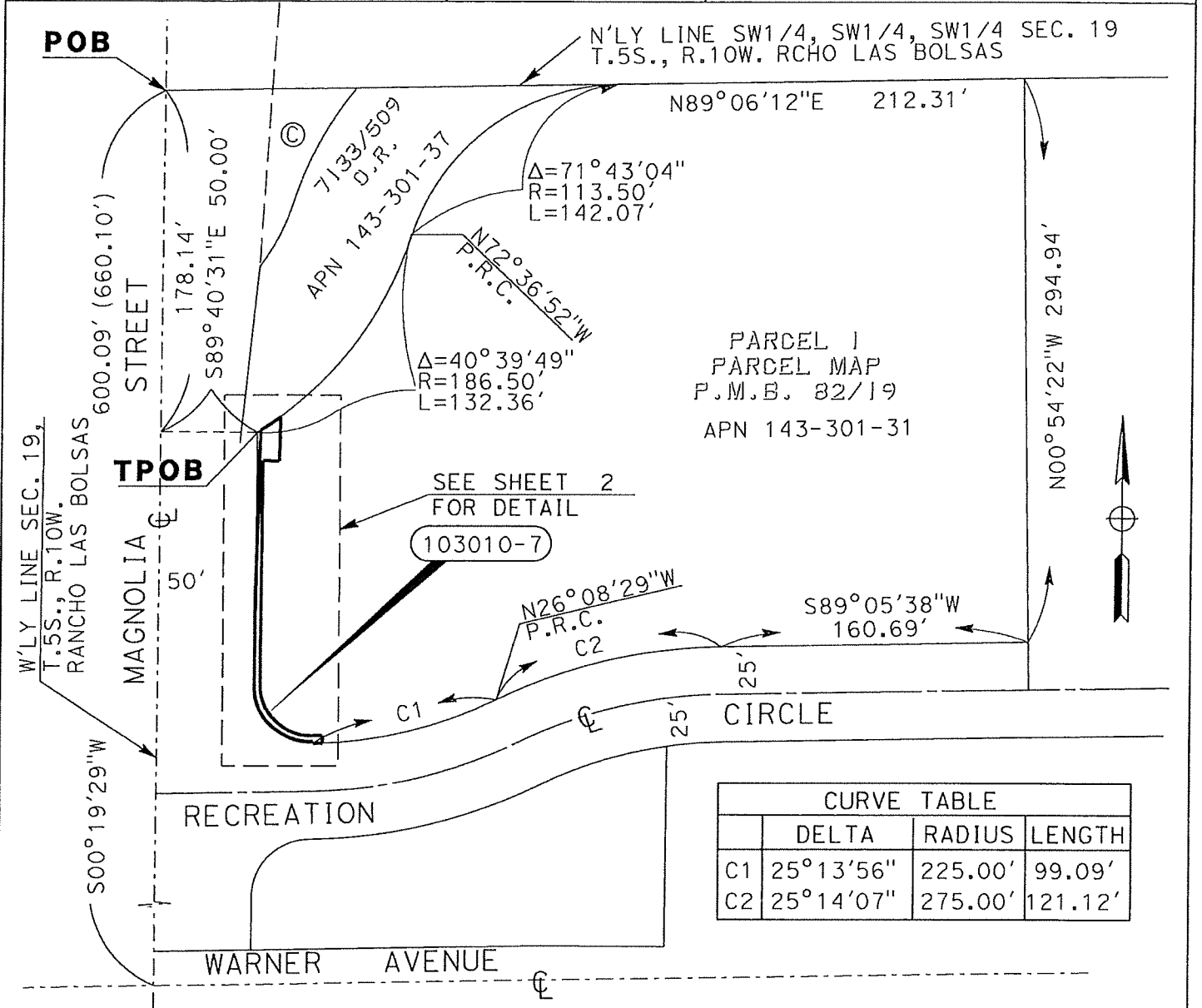


EXHIBIT G2

PARCEL#	TITLE	AREA	APN
103010-7	TCE	662 SF	143-301-31



LEGEND

- (R) Indicates Radial Bearing
- TPOB True Point of Beginning
- POB Point of Beginning
- Caltrans Parcel Number
- ▬ Access Prohibited

NOTE:

() INDICATES RECORD DIST.
PER P.M.B. 82/19

© INST. NO. 19980489925 O.R.
REC. 7/29/98 (APN 143-294-02)

NOTES

The distances shown herein are grid distances. Ground distances may be obtained by dividing grid distances by the combination factor of 0.99997837.

103010-7

TEMPORARY CONSTRUCTION EASEMENT



PREPARED BY:

PSOMAS

3 Hutton Centre Drive, Ste. 200
Santa Ana, California 92707
(714)751-7373/(714)545-8883 (Fax)

DATE: 04-09-15

REV.: 02-25-18

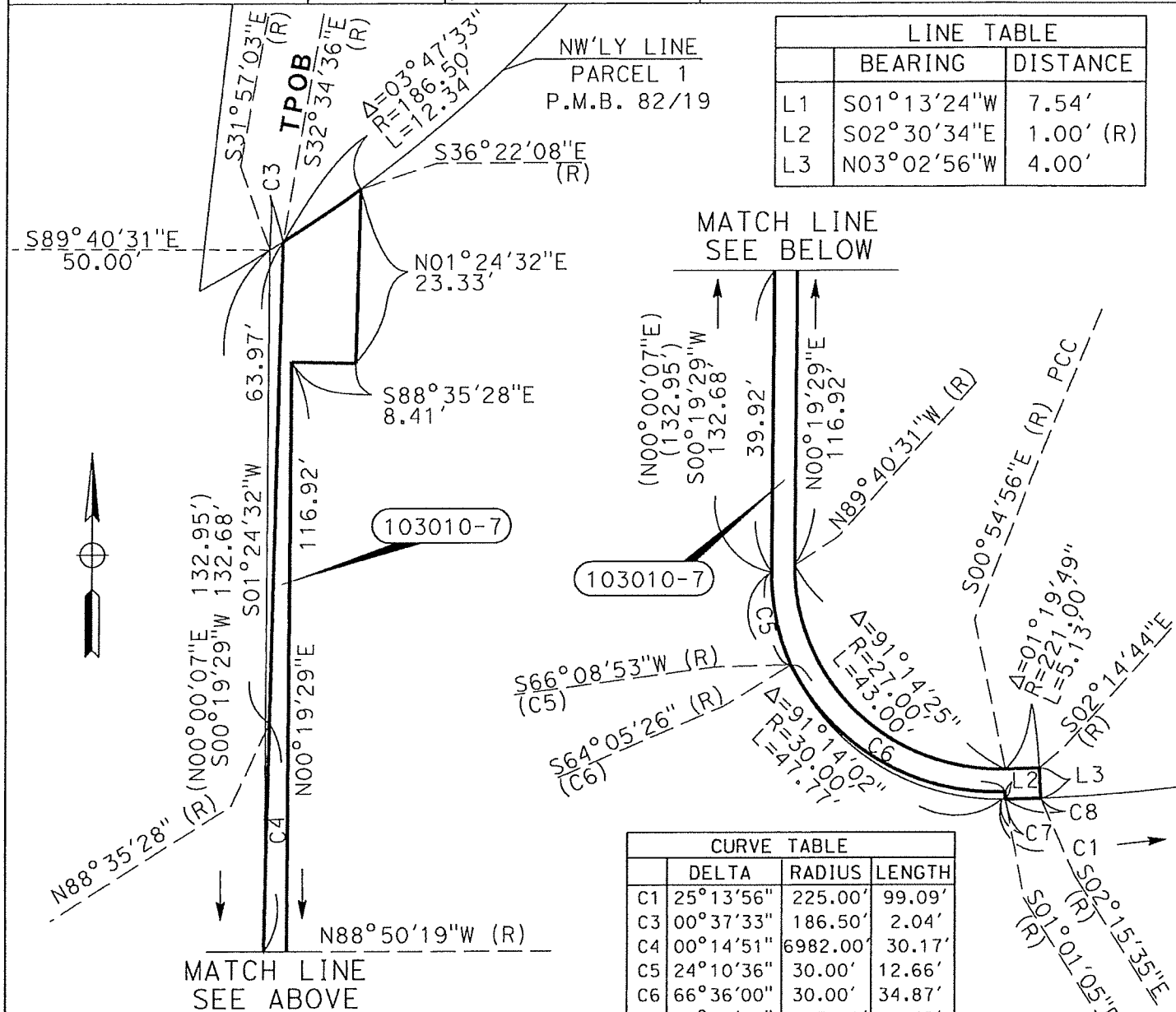
EA:

FA#:

DISTRICT	COUNTY	ROUTE	SHEET PM	SHEET NO.	TOTAL SHEETS
12	ORANGE	405	15.11	1	2

EXHIBIT G2

PARCEL#	TITLE	AREA	APN
103010-7	TCE	662 SF	143-301-31



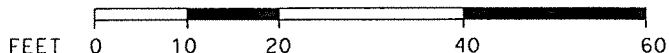
LEGEND	
(R)	Indicates Radial Bearing
TPOB	True Point of Beginning
POB	Point of Beginning
	Caltrans Parcel Number
	Access Prohibited

NOTES
The distances shown herein are grid distances. Ground distances may be obtained by dividing grid distances by the combination factor of 0.99997837.

DETAIL
SCALE 1"=20' () INDICATES RECORD DIST. PER P.M.B. 82/19

103010-7

TEMPORARY CONSTRUCTION EASEMENT



PREPARED BY: PSOMAS 3 Hutton Centre Drive, Ste. 200 Santa Ana, California 92707 (714)751-7373/(714)545-8883 (Fax)	DATE: 04-09-15		REV.: 02-25-18		EA: OF		FA#:	
	DISTRICT	COUNTY	ROUTE	SHEET PM	SHEET NO.	TOTAL SHEETS		
	12	ORANGE	405	15.11	2	2		

RESOLUTION NO. 2018-043

A RESOLUTION OF THE ORANGE COUNTY TRANSPORTATION AUTHORITY FINDING AND DETERMINING THAT THE PUBLIC INTEREST AND NECESSITY REQUIRE THE ACQUISITION BY EMINENT DOMAIN OF INTERESTS IN CERTAIN REAL PROPERTY FOR PUBLIC USE AND AUTHORIZING AND DIRECTING CONDEMNATION OF PORTIONS OF ASSESSOR PARCEL NO. 195-373-08.

WHEREAS, the Orange County Transportation Authority (the “Authority”) is undertaking the Interstate 405 (“I-405”) Improvement Project between State Route 73 and Interstate 605, a right-of-way for freeway purposes and all public uses appurtenant thereto (the “Project”); and

WHEREAS, the Project is intended to enhance road safety, increase freeway capacity, and improve traffic and interchange operations by adding general purpose and express lanes and making improvements to freeway entrances, exits and bridges; and

WHEREAS, the Project requires the acquisition of property interests from public and private parties; and

WHEREAS, the Project will be a transportation improvement project serving the public interest; and

WHEREAS, subsection (a) of the California Public Utilities Code section 130220.5, authorizes the Authority to exercise the power of eminent domain to acquire these property interests for public use by condemnation; and

WHEREAS, on May 11, 2015, the Authority’s Board of Directors authorized the Authority to acquire property interests for the Project; and

WHEREAS, portions of the real property located at 6951 Bolsa Avenue, in the City of Westminster, California (the “Subject Property”) are required for the Project. The specific portions of the Subject Property required for the Project include a partial fee interest as legally described in and depicted in Exhibit “1” hereto, a permanent footing easement as legally described in and depicted in Exhibit “2” hereto, a maintenance access easement as legally described in and depicted in Exhibit “3” hereto, and a temporary construction easement as legally described and depicted in Exhibit “4” hereto (collectively, the “Property Interests”); and

WHEREAS, reasonable vehicular and pedestrian access to and from the Subject Property will be maintained at all times; and

WHEREAS, the Authority communicated an offer of compensation to the owner or owners of record for the acquisition of the Property Interests; and

WHEREAS, in accordance with section 1245.235 of the California Code of Civil Procedure on February 9, 2018, the Authority mailed a Notice of Hearing on the Intent of the Authority to Adopt a Resolution of Necessity for acquisition by eminent domain of the Property Interests. The Notice of Hearing was mailed to the listed address of all persons whose names appear on the last equalized county assessment roll as having an interest in the Subject Property; and

WHEREAS, the Authority provided written notice to the City of Westminster as required by subsection (c) of California Public Utilities Code section 130220.5; and

WHEREAS, the Project, including all amendments thereto, together with the staff reports, environmental documents and all other evidence presented to the Authority's Board of Directors at the times the Project and the amendments thereto were adopted, are incorporated herein by this reference and made a part hereof as though fully set forth herein; and

WHEREAS, pursuant to section 1245.235 of the California Code of Civil Procedure, the Authority had previously scheduled a hearing for March 26, 2018 at 9:00 a.m. at 550 South Main Street, Orange, California and gave to each person whose property is to be acquired by eminent domain and whose name and address appears on the last equalized county assessment roll (the "Property Owner") notice and a reasonable opportunity to appear at said hearing and to be heard on the matters referred to in section 1240.030 of the California Code of Civil Procedure; and

WHEREAS, the resolution of necessity hearing was postponed from the March 26, 2018 date to give the Authority and the Property Owner time to negotiate for the potential voluntary acquisition of the Property Interests by OCTA from the Property Owner; and

WHEREAS, the parties continue to attempt to negotiate for a potential informal acquisition of the Property Interests by OCTA from the Property Owner; and

WHEREAS, due to time constraints, the Authority has rescheduled the hearing to consider the adoption of a resolution of necessity to acquire the Property Interests by eminent domain to **May 14, 2018** at 9:00 a.m. at 550 South Main Street, Orange, California pursuant to section 1245.235 of the California Code of Civil Procedure; and

WHEREAS, the Authority gave to the Property Owner and the City of Westminster notice of the continued hearing via letter dated April 30, 2018; and

WHEREAS, said hearing has been held by the Authority's Board of Directors and each person whose property is to be acquired by eminent domain was afforded an opportunity to be heard on those matters specified in the Authority's notice of intention to conduct a hearing on whether or not to adopt a Resolution of Necessity and referred to in section 1240.030 of the California Code of Civil Procedure; and

WHEREAS, the Authority may adopt a Resolution of Necessity pursuant to section 1240.040 of the California Code of Civil Procedure.

NOW, THEREFORE, BE IT RESOLVED, by at least a two-thirds vote of the Authority's Board of Directors under Code of Civil Procedure sections 1240.030 and 1245.230, the Authority does hereby find and determine as follows:

Section 1. Incorporation of Findings and Recitals. The above findings and recitals are true and correct and are incorporated herein in full by this reference.

Section 2. Compliance with California Code of Civil Procedure. There has been compliance by the Authority with the requirements of section 1245.235 of the California Code of Civil Procedure regarding notice and hearing.

Section 3. Public Use. The public use for which the interests in the property are to be acquired is for the construction and future maintenance of the Project, a public transportation improvement, as more fully described hereinabove. Subsection (a) of California Public Utilities Code section 130220.5 authorizes the Authority to acquire by eminent domain property and interests in property necessary for such purpose and for all uses incidental or convenient thereto.

Section 4. Necessity.

(a) The proposed Project is necessary to enhance road safety, increase freeway capacity, and improve traffic and interchange operations by adding general purpose and express lanes and making improvements to freeway entrances, exits and bridges; and

(b) The public interest and necessity require the acquisition by eminent domain proceedings of the Property Interests.

Section 5. Description of Property Interests. The Property Interests sought to be acquired are more particularly described and depicted in Exhibits "1" through "4" attached hereto and incorporated herein by reference.

Section 6. Findings. The Authority hereby finds, determines and declares each of the following:

- (a) The public interest and necessity require the proposed Project;
- (b) The proposed Project is planned or located in the manner that will be most compatible with the greatest public good and least private injury;
- (c) The Property Interests sought to be acquired are necessary for the proposed Project; and
- (d) The offer required by section 7267.2 of the California Government Code has been made to the owner or owners of record.

Section 7. Existing Public Use(s). Pursuant to sections 1240.510 and 1240.610 of the Code of Civil Procedure, to the extent that any of the real property to be acquired is already devoted to a public use, the use proposed by this Project is a more necessary public use than the use to which the real property, or any portion thereof, is already devoted, or, in the alternative, is a compatible public use which will not unreasonably interfere with or impair the continuance of the public use to which the real property, or any portion thereof, is already devoted.

Section 8. Authority to Exercise Eminent Domain. The Authority is hereby authorized and empowered to acquire a partial fee interest, a permanent footing easement, a maintenance access easement, and a temporary construction easement in the real property described and depicted in Exhibits “1” through “4” hereto, including the improvements thereon, if any, by eminent domain for the proposed Project.

Section 9. Further Activities. The Authority’s legal counsel (“Counsel”) is hereby authorized and empowered to acquire the Property Interests in the name of and on behalf of the Authority by eminent domain, and is authorized to institute and prosecute such legal proceedings as may be required in connection therewith. Counsel is further authorized to take such steps as may be permitted and required by law, and to make such security deposits as may be required by law and/or order of court, to permit the Authority to take possession of the Property Interests at the earliest possible time.

Section 10. Effective Date. This Resolution of Necessity shall take effect upon adoption.

PASSED, APPROVED, and ADOPTED on this _____ day of _____, 2018.

LISA A. BARTLETT, CHAIRWOMAN
ORANGE COUNTY
TRANSPORTATION AUTHORITY

APPROVED AS TO FORM:

JAMES M. DONICH
GENERAL COUNSEL

ATTEST:

I, Laurena Weinert, Clerk of the Board of Directors of the Orange County Transportation Authority, do hereby certify that the foregoing Resolution No. 2018-043, by the following votes:

AYES:

NOES:

ABSENT:

LAURENA WEINERT
CLERK OF THE BOARD

EXHIBIT “1”

**FEE ACQUISITION
ATTACHMENT TO LEGAL DESCRIPTION**

Assessor Parcel No.: 195-373-08

Caltrans Parcel No.: 103165-1

The Orange County Transportation Authority seeks to acquire the real property described in Exhibit "A1" and depicted in Exhibit "A2" attached hereto in fee simple absolute for the construction and use of the I-405 Improvement Project; provided, however, any and all abutter's rights, including access rights, appurtenant to said property shall be reserved and maintained for the benefit of the owner(s) and occupant(s) of the remaining property.

PSOMAS

EXHIBIT 'A1'

LEGAL DESCRIPTION

Caltrans Parcel No. 103165-1

Fee Acquisition

APN 195-373-08

In the City of Westminster, County of Orange, State of California, being a portion of Parcel 6 as per map filed in Book 51, Page 36 of Parcel Maps in the Office of the Recorder of said County, described as follows:

Beginning at the intersection of Goldenwest Street and Bolsa Avenue as shown on Record of Survey No. 86-1103 filed in Book 115, Pages 35 to 38, inclusive, of Records of Survey in the Office of the County Recorder of said County; thence North 89°29'55" West 373.62 feet along the centerline of said Bolsa Avenue to the southerly prolongation of the westerly line of said Parcel 6; thence North 00°30'05" East 324.91 feet along said prolongation and westerly line to the most northerly corner of said Parcel 6; thence South 54°22'53" East 69.57 feet along the northeasterly line of said Parcel 6 to the **True Point of Beginning**; thence continuing South 54°22'53" East 2.55 feet along said northeasterly line; thence North 89°52'47" West 16.29 feet; thence South 00°29'14" West 71.64 feet; thence North 89°30'46" West 1.48 feet; thence North 00°29'14" East 73.11 feet; thence South 89°52'47" East 15.69 feet to the **True Point of Beginning**.

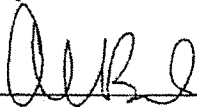
Containing 131 square feet.

See Exhibit 'A2' attached hereto and made a part hereof.

PSOMAS

The distances shown herein are grid distances. Ground distances may be obtained by dividing grid distances by the combination factor of 0.99997837.

Prepared under the direction of


Anna M. Beal, PLS 4955

6/15/15
Date

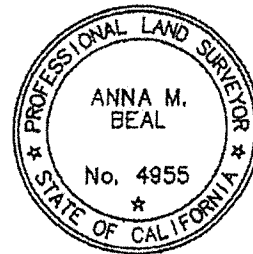


EXHIBIT A2

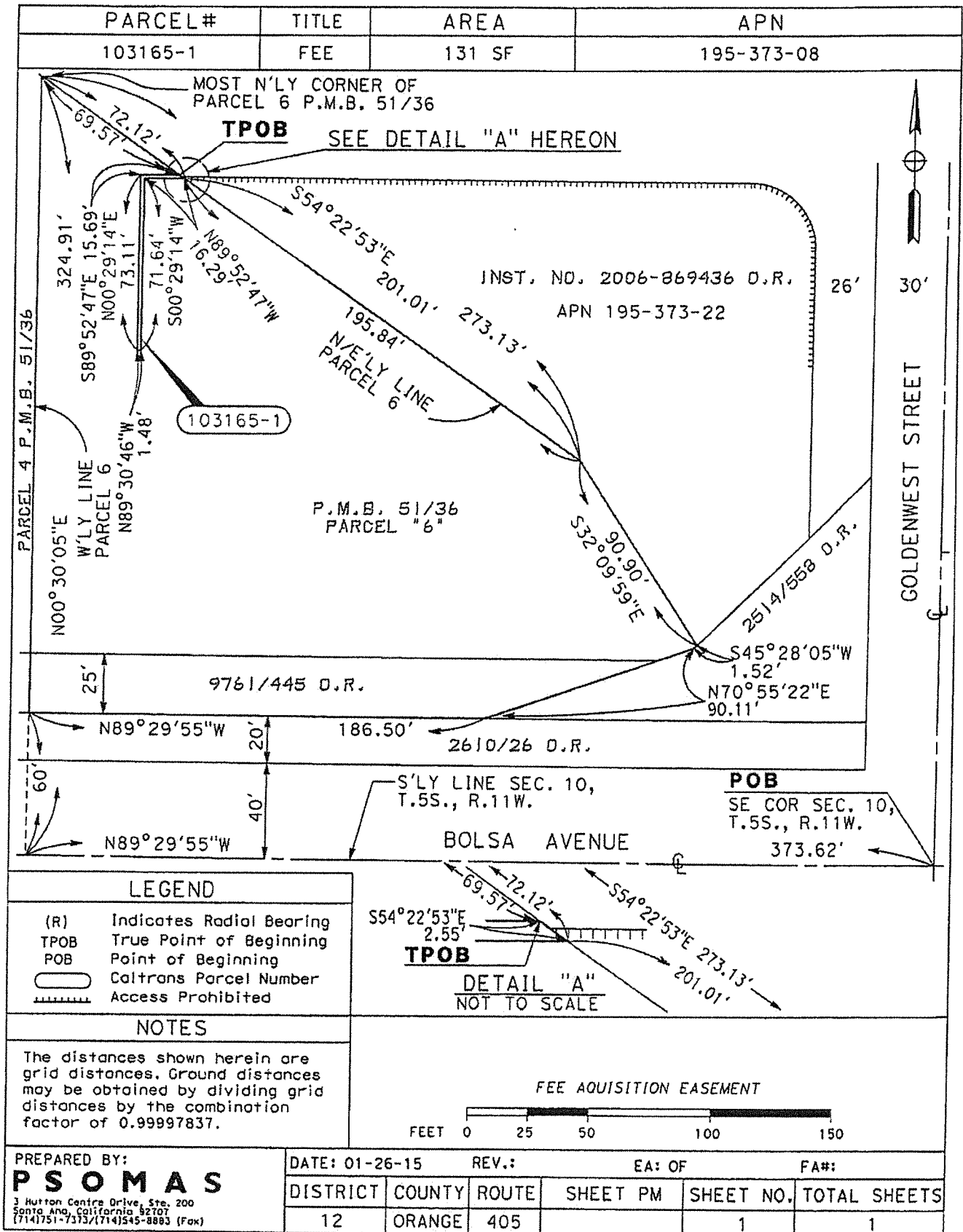


EXHIBIT “2”

**PERMANENT FOOTING EASEMENT
ATTACHMENT TO LEGAL DESCRIPTION**

Assessor Parcel No.: 195-373-08

Caltrans Parcel No.: 103165-2

The Orange County Transportation Authority seeks to acquire a non-exclusive permanent footing easement in, on and under the real property described in Exhibit "B1" and depicted in Exhibit "B2" attached hereto, subject to the rights and limitations described herein ("Footing Easement"). The Footing Easement shall be used by the Orange County Transportation Authority and its employees, agents, representatives, contractors, successors, and assigns (collectively, "OCTA") for purposes of constructing, maintaining, repairing, relocating, and adjusting, as applicable, subsurface footings and appurtenances thereto in connection with the construction of the I-405 Improvement Project.

The owner(s) and occupant(s) of the real property subject to the Footing Easement shall not construct any permanent improvements within the easement area described and depicted in the attached Exhibits "B1" and "B2," respectively, that would impede OCTA's rights as defined herein. OCTA will backfill to grade, with dirt, or will install pavement material, within that portion of the Footing Easement area affected by OCTA's work. The owner(s) and occupant(s) of the real property subject to the Footing Easement will have the right to use the surface of the easement area described and depicted in the attached Exhibits "B1" and "B2," respectively, for access or automobile parking purposes, once the subsurface footings are in place.

The rights and obligations of OCTA and the owner(s) of the real property subject to the Footing Easement shall run with the land and be binding upon and/or inure to the benefit of OCTA's and the property owner's respective heirs, successors and assigns.

OCTA expressly reserves the right to convey, transfer or assign the Footing Easement subject to the same rights and limitations described herein.

PSOMAS

EXHIBIT 'B1'

LEGAL DESCRIPTION

Caltrans Parcel No. 103165-2

Permanent Footing Easement

APN 195-373-08

In the City of Westminster, County of Orange, State of California, being a portion of Parcel 6 as per map filed in Book 51, Page 36 of Parcel Maps in the Office of the Recorder of said County, described as follows:

Beginning at the intersection of Goldenwest Street and Bolsa Avenue as shown on Record of Survey No. 86-1103 filed in Book 115, Pages 35 to 38, inclusive, of Records of Survey in the Office of the County Recorder of said County; thence North 89°29'55" West 373.62 feet along the centerline of said Bolsa Avenue to the southerly prolongation of the westerly line of said Parcel 6; thence North 00°30'05" East 324.91 feet along said prolongation and westerly line to the most northerly corner of said Parcel 6; thence South 54°22'53" East 72.12 feet along the northeasterly line of said Parcel 6 to the **True Point of Beginning**; thence continuing South 54°22'53" East 5.17 feet along said northeasterly line; thence North 89°52'47" West 17.52 feet; thence South 00°29'14" West 68.66 feet; thence North 89°30'46" West 3.00 feet; thence North 00°29'14" East 71.64 feet; thence South 89°52'47" East 16.29 feet to the **True Point of Beginning**.

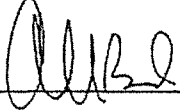
Containing 261 square feet.

See Exhibit 'B2' attached hereto and made a part hereof.

PSOMAS

The distances shown herein are grid distances. Ground distances may be obtained by dividing grid distances by the combination factor of 0.99997837.

Prepared under the direction of



Anna M. Beal, PLS 4955

6/15/15

Date

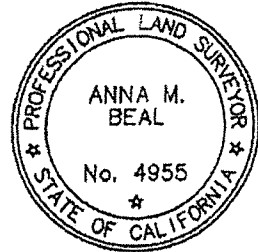


EXHIBIT B2

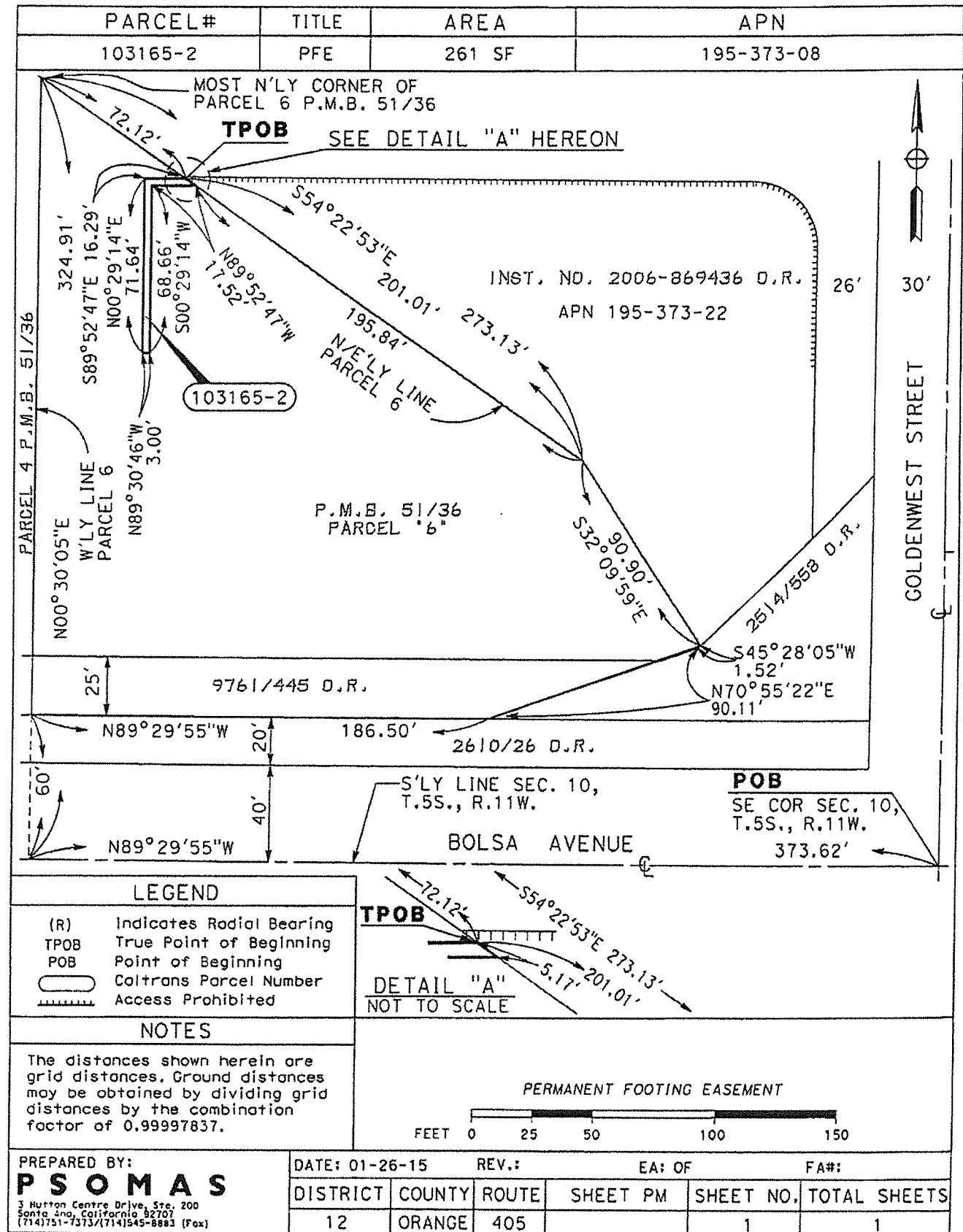


EXHIBIT “3”

**MAINTENANCE ACCESS EASEMENT
ATTACHMENT TO LEGAL DESCRIPTION**

Assessor Parcel No.: 195-373-08

Caltrans Parcel No.: 103165-3

The Orange County Transportation Authority seeks to acquire a non-exclusive maintenance access easement in, on and across the real property described in Exhibit "C1" and depicted in Exhibit "C2" attached hereto, subject to the rights and limitations described herein ("Access Easement"). The Access Easement shall be used by the Orange County Transportation Authority and its employees, agents, representatives, contractors, successors, and assigns (collectively, "OCTA") for the purpose of providing access to, and maintenance of, a retaining wall and appurtenances thereto constructed on the adjoining public right of way in connection with the I-405 Improvement Project.

The owner(s) and occupant(s) of the real property subject to the Access Easement shall not construct any permanent improvements within the easement area described and depicted in the attached Exhibits "C1" and "C2," respectively, that would impede OCTA's rights as defined herein, including without limitation, landscaping of the type that would prohibit or restrict reasonable pedestrian and vehicular access. OCTA's access to the Access Easement shall be limited to responding to emergency situations relating to the retaining wall and appurtenances thereto and periodic visual inspections, cleaning, and maintenance as may be necessary. The owner(s) and occupant(s) of the real property subject to the Access Easement will have the right to use the surface of the easement area described and depicted in the attached Exhibits "C1" and "C2," respectively, for access or automobile parking purposes.

The rights and obligations of OCTA and the owner(s) of the real property subject to the Access Easement shall run with the land and be binding upon and/or inure to the benefit of OCTA's and the property owner's respective heirs, successors and assigns.

OCTA expressly reserves the right to convey, transfer or assign the Access Easement subject to the same rights and limitations described herein.

PSOMAS

EXHIBIT 'C1'

LEGAL DESCRIPTION

Caltrans Parcel No. 103165-3

Maintenance Access Easement

APN 195-373-08

In the City of Westminster, County of Orange, State of California, being a portion of Parcel 6 as per map filed in Book 51, Page 36 of Parcel Maps in the Office of the Recorder of said County, described as follows:

Beginning at the intersection of Goldenwest Street and Bolsa Avenue as shown on Record of Survey No. 86-1103 filed in Book 115, Pages 35 to 38, inclusive, of Records of Survey in the Office of the County Recorder of said County; thence North 89°29'55" West 373.62 feet along the centerline of said Bolsa Avenue to the southerly prolongation of the westerly line of said Parcel 6; thence North 00°30'05" East 324.91 feet along said prolongation and westerly line to the most northerly corner of said Parcel 6; thence South 54°22'53" East 72.12 feet along the northeasterly line of said Parcel 6 to the **True Point of Beginning**; thence continuing South 54°22'53" East 25.83 feet along said northeasterly line; thence North 89°52'47" West 22.42 feet; thence South 00°29'14" West 56.74 feet; thence North 89°30'46" West 15.00 feet; thence North 00°29'14" East 71.64 feet; thence South 89°52'47" East 16.29 feet to the **True Point of Beginning**.

Containing 1,253 square feet.

See Exhibit 'C2' attached hereto and made a part hereof.

PSOMAS

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Prepared under the direction of

Jeremy L. Evans
Jeremy L. Evans, PLS 5282

9.22.16
Date

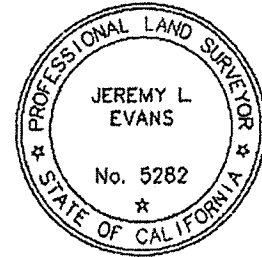


EXHIBIT C2

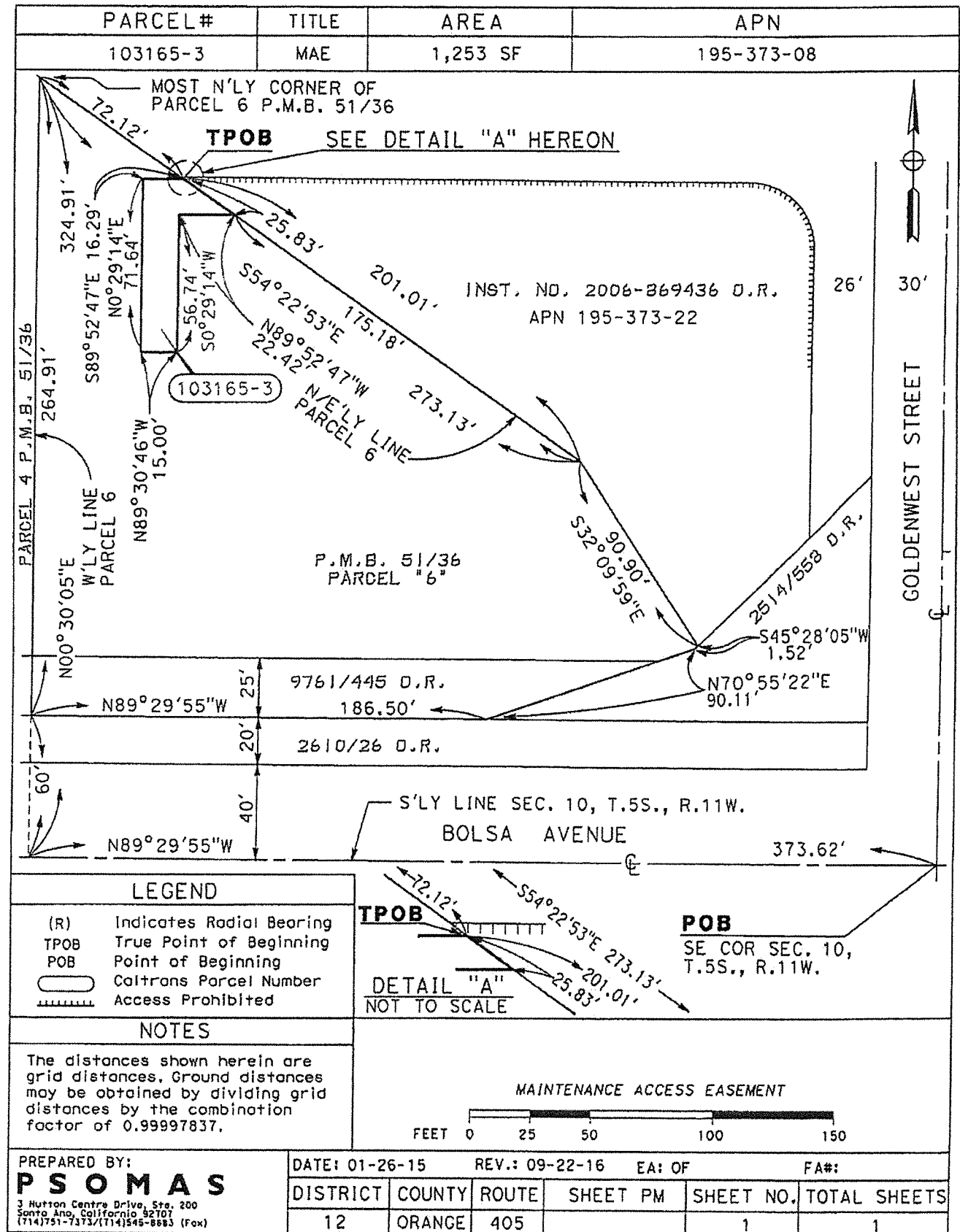


EXHIBIT “4”

**TEMPORARY CONSTRUCTION EASEMENT
ATTACHMENT TO LEGAL DESCRIPTION**

Assessor Parcel No.: 195-373-08

Caltrans Parcel No.: 103165-4

The Orange County Transportation Authority seeks to acquire a temporary construction easement within and upon the real property described in Exhibit "D1" and depicted in Exhibit "D2" attached hereto, subject to the rights and limitations described herein ("TCE"). The TCE shall be used by the Orange County Transportation Authority and its employees, agents, representatives, contractors, successors and assigns (collectively, "OCTA") in connection with the construction of the I-405 Improvement Project. The TCE shall be for a period of forty-eight (48) months, a portion of which shall be exclusive (subject to the limitations set forth below) and a portion of which shall be non-exclusive. Specifically, the actual physical construction activities within the TCE area shall be limited to a period of twenty-four (24) consecutive months within the forty-eight (48) month TCE period (hereinafter the "Construction Period"). During the Construction Period, OCTA's use and occupancy of the TCE will be exclusive, subject to the limitations set forth below. OCTA's use and occupancy of the TCE during the remaining twenty-four (24) months of the TCE period will be non-exclusive.

Rights and Restrictions of Use and Occupancy of TCE:

- OCTA shall provide the owner(s) and occupant(s) of the property subject to this TCE a minimum of thirty (30)-days written notice as to when the Construction Period will commence.
- At the commencement of Construction Period, OCTA may place a temporary fence around the TCE area, provided, however, reasonable pedestrian and vehicular access to the remaining property outside of the TCE area shall be maintained.
- Improvements within the TCE area will be removed as needed by OCTA to allow for construction activities. Any improvements so removed will either be replaced in kind or included in the compensation paid by OCTA.
- Prior to the termination of the Construction Period, OCTA will remove from the TCE area all construction equipment and materials including, without limitation, any temporary fence, any temporary improvements, and all construction-related debris. The TCE area will be backfilled to grade and functionally equivalent pavement material will be installed, as necessary, to restore it to a similar condition that existed prior to commencement of the construction activities.

OCTA expressly reserves the right to convey, transfer, or assign the TCE subject to the same rights and limitations described herein.

PSOMAS

EXHIBIT 'D1'

LEGAL DESCRIPTION

Caltrans Parcel No. 103165-4

Temporary Construction Easement

APN 195-373-08

In the City of Westminster, County of Orange, State of California, being a portion of Parcel 6 as per the map filed in Book 51, Page 36 of Parcel Maps, in the Office of the Recorder of said County, described as follows:

Beginning at the intersection of Goldenwest Street and Bolsa Avenue as shown on Record of Survey No. 86-1103 filed in Book 115, Pages 35 through 38 of Records of Survey in the Office of the County Recorder of said County; thence North 89°29'55" West 373.62 feet along the centerline of said Bolsa Avenue to the southerly prolongation of the westerly line of said Parcel 6; thence North 00°30'05" East 60.00 feet along said prolongation to the southwesterly corner of said Parcel 6; thence North 00°30'05" East 264.91 feet along said westerly line to the most northerly corner of said Parcel 6; thence South 54°22'53" East 72.05 feet along the northeasterly line of said Parcel 6 to the **True Point of Beginning**; thence continuing along said northeasterly line South 54°22'53" East 22.39 feet; thence North 89°52'47" West 21.60 feet; thence South 00°29'14" West 53.46 feet; thence North 89°26'19" East 15.52 feet; thence South 00°29'14" West 47.19 feet; thence North 88°38'47" West 17.48 feet; thence South 00°29'44" West 110.30 feet to the southerly line of said Parcel 6; thence along said southerly line North 89°29'55" West 10.49 feet; thence North 00°30'36" East 151.68 feet; thence North 89°30'46" West 0.59 feet; thence North 00°29'14" East 71.64 feet; thence South 89°52'47" East 16.29 feet to the **True Point of Beginning**.

Containing 3491 square feet.

PSOMAS

See Exhibit 'D2' attached hereto and made a part hereof.

The distances shown herein are grid distances. Ground distances may be obtained by dividing grid distances by the combination factor of 0.99997837.

This legal description was prepared by me or under my direction.

Peter J. Fitzpatrick

Peter J. Fitzpatrick, PLS 6777

May 31, 2017

Date

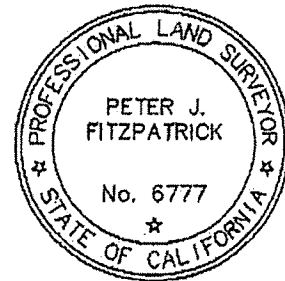
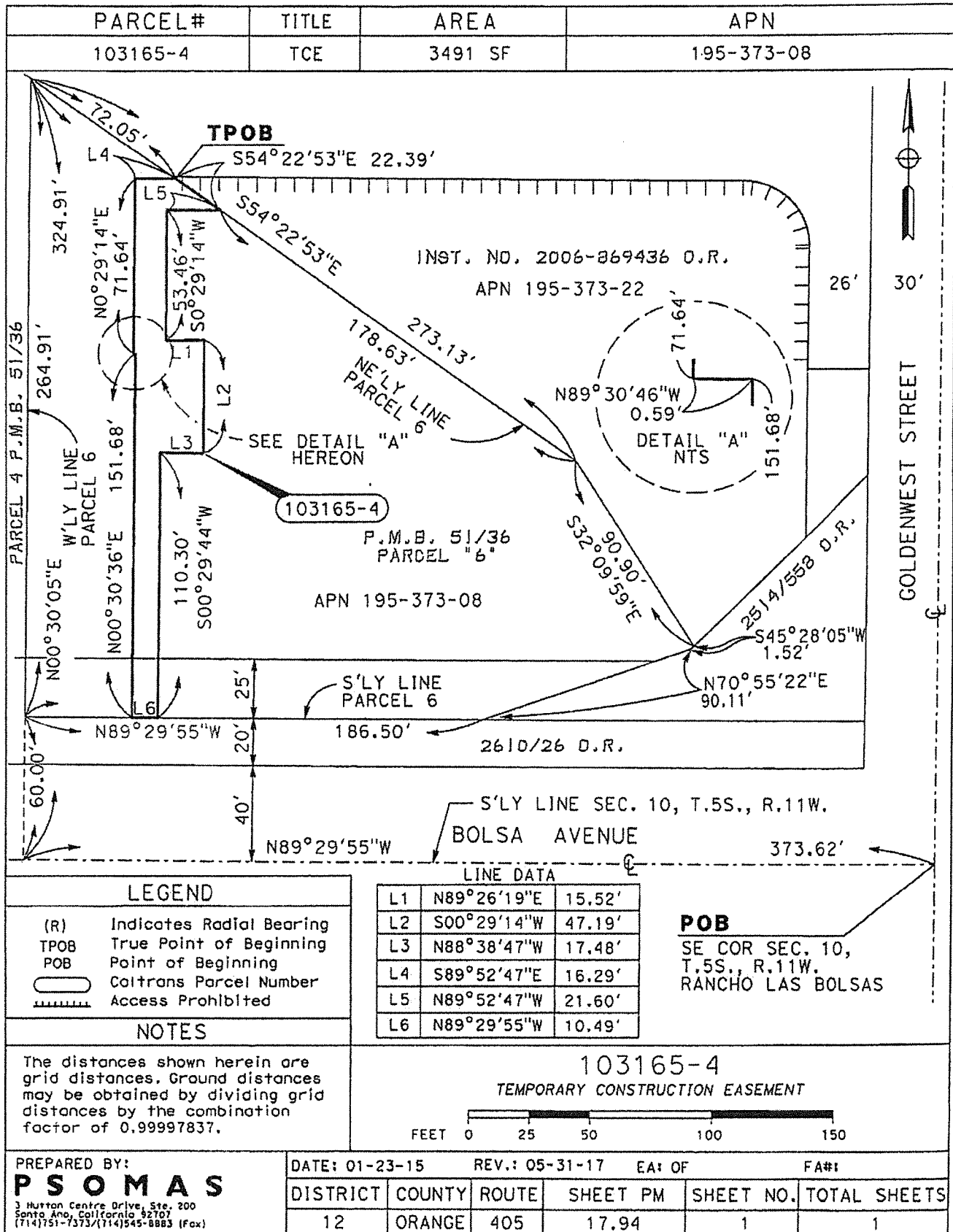


EXHIBIT D2



RESOLUTION NO. 2018-046

A RESOLUTION OF THE ORANGE COUNTY TRANSPORTATION AUTHORITY FINDING AND DETERMINING THAT THE PUBLIC INTEREST AND NECESSITY REQUIRE THE ACQUISITION BY EMINENT DOMAIN OF INTERESTS IN CERTAIN REAL PROPERTY FOR PUBLIC USE AND AUTHORIZING AND DIRECTING CONDEMNATION OF PORTIONS OF ASSESSOR PARCEL NO. 195-353-07

WHEREAS, the Orange County Transportation Authority (the “Authority”) is undertaking the Interstate-405 (“I-405”) Improvement Project between State Route 73 and Interstate 605, a right-of-way for freeway purposes and all public uses appurtenant thereto (the “Project”); and

WHEREAS, the Project is intended to enhance road safety, increase freeway capacity, and improve traffic and interchange operations by adding general purpose and express lanes and making improvements to freeway entrances, exits and bridges; and

WHEREAS, the Project requires the acquisition of property interests from public and private parties; and

WHEREAS, the Project will be a transportation improvement project serving the public interest; and

WHEREAS, subsection (a) of the California Public Utilities Code section 130220.5, authorizes the Authority to exercise the power of eminent domain to acquire these property interests for public use by condemnation; and

WHEREAS, on May 11, 2015, the Authority’s Board of Directors authorized the Authority to acquire property interests for the Project; and

WHEREAS, portions of the real property located at 14731 Goldenwest Street in the City of Westminster, California (the “Subject Property”) are required for the Project. The specific portions of the Subject Property required for the Project include a fee interest as legally described and depicted in Exhibit “A” attached hereto; a temporary construction easement as legally described and depicted in Exhibit “B” attached hereto; and a temporary construction easement as legally described and depicted in Exhibit “C” attached hereto (collectively, the “Property Interests”); and

WHEREAS, reasonable vehicular and pedestrian access to and from the Subject Property will be maintained at all times; and

WHEREAS, the Authority communicated an offer of compensation to the owner or owners of record for the acquisition of the Property Interests; and

WHEREAS, in accordance with section 1245.235 of the California Code of Civil Procedure on February 9, 2018, the Authority mailed a Notice of Hearing on the Intent of the Authority to Adopt a Resolution of Necessity for acquisition by eminent domain of the Property Interests. The Notice of Hearing was mailed to the listed address of all persons whose names appear on the last equalized county assessment roll as having an interest in the Subject Property; and

WHEREAS, the Authority provided written notice to the City of Westminster as required by subsection (c) of California Public Utilities Code section 130220.5; and

WHEREAS, the Project, including all amendments thereto, together with the staff reports, environmental documents and all other evidence presented to the Authority's Board of Directors at the times the Project and the amendments thereto were adopted, are incorporated herein by this reference and made a part hereof as though fully set forth herein; and

WHEREAS, pursuant to section 1245.235 of the California Code of Civil Procedure, the Authority had previously scheduled a hearing for March 26, 2018, at 9:00 am at 550 South Main Street, Orange, California and gave to each person whose property is to be acquired by eminent domain and whose name and address appears on the last equalized county assessment roll notice and a reasonable opportunity to appear at said hearing and to be heard on the matters referred to in section 1240.030 of the California Code of Civil Procedure; and

WHEREAS, the resolution of necessity hearing was postponed from the March 26, 2018 date to give the Authority and the Property Owner time to negotiate for the potential voluntary acquisition of the Property Interests by OCTA from the Property Owner; and

WHEREAS, the parties continue to attempt to negotiate for a potential informal acquisition of the Property Interests by OCTA from the Property Owner; and

WHEREAS, due to time constraints, the Authority has rescheduled the hearing to consider the adoption of a resolution of necessity to acquire the Property Interests by eminent domain to **May 14, 2018** at 9:00 a.m. at 550 South Main Street, Orange, California pursuant to section 1245.235 of the California Code of Civil Procedure; and

WHEREAS, the Authority gave to the Property Owner and the City of Westminster notice of the continued hearing via letter dated April 18, 2018; and

WHEREAS, said hearing has been held by the Authority's Board of Directors and each person whose property is to be acquired by eminent domain was afforded an opportunity to be heard on those matters specified in the Authority's notice of intention to conduct a hearing on whether or not to adopt a Resolution of Necessity and referred to in section 1240.030 of the California Code of Civil Procedure; and

WHEREAS, the Authority may adopt a Resolution of Necessity pursuant to section 1240.040 of the California Code of Civil Procedure.

NOW, THEREFORE, BE IT RESOLVED, by at least a two-thirds vote of the Authority's Board of Directors under Code of Civil Procedure sections 1240.030 and 1245.230, the Authority does hereby find and determine as follows:

Section 1. Incorporation of Findings and Recitals. The above findings and recitals are true and correct and are incorporated herein in full by this reference.

Section 2. Compliance with California Code of Civil Procedure. There has been compliance by the Authority with the requirements of section 1245.235 of the California Code of Civil Procedure regarding notice and hearing.

Section 3. Public Use. The public use for which the interests in the property are to be acquired is for the construction and future maintenance of the Project, a public transportation improvement, as more fully described hereinabove. Subsection (a) of California Public Utilities Code section 130220.5 authorizes the Authority to acquire by eminent domain property and interests in property necessary for such purpose and for all uses incidental or convenient thereto.

Section 4. Necessity.

(a) The proposed Project is necessary to enhance road safety, increase freeway capacity, and improve traffic and interchange operations by adding general purpose and express lanes and making improvements to freeway entrances, exits and bridges; and

(b) The public interest and necessity require the acquisition by eminent domain proceedings of the Property Interests.

Section 5. Description of Property Interests. The Property Interests sought to be acquired are more particularly described and depicted in Exhibits “A,” “B,” and “C” attached hereto and incorporated herein by reference.

Section 6. Findings. The Authority hereby finds, determines and declares each of the following:

- (a) The public interest and necessity require the proposed Project;
- (b) The proposed Project is planned or located in the manner that will be most compatible with the greatest public good and least private injury;
- (c) The Property Interests sought to be acquired are necessary for the proposed Project; and
- (d) The offer required by section 7267.2 of the California Government Code has been made to the owner or owners of record.

Section 7. Existing Public Use(s). Pursuant to sections 1240.510 and 1240.610 of the Code of Civil Procedure, to the extent that any of the real property to be acquired is already devoted to a public use, the use proposed by this Project is a more necessary public use than the use to which the real property, or any portion thereof, is already devoted, or, in the alternative, is a compatible public use which will not unreasonably interfere with or impair the continuance of the public use to which the real property, or any portion thereof, is already devoted.

Section 8. Authority to Exercise Eminent Domain. The Authority is hereby authorized and empowered to acquire a partial fee interest and two temporary construction easements as described and depicted in Exhibits “A,” “B,” and “C” attached hereto, including the improvements thereon, if any, by eminent domain for the proposed Project.

Section 9. Further Activities. The Authority’s legal counsel (“Counsel”) is hereby authorized and empowered to acquire the Property Interests in the name of and on behalf of the Authority by eminent domain, and is authorized to institute and prosecute such legal proceedings as may be required in connection therewith. Counsel is further authorized to take such steps as may be permitted and required by law, and to make such security deposits as may be required by law and/or order of court, to permit the Authority to take possession of the Property Interests at the earliest possible time.

Section 10. Effective Date. This Resolution of Necessity shall take effect upon adoption.

PASSED, APPROVED, and ADOPTED on this _____ day of _____, 2018.

LISA A. BARTLETT, CHAIRWOMAN
ORANGE COUNTY
TRANSPORTATION AUTHORITY

APPROVED AS TO FORM:

JAMES M. DONICH
GENERAL COUNSEL

ATTEST:

I, Laurena Weinert, Clerk of the Board of Directors of the Orange County Transportation Authority, do hereby certify that the foregoing Resolution No. 2018-046, by the following votes:

AYES:

NOES:

ABSENT:

LAURENA WEINERT
CLERK OF THE BOARD

EXHIBIT “A”

PSOMAS

EXHIBIT 'A1'

LEGAL DESCRIPTION

Caltrans Parcel No. 103174-1

FEE

APN 195-353-07

That portion of Tract No. 685, in the City of Westminster, County of Orange, State of California, per the map filed in Book 26, Page 6 of Miscellaneous Maps in the office of the County Recorder of said County, described as follows:

Commencing at the centerline intersection of Sowell Avenue and Goldenwest Street as shown on Tract No. 2038, per the map filed in Book 78, pages 41 through 43 of said Miscellaneous Maps; thence South 00°27'27" West 129.90 feet along the centerline of said Goldenwest Street to the easterly prolongation of the southerly line of said Tract No. 2038; thence North 89°30'48" West 67.64 feet along said easterly prolongation and the southerly line of Lot 1 of said Tract 2038 to the westerly line of Parcel 9 as shown on the map recorded June 23, 1966 in State Highway Map Book No. 4, Pages 12 through 22, in the office of said County Recorder; thence along the westerly lines of said Parcel 9, South 06°07'16" West 288.59 feet and South 58°51'38" West 36.95 feet to the intersection with the southwesterly line of the land described in a document recorded February 20, 1970 in Book 9222, Page 203 of Official Records in the office of said County Recorder and the True Point of Beginning; thence North 44°01'55" West 58.73 feet along said southwesterly line; thence leaving said southwesterly line South 45°21'52" East 18.39 feet; thence South 46°30'37" East 40.89 feet to the westerly line of said Parcel 9; thence South 58°51'38" West 2.25 feet along said westerly line to the True Point of Beginning.

Containing 57 square feet.

See Exhibit 'A2' attached hereto and made a part hereof.

PSOMAS

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2 This conveyance is made for the purpose of a freeway and the Grantor hereby releases
3 and relinquishes to the Grantee any and all abutter's rights or access, appurtenant to
4 Grantor's remaining property, in and to said freeway
5

6 The distances shown herein are grid distances. Ground distances may be obtained by
7 dividing grid distances by the combination factor of 0.99997837.
8

9 This legal description was prepared by me or under my direction.
10

11 Peter J. Fitzpatrick
12

13 Peter J. Fitzpatrick, PLS 6777
14

15 June 1, 2017
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17 Date
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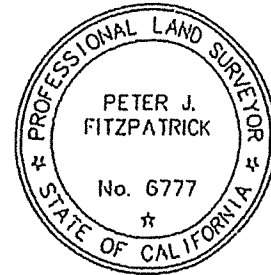
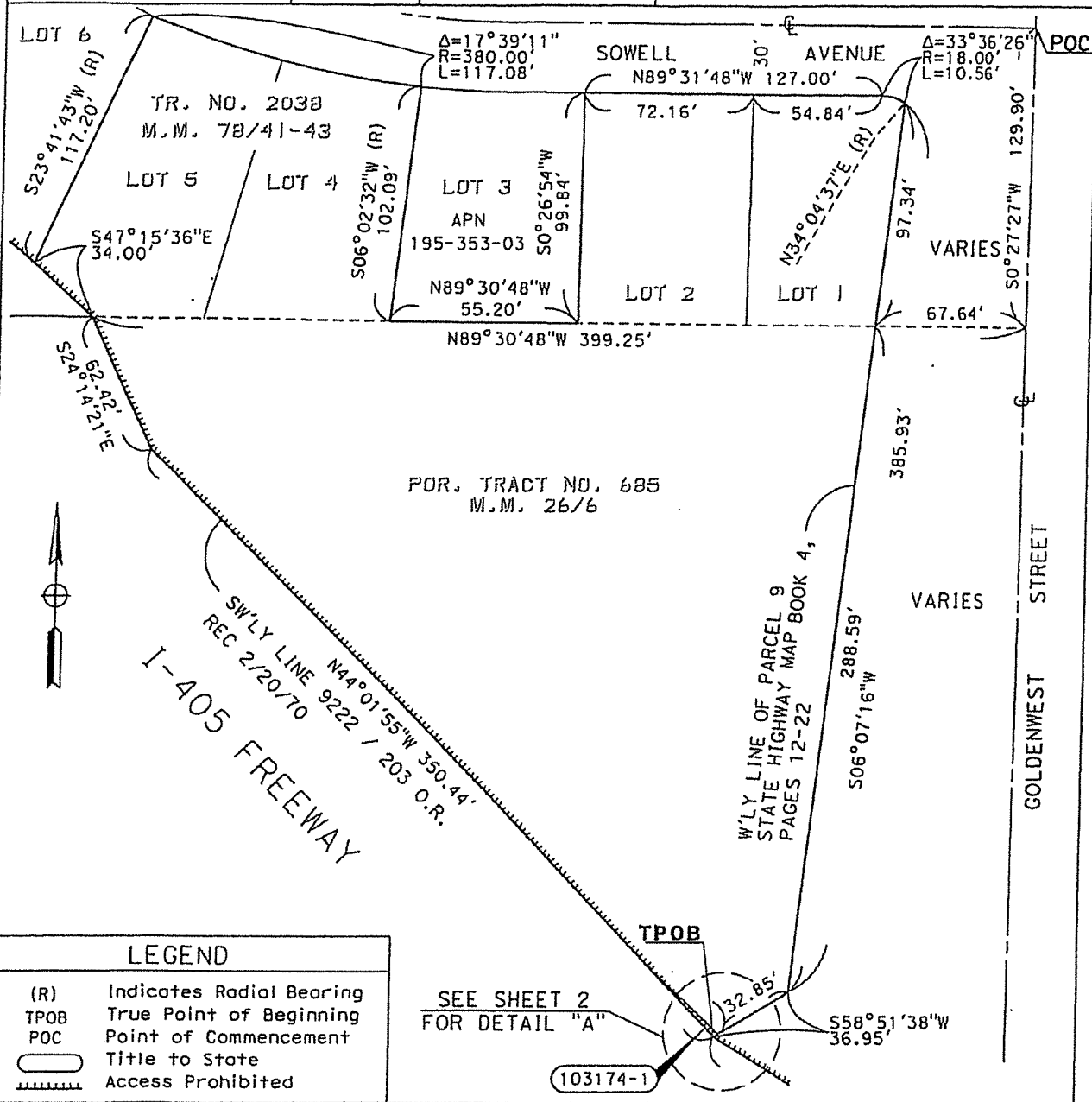


EXHIBIT A2

PARCEL#	TITLE	AREA	APN
103174-1	FEE	57 SF	195-353-07



LEGEND	
(R)	Indicates Radial Bearing
TPOB	True Point of Beginning
POC	Point of Commencement
	Title to State
	Access Prohibited

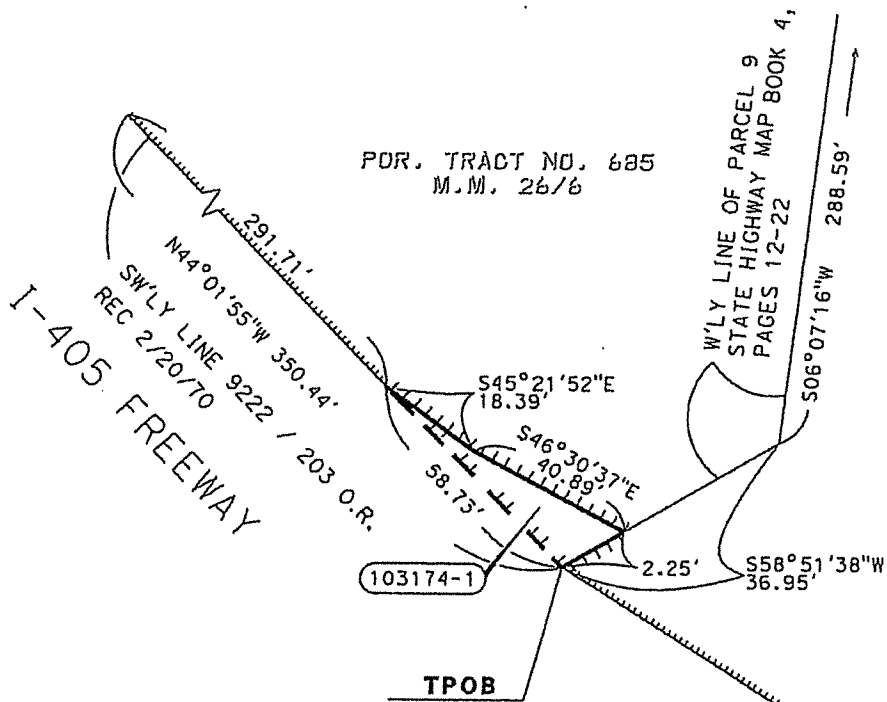
NOTES
The distances shown herein are grid distances. Ground distances may be obtained by dividing grid distances by the combination factor of 0.99997837.

103174-1
FEE ACQUISITION
FEET 0 30 60 120 240

PREPARED BY: PSOMAS 3 Hutton Centre Drive, Ste. 200 Santa Ana, California 92707 (714)751-7373/(714)545-8883 (Fax)	DATE: 4/12/17		REV.: 06/01/17		EA:	FA#:
	DISTRICT	COUNTY	ROUTE	SHEET PM	SHEET NO.	TOTAL SHEETS
	12	ORANGE	405	18.00	1	2



EXHIBIT A2

PARCEL#	TITLE	AREA	APN
103174-1	FEE	57 SF	195-353-07



DETAIL "A"
NOT TO SCALE

LEGEND

(R)	Indicates Radial Bearing
TPOB	True Point of Beginning
POC	Point of Commencement
	Title to State
	Access Prohibited

NOTES

The distances shown herein are grid distances. Ground distances may be obtained by dividing grid distances by the combination factor of 0.99997837.

103174-1

FEE ACQUISITION

NOT TO SCALE

PREPARED BY:

P S O M A S

3 Hutton Centro Drive, Ste. 200
Santa Ana, California 92707
(714)751-7373/(714)545-8883 (Fax)

DATE: 4/12/17

REV.: 06/01/17

EA:

FA#:

DISTRICT

COUNTY

ROUTE

SHEET PM

SHEET NO.

TOTAL SHEETS

12

ORANGE

405

18.00

2

2

EXHIBIT “B”

**TEMPORARY CONSTRUCTION EASEMENT
ATTACHMENT TO LEGAL DESCRIPTION**

Assessor Parcel Nos.: 195-353-07

Caltrans Parcel No.: 103174-2

The Orange County Transportation Authority seeks to acquire a temporary construction easement within and upon the real property described in Exhibit "B1" and depicted in Exhibit "B2" attached hereto, subject to the rights and limitations described herein ("TCE"). The TCE shall be used by the Orange County Transportation Authority and its employees, agents, representatives, contractors, successors and assigns (collectively, "OCTA") in connection with the construction of the I-405 Improvement Project. The TCE shall be for a period of forty-eight (48) months, a portion of which shall be exclusive (subject to the limitations set forth below) and a portion of which shall be non-exclusive. Specifically, the actual physical construction activities within the TCE area shall be limited to a period of twenty-four (24) consecutive months within the forty-eight (48) month TCE period (hereinafter the "Construction Period"). During the Construction Period, OCTA's use and occupancy of the TCE will be exclusive, subject to the limitations set forth below. OCTA's use and occupancy of the TCE during the remaining twenty-four (24) months of the TCE period will be non-exclusive. OCTA will access the TCE from existing public right-of-way.

Rights and Restrictions of Use and Occupancy of TCE:

- OCTA shall provide the owner and occupants of the property subject to this TCE a minimum of thirty (30)-days written notice as to when the Construction Period will commence.
- At the commencement of Construction Period, OCTA will place a temporary fence around the TCE area, provided, however, reasonable pedestrian and vehicular access to the remaining property outside of the TCE area shall be maintained.
- Improvements within the TCE area will be removed as needed by OCTA to allow for construction activities, with the exception of one existing sign which will be sheltered in place. Any improvements so removed will either be replaced in kind or included in the compensation paid by OCTA.
- Prior to the termination of the Construction Period, OCTA will remove from the TCE area all construction equipment and materials including, without limitation, the temporary fence, any temporary improvements, and all construction-related debris. The TCE area will be graded and compacted to restore it to a condition that is as functionally equivalent as is practicable to its condition prior to commencement of the construction activities.

OCTA expressly reserves the right to convey, transfer, or assign the TCE subject to the same rights and limitations described herein.

PSOMAS

EXHIBIT 'B1'

LEGAL DESCRIPTION

Caltrans Parcel No. 103174-2

Temporary Construction Easement

APN 195-353-07

That portion of Tract No. 685, in the City of Westminster, County of Orange, State of California, per the map filed in Book 26, Page 6 of Miscellaneous Maps in the office of the County Recorder of said County, described as follows:

Commencing at the centerline intersection of Sowell Avenue and Goldenwest Street as shown on Tract No. 2038, per the map filed in Book 78, pages 41 through 43 of said Miscellaneous Maps; thence South 00°27'27" West 129.90 feet along the centerline of said Goldenwest Street to the easterly prolongation of the southerly line of said Tract No. 2038; thence North 89°30'48" West 67.64 feet along said easterly prolongation and the southerly line of Lot 1 of said Tract 2038 to the westerly line of Parcel 9 as shown on the map recorded June 23, 1966 in State Highway Map Book No. 4, Pages 12 through 22, in the office of said County Recorder; thence along the westerly lines of said Parcel 9, South 06°07'16" West 288.59 feet and South 58°51'38" West 36.95 feet to the intersection with the southwesterly line of the land described in a document recorded February 20, 1970 in Book 9222, Page 203 of Official Records in the office of said County Recorder; thence North 44°01'55" West 58.73 feet along said southwesterly line to the True Point of Beginning; thence leaving said southwesterly line South 45°21'52" East 18.39 feet; thence South 46°30'37" East 40.89 feet to the westerly line of said Parcel 9; thence North 58°51'38" East 1.85 feet along said westerly line; thence leaving said westerly line North 44°01'55" West 362.47 feet to the southwesterly line of the land described in said Book 9222, Page 203; thence along said southwesterly lines, South 24°14'21" East 11.81 feet and South 44°01'55" East 291.71 feet to the True Point of Beginning.

PSOMAS

Containing 1,369 square feet.

See Exhibit 'B2' attached hereto and made a part hereof.

The distances shown herein are grid distances. Ground distances may be obtained by dividing grid distances by the combination factor of 0.99997837.

This legal description was prepared by me or under my direction.

Peter J. Fitzpatrick

Peter J. Fitzpatrick, PLS 6777

June 1, 2017

Date

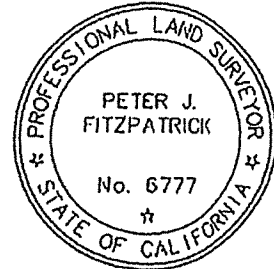
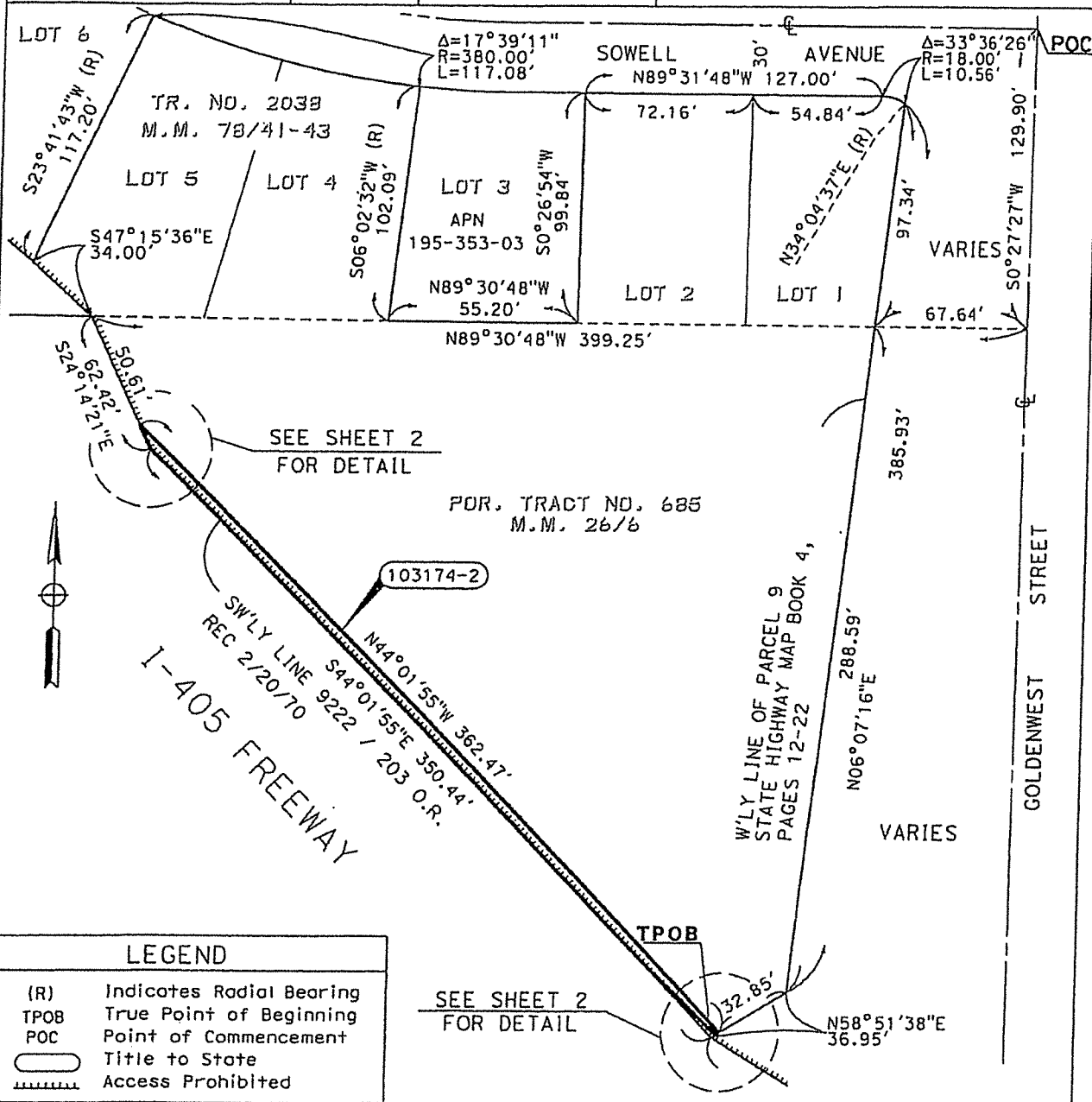


EXHIBIT B2

PARCEL#	TITLE	AREA	APN
103174-2	TCE	1,369 SF	195-353-07



LEGEND	
(R)	Indicates Radial Bearing
TPOB	True Point of Beginning
POC	Point of Commencement
	Title to State
	Access Prohibited

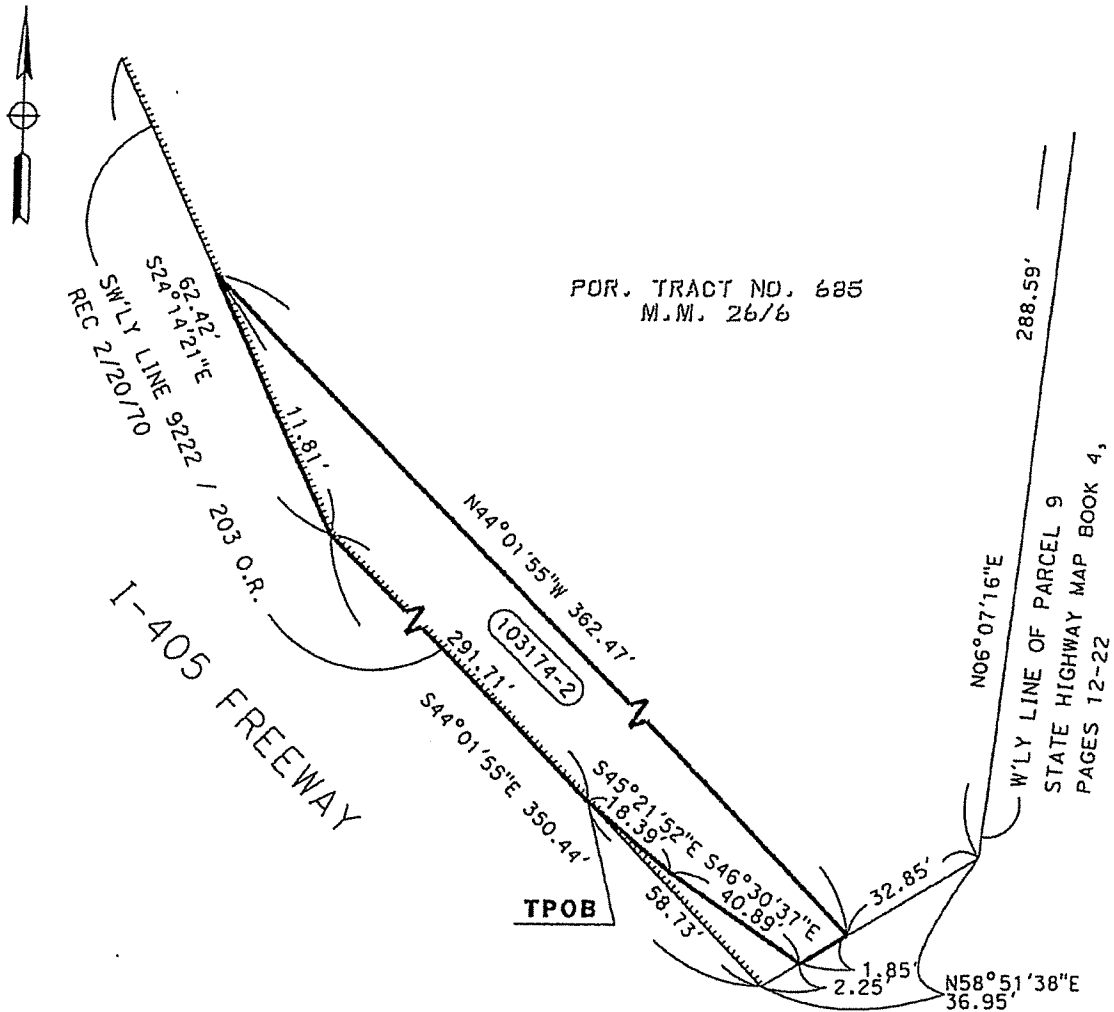
NOTES
The distances shown herein are grid distances. Ground distances may be obtained by dividing grid distances by the combination factor of 0.99997837.

SEE SHEET 2 FOR DETAIL	
103174-2	
TEMPORARY CONSTRUCTION EASEMENT	

PREPARED BY: PSOMAS 3 Hutton Centre Drive, Ste. 200 Santa Ana, California 92701 (714)751-7373 / (714)545-8853 (Fax)	DATE: 4/11/17		REV.: 06/01/17		EA:	FA#:
	DISTRICT	COUNTY	ROUTE	SHEET PM	SHEET NO.	TOTAL SHEETS
	12	ORANGE	405	18.00	1	2

EXHIBIT B2

PARCEL#	TITLE	AREA	APN
103174-2	TCE	1,369 SF	195-353-07



LEGEND

(R)	Indicates Radial Bearing
TPOB	True Point of Beginning
POC	Point of Commencement
	Title to State
	Access Prohibited

DETAIL

NOT TO SCALE

NOTES

The distances shown herein are grid distances. Ground distances may be obtained by dividing grid distances by the combination factor of 0.99997837.

103174-2

TEMPORARY CONSTRUCTION EASEMENT

NOT TO SCALE

PREPARED BY:

PSOMAS

3 Hutton Centre Drive, Ste. 200
Santa Ana, California 92707
(714)751-7373/(714)545-8883 (Fax)

DATE: 4/11/17

REV.: 06/01/17

EA:

FA#:

DISTRICT

COUNTY

ROUTE

SHEET PM

SHEET NO.

TOTAL SHEETS

12

ORANGE

405

18.00

2

2

EXHIBIT “C”

**TEMPORARY CONSTRUCTION EASEMENT
ATTACHMENT TO LEGAL DESCRIPTION**

Assessor Parcel Nos.: 195-353-07

Caltrans Parcel No.: 103174-3

The Orange County Transportation Authority seeks to acquire a temporary construction easement within and upon the real property described in Exhibit "C1" and depicted in Exhibit "C2" attached hereto, subject to the rights and limitations described herein ("TCE"). The TCE shall be used by the Orange County Transportation Authority and its employees, agents, representatives, contractors, successors and assigns (collectively, "OCTA") in connection with the construction of the I-405 Improvement Project. The TCE shall be for a period of forty-eight (48) months, a portion of which shall be exclusive (subject to the limitations set forth below) and a portion of which shall be non-exclusive. Specifically, the actual physical construction activities within the TCE area shall be limited to a period of six (6) consecutive months within the forty-eight (48) month TCE period (hereinafter the "Construction Period"). During the Construction Period, OCTA's use and occupancy of the TCE will be exclusive, subject to the limitations set forth below. OCTA's use and occupancy of the TCE during the remaining forty-two (42) months of the TCE period will be non-exclusive.

Rights and Restrictions of Use and Occupancy of TCE:

- OCTA shall provide the owner and occupants of the property subject to this TCE a minimum of thirty (30)-days written notice as to when the Construction Period will commence.
- At the commencement of Construction Period, OCTA may place a temporary fence around the TCE area, provided during the Construction Period, at least one-half of the width of the existing driveway within the TCE area will remain open at all times.
- OCTA will use the TCE to adjust any grade differentials between the remaining property and adjoining public right-of-way and/or perform any necessary matchwork within the TCE area.
- Improvements within the TCE area will be removed as needed by OCTA to allow for construction activities. Any improvements so removed will either be replaced in kind or included in the compensation paid by OCTA.
- Prior to the termination of the Construction Period, OCTA will remove from the TCE area all construction equipment and materials including, without limitation, any temporary fence, any temporary improvements, and all construction-related debris. The TCE area will be graded and compacted to restore it to a condition that is as functionally equivalent as is practicable to its condition prior to commencement of the construction activities.

OCTA expressly reserves the right to convey, transfer, or assign the TCE subject to the same rights and limitations described herein.

PSOMAS

EXHIBIT 'C1'

LEGAL DESCRIPTION

Caltrans Parcel No. 103174-3

Temporary Construction Easement

APN 195-353-07

That portion of Lot 1 of Tract No. 2038 as per map filed in Book 78, Pages 41 through 43 of Miscellaneous Maps and that portion of Tract No. 685 as per map filed in Book 26, Page 6, in the City of Westminster, County of Orange, State of California in the Office of the County Recorder of said County, described as follows:

Commencing at the centerline intersection of Sowell Avenue and Goldenwest Street as shown on said map, thence South 00°27'27" West 129.90 feet along the centerline of said Goldenwest Street to the easterly prolongation of the southerly line of said Lot 1; thence North 89°30'48" West 67.64 feet along said easterly prolongation and the southerly line of said Lot 1 to the westerly line of Parcel 9 as shown on the map recorded in State Highway Map Book No. 4 Pages 12 through 22, in the office of County Recorder; thence along said westerly line South 06°07'16" West 9.72 to the **True Point of Beginning**; thence leaving said westerly line North 83°52'44" West 40.00 feet; thence North 06°07'16" East 72.88 feet; thence South 83°52'44" East 40.00 feet to said westerly line; thence along said westerly line South 06°07'16" West 72.88 to the **True Point of Beginning**.

Containing 2915 square feet.

See Exhibit 'C2' attached hereto and made a part hereof.

PSOMAS

The distances shown herein are grid distances. Ground distances may be obtained by dividing grid distances by the combination factor of 0.99997837.

This legal description was prepared by me or under my direction.

Peter J. Fitzpatrick

Peter J. Fitzpatrick, PLS 6777

Nov. 13, 2017

Date

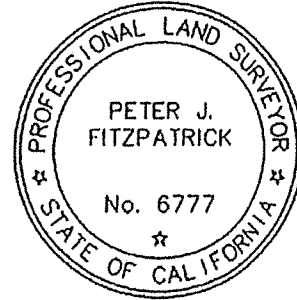
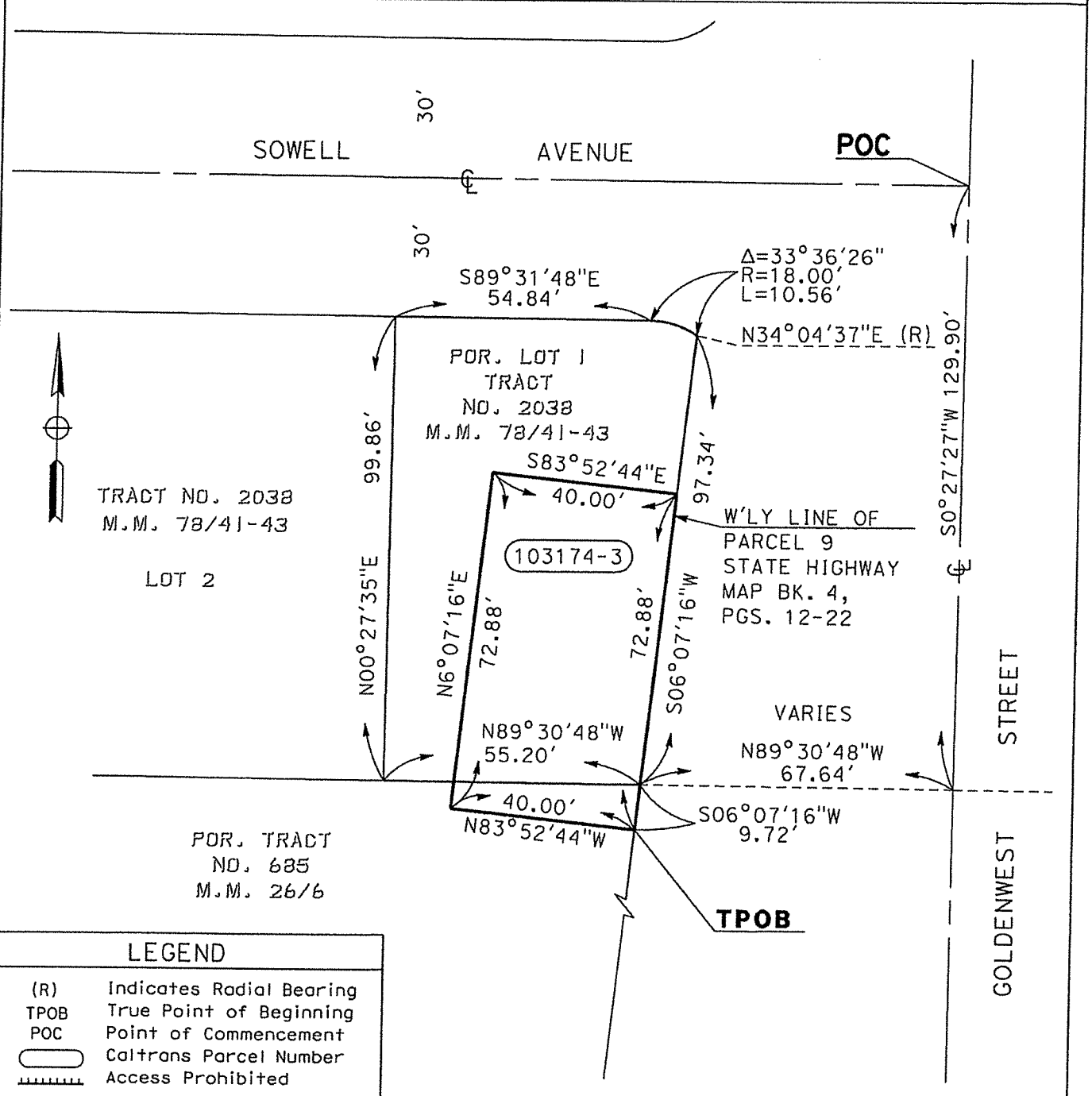


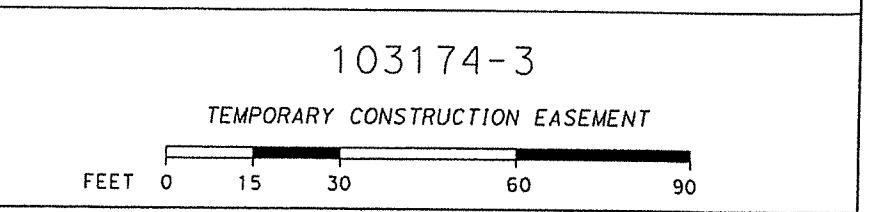
EXHIBIT C2

PARCEL#	TITLE	AREA	APN
103174-3	TCE	2915 SF	195-353-07



NOTES

The distances shown herein are grid distances. Ground distances may be obtained by dividing grid distances by the combination factor of 0.99997837.



PREPARED BY: PSOMAS 3 Hutton Centre Drive, Ste. 200 Santa Ana, California 92707 (714)751-7373/(714)545-8883 (Fax)		DATE: 06/01/17		REV.: 11/13/17		EA:		FA#:	
DISTRICT	COUNTY	ROUTE	SHEET PM		SHEET NO.		TOTAL SHEETS		
12	ORANGE	405	18.00		1		1		

3 Hutton Centre Drive, Ste. 200
Santa Ana, California 92707
(714)751-7373/(714)545-8883 (Fax)

RESOLUTION NO. 2018-051

A RESOLUTION OF THE ORANGE COUNTY TRANSPORTATION AUTHORITY FINDING AND DETERMINING THAT THE PUBLIC INTEREST AND NECESSITY REQUIRE THE ACQUISITION BY EMINENT DOMAIN OF INTERESTS IN CERTAIN REAL PROPERTY FOR PUBLIC USE AND AUTHORIZING AND DIRECTING CONDEMNATION OF PORTIONS OF ASSESSOR PARCEL NOS. 139-661-26 AND 139-661-27.

WHEREAS, the Orange County Transportation Authority (the "Authority") is undertaking the Interstate 405 ("I-405") Improvement Project between State Route 73 and Interstate 605, a right-of-way for freeway purposes and all public uses appurtenant thereto (the "Project"); and

WHEREAS, the Project is intended to enhance road safety, increase freeway capacity, and improve traffic and interchange operations by adding general purpose and express lanes and making improvements to freeway entrances, exits and bridges; and

WHEREAS, the Project requires the acquisition of property interests from public and private parties; and

WHEREAS, the Project will be a transportation improvement project serving the public interest; and

WHEREAS, subsection (a) of the California Public Utilities Code section 130220.5, authorizes the Authority to exercise the power of eminent domain to acquire these property interests for public use by condemnation; and

WHEREAS, on May 11, 2015, the Authority's Board of Directors authorized the Authority to acquire property interests for the Project; and

WHEREAS, portions of the real property located on the north side of the I-405 Freeway, east of Santa Ana River Channel, in the City of Costa Mesa, California (the "Subject Property") are required for the Project. The specific portions of the Subject Property required for the Project include a permanent highway easement as legally described in and depicted in Exhibit "A" hereto and a temporary construction easement as legally described and depicted in Exhibit "B" hereto (collectively, the "Property Interests"); and

WHEREAS, reasonable vehicular and pedestrian access to and from the Subject Property will be maintained at all times; and

WHEREAS, the Authority communicated an offer of compensation to the owner or owners of record for the acquisition of the Property Interests; and

WHEREAS, in accordance with section 1245.235 of the California Code of Civil Procedure on March 30, 2018, the Authority mailed a Notice of Hearing on the Intent of the Authority to Adopt a Resolution of Necessity for acquisition by eminent domain of the Property Interests. The Notice of Hearing was mailed to the listed address of all persons whose names appear on the last equalized county assessment roll as having an interest in the Subject Property; and

WHEREAS, the Authority provided written notice to the City of Costa Mesa as required by subsection (c) of California Public Utilities Code section 130220.5; and

WHEREAS, the Project, including all amendments thereto, together with the staff reports, environmental documents and all other evidence presented to the Authority's Board of Directors at the times the Project and the amendments thereto were adopted, are incorporated herein by this reference and made a part hereof as though fully set forth herein; and

WHEREAS, pursuant to section 1245.235 of the California Code of Civil Procedure, the Authority scheduled a hearing for May 14, 2018 at 9:00 am at 550 South Main Street, Orange, California and gave to each person whose property is to be acquired by eminent domain and whose name and address appears on the last equalized county assessment roll notice and a reasonable opportunity to appear at said hearing and to be heard on the matters referred to in section 1240.030 of the California Code of Civil Procedure; and

WHEREAS, said hearing has been held by the Authority's Board of Directors and each person whose property is to be acquired by eminent domain was afforded an opportunity to be heard on those matters specified in the Authority's notice of intention to conduct a hearing on whether or not to adopt a Resolution of Necessity and referred to in section 1240.030 of the California Code of Civil Procedure; and

WHEREAS, the Authority may adopt a Resolution of Necessity pursuant to section 1240.040 of the California Code of Civil Procedure.

NOW, THEREFORE, BE IT RESOLVED, by at least a two-thirds vote of the Authority's Board of Directors under Code of Civil Procedure sections 1240.030 and 1245.230, the Authority does hereby find and determine as follows:

Section 1. Incorporation of Findings and Recitals. The above findings and recitals are true and correct and are incorporated herein in full by this reference.

Section 2. Compliance with California Code of Civil Procedure. There has been compliance by the Authority with the requirements of section 1245.235 of the California Code of Civil Procedure regarding notice and hearing.

Section 3. Public Use. The public use for which the interests in the property are to be acquired is for the construction and future maintenance of the Project, a public transportation improvement, as more fully described hereinabove. Subsection (a) of California Public Utilities Code section 130220.5 authorizes the Authority to acquire by eminent domain property and interests in property necessary for such purpose and for all uses incidental or convenient thereto.

Section 4. Necessity.

(a) The proposed Project is necessary to enhance road safety, increase freeway capacity, and improve traffic and interchange operations by adding general purpose and express lanes and making improvements to freeway entrances, exits and bridges; and

(b) The public interest and necessity require the acquisition by eminent domain proceedings of the Property Interests.

Section 5. Description of Property Interests. The property interests sought to be acquired are more particularly described and depicted in Exhibits "A" and "B" attached hereto and incorporated herein by reference.

Section 6. Findings. The Authority hereby finds, determines and declares each of the following:

(a) The public interest and necessity require the proposed Project;

(b) The proposed Project is planned or located in the manner that will be most compatible with the greatest public good and least private injury;

(c) The Property Interests sought to be acquired are necessary for the proposed Project; and

(d) The offer required by section 7267.2 of the California Government Code has been made to the owner or owners of record.

Section 7. Existing Public Use(s). Pursuant to sections 1240.510 and 1240.610 of the Code of Civil Procedure, to the extent that any of the real property to be acquired is already devoted to a public use, the use proposed by this Project is a more necessary public use than the use to which the real property, or any portion thereof, is already devoted, or, in the alternative, is

a compatible public use which will not unreasonably interfere with or impair the continuance of the public use to which the real property, or any portion thereof, is already devoted.

Section 8. Authority to Exercise Eminent Domain. The Authority is hereby authorized and empowered to acquire one permanent highway easement and one temporary construction easement in the real property described and depicted in Exhibits "A" and "B" hereto, including the improvements thereon, if any, by eminent domain for the proposed Project.

Section 9. Further Activities. The Authority's legal counsel ("Counsel") is hereby authorized and empowered to acquire the Property Interests in the name of and on behalf of the Authority by eminent domain, and is authorized to institute and prosecute such legal proceedings as may be required in connection therewith. Counsel is further authorized to take such steps as may be permitted and required by law, and to make such security deposits as may be required by law and/or order of court, to permit the Authority to take possession of the Property Interests at the earliest possible time.

Section 10. Effective Date. This Resolution of Necessity shall take effect upon adoption.

PASSED, APPROVED, and ADOPTED on this _____ day of _____, 2018.

LISA A. BARTLETT, CHAIRWOMAN
ORANGE COUNTY
TRANSPORTATION AUTHORITY

APPROVED AS TO FORM:

JAMES M. DONICH
GENERAL COUNSEL

ATTEST:

I, Laurena Weinert, Clerk of the Board of Directors of the Orange County Transportation Authority, do hereby certify that the foregoing Resolution No. 2018-051, by the following votes:

AYES:

NOES:

ABSENT:

LAURENA WEINERT
CLERK OF THE BOARD

EXHIBIT "A"

PSOMAS

EXHIBIT 'A1' LEGAL DESCRIPTION

Caltrans Parcel No. 102901-1

Permanent Highway Easement

APN 139-661-26 & 139-661-27

That portion of the Northwest quarter of Section 33, Township 5 South, Range 10 West, in the Rancho Las Bolsas, in the City of Costa Mesa, County of Orange, State of California, as per map recorded in Book 51, Page 12 of Miscellaneous Maps in the office of the County Recorder of said county and described as Parcel 2 in a Grant Deed to Southern California Edison recorded July 24, 1956 in Book 3588, Page 491, described in a Grant Deed to Southern California Edison recorded May 29, 1962 in Book 6126, Page 789 and described in a Grant Deed to Southern California Edison recorded November 19, 1971 in Book 9895, Page 837 all of Official Records in the office of said County Recorder, described as follows:

Commencing at the most northerly corner of Parcel 43 as per the map filed in Book 160, Pages 22 through 26 of Parcel Maps in the Office of said County Recorder; thence South 30°03'18" West 1172.42 feet along the northwesterly line of said Parcel 43 to the **True Point of Beginning**; thence continuing South 30°03'18" West 4.55 feet along the northwesterly line of said Parcel 43 to the most westerly corner of said Parcel 43, said corner also being on the northeasterly lines of the lands described to the State of California recorded September 14, 1962 in Book 6248, Page 591 and recorded June 23, 1976 in Book 11783, Page 731 both of said Official Records; thence along said northeasterly lines, North 61°34'42" West 18.28 feet and North 62°56'31" West 96.86 feet to the northwesterly line of hereinabove described Parcel 2 in said Grant Deed to Southern California Edison; thence North 30°03'18" East 3.14 feet along said northwesterly line; thence leaving said northwesterly line, South 63°25'26" East 115.21 feet to the **True Point of Beginning**.

PSOMAS

This conveyance is made for the purpose of a freeway and the GRANTOR hereby releases and relinquishes to the GRANTEE any and all abutter's rights including access rights, appurtenant to GRANTOR's remaining property, in and to the freeway.

Containing 421 square feet.

See Exhibit 'A2' attached hereto and made a part hereof.

The distances shown herein are grid distances. Ground distances may be obtained by dividing grid distances by the combination factor of 0.99997837.

Prepared under the direction of



Brian E. Bullock, PLS 5260

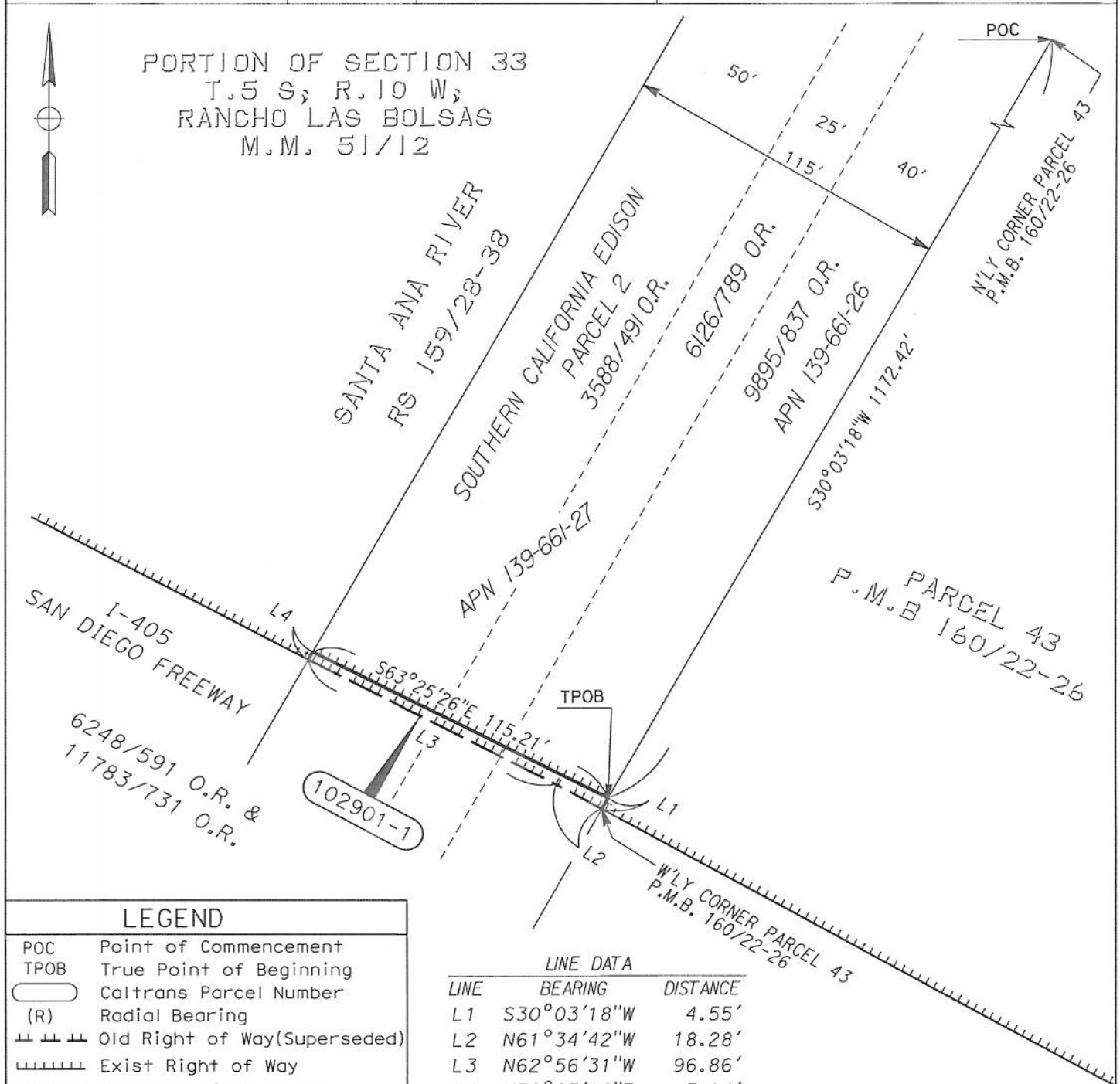
6-30-16

Date



EXHIBIT A2

PARCEL#	TITLE	AREA	APN
102901-1	PHE	421 SF	139-661-26 & 27



LEGEND

POC	Point of Commencement
TPOB	True Point of Beginning
	Caltrans Parcel Number
(R)	Radial Bearing
	Old Right of Way(Superseded)
	Exist Right of Way
	Proposed Right of Way
	Access Prohibited

NOTES

The distances shown herein are grid distances. Ground distances may be obtained by dividing grid distances by the combination factor of 0.99997837.

PERMANENT HIGHWAY EASEMENT



PREPARED BY:

PSOMAS

3 Hutton Centre Drive, Ste. 200
Santa Ana, California 92707
(714)751-7373/(714)545-8883 (Fax)

DATE: 04-25-16

REV.: 06-30-16

EA: OF

FA#:

DISTRICT	COUNTY	ROUTE	SHEET PM	SHEET NO.	TOTAL SHEETS
12	ORANGE	405	12.35	1	1

EXHIBIT "B"

**TEMPORARY CONSTRUCTION EASEMENT
ATTACHMENT TO LEGAL DESCRIPTION
Assessor Parcel No.: 139-661-26, 139-661-27
Caltrans Parcel No.: 102901-2**

This temporary construction easement shall be in, on, over, under, and across that certain real property described in Exhibit "B1" and depicted in Exhibit "B2" attached hereto, subject to the rights and limitations set forth herein ("TCE"). The TCE shall be used by the Orange County Transportation Authority and its employees, agents, representatives, contractors, successors and assigns (collectively, "OCTA") in connection with the construction of the I-405 Improvement Project. The TCE shall be for a period of forty-eight (48) months, a portion of which shall be exclusive (subject to the rights and limitations set forth below) and a portion of which shall be non-exclusive. Specifically, the actual physical construction activities within the TCE area shall be limited to a period of twenty-four (24) consecutive months within the forty-eight (48) month TCE period (the "Construction Period"). During the Construction Period, OCTA's use and occupancy of the TCE will be exclusive, subject to the rights and limitations set forth below. OCTA's use and occupancy of the TCE during the remaining twenty-four (24) months of the TCE period will be non-exclusive.

Rights and Limitations of Use and Occupancy of TCE:

- OCTA shall provide the owner(s) and occupant(s) of the property subject to this TCE a minimum of thirty (30)-days written notice as to when the Construction Period will commence.
- During the Construction Period, OCTA may place a temporary fence around the TCE area, provided however, no fence will be placed around or across the Santa Ana River Trail within the TCE area.
- Reasonable pedestrian and vehicular access to the property and Santa Ana River Trail shall be maintained at all times.
- Access to the TCE area shall be from the public right of way.
- Except as to those improvements identified below as being protected in place, improvements within the TCE area will be removed as needed by OCTA to allow for construction activities. All improvements so removed shall be included in the compensation paid by OCTA for this TCE.
- The following improvements within the TCE area will be protected in place:
 - SCE Power Transmission Poles
- Prior to the termination of the Construction Period, OCTA will remove from the TCE area all construction equipment and materials including, without limitation, any temporary fence, any temporary improvements, and all construction-related debris. The TCE area will be backfilled to grade and functionally equivalent pavement material will be installed to restore it to a similar condition that existed prior to commencement of the construction activities.

OCTA expressly reserves the right to convey, transfer, or assign the TCE subject to the same rights and limitations described herein.

PSOMAS

EXHIBIT 'B1'

LEGAL DESCRIPTION

Caltrans Parcel No. 102901-2

Temporary Construction Easement

APN 139-661-26 & 139-661-27

That portion of the Northwest quarter of Section 33, Township 5 South, Range 10 West, in the Rancho Las Bolsas, in the City of Costa Mesa, County of Orange, State of California, as per map recorded in Book 51, Page 12 of Miscellaneous Maps in the office of the County Recorder of said county and described as Parcel 2 in a Grant Deed to Southern California Edison recorded July 24, 1956 in Book 3588, Page 491, described in a Grant Deed to Southern California Edison recorded May 29, 1962 in Book 6126, Page 789 and described in a Grant Deed to Southern California Edison recorded November 19, 1971 in Book 9895, Page 837 all of Official Records in the office of said County Recorder, described as follows:

Commencing at the most northerly corner of Parcel 43 as per the map filed in Book 160, Pages 22 through 26, of Parcel Maps in the Office of said County Recorder; thence South 30°03'18" West 1172.42 feet along the northwesterly line of said Parcel 43 to the **True Point of Beginning**; thence leaving said northwesterly line North 63°25'26" West 115.21 feet to the northwesterly line of hereinabove described Parcel 2 in said Grant Deed to Southern California Edison; thence North 30°03'18" East 52.41 feet along said northwesterly line; thence leaving said northwesterly line, South 62°39'06" East 115.13 feet to said northwesterly line of said Parcel 43; thence South 30°03'18" West, 50.86 feet along said northwesterly line to the **True Point of Beginning**.

Containing 5,938 square feet.

See Exhibit 'B2' attached hereto and made a part hereof.

PSOMAS

The distances shown herein are grid distances. Ground distances may be obtained by dividing grid distances by the combination factor of 0.99997837.

Prepared under the direction of



A handwritten signature in cursive script, appearing to read "Anna M. Beal", written over a horizontal line.

Anna M. Beal,

PLS 4955

Date

4/25/16

EXHIBIT B2

PARCEL#	TITLE	AREA	APN
102901-2	TCE	5938 SF	139-661-26 & 27



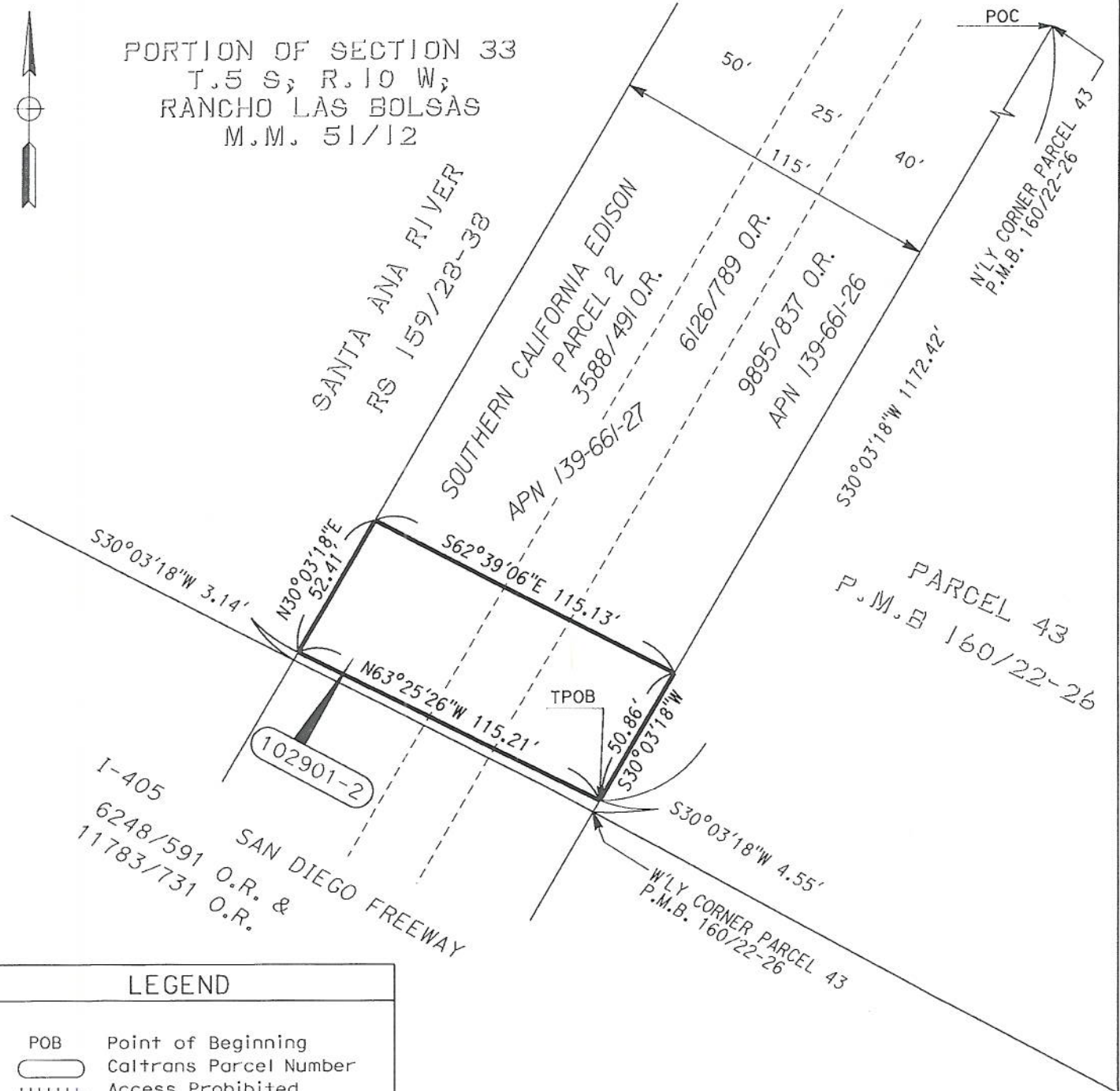
PORTION OF SECTION 33
T.5 S; R.10 W;
RANCHO LAS BOLSA
M.M. 51/12

SANTA ANA RIVER
RS 159/28-38

SOUTHERN CALIFORNIA EDISON
PARCEL 2
3588/491 O.R.
APN 139-661-27

6126/789 O.R.
9895/837 O.R.
APN 139-661-26

PARCEL 43
P.M.B. 160/22-26



LEGEND

- POB Point of Beginning
- Caltrans Parcel Number
- Access Prohibited
- (R) Radial Bearing

NOTES

The distances shown herein are grid distances. Ground distances may be obtained by dividing grid distances by the combination factor of 0.99997837.

TEMPORARY CONSTRUCTION EASEMENT



PREPARED BY:	DATE: 04-25-16	REV.:	EA: OF	FA#:
PSOMAS	DISTRICT	COUNTY	ROUTE	SHEET PM
3 Hutton Centre Drive, Ste. 200 Santa Ana, California 92707 (714)751-7373/(714)545-8883 (Fax)	12	ORANGE	405	12.35
				SHEET NO.
				1
				TOTAL SHEETS
				1

RESOLUTION NO. 2018-052

A RESOLUTION OF THE ORANGE COUNTY TRANSPORTATION AUTHORITY FINDING AND DETERMINING THAT THE PUBLIC INTEREST AND NECESSITY REQUIRE THE ACQUISITION BY EMINENT DOMAIN OF INTERESTS IN CERTAIN REAL PROPERTY FOR PUBLIC USE AND AUTHORIZING AND DIRECTING CONDEMNATION OF PORTIONS OF ASSESSOR PARCEL NO. 107-212-06.

WHEREAS, the Orange County Transportation Authority (the "Authority") is undertaking the Interstate 405 ("I-405") Improvement Project between State Route 73 and Interstate 605, a right-of-way for freeway purposes and all public uses appurtenant thereto (the "Project"); and

WHEREAS, the Project is intended to enhance road safety, increase freeway capacity, and improve traffic and interchange operations by adding general purpose and express lanes and making improvements to freeway entrances, exits and bridges; and

WHEREAS, the Project requires the acquisition of property interests from public and private parties; and

WHEREAS, the Project will be a transportation improvement project serving the public interest; and

WHEREAS, subsection (a) of the California Public Utilities Code section 130220.5, authorizes the Authority to exercise the power of eminent domain to acquire these property interests for public use by condemnation; and

WHEREAS, on May 11, 2015, the Authority's Board of Directors authorized the Authority to acquire property interests for the Project; and

WHEREAS, portions of the real property located at 8041 Edinger Avenue, in the City of Westminster, California (the "Subject Property") are required for the Project. The specific portions of the Subject Property required for the Project include a permanent footing easement as legally described in and depicted in Exhibit "1" hereto and a temporary construction easement as legally described and depicted in Exhibit "2" hereto (collectively, the "Property Interests"); and

WHEREAS, reasonable vehicular and pedestrian access to and from the Subject Property will be maintained at all times; and

WHEREAS, the Authority communicated an offer of compensation to the owner or owners of record for the acquisition of the Property Interests; and

WHEREAS, in accordance with section 1245.235 of the California Code of Civil Procedure on March 30, 2018, the Authority mailed a Notice of Hearing on the Intent of the Authority to Adopt a Resolution of Necessity for acquisition by eminent domain of the Property Interests. The Notice of Hearing was mailed to the listed address of all persons whose names appear on the last equalized county assessment roll as having an interest in the Subject Property; and

WHEREAS, the Authority provided written notice to the City of Westminster as required by subsection (c) of California Public Utilities Code section 130220.5; and

WHEREAS, the Project, including all amendments thereto, together with the staff reports, environmental documents and all other evidence presented to the Authority's Board of Directors at the times the Project and the amendments thereto were adopted, are incorporated herein by this reference and made a part hereof as though fully set forth herein; and

WHEREAS, pursuant to section 1245.235 of the California Code of Civil Procedure, the Authority scheduled a hearing for May 14, 2018 at 9:00 a.m. at 550 South Main Street, Orange, California and gave to each person whose property is to be acquired by eminent domain and whose name and address appears on the last equalized county assessment roll notice and a reasonable opportunity to appear at said hearing and to be heard on the matters referred to in section 1240.030 of the California Code of Civil Procedure; and

WHEREAS, said hearing has been held by the Authority's Board of Directors and each person whose property is to be acquired by eminent domain was afforded an opportunity to be heard on those matters specified in the Authority's notice of intention to conduct a hearing on whether or not to adopt a Resolution of Necessity and referred to in section 1240.030 of the California Code of Civil Procedure; and

WHEREAS, the Authority may adopt a Resolution of Necessity pursuant to section 1240.040 of the California Code of Civil Procedure.

NOW, THEREFORE, BE IT RESOLVED, by at least a two-thirds vote of the Authority's Board of Directors under Code of Civil Procedure sections 1240.030 and 1245.230, the Authority does hereby find and determine as follows:

Section 1. Incorporation of Findings and Recitals. The above findings and recitals are true and correct and are incorporated herein in full by this reference.

Section 2. Compliance with California Code of Civil Procedure. There has been compliance by the Authority with the requirements of section 1245.235 of the California Code of Civil Procedure regarding notice and hearing.

Section 3. Public Use. The public use for which the interests in the property are to be acquired is for the construction and future maintenance of the Project, a public transportation improvement, as more fully described hereinabove. Subsection (a) of California Public Utilities Code section 130220.5 authorizes the Authority to acquire by eminent domain property and interests in property necessary for such purpose and for all uses incidental or convenient thereto.

Section 4. Necessity.

(a) The proposed Project is necessary to enhance road safety, increase freeway capacity, and improve traffic and interchange operations by adding general purpose and express lanes and making improvements to freeway entrances, exits and bridges; and

(b) The public interest and necessity require the acquisition by eminent domain proceedings of the Property Interests.

Section 5. Description of Property Interests. The Property Interests sought to be acquired are more particularly described and depicted in Exhibits "1" and "2" attached hereto and incorporated herein by reference.

Section 6. Findings. The Authority hereby finds, determines and declares each of the following:

(a) The public interest and necessity require the proposed Project;

(b) The proposed Project is planned or located in the manner that will be most compatible with the greatest public good and least private injury;

(c) The Property Interests sought to be acquired are necessary for the proposed Project; and

(d) The offer required by section 7267.2 of the California Government Code has been made to the owner or owners of record.

Section 7. Existing Public Use(s). Pursuant to sections 1240.510 and 1240.610 of the Code of Civil Procedure, to the extent that any of the real property to be acquired is already devoted to a public use, the use proposed by this Project is a more necessary public use than the use to which the real property, or any portion thereof, is already devoted, or, in the alternative, is

a compatible public use which will not unreasonably interfere with or impair the continuance of the public use to which the real property, or any portion thereof, is already devoted.

Section 8. Authority to Exercise Eminent Domain. The Authority is hereby authorized and empowered to acquire one permanent footing easement and one temporary construction easement in the real property described and depicted in Exhibits "1" and "2" hereto, including the improvements thereon, if any, by eminent domain for the proposed Project.

Section 9. Further Activities. The Authority's legal counsel ("Counsel") is hereby authorized and empowered to acquire the Property Interests in the name of and on behalf of the Authority by eminent domain, and is authorized to institute and prosecute such legal proceedings as may be required in connection therewith. Counsel is further authorized to take such steps as may be permitted and required by law, and to make such security deposits as may be required by law and/or order of court, to permit the Authority to take possession of the Property Interests at the earliest possible time.

Section 10. Effective Date. This Resolution of Necessity shall take effect upon adoption.

PASSED, APPROVED, and ADOPTED on this _____ day of _____, 2018.

LISA A. BARTLETT, CHAIRWOMAN
ORANGE COUNTY
TRANSPORTATION AUTHORITY

APPROVED AS TO FORM:

JAMES M. DONICH
GENERAL COUNSEL

ATTEST:

I, Laurena Weinert, Clerk of the Board of Directors of the Orange County Transportation Authority, do hereby certify that the foregoing Resolution No. 2018-052, by the following votes:

AYES:

NOES:

ABSENT:

LAURENA WEINERT
CLERK OF THE BOARD

Exhibit 1

**PERMANENT FOOTING EASEMENT
ATTACHMENT TO LEGAL DESCRIPTION**

Assessor Parcel No: Portion of 107-212-06

Caltrans Parcel No: 103401-1

The Orange County Transportation Authority seeks to acquire a non-exclusive permanent footing easement in, on and under the real property described in Exhibit "A1" and depicted in Exhibit "A2" attached hereto, subject to the rights and limitations described herein ("Footing Easement"). The Footing Easement shall be used by the Orange County Transportation Authority and its employees, agents, representatives, contractors, successors, and assigns (collectively, "OCTA") for purposes of constructing, maintaining, repairing, relocating, and adjusting, as applicable, subsurface footings and appurtenances thereto in connection with the I-405 Improvement Project.

The owner and occupant(s) of the real property subject to the Footing Easement shall not construct any permanent improvements within the easement area described and depicted in the attached Exhibits "A1" and "A2", respectively, that would impede or in any way interfere with OCTA's rights as defined herein. OCTA will backfill to grade, with dirt, or will install pavement material, within that portion of the Footing Easement area affected by OCTA's work. The owner and occupant(s) of the real property subject to the Footing Easement will have the right to use only the surface of the easement area described and depicted in the attached Exhibits "A1" and "A2", respectively, and solely for access, automobile parking purposes, or ground cover plants and grasses whose roots shall not impact the subsurface footings, once the subsurface footings are in place.

The rights and obligations of OCTA and the owner of the real property subject to the Footing Easement shall run with the land and be binding upon and/or inure to the benefit of OCTA's and the property owner's respective heirs, successors and assigns.

OCTA expressly reserves the right to convey, transfer or assign the Footing Easement subject to the same rights and limitations described herein.

PSOMAS

EXHIBIT 'A1'

LEGAL DESCRIPTION

Caltrans Parcel No. 103401-1

Permanent Footing Easement

Portion of APN 107-212-06

That portion of Parcel 1 of Parcel Map No. 2008-124, in the City of Westminster, County of Orange, State of California, as per the map filed in Book 368, Pages 21 and 22 of Parcel Maps in the office of the County Recorder of said County, lying northeasterly of the following described line:

Beginning at a point on that certain course in the northeasterly line of said Parcel 1 shown as having a bearing of North 49°16'46" West and a length of 131.51 feet, the bearing of said course being North 49°16'41" West for the purposes of this description, said point being distant thereon North 49°16'41" West 25.33 feet from its southeasterly terminus; thence North 50°18'02" West 131.48 feet to the northeasterly line of said Parcel 1.

Containing 124 square feet.

See Exhibit 'A2' attached hereto and made a part hereof.

The distances shown herein are grid distances. Ground distances may be obtained by dividing grid distances by the combination factor of 0.99997837.

PSOMAS

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Prepared under the direction of

Jeremy L. Evans

Jeremy L. Evans, PLS 5282

1-16-2017

Date

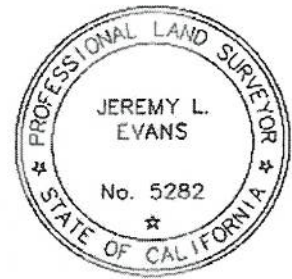
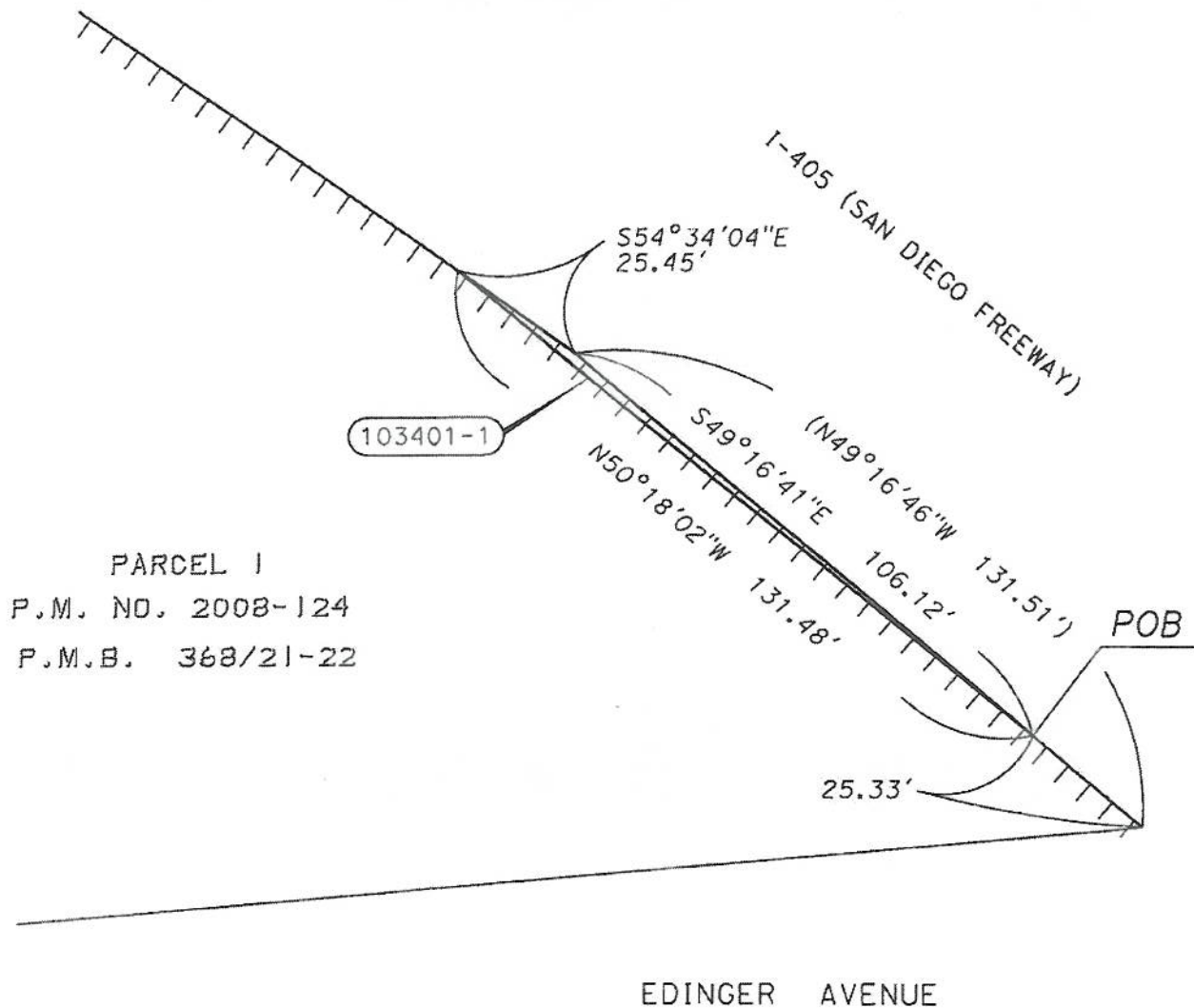


EXHIBIT A2

PARCEL#	TITLE	AREA	APN
103401-1	PFE	124 SF	107-212-06 (PORTION)



LEGEND

(RAD) Indicates Radial Bearing
 POC Point of Commencement
 TPOB True Point of Beginning
 Caltrans Parcel Number
 Old Right of Way(Superseded)
 Exist Right of Way
 Proposed Right of Way
 Access Prohibited

() INDICATES RECORD PER PARCEL MAP
 NO. 2008-124 P.M.B. 368/21 & 22

NOTES

The distances shown herein are
 grid distances. Ground distances
 may be obtained by dividing grid
 distances by the combination
 factor of 0.99997837.

103401-1

PERMANENT FOOTING EASEMENT



PREPARED BY:

PSOMAS

3 Hutton Centre Drive, Ste. 200
 Santa Ana, California 92707
 (714)751-7373/(714)545-8883 (Fax)

DATE: 01-16-17

REV.:

EA:

FA#:

DISTRICT

COUNTY

ROUTE

SHEET PM

SHEET NO.

TOTAL SHEETS

12

ORANGE

405

16.44

1

1

Exhibit 2

**TEMPORARY CONSTRUCTION EASEMENT
ATTACHMENT TO LEGAL DESCRIPTION**

Assessor Parcel No.: 107-212-06

Caltrans Parcel No.: 103401-2

This temporary construction easement shall be in, on, over, under, and across that certain real property described in Exhibit "B1" and depicted in Exhibit "B2" attached hereto, subject to the rights and limitations set forth herein ("TCE"). The TCE shall be used by the Orange County Transportation Authority and its employees, agents, representatives, contractors, successors and assigns (collectively, "OCTA") in connection with the construction of the I-405 Improvement Project. The TCE shall be for a period of forty-eight (48) months, a portion of which shall be exclusive (subject to the rights and limitations set forth below) and a portion of which shall be non-exclusive. Specifically, the actual physical construction activities within the TCE area shall be limited to a period of twenty-four (24) consecutive months within the forty-eight (48) month TCE period (hereinafter the "Construction Period"). During the Construction Period, OCTA's use and occupancy of the TCE will be exclusive, subject to the rights and limitations set forth below. OCTA's use and occupancy of the TCE during the remaining twenty-four (24) months of the TCE period will be non-exclusive.

Rights and Restrictions of Use and Occupancy of TCE:

- OCTA shall provide the owner(s) and occupant(s) of the property subject to this TCE a minimum of thirty (30)-days written notice as to when the Construction Period will commence.
- During the Construction Period, OCTA may place a temporary fence around the TCE area, provided however, no fence will be placed around or across any driveway or doorway or sidewalk within the TCE area.
- Reasonable pedestrian and vehicular access to the property including all driveways, doorways, and fire department facilities shall be maintained at all times.
- Access to the TCE area shall be from the public right of way.
- Improvements within the TCE area will be removed as needed by OCTA to allow for construction activities. All improvements so removed and their cost of replacement shall be included in the compensation paid by OCTA for this TCE.
- All sidewalks and fire department facilities adjacent to the TCE shall be protected in place.
- Prior to the termination of the Construction Period, OCTA will remove from the TCE area all construction equipment and materials including, without limitation, any temporary fence, any temporary improvements, and all construction-related debris. The TCE area will be graded and compacted.

OCTA expressly reserves the right to convey, transfer, or assign the TCE subject to the same rights and limitations described herein.

PSOMAS

EXHIBIT 'B1'

LEGAL DESCRIPTION

Caltrans Parcel No. 103401-2

Temporary Construction Easement

Portion of APN 107-212-06

That portion of Parcel 1 of Parcel Map No. 2008-124, in the City of Westminster, County of Orange, State of California, as per the map filed in Book 368, Pages 21 and 22 of Parcel Maps in the office of the County Recorder of said County, described as follows:

Beginning at the southeasterly corner of said Parcel 1; thence South 85°16'42" West 7.02 feet along the southerly line of said Parcel 1 to a line that is parallel with and 5.00 feet southwesterly of the northeasterly line of said Parcel 1; thence North 49°16'41" West 126.29 feet along said parallel line to a line that is parallel with and 5.00 feet southwesterly of the northeasterly line of said Parcel 1; thence North 54°34'04" West 142.59 feet along said parallel line; thence North 36°46'06" East 5.00 feet to the northeasterly line of said Parcel 1; thence along the northeasterly line of said Parcel 1 the following two (2) courses:

1. South 54°34'04" East 142.70 feet; and
2. South 49°16'41" East 131.44 to the **Point of Beginning.**

Containing 1358 square feet.

See Exhibit 'B2' attached hereto and made a part hereof.

The distances shown herein are grid distances. Ground distances may be obtained by dividing grid distances by the combination factor of 0.99997837.

PSOMAS

Prepared under the direction of

Jeremy L. Evans

Jeremy L. Evans, PLS 5282

1-16-2017

Date

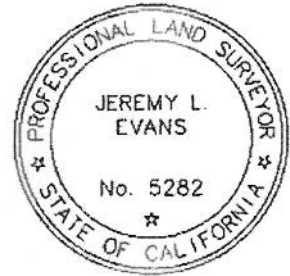
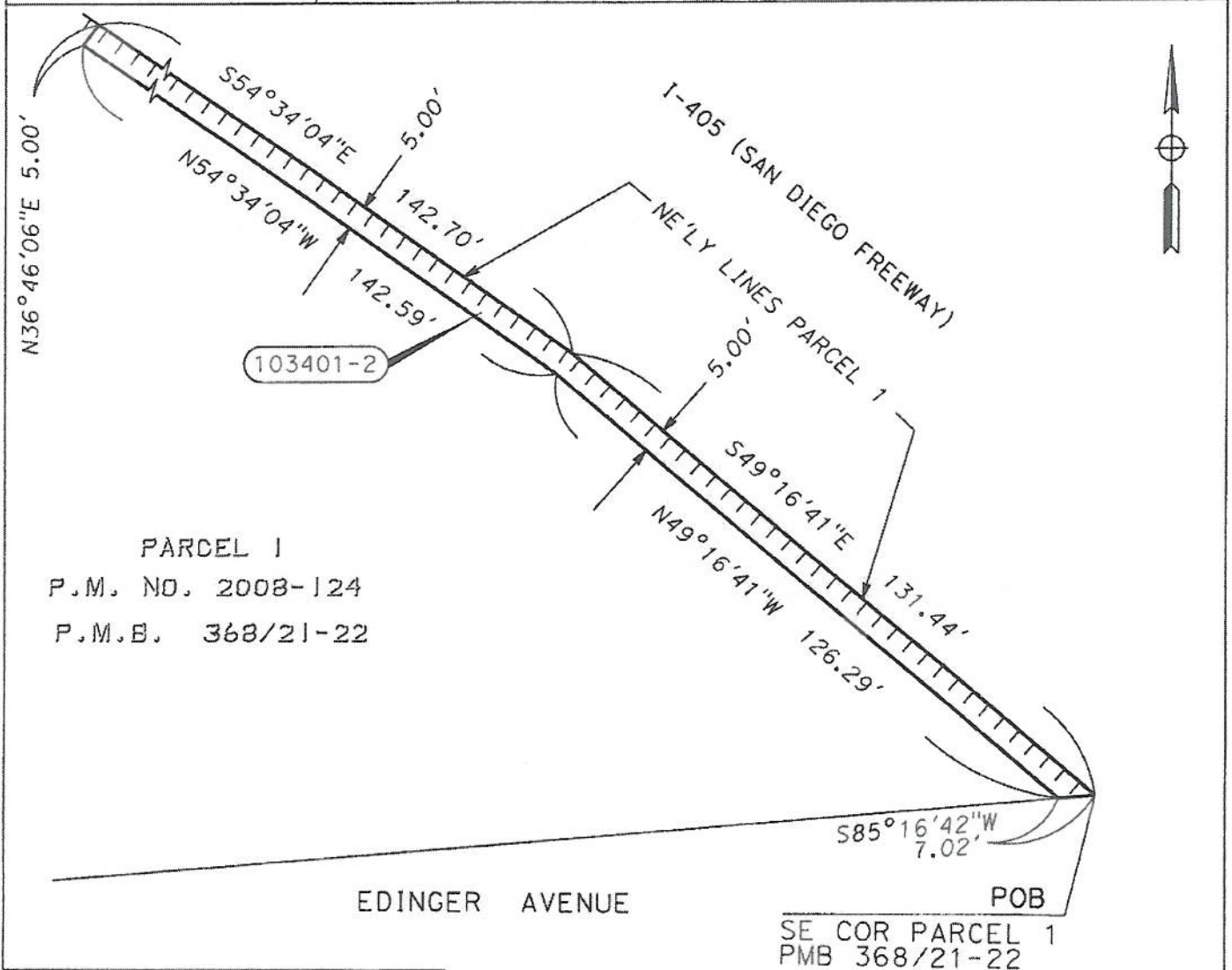


EXHIBIT B2

PARCEL#	TITLE	AREA	APN
103401-2	TCE	1358 SF	107-212-06 (PORTION)



LEGEND

(RAD) Indicates Radial Bearing
 POC Point of Commencement
 TPOB True Point of Beginning
 Caltrans Parcel Number
 Old Right of Way(Superseded)
 Exist Right of Way
 Proposed Right of Way
 Access Prohibited

NOTES

The distances shown herein are grid distances. Ground distances may be obtained by dividing grid distances by the combination factor of 0.99997837.

103401-2

TEMPORARY CONSTRUCTION EASEMENT



PREPARED BY:

PSOMAS

3 Hutton Centre Drive, Ste. 200
 Santa Ana, California 92707
 (714)751-7373/(714)545-8983 (Fax)

DATE: 01-16-17

REV.:

EA:

FA#:

DISTRICT

COUNTY

ROUTE

SHEET PM

SHEET NO.

TOTAL SHEETS

12

ORANGE

405

16.44

1

1

RESOLUTION NO. 2018-053

A RESOLUTION OF THE ORANGE COUNTY TRANSPORTATION AUTHORITY FINDING AND DETERMINING THAT THE PUBLIC INTEREST AND NECESSITY REQUIRE THE ACQUISITION BY EMINENT DOMAIN OF AN INTEREST IN CERTAIN REAL PROPERTY FOR PUBLIC USE AND AUTHORIZING AND DIRECTING CONDEMNATION OF A PORTION OF ASSESSOR PARCEL NOS. 203-071-23 AND 203-102-03.

WHEREAS, the Orange County Transportation Authority (the "Authority") is undertaking the Interstate 405 ("I-405") Improvement Project between State Route 73 and Interstate 605, a right-of-way for freeway purposes and all public uses appurtenant thereto (the "Project"); and

WHEREAS, the Project is intended to enhance road safety, increase freeway capacity, and improve traffic and interchange operations by adding general purpose and express lanes and making improvements to freeway entrances, exits and bridges; and

WHEREAS, the Project requires the acquisition of property interests from public and private parties; and

WHEREAS, the Project will be a transportation improvement project serving the public interest; and

WHEREAS, subsection (a) of the California Public Utilities Code section 130220.5, authorizes the Authority to exercise the power of eminent domain to acquire these property interests for public use by condemnation; and

WHEREAS, on May 11, 2015, the Authority's Board of Directors authorized the Authority to acquire property interests for the Project; and

WHEREAS, a portion of the real property located at 5772 and 5830 Garden Grove Boulevard, in the City of Westminster, California (the "Subject Property") is required for the Project. The specific portion of the Subject Property required for the Project include a temporary construction easement as legally described and depicted in Exhibit "1" hereto (the "Property Interest"); and

WHEREAS, reasonable vehicular and pedestrian access to and from the Subject Property will be maintained at all times; and

WHEREAS, the Authority communicated an offer of compensation to the owner or owners of record for the acquisition of the Property Interest; and

WHEREAS, in accordance with section 1245.235 of the California Code of Civil Procedure on March 30, 2018, the Authority mailed a Notice of Hearing on the Intent of the Authority to Adopt a Resolution of Necessity for acquisition by eminent domain of the Property Interest. The Notice of Hearing was mailed to the listed address of all persons whose names appear on the last equalized county assessment roll as having an interest in the Subject Property; and

WHEREAS, the Authority provided written notice to the City of Westminster as required by subsection (c) of California Public Utilities Code section 130220.5; and

WHEREAS, the Project, including all amendments thereto, together with the staff reports, environmental documents and all other evidence presented to the Authority's Board of Directors at the times the Project and the amendments thereto were adopted, are incorporated herein by this reference and made a part hereof as though fully set forth herein; and

WHEREAS, pursuant to section 1245.235 of the California Code of Civil Procedure, the Authority scheduled a hearing for May 14, 2018 at 9:00 a.m. at 550 South Main Street, Orange, California and gave to each person whose property is to be acquired by eminent domain and whose name and address appears on the last equalized county assessment roll notice and a reasonable opportunity to appear at said hearing and to be heard on the matters referred to in section 1240.030 of the California Code of Civil Procedure; and

WHEREAS, said hearing has been held by the Authority's Board of Directors and each person whose property is to be acquired by eminent domain was afforded an opportunity to be heard on those matters specified in the Authority's notice of intention to conduct a hearing on whether or not to adopt a Resolution of Necessity and referred to in section 1240.030 of the California Code of Civil Procedure; and

WHEREAS, the Authority may adopt a Resolution of Necessity pursuant to section 1240.040 of the California Code of Civil Procedure.

NOW, THEREFORE, BE IT RESOLVED, by at least a two-thirds vote of the Authority's Board of Directors under Code of Civil Procedure sections 1240.030 and 1245.230, the Authority does hereby find and determine as follows:

Section 1. Incorporation of Findings and Recitals. The above findings and recitals are true and correct and are incorporated herein in full by this reference.

Section 2. Compliance with California Code of Civil Procedure. There has been compliance by the Authority with the requirements of section 1245.235 of the California Code of Civil Procedure regarding notice and hearing.

Section 3. Public Use. The public use for which the interests in the property are to be acquired is for the construction and future maintenance of the Project, a public transportation improvement, as more fully described hereinabove. Subsection (a) of California Public Utilities Code section 130220.5 authorizes the Authority to acquire by eminent domain property and interests in property necessary for such purpose and for all uses incidental or convenient thereto.

Section 4. Necessity.

(a) The proposed Project is necessary to enhance road safety, increase freeway capacity, and improve traffic and interchange operations by adding general purpose and express lanes and making improvements to freeway entrances, exits and bridges; and

(b) The public interest and necessity require the acquisition by eminent domain proceedings of the Property Interest.

Section 5. Description of Property Interest. The Property Interest sought to be acquired is more particularly described and depicted in Exhibit "1" attached hereto and incorporated herein by reference.

Section 6. Findings. The Authority hereby finds, determines and declares each of the following:

(a) The public interest and necessity require the proposed Project;

(b) The proposed Project is planned or located in the manner that will be most compatible with the greatest public good and least private injury;

(c) The Property Interest sought to be acquired are necessary for the proposed Project; and

(d) The offer required by section 7267.2 of the California Government Code has been made to the owner or owners of record.

Section 7. Existing Public Use(s). Pursuant to sections 1240.510 and 1240.610 of the Code of Civil Procedure, to the extent that any of the real property to be acquired is already devoted to a public use, the use proposed by this Project is a more necessary public use than the use to which the real property, or any portion thereof, is already devoted, or, in the alternative, is

a compatible public use which will not unreasonably interfere with or impair the continuance of the public use to which the real property, or any portion thereof, is already devoted.

Section 8. Authority to Exercise Eminent Domain. The Authority is hereby authorized and empowered to acquire one temporary construction easement in the real property described and depicted in Exhibit "1" hereto, including the improvements thereon, if any, by eminent domain for the proposed Project.

Section 9. Further Activities. The Authority's legal counsel ("Counsel") is hereby authorized and empowered to acquire the Property Interest in the name of and on behalf of the Authority by eminent domain, and is authorized to institute and prosecute such legal proceedings as may be required in connection therewith. Counsel is further authorized to take such steps as may be permitted and required by law, and to make such security deposits as may be required by law and/or order of court, to permit the Authority to take possession of the Property Interest at the earliest possible time.

Section 10. Effective Date. This Resolution of Necessity shall take effect upon adoption.

PASSED, APPROVED, and ADOPTED on this _____ day of _____, 2018.

LISA A. BARTLETT, CHAIRWOMAN
ORANGE COUNTY
TRANSPORTATION AUTHORITY

APPROVED AS TO FORM:

JAMES M. DONICH
GENERAL COUNSEL

ATTEST:

I, Laurena Weinert, Clerk of the Board of Directors of the Orange County Transportation Authority, do hereby certify that the foregoing Resolution No. 2018-053, by the following votes:

AYES:

NOES:

ABSENT:

LAURENA WEINERT
CLERK OF THE BOARD

Exhibit 1

**TEMPORARY CONSTRUCTION EASEMENT
ATTACHMENT TO LEGAL DESCRIPTION**

Assessor Parcel No.: 203-071-23

Caltrans Parcel No.: 103312-1

This temporary construction easement shall be in, on, over, under, and across that certain real property described in Exhibit "A1" and depicted in Exhibit "A2" attached hereto, subject to the rights and limitations set forth herein ("TCE"). The TCE shall be used by the Orange County Transportation Authority and its employees, agents, representatives, contractors, successors and assigns (collectively, "OCTA") in connection with the construction of the I-405 Improvement Project. The TCE shall be for a period of forty-eight (48) months, a portion of which shall be exclusive (subject to the rights and limitations set forth below) and a portion of which shall be non-exclusive. Specifically, the actual physical construction activities within the TCE area shall be limited to a period of twenty-four (24) consecutive months within the forty-eight (48) month TCE period (the "Construction Period"). During the Construction Period, OCTA's use and occupancy of the TCE will be exclusive, subject to the rights and limitations set forth below. OCTA's use and occupancy of the TCE during the remaining twenty-four (24) months of the TCE period will be non-exclusive.

Rights and Restrictions of Use and Occupancy of TCE:

- OCTA shall provide the owner(s) and occupant(s) of the property subject to this TCE a minimum of thirty (30)-days written notice as to when the Construction Period will commence.
- During the Construction Period, OCTA may place a temporary fence around the TCE area, provided however, no fence will be placed around or across any driveway within the TCE area.
- Reasonable pedestrian and vehicular access to the property shall be maintained at all times.
- Access to the TCE area shall be from the public right of way.
- Except as to those improvements identified below as being protected in place, improvements within the TCE area will be removed as needed by OCTA to allow for construction activities. All improvements so removed shall be included in the compensation paid by OCTA for this TCE.
- The following improvements adjacent to the TCE area will be protected in place:
 - Permanent Building Structure
- Prior to the termination of the Construction Period, OCTA will remove from the TCE area all construction equipment and materials including, without limitation, any temporary fence, any temporary improvements, and all construction-related debris. The TCE area will be graded and compacted.

OCTA expressly reserves the right to convey, transfer, or assign the TCE subject to the same rights and limitations described herein.

PSOMAS

EXHIBIT 'A1'

LEGAL DESCRIPTION

Caltrans Parcel No. 103312-1

Temporary Construction Easement

APN 203-071-23

In the City of Westminster, County of Orange, State of California, being a portion of
Parcels 2 and 3 of the map filled in Book 19, Page 2 of Parcel Maps, Records of said
County, described as follows:

Beginning at the southerly corner of said Parcel 3; thence along the southwesterly lines
of said Parcels 2 and 3 North 44°01'50" West 238.42 feet to a point, said point being the
intersection of said southwesterly line of Parcel 2 with the westerly line of the Northeast
quarter of Section 4, Township 5 South, Range 11 West, Rancho Los Alamitos as shown
on said parcel map; thence along said westerly line North 01°17'58" East 7.03 feet to a
point thereon; thence South 44°01'50" East 9.95 feet; thence North 45°47'09" East 5.00
feet; thence South 44°01'50" East 63.00 feet; thence South 45°58'10" West 7.00 feet;
thence South 44°01'50" East 33.83 feet; thence North 45°58'10" East 7.00 feet; thence
South 44°01'50" East 136.60 feet to a point on the general southeasterly line of said
Parcel 3; thence along last said line South 45°58'10" West 10.00 feet to the **Point of
Beginning**.

Containing 2,135 square feet.

See Exhibit 'A2' attached hereto and made a part hereof.

The distances shown herein are grid distances. Ground distances may be obtained by
dividing grid distances by the combination factor of 0.99997837.

PSOMAS

Prepared under the direction of



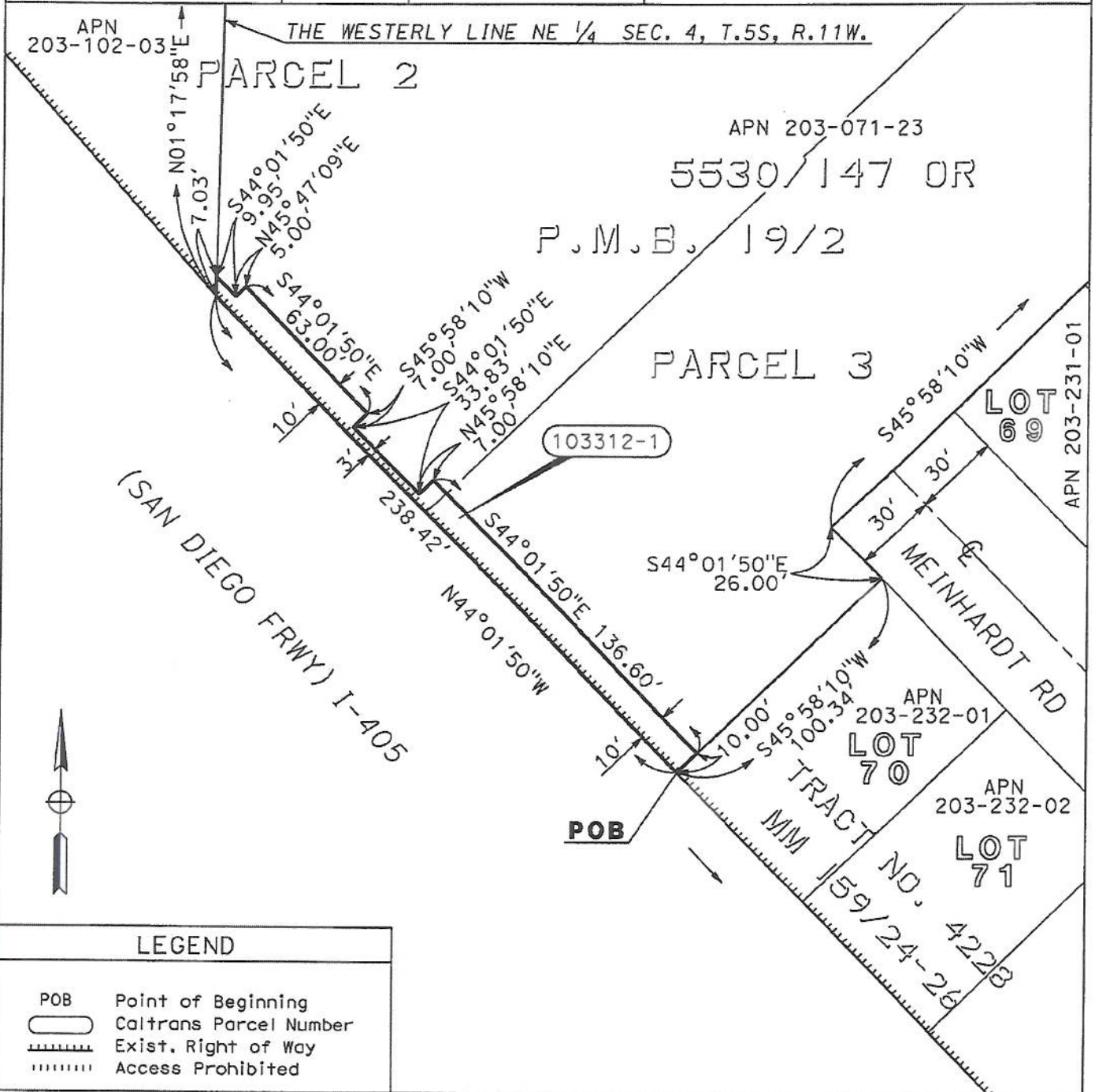
Brian E. Bullock, PLS 5260

7-19-16
Date



EXHIBIT A2

PARCEL#	TITLE	AREA	APN
103312-1	TCE	2,135 SF	203-071-23



NOTES	TEMPORARY CONSTRUCTION EASEMENT
The distances shown herein are grid distances. Ground distances may be obtained by dividing grid distances by the combination factor of 0.99997837.	FEET 0 25 50 100 150

PREPARED BY: PSOMAS 3 Hutton Centre Drive, Ste. 200 Santa Ana, California 92707 (714) 751-7373 / (714) 545-8883 (Fax)	DATE: 07-19-16 REV.: EA: OF FA#:	DISTRICT COUNTY ROUTE SHEET PM SHEET NO. TOTAL SHEETS
		12 ORANGE 405 20.12 1 1

RESOLUTION NO. 2018-054

A RESOLUTION OF THE ORANGE COUNTY TRANSPORTATION AUTHORITY FINDING AND DETERMINING THAT THE PUBLIC INTEREST AND NECESSITY REQUIRE THE ACQUISITION BY EMINENT DOMAIN OF AN INTEREST IN CERTAIN REAL PROPERTY FOR PUBLIC USE AND AUTHORIZING AND DIRECTING CONDEMNATION OF A PORTION OF ASSESSOR PARCEL NOS. 203-071-22, 203-102-01, 203-102-02.

WHEREAS, the Orange County Transportation Authority (the "Authority") is undertaking the Interstate 405 ("I-405") Improvement Project between State Route 73 and Interstate 605, a right-of-way for freeway purposes and all public uses appurtenant thereto (the "Project"); and

WHEREAS, the Project is intended to enhance road safety, increase freeway capacity, and improve traffic and interchange operations by adding general purpose and express lanes and making improvements to freeway entrances, exits and bridges; and

WHEREAS, the Project requires the acquisition of property interests from public and private parties; and

WHEREAS, the Project will be a transportation improvement project serving the public interest; and

WHEREAS, subsection (a) of the California Public Utilities Code section 130220.5, authorizes the Authority to exercise the power of eminent domain to acquire these property interests for public use by condemnation; and

WHEREAS, on May 11, 2015, the Authority's Board of Directors authorized the Authority to acquire property interests for the Project; and

WHEREAS, a portion of the real property located at 5400-5440 Garden Grove Boulevard, in the City of Westminster, California (the "Subject Property") is required for the Project. The specific portion of the Subject Property required for the Project include a temporary construction easement as legally described and depicted in Exhibit "1" hereto (the "Property Interest"); and

WHEREAS, reasonable vehicular and pedestrian access to and from the Subject Property will be maintained at all times; and

WHEREAS, the Authority communicated an offer of compensation to the owner or owners of record for the acquisition of the Property Interest; and

WHEREAS, in accordance with section 1245.235 of the California Code of Civil Procedure on March 30, 2018, the Authority mailed a Notice of Hearing on the Intent of the Authority to Adopt a Resolution of Necessity for acquisition by eminent domain of the Property Interest. The Notice of Hearing was mailed to the listed address of all persons whose names appear on the last equalized county assessment roll as having an interest in the Subject Property; and

WHEREAS, the Authority provided written notice to the City of Westminster as required by subsection (c) of California Public Utilities Code section 130220.5; and

WHEREAS, the Project, including all amendments thereto, together with the staff reports, environmental documents and all other evidence presented to the Authority's Board of Directors at the times the Project and the amendments thereto were adopted, are incorporated herein by this reference and made a part hereof as though fully set forth herein; and

WHEREAS, pursuant to section 1245.235 of the California Code of Civil Procedure, the Authority scheduled a hearing for May 14, 2018 at 9:00 a.m. at 550 South Main Street, Orange, California and gave to each person whose property is to be acquired by eminent domain and whose name and address appears on the last equalized county assessment roll notice and a reasonable opportunity to appear at said hearing and to be heard on the matters referred to in section 1240.030 of the California Code of Civil Procedure; and

WHEREAS, said hearing has been held by the Authority's Board of Directors and each person whose property is to be acquired by eminent domain was afforded an opportunity to be heard on those matters specified in the Authority's notice of intention to conduct a hearing on whether or not to adopt a Resolution of Necessity and referred to in section 1240.030 of the California Code of Civil Procedure; and

WHEREAS, the Authority may adopt a Resolution of Necessity pursuant to section 1240.040 of the California Code of Civil Procedure.

NOW, THEREFORE, BE IT RESOLVED, by at least a two-thirds vote of the Authority's Board of Directors under Code of Civil Procedure sections 1240.030 and 1245.230, the Authority does hereby find and determine as follows:

Section 1. Incorporation of Findings and Recitals. The above findings and recitals are true and correct and are incorporated herein in full by this reference.

Section 2. Compliance with California Code of Civil Procedure. There has been compliance by the Authority with the requirements of section 1245.235 of the California Code of Civil Procedure regarding notice and hearing.

Section 3. Public Use. The public use for which the interests in the property are to be acquired is for the construction and future maintenance of the Project, a public transportation improvement, as more fully described hereinabove. Subsection (a) of California Public Utilities Code section 130220.5 authorizes the Authority to acquire by eminent domain property and interests in property necessary for such purpose and for all uses incidental or convenient thereto.

Section 4. Necessity.

(a) The proposed Project is necessary to enhance road safety, increase freeway capacity, and improve traffic and interchange operations by adding general purpose and express lanes and making improvements to freeway entrances, exits and bridges; and

(b) The public interest and necessity require the acquisition by eminent domain proceedings of the Property Interest.

Section 5. Description of Property Interest. The Property Interest sought to be acquired is more particularly described and depicted in Exhibit "1" attached hereto and incorporated herein by reference.

Section 6. Findings. The Authority hereby finds, determines and declares each of the following:

(a) The public interest and necessity require the proposed Project;

(b) The proposed Project is planned or located in the manner that will be most compatible with the greatest public good and least private injury;

(c) The Property Interest sought to be acquired is necessary for the proposed Project; and

(d) The offer required by section 7267.2 of the California Government Code has been made to the owner or owners of record.

Section 7. Existing Public Use(s). Pursuant to sections 1240.510 and 1240.610 of the Code of Civil Procedure, to the extent that any of the real property to be acquired is already devoted to a public use, the use proposed by this Project is a more necessary public use than the use to which the real property, or any portion thereof, is already devoted, or, in the alternative, is

a compatible public use which will not unreasonably interfere with or impair the continuance of the public use to which the real property, or any portion thereof, is already devoted.

Section 8. Authority to Exercise Eminent Domain. The Authority is hereby authorized and empowered to acquire one temporary construction easement in the real property described and depicted in Exhibit "1" hereto, including the improvements thereon, if any, by eminent domain for the proposed Project.

Section 9. Further Activities. The Authority's legal counsel ("Counsel") is hereby authorized and empowered to acquire the Property Interest in the name of and on behalf of the Authority by eminent domain, and is authorized to institute and prosecute such legal proceedings as may be required in connection therewith. Counsel is further authorized to take such steps as may be permitted and required by law, and to make such security deposits as may be required by law and/or order of court, to permit the Authority to take possession of the Property Interest at the earliest possible time.

Section 10. Effective Date. This Resolution of Necessity shall take effect upon adoption.

PASSED, APPROVED, and ADOPTED on this _____ day of _____, 2018.

LISA A. BARTLETT, CHAIRWOMAN
ORANGE COUNTY
TRANSPORTATION AUTHORITY

APPROVED AS TO FORM:

JAMES M. DONICH
GENERAL COUNSEL

ATTEST:

I, Laurena Weinert, Clerk of the Board of Directors of the Orange County Transportation Authority, do hereby certify that the foregoing Resolution No. 2018-054, by the following votes:

AYES:

NOES:

ABSENT:

LAURENA WEINERT
CLERK OF THE BOARD

Exhibit 1

**TEMPORARY CONSTRUCTION EASEMENT
ATTACHMENT TO LEGAL DESCRIPTION
Assessor Parcel No.: 203-102-01
Caltrans Parcel No.: 103313-1**

This temporary construction easement shall be in, on, over, under, and across that certain real property described in Exhibit "A1" and depicted in Exhibit "A2" attached hereto, subject to the rights and limitations set forth herein ("TCE"). The TCE shall be used by the Orange County Transportation Authority and its employees, agents, representatives, contractors, successors and assigns (collectively, "OCTA") in connection with the construction of the I-405 Improvement Project. The TCE shall be for a period of forty-eight (48) months, a portion of which shall be exclusive (subject to the rights and limitations set forth below) and a portion of which shall be non-exclusive. Specifically, the actual physical construction activities within the TCE area shall be limited to a period of twenty-four (24) consecutive months within the forty-eight (48) month TCE period (the "Construction Period"). During the Construction Period, OCTA's use and occupancy of the TCE will be exclusive, subject to the rights and limitations set forth below. OCTA's use and occupancy of the TCE during the remaining twenty-four (24) months of the TCE period will be non-exclusive.

Rights and Restrictions of Use and Occupancy of TCE:

- OCTA shall provide the owner(s) and occupant(s) of the property subject to this TCE a minimum of thirty (30)-days written notice as to when the Construction Period will commence.
- During the Construction Period, OCTA may place a temporary fence around the TCE area, provided however, no fence will be placed around or across any driveway within the TCE area.
- Reasonable pedestrian and vehicular access to the property shall be maintained at all times. Access to the doorway on southwest side of building shall be maintained at all times.
- Access to the TCE area shall be from the public right of way.
- Except as to those improvements identified below as being protected in place, improvements within the TCE area will be removed as needed by OCTA to allow for construction activities. All improvements so removed shall be included in the compensation paid by OCTA for this TCE.
- The following improvements within the TCE area will be protected in place:
 - Building Overhang
- Prior to the termination of the Construction Period, OCTA will remove from the TCE area all construction equipment and materials including, without limitation, any temporary fence, any temporary improvements, and all construction-related debris. The TCE area will be graded and compacted.

OCTA expressly reserves the right to convey, transfer, or assign the TCE subject to the same rights and limitations described herein.

PSOMAS

EXHIBIT 'A1'

LEGAL DESCRIPTION

Caltrans Parcel No. 103313-1

Temporary Construction Easement

APN 203-102-01

A strip of land, 4.00 feet wide, over that portion of Parcel 1, in the City of Westminster, County of Orange, State of California, as per the map filed in Book 19, Page 3 of Parcel Maps, in the office of the County Recorder of said County, the easterly line of said strip of land being described as follows:

Commencing at the southwest corner of said Parcel 1; thence North 49°15'25" East 4.00 feet along the southeasterly line of said Parcel 1 to the beginning of a non-tangent curve, concave easterly having a radius of 346.00 feet, a radial line to said curve bears South 50°55'39" West, said curve being concentric with and 4.00 feet easterly of the westerly line of said Parcel 1 and also being the **True Point of Beginning**; thence Northerly 150.43 feet along said concentric curve through a central angle of 24°54'40".

The sidelines of said strip of land shall be prolonged or shortened as necessary to terminate in the southeasterly line of said Parcel 1.

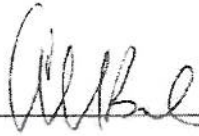
Containing 605 square feet.

See Exhibit 'A2' attached hereto and made a part hereof.

The distances shown herein are grid distances. Ground distances may be obtained by dividing grid distances by the combination factor of 0.99997837

PSOMAS

Prepared under the direction of



Anna M. Beal, PLS 4955

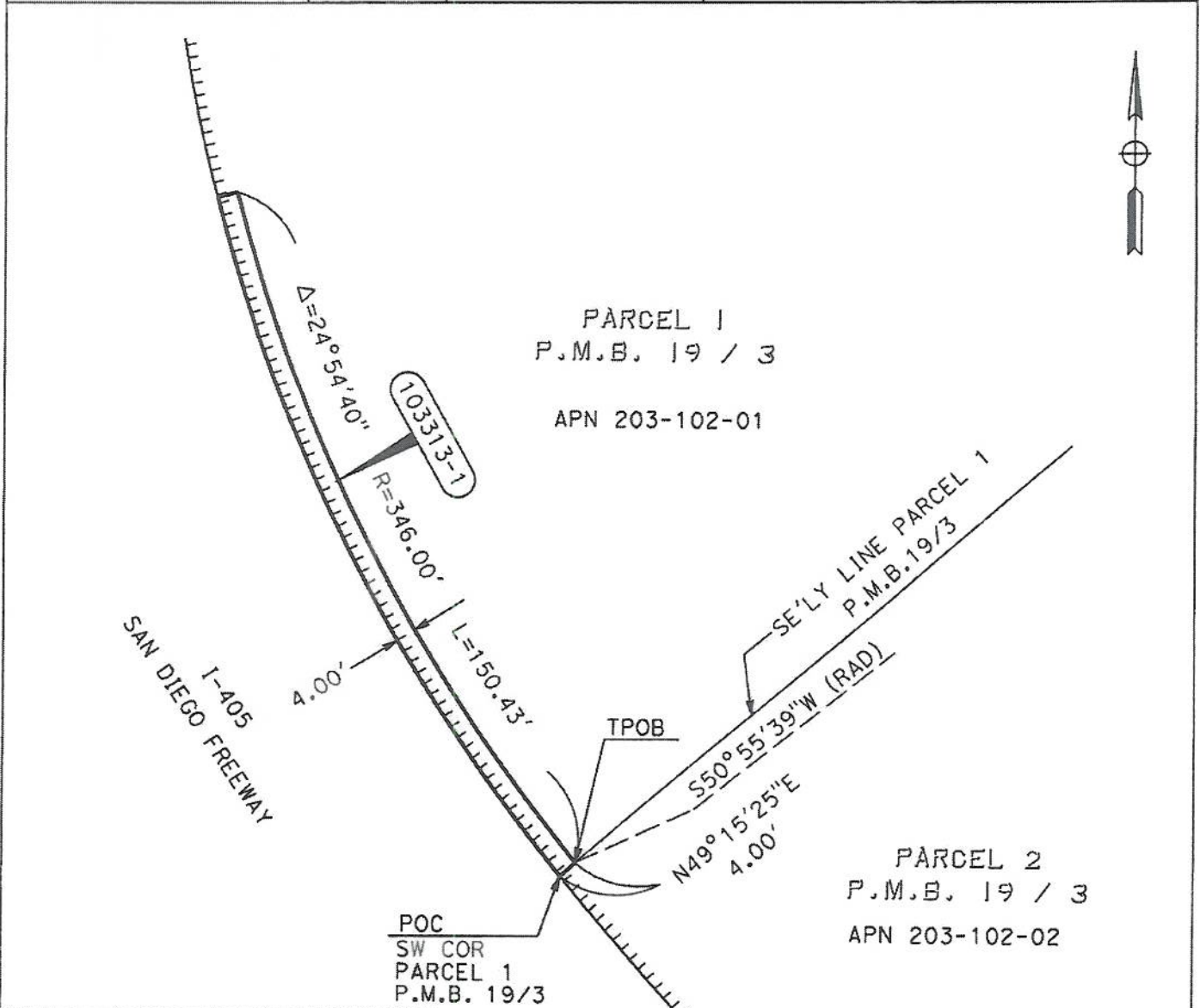
6/1/16

Date



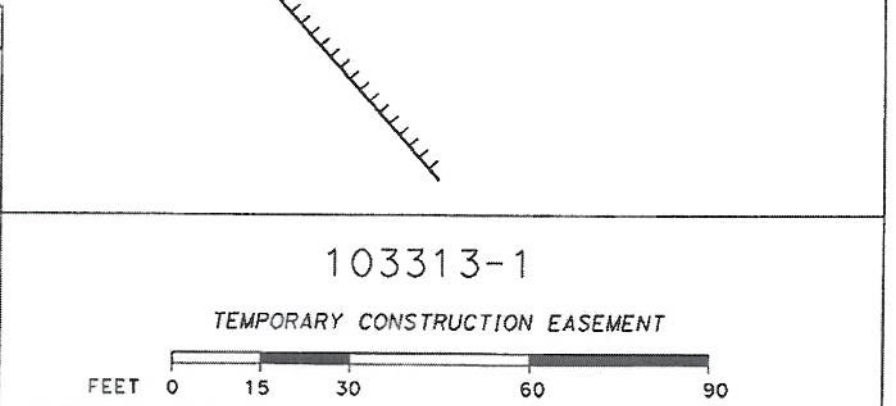
EXHIBIT A2

PARCEL#	TITLE	AREA	APN
103313-1	TCE	605 SF	203-102-01



LEGEND	
POB	Point of Beginning
103313-1	Caltrans Parcel Number
Access Prohibited	Access Prohibited
(R)	Radial Bearing

NOTES
The distances shown herein are grid distances. Ground distances may be obtained by dividing grid distances by the combination factor of 0.99997837.



PREPARED BY: PSOMAS 3 Hutton Centre Drive, Ste. 200 Santa Ana, California 92707 (714)751-7373/(714)945-8883 (Fax)		DATE: 06-01-16	REV.:	EA: OF	FA#:
DISTRICT	COUNTY	ROUTE	SHEET PM	SHEET NO.	TOTAL SHEETS
12	ORANGE	405	20.32	1	1



**Adopt Resolutions of Necessity for the
Interstate 405 Improvement Project
Between State Route 73 and Interstate 605**

I-405 Improvement Project Resolutions of Necessity Locations



Resolution of Necessity No. 2018-010

Carolyn B. Huish



Not to Scale,
For Presentation Purposes Only

Resolution of Necessity No. 2018-010

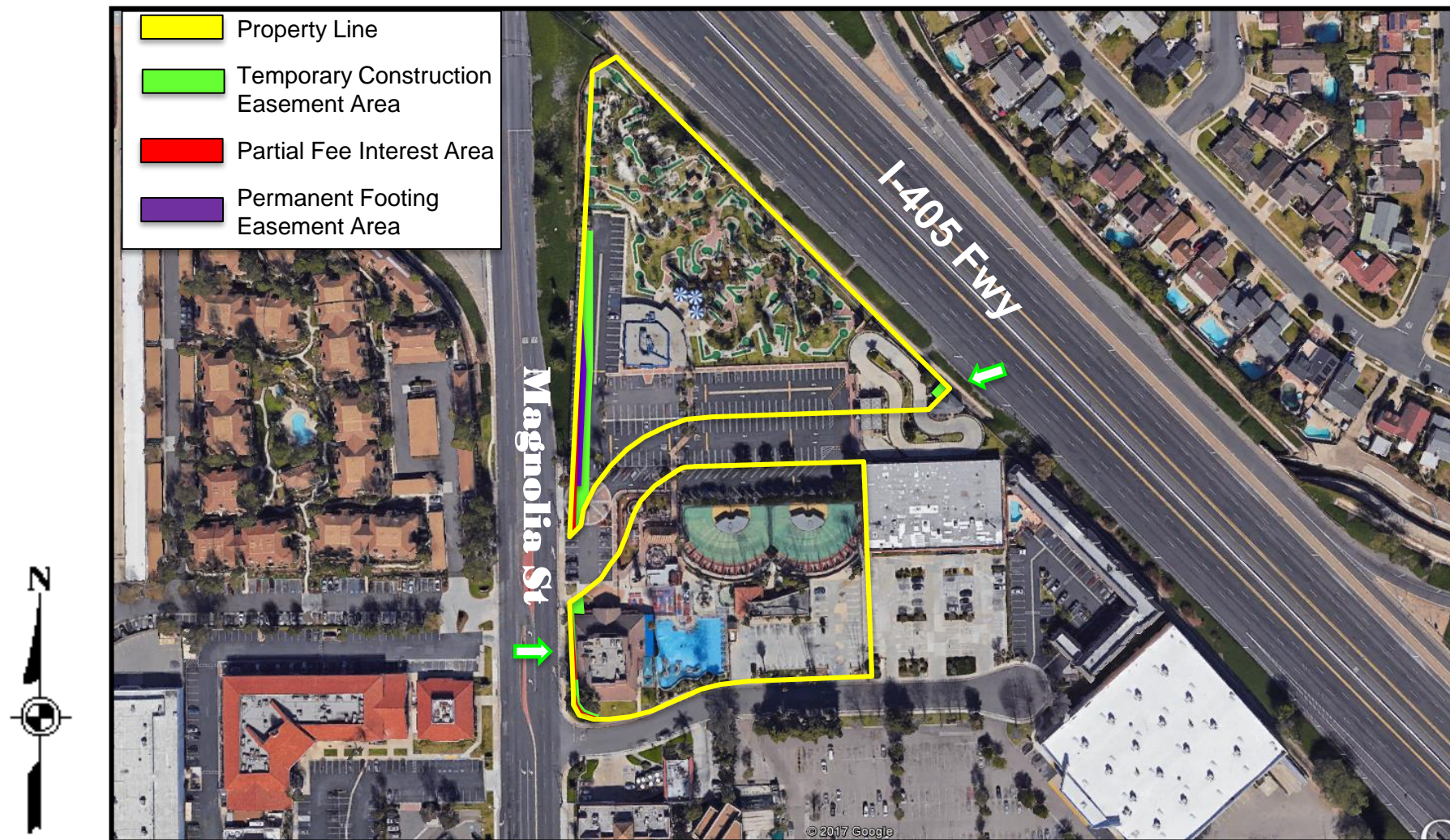
Carolyn B. Huish



Not to Scale,
For Presentation Purposes Only

Resolution of Necessity No. 2018-010

Carolyn B. Huish



Not to Scale,
For Presentation Purposes Only

Resolution of Necessity No. 2018-010

Carolyn B. Huish



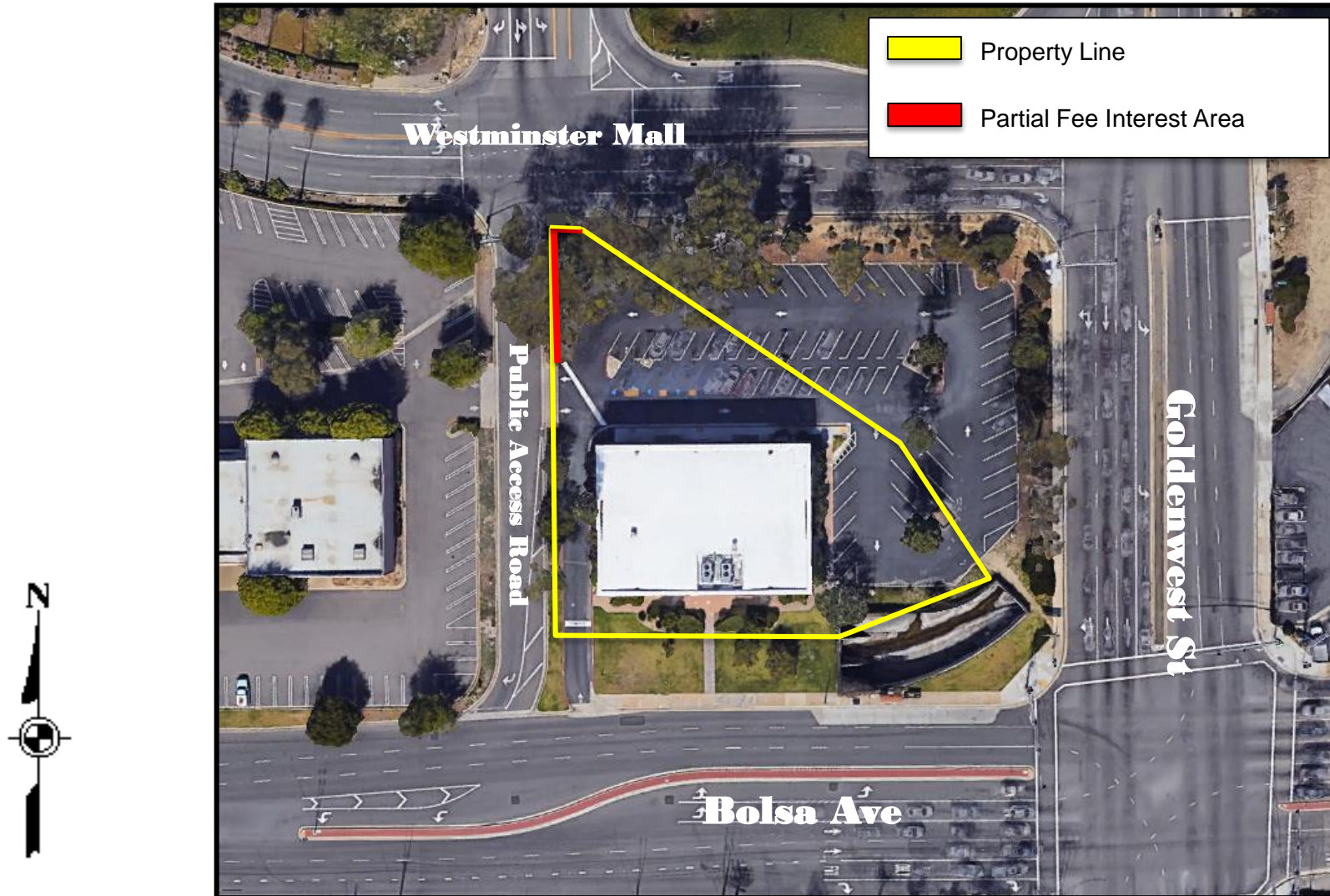
Resolution of Necessity No. 2018-010

Carolyn B. Huish



Resolution of Necessity No. 2018-043

Westminster Mall, LLC



Not to Scale,
For Presentation Purposes Only

Resolution of Necessity No. 2018-043

Westminster Mall, LLC



Not to Scale,
For Presentation Purposes Only

Resolution of Necessity No. 2018-043

Westminster Mall, LLC



Not to Scale,
For Presentation Purposes Only

Resolution of Necessity No. 2018-043

Westminster Mall, LLC



Not to Scale,
For Presentation Purposes Only

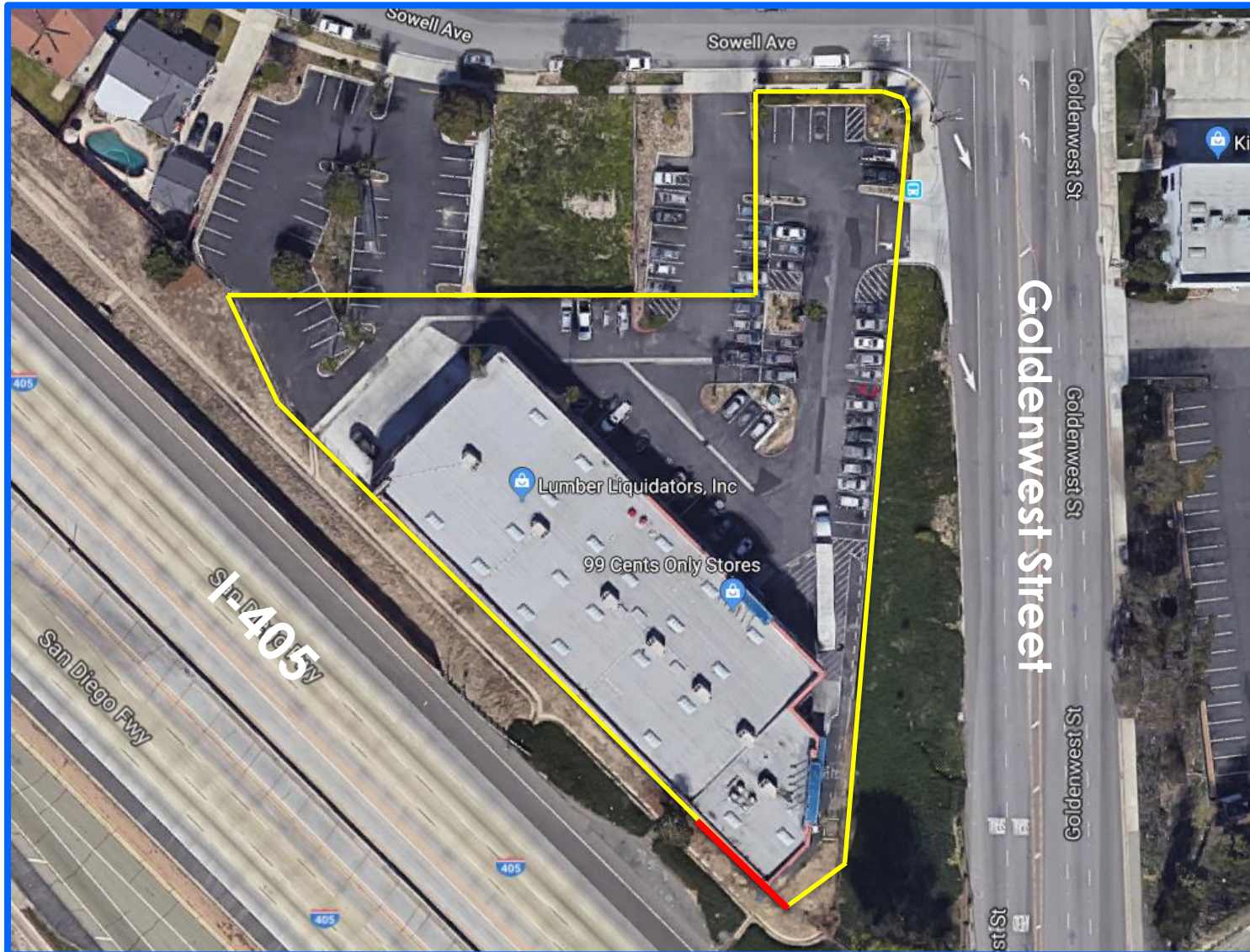
Resolution of Necessity No. 2018-043

Westminster Mall, LLC



Resolution of Necessity No. 2018-046

Golden Westminster Investments, LLC



- Property Line
- Partial Fee Interest Area



Not to Scale,
For Presentation Purposes Only

Resolution of Necessity No. 2018-046

Golden Westminster Investments, LLC



- Property Line
- Partial Fee Interest Area
- Temporary Construction Easement Area



Not to Scale,
For Presentation Purposes Only

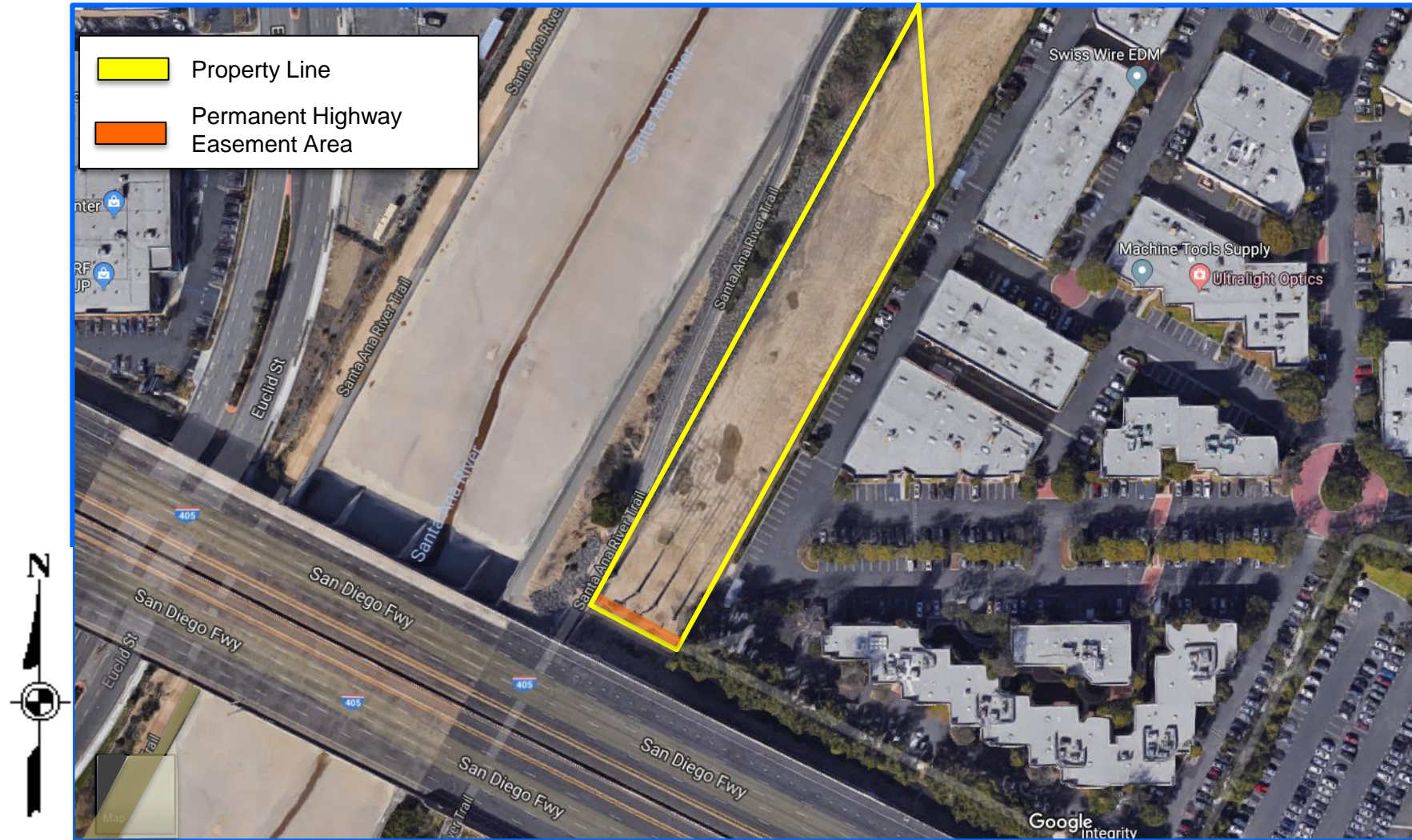
Resolution of Necessity No. 2018-046

Golden Westminster Investments, LLC



Resolution of Necessity No. 2018-051

Southern California Edison



Not to Scale,
For Presentation Purposes Only

Resolution of Necessity No. 2018-051

Southern California Edison



Not to Scale,
For Presentation Purposes Only

Resolution of Necessity No. 2018-051

Southern California Edison



Resolution of Necessity No. 2018-052

Sovran Acquisition



Resolution of Necessity No. 2018-052

Sovran Acquisition



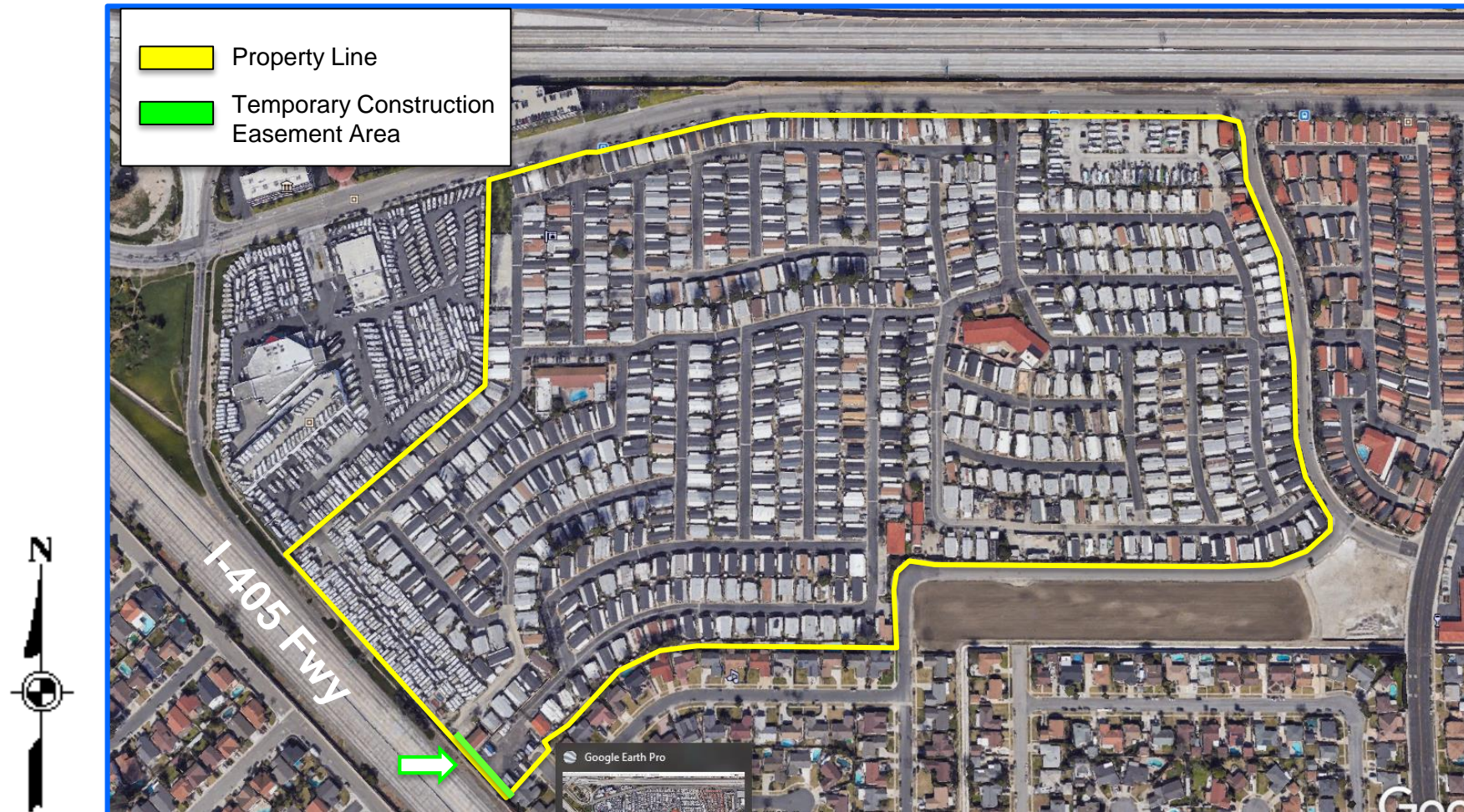
Resolution of Necessity No. 2018-052

Sovran Acquisition



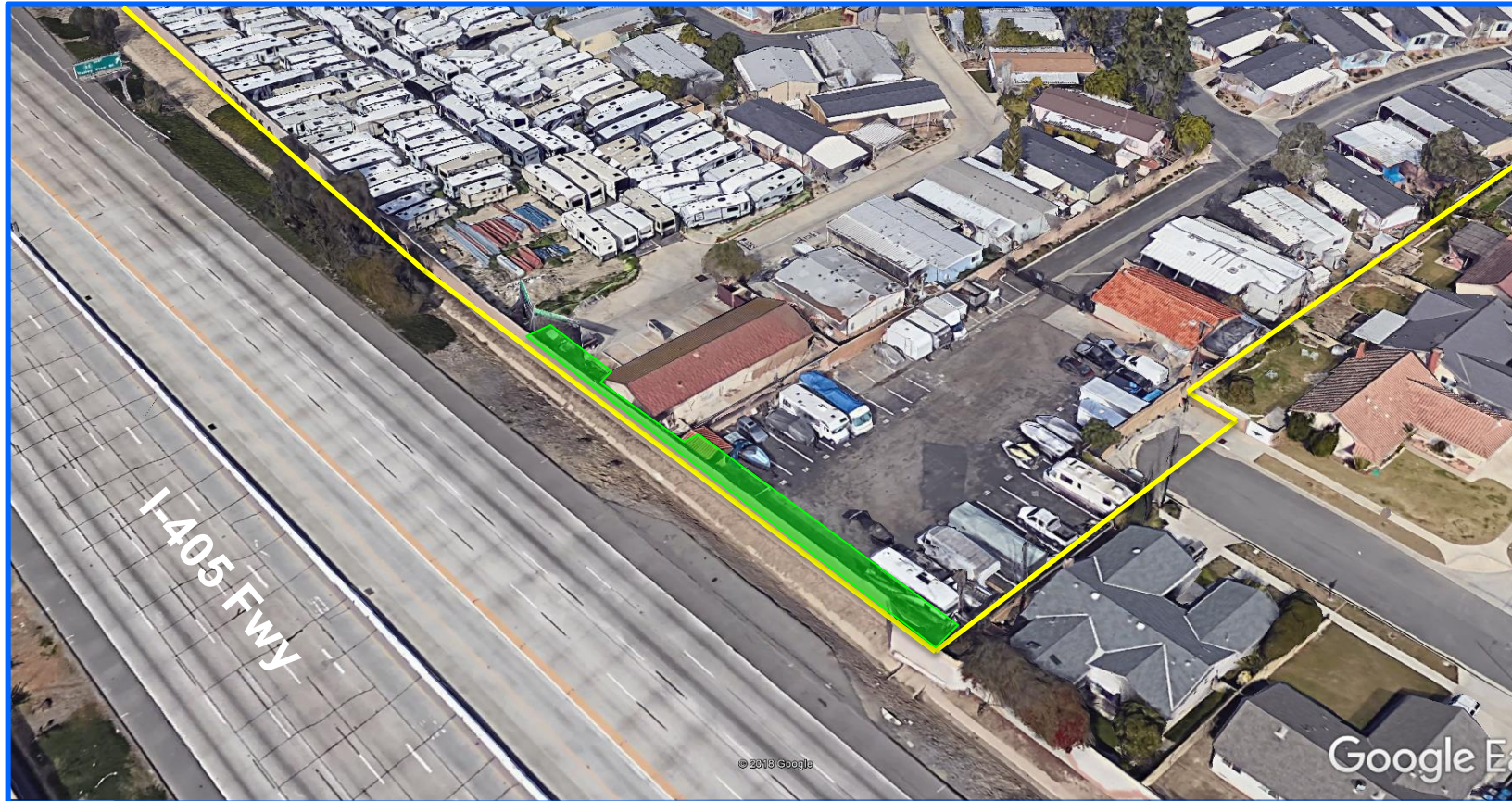
Resolution of Necessity No. 2018-053

Miller Family Trust



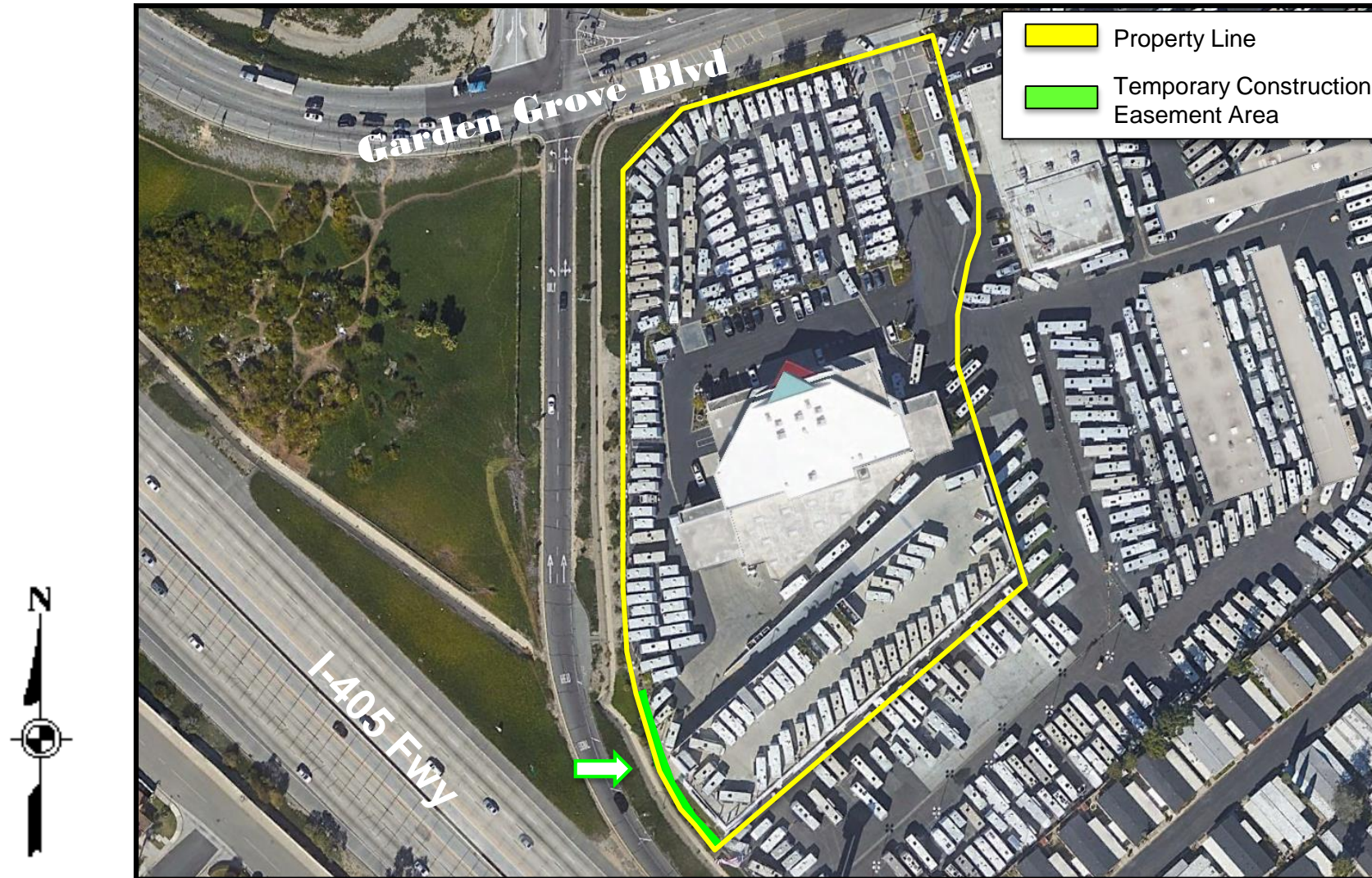
Resolution of Necessity No. 2018-053

Miller Family Trust



Resolution of Necessity No. 2018-054

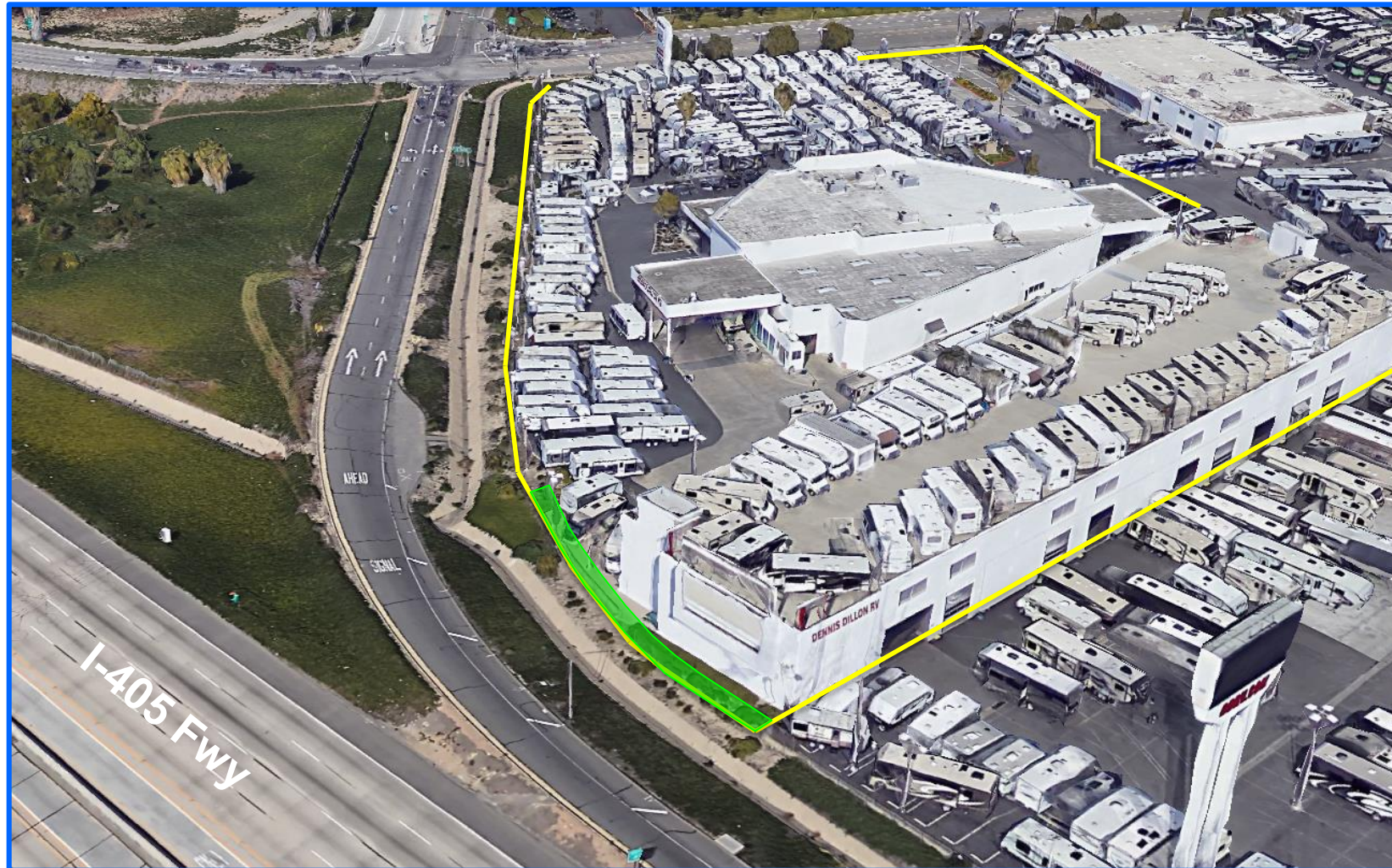
M Westland LLC



Not to Scale,
For Presentation Purposes Only

Resolution of Necessity No. 2018-054

M Westland LLC



Four Requirements to be Considered to Adopt Resolutions

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

Revised
Minutes of the
Orange County Transportation Authority
Orange County Transit District
Orange County Local Transportation Authority
Orange County Service Authority for Freeway Emergencies
Board of Directors Meeting

Call to Order

The April 9, 2018 regular meeting of the Orange County Transportation Authority (OCTA) and affiliated agencies was called to order by Chairwoman Bartlett at 9:05 a.m. at the OCTA Headquarters, 550 South Main Street, Board Room – Conference Room 07-08, Orange, California.

Roll Call

Following the Invocation and Pledge of Allegiance, the Clerk of the Board noted a quorum was present, with the following Directors in attendance:

Directors Present: Lisa A. Bartlett, Chairwoman
Tim Shaw, Vice Chairman
Laurie Davies
Barbara Delgleize
Andrew Do
Lori Donchak
Michael Hennessey
Steve Jones
Mark A. Murphy
Richard Murphy
Al Murray
Shawn Nelson
Todd Spitzer
Michelle Steel
Adnan Maiah, Acting District Director
California Department of Transportation District 12

Directors Absent: Miguel Pulido
Tom Tait
Gregory T. Winterbottom

Also Present: Darrell E. Johnson, Chief Executive Officer
Ken Phipps, Deputy Chief Executive Officer
Laurena Weinert, Clerk of the Board
Olga Prado, Assistant Clerk of the Board
James Donich, General Counsel
Members of the Press and the General Public

Special Calendar

There were no Special Calendar matters.

Consent Calendar (Items 1 through 14)

Orange County Transportation Authority Consent Calendar Matters

1. Approval of Minutes

A motion was made by Director Murray, seconded by Director M. Murphy, and declared passed by those present, to approve the Orange County Transportation Authority and affiliated agencies' regular meeting minutes of March 26, 2018.

Director Nelson was not present to vote on this item.

2. Cooperative Agreement with Metrolink for the Control Point Fourth Project, Internal Audit Report No. 18-504

Director Do pulled this item and asked how much of the \$4 million was spent during the time of the audit. Janet Sutter, Executive Director of Internal Audit, responded that there was approximately \$1.3 million in charges.

A discussion ensued regarding:

- The amount of charges attributed to these agreements.
- Director Do stated the following:
 - Concerned about the competitive bid process, cost competitiveness, lack of documentation, reason for the procurement method used, and procurement outside the scope of work of the contract.
 - Metrolink has a history of audit issues, and for this item, why should OCTA have to be subject to the consequences of Metrolink's actions.
 - In order to provide oversight, OCTA should be able to participate earlier in the procurement process
- Metrolink procured properly its bench of consultants, but issued the Contract Task Orders (CTOs) without competition.
- The Federal Transit Administration guidelines require documentation and a reason that the time-and-materials CTO were the preferred procurement method.
- The CTO issued were for time-and-materials versus a fixed cost.
- OCTA could amend the Metrolink cooperative agreement(s) for projects that OCTA funds to include language that OCTA be given additional project management oversight.

2. (Continued)

- Metrolink's audit had the same findings as OCTA's audit, and Metrolink updated its procedures, as well as invited OCTA to participate in the CTO selection process for a current OCTA-funded project.
- Chairwoman Bartlett stated the following:
 - Requested that the Board of Directors (Board) be provided information about Metrolink's procedural changes.
 - OCTA communicate the Board's comments to Metrolink through OCTA's Board appointees to the Metrolink Board, which are Directors Nelson and Winterbottom.
- Communicate, in writing, to Metrolink's Chief Executive Officer (CEO), the Board's comments.
- This project was completed on March 4th, is in service, and the "punch list" is in the process of being completed.
- Director Spitzer stated the following:
 - Provide Metrolink's management response to the findings by its auditor.
 - Continue this item in order to transmit OCTA's concerns to Metrolink's CEO.

A motion was made by Director Spitzer, seconded by Director Do, and declared passed by those present, to:

- A. Continue this item to the appropriate time as to when the Orange County Transportation Authority can secure a Metrolink management response to its audit.
- B. Direct the Orange County Transportation Authority's Chief Executive Officer to transmit a letter encapsulating the comments from the April 9, 2018 Board of Directors meeting, in regards to this item, and include Metrolink's response.

Director Nelson was not present to vote on this item.

3. Fiscal Year 2017-18 Second Quarter Budget Status Report

A motion was made by Director Murray, seconded by Director M. Murphy, and declared passed by those present, to receive and file as an information item.

Director Nelson was not present to vote on this item.

4. Amendment to Agreement for the Implementation of the Federal Disadvantaged Business Enterprise Program

A motion was made by Director Murray, seconded by Director M. Murphy, and declared passed by those present, to authorize the Chief Executive Officer to negotiate and execute Amendment No. 3 to Agreement No. C-4-1514 between the Orange County Transportation Authority and Padilla & Associates, Inc., in the amount of \$150,000, to exercise the one-year option term of the agreement through August 31, 2019, to provide assistance in administering the federal Disadvantaged Business Enterprise Program. This will increase the maximum obligation of the agreement to a total contract value of \$1,050,000.

Director Nelson was not present to vote on this item.

5. Amendments to the Orange County Transportation Authority Drug and Alcohol Policy Manual

Director Spitzer pulled this item and stated that he discussed with staff, before the Board meeting, recommendation letter A. Director Spitzer referenced Attachment B of the Staff Report, sections 5.5B and 6.2C, and asked staff to rewrite and explain the reasons for the changes to the policy.

Matt DesRosier, Department Manager of Health, Safety, and Environmental Compliance, responded as follows:

- The recommendation is to remove the Department of Motor Vehicles medical recertification for drug and alcohol screening, which are not federal and state requirements.
- Instead, OCTA could increase safety measures under the federal required testing programs, which includes pre-employment, random, post-accident, reasonable suspicion, and return-to-duty testing.
- Random testing is a more effective screening tool.
- Due to varying employee's personal health conditions, there are inconsistencies with testing of a safety-sensitive employee.

Director Spitzer stated the following:

- Why not test all safety-sensitive positions, as well as increase random testing.
- Some safety-sensitive employees are tested more often due to medications being used for various medical reasons.
- Requested that staff explain, in writing, the reasons for the recommended actions, as he is concerned with removing safety measures.

5. (Continued)

A discussion ensued as follows:

- James Donich, General Counsel, will work with staff to clarify in writing the recommended actions.
- OCTA's intent is for a more effective drug and alcohol policy.
- Director M. Murphy suggested using the word "replace", for what is being removed, as well as provide an explanation for the proposed changes.
- Director Spitzer commented as follows:
 - A safety-sensitive employee, taking legally prescribed medication, should be in a different category and kept separate from the random testing population.
 - OCTA needs to be able to test a safety-sensitive employee returning to duty (from medical leave), as there are concerns about opioids and legal medical marijuana usage.

A motion was made by Director Spitzer, seconded by Director M. Murphy, and declared passed by those present, to continue this item for two weeks.

Director Nelson was not present to vote on this item.

6. SB 1 (Chapter 5, Statutes of 2017) Programs Update

A motion was made by Director Murray, seconded by Director M. Murphy, and declared passed by those present, to receive and file as an information item.

Director Nelson was not present to vote on this item.

7. Amendment to the Master Plan of Arterial Highways

A motion was made by Director Murray, seconded by Director M. Murphy, and declared passed by those present, to:

- A. Approve an amendment to the Master Plan of Arterial Highways for the following:
- Reclassify Esperanza Road, between Imperial Highway and the Fairmont Boulevard Connector, from a major (six-lane, divided) to a primary (four-lane, divided) arterial;
 - Reclassify Fairmont Boulevard Connector, between Esperanza Road and Fairmont Boulevard, from a major (six-lane, divided) to a primary (four-lane, divided) arterial;
 - Reclassify Los Patrones Parkway, between Chiquita Canyon Road to Cow Camp Road, from a primary (four-lane, divided) to secondary (four-lane, undivided) arterial; and

7. (Continued)

- Add Los Patrones Parkway, south of Oso Parkway to Chiquita Canyon Road, as a secondary (four-lane, undivided) arterial.

The proposed amendment will become final, contingent upon the Orange County Transportation Authority receiving documentation that the County of Orange and City of Yorba Linda have amended their respective general plans and have complied with the requirements of the California Environmental Quality Act.

If the original proposed Master Plan of Arterial Highways amendment is modified as a result of the California Environmental Quality Act and/or general plan amendments processes, the modified Master Plan of Arterial Highways amendment shall be returned to the Orange County Transportation Authority's Board of Directors for consideration.

- B. Direct the Executive Director of Planning, or his designee, to file a Notice of Exemption from the California Environmental Quality Act in support of the amendment to the Master Plan of Arterial Highways.
- C. Receive and file a status report on active Master Plan of Arterial Highways amendments.

Director Nelson was not present to vote on this item.

8. Interstate 5 (Avenida Pico to San Diego County Line) Project Status Update

Director Donchak pulled this item, provided comments, and asked why the Transportation Corridor Agencies (TCA) is included in the discussions for this item's project.

Kurt Brotcke, Director of Strategic Planning, responded that as part of the project development team, OCTA included the California Department of Transportation (Caltrans), San Diego, and the TCA.

A discussion ensued regarding:

- The project will be studied using travel model-based weekday demand. Congestion on some weekends throughout the year will be noted in the study, but will not drive project alternatives.
- The primary focus of the project study report is on the high-occupancy vehicle lane extension and capacity improvements from where the Measure M2 project ends at Avenida Pico to the San Diego County line.
- The TCA is included on the project development team to ensure awareness of OCTA's Interstate 5 (I-5) project plans.
- The TCA currently does not have a project for the I-5 but is moving forward with a formal process to define proposals for a future project.

8. (Continued)

- Caltrans is included on the project development team and is working with OCTA.
- Caltrans' preliminary traffic analysis indicates recurring congestion on the weekends, and future environmental studies will evaluate this issue.
- Caltrans sent a letter to OCTA (dated March 27, 2018) acknowledging the traffic analysis report, weekend congestion is an issue, and requested all agencies' studies methodologies be included in the process.
- Supervisorial District 5 has construction fatigue, drivers may have modified driving habits, and studies should evaluate this issue as the public adjusts to the recent construction improvements.
- Director Donchak requested to be appraised on any future environmental studies that include managed lanes between Oso Parkway and Camp Pendleton on the I-5.
- Regional Planning and Highways (RP&H) Committee Chairman M. Murphy stated this item has been reviewed by the RP&H Committee.
- South Orange County's population will increase over the next 20 years, especially in the Rancho Mission Viejo area, and Director Donchak requested that Rancho Mission Viejo be consulted as part of the study process.
- Chairwoman Bartlett requested that when the Interstate 405 Improvement Project is completed, staff review connectivity of the State Route 73 toll road to the San Diego County line from the I-5.

No action was taken on this receive and file information item.

Orange County Local Transportation Authority Consent Calendar Matters

9. Orange County Local Transportation Authority Measure M2 Agreed-Upon Procedures Reports, Year Ended June 30, 2017

A motion was made by Director Murray, seconded by Director M. Murphy, and declared passed by those present, to:

- A. Direct staff to monitor implementation of recommendations by cities.
- B. Receive and file the Orange County Local Transportation Authority Measure M2 Local Fair Share Agreed-Upon Procedures Reports Year Ended June 30, 2017, and the Orange County Local Transportation Authority Measure M2 Senior Mobility Program Agreed-Upon Procedures Reports Year Ended June 30, 2017, as information items.

Director Nelson was not present to vote on this item.

10. Agreement for Right-of-Way Clearance Services for the Interstate 5 Far North Widening Project in the City of Anaheim

A motion was made by Director Murray, seconded by Director M. Murphy, and declared passed by those present, to authorize the Chief Executive Officer to negotiate and execute Agreement No. C-7-2115 between the Orange County Transportation Authority and OFRS, Inc., the lowest responsive, responsible bidder, in the amount of \$62,475, for right-of-way clearance services for the Interstate 5 Far North Widening Project in the City of Anaheim.

Director Nelson was not present to vote on this item.

11. Amendment to Agreement for Additional Design Services for Interstate 5 Improvement Project from South of Alicia Parkway to El Toro Road

A motion was made by Director Murray, seconded by Director M. Murphy, and declared passed by those present, to authorize the Chief Executive Officer to negotiate and execute Amendment No. 3 to Agreement No. C-4-1426 between the Orange County Transportation Authority and TRC Solutions, Inc., in the amount of \$949,605, for additional design services for the Interstate 5 Improvement Project from south of Alicia Parkway to El Toro Road. This will increase the maximum cumulative obligation of the agreement to a total contract value of \$8,569,287.

Director Nelson was not present to vote on this item.

12. 2018 State Transportation Improvement Program Update

A motion was made by Director Murray, seconded by Director M. Murphy, and declared passed by those present, to:

- A. Authorize the use of up to \$7.372 million in Surface Transportation Block Grant funds for the Interstate 5 improvements from Interstate 405 to State Route 55.
- B. Authorize an exchange of Measure M2 funds between three segments of the Interstate 5 Improvement Project.
 - Decrease Measure M2 funds by \$11 million for the Interstate 5 improvements from Alicia Parkway to El Toro Road,
 - Increase Measure M2 funds by \$9.1 million for Interstate 5 improvements from State Route 73 to Oso Parkway, and
 - Add Measure M2 funds for \$1.9 million for the Interstate 5 improvements from State Route 73 to El Toro Road Landscaping.
- C. Direct staff to work with the California Transportation Commission to deliver projects based on the existing project schedules.

12. (Continued)

- D. Authorize staff to process all necessary amendments to the Federal Transportation Improvement Program and execute or amend all necessary agreements to facilitate the above actions.

Director Nelson was not present to vote on this item.

13. Measure M2 Quarterly Progress Report for the Period of October 2017 Through December 2017

A motion was made by Director Murray, seconded by Director M. Murphy, and declared passed by those present, to receive and file as an information item.

Director Nelson was not present to vote on this item.

14. Fiscal Year 2018-19 Measure M2 Eligibility and Countywide Pavement Management Plan Guidelines and City of Placentia's Maintenance of Effort Benchmark

A motion was made by Director Murray, seconded by Director M. Murphy, and declared passed by those present, to:

- A. Approve the fiscal year 2018-19 Measure M2 Eligibility Guidelines.
- B. Approve the proposed revisions to the Countywide Pavement Management Plan Guidelines.
- C. Approve the City of Placentia's maintenance of effort benchmark adjustment for the fiscal year 2017-18 eligibility cycle.

Director Nelson was not present to vote on this item.

Regular Calendar

Orange County Transportation Authority Regular Calendar Matters

15. 2018 Long-Range Transportation Plan Update

Darrell E. Johnson, Chief Executive Officer (CEO), provided opening comments, and introduced Kurt Brotcke, Director of Strategic Planning, who presented a PowerPoint presentation for this item as follows:

- Trend 2040 – Results;
- Federal Performance Standards;
- Trend 2040 – HOV 2+ vs HOV 3+;
- Southern California Existing Express Lanes;
- Planned Regional Express Lanes;
- Planned California Department of Transportation Express Lanes;
- Planned Express Lanes – OC Focus;
- Managed Lanes Analysis;
- Managed Lanes Analysis – Summary; and
- Next Steps.

A discussion ensued regarding:

- The 15.3 percent delay travel time for “Trend 2040” is one of the better statistics OCTA has seen in the last 20 years.
- Additional transportation capacity would help to get ahead of the delays in travel.
- Mr. Maiah, Acting District Director for Caltrans District 12, stated the following:
 - The contract has been awarded for the Caltrans’ express lanes project study report to be completed in approximately two years.
 - Once the express lanes project study report is completed, the next step is the environmental document project report to be completed in approximately two years.
- The timelines for the Caltrans express lanes is approximately 10 years or beyond.
- Part of the HOV lane degradation issues are because single person vehicle violations.
- A resource limitation for the California Highway Patrol (CHP) to enforce the HOV lane violations.
- Director R. Murphy recommended including review of enforcement options in the plan.
- Members of the assembly and senate transportation committee are aware that HOV lanes enforcement needs to be addressed.
- There have been some state modifications for the social engineering aspects for HOV lane access (i.e., electric vehicles, etcetera.)

15. (Continued)

- The operational federal requirement of 45 miles per hour in the HOV lanes are also overlaid with the state's HOV lane access choices continues to be a challenge.
- Vice Chairman Shaw had concerns about the HOV 3+ and stated that the public would not be happy with the Caltrans' planned express lanes.
- In Caltrans' network, the SR-22 is a lower priority and would need to be studied as part of a future project.
- Typically managed lanes have controlled access.
- This item is not proposing projects, it is an assumption for the plan, and requires public outreach.
- RP&H Committee Chairman M. Murphy reported that the RP&H Committee discussed this item, and highlighted Director Nelson's comments that managed lanes would not be popular public option, etcetera.
- Mr. Maiah, Acting District Director for Caltrans District 12, also stated the following:
 - Caltrans yearly submits to the Federal Highways Administration (FHWA) a statewide HOV network report that includes a plan on how to address degradation.
 - The FHWA responded that the proposed statewide HOV network plan does not address the identified degradation.
 - Orange County has plans to address the HOV lanes congestion.
 - Caltrans is working with the CHP to address the HOV lanes violations.

A motion was made by Director Donchak, seconded by Director R. Murphy, and declared passed by those present, to direct staff to assume priced managed lanes within the Trend 2040 scenario, recognizing that further study, interagency coordination, and public outreach are required as part of future planning efforts.

Director Spitzer was not present to vote on this item.

Orange County Local Transportation Authority Regular Calendar Matters

16. Interstate 405 Improvement Project Update

Darrell E. Johnson, CEO, provided opening comments, and introduced Jeff Mills, Program Manager, Capital Programs, who provided a PowerPoint presentation for this item as follows:

- Project Location and Key Features;
- Project Travel Time Benefits;
- Background;
- Groundbreaking Ceremony;
- Construction Update;
- Additional Updates;
- Preliminary Bridge Construction Timeline;
- Ongoing Community Outreach;
- New Project Videos; and

16. (Continued)

- Recent and Next Steps.

A discussion ensued regarding:

- By the end of May 2018, the Waze app will integrate the project's closures, etcetera.
- An example of the Waze app issue in Los Angeles was discussed.
- Waze is working with OCTA and acknowledged that the information from OCTA is what is needed for the app.
- Vice Chairman Shaw stated that some OCTA Board members serve on the Orange County Sanitation District Board. He thanked the colleagues who serve on both Boards, as well as staff from both agencies, for working out the conflicts to the satisfaction of both agencies with their best interests in the public.

No action was taken on this receive and file as an information item.

Discussion Items

17. Public Comments

A public comment was heard from Thomas Box who commented that he has been a Coach Operator since July 1980. Mr. Box suggested that the \$1,000 bonus be called partial or limited retroactivity, because with the tax implications only approximately \$600 would be received.

Mr. Box also commented that once retroactive pay goes away, it will never return. Lastly, he stated the attendance policy took a long time to get to this point, and the coach operators do not want to give it away overnight.

18. Chief Executive Officer's Report

Darrell E. Johnson, CEO, reported on the following:

- California Association for Coordinated Transportation (CalACT) 2018 Spring Conference and Expo:
 - Last week, CalACT held its conference & expo in Newport Beach.
 - Chairwoman Bartlett and Mr. Johnson provided opening remarks at the conference.
 - Director Murray was thanked for attending the conference.
 - OCTA was presented with CalACT's 2018 Outstanding Paratransit Program Award.
 - OCTA staff and the Transit Committee was thanked for all their hard work on the paratransit program.

18. (Continued)

- Angels Express Kickoff Event:
 - Last Friday evening, OCTA hosted the annual pre-game kickoff rally for the Angels Express at the Laguna Niguel/Mission Viejo Metrolink Station.
 - Vice Chairman Shaw was thanked for attending the event.
- The annual Taxpayer Oversight Committee (TOC) Measure M public hearing is scheduled for Tuesday, April 10th at 6:00 p.m. at the OCTA Headquarters. OCTA will report to the Board the TOC's findings.
- The TOC monitors the use of OCTA's use of Measure M funding and has found OCTA to be in compliance with the ordinance for the past 26 years.

19. Directors' Reports

Director Murray reported that he joined staff at the CalACT conference, and thanked CalACT for the awards presented to OCTA. In addition, at last Thursday's, CalACT's event, he provided welcoming remarks, and thanked OCTA staff for its hard work with hosting the event.

Vice Chairman Shaw reported that he attended last Friday's Angels Express kickoff event at the Laguna Niguel/Mission Viejo Station. He thanked Mr. Johnson, CEO, and staff for a great event, as well as reported that former Angels pitcher Clyde Wright signed autographs for the Angels fans at the event.

20. Closed Session

A Closed Session was held for the following:

- A. Pursuant to Government Code Section 54957(b) to evaluate the performance of the Chief Executive Officer, Darrell E. Johnson.
- B. Pursuant to Government Code Section 54957.6 to meet with the designated representative, Chairwoman Lisa A. Bartlett, regarding the compensation of the Chief Executive Officer.

Directors Do and Steel were not present for Closed Session letters A and B.

21. Annual Review and Compensation Adjustment for Chief Executive Officer, Darrell E. Johnson

James Donich, General Counsel, announced that the Board of Directors met in Closed Session for agenda Item 20, letters A and B and agreed to continue the Closed Session items.

22. Adjournment

The meeting adjourned at 11:15 a.m.

The next regularly scheduled meeting of this Board will be held at **9:00 a.m. on Monday, April 23, 2018**, at the Orange County Transportation Authority Headquarters, 550 South Main Street, Board Room – Conference Room 07-08, Orange, California.

ATTEST:

Laurena Weinert
Clerk of the Board

Lisa A. Bartlett
OCTA Chairwoman

Special Calendar

Orange County Transportation Authority Special Calendar Matters

1. Presentation of Resolutions of Appreciation for Employees of the Month for March and April 2018

Darrell E. Johnson, Chief Executive Officer (CEO), presented the OCTA Resolutions of Appreciation as follows:

- A. Resolution of Appreciation No. 2018-048, to Patrick Dawes, Maintenance, Employee of the Month for March 2018.
- B. Resolutions of Appreciation Nos. 2018-058, 2018-059, and 2018-060 to Cynthia Guardado, Coach Operator, Gilberto Anaya, Maintenance, and Kristopher Hewkin, Administration, as Employees of the Month for April 2018.

2. Closed Session

A Closed Session was held as follows:

- A. Pursuant to Government Code Section 54957(b) to evaluate the performance of the Chief Executive Officer, Darrell E. Johnson.
- B. Pursuant to Government Code Section 54957.6 to meet with the designated representative, Chairwoman Lisa A. Bartlett, regarding the compensation of the Chief Executive Officer.

3. Annual Review and Compensation Adjustment for Chief Executive Officer, Darrell E. Johnson

Chairwoman Bartlett stated that the Board of Directors (Board) met in Closed Session under Item 2 of the Board agenda, as well as announced that the votes will be bifurcated.

A motion was made by Chairwoman Bartlett, seconded by Director Pulido, and declared passed by those present, to approve for the Chief Executive Officer the following:

- A. 2.75 percent merit increase
- B. Contract extension of five years, from September 2019 through September 2024
- C. Five days of executive/administrative leave

Directors Steel and Tait voted in opposition.

3. (Continued)

A motion was made by Chairwoman Bartlett, seconded by Director Pulido, and declared passed by those present, to approve for the Chief Executive Officer a three percent special award. Directors M. Murphy, Nelson, Spitzer, Steel, and Tait voted in opposition.

Consent Calendar (Items 4 through 15)

Orange County Transportation Authority Consent Calendar Matters

4. Approval of Minutes

Director Donchak pulled the item and asked that Item 8 – Interstate 5 (Avenida Pico to San Diego County Line) Project Status Update for the April 9, 2018 Board minutes be revisited to reflect the actions that were directed in the lengthy discussion.

Mr. Johnson, CEO, responded that staff will revisit Item 8 of the April 9, 2018 Board minutes and return to the May 14, 2018 Board meeting. There was concurrence from the Board Members represented in Item 8 of the April 9, 2018 Board minutes to revisit.

A motion was made by Director Donchak, seconded by Director M. Murphy, and declared passed by those present, to continue the Orange County Transportation Authority and affiliated agencies' regular meeting minutes of the April 9, 2018 Board of Directors meeting to the May 14, 2018 Board of Directors meeting.

5. State Legislative Status Report

A motion was made by Director Donchak, seconded by Director Nelson, and declared passed by those present, to adopt an OPPOSE UNLESS AMENDED position on AB 2417 (Rodriguez, D-Pomona), which revises the board membership of the Metro Gold Line Foothill Extension Construction Authority.

6. Federal Legislative Status Report

A motion was made by Director Donchak, seconded by Director Nelson, and declared passed by those present, to receive and file as an information item.

7. Agreement for Financial Advisory Services

A motion was made by Director Donchak, seconded by Director Nelson, and declared passed by those present, to:

- A. Approve the selection of Sperry Capital Inc., as the firm to provide financial advisory services.
- B. Authorize the Chief Executive Officer to negotiate and execute Agreement No. C-7-2137 between the Orange County Transportation Authority and Sperry Capital Inc., in the amount of \$495,500, for a three-year initial term through April 30, 2021, with one, two-year option term, to provide financial advisory services.

8. First Quarter 2018 Debt and Investment Report

A motion was made by Director Donchak, seconded by Director Nelson, and declared passed by those present, to receive and file the Quarterly Debt and Investment Report prepared by the Treasurer as an information item.

9. Approval to Release Request for Proposals for Temporary Staffing Services

A motion was made by Director Donchak, seconded by Director Nelson, and declared passed by those present, to:

- A. Approve the proposed evaluation criteria and weightings for Request for Proposals 8-1593 to provide temporary staffing services.
- B. Approve the release of Request for Proposals 8-1593 to select a firm or firms to provide temporary staffing services for a three-year initial term with two, two-year option terms.

10. Orange County Transportation Authority Code of Conduct

A motion was made by Director Donchak, seconded by Director Nelson, and declared passed by those present, to receive and file as an information item.

11. Amendment to Agreement for Health Insurance Brokerage Services

A motion was made by Director Donchak, seconded by Director Nelson, and declared passed by those present, to authorize the Chief Executive Officer to negotiate and execute Amendment No. 3 to Agreement No. C-5-3799 between the Orange County Transportation Authority and Burnham Benefits Insurance Services in the amount of \$192,500, for additional brokerage services for coach operator employee benefits, and to extend the current agreement term for an additional 12 months through March 31, 2020. This will increase the maximum obligation of the agreement to a total contract value of \$403,500.

12. Agreements for Health Insurance Services for Coach Operators

A motion was made by Director Donchak, seconded by Director Nelson, and declared passed by those present, to:

- A. Authorize the Chief Executive Officer to negotiate and execute Agreement No. C-8-1618 between the Orange County Transportation Authority and Kaiser Permanente Health Plan, Inc., on a cost per employee basis, for prepaid medical services from July 1, 2018 through December 31, 2018. The 2018 Kaiser Permanente Health Plan, Inc., premium cost will vary in accordance with actual enrollment.
- B. Authorize the Chief Executive Officer to negotiate and execute Amendment No. 7 to Agreement No. C-1-2995 between the Orange County Transportation Authority and Delta Dental, on a cost per employee basis, for health maintenance organization dental services from July 1, 2018 through December 31, 2018. The 2018 Delta Dental health maintenance organization premium costs will vary in accordance with actual enrollment.
- C. Authorize the Chief Executive Officer to negotiate and execute Amendment No. 7 to Agreement No. C-1-2996 between the Orange County Transportation Authority and California State Association of Counties - Excess Insurance Authority for Delta Dental, on a cost per employee basis, for preferred provider organization dental services from July 1, 2018 through December 31, 2018. The 2018 Delta Dental preferred provider organization premium costs will vary in accordance with actual enrollment.
- D. Authorize the Chief Executive Officer to negotiate and execute Amendment No. 5 to Agreement No. C-1-2997 between the Orange County Transportation Authority and California State Association of Counties - Excess Insurance Authority for Vision Service Plan, on a cost per employee basis, for vision services from July 1, 2018 through December 31, 2018. The 2018 vision services premium costs will vary in accordance with actual enrollment.
- E. Authorize the Chief Executive Officer to negotiate and execute Amendment No. 1 to Purchase Order No. C-7-1897 between the Orange County Transportation Authority and California State Association of Counties - Excess Insurance Authority for VOYA for life insurance from July 1, 2018 through December 31, 2018. The life insurance premium costs will vary in accordance with actual volume in the plan.

Director Tait did not participate on this item.

Orange County Transit District Consent Calendar Matters

13. Award of Agreement for Three-Position Bicycle Racks for 40-Foot Buses

A motion was made by Director Donchak, seconded by Director Nelson, and declared passed by those present, to:

- A. Approve the selection of Complete Coach Works to provide hardware and installation of up to 484, three-position bicycle racks, with the option to purchase up to 73 additional units as needed.
- B. Authorize the Chief Executive Officer to negotiate and execute Agreement No. C-7-2136 between the Orange County Transportation Authority and Complete Coach Works in the amount of \$745,592, for the purchase and installation of up to 484, three-position bicycle racks, with an option to purchase 73 additional units as needed.

Orange County Local Transportation Authority Consent Calendar Matters

14. Taxpayer Oversight Committee Measure M2 Annual Public Hearing Results and Compliance Finding

A motion was made by Director Donchak, seconded by Director Nelson, and declared passed by those present, to receive and file as an information item.

15. Agreement for the Construction of the Right-of-Way Slope Stabilization Project

A motion was made by Director Donchak, seconded by Director Nelson, and declared passed by those present, to:

- A. Find James McMinn, Inc., the apparent low bidder, as non-responsive due to failure to meet the federal requirement for Disadvantaged Business Enterprise participation.
- B. Authorize the Chief Executive Officer to negotiate and execute Agreement No. C-7-2047 between the Orange County Transportation Authority and Bosco Constructors, Inc., the lowest responsive, responsible bidder, in the amount of \$1,735,600, for construction of the right-of-way slope stabilization project.

Regular Calendar

Orange County Transportation Authority Regular Calendar Matters

16. OC Bus 360° Update

Darrell E. Johnson, CEO, provided opening comments, and Kurt Brotcke, Director of Strategic Planning, reported on the OC Bus 360° efforts, as well as referenced on the screen Attachment A of the Staff Report.

A discussion ensued regarding:

- For the Santa Ana College Pilot Pass Program, after the first year, the student pass fee will be \$6.75 per semester.
- The American Public Transportation Association reports total bus ridership and does not report average weekday ridership.
- Director Nelson requested review, for the past year, of peer transit agencies bus ridership increases.
- Director Tait requested how much of the OC Bus 360° 12.8 percent ridership increase is due to the Santa Ana College Pilot Pass Program.
- Project V community shuttle services in south Orange County have been successful.
- OCTA-sponsored Senate Bill 1119 last week was heard out of policy and is working through the process, and the Board will be kept apprised on its status.

No action was taken on this receive and file information item.

Discussion Items

17. Public Comments

There were no public comments.

18. Chief Executive Officer's Report

Darrell E. Johnson, CEO, reported on the following:

- At the March 26th Board meeting, there was a hearing on several Resolutions of Necessity (RONs) in regards to the Interstate 405 (I-405) Improvement Project. One property owner requested a continuance of the RONs to the April 9th Board meeting, and OCTA continues to work on a potential settlement with the property owner.

18. (Continued)

- Last week, Andy Oftelie, Executive Director of Finance and Administration, and he were in New York for an investor conference sponsored by J.P. Morgan, as well as met with the institutional investors about the I-405 Improvement Project debt issuance.
- On Sunday, April 29th at 10:00 a.m., OCTA will host an equestrian ride at the Trabuco Rose property in Trabuco Canyon to give the horse-community an opportunity to view the property.
- OCTA was presented the “EPIC” award in the video production category by the California Association of Public Information Officers, for the “Play It Safe for Cyclists” videos.

19. Directors’ Reports

There were no Directors’ reports.

20. Adjournment

The meeting adjourned at 9:50 a.m.

The next regularly scheduled meeting of this Board will be held at **9:00 a.m. on Monday, May 14, 2018**, at the Orange County Transportation Authority Headquarters, 550 South Main Street, Board Room - Conference Room 07-08, Orange, California.

ATTEST:

Laurena Weinert
Clerk of the Board

Lisa A. Bartlett
OCTA Chairwoman



COMMITTEE TRANSMITTAL

May 14, 2018

To: Members of the Board of Directors
From: Laurena Weinert, Clerk of the Board
Subject: 91 Express Lanes Corona Customer Service Center Relocation

Finance and Administration Committee Meeting of April 25, 2018

Present: Directors Do, Hennessey, Jones, and Steel
Absent: Directors R. Murphy and Spitzer

Committee Vote

This item was passed by the Members present.

Committee Recommendations

- A. Authorize the Chief Executive Officer to execute Agreement No. C-8-1660 with Riverside County Transportation Commission, to cover the ten-year lease, as well as tenant improvements for the 91 Express Lanes Corona Office, located at 301 Corporate Terrace Circle, Corona, California, in an amount not to exceed \$999,000, which represents Orange County Transportation Authority's share of the costs.
- B. Authorize the Chief Executive Officer to execute Amendment No. 3 to Agreement C-4-0384 with CPI Properties, LLC, to cover a six-month extension to the current lease, in an amount not to exceed \$55,000. This amount reflects the total lease cost and will be shared equally with the Riverside County Transportation Commission.
- C. Authorize the Chief Executive Officer to execute Amendment No. 1 to Agreement C-6-1349 with CBRE, Inc., to cover real estate brokerage fees, in an amount not to exceed \$14,700.



April 25, 2018

To: Finance and Administration Committee
From: Darrell E. Johnson, Chief Executive Officer *[Signature]*
Subject: 91 Express Lanes Corona Customer Service Center Relocation

Overview

The current lease for the 91 Express Lanes Customer Service Center in Corona expires September 30, 2018. The leased space accommodates the walk-in customer service center and the call center, and the facility is shared with the Riverside County Transportation Commission. Staff has retained the brokerage services of CBRE, Inc., and has researched various relocation opportunities for the customer service center. The terms of the proposed relocation include a ten-year lease for a total of 5,009 square feet, as well as tenant improvements, at a facility owned by the Riverside County Transportation Commission.

Recommendations

- A. Authorize the Chief Executive Officer to execute Agreement No. C-8-1660 with Riverside County Transportation Commission, to cover the ten-year lease, as well as tenant improvements, for the 91 Express Lanes Corona Office, located at 301 Corporate Terrace Circle, Corona, California, in an amount not to exceed \$999,000, which represents Orange County Transportation Authority's share of the costs.
- B. Authorize the Chief Executive Officer to execute Amendment No.3 to Agreement C-4-0384 with CPI Properties, LLC, to cover a six-month extension to the current lease, in an amount not to exceed \$55,000. This amount reflects the total lease cost and will be shared equally with the Riverside County Transportation Commission.
- C. Authorize the Chief Executive Officer to execute Amendment No.1 to Agreement C-6-1349 with CBRE, Inc., to cover real estate brokerage fees, in an amount not to exceed \$14,700.

Background

The 91 Express Lanes toll road operations includes a customer service center with 29 representatives who handle customer service issues both in person and by phone/internet, as well as handling the transponder inventory. Corona is home to the largest number of transponder holders of any city. In the past, approximately 44 customers visited the customer service center each day; however, since the extension of the 91 Express Lanes into Riverside County, the average visitors per day has increased to 71. Since April 2003, the customer service center has been located on the first floor of an office building in the City of Corona; however, various maintenance issues at the location, as well as future road construction adjacent to the location, make the location less desirable for future occupancy.

The Orange County Transportation Authority (OCTA) and the Riverside County Transportation Commission (RCTC) became partners in the facility operations of the 91 Express Lanes in November 2015, and in March 2017, RCTC opened up the extension of the 91 Express Lanes into Riverside County. An important part of the partnership agreement is that OCTA and RCTC share equally in the cost of lease and tenant improvement expenses.

Discussion

The lease for the current customer service center is expiring on September 30, 2018. In anticipation of the lease expiration, the real estate brokerage firm CBRE, Inc. (CBRE), conducted a property search along the State Route 91 corridor to determine what properties were available for lease and sale that fit within the customer service center's needs. Potential properties were identified based on square footage and pricing, and toured by staff, after which CBRE issued requests for proposals to four landlords of those properties, as well as the currently occupied property. Three responses to CBRE's requests for proposals were received, including one from the current landlord. In addition to these proposals, the RCTC proposed co-locating at a building they own in Corona. While the proposed space at three of the available locations and/or the pricing of the space were not in line with the Customer Service Center requirements, the RCTC proposed space at their building was a good fit for the customer service center, both with space and pricing.

Since the extension of the 91 Express Lanes into Riverside County, the staffing at the Corona Customer Service Center has increased from 20 to 29, an increase of 45 percent. This has caused significant space constraints at the current location, which occupies a total of 4,285 square feet.

RCTC has proposed space of approximately 5,009 square feet of their building, an increase of 16 percent over current space, which will ease the space limitations that are currently faced at the existing location. The proposed monthly rental rate is \$1.56 per square foot, modified gross, for the first year, with two percent annual increases thereafter. This rate includes janitorial services, so utility costs would be paid for separately. By comparison, the current location monthly lease rate is \$1.64 per square foot, modified gross, which means that OCTA pays for electricity and janitorial services separately. As part of the proposed lease agreement, RCTC will continue to share costs equally with OCTA, bringing the actual monthly rental rate for OCTA to \$0.78 per square foot the first year. RCTC has also agreed to manage the tenant improvement process at the new location. After considering the options available, and in the spirit of inter-agency partnership, staff recommends relocating to the RCTC site.

The proposed tenant improvements to the new location will include a walk-up customer service center and waiting area, a call center that handles all 91 Express Lanes customer-related business, cubicles and office space for 91 Express Lanes staff, technology, infrastructure, relocation costs, as well as some new furniture, fixtures, and equipment, though most will be relocated from the current location. The costs for the lease and tenant improvements are estimated at \$999,000 (\$502,000 for lease costs over ten years and \$497,000 for tenant improvements).

Because the tenant improvements for the proposed location will not be ready until March 2019, the lease at the current location will need to be extended for an additional six months to March 31, 2019, in an amount not to exceed \$55,000. A holdover provision is included in the proposed lease extension at the current location should the need for additional time arise.

As part of the proposed agreement with RCTC, OCTA will pay its own real estate fees to CBRE, Inc., in an amount not to exceed \$14,700. While it is generally customary for the landlord to pay for real estate fees, CBRE has acted in partnership with OCTA throughout the process, arranging tours, managing proposals, advising staff on project planning, logistics, negotiations, market trends, customary lease inclusions, and lease preparation. CBRE has been a tremendous asset to OCTA throughout the process.

Fiscal Impact

Funds for OCTA's share of the tenant improvements are included in the Fund 36 fiscal year 2017-18 budget. OCTA's share of the first year of the office lease is included in the Fund 36 fiscal year 2018-19 proposed budget, since the

estimated occupancy date is April 1, 2019. CBRE's brokerage fees are also part of the Fund 36 fiscal year 2018-19 budget.

Summary

Staff is recommending the Board of Directors authorize the Chief Executive Officer to execute Agreement No. C-8-1660 with the Riverside County Transportation Commission to cover both OCTA's share of the ten-year lease, as well as OCTA's share of the tenant improvements for the 91 Express Lanes customer service center in Corona, in an amount not to exceed \$999,000. Additionally, staff recommends the Board of Directors approve Amendment No.3 to C-4-0384 with CPI Properties, LLC, for a six-month extension to the current lease, in an amount not to exceed \$55,000. Finally, staff recommends the Board of Directors approve funding of an amount not to exceed \$14,700 for Amendment No.1 to Agreement C-6-1349 with CBRE, Inc., for real estate brokerage fees in accordance with the terms contained therein.

Attachments

- A. Proposed Standard Multi-Tenant Office Lease – Gross, 301 Corporate Terrace, Corona, CA 92879

Prepared by:



Christina Runge Haidl
Senior Financial Analyst
Express Lanes Programs
(714) 560-5634

Approved by:



Kenneth Phipps
Deputy Chief Executive Officer
(714) 560-5637

STANDARD MULTI-TENANT OFFICE LEASE - GROSS

1. Basic Provisions ("Basic Provisions").

1.1 **Parties.** This Lease ("Lease"), dated for reference purposes only January 1, 2018, is made by and between Riverside County Transportation Commission (RCTC) ("Lessor") and Orange County Transportation Authority (OCTA) ("Lessee"), (collectively the "Parties", or individually a "Party").

1.2(a) **Premises:** That certain Portion of the Project (as defined below), commonly known as (street address, suite, city, state): 301 Corporate Terrace, Corona, CA 92879 ("Premises"). The Premises are located in the County of Riverside, and consist of approximately 5,009 rentable square feet. ~~and approximately _____ useable square feet.~~ In addition to Lessee's rights to use and occupy the Premises as hereinafter specified, Lessee shall have non-exclusive rights to the Common Areas (as defined in Paragraph 2.7 below) as hereinafter specified, but shall not have any rights to the roof, the exterior walls, the area above the dropped ceilings, or the utility raceways of the building containing the Premises ("Building") or to any other buildings in the Project. The Premises, the Building, the Common Areas, the land upon which they are located, along with all other buildings and improvements thereon, are herein collectively referred to as the "Project." The Project consists of approximately 6,599 rentable square feet. (See also Paragraph 2)

1.2(b) **Parking:** 20 plus Visitors unreserved and _____ reserved vehicle parking spaces at a monthly cost of \$0.00 per unreserved space and _____ per reserved space. (See Paragraph 2.6)

1.3 **Term:** 10 years and 0 months ("Original Term") commencing upon the receipt of Certificate of Occupancy, currently expected on April 1, 2019 ("Commencement Date") and ending March 31, 2029 ("Expiration Date"). (See also Paragraph 3)

1.4 **Early Possession:** If the Premises are available Lessee may have non-exclusive possession of the Premises commencing _____ ("Early Possession Date"). (See also Paragraphs 3.2 and 3.3)

1.5 **Base Rent:** \$0.78/RSF per month, **plus electricity** ("Base Rent"), payable on the first day of each month commencing on the first day of the fourth month following the Commencement Date as defined in paragraph 1.3, such that Lessee shall receive abated rent for the first three (3) months of the Term. (See also Paragraph 4)

☒ If this box is checked, there are provisions in this Lease for the Base Rent to be adjusted. See Paragraph 50.

~~1.6 Lessee's Share of Operating Expense Increase: _____ percent (____%) ("Lessee's Share"). In _____ the event that that size of the Premises and/or the Project are modified during the term of this Lease, Lessor shall recalculate Lessee's Share to reflect such modification.~~

1.7 Base Rent and Other Monies Paid Upon Execution:

(a) **Base Rent:** \$0.78 / SF for the period of the first month rent payable.

(b) **Security Deposit:** N/A ("Security Deposit"). (See also Paragraph 5)

(c) **Parking:** N/A for the period _____.

(d) **Other:** _____ for _____.

(e) **Total Due Upon Execution of this Lease:** None.

1.8 **Agreed Use:** General office and other legally permitted uses. (See also Paragraph 6)

1.9 **Base Year; Insuring Party.** ~~The Base Year is _____.~~ Lessor is the "Insuring Party". (See also Paragraphs 4.2 and 8)

1.10 **Real Estate Brokers.** (See also Paragraph 15 and 25)

(a) **Representation:** The following real estate brokers (the "Brokers") and brokerage relationships exist in this transaction (check applicable boxes):

☐ _____ represents Lessor exclusively ("Lessor's Broker");

☒ CBRE, Inc. (Rick Warner / Peter Andrich) represents Lessee exclusively ("Lessee's Broker"); or

☐ _____ represents both Lessor and Lessee ("Dual Agency").

(b) **Payment to Brokers.** Within 30 days of Upon execution and delivery of this Lease by both Parties, Lessee Lessor shall pay to the Brokers the brokerage fee agreed to in a separate written agreement (or if there is no such agreement, the sum of _____ of 4 % of the total Base Rent for Years 1-5 and 2% of the total Base Rent for Years 6-10) for the brokerage services rendered by the Brokers.

~~1.11 Guarantor. The obligations of the Lessee under this Lease are to be guaranteed by _____ ("Guarantor"). (See also Paragraph 3.7)~~

1.12 **Business Hours for the Building:** 7:00 a.m. to 6:00 p.m., Mondays through Fridays (except Building Holidays) and 8:00 a.m. to 1:00 p.m. on Saturdays (except Building Holidays). "Building Holidays" shall mean the dates of observation of New Year's Day, President's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day, and any other national holiday.

1.13 **Lessor Supplied Services.** Notwithstanding the provisions of Paragraph 11.1, Lessor is NOT obligated to provide the following within the Premises:

☐ Janitorial services

☒ Electricity

☐ Other (specify): _____

1.14 **Attachments.** Attached hereto are the following, all of which constitute a part of this Lease:

☒ an Addendum consisting of Paragraphs 50 through _____;

☐ a plot plan depicting the Premises;

☐ a current set of the Rules and Regulations;

☒ a Work Letter **Exhibit A and Work Schedule Exhibit A-1**;

☐ a janitorial schedule;

☒ other (specify): Broker Disclosures Exhibit "B".

2. Premises.

2.1 **Letting.** Lessor hereby leases to Lessee, and Lessee hereby leases from Lessor, the Premises, for the term, at the rental, and upon all of the terms, covenants and conditions set forth in this Lease. While the approximate square footage of the Premises may have been used in the marketing of the Premises for purposes of comparison, the Base Rent stated herein is NOT tied to square footage and is not subject to adjustment should the actual size be determined to be different. **NOTE: Lessee is advised to verify the actual size prior to executing this Lease.**

2.2 **Condition.** Lessor shall deliver the Premises to Lessee in a clean condition on the Commencement Date or the Early Possession Date, whichever first occurs ("**Start Date**"), and warrants that the existing electrical, plumbing, fire sprinkler, lighting, heating, ventilating and air conditioning systems ("**HVAC**"), and all other items which the Lessor is obligated to construct pursuant to the Work Letter attached hereto, if any, other than those constructed by Lessee, shall be in good operating condition on said date, that the structural elements of the roof, bearing walls and foundation of the Unit shall be free of material defects, and that the Premises do not contain hazardous levels of any mold or fungi defined as toxic under applicable state or federal law. Lessor also warrants, that unless otherwise specified in writing, Lessor is unaware of (i) any recorded Notices of Default affecting the Premise; (ii) any delinquent amounts due under any loan secured by the Premises; and (iii) any bankruptcy proceeding affecting the Premises.

2.3 **Compliance.** Lessor warrants that to the best of its knowledge the improvements on the Premises and the Common Areas comply with the building codes, applicable laws, covenants or restrictions of record, regulations, and ordinances ("**Applicable Requirements**") that were in effect at the time that each improvement, or portion thereof, was constructed. Said warranty does not apply to the use to which Lessee will put the Premises, modifications which may be required by the Americans with Disabilities Act or any similar laws as a result of Lessee's use (see Paragraph 49), or to any Alterations or Utility Installations (as defined in Paragraph 7.3(a)) made or to be made by Lessee. **NOTE: Lessee-Lessor is responsible for determining whether or not the zoning and other Applicable Requirements are appropriate for Lessee's intended use, and acknowledges that past uses of the Premises may no longer be allowed.** If the Premises do not comply with said warranty, Lessor shall, except as otherwise provided, promptly after receipt of written notice from Lessee setting forth with specificity the nature and extent of such non-compliance, rectify the same. If the Applicable Requirements are hereafter changed so as to require during the term of this Lease the construction of an addition to or an alteration of the Premises, the remediation of any Hazardous Substance, or the reinforcement or other physical modification of the Premises ("**Capital Expenditure**"), Lessor and Lessee shall allocate the cost of such work as follows:

(a) Subject to Paragraph 2.3(c) below, if such Capital Expenditures are required as a result of the specific and unique use of the Premises by Lessee as compared with uses by tenants in general, Lessee shall be fully responsible for the cost thereof, provided, however, that if such Capital Expenditure is required during the last 2 years of this Lease and the cost thereof exceeds 6 months' Base Rent, Lessee may instead terminate this Lease unless Lessor notifies Lessee, in writing, within 10 days after receipt of Lessee's termination notice that Lessor has elected to pay the difference between the actual cost thereof and the amount equal to 6 months' Base Rent. If Lessee elects termination, Lessee shall immediately cease the use of the Premises which requires such Capital Expenditure and deliver to Lessor written notice specifying a termination date at least 90 days thereafter. Such termination date shall, however, in no event be earlier than the last day that Lessee could legally utilize the Premises without commencing such Capital Expenditure.

(b) If such Capital Expenditure is not the result of the specific and unique use of the Premises by Lessee (such as, governmentally mandated seismic modifications), then Lessor shall pay for such Capital Expenditure and Lessee shall only be obligated to pay, each month during the remainder of the term of this Lease or any extension thereof, on the date that on which the Base Rent is due, an amount equal to 1/144th of the portion of such costs reasonably attributable to the Premises. Lessee shall pay Interest on the balance but may prepay its obligation at any time. If, however, such Capital Expenditure is required during the last 2 years of this Lease or if Lessor reasonably determines that it is not economically feasible to pay its share thereof, Lessor shall have the option to terminate this Lease upon 90 days prior written notice to Lessee unless Lessee notifies Lessor, in writing, within 10 days after receipt of Lessor's termination notice that Lessee will pay for such Capital Expenditure. If Lessor does not elect to terminate, and fails to tender its share of any such Capital Expenditure, Lessee may advance such funds and deduct same, with Interest, from Rent until Lessor's share of such costs have been fully paid. If Lessee is unable to finance Lessor's share, or if the balance of the Rent due and payable for the remainder of this Lease is not sufficient to fully reimburse Lessee on an offset basis, Lessee shall have the right to terminate this Lease upon 30 days written notice to Lessor.

(c) Notwithstanding the above, the provisions concerning Capital Expenditures are intended to apply only to non-voluntary, unexpected, and new Applicable Requirements. If the Capital Expenditures are instead triggered by Lessee as a result of an actual or proposed change in use, change in intensity of use, or modification to the Premises then, and in that event, Lessee shall either: (i) immediately cease such changed use or intensity of use and/or take such other steps as may be necessary to eliminate the requirement for such Capital Expenditure, or (ii) complete such Capital Expenditure at its own expense. Lessee shall not have any right to terminate this Lease.

2.4 **Acknowledgements.** Lessee acknowledges that: (a) it has been given an opportunity to inspect and measure the Premises, (b) Lessee has been advised by Lessor and/or Brokers to satisfy itself with respect to the size and condition of the Premises (including but not limited to the electrical, HVAC and fire sprinkler systems, security, environmental aspects, and compliance with Applicable Requirements), and their suitability for Lessee's intended use, (c) Lessee has made such investigation as it deems necessary with reference to such matters and assumes all responsibility therefor as the same relate to its occupancy of the Premises, (d) it is not relying on any representation as to the size of the Premises made by Brokers or Lessor, (e) the square footage of the Premises was not material to Lessee's decision to lease the Premises and pay the Rent stated herein, and (f) neither Lessor, Lessor's agents, nor Brokers have made any oral or written representations or warranties with respect to said matters other than as set forth in this Lease. In addition, Lessor acknowledges that: (i) Brokers have made no representations, promises or warranties concerning Lessee's ability to honor the Lease or suitability to occupy the Premises, and (ii) it is Lessor's sole responsibility to investigate the financial capability and/or suitability of all proposed tenants.

2.5 **Lessee as Prior Owner/Occupant.** The warranties made by Lessor in Paragraph 2 shall be of no force or effect if immediately prior to the Start Date, Lessee was the owner or occupant of the Premises. In such event, Lessee shall be responsible for any necessary corrective work.

2.6 **Vehicle Parking.** So long as Lessee is not in default, and subject to the Rules and Regulations attached hereto, and as established by Lessor from time to time, Lessee shall be entitled to rent and use the number of parking spaces specified in Paragraph 1.2(b) at the rental rate applicable from time to time for monthly parking as set by Lessor and/or its licensee.

(a) If Lessee commits, permits or allows any of the prohibited activities described in the Lease or the rules then in effect, then Lessor shall have the right, without notice, in addition to such other rights and remedies that it may have, to remove or tow

away the vehicle involved and charge the cost to Lessee, which cost shall be immediately payable upon demand by Lessor.

(b) The monthly rent per parking space specified in Paragraph 1.2(b) is subject to change upon 30 days prior written notice to Lessee. The rent for the parking is payable one month in advance prior to the first day of each calendar month.

2.7 Common Areas - Definition. The term "Common Areas" is defined as all areas and facilities outside the Premises and within the exterior boundary line of the Project and interior utility raceways and installations within the Premises that are provided and designated by the Lessor from time to time for the general nonexclusive use of Lessor, Lessee and other tenants of the Project and their respective employees, suppliers, shippers, customers, contractors and invitees, including, but not limited to, common entrances, lobbies, corridors, stairwells, public restrooms, elevators, parking areas, loading and unloading areas, trash areas, roadways, walkways, driveways and landscaped areas.

2.8 Common Areas - Lessee's Rights. Lessor grants to Lessee, for the benefit of Lessee and its employees, suppliers, shippers, contractors, customers and invitees, during the term of this Lease, the non-exclusive right to use, in common with others entitled to such use, the Common Areas as they exist from time to time, subject to any rights, powers, and privileges reserved by Lessor under the terms hereof or under the terms of any rules and regulations or restrictions governing the use of the Project. Under no circumstances shall the right herein granted to use the Common Areas be deemed to include the right to store any property, temporarily or permanently, in the Common Areas. Any such storage shall be permitted only by the prior written consent of Lessor or Lessor's designated agent, which consent may be revoked at any time. In the event that any unauthorized storage shall occur, then Lessor shall have the right, without notice, in addition to such other rights and remedies that it may have, to remove the property and charge the cost to Lessee, which cost shall be immediately payable upon demand by Lessor.

2.9 Common Areas - Rules and Regulations. Lessor or such other person(s) as Lessor may appoint shall have the exclusive control and management of the Common Areas and shall have the right, from time to time, to adopt, modify, amend and enforce reasonable rules and regulations ("Rules and Regulations") for the management, safety, care, and cleanliness of the grounds, the parking and unloading of vehicles and the preservation of good order, as well as for the convenience of other occupants or tenants of the Building and the Project and their invitees. The Lessee agrees to abide by and conform to all such Rules and Regulations, and shall use its best efforts to cause its employees, suppliers, shippers, customers, contractors and invitees to so abide and conform. Lessor shall not be responsible to Lessee for the noncompliance with said Rules and Regulations by other tenants of the Project.

2.10 Common Areas - Changes. Lessor shall have the right, in Lessor's sole discretion, from time to time:

(a) To make changes to the Common Areas, including, without limitation, changes in the location, size, shape and number of the lobbies, windows, stairways, air shafts, elevators, escalators, restrooms, driveways, entrances, parking spaces, parking areas, loading and unloading areas, ingress, egress, direction of traffic, landscaped areas, walkways and utility raceways;

(b) To close temporarily any of the Common Areas for maintenance purposes so long as reasonable access to the Premises remains available;

(c) To designate other land outside the boundaries of the Project to be a part of the Common Areas;

(d) To add additional buildings and improvements to the Common Areas;

(e) To use the Common Areas while engaged in making additional improvements, repairs or alterations to the Project, or any portion thereof; and

(f) To do and perform such other acts and make such other changes in, to or with respect to the Common Areas and Project as Lessor may, in the exercise of sound business judgment, deem to be appropriate.

3. Term.

3.1 Term. The Commencement Date, Expiration Date and Original Term of this Lease are as specified in Paragraph 1.3.

3.2 Early Possession. Any provision herein granting Lessee Early Possession of the Premises is subject to and conditioned upon the Premises being available for such possession prior to the Commencement Date. Any grant of Early Possession only conveys a non-exclusive right to occupy the Premises. If Lessee totally or partially occupies the Premises prior to the Commencement Date, the obligation to pay Base Rent shall be abated for the period of such Early Possession. All other terms of this Lease (including but not limited to the obligations to pay Lessee's Share of the Operating Expense Increase) shall be in effect during such period. Any such Early Possession shall not affect the Expiration Date.

3.3 Delay In Possession. Lessor agrees to use its best commercially reasonable efforts to deliver possession of the Premises to Lessee by the Commencement Date. If, despite said efforts, Lessor is unable to deliver possession by such date, Lessor shall not be subject to any liability therefor, nor shall such failure affect the validity of this Lease or change the Expiration Date. Lessee shall not, however, be obligated to pay Rent or perform its other obligations until Lessor delivers possession of the Premises and any period of rent abatement that Lessee would otherwise have enjoyed shall run from the date of delivery of possession and continue for a period equal to what Lessee would otherwise have enjoyed under the terms hereof, but minus any days of delay caused by the acts or omissions of Lessee. If possession is not delivered within 60 days after the Commencement Date, as the same may be extended under the terms of any Work Letter executed by Parties, Lessee may, at its option, by notice in writing within 10 days after the end of such 60 day period, cancel this Lease, in which event the Parties shall be discharged from all obligations hereunder. If such written notice is not received by Lessor within said 10 day period, Lessee's right to cancel shall terminate. If possession of the Premises is not delivered within 120 days after the Commencement Date, this Lease shall terminate unless other agreements are reached between Lessor and Lessee, in writing.

3.4 Lessee Compliance. Lessor shall not be required to deliver possession of the Premises to Lessee until Lessee complies with its obligation to provide evidence of insurance (Paragraph 8.5). Pending delivery of such evidence, Lessee shall be required to perform all of its obligations under this Lease from and after the Start Date, including the payment of Rent, notwithstanding Lessor's election to withhold possession pending receipt of such evidence of insurance. Further, if Lessee is required to perform any other conditions prior to or concurrent with the Start Date, the Start Date shall occur but Lessor may elect to withhold possession until such conditions are satisfied.

4. Rent.

4.1 Rent Defined. All monetary obligations of Lessee to Lessor under the terms of this Lease (except for the Security Deposit) are deemed to be rent ("Rent").

4.2 Operating Expense Increase. Lessor and Lessee are parties to that certain Cooperative Agreement for State Route 91 Express Lanes and Corridor Improvements dated December 16, 2011 whereby they are 50/50 partners for the cost of operating the Premises. Notwithstanding anything contained herein to the contrary, Lessee shall not be responsible for any costs or operating expense increases solely attributable to Lessor's ownership of the Premises, including but not limited to expenses associated with the roof, HVAC, light bulbs, ceiling tiles, sprinklers,

plumbing fixtures, drains, electric outlets, electric panels, exterior windows, exterior doors, parking lots, exterior walls, landscaping, common area, repair, maintenance and replacement. Lessee shall also not pay for any increases in operating costs, (other than 50% of the increases in electric specifically for the Premises, as required to be paid directly by Lessee).

Lessee shall pay to Lessor during the term hereof, in addition to the Base Rent, Lessee's Share of the amount by which all Operating Expenses for each Comparison Year exceeds the amount of all Operating Expenses for the Base Year, such excess being hereinafter referred to as the "Operating Expense Increase", in accordance with the following provisions:

(a) "Base Year" is as specified in Paragraph 1.9.

(b) "Comparison Year" is defined as each calendar year during the term of this Lease subsequent to the Base Year; provided, however, Lessee shall have no obligation to pay a share of the Operating Expense Increase applicable to the first 12 months of the Lease Term (other than such as are mandated by a governmental authority, as to which government mandated expenses Lessee shall pay Lessee's Share, notwithstanding they occur during the first twelve (12) months). Lessee's Share of the Operating Expense Increase for the first and last Comparison Years of the Lease Term shall be prorated according to that portion of such Comparison Year as to which Lessee is responsible for a share of such increase.

(c) The following costs relating to the ownership and operation of the Project, calculated as if the Project was at least 95% occupied, are defined as "Operating Expenses":

(i) Costs relating to the operation, repair, and maintenance in neat, clean, safe, good order and condition, but not the replacement (see subparagraph (g)), of the following:

(aa) The Common Areas, including their surfaces, coverings, decorative items, carpets, drapes and window coverings, and including parking areas, loading and unloading areas, trash areas, roadways, sidewalks, walkways, stairways, parkways, driveways, landscaped areas, striping, bumpers, irrigation systems, Common Area lighting facilities, building exteriors and roofs, fences and gates;

(bb) All heating, air conditioning, plumbing, electrical systems, life safety equipment, communication systems and other equipment used in common by, or for the benefit of, tenants or occupants of the Project, including elevators and escalators, tenant directories, fire detection systems including sprinkler system maintenance and repair.

(cc) All other areas and improvements that are within the exterior boundaries of the Project but outside of the Premises and/or any other space occupied by a tenant.

(ii) The cost of trash disposal, janitorial and security services, pest control services, and the costs of any environmental inspections;

(iii) The cost of any other service to be provided by Lessor that is elsewhere in this Lease stated to be an "Operating Expense";

(iv) The cost of the premiums for the insurance policies maintained by Lessor pursuant to paragraph 8 and any deductible portion of an insured loss concerning the Building or the Common Areas;

(v) The amount of the Real Property Taxes payable by Lessor pursuant to paragraph 10;

(vi) The cost of water, sewer, gas, electricity, and other publicly mandated services not separately metered;

(vii) Labor, salaries, and applicable fringe benefits and costs, materials, supplies and tools, used in maintaining and/or cleaning the Project and accounting and management fees attributable to the operation of the Project;

(viii) The cost of any capital improvement to the Building or the Project not covered under the provisions of Paragraph 2.3 provided; however, that Lessor shall allocate the cost of any such capital improvement over a 12 year period and Lessee shall not be required to pay more than Lessee's Share of 1/144th of the cost of such Capital Expenditure in any given month;

(ix) The cost to replace equipment or improvements that have a useful life for accounting purposes of 5 years or less.

(x) Reserves set aside for maintenance, repair and/or replacement of Common Area improvements and equipment.

(d) Any item of Operating Expense that is specifically attributable to the Premises, the Building or to any other building in the Project or to the operation, repair and maintenance thereof, shall be allocated entirely to such Premises, Building, or other building. However, any such item that is not specifically attributable to the Building or to any other building or to the operation, repair and maintenance thereof, shall be equitably allocated by Lessor to all buildings in the Project.

(e) The inclusion of the improvements, facilities and services set forth in Subparagraph 4.2(c) shall not be deemed to impose an obligation upon Lessor to either have said improvements or facilities or to provide those services unless the Project already has the same, Lessor already provides the services, or Lessor has agreed elsewhere in this Lease to provide the same or some of them.

(f) Lessee's Share of Operating Expense Increase is payable monthly on the same day as the Base Rent is due hereunder. The amount of such payments shall be based on Lessor's estimate of the Operating Expense Expenses. Within 60 days after written request (but not more than once each year) Lessor shall deliver to Lessee a reasonably detailed statement showing Lessee's Share of the actual Common Area Operating Expenses for the preceding year. If Lessee's payments during such Year exceed Lessee's Share, Lessee shall credit the amount of such over-payment against Lessee's future payments. If Lessee's payments during such Year were less than Lessee's Share, Lessee shall pay to Lessor the amount of the deficiency within 10 days after delivery by Lessor to Lessee of said statement. Lessor and Lessee shall forthwith adjust between them by cash payment any balance determined to exist with respect to that portion of the last Comparison Year for which Lessee is responsible as to Operating Expense Increases, notwithstanding that the Lease term may have terminated before the end of such Comparison Year.

(g) Operating Expenses shall not include the costs of replacement for equipment or capital components such as the roof, foundations, exterior walls or a Common Area capital improvement, such as the parking lot paving, elevators, fences that have a useful life for accounting purposes of 5 years or more.

(h) Operating Expenses shall not include any expenses paid by any tenant directly to third parties, or as to which Lessor is otherwise reimbursed by any third party, other tenant, or by insurance proceeds.

4.3 Payment. Lessee shall cause payment of Rent to be received by Lessor in lawful money of the United States on or before the day on which it is due, without offset or deduction (except as specifically permitted in this Lease). All monetary amounts shall be rounded to the nearest whole dollar. In the event that any invoice prepared by Lessor is inaccurate such inaccuracy shall not constitute a waiver and Lessee shall be obligated to pay the amount set forth in this Lease. Rent for any period during the term hereof which is for less than one full calendar month shall be prorated based upon the actual number of days of said month. Payment of Rent shall be made to Lessor at its address stated herein or to such other persons or place as Lessor may from time to time designate in writing. Acceptance of a payment which is less than the amount then due shall not be a waiver of Lessor's rights to the balance of such Rent, regardless of Lessor's endorsement of any check so stating. In the event that any check, draft, or other

instrument of payment given by Lessee to Lessor is dishonored for any reason, Lessee agrees to pay to Lessor the sum of \$25 in addition to any Late Charge and Lessor, at its option, may require all future Rent be paid by cashier's check. Payments will be applied first to accrued late charges and attorney's fees, second to accrued interest, then to Base Rent and Common Area Operating Expenses, and any remaining amount to any other outstanding charges or costs.

~~5. **Security Deposit.** Lessee shall deposit with Lessor upon execution hereof the Security Deposit as security for Lessee's faithful performance of its obligations under this Lease. If Lessee fails to pay Rent, or otherwise Defaults under this Lease, Lessor may use, apply or retain all or any portion of said Security Deposit for the payment of any amount already due Lessor, for Rents which will be due in the future, and/or to reimburse or compensate Lessor for any liability, expense, loss or damage which Lessor may suffer or incur by reason thereof. If Lessor uses or applies all or any portion of the Security Deposit, Lessee shall within 10 days after written request therefor deposit monies with Lessor sufficient to restore said Security Deposit to the full amount required by this Lease. If the Base Rent increases during the term of this Lease, Lessee shall, upon written request from Lessor, deposit additional monies with Lessor so that the total amount of the Security Deposit shall at all times bear the same proportion to the increased Base Rent as the initial Security Deposit bore to the initial Base Rent. Should the Agreed Use be amended to accommodate a material change in the business of Lessee or to accommodate a sublessee or assignee, Lessor shall have the right to increase the Security Deposit to the extent necessary, in Lessor's reasonable judgment, to account for any increased wear and tear that the Premises may suffer as a result thereof. If a change in control of Lessee occurs during this Lease and following such change the financial condition of Lessee is, in Lessor's reasonable judgment, significantly reduced, Lessee shall deposit such additional monies with Lessor as shall be sufficient to cause the Security Deposit to be at a commercially reasonable level based on such change in financial condition. Lessor shall not be required to keep the Security Deposit separate from its general accounts. Within 90 days after the expiration or termination of this Lease, Lessor shall return that portion of the Security Deposit not used or applied by Lessor. Lessor shall upon written request provide Lessee with an accounting showing how that portion of the Security Deposit that was not returned was applied. No part of the Security Deposit shall be considered to be held in trust, to bear interest or to be prepayment for any monies to be paid by Lessee under this Lease. THE SECURITY DEPOSIT SHALL NOT BE USED BY LESSEE IN LIEU OF PAYMENT OF THE LAST MONTH'S RENT.~~

6. Use.

6.1 Use. Lessee shall use and occupy the Premises only for the Agreed Use, or any other legal use which is reasonably comparable thereto, and for no other purpose. Lessee shall not use or permit the use of the Premises in a manner that is unlawful, creates damage, waste or a nuisance, or that disturbs occupants of or causes damage to neighboring premises or properties. Other than guide, signal and seeing eye dogs, Lessee shall not keep or allow in the Premises any pets, animals, birds, fish, or reptiles. Lessor shall not unreasonably withhold or delay its consent to any written request for a modification of the Agreed Use, so long as the same will not impair the structural integrity of the improvements of the Building, will not adversely affect the mechanical, electrical, HVAC, and other systems of the Building, and/or will not affect the exterior appearance of the Building. If Lessor elects to withhold consent, Lessor shall within 7 days after such request give written notification of same, which notice shall include an explanation of Lessor's objections to the change in the Agreed Use.

6.2 Hazardous Substances.

(a) **Reportable Uses Require Consent.** The term "**Hazardous Substance**" as used in this Lease shall mean any product, substance, or waste whose presence, use, manufacture, disposal, transportation, or release, either by itself or in combination with other materials expected to be on the Premises, is either: (i) potentially injurious to the public health, safety or welfare, the environment or the Premises, (ii) regulated or monitored by any governmental authority, or (iii) a basis for potential liability of Lessor to any governmental agency or third party under any applicable statute or common law theory. Hazardous Substances shall include, but not be limited to, hydrocarbons, petroleum, gasoline, and/or crude oil or any products, byproducts or fractions thereof. Lessee shall not engage in any activity in or on the Premises which constitutes a Reportable Use of Hazardous Substances without the express prior written consent of Lessor and timely compliance (at Lessee's expense) with all Applicable Requirements. "**Reportable Use**" shall mean (i) the installation or use of any above or below ground storage tank, (ii) the generation, possession, storage, use, transportation, or disposal of a Hazardous Substance that requires a permit from, or with respect to which a report, notice, registration or business plan is required to be filed with, any governmental authority, and/or (iii) the presence at the Premises of a Hazardous Substance with respect to which any Applicable Requirements requires that a notice be given to persons entering or occupying the Premises or neighboring properties. Notwithstanding the foregoing, Lessee may use any ordinary and customary materials reasonably required to be used in the normal course of the Agreed Use such as ordinary office supplies (copier toner, liquid paper, glue, etc.) and common household cleaning materials, so long as such use is in compliance with all Applicable Requirements, is not a Reportable Use, and does not expose the Premises or neighboring property to any meaningful risk of contamination or damage or expose Lessor to any liability therefor. In addition, Lessor may condition its consent to any Reportable Use upon receiving such additional assurances as Lessor reasonably deems necessary to protect itself, the public, the Premises and/or the environment against damage, contamination, injury and/or liability, including, but not limited to, the installation (and removal on or before Lease expiration or termination) of protective modifications (such as concrete encasements) and/or increasing the Security Deposit.

(b) **Duty to Inform Lessor.** If Lessee knows, or has reasonable cause to believe, that a Hazardous Substance has come to be located in, on, under or about the Premises, other than as previously consented to by Lessor, Lessee shall immediately give written notice of such fact to Lessor, and provide Lessor with a copy of any report, notice, claim or other documentation which it has concerning the presence of such Hazardous Substance.

(c) **Lessee Remediation.** Lessee shall not cause or permit any Hazardous Substance to be spilled or released in, on, under, or about the Premises (including through the plumbing or sanitary sewer system) and shall promptly, at Lessee's expense, comply with all Applicable Requirements and take all investigatory and/or remedial action reasonably recommended, whether or not formally ordered or required, for the cleanup of any contamination of, and for the maintenance, security and/or monitoring of the Premises or neighboring properties, that was caused or materially contributed to by Lessee, or pertaining to or involving any Hazardous Substance brought onto the Premises during the term of this Lease, by or for Lessee, or any third party.

(d) **Lessee Indemnification.** Lessee shall indemnify, defend and hold Lessor, its agents, employees, lenders and ground lessor, if any, harmless from and against any and all loss of rents and/or damages, liabilities, judgments, claims, expenses, penalties, and attorneys' and consultants' fees arising out of or involving any Hazardous Substance brought onto the Premises by or for Lessee, or any third party (provided, however, that Lessee shall have no liability under this Lease with respect to underground migration of any Hazardous Substance under the Premises from areas outside of the Project not caused or contributed to by Lessee). Lessee's obligations shall include, but not be limited to, the effects of any contamination or injury to person, property or the environment created or suffered by Lessee, and the cost of investigation, removal, remediation, restoration and/or abatement, and shall survive

the expiration or termination of this Lease. No termination, cancellation or release agreement entered into by Lessor and Lessee shall release Lessee from its obligations under this Lease with respect to Hazardous Substances, unless specifically so agreed by Lessor in writing at the time of such agreement.

(e) **Lessor Indemnification.** Except as otherwise provided in paragraph 8.7, Lessor and its successors and assigns shall indemnify, defend, reimburse and hold Lessee, its employees and lenders, harmless from and against any and all environmental damages, including the cost of remediation, which result from Hazardous Substances which existed on the Premises prior to Lessee's occupancy or which are caused by the gross negligence or willful misconduct of Lessor, its agents or employees. Lessor's obligations, as and when required by the Applicable Requirements, shall include, but not be limited to, the cost of investigation, removal, remediation, restoration and/or abatement, and shall survive the expiration or termination of this Lease.

(f) **Investigations and Remediations.** Lessor shall retain the responsibility and pay for any investigations or remediation measures required by governmental entities having jurisdiction with respect to the existence of Hazardous Substances on the Premises prior to Lessee's occupancy, unless such remediation measure is required as a result of Lessee's use (including "Alterations", as defined in paragraph 7.3(a) below) of the Premises, in which event Lessee shall be responsible for such payment. Lessee shall cooperate fully in any such activities at the request of Lessor, including allowing Lessor and Lessor's agents to have reasonable access to the Premises at reasonable times in order to carry out Lessor's investigative and remedial responsibilities.

(g) **Lessor Termination Option.** If a Hazardous Substance Condition (see Paragraph 9.1(e)) occurs during the term of this Lease, unless Lessee is legally responsible therefor (in which case Lessee shall make the investigation and remediation thereof required by the Applicable Requirements and this Lease shall continue in full force and effect, but subject to Lessor's rights under Paragraph 6.2(d) and Paragraph 13), Lessor may, at Lessor's option, either (i) investigate and remediate such Hazardous Substance Condition, if required, as soon as reasonably possible at Lessor's expense, in which event this Lease shall continue in full force and effect, or (ii) if the estimated cost to remediate such condition exceeds 12 times the then monthly Base Rent or \$100,000, whichever is greater, give written notice to Lessee, within 30 days after receipt by Lessor of knowledge of the occurrence of such Hazardous Substance Condition, of Lessor's desire to terminate this Lease as of the date 60 days following the date of such notice. In the event Lessor elects to give a termination notice, Lessee may, within 10 days thereafter, give written notice to Lessor of Lessee's commitment to pay the amount by which the cost of the remediation of such Hazardous Substance Condition exceeds an amount equal to 12 times the then monthly Base Rent or \$100,000, whichever is greater. Lessee shall provide Lessor with said funds or satisfactory assurance thereof within 30 days following such commitment. In such event, this Lease shall continue in full force and effect, and Lessor shall proceed to make such remediation as soon as reasonably possible after the required funds are available. If Lessee does not give such notice and provide the required funds or assurance thereof within the time provided, this Lease shall terminate as of the date specified in Lessor's notice of termination.

6.3 Lessee's Compliance with Applicable Requirements. Except as otherwise provided in this Lease, Lessee shall, at Lessee's sole expense, fully, diligently and in a timely manner, materially comply with all Applicable Requirements, the requirements of any applicable fire insurance underwriter or rating bureau, and the recommendations of Lessor's engineers and/or consultants which relate in any manner to the Premises, without regard to whether said Applicable Requirements are now in effect or become effective after the Start Date. Lessee shall, within 10 days after receipt of Lessor's written request, provide Lessor with copies of all permits and other documents, and other information evidencing Lessee's compliance with any Applicable Requirements specified by Lessor, and shall immediately upon receipt, notify Lessor in writing (with copies of any documents involved) of any threatened or actual claim, notice, citation, warning, complaint or report pertaining to or involving the failure of Lessee or the Premises to comply with any Applicable Requirements. Likewise, Lessee shall immediately give written notice to Lessor of: (i) any water damage to the Premises and any suspected seepage, pooling, dampness or other condition conducive to the production of mold; or (ii) any mustiness or other odors that might indicate the presence of mold in the Premises.

6.4 Inspection; Compliance. Lessor and Lessor's "Lender" (as defined in Paragraph 30) and consultants authorized by Lessor shall have the right to enter into Premises at any time, in the case of an emergency, and otherwise at reasonable times, after reasonable notice, for the purpose of inspecting and/or testing the condition of the Premises and/or for verifying compliance by Lessee with this Lease. The cost of any such inspections shall be paid by Lessor, unless a violation of Applicable Requirements, or a Hazardous Substance Condition (see Paragraph 9.1e) is found to exist or be imminent, or the inspection is requested or ordered by a governmental authority. In such case, Lessee shall upon request reimburse Lessor for the cost of such inspection, so long as such inspection is reasonably related to the violation or contamination. In addition, Lessee shall provide copies of all relevant material safety data sheets (**MSDS**) to Lessor within 10 days of the receipt of written request therefor. Lessee acknowledges that any failure on its part to allow such inspections or testing will expose Lessor to risks and potentially cause Lessor to incur costs not contemplated by this Lease, the extent of which will be extremely difficult to ascertain. Accordingly, should the Lessee fail to allow such inspections and/or testing in a timely fashion the Base Rent shall be automatically increased, without any requirement for notice to Lessee, by an amount equal to 10% of the then existing Base Rent or \$100, whichever is greater for the remainder to the Lease. The Parties agree that such increase in Base Rent represents fair and reasonable compensation for the additional risk/costs that Lessor will incur by reason of Lessee's failure to allow such inspection and/or testing. Such increase in Base Rent shall in no event constitute a waiver of Lessee's Default or Breach with respect to such failure nor prevent the exercise of any of the other rights and remedies granted hereunder.

7. Maintenance; Repairs; Utility Installations; Trade Fixtures and Alterations.

7.1 Lessee's Obligations. Notwithstanding Lessor's obligation to keep the Premises in good condition and repair, Lessee ~~and Lessor shall each~~ be responsible for payment of **50% of** the cost thereof to Lessor as additional rent for that portion of the cost of any maintenance and repair of the Premises, or any equipment- **separate HVAC unit for Lessee's computer room** (wherever located) that serves only Lessee or the Premises, to the extent such cost is attributable to abuse or misuse. In addition, ~~Lessee and Lessor rather than the Lessor shall each~~ be responsible for **50% of** the cost of painting, repairing or replacing wall coverings, and to repair or replace any similar improvements within the Premises **during the Term of the Lease.** ~~Lessor may, at its option, upon reasonable notice, elect to have Lessee perform any particular such maintenance or repairs the cost of which is otherwise Lessee's responsibility hereunder."~~

7.2 Lessor's Obligations. Subject to the provisions of Paragraphs 2.2 (Condition), 2.3 (Compliance), 4.2 (Operating Expenses), 6 (Use), 7.1 (Lessee's Obligations), 9 (Damage or Destruction) and 14 (Condemnation), Lessor, subject to reimbursement pursuant to Paragraph 4.2, shall keep in good order, condition and repair the foundations, exterior walls, structural condition of interior bearing walls, exterior roof, fire sprinkler system, fire alarm and/or smoke detection systems, fire hydrants, and the Common Areas.

7.3 Utility Installations; Trade Fixtures; Alterations.

(a) **Definitions.** The term "**Utility Installations**" refers to all floor and window coverings, air lines, vacuum lines, power panels, electrical distribution, security and fire protection systems, communication cabling, lighting fixtures, HVAC equipment, and plumbing in or on the Premises. The term "**Trade Fixtures**" shall mean Lessee's machinery and equipment that can be removed without doing material damage to the Premises. The term "**Alterations**" shall mean any modification of the improvements, other than Utility Installations or Trade Fixtures, whether by addition or deletion. "**Lessee Owned Alterations and/or Utility Installations**" are defined as Alterations and/or Utility Installations made by Lessee that are not yet owned by Lessor pursuant to Paragraph 7.4(a).

(b) **Consent.** Lessee shall not make any Alterations or Utility Installations to the Premises without Lessor's prior written consent. Lessee may, however, make non-structural Alterations or Utility Installations to the interior of the Premises (excluding the roof) without such consent but upon notice to Lessor, as long as they are not visible from the outside, do not involve puncturing, relocating or removing the roof, ceilings, floors or any existing walls, will not affect the electrical, plumbing, HVAC, and/or life safety systems, do not trigger the requirement for additional modifications and/or improvements to the Premises resulting from Applicable Requirements, such as compliance with Title 24, and the cumulative cost thereof during this Lease as extended does not exceed \$2000. Notwithstanding the foregoing, Lessee shall not make or permit any roof penetrations and/or install anything on the roof without the prior written approval of Lessor. Lessor may, as a precondition to granting such approval, require Lessee to utilize a contractor chosen and/or approved by Lessor. Any Alterations or Utility Installations that Lessee shall desire to make and which require the consent of the Lessor shall be presented to Lessor in written form with detailed plans. Consent shall be deemed conditioned upon Lessee's: (i) acquiring all applicable governmental permits, (ii) furnishing Lessor with copies of both the permits and the plans and specifications prior to commencement of the work, and (iii) compliance with all conditions of said permits and other Applicable Requirements in a prompt and expeditious manner. Any Alterations or Utility Installations shall be performed in a workmanlike manner with good and sufficient materials. Lessee shall promptly upon completion furnish Lessor with as-built plans and specifications. ~~For work which costs an amount in excess of one month's Base Rent, Lessor may condition its consent upon Lessee providing a lien and completion bond in an amount equal to 150% of the estimated cost of such Alteration or Utility Installation and/or upon Lessee's posting an additional Security Deposit with Lessor.~~

(c) **Liens; Bonds.** Lessee shall pay, when due, all claims for labor or materials furnished or alleged to have been furnished to or for Lessee at or for use on the Premises, which claims are or may be secured by any mechanic's or materialmen's lien against the Premises or any interest therein. Lessee shall give Lessor not less than 10 days notice prior to the commencement of any work in, on or about the Premises, and Lessor shall have the right to post notices of non-responsibility. If Lessee shall contest the validity of any such lien, claim or demand, then Lessee shall, at its sole expense defend and protect itself, Lessor and the Premises against the same and shall pay and satisfy any such adverse judgment that may be rendered thereon before the enforcement thereof. If Lessor shall require, Lessee shall furnish a surety bond in an amount equal to 150% of the amount of such contested lien, claim or demand, indemnifying Lessor against liability for the same. If Lessor elects to participate in any such action, Lessee shall pay Lessor's attorneys' fees and costs.

7.4 Ownership; Removal; Surrender; and Restoration.

(a) **Ownership.** Subject to Lessor's right to require removal or elect ownership as hereinafter provided, all Alterations and Utility Installations made by Lessee shall be the property of Lessee, but considered a part of the Premises. Lessor may, at any time, elect in writing to be the owner of all or any specified part of the Lessee Owned Alterations and Utility Installations. Unless otherwise instructed per paragraph 7.4(b) hereof, all Lessee Owned Alterations and Utility Installations shall, at the expiration or termination of this Lease, become the property of Lessor and be surrendered by Lessee with the Premises.

(b) **Removal.** By delivery to Lessee of written notice from Lessor not earlier than 90 and not later than 30 days prior to the end of the term of this Lease, Lessor may require that any or all Lessee Owned Alterations or Utility Installations be removed by the expiration or termination of this Lease. Lessor may require the removal at any time of all or any part of any Lessee Owned Alterations or Utility Installations made without the required consent.

(c) **Surrender; Restoration.** Lessee shall surrender the Premises by the Expiration Date or any earlier termination date, with all of the improvements, parts and surfaces thereof clean and free of debris, and in good operating order, condition and state of repair, ordinary wear and tear excepted. "Ordinary wear and tear" shall not include any damage or deterioration that would have been prevented by good maintenance practice. Notwithstanding the foregoing, if the Lessee occupies the Premises for 12 months or less, then Lessee shall surrender the Premises in the same condition as delivered to Lessee on the Start Date with NO allowance for ordinary wear and tear. Lessee shall repair any damage occasioned by the installation, maintenance or removal of Trade Fixtures, Lessee owned Alterations and/or Utility Installations, furnishings, and equipment as well as the removal of any storage tank installed by or for Lessee. Lessee shall also remove from the Premises any and all Hazardous Substances brought onto the Premises by or for Lessee, or any third party (except Hazardous Substances which were deposited via underground migration from areas outside of the Premises) to the level specified in Applicable Requirements. Trade Fixtures shall remain the property of Lessee and shall be removed by Lessee. Any personal property of Lessee not removed on or before the Expiration Date or any earlier termination date shall be deemed to have been abandoned by Lessee and may be disposed of or retained by Lessor as Lessor may desire. The failure by Lessee to timely vacate the Premises pursuant to this Paragraph 7.4(c) without the express written consent of Lessor shall constitute a holdover under the provisions of Paragraph 26 below.

8. Insurance; Indemnity.

~~8.1 Insurance Premiums. The cost of the premiums for the insurance policies maintained by Lessor pursuant to paragraph 8 are included as Operating Expenses (see paragraph 4.2 (c)(iv)). Said costs shall include increases in the premiums resulting from additional coverage related to requirements of the holder of a mortgage or deed of trust covering the Premises, Building and/or Project, increased valuation of the Premises, Building and/or Project, and/or a general premium rate increase. Said costs shall not, however, include any premium increases resulting from the nature of the occupancy of any other tenant of the Building. If the Project was not insured for the entirety of the Base Year, then the base premium shall be the lowest annual premium reasonably obtainable for the required insurance as of the Start Date, assuming the most nominal use possible of the Building and/or Project. In no event, however, shall Lessee be responsible for any portion of the premium cost attributable to liability insurance coverage in excess of \$2,000,000 procured under Paragraph 8.2(b).~~

8.2 Liability Insurance.

(a) **Carried by Lessee.** Lessee shall obtain and keep in force a Commercial General Liability policy of insurance protecting Lessee and Lessor as an additional insured against claims for bodily injury, personal injury and property damage based upon or arising out of the ownership, use, occupancy or maintenance of the Premises and all areas appurtenant thereto. Such insurance shall be on an occurrence basis providing single limit coverage in an amount not less than \$1,000,000 per occurrence with an annual aggregate of not less than \$2,000,000. Lessee shall add Lessor as an additional insured by means of an endorsement at least as

broad as the Insurance Service Organization's "Additional Insured-Managers or Lessors of Premises" Endorsement and coverage shall also be extended to include damage caused by heat, smoke or fumes from a hostile fire. The policy shall not contain any intra-insured exclusions as between insured persons or organizations, but shall include coverage for liability assumed under this Lease as an "insured contract" for the performance of Lessee's indemnity obligations under this Lease. The limits of said insurance shall not, however, limit the liability of Lessee nor relieve Lessee of any obligation hereunder. Lessee shall provide an endorsement on its liability policy(ies) which provides that its insurance shall be primary to and not contributory with any similar insurance carried by Lessor, whose insurance shall be considered excess insurance only.

(b) **Carried by Lessor.** Lessor shall maintain liability insurance as described in Paragraph 8.2(a), in addition to, and not in lieu of, the insurance required to be maintained by Lessee. Lessee shall not be named as an additional insured therein.

8.3 Property Insurance - Building, Improvements and Rental Value.

(a) **Building and Improvements.** Lessor shall obtain and keep in force a policy or policies of insurance in the name of Lessor, with loss payable to Lessor, any ground-lessor, and to any Lender insuring loss or damage to the Building and/or Project. The amount of such insurance shall be equal to the full insurable replacement cost of the Building and/or Project, as the same shall exist from time to time, or the amount required by any Lender, but in no event more than the commercially reasonable and available insurable value thereof. Lessee Owned Alterations and Utility Installations, Trade Fixtures, and Lessee's personal property shall be insured by Lessee not by Lessor. If the coverage is available and commercially appropriate, such policy or policies shall insure against all risks of direct physical loss or damage (except the perils of flood and/or earthquake unless required by a Lender), including coverage for debris removal and the enforcement of any Applicable Requirements requiring the upgrading, demolition, reconstruction or replacement of any portion of the Premises as the result of a covered loss. Said policy or policies shall also contain an agreed valuation provision in lieu of any coinsurance clause, waiver of subrogation, and inflation guard protection causing an increase in the annual property insurance coverage amount by a factor of not less than the adjusted U.S. Department of Labor Consumer Price Index for All Urban Consumers for the city nearest to where the Premises are located. If such insurance coverage has a deductible clause, the deductible amount shall not exceed \$5,000 per occurrence.

(b) **Rental Value.** Lessor shall also obtain and keep in force a policy or policies in the name of Lessor with loss payable to Lessor and any Lender, insuring the loss of the full Rent for one year with an extended period of indemnity for an additional 180 days ("Rental Value insurance"). Said insurance shall contain an agreed valuation provision in lieu of any coinsurance clause, and the amount of coverage shall be adjusted annually to reflect the projected Rent otherwise payable by Lessee, for the next 12 month period.

~~(c) **Adjacent Premises.** Lessee shall pay for any increase in the premiums for the property insurance of the Building and for the Common Areas or other buildings in the Project if said increase is caused by Lessee's acts, omissions, use or occupancy of the Premises.~~

(d) **Lessee's Improvements.** Since Lessor is the Insuring Party, Lessor shall not be required to insure Lessee Owned Alterations and Utility Installations unless the item in question has become the property of Lessor under the terms of this Lease.

8.4 Lessee's Property; Business Interruption Insurance; Worker's Compensation Insurance.

(a) **Property Damage.** Lessee shall obtain and maintain insurance coverage on all of Lessee's personal property, Trade Fixtures, and Lessee Owned Alterations and Utility Installations. Such insurance shall be full replacement cost coverage with a deductible of not to exceed \$1,000 per occurrence. The proceeds from any such insurance shall be used by Lessee for the replacement of personal property, Trade Fixtures and Lessee Owned Alterations and Utility Installations.

(b) **Worker's Compensation Insurance.** Lessee shall obtain and maintain Worker's Compensation Insurance in such amount as may be required by Applicable Requirements. Such policy shall include a 'Waiver of Subrogation' endorsement. Lessee shall provide Lessor with a copy of such endorsement along with the certificate of insurance or copy of the policy required by paragraph 8.5.

(c) **Business Interruption.** Lessee shall obtain and maintain loss of income and extra expense insurance in amounts as will reimburse Lessee for direct or indirect loss of earnings attributable to all perils commonly insured against by prudent lessees in the business of Lessee or attributable to prevention of access to the Premises as a result of such perils.

(d) **No Representation of Adequate Coverage.** Lessor makes no representation that the limits or forms of coverage of insurance specified herein are adequate to cover Lessee's property, business operations or obligations under this Lease.

8.5 Insurance Policies. Insurance required herein shall be by companies maintaining during the policy term a "General Policyholders Rating" of at least A-, VII, as set forth in the most current issue of "Best's Insurance Guide", or such other rating as may be required by a Lender. Lessee shall not do or permit to be done anything which invalidates the required insurance policies. Lessee shall, prior to the Start Date, deliver to Lessor certified copies of policies of such insurance or certificates with copies of the required endorsements evidencing the existence and amounts of the required insurance. No such policy shall be cancelable or subject to modification except after 10 days prior written notice to Lessor. Lessee shall, at least 30 days prior to the expiration of such policies, furnish Lessor with evidence of renewals or "insurance binders" evidencing renewal thereof, or Lessor may increase his liability insurance coverage and charge the cost thereof to Lessee, which amount shall be payable by Lessee to Lessor upon demand. Such policies shall be for a term of at least one year, or the length of the remaining term of this Lease, whichever is less. If either Party shall fail to procure and maintain the insurance required to be carried by it, the other Party may, but shall not be required to, procure and maintain the same.

8.6 Waiver of Subrogation. Without affecting any other rights or remedies, Lessee and Lessor each hereby release and relieve the other, and waive their entire right to recover damages against the other, for loss of or damage to its property arising out of or incident to the perils required to be insured against herein. The effect of such releases and waivers is not limited by the amount of insurance carried or required, or by any deductibles applicable hereto. The Parties agree to have their respective property damage insurance carriers waive any right to subrogation that such companies may have against Lessor or Lessee, as the case may be, so long as the insurance is not invalidated thereby.

8.7 Indemnity. Except for Lessor's gross negligence or willful misconduct, Lessee shall indemnify, protect, defend and hold harmless the Premises, Lessor and its agents, Lessor's master or ground lessor, partners and Lenders, from and against any and all claims, loss of rents and/or damages, liens, judgments, penalties, attorneys' and consultants' fees, expenses and/or liabilities arising out of, involving, or in connection with, the use and/or occupancy of the Premises by Lessee. If any action or proceeding is brought against Lessor by reason of any of the foregoing matters, Lessee shall upon notice defend the same at Lessee's expense by counsel reasonably satisfactory to Lessor and Lessor shall cooperate with Lessee in such defense. Lessor need not have first paid any such claim in order to be defended or indemnified.

8.8 Exemption of Lessor and its Agents from Liability. Notwithstanding the negligence or breach of this Lease by Lessor or its

agents, neither Lessor nor its agents shall be liable under any circumstances for: (i) injury or damage to the person or goods, wares, merchandise or other property of Lessee, Lessee's employees, contractors, invitees, customers, or any other person in or about the Premises, whether such damage or injury is caused by or results from fire, steam, electricity, gas, water or rain, indoor air quality, the presence of mold or from the breakage, leakage, obstruction or other defects of pipes, fire sprinklers, wires, appliances, plumbing, HVAC or lighting fixtures, or from any other cause, whether the said injury or damage results from conditions arising upon the Premises or upon other portions of the Building, or from other sources or places, (ii) any damages arising from any act or neglect of any other tenant of Lessor or from the failure of Lessor or its agents to enforce the provisions of any other lease in the Project, or (iii) injury to Lessee's business or for any loss of income or profit therefrom. Instead, it is intended that Lessee's sole recourse in the event of such damages or injury be to file a claim on the insurance policy(ies) that Lessee is required to maintain pursuant to the provisions of paragraph 8.

8.9 Failure to Provide Insurance. Lessee acknowledges that any failure on its part to obtain or maintain the insurance required herein will expose Lessor to risks and potentially cause Lessor to incur costs not contemplated by this Lease, the extent of which will be extremely difficult to ascertain. Accordingly, for any month or portion thereof that Lessee does not maintain the required insurance and/or does not provide Lessor with the required binders or certificates evidencing the existence of the required insurance, the Base Rent shall be automatically increased, without any requirement for notice to Lessee, by an amount equal to 10% of the then existing Base Rent or \$100, whichever is greater. The parties agree that such increase in Base Rent represents fair and reasonable compensation for the additional risk/costs that Lessor will incur by reason of Lessee's failure to maintain the required insurance. Such increase in Base Rent shall in no event constitute a waiver of Lessee's Default or Breach with respect to the failure to maintain such insurance, prevent the exercise of any of the other rights and remedies granted hereunder, nor relieve Lessee of its obligation to maintain the insurance specified in this Lease.

9. Damage or Destruction.

9.1 Definitions.

(a) **"Premises Partial Damage"** shall mean damage or destruction to the improvements on the Premises, other than Lessee Owned Alterations and Utility Installations, which can reasonably be repaired in 3 months or less from the date of the damage or destruction, and the cost thereof does not exceed a sum equal to 6 month's Base Rent. Lessor shall notify Lessee in writing within 30 days from the date of the damage or destruction as to whether or not the damage is Partial or Total.

(b) **"Premises Total Destruction"** shall mean damage or destruction to the improvements on the Premises, other than Lessee Owned Alterations and Utility Installations and Trade Fixtures, which cannot reasonably be repaired in 3 months or less from the date of the damage or destruction and/or the cost thereof exceeds a sum equal to 6 month's Base Rent. Lessor shall notify Lessee in writing within 30 days from the date of the damage or destruction as to whether or not the damage is Partial or Total.

(c) **"Insured Loss"** shall mean damage or destruction to improvements on the Premises, other than Lessee Owned Alterations and Utility Installations and Trade Fixtures, which was caused by an event required to be covered by the insurance described in Paragraph 8.3(a), irrespective of any deductible amounts or coverage limits involved.

(d) **"Replacement Cost"** shall mean the cost to repair or rebuild the improvements owned by Lessor at the time of the occurrence to their condition existing immediately prior thereto, including demolition, debris removal and upgrading required by the operation of Applicable Requirements, and without deduction for depreciation.

(e) **"Hazardous Substance Condition"** shall mean the occurrence or discovery of a condition involving the presence of, or a contamination by, a Hazardous Substance, in, on, or under the Premises which requires restoration.

9.2 Partial Damage - Insured Loss. If a Premises Partial Damage that is an Insured Loss occurs, then Lessor shall, at Lessor's expense, repair such damage (but not Lessee's Trade Fixtures or Lessee Owned Alterations and Utility Installations) as soon as reasonably possible and this Lease shall continue in full force and effect; provided, however, that Lessee shall, at Lessor's election, make the repair of any damage or destruction the total cost to repair of which is \$5,000 or less, and, in such event, Lessor shall make any applicable insurance proceeds available to Lessee on a reasonable basis for that purpose. Notwithstanding the foregoing, if the required insurance was not in force or the insurance proceeds are not sufficient to effect such repair, the Insuring Party shall promptly contribute the shortage in proceeds as and when required to complete said repairs. In the event, however, such shortage was due to the fact that, by reason of the unique nature of the improvements, full replacement cost insurance coverage was not commercially reasonable and available, Lessor shall have no obligation to pay for the shortage in insurance proceeds or to fully restore the unique aspects of the Premises unless Lessee provides Lessor with the funds to cover same, or adequate assurance thereof, within 10 days following receipt of written notice of such shortage and request therefor. If Lessor receives said funds or adequate assurance thereof within said 10 day period, the party responsible for making the repairs shall complete them as soon as reasonably possible and this Lease shall remain in full force and effect. If such funds or assurance are not received, Lessor may nevertheless elect by written notice to Lessee within 10 days thereafter to: (i) make such restoration and repair as is commercially reasonable with Lessor paying any shortage in proceeds, in which case this Lease shall remain in full force and effect, or (ii) have this Lease terminate 30 days thereafter. Lessee shall not be entitled to reimbursement of any funds contributed by Lessee to repair any such damage or destruction. Premises Partial Damage due to flood or earthquake shall be subject to Paragraph 9.3, notwithstanding that there may be some insurance coverage, but the net proceeds of any such insurance shall be made available for the repairs if made by either Party.

9.3 Partial Damage - Uninsured Loss. If a Premises Partial Damage that is not an Insured Loss occurs, unless caused by a negligent or willful act of Lessee (in which event Lessee shall make the repairs at Lessee's expense), Lessor may either: (i) repair such damage as soon as reasonably possible at Lessor's expense (subject to reimbursement pursuant to Paragraph 4.2), in which event this Lease shall continue in full force and effect, or (ii) terminate this Lease by giving written notice to Lessee within 30 days after receipt by Lessor of knowledge of the occurrence of such damage. Such termination shall be effective 60 days following the date of such notice. In the event Lessor elects to terminate this Lease, Lessee shall have the right within 10 days after receipt of the termination notice to give written notice to Lessor of Lessee's commitment to pay for the repair of such damage without reimbursement from Lessor. Lessee shall provide Lessor with said funds or satisfactory assurance thereof within 30 days after making such commitment. In such event this Lease shall continue in full force and effect, and Lessor shall proceed to make such repairs as soon as reasonably possible after the required funds are available. If Lessee does not make the required commitment, this Lease shall terminate as of the date specified in the termination notice.

9.4 Total Destruction. Notwithstanding any other provision hereof, if a Premises Total Destruction occurs, this Lease shall terminate 60 days following such Destruction. If the damage or destruction was caused by the gross negligence or willful misconduct of Lessee, Lessor shall have the right to recover Lessor's damages from Lessee, except as provided in Paragraph 8.6.

9.5 Damage Near End of Term. If at any time during the last 6 months of this Lease there is damage for which the cost to repair

exceeds one month's Base Rent, whether or not an Insured Loss, Lessor may terminate this Lease effective 60 days following the date of occurrence of such damage by giving a written termination notice to Lessee within 30 days after the date of occurrence of such damage. Notwithstanding the foregoing, if Lessee at that time has an exercisable option to extend this Lease or to purchase the Premises, then Lessee may preserve this Lease by, (a) exercising such option and (b) providing Lessor with any shortage in insurance proceeds (or adequate assurance thereof) needed to make the repairs on or before the earlier of (i) the date which is 10 days after Lessee's receipt of Lessor's written notice purporting to terminate this Lease, or (ii) the day prior to the date upon which such option expires. If Lessee duly exercises such option during such period and provides Lessor with funds (or adequate assurance thereof) to cover any shortage in insurance proceeds, Lessor shall, at Lessor's commercially reasonable expense, repair such damage as soon as reasonably possible and this Lease shall continue in full force and effect. If Lessee fails to exercise such option and provide such funds or assurance during such period, then this Lease shall terminate on the date specified in the termination notice and Lessee's option shall be extinguished.

9.6 Abatement of Rent; Lessee's Remedies.

(a) **Abatement.** In the event of Premises Partial Damage or Premises Total Destruction or a Hazardous Substance Condition for which Lessee is not responsible under this Lease, the Rent payable by Lessee for the period required for the repair, remediation or restoration of such damage shall be abated in proportion to the degree to which Lessee's use of the Premises is impaired, but not to exceed the proceeds received from the Rental Value insurance. All other obligations of Lessee hereunder shall be performed by Lessee, and Lessor shall have no liability for any such damage, destruction, remediation, repair or restoration except as provided herein.

(b) **Remedies.** If Lessor is obligated to repair or restore the Premises and does not commence, in a substantial and meaningful way, such repair or restoration within 90 days after such obligation shall accrue, Lessee may, at any time prior to the commencement of such repair or restoration, give written notice to Lessor and to any Lenders of which Lessee has actual notice, of Lessee's election to terminate this Lease on a date not less than 60 days following the giving of such notice. If Lessee gives such notice and such repair or restoration is not commenced within 30 days thereafter, this Lease shall terminate as of the date specified in said notice. If the repair or restoration is commenced within such 30 days, this Lease shall continue in full force and effect. "Commence" shall mean either the unconditional authorization of the preparation of the required plans, or the beginning of the actual work on the Premises, whichever first occurs.

9.7 **Termination; Advance Payments.** Upon termination of this Lease pursuant to Paragraph 6.2(g) or Paragraph 9, an equitable adjustment shall be made concerning advance Base Rent and any other advance payments made by Lessee to Lessor. Lessor shall, in addition, return to Lessee so much of Lessee's Security Deposit as has not been, or is not then required to be, used by Lessor.

10. Real Property Taxes. Lessor and Lessee are each public entities and therefore should be exempt from real and personal properties taxes. However, to the extent such taxes should be assessable against either Lessor or Lessee, the Parties agree as follows:

10.1 **Definitions.** As used herein, the term "Real Property Taxes" shall include any form of assessment; real estate, general, special, ordinary or extraordinary, or rental levy or tax (other than inheritance, personal income or estate taxes); improvement bond; and/or license fee imposed upon or levied against any legal or equitable interest of Lessor in the Project, Lessor's right to other income therefrom, and/or Lessor's business of leasing, by any authority having the direct or indirect power to tax and where the funds are generated with reference to the Project address. "Real Property Taxes" shall also include any tax, fee, levy, assessment or charge, or any increase therein: (i) imposed by reason of events occurring during the term of this Lease, including but not limited to, a change in the ownership of the Project, (ii) a change in the improvements thereon, and/or (iii) levied or assessed on machinery or equipment provided by Lessor to Lessee pursuant to this Lease.

10.2 **Payment of Taxes.** Except as otherwise provided in Paragraph 10.3, Lessor shall pay the Real Property Taxes applicable to the Project, and said payments shall be **shared equally among Lessor and Lessee** included in the calculation of Operating Expenses in accordance with the provisions of Paragraph 4.2.

~~10.3 **Additional Improvements.** Operating Expenses shall not include Real Property Taxes specified in the tax assessor's records and work sheets as being caused by additional improvements placed upon the Project by other lessees or by Lessor for the exclusive enjoyment of such other lessees. Notwithstanding Paragraph 10.2 hereof, Lessee shall, however, pay to Lessor at the time Operating Expenses are payable under Paragraph 4.2, the entirety of any increase in Real Property Taxes if assessed solely by reason of Alterations, Trade Fixtures or Utility Installations placed upon the Premises by Lessee or at Lessee's request or by reason of any alterations or improvements to the Premises made by Lessor subsequent to the execution of this Lease by the Parties.~~

10.4 **Joint Assessment.** If the Building is not separately assessed, Real Property Taxes allocated to the Building shall be an equitable proportion of the Real Property Taxes for all of the land and improvements included within the tax parcel assessed, such proportion to be determined by Lessor from the respective valuations assigned in the assessor's work sheets or such other information as may be reasonably available. Lessor's reasonable determination thereof, in good faith, shall be conclusive.

10.5 **Personal Property Taxes.** Lessee shall pay prior to delinquency all taxes assessed against and levied upon Lessee Owned Alterations and Utility Installations, Trade Fixtures, furnishings, equipment and all personal property of Lessee contained in the Premises. When possible, Lessee shall cause its Lessee Owned Alterations and Utility Installations, Trade Fixtures, furnishings, equipment and all other personal property to be assessed and billed separately from the real property of Lessor. If any of Lessee's said property shall be assessed with Lessor's real property, Lessee shall pay Lessor the taxes attributable to Lessee's property within 10 days after receipt of a written statement setting forth the taxes applicable to Lessee's property.

11. Utilities and Services.

11.1 **Services Provided by Lessor.** Lessor shall provide heating, ventilation, air conditioning, reasonable amounts of electricity for normal lighting and office machines, water for reasonable and normal drinking and lavatory use in connection with an office, and replacement light bulbs and/or fluorescent tubes and ballasts for standard overhead fixtures. Lessor shall also provide janitorial services to the Premises and Common Areas 5 times per week, excluding Building Holidays, or pursuant to the attached janitorial schedule, if any. Lessor shall not, however, be required to provide janitorial services to kitchens or storage areas included within the Premises.

11.2 **Services Exclusive to Lessee.** Notwithstanding the provisions of paragraph 11.1, Lessee ~~and Lessor shall share the cost of electric, telephone and internet pay equally for all water, gas, light, power, telephone and other utilities and services specially or exclusively supplied and/or metered~~ **supplied** exclusively to the Premises or to Lessee, together with any taxes thereon. ~~Notwithstanding the provisions of Paragraph 4.2(vi), if a service is deleted by Paragraph 1.13 and such service is~~

~~not separately metered to the Premises, Lessee shall pay at Lessor's option, either Lessee's Share or a reasonable proportion to be determined by Lessor of all charges for such jointly metered service.~~

11.3 **Hours of Service.** Said services and utilities shall be provided during times set forth in Paragraph 1.12. Utilities and services required at other times shall be subject to advance request and reimbursement by Lessee to Lessor of the cost thereof.

11.4 **Excess Usage by Lessee.** Lessee shall not make connection to the utilities except by or through existing outlets and shall not install or use machinery or equipment in or about the Premises that uses excess water, lighting or power, or suffer or permit any act that causes extra burden upon the utilities or services, including but not limited to security and trash services, over standard office usage for the Project. Lessor shall require Lessee to reimburse Lessor for any excess expenses or costs that may arise out of a breach of this subparagraph by Lessee. Lessor may, in its sole discretion, install at Lessee's expense supplemental equipment and/or separate metering applicable to Lessee's excess usage or loading.

11.5 **Interruptions.** There shall be no abatement of rent and Lessor shall not be liable in any respect whatsoever for the inadequacy, stoppage, interruption or discontinuance of any utility or service due to riot, strike, labor dispute, breakdown, accident, repair or other cause beyond Lessor's reasonable control or in cooperation with governmental request or directions.

12. Assignment and Subletting.

12.1 Lessor's Consent Required.

(a) Lessee shall not voluntarily or by operation of law assign, transfer, mortgage or encumber (collectively, "**assign or assignment**") or sublet all or any part of Lessee's interest in this Lease or in the Premises without Lessor's prior written consent.

(b) Unless Lessee is a corporation and its stock is publicly traded on a national stock exchange, a change in the control of Lessee shall constitute an assignment requiring consent. The transfer, on a cumulative basis, of 25% or more of the voting control of Lessee shall constitute a change in control for this purpose.

(c) The involvement of Lessee or its assets in any transaction, or series of transactions (by way of merger, sale, acquisition, financing, transfer, leveraged buyout or otherwise), whether or not a formal assignment or hypothecation of this Lease or Lessee's assets occurs, which results or will result in a reduction of the Net Worth of Lessee by an amount greater than 25% of such Net Worth as it was represented at the time of the execution of this Lease or at the time of the most recent assignment to which Lessor has consented, or as it exists immediately prior to said transaction or transactions constituting such reduction, whichever was or is greater, shall be considered an assignment of this Lease to which Lessor may withhold its consent. "**Net Worth of Lessee**" shall mean the net worth of Lessee (excluding any guarantors) established under generally accepted accounting principles.

(d) An assignment or subletting without consent shall, at Lessor's option, be a Default curable after notice per Paragraph 13.1(d), or a noncurable Breach without the necessity of any notice and grace period. If Lessor elects to treat such unapproved assignment or subletting as a noncurable Breach, Lessor may either: (i) terminate this Lease, or (ii) upon 30 days written notice, increase the monthly Base Rent to 110% of the Base Rent then in effect. Further, in the event of such Breach and rental adjustment, (i) the purchase price of any option to purchase the Premises held by Lessee shall be subject to similar adjustment to 110% of the price previously in effect, and (ii) all fixed and non-fixed rental adjustments scheduled during the remainder of the Lease term shall be increased to 110% of the scheduled adjusted rent.

(e) Lessee's remedy for any breach of Paragraph 12.1 by Lessor shall be limited to compensatory damages and/or injunctive relief.

(f) Lessor may reasonably withhold consent to a proposed assignment or subletting if Lessee is in Default at the time consent is requested.

(g) Notwithstanding the foregoing, allowing a de minimis portion of the Premises, ie. 20 square feet or less, to be used by a third party vendor in connection with the installation of a vending machine or payphone shall not constitute a subletting.

12.2 Terms and Conditions Applicable to Assignment and Subletting.

(a) Regardless of Lessor's consent, no assignment or subletting shall : (i) be effective without the express written assumption by such assignee or sublessee of the obligations of Lessee under this Lease, (ii) release Lessee of any obligations hereunder, or (iii) alter the primary liability of Lessee for the payment of Rent or for the performance of any other obligations to be performed by Lessee.

(b) Lessor may accept Rent or performance of Lessee's obligations from any person other than Lessee pending approval or disapproval of an assignment. Neither a delay in the approval or disapproval of such assignment nor the acceptance of Rent or performance shall constitute a waiver or estoppel of Lessor's right to exercise its remedies for Lessee's Default or Breach.

(c) Lessor's consent to any assignment or subletting shall not constitute a consent to any subsequent assignment or subletting.

(d) In the event of any Default or Breach by Lessee, Lessor may proceed directly against Lessee, any Guarantors or anyone else responsible for the performance of Lessee's obligations under this Lease, including any assignee or sublessee, without first exhausting Lessor's remedies against any other person or entity responsible therefor to Lessor, or any security held by Lessor.

(e) Each request for consent to an assignment or subletting shall be in writing, accompanied by information relevant to Lessor's determination as to the financial and operational responsibility and appropriateness of the proposed assignee or sublessee, including but not limited to the intended use and/or required modification of the Premises, if any, together with a fee of \$500 as consideration for Lessor's considering and processing said request. Lessee agrees to provide Lessor with such other or additional information and/or documentation as may be reasonably requested. (See also Paragraph 36)

(f) Any assignee of, or sublessee under, this Lease shall, by reason of accepting such assignment, entering into such sublease, or entering into possession of the Premises or any portion thereof, be deemed to have assumed and agreed to conform and comply with each and every term, covenant, condition and obligation herein to be observed or performed by Lessee during the term of said assignment or sublease, other than such obligations as are contrary to or inconsistent with provisions of an assignment or sublease to which Lessor has specifically consented to in writing.

(g) Lessor's consent to any assignment or subletting shall not transfer to the assignee or sublessee any Option granted to the original Lessee by this Lease unless such transfer is specifically consented to by Lessor in writing. (See Paragraph 39.2)

12.3 **Additional Terms and Conditions Applicable to Subletting.** The following terms and conditions shall apply to any subletting by Lessee of all or any part of the Premises and shall be deemed included in all subleases under this Lease whether or not expressly incorporated therein:

(a) Lessee hereby assigns and transfers to Lessor all of Lessee's interest in all Rent payable on any sublease, and Lessor may collect such Rent and apply same toward Lessee's obligations under this Lease; provided, however, that until a Breach shall occur in the performance of Lessee's obligations, Lessee may collect said Rent. In the event that the amount collected by Lessor exceeds Lessee's then outstanding obligations any such excess shall be refunded to Lessee. Lessor shall not, by reason of the foregoing or any

assignment of such sublease, nor by reason of the collection of Rent, be deemed liable to the sublessee for any failure of Lessee to perform and comply with any of Lessee's obligations to such sublessee. Lessee hereby irrevocably authorizes and directs any such sublessee, upon receipt of a written notice from Lessor stating that a Breach exists in the performance of Lessee's obligations under this Lease, to pay to Lessor all Rent due and to become due under the sublease. Sublessee shall rely upon any such notice from Lessor and shall pay all Rents to Lessor without any obligation or right to inquire as to whether such Breach exists, notwithstanding any claim from Lessee to the contrary.

(b) In the event of a Breach by Lessee, Lessor may, at its option, require sublessee to attorn to Lessor, in which event Lessor shall undertake the obligations of the sublessor under such sublease from the time of the exercise of said option to the expiration of such sublease; provided, however, Lessor shall not be liable for any prepaid rents or security deposit paid by such sublessee to such sublessor or for any prior Defaults or Breaches of such sublessor.

(c) Any matter requiring the consent of the sublessor under a sublease shall also require the consent of Lessor.

(d) No sublessee shall further assign or sublet all or any part of the Premises without Lessor's prior written consent.

(e) Lessor shall deliver a copy of any notice of Default or Breach by Lessee to the sublessee, who shall have the right to cure the Default of Lessee within the grace period, if any, specified in such notice. The sublessee shall have a right of reimbursement and offset from and against Lessee for any such Defaults cured by the sublessee.

13. Default; Breach; Remedies.

13.1 Default; Breach. A "Default" is defined as a failure by the Lessee to comply with or perform any of the terms, covenants, conditions or Rules and Regulations under this Lease. A "Breach" is defined as the occurrence of one or more of the following Defaults, and the failure of Lessee to cure such Default within any applicable grace period:

(a) The abandonment of the Premises; or the vacating of the Premises without providing a commercially reasonable level of security, or where the coverage of the property insurance described in Paragraph 8.3 is jeopardized as a result thereof, or without providing reasonable assurances to minimize potential vandalism.

(b) The failure of Lessee to make any payment of Rent or any Security Deposit required to be made by Lessee hereunder, whether to Lessor or to a third party, when due, to provide reasonable evidence of insurance or surety bond, or to fulfill any obligation under this Lease which endangers or threatens life or property, where such failure continues for a period of 3 business days following written notice to Lessee. THE ACCEPTANCE BY LESSOR OF A PARTIAL PAYMENT OF RENT OR SECURITY DEPOSIT SHALL NOT CONSTITUTE A WAIVER OF ANY OF LESSOR'S RIGHTS, INCLUDING LESSOR'S RIGHT TO RECOVER POSSESSION OF THE PREMISES.

(c) The failure of Lessee to allow Lessor and/or its agents access to the Premises or the commission of waste, act or acts constituting public or private nuisance, and/or an illegal activity on the Premises by Lessee, where such actions continue for a period of 3 business days following written notice to Lessee. In the event that Lessee commits waste, a nuisance or an illegal activity a second time then, the Lessor may elect to treat such conduct as a non-curable Breach rather than a Default.

(d) The failure by Lessee to provide (i) reasonable written evidence of compliance with Applicable Requirements, (ii) the service contracts, (iii) the rescission of an unauthorized assignment or subletting, (iv) an Estoppel Certificate or financial statements, (v) a requested subordination, (vi) evidence concerning any guaranty and/or Guarantor, (vii) any document requested under Paragraph 41, (viii) material safety data sheets (MSDS), or (ix) any other documentation or information which Lessor may reasonably require of Lessee under the terms of this Lease, where any such failure continues for a period of 10 days following written notice to Lessee.

(e) A Default by Lessee as to the terms, covenants, conditions or provisions of this Lease, or of the rules adopted under Paragraph 2.9 hereof, other than those described in subparagraphs 13.1(a), (b) or (c), above, where such Default continues for a period of 30 days after written notice; provided, however, that if the nature of Lessee's Default is such that more than 30 days are reasonably required for its cure, then it shall not be deemed to be a Breach if Lessee commences such cure within said 30 day period and thereafter diligently prosecutes such cure to completion.

(f) The occurrence of any of the following events: (i) the making of any general arrangement or assignment for the benefit of creditors; (ii) becoming a "debtor" as defined in 11 U.S.C. § 101 or any successor statute thereto (unless, in the case of a petition filed against Lessee, the same is dismissed within 60 days); (iii) the appointment of a trustee or receiver to take possession of substantially all of Lessee's assets located at the Premises or of Lessee's interest in this Lease, where possession is not restored to Lessee within 30 days; or (iv) the attachment, execution or other judicial seizure of substantially all of Lessee's assets located at the Premises or of Lessee's interest in this Lease, where such seizure is not discharged within 30 days; provided, however, in the event that any provision of this subparagraph is contrary to any applicable law, such provision shall be of no force or effect, and not affect the validity of the remaining provisions.

(g) The discovery that any financial statement of Lessee or of any Guarantor given to Lessor was materially false.

(h) If the performance of Lessee's obligations under this Lease is guaranteed: (i) the death of a Guarantor, (ii) the termination of a Guarantor's liability with respect to this Lease other than in accordance with the terms of such guaranty, (iii) a Guarantor's becoming insolvent or the subject of a bankruptcy filing, (iv) a Guarantor's refusal to honor the guaranty, or (v) a Guarantor's breach of its guaranty obligation on an anticipatory basis, and Lessee's failure, within 60 days following written notice of any such event, to provide written alternative assurance or security, which, when coupled with the then existing resources of Lessee, equals or exceeds the combined financial resources of Lessee and the Guarantors that existed at the time of execution of this Lease.

13.2 Remedies. If Lessee fails to perform any of its affirmative duties or obligations, within 10 days after written notice (or in case of an emergency, without notice), Lessor may, at its option, perform such duty or obligation on Lessee's behalf, including but not limited to the obtaining of reasonably required bonds, insurance policies, or governmental licenses, permits or approvals. Lessee shall pay to Lessor an amount equal to 115% of the costs and expenses incurred by Lessor in such performance upon receipt of an invoice therefor. In the event of a Breach, Lessor may, with or without further notice or demand, and without limiting Lessor in the exercise of any right or remedy which Lessor may have by reason of such Breach:

(a) Terminate Lessee's right to possession of the Premises by any lawful means, in which case this Lease shall terminate and Lessee shall immediately surrender possession to Lessor. In such event Lessor shall be entitled to recover from Lessee: (i) the unpaid Rent which had been earned at the time of termination; (ii) the worth at the time of award of the amount by which the unpaid rent which would have been earned after termination until the time of award exceeds the amount of such rental loss that the Lessee proves could have been reasonably avoided; (iii) the worth at the time of award of the amount by which the unpaid rent for the balance of the term after the time of award exceeds the amount of such rental loss that the Lessee proves could be reasonably avoided; and (iv) any other amount necessary to compensate Lessor for all the detriment proximately caused by the Lessee's failure to perform its obligations under this Lease or which in the ordinary course of things would be likely to result therefrom, including but not limited to the cost of recovering possession of the Premises, expenses of reletting, including necessary renovation and alteration

of the Premises, reasonable attorneys' fees, and that portion of any leasing commission paid by Lessor in connection with this Lease applicable to the unexpired term of this Lease. The worth at the time of award of the amount referred to in provision (iii) of the immediately preceding sentence shall be computed by discounting such amount at the discount rate of the Federal Reserve Bank of the District within which the Premises are located at the time of award plus one percent. Efforts by Lessor to mitigate damages caused by Lessee's Breach of this Lease shall not waive Lessor's right to recover any damages to which Lessor is otherwise entitled. If termination of this Lease is obtained through the provisional remedy of unlawful detainer, Lessor shall have the right to recover in such proceeding any unpaid Rent and damages as are recoverable therein, or Lessor may reserve the right to recover all or any part thereof in a separate suit. If a notice and grace period required under Paragraph 13.1 was not previously given, a notice to pay rent or quit, or to perform or quit given to Lessee under the unlawful detainer statute shall also constitute the notice required by Paragraph 13.1. In such case, the applicable grace period required by Paragraph 13.1 and the unlawful detainer statute shall run concurrently, and the failure of Lessee to cure the Default within the greater of the two such grace periods shall constitute both an unlawful detainer and a Breach of this Lease entitling Lessor to the remedies provided for in this Lease and/or by said statute.

(b) Continue the Lease and Lessee's right to possession and recover the Rent as it becomes due, in which event Lessee may sublet or assign, subject only to reasonable limitations. Acts of maintenance, efforts to relet, and/or the appointment of a receiver to protect the Lessor's interests, shall not constitute a termination of the Lessee's right to possession.

(c) Pursue any other remedy now or hereafter available under the laws or judicial decisions of the state wherein the Premises are located. The expiration or termination of this Lease and/or the termination of Lessee's right to possession shall not relieve Lessee from liability under any indemnity provisions of this Lease as to matters occurring or accruing during the term hereof or by reason of Lessee's occupancy of the Premises.

13.3 Inducement Recapture. Any agreement for free or abated rent or other charges, the cost of tenant improvements for Lessee paid for or performed by Lessor, or for the giving or paying by Lessor to or for Lessee of any cash or other bonus, inducement or consideration for Lessee's entering into this Lease, all of which concessions are hereinafter referred to as "**Inducement Provisions**," shall be deemed conditioned upon Lessee's full and faithful performance of all of the terms, covenants and conditions of this Lease. Upon Breach of this Lease by Lessee, any such Inducement Provision shall automatically be deemed deleted from this Lease and of no further force or effect, and any rent, other charge, bonus, inducement or consideration theretofore abated, given or paid by Lessor under such an Inducement Provision shall be immediately due and payable by Lessee to Lessor, notwithstanding any subsequent cure of said Breach by Lessee. The acceptance by Lessor of rent or the cure of the Breach which initiated the operation of this paragraph shall not be deemed a waiver by Lessor of the provisions of this paragraph unless specifically so stated in writing by Lessor at the time of such acceptance.

13.4 Late Charges. Lessee hereby acknowledges that late payment by Lessee of Rent will cause Lessor to incur costs not contemplated by this Lease, the exact amount of which will be extremely difficult to ascertain. Such costs include, but are not limited to, processing and accounting charges, and late charges which may be imposed upon Lessor by any Lender. Accordingly, if any Rent shall not be received by Lessor within ~~5-~~ **10** days after such amount shall be due, then, without any requirement for notice to Lessee, Lessee shall immediately pay to Lessor a one-time late charge equal to 10% of each such overdue amount or \$100, whichever is greater. The parties hereby agree that such late charge represents a fair and reasonable estimate of the costs Lessor will incur by reason of such late payment. Acceptance of such late charge by Lessor shall in no event constitute a waiver of Lessee's Default or Breach with respect to such overdue amount, nor prevent the exercise of any of the other rights and remedies granted hereunder. In the event that a late charge is payable hereunder, whether or not collected, for 3 consecutive installments of Base Rent, then notwithstanding any provision of this Lease to the contrary, Base Rent shall, at Lessor's option, become due and payable quarterly in advance.

13.5 Interest. Any monetary payment due Lessor hereunder, other than late charges, not received by Lessor, when due shall bear interest from the 31st day after it was due. The interest ("**Interest**") charged shall be computed at the rate of 10% per annum but shall not exceed the maximum rate allowed by law. Interest is payable in addition to the potential late charge provided for in Paragraph 13.4.

13.6 Breach by Lessor.

(a) **Notice of Breach.** Lessor shall not be deemed in breach of this Lease unless Lessor fails within a reasonable time to perform an obligation required to be performed by Lessor. For purposes of this Paragraph, a reasonable time shall in no event be less than 30 days after receipt by Lessor, and any Lender whose name and address shall have been furnished to Lessee in writing for such purpose, of written notice specifying wherein such obligation of Lessor has not been performed; provided, however, that if the nature of Lessor's obligation is such that more than 30 days are reasonably required for its performance, then Lessor shall not be in breach if performance is commenced within such 30 day period and thereafter diligently pursued to completion.

(b) **Performance by Lessee on Behalf of Lessor.** In the event that neither Lessor nor Lender cures said breach within 30 days after receipt of said notice, or if having commenced said cure they do not diligently pursue it to completion, then Lessee may elect to cure said breach at Lessee's expense and offset from Rent the actual and reasonable cost to perform such cure, provided, however, that such offset shall not exceed an amount equal to the greater of one month's Base Rent or the Security Deposit, reserving Lessee's right to seek reimbursement from Lessor for any such expense in excess of such offset. Lessee shall document the cost of said cure and supply said documentation to Lessor.

14. Condemnation. If the Premises or any portion thereof are taken under the power of eminent domain or sold under the threat of the exercise of said power (collectively "Condemnation"), this Lease shall terminate as to the part taken as of the date the condemning authority takes title or possession, whichever first occurs. If more than 10% of the rentable floor area of the Premises, or more than 25% of Lessee's Reserved Parking Spaces, if any, are taken by Condemnation, Lessee may, at Lessee's option, to be exercised in writing within 10 days after Lessor shall have given Lessee written notice of such taking (or in the absence of such notice, within 10 days after the condemning authority shall have taken possession) terminate this Lease as of the date the condemning authority takes such possession. If Lessee does not terminate this Lease in accordance with the foregoing, this Lease shall remain in full force and effect as to the portion of the Premises remaining, except that the Base Rent shall be reduced in proportion to the reduction in utility of the Premises caused by such Condemnation. Condemnation awards and/or payments shall be the property of Lessor, whether such award shall be made as compensation for diminution in value of the leasehold, the value of the part taken, or for severance damages; provided, however, that Lessee shall be entitled to any compensation paid by the condemnor for Lessee's relocation expenses, loss of business goodwill and/or Trade Fixtures, without regard to whether or not this Lease is terminated pursuant to the provisions of this Paragraph. All Alterations and Utility Installations made to the Premises by Lessee, for purposes of Condemnation only, shall be considered the property of the Lessee and Lessee shall be entitled to any and all compensation which is payable therefor. In the event that this Lease is not terminated by reason of the Condemnation, Lessor shall repair any damage to

the Premises caused by such Condemnation.

15. Brokerage Fees. Each Party shall be solely responsible for the payments of any brokerage fees or commissions for the broker assisting such Party in this transaction.

~~15.1 — **Additional Commission.** In addition to the payments owed pursuant to Paragraph 1.10 above, Lessor agrees that: (a) if Lessee exercises any Option, (b) if Lessee or anyone affiliated with Lessee acquires from Lessor any rights to the Premises or other premises owned by Lessor and located within the Project, (c) if Lessee remains in possession of the Premises, with the consent of Lessor, after the expiration of this Lease, or (d) if Base Rent is increased, whether by agreement or operation of an escalation clause herein, then, Lessor shall pay Brokers a fee in accordance with the fee schedule of the Brokers in effect at the time the Lease was executed.~~

~~15.2 — **Assumption of Obligations.** Any buyer or transferee of Lessor's interest in this Lease shall be deemed to have assumed Lessor's obligation hereunder. Brokers shall be third party beneficiaries of the provisions of Paragraphs 1.10, 15, 22 and 31. If Lessor fails to pay to Brokers any amounts due as and for brokerage fees pertaining to this Lease when due, then such amounts shall accrue interest. In addition, if Lessor fails to pay any amounts to Lessee's Broker when due, Lessee's Broker may send written notice to Lessor and Lessee of such failure and if Lessor fails to pay such amounts within 10 days after said notice, Lessee shall pay said monies to its Broker and offset such amounts against Rent. In addition, Lessee's Broker shall be deemed to be a third party beneficiary of any commission agreement entered into by and/or between Lessor and Lessor's Broker for the limited purpose of collecting any brokerage fee owed.~~

15.3 Representations and Indemnities of Broker Relationships. Lessee and Lessor each represent and warrant to the other that it has had no dealings with any person, firm, broker or finder (other than the Brokers, if any) in connection with this Lease, and that no one other than said named Brokers is entitled to any commission or finder's fee in connection herewith. Lessee and Lessor do each hereby agree to indemnify, protect, defend and hold the other harmless from and against liability for compensation or charges which may be claimed by any such unnamed broker, finder or other similar party by reason of any dealings or actions of the indemnifying Party, including any costs, expenses, attorneys' fees reasonably incurred with respect thereto.

16. Estoppel Certificates.

(a) Each Party (as "**Responding Party**") shall within 10 days after written notice from the other Party (the "**Requesting Party**") execute, acknowledge and deliver to the Requesting Party a statement in writing in form similar to the then most current "**Estoppel Certificate**" form published BY AIR CRE, plus such additional information, confirmation and/or statements as may be reasonably requested by the Requesting Party.

(b) If the Responding Party shall fail to execute or deliver the Estoppel Certificate within such 10 day period, the Requesting Party may execute an Estoppel Certificate stating that: (i) the Lease is in full force and effect without modification except as may be represented by the Requesting Party, (ii) there are no uncured defaults in the Requesting Party's performance, and (iii) if Lessor is the Requesting Party, not more than one month's rent has been paid in advance. Prospective purchasers and encumbrancers may rely upon the Requesting Party's Estoppel Certificate, and the Responding Party shall be estopped from denying the truth of the facts contained in said Certificate. In addition, Lessee acknowledges that any failure on its part to provide such an Estoppel Certificate will expose Lessor to risks and potentially cause Lessor to incur costs not contemplated by this Lease, the extent of which will be extremely difficult to ascertain. Accordingly, should the Lessee fail to execute and/or deliver a requested Estoppel Certificate in a timely fashion the monthly Base Rent shall be automatically increased, without any requirement for notice to Lessee, by an amount equal to 10% of the then existing Base Rent or \$100, whichever is greater for remainder of the Lease. The Parties agree that such increase in Base Rent represents fair and reasonable compensation for the additional risk/costs that Lessor will incur by reason of Lessee's failure to provide the Estoppel Certificate. Such increase in Base Rent shall in no event constitute a waiver of Lessee's Default or Breach with respect to the failure to provide the Estoppel Certificate nor prevent the exercise of any of the other rights and remedies granted hereunder.

(c) If Lessor desires to finance, refinance, or sell the Premises, or any part thereof, Lessee and all Guarantors shall within 10 days after written notice from Lessor deliver to any potential lender or purchaser designated by Lessor such financial statements as may be reasonably required by such lender or purchaser, including but not limited to Lessee's financial statements for the past 3 years. All such financial statements shall be received by Lessor and such lender or purchaser in confidence and shall be used only for the purposes herein set forth.

17. Definition of Lessor. The term "**Lessor**" as used herein shall mean the owner or owners at the time in question of the fee title to the Premises, or, if this is a sublease, of the Lessee's interest in the prior lease. In the event of a transfer of Lessor's title or interest in the Premises or this Lease, Lessor shall deliver to the transferee or assignee (in cash or by credit) any unused Security Deposit held by Lessor. Upon such transfer or assignment and delivery of the Security Deposit, as aforesaid, the prior Lessor shall be relieved of all liability with respect to the obligations and/or covenants under this Lease thereafter to be performed by the Lessor. Subject to the foregoing, the obligations and/or covenants in this Lease to be performed by the Lessor shall be binding only upon the Lessor as hereinabove defined.

18. Severability. The invalidity of any provision of this Lease, as determined by a court of competent jurisdiction, shall in no way affect the validity of any other provision hereof.

19. Days. Unless otherwise specifically indicated to the contrary, the word "**days**" as used in this Lease shall mean and refer to calendar days.

20. Limitation on Liability. The obligations of Lessor under this Lease shall not constitute personal obligations of Lessor, or its partners, members, directors, officers or shareholders, and Lessee shall look to the Project, and to no other assets of Lessor, for the satisfaction of any liability of Lessor with respect to this Lease, and shall not seek recourse against Lessor's partners, members, directors, officers or shareholders, or any of their personal assets for such satisfaction.

21. Time of Essence. Time is of the essence with respect to the performance of all obligations to be performed or observed by the Parties under this Lease.

22. No Prior or Other Agreements; Broker Disclaimer. This Lease contains all agreements between the Parties with respect to any matter mentioned herein, and no other prior or contemporaneous agreement or understanding shall be effective. Lessor and Lessee each represents and warrants to the Brokers that it has made, and is relying solely upon, its own investigation as to the nature, quality, character and financial responsibility of the other Party to this Lease and as to the use, nature, quality and character of the

Premises. Brokers have no responsibility with respect thereto or with respect to any default or breach hereof by either Party.

23. Notices.

23.1 **Notice Requirements.** All notices required or permitted by this Lease or applicable law shall be in writing and may be delivered in person (by hand or by courier) or may be sent by regular, certified or registered mail or U.S. Postal Service Express Mail, with postage prepaid, or by facsimile transmission, or by email, and shall be deemed sufficiently given if served in a manner specified in this Paragraph 23. The addresses noted adjacent to a Party's signature on this Lease shall be that Party's address for delivery or mailing of notices. Either Party may by written notice to the other specify a different address for notice, except that upon Lessee's taking possession of the Premises, the Premises shall constitute Lessee's address for notice. A copy of all notices to Lessor shall be concurrently transmitted to such party or parties at such addresses as Lessor may from time to time hereafter designate in writing.

23.2 **Date of Notice.** Any notice sent by registered or certified mail, return receipt requested, shall be deemed given on the date of delivery shown on the receipt card, or if no delivery date is shown, the postmark thereon. If sent by regular mail the notice shall be deemed given 72 hours after the same is addressed as required herein and mailed with postage prepaid. Notices delivered by United States Express Mail or overnight courier that guarantees next day delivery shall be deemed given 24 hours after delivery of the same to the Postal Service or courier. Notices delivered by hand, or transmitted by facsimile transmission or by email shall be deemed delivered upon actual receipt. If notice is received on a Saturday, Sunday or legal holiday, it shall be deemed received on the next business day.

24. Waivers.

(a) No waiver by Lessor of the Default or Breach of any term, covenant or condition hereof by Lessee, shall be deemed a waiver of any other term, covenant or condition hereof, or of any subsequent Default or Breach by Lessee of the same or of any other term, covenant or condition hereof. Lessor's consent to, or approval of, any act shall not be deemed to render unnecessary the obtaining of Lessor's consent to, or approval of, any subsequent or similar act by Lessee, or be construed as the basis of an estoppel to enforce the provision or provisions of this Lease requiring such consent.

(b) The acceptance of Rent by Lessor shall not be a waiver of any Default or Breach by Lessee. Any payment by Lessee may be accepted by Lessor on account of monies or damages due Lessor, notwithstanding any qualifying statements or conditions made by Lessee in connection therewith, which such statements and/or conditions shall be of no force or effect whatsoever unless specifically agreed to in writing by Lessor at or before the time of deposit of such payment.

(c) THE PARTIES AGREE THAT THE TERMS OF THIS LEASE SHALL GOVERN WITH REGARD TO ALL MATTERS RELATED THERETO AND HEREBY WAIVE THE PROVISIONS OF ANY PRESENT OR FUTURE STATUTE TO THE EXTENT THAT SUCH STATUTE IS INCONSISTENT WITH THIS LEASE.

25. Disclosures Regarding The Nature of a Real Estate Agency Relationship.

(a) When entering into a discussion with a real estate agent regarding a real estate transaction, a Lessor or Lessee should from the outset understand what type of agency relationship or representation it has with the agent or agents in the transaction. Lessor and Lessee acknowledge being advised by the Brokers in this transaction, as follows:

(i) Lessor's Agent. A Lessor's agent under a listing agreement with the Lessor acts as the agent for the Lessor only. A Lessor's agent or subagent has the following affirmative obligations: To the Lessor: A fiduciary duty of utmost care, integrity, honesty, and loyalty in dealings with the Lessor. To the Lessee and the Lessor: (a) Diligent exercise of reasonable skills and care in performance of the agent's duties. (b) A duty of honest and fair dealing and good faith. (c) A duty to disclose all facts known to the agent materially affecting the value or desirability of the property that are not known to, or within the diligent attention and observation of, the Parties. An agent is not obligated to reveal to either Party any confidential information obtained from the other Party which does not involve the affirmative duties set forth above.

(ii) Lessee's Agent. An agent can agree to act as agent for the Lessee only. In these situations, the agent is not the Lessor's agent, even if by agreement the agent may receive compensation for services rendered, either in full or in part from the Lessor. An agent acting only for a Lessee has the following affirmative obligations. To the Lessee: A fiduciary duty of utmost care, integrity, honesty, and loyalty in dealings with the Lessee. To the Lessee and the Lessor: (a) Diligent exercise of reasonable skills and care in performance of the agent's duties. (b) A duty of honest and fair dealing and good faith. (c) A duty to disclose all facts known to the agent materially affecting the value or desirability of the property that are not known to, or within the diligent attention and observation of, the Parties. An agent is not obligated to reveal to either Party any confidential information obtained from the other Party which does not involve the affirmative duties set forth above.

(iii) Agent Representing Both Lessor and Lessee. A real estate agent, either acting directly or through one or more associate licenses, can legally be the agent of both the Lessor and the Lessee in a transaction, but only with the knowledge and consent of both the Lessor and the Lessee. In a dual agency situation, the agent has the following affirmative obligations to both the Lessor and the Lessee: (a) A fiduciary duty of utmost care, integrity, honesty and loyalty in the dealings with either Lessor or the Lessee. (b) Other duties to the Lessor and the Lessee as stated above in subparagraphs (i) or (ii). In representing both Lessor and Lessee, the agent may not without the express permission of the respective Party, disclose to the other Party that the Lessor will accept rent in an amount less than that indicated in the listing or that the Lessee is willing to pay a higher rent than that offered. The above duties of the agent in a real estate transaction do not relieve a Lessor or Lessee from the responsibility to protect their own interests. Lessor and Lessee should carefully read all agreements to assure that they adequately express their understanding of the transaction. A real estate agent is a person qualified to advise about real estate. If legal or tax advice is desired, consult a competent professional.

(b) Brokers have no responsibility with respect to any default or breach hereof by either Party. The Parties agree that no lawsuit or other legal proceeding involving any breach of duty, error or omission relating to this Lease may be brought against Broker more than one year after the Start Date and that the liability (including court costs and attorneys' fees), of any Broker with respect to any such lawsuit and/or legal proceeding shall not exceed the fee received by such Broker pursuant to this Lease; provided, however, that the foregoing limitation on each Broker's liability shall not be applicable to any gross negligence or willful misconduct of such Broker.

(c) Lessor and Lessee agree to identify to Brokers as "Confidential" any communication or information given Brokers that is considered by such Party to be confidential.

26. No Right To Holdover. Lessee has no right to retain possession of the Premises or any part thereof beyond the expiration or termination of this Lease. In the event that Lessee holds over, then the Base Rent shall be increased to 150% of the Base Rent applicable immediately preceding the expiration or termination. Holdover Base Rent shall be calculated on a monthly basis. Nothing

contained herein shall be construed as consent by Lessor to any holding over by Lessee.

27. Cumulative Remedies. No remedy or election hereunder shall be deemed exclusive but shall, wherever possible, be cumulative with all other remedies at law or in equity.

28. Covenants and Conditions; Construction of Agreement. All provisions of this Lease to be observed or performed by Lessee are both covenants and conditions. In construing this Lease, all headings and titles are for the convenience of the Parties only and shall not be considered a part of this Lease. Whenever required by the context, the singular shall include the plural and vice versa. This Lease shall not be construed as if prepared by one of the Parties, but rather according to its fair meaning as a whole, as if both Parties had prepared it.

29. Binding Effect; Choice of Law. This Lease shall be binding upon the parties, their personal representatives, successors and assigns and be governed by the laws of the State in which the Premises are located. Any litigation between the Parties hereto concerning this Lease shall be initiated in the county in which the Premises are located.

30. Subordination; Attornment; Non-Disturbance.

30.1 **Subordination.** This Lease and any Option granted hereby shall be subject and subordinate to any ground lease, mortgage, deed of trust, or other hypothecation or security device (collectively, "**Security Device**"), now or hereafter placed upon the Premises, to any and all advances made on the security thereof, and to all renewals, modifications, and extensions thereof. Lessee agrees that the holders of any such Security Devices (in this Lease together referred to as "**Lender**") shall have no liability or obligation to perform any of the obligations of Lessor under this Lease. Any Lender may elect to have this Lease and/or any Option granted hereby superior to the lien of its Security Device by giving written notice thereof to Lessee, whereupon this Lease and such Options shall be deemed prior to such Security Device, notwithstanding the relative dates of the documentation or recordation thereof.

30.2 **Attornment.** In the event that Lessor transfers title to the Premises, or the Premises are acquired by another upon the foreclosure or termination of a Security Device to which this Lease is subordinated (i) Lessee shall, subject to the non-disturbance provisions of Paragraph 30.3, attorn to such new owner, and upon request, enter into a new lease, containing all of the terms and provisions of this Lease, with such new owner for the remainder of the term hereof, or, at the election of the new owner, this Lease will automatically become a new lease between Lessee and such new owner, and (ii) Lessor shall thereafter be relieved of any further obligations hereunder and such new owner shall assume all of Lessor's obligations, except that such new owner shall not: (a) be liable for any act or omission of any prior lessor or with respect to events occurring prior to acquisition of ownership; (b) be subject to any offsets or defenses which Lessee might have against any prior lessor, (c) be bound by prepayment of more than one month's rent, or (d) be liable for the return of any security deposit paid to any prior lessor which was not paid or credited to such new owner.

30.3 **Non-Disturbance.** With respect to Security Devices entered into by Lessor after the execution of this Lease, Lessee's subordination of this Lease shall be subject to receiving a commercially reasonable non-disturbance agreement (a "**Non-Disturbance Agreement**") from the Lender which Non-Disturbance Agreement provides that Lessee's possession of the Premises, and this Lease, including any options to extend the term hereof, will not be disturbed so long as Lessee is not in Breach hereof and attorns to the record owner of the Premises. Further, within 60 days after the execution of this Lease, Lessor shall, if requested by Lessee, use its commercially reasonable efforts to obtain a Non-Disturbance Agreement from the holder of any pre-existing Security Device which is secured by the Premises. In the event that Lessor is unable to provide the Non-Disturbance Agreement within said 60 days, then Lessee may, at Lessee's option, directly contact Lender and attempt to negotiate for the execution and delivery of a Non-Disturbance Agreement.

30.4 **Self-Executing.** The agreements contained in this Paragraph 30 shall be effective without the execution of any further documents; provided, however, that, upon written request from Lessor or a Lender in connection with a sale, financing or refinancing of the Premises, Lessee and Lessor shall execute such further writings as may be reasonably required to separately document any subordination, attornment and/or Non-Disturbance Agreement provided for herein.

31. Attorneys' Fees. If any Party or Broker brings an action or proceeding involving the Premises whether founded in tort, contract or equity, or to declare rights hereunder, the Prevailing Party (as hereafter defined) in any such proceeding, action, or appeal thereon, shall be entitled to reasonable attorneys' fees. Such fees may be awarded in the same suit or recovered in a separate suit, whether or not such action or proceeding is pursued to decision or judgment. The term, "**Prevailing Party**" shall include, without limitation, a Party or Broker who substantially obtains or defeats the relief sought, as the case may be, whether by compromise, settlement, judgment, or the abandonment by the other Party or Broker of its claim or defense. The attorneys' fees award shall not be computed in accordance with any court fee schedule, but shall be such as to fully reimburse all attorneys' fees reasonably incurred. In addition, Lessor shall be entitled to attorneys' fees, costs and expenses incurred in the preparation and service of notices of Default and consultations in connection therewith, whether or not a legal action is subsequently commenced in connection with such Default or resulting Breach (\$200 is a reasonable minimum per occurrence for such services and consultation).

32. Lessor's Access; Showing Premises; Repairs. Lessor and Lessor's agents shall have the right to enter the Premises at any time, in the case of an emergency, and otherwise at reasonable times after reasonable prior notice for the purpose of showing the same to prospective purchasers, lenders, or tenants, and making such alterations, repairs, improvements or additions to the Premises as Lessor may deem necessary or desirable and the erecting, using and maintaining of utilities, services, pipes and conduits through the Premises and/or other premises as long as there is no material adverse effect on Lessee's use of the Premises. All such activities shall be without abatement of rent or liability to Lessee.

33. Auctions. Lessee shall not conduct, nor permit to be conducted, any auction upon the Premises without Lessor's prior written consent. Lessor shall not be obligated to exercise any standard of reasonableness in determining whether to permit an auction.

34. Signs. Lessor may place on the Premises ordinary "For Sale" signs at any time and ordinary "For Lease" signs during the last 6 months of the term hereof. Lessor may not place any sign on the exterior of the Building that covers any of the windows of the Premises. Except for ordinary "For Sublease" signs which may be placed only on the Premises, Lessee shall not place any sign upon the Project without Lessor's prior written consent. All signs must comply with all Applicable Requirements.

35. Termination; Merger. Unless specifically stated otherwise in writing by Lessor, the voluntary or other surrender of this Lease by Lessee, the mutual termination or cancellation hereof, or a termination hereof by Lessor for Breach by Lessee, shall automatically terminate any sublease or lesser estate in the Premises; provided, however, that Lessor may elect to continue any one or all existing subtenancies. Lessor's failure within 10 days following any such event to elect to the contrary by written notice to the holder of any

such lesser interest, shall constitute Lessor's election to have such event constitute the termination of such interest.

36. Consents. All requests for consent shall be in writing. Except as otherwise provided herein, wherever in this Lease the consent of a Party is required to an act by or for the other Party, such consent shall not be unreasonably withheld or delayed. Lessor's actual reasonable costs and expenses (including but not limited to architects', attorneys', engineers' and other consultants' fees) incurred in the consideration of, or response to, a request by Lessee for any Lessor consent, including but not limited to consents to an assignment, a subletting or the presence or use of a Hazardous Substance, shall be paid by Lessee upon receipt of an invoice and supporting documentation therefor. Lessor's consent to any act, assignment or subletting shall not constitute an acknowledgment that no Default or Breach by Lessee of this Lease exists, nor shall such consent be deemed a waiver of any then existing Default or Breach, except as may be otherwise specifically stated in writing by Lessor at the time of such consent. The failure to specify herein any particular condition to Lessor's consent shall not preclude the imposition by Lessor at the time of consent of such further or other conditions as are then reasonable with reference to the particular matter for which consent is being given. In the event that either Party disagrees with any determination made by the other hereunder and reasonably requests the reasons for such determination, the determining party shall furnish its reasons in writing and in reasonable detail within 10 business days following such request.

37. Guarantor.

37.1 **Execution.** The Guarantors, if any, shall each execute a guaranty in the form most recently published BY AIR CRE.

37.2 **Default.** It shall constitute a Default of the Lessee if any Guarantor fails or refuses, upon request to provide: (a) evidence of the execution of the guaranty, including the authority of the party signing on Guarantor's behalf to obligate Guarantor, and in the case of a corporate Guarantor, a certified copy of a resolution of its board of directors authorizing the making of such guaranty, (b) current financial statements, (c) an Estoppel Certificate, or (d) written confirmation that the guaranty is still in effect.

38. Quiet Possession. Subject to payment by Lessee of the Rent and performance of all of the covenants, conditions and provisions on Lessee's part to be observed and performed under this Lease, Lessee shall have quiet possession and quiet enjoyment of the Premises during the term hereof.

39. Options. If Lessee is granted any option, as defined below, then the following provisions shall apply.

39.1 **Definition.** "Option" shall mean: (a) the right to extend or reduce the term of or renew this Lease or to extend or reduce the term of or renew any lease that Lessee has on other property of Lessor; (b) the right of first refusal or first offer to lease either the Premises or other property of Lessor; (c) the right to purchase, the right of first offer to purchase or the right of first refusal to purchase the Premises or other property of Lessor.

39.2 **Options Personal To Original Lessee.** Any Option granted to Lessee in this Lease is personal to the original Lessee, and cannot be assigned or exercised by anyone other than said original Lessee and only while the original Lessee is in full possession of the Premises and, if requested by Lessor, with Lessee certifying that Lessee has no intention of thereafter assigning or subletting.

39.3 **Multiple Options.** In the event that Lessee has any multiple Options to extend or renew this Lease, a later Option cannot be exercised unless the prior Options have been validly exercised.

39.4 **Effect of Default on Options.**

(a) Lessee shall have no right to exercise an Option: (i) during the period commencing with the giving of any notice of Default and continuing until said Default is cured, (ii) during the period of time any Rent is unpaid (without regard to whether notice thereof is given Lessee), (iii) during the time Lessee is in Breach of this Lease, or (iv) in the event that Lessee has been given 3 or more notices of separate Default, whether or not the Defaults are cured, during the 12 month period immediately preceding the exercise of the Option.

(b) The period of time within which an Option may be exercised shall not be extended or enlarged by reason of Lessee's inability to exercise an Option because of the provisions of Paragraph 39.4(a).

(c) An Option shall terminate and be of no further force or effect, notwithstanding Lessee's due and timely exercise of the Option, if, after such exercise and prior to the commencement of the extended term or completion of the purchase, (i) Lessee fails to pay Rent for a period of 30 days after such Rent becomes due (without any necessity of Lessor to give notice thereof), or (ii) if Lessee commits a Breach of this Lease.

40. Security Measures. Lessee hereby acknowledges that the Rent payable to Lessor hereunder does not include the cost of guard service or other security measures, and that Lessor shall have no obligation whatsoever to provide same. Lessee assumes all responsibility for the protection of the Premises, Lessee, its agents and invitees and their property from the acts of third parties. In the event, however, that Lessor should elect to provide security services, then the cost thereof shall be an Operating Expense.

41. Reservations.

(a) Lessor reserves the right: (i) to grant, without the consent or joinder of Lessee, such easements, rights and dedications that Lessor deems necessary, (ii) to cause the recordation of parcel maps and restrictions, (iii) to create and/or install new utility raceways, so long as such easements, rights, dedications, maps, restrictions, and utility raceways do not unreasonably interfere with the use of the Premises by Lessee. Lessor may also: change the name, address or title of the Building or Project upon at least 90 days prior written notice; provide and install, at Lessee's expense, Building standard graphics on the door of the Premises and such portions of the Common Areas as Lessor shall reasonably deem appropriate; grant to any lessee the exclusive right to conduct any business as long as such exclusive right does not conflict with any rights expressly given herein; and to place such signs, notices or displays as Lessor reasonably deems necessary or advisable upon the roof, exterior of the Building or the Project or on signs in the Common Areas. Lessee agrees to sign any documents reasonably requested by Lessor to effectuate such rights. The obstruction of Lessee's view, air, or light by any structure erected in the vicinity of the Building, whether by Lessor or third parties, shall in no way affect this Lease or impose any liability upon Lessor.

(b) Lessor also reserves the right to move Lessee to other space of comparable size in the Building or Project. Lessor must provide at least 45 days prior written notice of such move, and the new space must contain improvements of comparable quality to those contained within the Premises. Lessor shall pay the reasonable out of pocket costs that Lessee incurs with regard to such relocation, including the expenses of moving and necessary stationary revision costs. In no event, however, shall Lessor be required to pay an amount in excess of two months Base Rent. Lessee may not be relocated more than once during the term of this Lease.

(c) Lessee shall not: (i) use a representation (photographic or otherwise) of the Building or Project or their name(s) in connection with Lessee's business; or (ii) suffer or permit anyone, except in emergency, to go upon the roof of the Building.

42. Performance Under Protest. If at any time a dispute shall arise as to any amount or sum of money to be paid by one Party to

the other under the provisions hereof, the Party against whom the obligation to pay the money is asserted shall have the right to make payment "under protest" and such payment shall not be regarded as a voluntary payment and there shall survive the right on the part of said Party to institute suit for recovery of such sum. If it shall be adjudged that there was no legal obligation on the part of said Party to pay such sum or any part thereof, said Party shall be entitled to recover such sum or so much thereof as it was not legally required to pay. A Party who does not initiate suit for the recovery of sums paid "under protest" within 6 months shall be deemed to have waived its right to protest such payment.

43. Authority; Multiple Parties; Execution.

(a) If either Party hereto is a corporation, trust, limited liability company, partnership, or similar entity, each individual executing this Lease on behalf of such entity represents and warrants that he or she is duly authorized to execute and deliver this Lease on its behalf. Each Party shall, within 30 days after request, deliver to the other Party satisfactory evidence of such authority.

(b) If this Lease is executed by more than one person or entity as "Lessee", each such person or entity shall be jointly and severally liable hereunder. It is agreed that any one of the named Lessees shall be empowered to execute any amendment to this Lease, or other document ancillary thereto and bind all of the named Lessees, and Lessor may rely on the same as if all of the named Lessees had executed such document.

(c) This Lease may be executed by the Parties in counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument.

44. Conflict. Any conflict between the printed provisions of this Lease and the typewritten or handwritten provisions shall be controlled by the typewritten or handwritten provisions.

45. Offer. Preparation of this Lease by either party or their agent and submission of same to the other Party shall not be deemed an offer to lease to the other Party. This Lease is not intended to be binding until executed and delivered by all Parties hereto.

46. Amendments. This Lease may be modified only in writing, signed by the Parties in interest at the time of the modification. As long as they do not materially change Lessee's obligations hereunder, Lessee agrees to make such reasonable non-monetary modifications to this Lease as may be reasonably required by a Lender in connection with the obtaining of normal financing or refinancing of the Premises.

47. Waiver of Jury Trial. THE PARTIES HEREBY WAIVE THEIR RESPECTIVE RIGHTS TO TRIAL BY JURY IN ANY ACTION OR PROCEEDING INVOLVING THE PROPERTY OR ARISING OUT OF THIS AGREEMENT.

48. Arbitration of Disputes. An Addendum requiring the Arbitration of all disputes between the Parties and/or Brokers arising out of this Lease ☐ is ☒ is not attached to this Lease.

49. Accessibility; Americans with Disabilities Act.

(a) The Premises:

☒ have not undergone an inspection by a Certified Access Specialist (CASp). Note: A Certified Access Specialist (CASp) can inspect the subject premises and determine whether the subject premises comply with all of the applicable construction-related accessibility standards under state law. Although state law does not require a CASp inspection of the subject premises, the commercial property owner or lessor may not prohibit the lessee or tenant from obtaining a CASp inspection of the subject premises for the occupancy or potential occupancy of the lessee or tenant, if requested by the lessee or tenant. The parties shall mutually agree on the arrangements for the time and manner of the CASp inspection, the payment of the fee for the CASp inspection, and the cost of making any repairs necessary to correct violations of construction-related accessibility standards within the premises.

☐ have undergone an inspection by a Certified Access Specialist (CASp) and it was determined that the Premises met all applicable construction-related accessibility standards pursuant to California Civil Code §55.51 et seq. Lessee acknowledges that it received a copy of the inspection report at least 48 hours prior to executing this Lease and agrees to keep such report confidential.

☐ have undergone an inspection by a Certified Access Specialist (CASp) and it was determined that the Premises did not meet all applicable construction-related accessibility standards pursuant to California Civil Code §55.51 et seq. Lessee acknowledges that it received a copy of the inspection report at least 48 hours prior to executing this Lease and agrees to keep such report confidential except as necessary to complete repairs and corrections of violations of construction related accessibility standards.

In the event that the Premises have been issued an inspection report by a CASp the Lessor shall provide a copy of the disability access inspection certificate to Lessee within 7 days of the execution of this Lease.

(b) Since compliance with the Americans with Disabilities Act (ADA) and other state and local accessibility statutes are dependent upon Lessee's specific use of the Premises, Lessor makes no warranty or representation as to whether or not the Premises comply with ADA or any similar legislation. In the event that Lessee's use of the Premises requires modifications or additions to the Premises in order to be in compliance with ADA or other accessibility statutes, Lessee agrees to make any such necessary modifications and/or additions at Lessee's expense.

LESSOR AND LESSEE HAVE CAREFULLY READ AND REVIEWED THIS LEASE AND EACH TERM AND PROVISION CONTAINED HEREIN, AND BY THE EXECUTION OF THIS LEASE SHOW THEIR INFORMED AND VOLUNTARY CONSENT THERETO. THE PARTIES HEREBY AGREE THAT, AT THE TIME THIS LEASE IS EXECUTED, THE TERMS OF THIS LEASE ARE COMMERCIALY REASONABLE AND EFFECTUATE THE INTENT AND PURPOSE OF LESSOR AND LESSEE WITH RESPECT TO THE PREMISES.

ATTENTION: NO REPRESENTATION OR RECOMMENDATION IS MADE BY AIR CRE OR BY ANY BROKER AS TO THE LEGAL SUFFICIENCY, LEGAL EFFECT, OR TAX CONSEQUENCES OF THIS LEASE OR THE TRANSACTION TO WHICH IT RELATES. THE PARTIES ARE URGED TO:

1. SEEK ADVICE OF COUNSEL AS TO THE LEGAL AND TAX CONSEQUENCES OF THIS LEASE.

2. RETAIN APPROPRIATE CONSULTANTS TO REVIEW AND INVESTIGATE THE CONDITION OF THE PREMISES. SAID INVESTIGATION SHOULD INCLUDE BUT NOT BE LIMITED TO: THE POSSIBLE PRESENCE OF HAZARDOUS SUBSTANCES, THE ZONING AND SIZE OF THE PREMISES, THE STRUCTURAL INTEGRITY, THE CONDITION OF THE ROOF AND OPERATING SYSTEMS, COMPLIANCE WITH THE AMERICANS WITH DISABILITIES ACT AND THE SUITABILITY OF THE PREMISES FOR LESSEE'S INTENDED USE.

WARNING: IF THE PREMISES ARE LOCATED IN A STATE OTHER THAN CALIFORNIA, CERTAIN PROVISIONS OF THE LEASE MAY NEED TO BE REVISED TO COMPLY WITH THE LAWS OF THE STATE IN WHICH THE PREMISES ARE LOCATED.

The parties hereto have executed this Lease at the place and on the dates specified above their respective signatures.

Executed at: _____
On: _____

Executed at: _____
On: _____

By LESSOR:

Riverside County Transportation Commission (RCTC)

By LESSEE:

Orange County Transportation Authority (OCTA)

By: _____
Name Printed: _____
Title: _____
Phone: _____
Fax: _____
Email: _____

By: _____
Name Printed: _____
Title: _____
Phone: _____
Fax: _____
Email: _____

By: _____
Name Printed: _____
Title: _____
Phone: _____
Fax: _____
Email: _____

By: _____
Name Printed: _____
Title: _____
Phone: _____
Fax: _____
Email: _____

Address: _____
Federal ID No.: _____

Address: 530 S. Main Street
Orange, CA 92868

Federal ID No.: _____

LESSOR'S BROKER

Attn: _____
Title: _____

Address: _____
Phone: _____
Fax: _____
Email: _____
Federal ID No.: _____
Broker/Agent BRE License #: _____

LESSEE'S BROKER

CBRE, Inc.

Attn: Rick Warner Peter Andrich
Title: _____

Address: 1100 W. Town & Country Rd, Ste 1200
Orange, CA 92868
Phone: (714) 371-9250
Fax: (714) 371-9201
Email: rick.warner@cbre.com
Federal ID No.: 95-2743174
Broker/Agent BRE License #: 00409987

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R. Warner-0318-OFG-301 Corporate Terrace-OCTA:sp:fmc



RENT ADJUSTMENT(S) STANDARD LEASE ADDENDUM

Dated: January 1, 2018

By and Between

Lessor: Riverside County Transportation Commission (RCTC)

Lessee: Orange County Transportation Authority (OCTA)

Property Address: 301 Corporate Terrace, Corona, CA 92879
(street address, city, state, zip)

Paragraph: 50

A. RENT ADJUSTMENTS:

The monthly rent for each month of the adjustment period(s) specified below shall be increased using the method(s) indicated below:

(Check Method(s) to be Used and Fill in Appropriately)

☐ **I. Cost of Living Adjustment(s) (COLA)**

a. On (Fill in COLA Dates): , the Base Rent shall be adjusted by the change, if any, from the Base Month specified below, in the Consumer Price Index of the Bureau of Labor Statistics of the U.S. Department of Labor for (select one): ☐ CPI W (Urban Wage Earners and Clerical Workers) or ☐ CPI U (All Urban Consumers), for (Fill in Urban Area): , All Items (1982-1984 = 100), herein referred to as "CPI".

b. The monthly Base Rent payable in accordance with paragraph A.I.a. of this Addendum shall be calculated as follows: the Base Rent set forth in paragraph 1.5 of the attached Lease, shall be multiplied by a fraction the numerator of which shall be the CPI of the calendar month 2 months prior to the month(s) specified in paragraph A.I.a. above during which the adjustment is to take effect, and the denominator of which shall be the CPI of the calendar month which is 2 months prior to (select one): the ☐ first month of the term of this Lease as set forth in paragraph 1.3 ("Base Month") or ☐ (Fill in Other "Base Month"): . The sum so calculated shall constitute the new monthly Base Rent hereunder, but in no event, shall any such new monthly Base Rent be less than the Base Rent payable for the month immediately preceding the Base Rent adjustment.

c. In the event the compilation and/or publication of the CPI shall be transferred to any other governmental department or bureau or agency or shall be discontinued, then the index most nearly the same as the CPI shall be used to make such calculation. In the event that the Parties cannot agree on such alternative index, then the matter shall be submitted for decision to the American Arbitration Association in accordance with the then rules of said Association and the decision of the arbitrators shall be binding upon the parties. The cost of said Arbitration shall be paid equally by the Parties.

☐ **II. Market Rental Value Adjustment(s) (MRV)**

a. On (Fill in MRV Adjustment Date(s)): , the Base Rent shall be adjusted to the "Market Rental Value" of the property as follows:

1) Four months prior to each Market Rental Value Adjustment Date described above, the Parties shall attempt to agree upon what the new MRV will be on the adjustment date. If agreement cannot be reached within thirty days, then:

(a) Lessor and Lessee shall immediately appoint a mutually acceptable appraiser or broker to establish the new MRV within the next 30 days. Any associated costs will be split equally between the Parties, or

(b) Both Lessor and Lessee shall each immediately make a reasonable determination of the MRV and submit such determination, in writing, to arbitration in accordance with the following provisions:

(i) Within 15 days thereafter, Lessor and Lessee shall each select an independent third party ☐ appraiser or ☐ broker ("Consultant" - check one) of their choice to act as an arbitrator (Note: the parties may not select either of the Brokers that was involved in negotiating the Lease). The two arbitrators so appointed shall immediately select a third mutually acceptable Consultant to act as a third arbitrator.

(ii) The 3 arbitrators shall within 30 days of the appointment of the third arbitrator reach a decision as to what the actual MRV for the Premises is, and whether Lessor's or Lessee's submitted MRV is the closest thereto. The decision of a majority of the arbitrators shall be binding on the Parties. The submitted MRV which is determined to be the closest to the actual MRV shall thereafter be used by the Parties.

(iii) If either of the Parties fails to appoint an arbitrator within the specified 15 days, the arbitrator timely appointed by one of them shall reach a decision on his or her own, and said decision shall be binding on the Parties.

(iv) The entire cost of such arbitration shall be paid by the party whose submitted MRV is not selected, i.e., the one that is NOT the closest to the actual MRV.

2) When determining MRV, the Lessor, Lessee and Consultants shall consider the terms of comparable market transactions which shall include, but no limited to, rent, rental adjustments, abated rent, lease term and financial condition of tenants.

3) Notwithstanding the foregoing, the new Base Rent shall not be less than the rent payable for the month immediately preceding the rent adjustment.

b. Upon the establishment of each New Market Rental Value:

INITIALS

INITIALS

- 1) ~~the new MRV will become the new "Base Rent" for the purpose of calculating any further Adjustments, and~~
2) ~~the first month of each Market Rental Value term shall become the new 'Base Month' for the purpose of calculating any further Adjustments.~~

☒ **III. Fixed Rental Adjustment(s) (FRA)**

The Base Rent shall be increased to the following amounts on the dates set forth below:

On (Fill in FRA Adjustment Date(s)):

The New Base Rent shall be:

<u>April 1, 2019 – March 31, 2020</u>	<u>\$0.78/RSF per month</u>
<u>April 1, 2020 – March 31, 2021</u>	<u>\$0.80/RSF per month</u>
<u>April 1, 2021 – March 31, 2022</u>	<u>\$0.81/RSF per month</u>
<u>April 1, 2022 – March 31, 2023</u>	<u>\$0.83/RSF per month</u>
<u>April 1, 2023 – March 31, 2024</u>	<u>\$0.84/RSF per month</u>
<u>April 1, 2024 – March 31, 2025</u>	<u>\$0.86/RSF per month</u>
<u>April 1, 2025 – March 31, 2026</u>	<u>\$0.88/RSF per month</u>
<u>April 1, 2026 – March 31, 2027</u>	<u>\$0.90/RSF per month</u>
<u>April 1, 2027 – March 31, 2028</u>	<u>\$0.91/RSF per month</u>
<u>April 1, 2028 – March 31, 2029</u>	<u>\$0.93/RSF per month</u>

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R. Warner-0318-RA-301 Corporate Terrace-OCTA:sp:fmc



WORK LETTER EXHIBIT A

Dated: January 1, 2018

By and Between

Lessor: Riverside County Transportation Commission (RCTC)

Lessee: Orange County Transportation Authority (OCTA)

Property Address: 301 Corporate Terrace, Corona, CA 92879
(street address, city, state, zip)

1. **The Improvements.** The Premises shall be modified with the following improvements or work: All new interior buildout, per a mutually agreed upon Space Plan (the "Improvements") **according to the attached Work Schedule (Exhibit A-1).** The Improvements shall be of the quality which is standard for the Building, which quality shall be determined by Lessor ("Standard Improvement" - See paragraph 12 below).
2. **Preliminary Plans.** ~~Within _____ days after the Parties have mutually executed and delivered this Lease, Lessor shall prepare preliminary plans and specifications for the completion of the Improvements ("Preliminary Plans"). The Preliminary Plans shall itemize the work to be done by each Party, including, an estimate of the cost any work required of Lessor which is not a Standard Improvement. Lessee shall approve the Preliminary Plans and the preliminary cost estimate. or specify with particularity Lessee's objection thereto within _____ days following delivery thereof by Lessor. Lessee's failure to timely approve or disapprove the Preliminary Plans and the preliminary cost estimate shall constitute Lessee's approval thereof. If Lessee shall disapprove all or any part of the Preliminary Plans, and the Preliminary Plans cannot in good faith be modified within 10 days after such disapproval to be acceptable to both Lessor and Lessee, then this Lease shall terminate upon notice thereof by one Party to the other, Lessor shall refund to Lessee any Security Deposit or prepaid rent by Lessee, less the cost of the Preliminary Plans, legal fees and other costs incurred by Lessor in connection with this Lease, and neither Party shall thereafter have any obligation, liability or responsibility to the other Party for any reason whatsoever having to do with this Lease.~~ The Preliminary Plans, when approved by Lessee, shall supersede any prior agreement of the Parties concerning the Improvements.
3. **Final Plans.** After the Parties have, or are deemed to have, mutually approved the Preliminary Plans, Lessor shall prepare final plans and specifications for the completion of the Improvements ("Final Plans"), including an estimate of the cost the Improvements in excess of Lessor's Standard Improvements. ~~Lessee and Lessor shall mutually approve the Final Plans and the final cost estimate or specify with particularity Lessee's objection thereto within _____ days following delivery thereof by Lessor. Lessee's failure to timely approve or disapprove the Final Plans and the final cost estimate shall constitute Lessee's approval thereof. If Lessee shall disapprove all or any part of the Final Plans, and the Final Plans cannot in good faith be modified within 10 days after such disapproval to be acceptable to both Lessor and Lessee, then this Lease shall terminate upon notice thereof by one Party to the other, Lessor shall refund to Lessee any Security Deposit or prepaid rent by Lessee, less the cost of the Preliminary Plans, Final Plans, legal fees and other costs incurred by Lessor in connection with this Lease, and neither Party shall thereafter have any obligation, liability or responsibility to the other Party for any reason whatsoever having to do with this Lease.~~ The Final Plans, when approved by Lessee, shall supersede the Preliminary Plans and any prior agreement of the Parties concerning the Improvements.
4. **Construction.** ~~If Lessor's estimated cost constructing the Improvements exceeds Lessor's estimated cost of the Standard Improvements, before Lessor is obligated to start construction of the Improvements or perform any acts in furtherance thereof, Lessee shall pay to Lessor in cash a sum equal to such excess. If the Final Plans are approved or deemed approved by Lessor and Lessee, and Lessee pays Lessor for such excess, then Lessor shall construct the Improvements. If actual costs to complete improvements exceeds Final Plans, Parties shall share costs equally. Lessee shall, within 5 days of demand by Lessor, pay for all non-Standard Improvements.~~
5. **Completion.** The term "Completion", as used in this Work Letter, is hereby defined to mean the date the building department of the municipality having jurisdiction of the Premises shall have made a final inspection of the Improvements and authorized a final release of restrictions on the use of public utilities in connection therewith and the Premises are in a broom-clean condition. If the Improvements, or any portion thereof, have not reached Completion by the Commencement Date, this Lease shall not be invalid, Lessor shall not be subject to any liability therefore in any respect whatsoever, Lessor shall use commercially reasonable efforts to complete the same. Lessee shall use Lessee's best, good faith, efforts and all due diligence to cooperate with the Lessor to complete all phases of the construction of the Improvements, and, in that regard, shall meet with Lessor on a scheduled basis to be determined by Lessor.
6. **Delay.** If Lessor shall be directly or indirectly delayed at any time in the progress of the planning or construction of the Improvements by strikes, lockouts, fire, delay in transportation, unavoidable casualties, rain or weather conditions, governmental procedures or delay, or by any other cause beyond Lessor's control ("force majeure"), or by Lessee's Breach or Default, by any acts or omissions of Lessee, Lessee's agents, employees, contractors, including extra work, changes in construction ordered by Lessee ("Lessee Delay"), then the Commencement Date established in the Lease shall be extended by the period of such force majeure delay and Lessee Delay; provided, however, Lessor may elect to designate the Commencement Date as the date Completion of the Improvements would have occurred if such Lessee Delays had not occurred. Lessee shall from time to time, upon Lessor's request, meet with Lessor or Lessor's representatives and provide sufficient information for the preparation of the Preliminary Plans or the Final Plans, or otherwise for the timely and property construction of the Improvements.
7. ~~**Extra Work.** Notwithstanding anything to the contrary in the Lease or this Work Letter, if at any time before the actual Completion of the Improvements, any governmental body, authority or instrumentality does or may require any work to be performed outside of the Premises, such as the Building Common Areas, fire life safety or any other systems, and the cost of such extra work is estimated to exceed _____, then Lessor shall have the right to terminate this Lease by giving written notice of such~~

~~election to Lessee. In the event that the Lessor elects to terminate this Lease, Lessee shall have the right within 5 days of the receipt of such notice of termination to give written notice to Lessor of Lessee's commitment to pay for such extra work. Lessee shall provide Lessor with the necessary funds to perform such work within 5 days thereafter. If Lessee does not make the required commitment or does not forward the necessary funds within the time limits specified then this Lease shall terminate and Lessor shall refund to Lessee any Security Deposit or Rent prepaid by Lessee, and neither Party shall thereafter have any obligation, liability or responsibility to the other Party for any reason whatsoever having to do with this Lease.~~

8. **Term.** Any time after Completion of the Improvements, upon request by Lessor, the Parties shall execute an amendment to the Lease confirming the date of Completion of the Improvements, the date that Lessor delivered possession of the Premises to Lessee, the Commencement Date and Expiration Date of this Lease.

9. **Work Done by Lessee.** Any work done by Lessee shall be performed in a good and workmanlike manner and in full compliance with paragraph 7.3 of this Lease. If required by Lessor, all work by Lessee shall be done only with union labor and only by contractors approved by Lessor, it being understood that all plumbing, mechanical, electrical wiring and ceiling work are to be done only by contractors designated by Lessor.

10. **Early Entry.** If Lessor notifies Lessee of the estimated Completion, Lessee may, starting as of 10 days before said date, enter the Premises to commence construction of any improvements Lessee is to construct and to equip and fixtimize the Premises, as long as such entry does not interfere with Lessor's work. Any entry by Lessee into the Premises under this paragraph shall be under all of the terms and provisions of the Lease to which this Work Letter is attached.

11. **Acceptance of Premises.** Lessee shall, within 10 days following the date that Lessor delivered possession of the Premises to Lessee, notify Lessor in writing of any items of the Improvements that Lessee deems incomplete or incorrect in order for the Completion of the Improvements in the Premises to occur and the Premises to be acceptable to Lessee. Lessee shall be deemed to have accepted the Premises and approved construction of the Improvements if and to the extent Lessee does not deliver such a list to Lessor within said time period.

12. **Standard Improvements.** Lessor's Standard Improvements are described as follows: partitions, walls and wall surfaces, window coverings, floor coverings, doors, electrical, computer and telephone outlets, ceilings, lighting, HVAC ducting, sound proofing, plumbing, permits, architects, engineering, cabling, furniture, fixtures and equipment ("Tenant Improvement Cost").

Lessor to pay the first Fifty Thousand Dollars (\$50,000) of Tenant Improvement Cost to offset demolition and deferred maintenance cost.

Lessee to pay 50% of the remaining Tenant Improvement Cost, within 60 days of receipt of an invoice for payment which Lessor shall issue upon receipt of a Certificate of Occupancy. Lessor shall pay the remaining 50% of the Tenant Improvement Cost.

- a. ~~Partitions: _____~~
- b. ~~Wall Surfaces: _____~~
- c. ~~Window Coverings: _____~~
- d. ~~Floor Coverings: _____~~
- e. ~~Doors: _____~~
- f. ~~Electrical and Telephone Outlets: _____~~
- g. ~~Ceilings: _____~~
- h. ~~Lighting: _____~~
- i. ~~HVAC Ducting: _____~~
- j. ~~Sound Proofing: _____~~
- k. ~~Plumbing: _____~~

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R Warner: 0318-WL-301 Corporate Terrace-OCTA:fmc

301 BUILDING (91 CSC RELOCATION) - PROJECT SCHEDULE

		Actual/Forecast			'Actual/Forecast' Logic
		Start Date	Finish Date	Duration (Days)	
91 CIP PCM AMENDMENT					
	Finalize PCM Amendment	7/26/2017A	9/26/2017A	62	
	Execute Amendment/NTP	9/26/2017A	10/8/2017A	12	
DESIGN PERIOD					
	Finalize Layout Concept	10/9/2017A	1/19/2018A	102	3 Week Period After NTP
	60% Design Period	1/19/2018A	4/12/2018	83	
	60% Design Plans Due	4/12/2018	4/12/2018	1	
	RCTC/OCTA 60% Review	4/12/2018	4/19/2018	7	1 Week Period After 60% Submittal
	100% Final Design Period	4/19/2018	5/14/2018	25	
	100% Design Plans Due	5/14/2018	5/14/2018	1	
	RCTC/OCTA 100% Review	5/15/2018	5/22/2018	7	
	Prepare Permit Set	5/22/2018	5/29/2018	7	
	City of Corona Approvals/Permits	5/30/2018	7/5/2018	36	
	Business Owners Association Approvals	7/5/2018	8/19/2018	45	After City of Corona Approvals. Approval Needed Before Construction NTP.
CONSTRUCTION PROCUREMENT					
	Finalize Bid Package and Bid Documents	7/5/2018	7/12/2018	7	1 Week Period After Construction Docs
	Release Issue for Bid (IFB) Documents	7/12/2018	7/12/2018	1	
	Bid Period	7/12/2018	8/2/2018	21	3 Week Period After IFB
	Bids Due	8/2/2018	8/2/2018	1	3 Weeks After IFB
	Bid Review	8/2/2018	8/5/2018	3	
	Draft Committee Report Due	8/9/2018	8/9/2018	1	2nd Thursday of Month
	Committee Meeting	8/27/2018	8/27/2018	1	4th Monday of Month
CONSTRUCTION PERIOD					
	Commission Meeting (Notice of Award/ NTP)	9/12/2018	9/12/2018	1	2nd Wednesday of Month
	Construction Period	9/12/2018	2/9/2019	150	5 Month Period
	City of Corona Certificate of Occupancy	2/9/2019	2/23/2019	14	2 Week Period
	Move-in/Setup Period	2/23/2019	2/26/2019	3	Assume Weekend Cut-Over
	CSC Switchover	2/27/2019	2/27/2019	1	

Exhibit "B"



Please note that the terms "Seller" and "Buyer" are defined by the CA Civil Code to include a lessor and lessee, respectively.

This form must be delivered before or concurrently with the signing of the purchase and sale contract (or lease). In lieu of this form, such confirmation may also be set forth in the purchase and sale contract (or lease).

REPRESENTATION CONFIRMATION

Date: _____
Seller/Lessor: _____
Buyer/Lessee: _____
Property Name: _____
Street Address, City, State: _____
Further described as: _____

A real estate agent, either acting directly or through one or more associate licensees, can legally be the agent of both the Seller and the Buyer in a transaction, but only with the knowledge and consent of both the Seller and the Buyer. In a dual agency situation, the agent has the following affirmative obligations to both the Seller and the Buyer:

- (a) A fiduciary duty of utmost care, integrity, honesty and loyalty in the dealings with either the Seller or the Buyer.
- (b) Other duties to the Seller and the Buyer as stated above in their respective sections.

In representing both Seller and Buyer, the agent may not, without the express permission of the respective party, disclose to the other party that the Seller will accept a price less than the listing price or that the Buyer will pay a price greater than the price offered. The above duties of the agent in a real estate transaction do not relieve a Seller or Buyer from the responsibility to protect his or her own interests. You should carefully read all agreements to assure that they adequately express your understanding of the transaction. A real estate agent is a person qualified to advise about real estate. If legal or tax advice is desired, consult a competent professional. Throughout your real property transaction you may receive more than one disclosure form, depending upon the number of agents assisting in the transaction. The law requires each agent with whom you have more than a casual relationship to present you with this disclosure form. You should read its contents each time it is presented to you, considering the relationship between you and the real estate agent in your specific transaction.

_____ is the Agent of **(check one)**
Name of Listing Agent (Brokerage Firm)

☐ **the seller exclusively;** or ☐ **both the buyer and seller.**

Rick Warner Peter Andrich (CBRE, Inc.) _____ is the Agent of **(check one)**
Name of Selling Agent/Procuring Broker (Brokerage Firm)

☒ **the buyer exclusively;** or ☐ **the seller exclusively;** or ☐ **both the buyer and seller.**

SELLER/LESSOR

BY: _____

PRINT NAME: _____

TITLE: _____

BUYER/LESSEE

BY: _____

PRINT NAME: _____

TITLE: _____

Please note that the terms "Seller" and "Buyer" are defined by the CA Civil Code to include a lessor and lessee, respectively.

If you are a Listing Agent - you must deliver the form to the seller/lessor before entering into the listing agreement. If the buyer/lessee is not represented by an agent, you must also deliver the form to it within one business day after receiving an offer from the buyer/lessee.

If you are the Buyer's Agent - you must deliver the form to the buyer/lessee as soon as the buyer/lessee seeks your services, but in any event before the buyer/lessee signs an offer. In addition, you must also deliver the form to the seller/lessor before or concurrently with presenting an offer.

DISCLOSURE REGARDING REAL ESTATE AGENCY RELATIONSHIP

(As required by the Civil Code)

When you enter into a discussion with a real estate agent regarding a real estate transaction, you should from the outset understand what type of agency relationship or representation you wish to have with the agent in the transaction.

SELLER'S AGENT

A Seller's agent under a listing agreement with the Seller acts as the agent for the Seller only. A Seller's agent or a subagent of that agent has the following affirmative obligations:

To the Seller: A fiduciary duty of utmost care, integrity, honesty, and loyalty in dealings with the Seller.

To the Buyer and the Seller:

- (a) Diligent exercise of reasonable skill and care in performance of the agent's duties.
- (b) A duty of honest and fair dealing and good faith.
- (c) A duty to disclose all facts known to the agent materially affecting the value or desirability of the property that are not known to, or within the diligent attention and observation of, the parties.

An agent is not obligated to reveal to either party any confidential information obtained from the other party that does not involve the affirmative duties set forth above.

BUYER'S AGENT

A selling agent can, with a Buyer's consent, agree to act as agent for the Buyer only. In these situations, the agent is not the Seller's agent, even if by agreement the agent may receive compensation for services rendered, either in full or in part from the Seller. An agent acting only for a Buyer has the following affirmative obligations:

To the Buyer: A fiduciary duty of utmost care, integrity, honesty, and loyalty in dealings with the Buyer.

To the Buyer and the Seller:

- (a) Diligent exercise of reasonable skill and care in performance of the agent's duties.
- (b) A duty of honest and fair dealing and good faith.
- (c) A duty to disclose all facts known to the agent materially affecting the value or desirability of the property that are not known to, or within the diligent attention and observation of, the parties. An agent is not obligated to reveal to either party any confidential information obtained from the other party that does not involve the affirmative duties set forth above.

AGENT REPRESENTING BOTH SELLER AND BUYER

A real estate agent, either acting directly or through one or more associate licensees, can legally be the agent of both the Seller and the Buyer in a transaction, but only with the knowledge and consent of both the Seller and the Buyer. In a dual agency situation, the agent has the following affirmative obligations to both the Seller and the Buyer:

- (a) A fiduciary duty of utmost care, integrity, honesty and loyalty in the dealings with either the Seller or the Buyer.
- (b) Other duties to the Seller and the Buyer as stated above in their respective sections.

In representing both Seller and Buyer, the agent may not, without the express permission of the respective party, disclose to the other party that the Seller will accept a price less than the listing price or that the Buyer will pay a price greater than the price offered. The above duties of the agent in a real estate transaction do not relieve a Seller or Buyer from the responsibility to protect his or her own interests. You should carefully read all agreements to assure that they adequately express your understanding of the transaction. A real estate agent is a person qualified to advise about real estate. If legal or tax advice is desired, consult a competent professional. Throughout your real property transaction you may receive more than one disclosure form, depending upon the number of agents assisting in the transaction. The law requires each agent with whom you have more than a casual relationship to present you with this disclosure form. You should read its contents each time it is presented to you, considering the relationship between you and the real estate agent in your specific transaction. This disclosure form includes the provisions of Sections 2079.13 to 2079.24, inclusive, of the Civil Code set forth on the reverse hereof. Read it carefully.

CBRE, INC.

Agent

Associate Licensee Signature (Date)

Rick Warner Peter Andrich

Associate Licensee Printed Name

Buyer/Lessee Signature (Date)

Buyer/Lessee Printed Name

Seller/Lessor Signature (Date)

Seller/Lessor Printed Name

Exhibit "B" Page 3 of 3

2079.13. As used in Sections 2079.14 to 2079.24, inclusive, the following terms have the following meanings:

- (a) "Agent" means a person acting under provisions of Title 9 (commencing with Section 2295) in a real property transaction, and includes a person who is licensed as a real estate broker under Chapter 3 (commencing with Section 10130) of Part 1 of Division 4 of the Business and Professions Code, and under whose license a listing is executed or an offer to purchase is obtained.
- (b) "Associate licensee" means a person who is licensed as a real estate broker or salesperson under Chapter 3 (commencing with Section 10130) of Part 1 of Division 4 of the Business and Professions Code and who is either licensed under a broker or has entered into a written contract with a broker to act as the broker's agent in connection with acts requiring a real estate license and to function under the broker's supervision in the capacity of an associate licensee.
- The agent in the real property transaction bears responsibility for his or her associate licensees who perform as agents of the agent. When an associate licensee owes a duty to any principal, or to any buyer or seller who is not a principal, in a real property transaction, that duty is equivalent to the duty owed to that party by the broker for whom the associate licensee functions.
- (c) "Buyer" means a transferee in a real property transaction, and includes a person who executes an offer to purchase real property from a seller through an agent, or who seeks the services of an agent in more than a casual, transitory, or preliminary manner, with the object of entering into a real property transaction. "Buyer" includes vendee or lessee.
- (d) "Commercial real property" means all real property in the state, except single-family residential real property, dwelling units made subject to Chapter 2 (commencing with Section 1940) of Title 5, mobilehomes, as defined in Section 798.3, or recreational vehicles, as defined in Section 799.29.
- (e) "Dual agent" means an agent acting, either directly or through an associate licensee, as agent for both the seller and the buyer in a real property transaction.
- (f) "Listing agreement" means a contract between an owner of real property and an agent, by which the agent has been authorized to sell the real property or to find or obtain a buyer.
- (g) "Listing agent" means a person who has obtained a listing of real property to act as an agent for compensation.
- (h) "Listing price" is the amount expressed in dollars specified in the listing for which the seller is willing to sell the real property through the listing agent.
- (i) "Offering price" is the amount expressed in dollars specified in an offer to purchase for which the buyer is willing to buy the real property.
- (j) "Offer to purchase" means a written contract executed by a buyer acting through a selling agent that becomes the contract for the sale of the real property upon acceptance by the seller.
- (k) "Real property" means any estate specified by subdivision (1) or (2) of Section 761 in property that constitutes or is improved with one to four dwelling units, any commercial real property, any leasehold in these types of property exceeding one year's duration, and mobilehomes, when offered for sale or sold through an agent pursuant to the authority contained in Section 10131.6 of the Business and Professions Code.
- (l) "Real property transaction" means a transaction for the sale of real property in which an agent is employed by one or more of the principals to act in that transaction, and includes a listing or an offer to purchase.
- (m) "Sell," "sale," or "sold" refers to a transaction for the transfer of real property from the seller to the buyer, and includes exchanges of real property between the seller and buyer, transactions for the creation of a real property sales contract within the meaning of Section 2985, and transactions for the creation of a leasehold exceeding one year's duration.
- (n) "Seller" means the transferor in a real property transaction, and includes an owner who lists real property with an agent, whether or not a transfer results, or who receives an offer to purchase real property of which he or she is the owner from an agent on behalf of another. "Seller" includes both a vendor and a lessor.
- (o) "Selling agent" means a listing agent who acts alone, or an agent who acts in cooperation with a listing agent, and who sells or finds and obtains a buyer for the real property, or an agent who locates property for a buyer or who finds a buyer for a property for which no listing exists and presents an offer to purchase to the seller.
- (p) "Subagent" means a person to whom an agent delegates agency powers as provided in Article 5 (commencing with Section 2349) of Chapter 1 of Title 9. However, "subagent" does not include an associate licensee who is acting under the supervision of an agent in a real property transaction.

2079.14. Listing agents and selling agents shall provide the seller and buyer in a real property transaction with a copy of the disclosure form specified in Section 2079.16, and, except as provided in subdivision (c), shall obtain a signed acknowledgment of receipt from that seller or buyer, except as provided in this section or Section 2079.15, as follows:

- (a) The listing agent, if any, shall provide the disclosure form to the seller prior to entering into the listing agreement.
- (b) The selling agent shall provide the disclosure form to the seller as soon as practicable prior to presenting the seller with an offer to purchase, unless the selling agent previously provided the seller with a copy of the disclosure form pursuant to subdivision.
- (c) Where the selling agent does not deal on a face-to-face basis with the seller, the disclosure form prepared by the selling agent may be furnished to the seller (and acknowledgment of receipt obtained for the selling agent from the seller) by the listing agent, or the selling agent may deliver the disclosure form by certified mail addressed to the seller at his or her last known address, in which case no signed acknowledgment of receipt is required.
- (d) The selling agent shall provide the disclosure form to the buyer as soon as practicable prior to execution of the buyer's offer to purchase, except that if the offer to purchase is not prepared by the selling agent, the selling agent shall present the disclosure form to the buyer not later than the next business day after the selling agent receives the offer to purchase from the buyer.

2079.15. In any circumstance in which the seller or buyer refuses to sign an acknowledgment of receipt pursuant to Section 2079.14, the agent, or an associate licensee acting for an agent, shall set forth, sign, and date a written declaration of the facts of the refusal.

2079.17.

- (a) As soon as practicable, the selling agent shall disclose to the buyer and seller whether the selling agent is acting in the real property transaction exclusively as the buyer's agent, exclusively as the seller's agent, or as a dual agent representing both the buyer and the seller. This relationship shall be confirmed in the contract to purchase and sell real property or in a separate writing executed or acknowledged by the seller, the buyer, and the selling agent prior to or coincident with execution of that contract by the buyer and the seller, respectively.
- (b) As soon as practicable, the listing agent shall disclose to the seller whether the listing agent is acting in the real property transaction exclusively as the seller's agent, or as a dual agent representing both the buyer and seller. This relationship shall be confirmed in the contract to purchase and sell real property or in a separate writing executed or acknowledged by the seller and the listing agent prior to or coincident with the execution of that contract by the seller.
- (c) The confirmation required by subdivisions (a) and (b) shall be in the following form:

SAMPLE ONLY – DO NOT FILL OUT

_____ is the Listing agent of (check one): () the seller exclusively; or () both the buyer and seller.
_____ is the Selling agent, if not the same as the Listing Agent, of (check one): () the buyer exclusively; or () the seller exclusively; or () both the buyer and seller.

- (d) The disclosures and confirmation required by this section shall be in addition to the disclosure required by Section 2079.14.

2079.18. No selling agent in a real property transaction may act as an agent for the buyer only, when the selling agent is also acting as the listing agent in the transaction.

2079.19. The payment of compensation or the obligation to pay compensation to an agent by the seller or buyer is not necessarily determinative of a particular agency relationship between an agent and the seller or buyer. A listing agent and a selling agent may agree to share any compensation or commission paid, or any right to any compensation or commission for which an obligation arises as the result of a real estate transaction, and the terms of any such agreement shall not necessarily be determinative of a particular relationship.

2079.20. Nothing in this article prevents an agent from selecting, as a condition of the agent's employment, a specific form of agency relationship not specifically prohibited by this article if the requirements of Section 2079.14 and Section 2079.17 are complied with.

2079.21. A dual agent shall not disclose to the buyer that the seller is willing to sell the property at a price less than the listing price, without the express written consent of the seller. A dual agent shall not disclose to the seller that the buyer is willing to pay a price greater than the offering price, without the express written consent of the buyer. This section does not alter in any way the duty or responsibility of a dual agent to any principal with respect to confidential information other than price.

2079.22. Nothing in this article precludes a listing agent from also being a selling agent, and the combination of these functions in one agent does not, of itself, make that agent a dual agent.

2079.23. (a) A contract between the principal and agent may be modified or altered to change the agency relationship at any time before the performance of the act which is the object of the agency with the written consent of the parties to the agency relationship.

(b) A lender or an auction company retained by a lender to control aspects of a transaction of real property subject to this part, including validating the sales price, shall not require, as a condition of receiving the lender's approval of the transaction, the homeowner or listing agent to defend or indemnify the lender or auction company from any liability alleged to result from the actions of the lender or auction company. Any clause, provision, covenant, or agreement purporting to impose an obligation to defend or indemnify a lender or an auction company in violation of this subdivision is against public policy, void, and unenforceable.

2079.24. Nothing in this article shall be construed to either diminish the duty of disclosure owed buyers and sellers by agents and their associate licensees, subagents, and employees or to relieve agents and their associate licensees, subagents, and employees from liability for their conduct in connection with acts governed by this article or for any breach of a fiduciary duty or a duty of disclosure.



COMMITTEE TRANSMITTAL

May 14, 2018

To: Members of the Board of Directors
From: Laurena Weinert, Clerk of the Board
Subject: Adopt Resolution Approving the Updated Real Property Policies and Procedures Manual

Finance and Administration Committee Meeting of April 25, 2018

Present: Directors Do, Hennessey, Jones, and Steel
Absent: Directors R. Murphy and Spitzer

Committee Vote

This item was passed by the Members present.

Committee Recommendation

Adopt Resolution No. 2018-050 approving the Real Property Policies and Procedures Manual, dated April 2018, to replace the current Real Property Policies and Procedures Manual of May 2013, previously adopted by the Board of Directors.



April 25, 2018

To: Finance and Administration Committee
From: Darrell E. Johnson, Chief Executive Officer
Subject: Adopt Resolution Approving the Updated Real Property Policies and Procedures Manual

Overview

The Orange County Transportation Authority is currently acquiring and managing numerous properties required for the construction and delivery of capital improvement projects. As part of the acquisition and management process, the Orange County Transportation Authority must, by general resolution, authorize certain policies and procedures to implement this process in compliance with federal and state laws. The current Real Property Policies and Procedures Manual of May 2013 was approved by the Board of Directors on June 10, 2013. An update of the Real Property Policies and Procedures Manual is required.

Recommendation

Adopt Resolution No. 2018-050 approving the Real Property Policies and Procedures Manual, dated April 2018, to replace the current Real Property Policies and Procedures Manual of May 2013, previously adopted by the Board of Directors.

Background

In the course of developing and delivering transportation projects, the acquisition of public and private properties is often required to implement the project. Although extensive efforts are made during the design process to minimize the impacts to property owners, some projects require the acquisition of public and private properties. Orange County Transportation Authority (OCTA) staff follows the current Real Property Policies and Procedures Manual of May 2013 (Current Policies Manual) to properly handle the acquisition and management of property, which was approved by the Board of Directors (Board) on June 10, 2013. The Current Policies Manual was intended to describe the internal steps that OCTA takes to ensure compliance with federal and state laws. The Current Policies Manual requires clarification of its "Conflict of Interest:

Employee or Board of Director Owned Property” policy and requires a clarification of its disposal of excess land policy, as well as address administrative changes within OCTA over the past five years.

Discussion

Staff is seeking approval to implement the Real Property Policies and Procedures Manual, dated April 2018 (2018 Policies Manual), to describe steps OCTA will take to ensure federal and state laws and regulations are followed (Attachment A). The 2018 Policies Manual states OCTA will comply with the requirements of all federal and state laws, statutes and regulations, particularly, 49 CFR part 24, Uniform Relocation Assistance and Real Property Acquisition Act of 1970, as amended (Uniform Act); Title 25, California Code of Regulations Chapter 6, Article 1, Section 6000 et seq., Relocation Assistance and Real Property Acquisition Guidelines; California Code of Civil Procedure; California Government Code Section 7260-7277; Uniform Standards of Professional Appraisal Practice. Provided there are future changes to federal and state laws described above, the 2018 Policies Manual will automatically adopt the legislative changes and obligate OCTA to comply.

When implementing all right-of-way (ROW) and property management activities, the 2018 Policies Manual describes how OCTA shall adhere to the California Department of Transportation (Caltrans) ROW Manual, if applicable. There are certain internal procedures described in the Caltrans ROW Manual which are not applicable to OCTA’s internal administrative processes. The 2018 Policies Manual describes how OCTA staff will implement internal OCTA procedures not covered within the Caltrans ROW Manual, which include certain appraisal, acquisition, and relocation assistance procedures, appeal procedures, utility relocation procedures, project development procedures, the adoption of resolutions of necessity procedures, settlement authorizations, contract execution authorizations, use of consultant services, as well as internal administrative processes.

OCTA staff recommends the Board adopt, by Resolution No. 2018-050, the approval of the 2018 Policies Manual (Attachment B). The approved resolution will provide documentation to title insurance companies that validates the Chief Executive Officer (CEO), or designee, the authority to execute ROW and real estate-related documents on behalf of OCTA, such as conveyance deeds. Also, as part of the property acquisition process, the Board has delegated settlement authority to the CEO, or designee, in an effort to streamline negotiations with property owners and businesses impacted by OCTA projects. This settlement authority allows for agreements to be approved by the CEO, or designee, above the appraised value for needed properties or business impact valuations. The CEO’s Settlement Delegation Authority, Paragraph VI, as

described in the 2018 Policies Manual, remains unchanged from the Current Policies Manual as approved by the Board.

The majority of the revisions described in the 2018 Policies Manual provides clarification for the Real Property Manager and the Executive Director of Capital Programs to implement the Caltrans ROW Manual, as well as address changes that have occurred over the past five years regarding internal OCTA administrative processes.

The primary revisions to the 2018 Policies Manual is the result of an Incurred Cost Audit (Audit) performed by the Caltrans Office of Audit and Investigations on behalf of the Federal Highway Administration. The Audit was conducted to ensure state and federal funds were properly expended on the Orangethorpe Avenue Railroad Grade Separation Project. This Audit included a review of five OCTA business relocation assistance files and a review of OCTA's Current Policies Manual.

The draft Audit findings recommended improvement of OCTA's Conflict of Interest: Employee or Board of Director Owned Property (Conflict of Interest Policy). The auditor's finding stated OCTA's current Conflict of Interest Policy did not allow for negotiations in instances where property owned by an OCTA employee or OCTA Board Member would be obtained for needed ROW, and is in violation of California Government Code 7267.1 (a), which requires acquisition by negotiations. The auditor's finding also stated OCTA's current Conflict of Interest Policy could be potentially coercive and in violation of 49 CFR 24.102 (h) on coercive action. Therefore, OCTA's General Counsel revised the Conflict of Interest Policy described in the 2018 Policies Manual, Paragraph IX, to address the audit finding while still ensuring that the acquisition process did not violate conflict of interest laws. The proposed revision to the Conflict of Interest Policy has been reviewed by Caltrans District 12 and the Caltrans Office of Audit and Investigations, and both parties have concurred that the draft Conflict of Interest Policy will satisfy the audit finding. Attached is a comparison of the current Conflict of Interest Policy approved by the Board in June 2013 to the proposed Conflict of Interest Policy to be included in the 2018 Policies Manual (Attachment C).

Also as a result of the draft Audit, staff proposes a clarification to OCTA disposal of excess property processes. The Current Policies Manual states that OCTA shall follow California Government Code Sections 54220-54232 in the disposal and sale of excess or surplus properties. The auditor's finding is OCTA's policy to dispose of excess land under California Government Code Sections 54220-54232 appears to give precedence to low and moderate income housing or park and recreations purposes, at a lower than fair market value instead of for transportation purposes as required by 23 CFR 710.403 (d). OCTA

is a County Transportation Commission formed pursuant to Public Utilities Code Sections 130000 et seq., and is not required to follow Government Code Sections 54220-54232. In February 2015, OCTA staff obtained Board approval to dispose of excess land at the highest possible value through a commercial real estate brokerage consultant that has successfully disposed of properties on behalf of OCTA. By contracting the commercial real estate brokerage consultant, OCTA does comply with 23 CFR 710.403 (d); however, since the adoption of the Current Policies Manual, OCTA has not disposed of excess land that requires federal reimbursement.

Minor administrative changes to the 2018 Policies Manual may be amended by a recommendation for approval from the Real Property Manager and the Executive Director of Capital Programs to the CEO. Any recommended amendment must be in compliance with the requirements of all federal and state laws, statutes and regulations, as referenced above, and must be concurred with by OCTA's General Counsel. A recommended amendment must also be in compliance and cannot conflict with any action approved by the Board.

The replacement of the Current Policies Manual with the recommended updated 2018 Policies Manual will facilitate OCTA's ability to comply with all ROW and property management requirements under the law.

Summary

Staff recommends the Board of Directors adopt Resolution No. 2018-050 approving the Real Property Policies and Procedures Manual, dated April 2018, to replace the current Real Property Policies and Procedures Manual of May 2013.

Attachments

- A. Orange County Transportation Authority Real Property Policies and Procedures Manual, Dated April 2018
- B. [Proposed] Resolution No. 2018-050
- C. Conflict of Interest: Employee or Board of Director Owned Property Comparison

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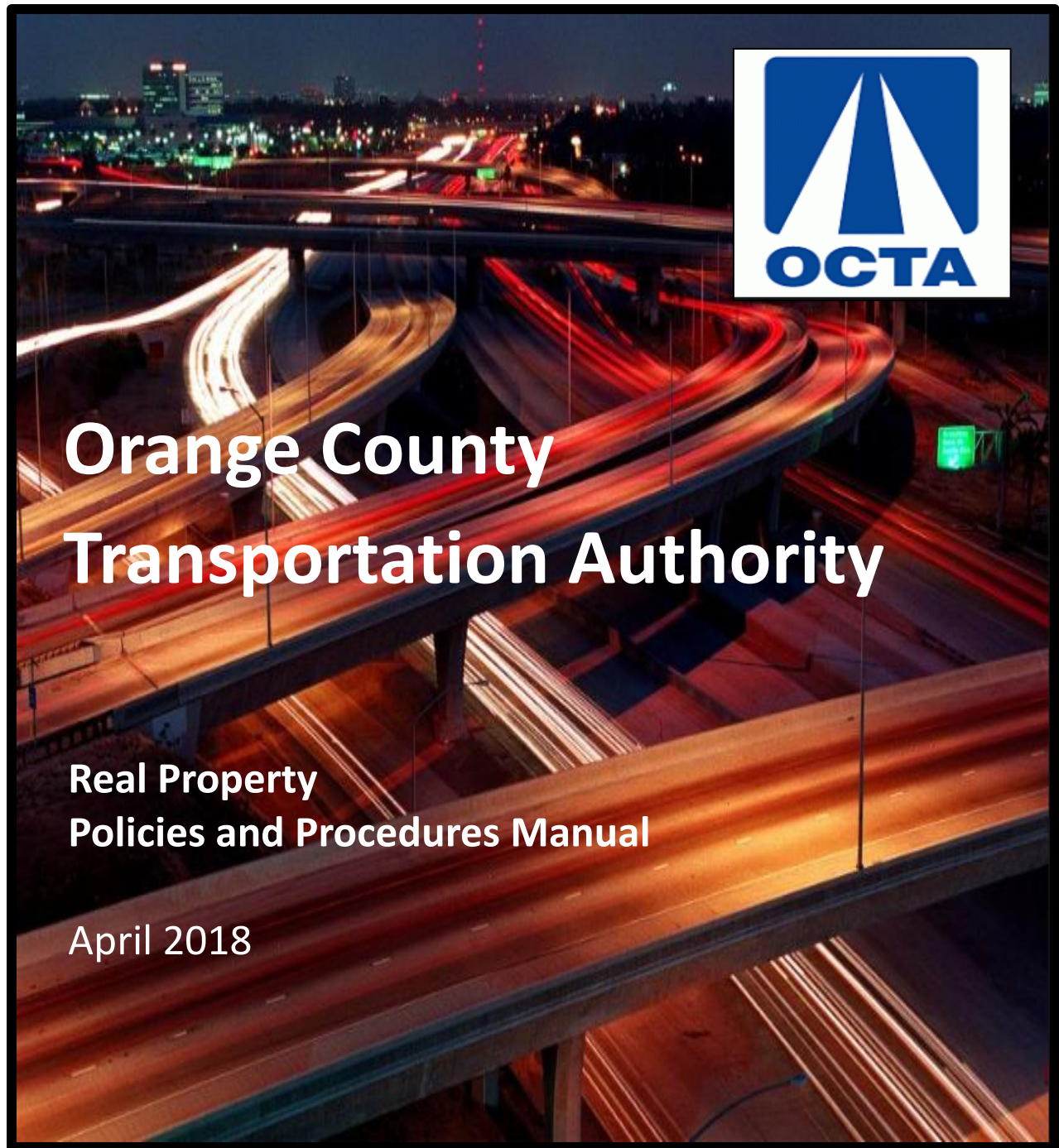


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Orange County Transportation Authority Real Property Policies and Procedures Manual

General Policies

This manual and its addendums contain the regulations, requirements and procedural directives governing the operations of the Real Property Department, reporting directly to the Orange County Transportation Authority's (the "OCTA") Capital Programs. This manual will be updated and amended as needed. This manual is neither intended as, nor does it establish, a legal standard for these functions. Policies and practices established herein are for the information and guidance of the officers and employees of OCTA. This manual is not a textbook or a substitute for law, statute, regulation, knowledge, experience, or judgment.

The Real Property Department ("Department") shall be responsible for all Right of Way (ROW) activities including property acquisitions, relocation assistance, utility relocations, property management activities and real estate related activities on behalf of OCTA. The Department shall implement all policies and procedures to assist and advise OCTA personnel in the administration of such policies and procedural requirements. The Department shall consult with General Counsel to determine whether OCTA is in compliance with all applicable federal, state and local laws, regulations, policies, and ordinances. The Department shall be supervised and managed by a Department Manager, hereinafter the "Real Property Manager", as defined by the OCTA Human Resources Department who shall report to the Executive Director, Capital Programs.

OCTA will comply with the requirements of federal and state laws, statutes and regulations, particularly, 49 CFR part 24, Uniform Relocation Assistance and Real Property Acquisition Act of 1970, as amended (Uniform Act); Title 25, California Code of Regulations Ch 6, Art 1, Section 6000 et seq., Relocation Assistance and Real Property Acquisition Guidelines; California Code of Civil Procedure; California Government Code Section 7260-7277; and Uniform Standards of Professional Appraisal Practice (USPAP). When implementing ROW and Property Management activities, OCTA shall utilize the California Department of Transportation ("Caltrans") Right of Way Manual and the Caltrans Local Assistance Manual, if applicable.

The Real Property Manager, with the concurrence of the Executive Director, Capital Programs, shall interpret the Caltrans Right of Way Manual and the Caltrans Local Assistance Manual to determine how policies and procedures identified within the manuals are applicable to OCTA as a County Transportation Commission formed pursuant to Public Utilities Code sections 130000 et seq. and are applicable to directives as established by OCTA Board of Directors.

I. Right of Way Engineering

For OCTA projects, Right of Way Engineering will be the responsibility of the Project Designer of record who will report to the assigned Project Manager or Program Manager. The Real Property Department is not the responsible department for this function.

- For Projects On the State Highway System: OCTA will seek the Project Designer's and Caltrans concurrence of ROW requirements prior to completing the appraisal.
- For Projects Off the State Highway System: OCTA will seek the Project Designer's concurrence of ROW requirements prior to completing the appraisal.

II. Environmental Soil Assessment, Remediation and Mitigation

Environmental policies address concerns involving residential, commercial and industrial properties which may be wholly owned by OCTA or jointly held with other owners.

- For Projects On the State Highway System: OCTA will follow the Caltrans Request for Acquisition of Contaminated Property (RACP) policies and procedures.
- If the Hazardous Material Disclosure Documents (HMDD) recommends a Phase II study with remediation and requires concurrence prior to purchase, the acquisition of the property must be approved by the Executive Director, Capital Programs.

III. Appraisals

Appraisals are used to establish a basis for determining just compensation. The Uniform Act requires that an appraisal and a reviewer's analysis be obtained on all parcels proposed for acquisition. Regulations implementing appraisal standards of the Uniform Act are found in 49 CFR Part 24. The Uniform Act applies to any federal or federally-assisted programs or projects and it applies when federal funding is to be used in any phase of the programs or projects. If federal funds are going to be used in any part of the project, but not in acquiring ROW, the Uniform Act applies to the appraisals and acquisitions.

- OCTA will secure an appraisal of all properties to be acquired, exchanged or sold, except those that are exempt under the Uniform Act. Appraisers are instructed that the appraisal shall conform to the requirements of the Uniform Standards of Professional Appraisal Practice (USPAP) and the Uniform Act.
- All acquisition appraisals shall be reviewed by an independent review appraiser who will either approve, amend or reject the appraisal.
- An independent review appraiser shall confirm their review of the appraisal in writing.
- All property owners shall be given notice of the date and time of inspection of their property by the appraiser and shall be given the opportunity to be present or have a representative present

when the appraiser inspects their property. Property owners may submit information as to the value of their property during the appraisal process, and such information shall be considered by the appraiser.

- Property owners will be permitted to review the approved real estate appraisal for their property.
- Fixtures and equipment appraisals, if applicable and available, shall be included in the appraisal report.
- A loss of business goodwill appraisal will be performed upon receipt of a loss of business goodwill claim. The loss of business goodwill appraiser shall review and consider tax returns and any other supporting financial data that is furnished by the business owner.
- The selection of independent appraisers is based on qualifications and experience for the property being appraised in accordance with criteria for appraisals contained in 49 CFR Part 24. Appraisers must be qualified to give expert testimony in support of their value estimates in the event of condemnation proceeds.
- FTA, FHWA and Caltrans (depending on the funding source) concurrence thresholds, appraisal and settlement guidelines should be strictly followed.
- OCTA shall establish a current Roster of Approved Contract Appraisers through the OCTA Procurement Process.
- OCTA shall establish a current Roster of Approved Review Appraisers through the OCTA Procurement Process.

IV. Acquisition and Negotiations

OCTA is empowered by law, to purchase, lease or condemn real or personal property. The intent and purposes of Acquisition and Negotiations Policies and Procedures are to assure uniform acquisition practices, which will provide consistent and equitable treatment of owners and tenants of real property acquired by OCTA for public purposes. In accordance with State of California law, OCTA will make an effort to interpret acquisition policies to the benefit of the property owner while understanding it cannot make interpretations that would result in the gift of public funds.

It is the policy of OCTA that all negotiations shall be expeditious and result in the property owner receiving just compensation. The goal is that any settlement will be just and fair to the property owner and the public. Every courtesy and consideration will be extended to the property owner in order to establish trust in OCTA, the members of its Board of Directors and its employees.

- All property acquisitions must be approved by OCTA Board of Directors.
- For Capital Improvement Projects, upon adoption of the National Environmental Policy Act and the California Environmental Quality Act (NEPA/CEQA) environmental document, OCTA staff will seek OCTA Board of Directors authority to acquire property or property interests based on the preferred design.
- All statutory offers shall comply with Section 7267.2 of the California Government Code.

- All statutory offers will include acquisition of all applicable real property interests, land and improvements, fixtures and equipment, if applicable and available, and tenant interests, if applicable and available.
- For commercial properties, an un-segregated offer for fixtures and equipment will be made to the property owner and business owner, if applicable.
- Owners of appraised fixtures and equipment will be advised of their right to remove fixtures and equipment from a valuation list and be permitted to relocate the fixtures and equipment at the expense of the project.
- An offer for loss of business goodwill, if any, will be made upon an approved loss of business goodwill appraisal. A loss of business goodwill appraisal will be completed after the business owner files a claim for loss of business goodwill.
- Prior to making the loss of business goodwill offer, the acquisition agent shall recognize any “in-lieu” or reestablishment payments that may have been or will be made under relocation assistance in order to avoid duplication of payment.
- The Real Property Manager has the authority to approve Just Compensation based on an appraisal and the independent review appraisal.
- Prior to making the statutory offer, OCTA’s Staff and consultants shall confirm the offer is consistent with the design needs and the appraisal.
- Property owners are entitled to obtain their own independent appraisal of the real property interests being acquired by OCTA in compliance with the California Code of Civil Procedure Section 1263.025.
- OCTA’s Right of Way Consultants, under the direction of the Real Property Manager and/or OCTA’s General Counsel, will conduct negotiations for acquisition of property rights on behalf of OCTA.
- At any time during the acquisition process, if the property owner is represented by legal counsel, OCTA’s General Counsel shall be notified.
- For mobile home acquisitions, condominium complexes, or when there is a home owners’ association ownership involved, a legal opinion as to ownership interests shall be obtained.
- When acquiring real property pertaining to real estate, a mobile home or manufactured dwelling requiring a limited power of attorney to transfer title, the Real Property Manager shall obtain an authorization memorandum from OCTA’s General Counsel’s Office to execute documents on behalf of OCTA.

V. Title and Escrow Services

Title Reports are needed for the purpose of establishing ownership, property lines and transferring clear title to the property or property rights being acquired by OCTA. Title Reports are used in the preparation of surveys, legal descriptions, Right of Way Contracts and utility relocation plans, and to ensure that the title and ownership of properties and property interests acquired by OCTA are free and clear of liens and encumbrances that will adversely affect the use of the property for the Project.

- OCTA will secure title insurance for acquired property interests at the discretion of the Real Property Manager.
- The purchase and sale of permanent interests in real property will be handled through an escrow with a title company at the discretion of the Real Property Manager.
- Matters where there are title issues, vesting is in question, or there is a cloud on title will be referred to OCTA's Legal Counsel.

VI. Settlement Delegation Authority

The Settlement Delegation Authority thresholds described in this paragraph may not be increased by amendment, as described on Page 15, Paragraph XVII, Procedure Amendments. Any increase in thresholds requires approval by OCTA Board of Directors.

Administrative and legal settlement delegation authority thresholds (real property interests only, excludes relocation assistance):

- The Executive Director, Capital Programs, is authorized to approve an administrative or legal settlement when the difference between the approved appraisal and the proposed settlement is no more than 20% over the approved appraisal and no more than \$250,000 over the approved appraisal;
- The Chief Executive Officer is authorized to approve an administrative or legal settlement when the difference between the approved appraisal and the proposed settlement is no more than 50% over the approved appraisal and no more than \$250,000 over the approved appraisal;
- The Chief Executive Officer is also authorized to approve an administrative or legal settlement when the difference between the approved appraisal and the proposed settlement is more than 50% over the approved appraisal, but not more than \$25,000 over the approved appraisal;
- The OCTA Board of Directors must approve an administrative or legal settlement when the difference between the approved appraisal and the proposed settlement is more than 50% and greater than \$25,000 over the approved appraisal, and must approve all administrative or legal settlements when the proposed settlement is \$250,000 over the approved appraisal.

VII. Administrative and Legal Settlements

Administrative settlements are made for the purpose of concluding negotiations for amounts considered reasonable, prudent and in the public interest, after reasonable efforts to negotiate agreements at the approved offers have failed. When federal or state funds pay for or participate in acquisition costs, a written justification shall be prepared which indicates that available information (e.g. appraisals, recent court awards, estimated trial costs or valuation problems) support such a settlement. (see 49 CFR 24.102(i)).

- All administrative settlements must be accompanied by a written recommendation prepared by a Senior Real Property Agent, recommending the administrative settlement to the Real Property Manager, who will determine if the settlement is fair and reasonable. The Real Property Manager shall recommend and seek approval for all administrative settlements from the authorized level of approval.
- All legal settlements shall be accompanied by a written justification prepared by OCTA's General Counsel.

VIII. Eminent Domain and Resolutions of Necessity (RONs)

If negotiations have not reached an agreement with the owner or owners of any property interest required for a project, in an effort to maintain the approved project schedule, eminent domain proceedings may be recommended by the Real Property Manager to the Executive Director, Capital Programs to proceed with a recommendation to the Board of Directors to adopt a Resolution of Necessity (RON). Upon approval of the Chief Executive Officer to proceed with the recommendation, the Real Property Manager and the Executive Director, Capital Programs will coordinate with OCTA'S General Counsel to seek the adoption of the RON.

- For Projects On the State Highway System: Consideration of whether to adopt and, if appropriate, the adoption of the RON shall be approved by OCTA's Board of Directors, pursuant to a Cooperative Agreement with Caltrans.
- For Projects Off the State Highway System: Consideration of whether to adopt and, if appropriate, the adoption of the RON shall be approved by OCTA's Board of Directors.
- For Projects On the State Highway System: OCTA will follow the Caltrans Right of Way Manual pertaining to the Notice of a RON Hearing.
- For Projects Off the State Highway System: Property owners shall be given at least thirty (30) days to consider the statutory offer prior to receiving Notice of a RON Hearing.

The following describes the OCTA Administrative Review Process prior to a RON Hearing for Projects On and Off the State Highway System:

- If the property owner has questions or concerns relating to project design and the necessity of the property interests for the project, the property owner can request a Condemnation Evaluation Meeting at any time during the acquisition process.
- If an agreement has not been reached with the property owner and staff intends to proceed with requesting OCTA's Board of Directors to consider the adoption of a RON, the Real Property Manager will request a Condemnation Evaluation Meeting with the property owner prior to the mailing of a Notice of RON Hearing.
- The Capital Programs Division will conduct the Condemnation Evaluation Meeting. The Condemnation Evaluation Meeting will be attended by the property owner(s) and/or their representatives, OCTA Staff and/or OCTA's Right of Way Consultant, the Project Manager or designer of record, OCTA's Legal Counsel, if necessary, and shall be chaired by staff of the Real

Property Department. This Condemnation Evaluation Meeting is an effort to identify and resolve all the property owner's issues. If issues remain unresolved after the Condemnation Evaluation Meeting, a Fact Sheet will be prepared and provided to the Executive Director, Capital Programs by the Real Property Manager. Upon completion of the Condemnation Evaluation Meeting, OCTA staff shall make a property owner or their representatives aware they may request a Condemnation Panel Review Meeting.

- If requested by the property owner, a Condemnation Panel Review Meeting will be scheduled within thirty (30) days after the request. The Condemnation Panel Review Meeting will consist of OCTA management and decision makers consisting of: a Chairperson (Executive Director, Capital Programs or designee), the Real Property Manager, the Director, Highway Programs or Transit Programs, the assigned Program Manager, OCTA's Legal Counsel, if necessary, and a Caltrans representative(s), if applicable, and the designer of record. If issues remain unresolved after the Condemnation Panel Review Meeting, the following documents will be prepared: (a) a written summary of unresolved issues; and (b) a chronology of contacts with the property owner or their representative(s). The Executive Director, Capital Programs will make the final determination to proceed with the recommendation to adopt the RON once the Condemnation Panel Review Meeting is complete.
- If a Condemnation Evaluation or Condemnation Panel Review Meeting has not been conducted with the property owner and/or their representative and they timely submit a request to speak and be heard at the RON adoption hearing, then OCTA will send a request immediately to the property owner and/or their representative to schedule a combined Condemnation Evaluation and Condemnation Panel Review Meeting prior to the RON hearing.

IX. Conflict of Interest: Employee or Board of Director Owned Property

The policies on acquisition of property owned by an OCTA employee or member of OCTA Board of Directors shall be as follows:

- When the property or property rights to be acquired are owned by an OCTA employee or member of OCTA Board of Directors, the Real Property Department shall order one appraisal for the property/property rights to be acquired. If the property owner is a member of OCTA Board of Directors or an OCTA employee, and the Director or employee rejects the appraisal, the Real Property Department shall immediately notify OCTA's General Counsel for further direction. General Counsel shall as soon as possible determine the extent to which negotiations can legally continue and who may conduct negotiations. The Real Property Department may continue to receive information provided by the employee or Director and forward to OCTA's independent appraiser for evaluation.

X. Relocation Assistance Program

The law, regulations, policies, and this manual are intended for the benefit of the displaced person to ensure that such persons receive fair and equitable treatment and do not suffer disproportionate injuries

as the result of programs designed for the benefit of the public as a whole. California state law requires that all right of way determinations/interpretations be construed to affect this intent.

The Relocation Assistance and Payment Program is applicable to all Orange County Transportation Authority projects, regardless of whether the project receives federal or state funds, and other activity which requires the acquisition of real estate by OCTA.

- Anyone who is wholly or partially displaced as a result of an OCTA project is entitled to relocation assistance and benefits as defined in the Uniform Act, 49 CFR part 24 (Implementing Regulations), California Government Code 7260, and Title 25 California Regulations, Chapter 6, Article 1, Section 6000 et seq. (Guidelines); except in cases of voluntary sales where the owner-occupant of the property sells their property to OCTA, after being informed in writing prior to negotiations, that if a mutually satisfactory agreement cannot be reached, the property will not be acquired by eminent domain.
- If the project will cause residential or business displacements, a relocation plan must be prepared in accordance with the Uniform Act and Title 25, California Code of Regulations Ch 6, Art 1, Section 6000 et seq.,
- Eligibility for relocation assistance shall begin on the date of initiation of negotiations.
- Appeals Process: Anyone who is wholly or partially displaced that wishes to appeal the decision to deny or limit relocation assistance shall file an appeal in writing with the relocation agent representing OCTA, who will then forward the appeal to the Real Property Department. The Senior Agent on the project and the Real Property Manager will either concur or disagree with the issues presented in the appeal. If OCTA Staff agrees with the issues presented in the appeal, additional relocation benefits will be awarded and/or eligibility status will be adjusted accordingly. If OCTA Staff does not concur with the issues presented in the appeal, a date will be set within thirty (30) days from the receipt of the appeal request for a review panel to hear the claimant's appeal (the review panel shall be appointed by the Executive Director, Capital Programs). The Chief Executive Officer or designee and a panel of knowledgeable personnel, not a party to the project, will hear the appeal (the "appeal board"). Within thirty (30) days, OCTA Staff will notify the claimant of the appeal board's decision. The appeal board's decision is final; however, the claimant has the right to seek judicial review of the appeal board's decision. The claimant may be represented by legal counsel during any phase of the appeal process; however, there will be no reimbursement to the claimant by OCTA of legal fees incurred.
- The Real Property Manager shall determine if a displacee qualifies for relocation benefits upon a recommendation by OCTA's qualified Relocation Agent. This shall include permanent or temporary relocations.
- The Real Property Manager shall authorize and execute all relocation assistance claims forms and any related documents.

XI. Utility Relocations

During the design and engineering process, utilities affected by the proposed construction will be identified. Typically, the affected utilities may need to be relocated, protected in place or possibly abandoned. Early identification of affected utilities and early coordination with the affected utility

companies is highly recommended as timely design and completion of all utility adjustments affect the OCTA's ability to commence construction.

OCTA is responsible for relocation or removal of utility facilities that are in physical conflict with a proposed project. This responsibility shall be delegated to the Real Property Department to implement OCTA's policies.

- OCTA staff will seek OCTA Board of Directors authority to enter into utility agreements with utilities that have facilities which are in conflict with the preferred design. OCTA will follow the Caltrans Right of Way Manual on all Projects located On the State Highway System and adhere to the cooperative agreement entered into between the Agencies. OCTA will follow the Caltrans Local Assistance Procedures Manual for all federally funded Projects Off the State Highway System.

XII. Right of Way Certification

ROW Certification is a written statement summarizing the status of all right of way related matters pertaining to a proposed construction project. The purpose of the ROW Certification is to document the construction project is ready for advertising and states that, real property interests have been, or are being, secured, physical obstructions including utilities and railroads have been or will be removed, relocated, or protected as required for construction and right of way acquisition and relocation assistance program requirements were conducted in accordance with applicable federal and state laws and procedures.

- For all Projects On and Off the State Highway System with federal funds and Caltrans oversight: OCTA will follow the Caltrans Right of Way Manual and Caltrans Local Assistance Procedures Manual. The Real Property Manager will recommend right of way certification to Executive Director, Capital Programs for approval and will seek Caltrans approval or concurrence.
- For Projects Off the State Highway System with no Caltrans oversight, including rail and FTA projects: OCTA will follow the Caltrans Right of Way Manual and Caltrans Local Assistance Procedures Manual. The Real Property Manager will recommend right of way certification to Executive Director, Capital Programs for approval.

XIII. Environmental Mitigation Program

For the Measure M2 freeway environmental mitigation program acquisition process, the Real Property Department will appraise properties requested by the Planning Division to establish just compensation per the Uniform Standard of Professional Appraisal Practice (USPAP) in accordance with 49 CFR and state rules and regulations. The Planning Division will make a determination, through an analysis, as to the environmental value of the property to be acquired, including the cost of start-up and long-term maintenance. The environmental value will determine a basis for the percentage amount of the established just compensation for which an offer will be presented to a willing seller. This percentage

amount established by the Planning Division will be reviewed and approved by OCTA General Counsel. The terms and conditions agreed upon with the willing seller shall require approval by the OCTA Board of Directors.

XIV. Property Management

OCTA acquires real property for both rail and highway transportation purposes. OCTA strives to manage its real property with the objective of maximizing existing and future public transportation benefits, safety, and financial income by means of professional property management policies and procedures. This includes entering into lease agreements, issuing licenses and rights of entry for authorized third-party uses, as well as investigating and resolving issues regarding uses that are not authorized by OCTA. On certain occasions, OCTA may also grant easements. General maintenance activities and security measures are also part of the property management scope of work on all OCTA properties.

The OCTA Real Property Department shall have management responsibilities for properties acquired and owned by OCTA, including the following:

- Manage existing leases, licenses, and rights of entry through periodic field inspections to ensure compliance with the terms and conditions of their respective agreements.
- Review the terms and conditions of existing agreements, ensuring annual license/lease rates are based on the property's fair market value and consistently implement fair market adjustments (FMA) and Consumer Price Index (CPI) adjustments. The Real Property Department shall, at least every five (5) years, through an independent consultant, conduct a fair market analysis of the revenue generating real estate interest owned by the OCTA. The Real Property Manager will make a recommendation to the Executive Director, Capital Programs whether or not to enforce any FMA in leases. If recommended and approved, the FMA shall be applied in accordance to the terms and conditions of its corresponding Lease.
- If an adjustment is approved, it shall be applied within ninety (90) days (or, per the lease terms). If the adjustment is not applied due to negotiations and/or other considerations, this decision must be documented, validated by the Real Property Manager, and approved by the Executive Director, Capital Programs.
- Maintain a tenant revenue spreadsheet that flags fair market adjustments ninety (90) days in advance of scheduled adjustment dates.
- Implement insurance requirements as determined by the Risk Management Department. Consult with OCTA's Risk Management Department for approval of changes to the standard insurance requirements. Review tenant insurance certificates to ensure compliance with the insurance terms and conditions in their respective agreements.
- Prepare and issue new licenses, leases and rights of entry for use of OCTA property in conformity with OCTA policies.
- Consult with OCTA's General Counsel for approval of changes to the standard rights of entry, licenses and lease agreements.
- Coordinate with OCTA's Accounting Department in the organization and maintenance of a revenue collection system designed to operate in conjunction with other OCTA departments.

- Manage all properties to minimize maintenance and prevent unauthorized uses.
- Identify excess/surplus properties that may be candidates for sale and maximize benefits to be received from sale.
- Manage and oversee demolition services.

OCTA is a County Transportation Commission formed pursuant to Public Utilities Code sections 130000 et seq. and is not required to follow Government Code Sections 54220-54232 in the disposal and sale of excess or surplus properties. The OCTA Board of Directors shall approve the disposal of any property deemed excess. Excess land shall be defined as fee property interests determined to be no longer needed for an OCTA project or no longer needed as an OCTA asset. OCTA shall dispose of excess land under the following guidelines:

- An OCTA Excess Land Committee shall assemble and is empowered by the OCTA Board of Directors to declare OCTA owned property as excess.
- The Excess Land Committee shall include a representative from the OCTA Executive Office, Capital Programs, Finance and Administration, External Affairs, Planning, Risk Management and OCTA's General Counsel. The Real Property Manager may extend an invitation to any staff member that may provide additional input in determining whether the property should be disposed.
- The OCTA Excess Land Committee shall meet when there is a need to present a request to declare a property as excess. The real property department shall provide an appraisal of the excess property.
- Once a property is declared excess, OCTA Staff shall seek OCTA Board of Directors approval of the disposition at the appraisal amount or higher.
- If property is being acquired as part of a capital improvement project, and a remnant is created or the entire property is no longer needed, OCTA staff must seek OCTA Board of Directors approval to sell the property as excess at the appraised amount or higher upon completion of the project. This action would not require the approval of the OCTA Excess Land Committee.
- Provided OCTA's disposition efforts do not achieve an offer to purchase at the appraised amount or higher, OCTA Board of Directors approval is required to sell an excess property at an amount less than an appraised amount.
- It is recommended that the disposition of excess land should be based on an approved appraisal dated no more than two years from the acceptance of a written offer by a prospective Buyer.
- The Executive Director, Capital Programs, as designee of the Chief Executive Officer, may execute deeds that dispose or transfer permanent or temporary easement interests or other real property interests provided the disposition or transfer is in the best interest of OCTA. All documents must be recommended for approval by the Real Property Manager and reviewed by General Counsel.

XV. Project Development

The Real Property Department shall coordinate with assigned Program Managers, Project Managers and consultants to develop and establish all right of way, relocation assistance, utility relocation and property management project cost estimates and budgets needed for the overall project delivery.

- The Real Property Manager shall execute project data sheets and make the final determination of project right of way, utility relocation and property management costs estimates and shall coordinate with management to establish project budgets, including budget amendments.
- The Real Property Department shall coordinate with assigned Program Managers, Project Managers and consultants to develop and establish all right of way, relocation assistance, utility relocation and property requirements project cost estimates and budgets for each fiscal year prior to OCTA Board of Directors approval of the annual budget. The Real Property Manager shall review and approve each project right of way, utility relocation, and property management costs estimates and fiscal year budgets for OCTA Board of Directors Approval.
- The Real Property Department shall coordinate with the assigned Program Managers, Project Managers and designer of record to ensure the preferred design has taken into consideration the least private injury to a property, and recommend design changes if warranted. The Real Property Manager shall seek concurrence of OCTA's General Counsel to make certain that any proposed project is planned in a manner that will be most compatible with the greatest public good and the least private injury.

XVI. Department Administrative Procedures

Execution of Contracts

- The Chief Executive Officer or designee is authorized to execute all contracts and/or agreements and other real estate documents (Real Property Contracts). The Chief Executive Officer designates the Executive Director, Capital Programs to execute real estate agreements, right of way contracts, utility agreements, deeds, certificates of acceptance, leases, licenses, permits or any Real Property Department agreement document. All documents must be recommended for approval by the Real Property Manager and reviewed by OCTA's General Counsel.

Right of Way Consultants

- The Real Property Manager shall assign work to Senior Real Property Agents, Real Property Agents and Associate Real Property Agents and, if required, assign a Right of Way Consultant to assist in the delivery of the assigned work. The Right of Way Consultant shall be selected through the OCTA's Contract Administration and Material Management (CAMM) procurement process.
- The Senior Real Property Agents will oversee all work assigned to the Right of Way Consultant to ensure compliance with OCTA's policies and procedures, federal and state regulations, and in cases of On the State Highway System Projects, the Cooperative Agreement with Caltrans.

- The assigned Right of Way Consultant shall make recommendations on given assignments for review and concurrence by a Senior Real Property Agent. The Senior Real Property Agent shall make recommendations to the Real Property Manager for approval. The Real Property Manager shall approve all decisions and execute documents for the Real Property Department within the Real Property Manager's delegated authority or seek approval of the Executive Director, Capital Programs.

Payment Authorization

- The Real Property Manager is authorized to release funds for payment of invoices, escrow fees, just compensation, relocation claims, condemnation deposits, return of security deposits, rent credits, and any other right of way or property management related payments. If the amount to be released exceeds the Real Property Manager's signature authority, the Real Property Manager will submit a request for approval to the Executive Director, Capital Programs, Director, Highway Programs or the Director, Transit Programs.

Document Control

- The Real Property Department shall maintain an electronic file copy and a physical file copy for each parcel which is either being acquired, leased or maintained by OCTA.

XVII. Procedure Amendments

The Real Property Policies and Procedure Manual may be amended by a recommendation for approval to the Chief Executive Officer from the Executive Director, Capital Programs upon recommendation by the Real Property Manager. Any recommendation must be concurred with by OCTA's General Counsel. Any recommended amendment to the Real Property Policies and Procedure Manual must be in compliance with the requirements of all federal and state laws, statutes and regulations, as referenced above. Any recommended amendment to the Real Property Policies and Procedure Manual must be in compliance and must not be in conflict with any action approved by the OCTA Board of Directors.

XVIII. Supplemental Guidelines and Procedures

The Real Property Manager may incorporate and modify additional supplemental guidelines and procedures that detail the day-to-day steps needed to insure work product quality when implementing Policies and Procedure as approved in this Manual, the Caltrans Right of Way Manual and the Local Assistance Manual. These additional supplemental guidelines and procedures are unofficial daily steps intended to assist the Real Property Department when working with OCTA staff and consultants and are not applicable to the authorized provision under Paragraph XVII Procedure Amendments.

[PROPOSED] RESOLUTION NO. 2018-050

A RESOLUTION OF THE ORANGE COUNTY TRANSPORTATION AUTHORITY ADOPTING AND IMPLEMENTING THE REAL PROPERTY POLICIES AND PROCEDURES MANUAL, DATED APRIL 2018.

WHEREAS, the Orange County Transportation Authority (“the Authority”) in the course of developing and delivering transportation projects requires the acquisition and management of public owned and privately owned properties

WHEREAS, part of acquisition and management process, the Authority must, by general resolutions, authorize certain policies and procedures to implement this process in compliance with federal and state laws

NOW, THEREFORE, The Board of Directors of the Orange County Transportation Authority does hereby resolve as follows:

1. Approve and adopt the attached Real Property Policies and Procedures Manual, dated April 2018; and
2. Rescind and terminate the current Real Property Policies and Procedures Manual of May 2013; and
3. This Resolution shall be effective upon adoption.

PASSED, APPROVED and ADOPTED on this ____ day of _____, 2018

LISA A. BARTLETT, CHAIRWOMAN
ORANGE COUNTY
TRANSPORTATION AUTHORITY

APPROVED AS TO FORM:

JAMES M. DONICH
GENERAL COUNSEL

ATTEST:

I, Laurena Weinert, Clerk of Board of Directors of the Orange County Transportation Authority, do hereby certify that the foregoing Resolution No. 2018-050 by the following votes:

AYES:

NOES;

ABSENT:

LAURENA WEINERT
CLERK OF THE BOARD

Conflict of Interest: Employee or Board of Director Owned Property Comparison

CURRENT APPROVED POLICY

Policy and Procedure Manual - May 2013

I. Conflict of Interest: Employee or Board of Director Owned Property

The policies on acquisition of property owned by an OCTA employee or member of the OCTA Board of Directors shall be as follows: When the property or property rights to be acquired is owned by an OCTA employee or member of the OCTA Board of Directors, the Real Property Department will order two (2) appraisals for the property/property rights to be acquired. The offer of just compensation shall be based on the higher of the two appraisals. Should the property owner reject the offer of just compensation, the Real Property Department will not conduct further negotiations with the property owner and immediately refer the acquisition to OCTA's Legal Counsel for condemnation.

PROPOSED POLICY

Policy and Procedure Manual - April 2018

IX. Conflict of Interest: Employee or Board of Director Owned Property

The policies on acquisition of property owned by an OCTA employee or member of the OCTA Board of Directors shall be as follows:

- When the property or property rights to be acquired are owned by an OCTA employee or member of the OCTA Board of Directors, the Real Property Department shall order one appraisal for the property/property rights to be acquired. If the property owner is a member of the OCTA Board of Directors or an OCTA employee, and the Director or employee rejects the appraisal, the Real Property Department shall immediately notify OCTA's General Counsel for further direction. General Counsel shall as soon as possible determine the extent to which negotiations can legally continue and who may conduct negotiations. The Real Property Department may continue to receive information provided by the employee or Director and forward to OCTA's independent appraiser for evaluation.



COMMITTEE TRANSMITTAL

May 14, 2018

To: Members of the Board of Directors

From: Laurena Weinert, Clerk of the Board

Subject: Cooperative Agreement with the California Department of Transportation for the Transforming Beach Boulevard Study

Regional Planning and Highways Committee Meeting of May 7, 2018

Present: Directors Bartlett, Delgleize, M. Murphy, Nelson, Spitzer, and Steel

Absent: Director Pulido

Committee Vote

This item was passed by the Members present.


Committee Recommendation

Authorize the Chief Executive Officer or his designee to negotiate and execute Cooperative Agreement No. C-8-1648, in the amount of \$345,000, in reimbursements from the California Department of Transportation to the Orange County Transportation Authority for professional services for the Transforming Beach Boulevard Study.



May 7, 2018

To: Regional Planning and Highways Committee

From: Darrell E. Johnson, Chief Executive Officer 

Subject: Cooperative Agreement with the California Department of Transportation for the Transforming Beach Boulevard Study

Overview

The Orange County Transportation Authority proposes to enter into a cooperative agreement with the California Department of Transportation to provide professional services for the Transforming Beach Boulevard Study.

Recommendation

Authorize the Chief Executive Officer or his designee to negotiate and execute Cooperative Agreement No. C-8-1648, in the amount of \$345,000, in reimbursements from the California Department of Transportation to the Orange County Transportation Authority for professional services for the Transforming Beach Boulevard Study.

Background

Beach Boulevard is a key north-south state highway operated by the California Department of Transportation (Caltrans). It generally carries daily traffic volumes between 26,000 and 83,000. The corridor is approximately 21 miles in length and traverses ten distinct local jurisdictions in Orange County and Los Angeles County. The 2010 Central County Corridor Major Investment Study recommended the Beach Boulevard corridor be further studied as part of the locally-preferred strategy (LPS). This was in recognition that additional widening and intersection grade separations may prove to be challenging to implement. Therefore, the LPS included an arterial corridor feasibility study for Beach Boulevard to further evaluate potential improvements to north/south mobility.

Discussion

The Orange County Transportation Authority (OCTA), in partnership with Caltrans, is conducting the Transforming Beach Boulevard Corridor Study (Study).

The Study will identify multi-modal transportation options to enhance regional mobility and complement existing and planned land use along the corridor. Examples of preliminary objectives will include, but not be limited to:

- Improve multi-modal accessibility for existing and emerging major trip generators;
- Improve connectivity between existing and planned transportation hubs (e.g., transit stations, regional bikeways, etc.) and major trip generators;
- Add or enhance pedestrian, bicycle, and transit infrastructure, including enhanced safety features for pedestrians and bicyclists, improved access and facilities for non-vehicular facility users, and enhanced bus movement and amenities;
- Add or enhance intelligent transportation systems treatments, including traffic management strategies and traveler information strategies, etc.;
- Optimize the utilization and capacity of parallel arterial roadway facilities; and
- Provide for regional mobility and assess capacity needs along the corridor.

The Study will be based on a collaborative corridor planning process in coordination with Caltrans and the following local jurisdictions: Anaheim, Buena Park, Fullerton, Garden Grove, Huntington Beach, La Habra, Stanton, Westminster, and the County of Orange. Current transportation deficiencies will be evaluated, as well as barriers that restrict multimodal use of the corridor. Refined alternative strategies will be molded into a long-range strategic vision that can be carried forward into subsequent project development processes.

There are also concurrent efforts to revitalize the corridor being led by the Renew Beach Boulevard Coalition (Coalition). The Coalition is comprised of elected officials and technical staff from agencies along the corridor. The focus of the Coalition has been on encouragement and educational activities to promote livable and healthy communities. The Study will complement these efforts by focusing on mobility planning for a comprehensive multi-modal transportation vision.

OCTA and Caltrans will be administering the Study in partnership. Caltrans has been awarded state planning and research grant funds for the Study and will reimburse OCTA to provide project management services that include procuring consultant services and managing the consultant contract. OCTA and Caltrans propose to enter into a cooperative agreement to define the specific roles and funding responsibilities for each agency with regard to conducting the Study.

Caltrans will be providing \$345,000 in grant funds. OCTA will match these funds with up to \$100,000 in state planning, programming, and monitoring (PPM) funds towards conceptual design, transportation analyses, and reporting. Additionally, through separate contracts, OCTA will lead the community outreach and traffic modeling efforts.

Fiscal Impact

The Study is included in OCTA's Fiscal Year 2018-19 Proposed Budget, Strategic Planning Division, Account 1531-7519-A4461-10X, and is funded with \$445,000 in local and state PPM funds. Caltrans will reimburse OCTA for these funds with state planning and research grant funds.

Summary

Staff requests Board of Directors' approval for the Chief Executive Officer or his designee to negotiate and execute Cooperative Agreement No. C-8-1648, in the amount of \$345,000, in reimbursements from Caltrans to OCTA for professional services for the Study.

Attachment

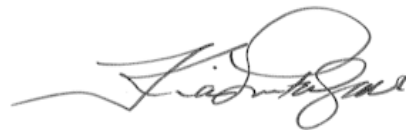
None.

Prepared by:



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Senior Transportation Analyst
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Approved by:



Kia Mortazavi
Executive Director, Planning
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Virginia Abadessa
Director, Contracts Administration
and Materials Management
(714) 560-5623



COMMITTEE TRANSMITTAL

May 14, 2018

To: Members of the Board of Directors
From: Laurena Weinert, Clerk of the Board
Subject: June 2018 Bus Service Change

Transit Committee Meeting of May 10, 2018

Present: Directors Davies, Do, Jones, Murray, Pulido, Tait, and Winterbottom
Absent: None

Committee Vote

The item was passed by the Members present.

Staff Recommendation

Receive and file as an information item.



May 10, 2018

To: Transit Committee
From: Darrell E. Johnson, Chief Executive Officer
Subject: June 2018 Bus Service Change

Overview

The Orange County Transportation Authority implements changes to bus routes three times each year. The June 2018 bus service changes consist of minor adjustments to bus schedules in response to customer and coach operator input, as well as changes in summer demand.

Recommendation

Receive and file as an information item.

Background

The Orange County Transportation Authority (OCTA) implements schedule and route revisions to selected bus routes three times a year in February, June, and October. The June 2018 bus service change consists of minor changes to bus schedules in response to customer and coach operator feedback. OCTA implemented major changes to bus service in the October 2017 and February 2018 service changes as part of the comprehensive OC Bus 360° Program.

Discussion

The June 2018 bus service change includes schedule adjustments to 19 OCTA bus routes designed to improve connections and on-time performance. A summary of the changes planned for the routes included in the June 2018 bus service change is provided (Attachment A), as well as a map of these routes (Attachment B).

Route 1 and Route 89 Changes

During the summer, additional service will be added to Route 1 and Route 89 during the peak beach traffic periods to maintain the schedules for these routes. The new Route 1 schedule also makes permanent a recent detour where the service stays on Pacific Coast Highway through the City of Laguna Beach instead of serving the Laguna Beach Bus Station. This change was made based on a request from the City of Laguna Beach, and to improve the speed of the Route 1 service.

2018 Orange County Fair Express Service

Included in the June 2018 Bus Service Change is the special event service supporting the 2018 Orange County Fair (OC Fair). The OC Fair Express service consists of nine shuttle routes operating from various areas throughout Orange County. This very popular service has been operating for several years and is funded by a two-year grant from the Mobile Source Air Pollution Review Committee.

Similar to last year, the service will operate on weekends only for the duration of the OC Fair because of vehicle and manpower availability. Attendance and demand for parking is the highest on weekends, and this service reduces traffic congestion at the fairgrounds. This service carried 87,541 passengers in 2017. The service will operate the same frequency of service and hours of operation as the prior year; however, this year, Route 691 from south Orange County will provide service from the Laguna Niguel/Mission Viejo Metrolink Station instead of the Junipero Serra Park 'N Ride in San Juan Capistrano. The new location offers enhanced amenities such as expanded parking and public restrooms. A map of the OC Fair Express network supporting the 2018 OC Fair season is provided in Attachment C.

Title VI and Environmental Justice Analyses

Title VI and Environmental Justice Analyses are not required for the June 2018 bus service change because the changes are considered minor per OCTA policy.

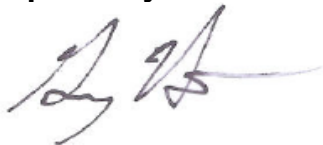
Summary

The June 2018 bus service change consists of minor changes and adjustments to bus schedules in response to customer and coach operator comments, as well as seasonal adjustments. Notification of the changes to customers is expected three weeks prior to implementation of the program.

Attachments

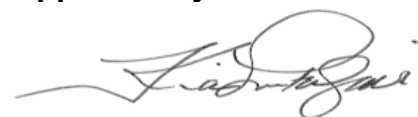
- A. June 2018 Bus Service Change Summary
- B. June 2018 Bus Service Change System Map, Schedule and Route Adjustments
- C. 2018 OC Fair Express System Map

Prepared by:



Gary Hewitt
Section Manager, Transit Planning
(714) 560-5715

Approved by:



Kia Mortazavi
Executive Director, Planning
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June 2018 Bus Service Change Summary

Route	Changes	Annual RVH			Total	Peak Buses
		WKD	SAT	SUN		
1	Implement a summer schedule; bypass Laguna Beach Bus Station	(12)	119	132	239	+1
25	Schedule adjustment	-	(29)	10	(19)	
38	Schedule adjustment	(21)	-	-	(21)	
43	Schedule adjustment	523	-	-	523	
53	Schedule adjustment	98	(13)	15	100	
54	Added one afternoon tripper to connect with Metrolink Train #808	115	-	-	115	
55	Schedule adjustment	417	-	-	417	
57	Schedule adjustment	459	(3)	49	506	
66	Schedule adjustment	(162)	-	-	(162)	
70	Begin last westbound trip five minutes later	21	-	-	21	
71	Schedule adjustment	4	-	-	4	
82	Start schools PM tripper at Mustang Run/Los Alisos in Mission Viejo	-	-	-	-	
89	Implement a summer schedule	-	39	43	82	
90	Begin last northbound trip ten minutes earlier	(43)	-	-	(43)	
453	Schedule adjustment	(21)	-	-	(21)	
463	Add stop on property at South Coast Plaza	17	-	-	17	
543	Schedule adjustment	(21)	-	-	(21)	
701	Reroute via Figueroa Street in Los Angeles	-	-	-	-	
721	Reroute via Figueroa Street in Los Angeles	72	-	-	72	
Total		1,446	114	250	1,809	+1

Routes 1 and 89: annual RVH is from July 1 to October 7

Acronyms

RVH - Revenue vehicle hours

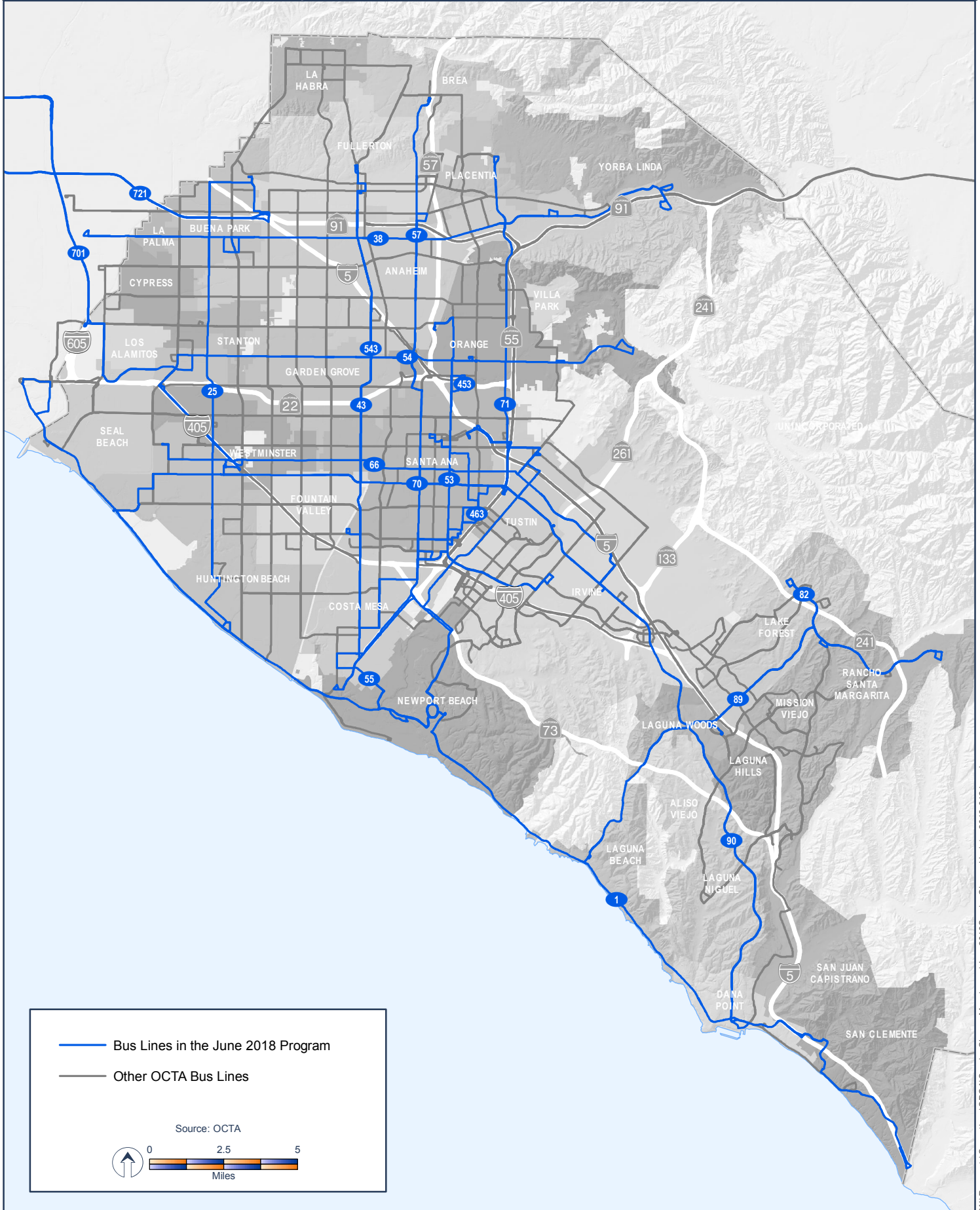
WKD - Weekend

SAT - Saturday

SUN - Sunday

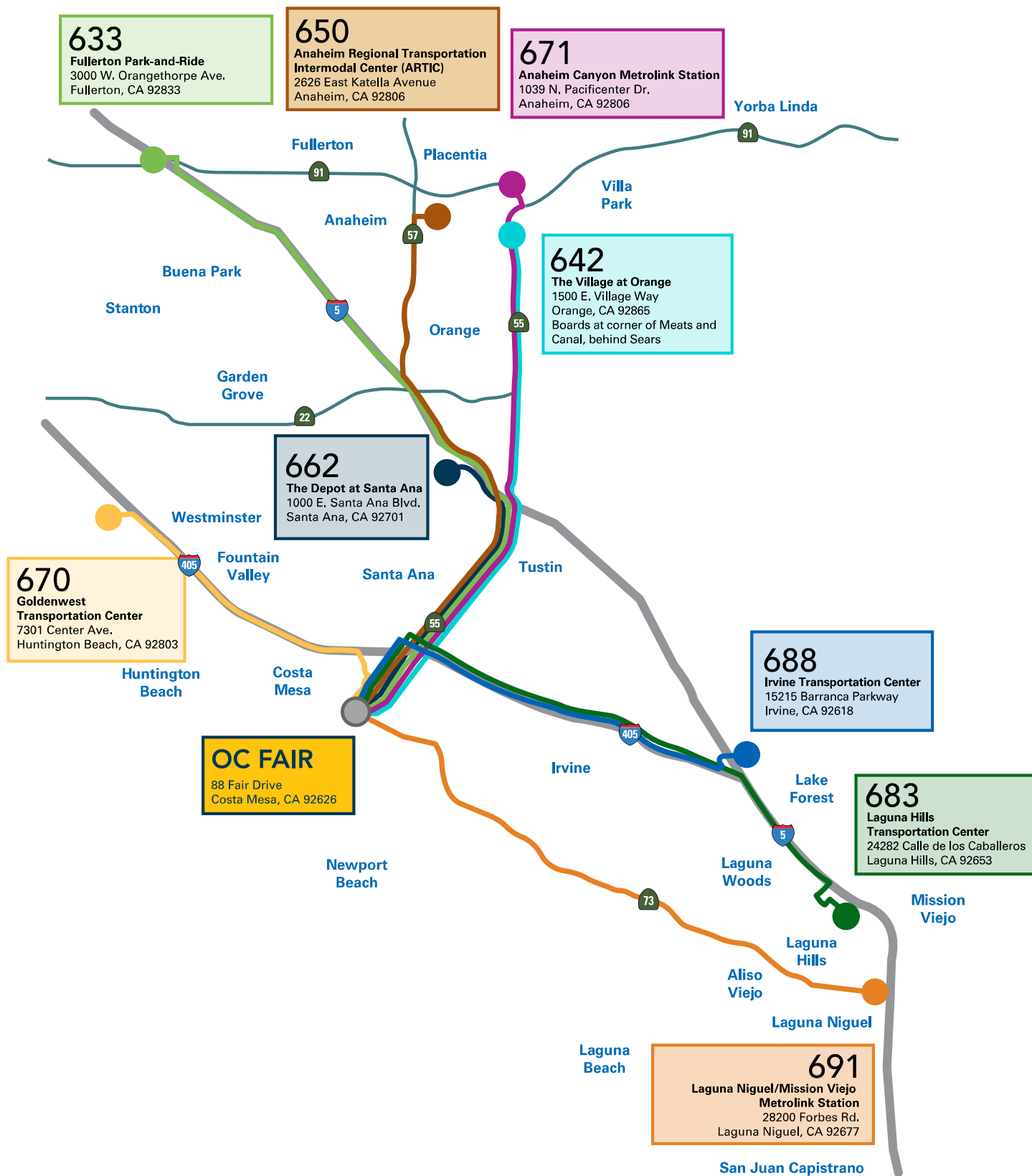
June 2018 Bus Service Change System Map

Schedule and Route Adjustments





2018 OC Fair Express System Map





COMMITTEE TRANSMITTAL

May 14, 2018

To: Members of the Board of Directors
From: Laurena Weinert, Clerk of the Board
Subject: Agreement for the Bus Dock Platform Repairs at the Newport Transportation Center

Transit Committee Meeting of May 10, 2018

Present: Directors Davies, Do, Jones, Murray, Pulido, Tait, and Winterbottom
Absent: None

Committee Vote

The item was passed by the Members present.

Committee Recommendation

Authorize the Chief Executive Officer to negotiate and execute Agreement No. C-8-1540 between the Orange County Transportation Authority and AMTEK Construction, the lowest responsive, responsible bidder, in the amount of \$103,333, for bus dock platform repairs at the Newport Transportation Center.



May 10, 2018

To: Transit Committee

From: Darrell E. Johnson, Chief Executive Officer

Subject: Agreement for Bus Dock Platform Repairs at the Newport Transportation Center

Overview

As part of the Orange County Transportation Authority's Fiscal Year 2017-18 Budget, the Board of Directors approved a project for bus dock platform repair at the Newport Transportation Center. Bids were received in accordance with the Orange County Transportation Authority's public works procurement procedures. Board of Directors' approval is requested to execute the agreement.

Recommendation

Authorize the Chief Executive Officer to negotiate and execute Agreement No. C-8-1540 between the Orange County Transportation Authority and AMTEK Construction, the lowest responsive, responsible bidder, in the amount of \$103,333, for bus dock platform repairs at the Newport Transportation Center.

Discussion

The Orange County Transportation Authority (OCTA) completed construction of the Newport Transportation Center (NTC) facility in 1989. Improvements on the bus dock platform installed during the original construction are beyond useful life and need to be replaced. The project includes removal of existing concrete pedestal walls and related benches as part of a safety enhancement to the bus dock platform at the NTC. The project includes coordination with OCTA bus operations, marketing, and facilities maintenance to complete the project to improve bus transit user experience at the NTC.

Procurement Approach

This procurement was handled in accordance with OCTA's Board of Directors-approved procedures for public works projects. These procedures, which conform to both federal and state requirements, require that contracts are

awarded to the lowest responsive, responsible bidder after a sealed bidding process.

Invitation for Bids (IFB) 8-1540 was released on March 7, 2018, through OCTA's CAMM NET system. The project was advertised on March 7 and March 12, 2018, in a newspaper of general circulation. A pre-bid conference was held on March 15, 2018, with two firms in attendance. Two addenda were issued to make available the pre-bid conference presentation and registration sheets, and handle administrative issues related to the IFB. On April 3, 2018, four bids were received by the date and time specified in the IFB.

All bids were reviewed by staff from OCTA's Contracts Administration and Materials Management and Rail Programs and Facilities Engineering departments to ensure compliance with the contract terms and conditions, and technical specifications. The list of bidders and bid amounts is presented below:

<u>Firm and Location</u>	<u>Bid Amount</u>
AMTEK Construction (AMTEK) (Whittier, California)	\$103,333
Beador Construction Company, Inc. (Corona, California)	\$109,300
Metro Builders & Engineers Group, Ltd. (Newport Beach, California)	\$129,030
Abajian Enterprise dba SoCal Removal (Irvine, California)	\$145,000

The engineer's estimate for the project is \$100,000. The recommended firm's bid is 3.3 percent above the engineer's estimate, attributed to the requirements for work-phasing of the demolition component. AMTEK met the requirements of the IFB, as well as state and federal requirements, and staff considers the bid to be fair and reasonable.

State law requires award to the lowest responsive, responsible bidder. As such, staff recommends award to AMTEK, the lowest responsive, responsible bidder, in the amount of \$103,333, for bus dock platform repairs at the NTC.

Fiscal Impact

The project was approved in OCTA's Fiscal Year 2017-18 Budget, Capital Programs Division, Account 1722-9022-D3141-0M1, and is funded

Agreement for Bus Dock Platform Repairs at the Newport Transportation Center **Page 3**

through Federal Transit Administration Section 5337 grant funds, Revenue Account 0030-6049-D3141-LJR.

Summary

Based on the information provided, staff recommends the Board of Directors authorize the Chief Executive Officer to negotiate and execute Agreement No. C-8-1540 between the Orange County Transportation Authority and AMTEK Construction, the lowest responsive, responsible bidder, in the amount of \$103,333, for bus dock platform repairs at the Newport Transportation Center.

Attachment

None.

Prepared by:



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Approved by:



James G. Beil, P.E.
Executive Director, Capital Programs
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Virginia Abadessa
Director, Contracts Administration and
Materials Management
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COMMITTEE TRANSMITTAL

May 14, 2018

To: Members of the Board of Directors

From: Laurena Weinert, Clerk of the Board

Subject: Consultant Selection for Installation of a Video Surveillance System at the Santa Ana and Garden Grove Bus Bases

Transit Committee Meeting of May 10, 2018

Present: Directors Davies, Do, Jones, Murray, Pulido, Tait, and Winterbottom

Absent: None

Committee Vote

The item was passed by the Members present.

Committee Recommendations

- A. Approve the selection of Convergent Technologies, LLC as the firm to perform installation of a video surveillance system at the Santa Ana and Garden Grove bus bases.
- B. Authorize the Chief Executive Officer to negotiate and execute Agreement No. C-7-2138 between the Orange County Transportation Authority and Convergent Technologies, LLC, in the amount of \$643,298, for installation of a video surveillance system at the Santa Ana and Garden Grove bus bases.



May 10, 2018

To: Transit Committee

From: Darrell E. Johnson, Chief Executive Officer

Subject: Consultant Selection for Installation of a Video Surveillance System at the Santa Ana and Garden Grove Bus Bases

Overview

On January 22, 2018, the Orange County Transportation Authority Board of Directors authorized the release of a request for proposals for installation of a video surveillance camera system at the Santa Ana and Garden Grove bus bases. Board of Directors' approval is requested for the selection of a firm to perform the required work.

Recommendations

- A. Approve the selection of Convergent Technologies, LLC as the firm to perform installation of a video surveillance system at the Santa Ana and Garden Grove bus bases.
- B. Authorize the Chief Executive Officer to negotiate and execute Agreement No. C-7-2138 between the Orange County Transportation Authority and Convergent Technologies, LLC, in the amount of \$643,298, for installation of a video surveillance system at the Santa Ana and Garden Grove bus bases.

Discussion

The Orange County Transportation Authority (OCTA) completed construction of the Santa Ana and Garden Grove bus bases in 2005 and 1977, respectively. The video surveillance camera systems (VSS) at the Santa Ana and Garden Grove bus bases are outdated and in need of replacement. The Santa Ana Bus Base cameras need to be upgraded to current internet protocol (IP) camera technology. The Garden Grove Bus Base cameras are a mix of analog and IP cameras, many of which are not functional. Both systems will be integrated into existing Milestone video management software, have remote monitoring capability, and a minimum of 30 days of video storage. The new systems will provide an increased deterrent

to crime, support having a safe and secure working environment, and increased detection and evidence for law enforcement investigations.

Procurement Approach

This procurement was handled in accordance with OCTA's Board of Directors (Board)-approved procedures for professional and technical services. In addition to cost, many other factors are considered in an award for professional and technical services. Award is recommended to the firm offering the most comprehensive overall proposal considering such factors as staffing and project organization, prior experience with similar projects, work plan, as well as cost and price.

On January 25, 2018, Request for Proposals (RFP) 7-2138 was issued electronically on CAMM NET. The project was advertised in a newspaper of general circulation on January 22 and January 29, 2018. A pre-proposal conference and site visit were held on February 5, 2018, with 13 firms in attendance. Four addenda were issued to make available the pre-proposal conference registration sheets and presentation materials, provide responses to questions received, and address administrative issues related to the RFP.

On March 5, 2018, four proposals were received. One proposal was withdrawn by request of the proposer after recognition that it did not comply with Disadvantaged Business Enterprise program requirements. An evaluation committee consisting of staff from OCTA's Contracts Administration and Materials Management, Information Systems, Maintenance, Security and Emergency Preparedness, and Rail Programs and Facilities Engineering departments met to review all submitted proposals.

The proposals were evaluated on the following evaluation criteria and weights:

- | | |
|-------------------------------------|------------|
| • Qualifications of the Firm | 20 percent |
| • Staffing and Project Organization | 30 percent |
| • Work Plan | 30 percent |
| • Cost and Price | 20 percent |

Several factors were considered in developing the criteria weights. High importance was given to staffing and project organization as the project manager and key personnel are critical to the successful and timely delivery of the project. Similarly, high importance was given to the work plan criterion to emphasize the importance of the team's understanding of the project and its challenges, and its approach to implementing the various elements of the scope of work, such as

completing the installation in accordance with the drawings and specifications. The criterion for qualifications of the firm was used for evaluating the firm's experience in performing work of a similar nature. Cost and price were weighted at 20 percent to ensure OCTA receives value for the work provided.

On March 15, 2018, the evaluation committee reviewed and discussed the remaining three proposals based on the evaluation criteria and found all three firms qualified to perform the required services. The firms are listed below in alphabetical order:

Firms and Location

Convergint Technologies, LLC (Convergint)
Orange, California

Ollivier Corporation (Ollivier)
Los Angeles, California

Schneider Electric Buildings Americas, Inc. (Schneider)
Brea, California

On March 29, 2018, the evaluation committee interviewed all firms. The interviews consisted of a presentation allowing each team to discuss its qualifications, highlight its proposal, and respond to evaluation committee questions. Questions were asked relative to the team's experience performing VSS installations, identification and capacity of committed key personnel, experience and qualifications of key personnel, approach to accomplishing the proposed project schedule and work plan, and overall approach to integrating the new VSS into OCTA's existing software system. Finally, each team was asked specific clarification questions related to its proposal.

After considering the presentations and responses to questions asked during the interviews, the evaluation committee adjusted the preliminary scores for all three firms. However, the overall ranking of the firms did not change as a result of the interviews.

Based on the evaluation of the written proposals, information obtained from the interviews, and cost, staff recommends Convergint as the firm to perform the installation of a VSS at the Santa Ana and Garden Grove bus bases. Convergint ranked highest among the proposing firms because of its extensive experience in providing similar services and the proposed project team of highly-qualified personnel to perform the tasks outlined in the scope of work/

project specifications (SOW). The following is a brief summary of the proposal evaluation results.

Qualifications of the Firm

All three firms are established with relevant experience and sufficient resources to perform the installation of a VSS. The firms demonstrated understanding of the SOW and the project requirements for the installation of a VSS, including integration with OCTA's existing software system.

Founded in 2001, Convergent's core business is security integration, an essential component to the successful installation of a VSS. Convergent demonstrated excellent experience with the identification of 16 recent complex VSS installation projects performed for the Port of Los Angeles, Long Beach Airport, the City of Gardena Police Department, municipal bus lines, Boeing, Microsoft, and Chevron, among others. Last year, the firm completed 13,000 integration-related projects. Convergent is the current maintenance vendor for OCTA's key card door access systems and video surveillance systems. Convergent has experience working with the proposed subconsultant on a similar project. During the interview, Convergent personnel provided detailed and thorough responses to questions, demonstrating its experience and capabilities providing installation services and understanding of the project requirements.

Schneider, the second-ranked firm, was founded in 1838 and specializes in energy distribution and building management. Schneider demonstrated good qualifications with security related projects. Verizon, AT&T, Ten-X (formerly Auction.com), Bay Area Rapid Transit, Boeing, and the Internal Revenue Service are among some of the firm's clients, though only a few projects were specifically identified as VSS installations. The proposed subconsultant has no previous experience with Schneider. The Schneider team provided detailed and thorough responses to interview questions, demonstrating the firm's experience and capabilities for providing installation services and understanding of the project requirements.

Ollivier, the third-ranked firm, is a network engineering company and has provided project related services for over 28 years. Overall, Ollivier's proposal was good, highlighting the range of services offered by the firm, though with limited information related to VSS installations. Ollivier presented experience with three similarly complex installation projects as well as similar services with OCTA. Ollivier proposed teaming with two subconsultants, neither of which has prior experience working with the firm. Ollivier provided good responses to interview questions.

Staffing and Project Organization

Each firm proposed qualified key personnel and support staff with relevant experience.

Convergint proposed a well-qualified project team. The three proposed project managers (PM), one for each discipline, have 20 to 30 years of relevant experience, including the deployment, installation, and testing of VSS. One PM is a certified security project manager and provided project management for the City of Los Angeles Police Department camera project. Other notable project management accomplishments of the three proposed PMs include large projects with Metrolink, Boeing, Delta Airlines, Yahoo, and the Los Angeles Community College District. During the interview, Convergint clarified the commitment of key personnel to the project. Convergint has a depth of technician personnel from which to draw, including many certified in relevant technologies, and provided the most details of any firm regarding the qualifications and experience of the technicians. Convergint provided a labor resources table, as requested in the RFP that demonstrated a reasonable distribution of personnel and hours supporting the appropriate staffing of the project. Convergint has previously worked with the firm's proposed subconsultant which will assist the proposed team with fiber installation and termination.

The proposed Schneider team includes qualified personnel, including a PM, lead PM, and lead project engineer with 15 to 30 years of experience. However, the areas of experience demonstrated were less relevant to the SOW. The PM holds certification as a physical security professional and the lead project engineer is certified in relevant technologies. Schneider clarified its commitment of key personnel during the interview and has personnel qualified to perform all required tasks. The firm has a depth of personnel resources from which to draw.

Ollivier's proposed project team includes qualified key personnel with 15 to 25 years of experience. However, the areas of experience demonstrated were less relevant to the SOW. Some key personnel possess certifications in relevant technologies. Information on the qualifications and experience of the technicians was not provided. As clarified during the interview, the firm committed the proposed key personnel with the notable exception of the tentatively proposed systems engineer.

Work Plan

Convergint presented a detailed work plan. The firm proposed the option of customized solutions using open-source technology to ensure that the selected cameras fully integrate with OCTA's current software system. Convergint was

the only firm to specify experience and awareness of handling of sensitive security information, information that, if publicly released, would be detrimental to transportation security. Response times for service calls were quantified based on the level of urgency.

Schneider presented a very good work plan, including a detailed quality assurance/quality control communication plan. A work summary table with responsibilities by task was provided, including personnel accountable for oversight on each task. The firm provided a milestone schedule detailed to single days, exemplifying an understanding of the project task timeline. Schneider proposed the use of its own Pelco cameras, while remaining open to other brands, based on compatibility with OCTA's existing software system.

Ollivier presented a good work plan addressing the key tasks with the types of cameras for each location. The work plan and project schedule addressed the primary tasks, though the firm proposed refinement of the schedule after award.

Cost and Price

Pricing scores were based on a formula which assigns the highest score to the lowest total firm-fixed price for the tasks to be completed, and scores the other proposals' total firm-fixed prices based on relation to the lowest total firm-fixed price. Convergent's proposed price was competitive in relation to the proposals from Schneider and Ollivier. The proposal was reviewed by OCTA staff and found to be fair and reasonable for the work to be performed.

Procurement Summary

Based on the evaluation of the written proposals and information obtained during the interviews, the evaluation committee recommends the selection of Convergent as the top-ranked firm to perform installation of a VSS at the Santa Ana and Garden Grove bus bases. Convergent demonstrated outstanding relevant experience and submitted a comprehensive proposal that met the requirements of the SOW. Convergent presented a detailed and thorough interview, supporting the firm's experience and qualifications, staffing, work plan, and a thorough understanding of the overall project.

Fiscal Impact

The project is included in OCTA's Fiscal Year 2017-18 Budget, Capital Programs Division, Account 1722-9026-D3126-05S, and is funded through Federal Transit Administration grant funds.

Summary

Based on the information provided, staff recommends the Board of Directors authorize the Chief Executive Officer to negotiate and execute Agreement No. C-7-2138 with Convergent, Technologies, LLC, in the amount of \$643,298, for installation of a video surveillance system at the Santa Ana and Garden Grove bus bases.

Attachments

- A. Review of Proposals, RFP 7-2138 Installation of a Video Surveillance System (VSS) at the Santa Ana and Garden Grove Bus Bases
- B. Proposal Evaluation Matrix (Short-Listed Firms), RFP 7-2138 Installation of a Video Surveillance System at the Santa Ana and Garden Grove Bus Bases
- C. Contract History for the Past Two Years, RFP 7-2138 Installation of a Video Surveillance System at the Santa Ana and Garden Grove Bus Bases

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Approved by:



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Review of Proposals
RFP 7-2138 Installation of a Video Surveillance System (VSS) at the Santa Ana and Garden Grove Bus Bases
 PRESENTED TO THE TRANSIT COMMITTEE - MAY 10, 2018
3 proposals were received, 3 firms were interviewed, and 1 firm is being recommended.

Overall Ranking	Proposal Score	Firm & Location	Sub-Contractors	Evaluation Committee Comments	Total Price
1	81	Convergint Technologies, LLC Orange, California	Federal Technology Solutions, Inc.	Highest ranked firm overall. Specializes in security integration. Excellent qualifications and experience performing VSS installation projects. Prior experience with subconsultant. Detailed and thorough responses to interview questions. Proposed project managers and project team are very experienced and well qualified. Detailed work plan demonstrating full understanding of the scope of work (SOW). Follow Sensitive Security Information best practices. Proposed competitive price.	\$643,298
2	77	Schneider Electric Buildings Americas, Inc. Brea, California	Global Electric	Second ranked firm. Specializes in energy distribution and building management. Very good qualifications. Similar project experience though with less experience relevant to the SOW. No experience with proposed subconsultant. Detailed and thorough responses to interview questions. Proposed project managers and project team are experienced and qualified. Detailed work plan demonstrating full understanding of the SOW. Proposed lowest price.	\$615,000
3	66	Ollivier Corporation Los Angeles, California	Power4Ward Digital Networks Group	Third ranked firm. Specializes in network engineering. Good qualifications. Similar project experience though with less experience relevant to the SOW. No experience with proposed subconsultants. Good responses to interview questions. Proposed key personnel are qualified but unable to commit Systems Engineer to project. Work plan was good but the schedule lacked detail. Proposed competitive price.	\$630,445

Evaluation Panel:

Contracts Administration and Materials Management (1)
 Information Systems (1)
 Maintenance (1)
 Security and Emergency Preparedness (1)
 Rail Programs and Facilities Engineering (1)

Evaluation Criteria

Qualifications of the Firm
 Staffing and Project Organization
 Work Plan
 Cost and Price

Weight Factors

20 percent
 30 percent
 30 percent
 20 percent

PROPOSAL EVALUATION MATRIX (SHORT-LISTED FIRMS)
RFP 7-2138 INSTALLATION OF A VIDEO SURVEILLANCE SYSTEM AT THE
SANTA ANA AND GARDEN GROVE BUS BASES

FIRM: CONVERGINT TECHNOLOGIES, LLC						Weights	Average Score
Evaluator Number	1	2	3	4	5		
Qualifications of Firm	4.5	4.5	4.0	4.5	4.5	4	17.6
Staffing/Project Organization	4.0	4.0	4.0	4.0	4.0	6	24.0
Work Plan	3.5	3.5	3.5	3.0	3.5	6	20.4
Cost and Price	4.8	4.8	4.8	4.8	4.8	4	19.2
Overall Score	82.2	82.2	80.2	79.2	82.2		81
FIRM: SCHNEIDER ELECTRIC BUILDINGS AMERICAS, INC.						Weights	Average Score
Evaluator Number	1	2	3	4	5		
Qualifications of Firm	4.0	3.5	3.5	4.0	3.5	4	14.8
Staffing/Project Organization	3.5	3.5	3.5	3.5	3.5	6	21.0
Work Plan	3.5	3.5	3.5	3.5	3.5	6	21.0
Cost and Price	5.0	5.0	5.0	5.0	5.0	4	20.0
Overall Score	78.0	76.0	76.0	78.0	76.0		77
FIRM: OLLIVIER CORPORATION						Weights	Average Score
Evaluator Number	1	2	3	4	5		
Qualifications of Firm	3.0	3.0	2.5	3.5	3.0	4	12.0
Staffing/Project Organization	3.0	3.0	3.0	3.0	3.0	6	18.0
Work Plan	2.5	3.0	3.0	3.0	2.5	6	16.8
Cost and Price	4.9	4.9	4.9	4.9	4.9	4	19.6
Overall Score	64.6	67.6	65.6	69.6	64.6		66

CONTRACT HISTORY FOR THE PAST TWO YEARS

RFP 7-2138 Installation of a Video Surveillance System at the Santa Ana and Garden Grove Bus Bases

Prime and Subconsultants	Contract No.	Description	Contract Start Date	Contract End Date	Subconsultant Amount	Total Contract Amount
Convergint Technologies, LLC Contract Type: Firm-Fixed Price Subconsultants: None						
	C-7-1676	Security System Service and Maintenance	July 31, 2017	August 31, 2020		\$ 240,000
					\$ -	
Sub Total						\$240,000
Schneider Electric Buildings Americas, Inc. Contract Type: Subconsultants:		No contracts awarded				
						\$ -
Sub Total						
Ollivier Corporation Contract Type: Subconsultants:		No contracts awarded				
						\$ -
Sub Total						



COMMITTEE TRANSMITTAL

May 14, 2018

To: Members of the Board of Directors

From: *RW*
Laurena Weinert, Clerk of the Board

Subject: Capital Programs Division – Third Quarter Fiscal Year 2017-18
Capital Action Plan Performance Metrics

Executive Committee Meeting of May 7, 2018

Present: Chairwoman Bartlett, Vice Chairman Shaw, and Directors Do, Hennessey, M. Murphy, Murray, and Nelson

Absent: None

Committee Vote

Following the discussion, no action was taken on this receive and file as an information item.

Staff Recommendation

Receive and file as an information item.



May 7, 2018

To: Executive Committee

From: Darrell E. Johnson, Chief Executive Officer

Subject: Capital Programs Division - Third Quarter Fiscal Year 2017-18
Capital Action Plan Performance Metrics

Overview

The Orange County Transportation Authority's Strategic Plan key strategies and objectives to achieve the goals for Mobility and Stewardship include delivery of all Capital Action Plan projects on time and within budget. The Capital Action Plan is used to create a performance metric to assess capital project delivery progress on highway, grade separation, rail, and facility projects. This report provides an update on the Capital Action Plan delivery and performance metrics.

Recommendation

Receive and file as an information item.

Background

The Orange County Transportation Authority (OCTA) Capital Programs Division is responsible for project development and delivery of highway, grade separation, rail, and facility projects from the beginning of the environmental approval phase through construction completion. Project delivery commitments reflect defined project scope, costs, and schedules. Project delivery commitments shown in the Capital Action Plan (CAP) are key strategies and objectives to achieve the Strategic Plan goals for Mobility and Stewardship.

This report is a quarterly update on the CAP performance metrics, which are a snapshot of the planned CAP project delivery milestones in the budgeted fiscal year (FY).

Discussion

The Capital Programs Division objective is to deliver projects on schedule and within the approved project budget. Key project cost and schedule commitments

are captured in the CAP, which is regularly updated with new projects and project status (Attachment A). The CAP is categorized into four key project groupings; freeway projects, grade separation projects, rail and station projects, and facility projects. Schedule milestones are used as performance indicators of progress in project delivery. The CAP performance metrics provides a FY snapshot of the milestones targeted for delivery in the budgeted FY, and provides transparency and performance measurement of capital project delivery.

The CAP project costs represent the total cost of the project across all phases of project delivery, including support costs, and right-of-way (ROW) and construction capital costs. Baseline costs, if established, are shown in comparison to either the actual or forecast cost. Baseline costs may be shown as to-be-determined (TBD) if project scoping studies and estimates have not been developed or approved, and may be updated as project delivery progresses and milestones are achieved. Projects identified in the Orange County local transportation sales tax Measure M2 (M2) are identified with the corresponding M2 project letter. The CAP status update is also included in the M2 Quarterly Report.

The CAP summarizes the very complex capital project critical path delivery schedules into eight key milestones.

Begin Environmental	The date work on the environmental clearance, project report, or preliminary engineering phase begins.
Complete Environmental	The date environmental clearance and project approval is achieved.
Begin Design	The date final design work begins, or the date when a design-build contract begins.
Complete Design	The date final design work is 100 percent complete and approved.
Construction Ready	The date contract bid documents are ready for advertisement, including certification of ROW, all agreements executed, and contract constraints cleared.
Advertise for Construction	The date a construction contract is advertised for bids.

Award Contract	The date the construction contract is awarded.
Construction Complete	The date all construction work is completed, and the project is open to public use.

These delivery milestones reflect progression across the project delivery phases shown below.



Project schedules reflect approved milestone dates in comparison to forecast or actual milestone dates. Milestone dates may be shown as TBD if project scoping or approval documents have not been finalized and approved, or if the delivery schedule has not been negotiated with the agency or consultant implementing the specific phase of a project. Planned milestone dates can be revised to reflect new dates from approved baseline schedule changes. On a monthly basis, actual dates are updated when milestones are achieved, and forecast dates are updated to reflect project delivery status.

CAP milestones achieved in the third quarter FY 2017-18 include:

Freeway and Railroad Grade Separation Projects

- The advertise construction milestone for the addition of a second high-occupancy vehicle (HOV) lane on Interstate 5 (I-5) between State Route 55 and State Route 57 (SR-57) was achieved. Construction bids are planned to be opened on May 8, 2018.
- The advertise construction and award contract milestones for the SR-57 northbound landscape replacement planting between Orangethorpe Avenue and Lambert Road were achieved and the project is now under construction.
- The West County HOV Connectors projects landscape replacement planting construction was completed in February 2018.
- The State College Boulevard railroad grade separation construction was completed on January 31, 2018.

- Final design work began on the Anaheim Canyon Metrolink Station project which will add a second passenger rail platform and an additional station track.

The following CAP milestones missed the planned delivery through the third quarter of FY 2017-18.

Freeway Projects

- The complete environmental milestone for the State Route 241 direct connector to the 91 Express Lanes has been delayed to assess shifting traffic patterns and to account for modifications to corridor transportation plans.
- The complete design milestone for the I-5 widening between State Route 73 (SR-73) and Oso Parkway has been delayed. The California Department of Transportation (Caltrans) continues ROW acquisition activities to obtain possession of the needed ROW and make the project construction ready by February 2019. Although OCTA's consultant has completed design, ROW acquisition is the project delivery schedule critical path. Caltrans has requested the final design not be submitted to Caltrans for final construction contract packaging until approximately six months prior to the planned February 2019 construction ready milestone. This will allow any Caltrans requested design updates due to changes to standards and/or specifications to be incorporated into the final design submittal while Caltrans is completing the ROW acquisition.

Rail and Station Projects

- The Laguna Niguel/San Juan Capistrano railroad passing siding complete design, construction ready, and advertise construction milestones are delayed. Design has been delayed because the City of San Juan Capistrano (City) requested that all work within OCTA railroad ROW comply with the City National Pollution Discharge Elimination System permitting requirements. For all projects within OCTA railroad ROW, OCTA typically obtains and complies with the State and Regional Water Quality Control Board construction general permit requirements and associated post-construction operating conditions. After approximately a three-month delay, the City has concurred with OCTA's use of the construction general permit within OCTA railroad ROW and final design reviews, concurrences, and permitting are underway. The complete design and construction ready milestones will be completed in the fourth quarter, and the advertise construction milestone has been moved into the first quarter of FY 2018-19.

- The Placentia Metrolink Station construction ready, advertise construction, and award contract milestones have been missed. As reported last quarter, final approval of the station, City of Placentia acquisition of required BNSF ROW, and finalization of the BNSF railroad construction and maintenance agreement remain to be completed. The project schedule is being re-assessed, and the planned advertisement for construction has been moved into FY 2018-19.

Recap of FY 2017-18 Performance Metrics

The CAP and performance metrics snapshot provided at the beginning of FY 2017-18 includes 28 planned major project delivery milestones to be accomplished through the third quarter. The performance metrics update reflects milestones achieved and missed through the third quarter (Attachments A and B). Six milestones were completed in the third quarter, and 21 milestones have been achieved through three quarters of FY 2017-18 (75 percent of the planned milestones). Six of the seven missed milestones are attributable to the Laguna Niguel/San Juan Capistrano railroad passing siding and Placentia Metrolink Station.

FY 2017-18 Cost and Performance Metric Look Ahead and Risks

The combined cost value for the three segments of I-5 widening between SR-73 and El Toro Road require that a Cost Estimate Review (CER) be prepared by Caltrans and the Federal Highway Administration (FHWA). Caltrans and FHWA have conducted the CER which employed an annual 4.2 percent construction escalation rate to the planned construction schedule midpoint, which results in significant cost estimate increases. Staff is continuing to assess local market unit prices and appropriate use of escalation rates, and is providing comments on the draft CER assumptions and results to Caltrans.

The OC Streetcar construction bid date has been extended to June 19, 2018, and a contract award recommendation is planned to be brought to the Board of Directors in August 2018. Feedback from the construction industry indicated additional time was needed to prepare responsive bids given both the complexity of scope, as well as limited availability of contractor estimating and bidding resources to prepare bids. Extending the contract award date will also provide additional time needed by the Federal Transit Administration to process and approve the OC Streetcar Full Funding Grant Agreement. These changes did not impact the planned October 1, 2018 notice to proceed for construction.

Summary

Significant capital project delivery progress continues to be made and reflected in the CAP. Staff will continue to manage project costs, schedules, and risks across all project phases to meet project delivery commitments and report quarterly.

Attachments

- A. Capital Action Plan, Status Through March 2018
- B. Capital Programs Division, Fiscal Year 2017-18 Performance Metrics Through March 2018

Prepared by:

















A handwritten signature in blue ink, appearing to read "James G. Beil".

James G. Beil, P.E.
Executive Director, Capital Programs
(714) 560-5646

Capital Action Plan

Status Through March 2018















Updated: April 20, 2018

Capital Projects	Cost	Schedule							
	Baseline/Forecast	Plan/Forecast							
	(millions)	Begin Environmental	Complete Environmental	Begin Design	Complete Design	Construction Ready	Advertise Construction	Award Contract	Complete Construction
Freeway Projects:									
 I-5, Pico to Vista Hermosa	\$113.0	Jun-09	Dec-11	Jun-11	Oct-13	Feb-14	Oct-14	Dec-14	Aug-18
Project C	\$85.9	Jun-09	Oct-11	Jun-11	Oct-13	May-14	Sep-14	Dec-14	Apr-18
 I-5, Vista Hermosa to Pacific Coast Highway	\$75.6	Jun-09	Dec-11	Jun-11	Feb-13	Jun-13	Oct-13	Dec-13	Mar-17
Project C	\$71.4	Jun-09	Oct-11	Jun-11	May-13	Aug-13	Feb-14	Jun-14	Jul-17
 I-5, Pacific Coast Highway to San Juan Creek Road	\$70.7	Jun-09	Dec-11	Jun-11	Jan-13	May-13	Aug-13	Oct-13	Sep-16
Project C Cost/Schedule Risk	\$71.2	Jun-09	Oct-11	Jun-11	Jan-13	Apr-13	Aug-13	Dec-13	Apr-18
 I-5, I-5/Ortega Interchange	\$90.9	Sep-05	Jun-09	Jan-09	Nov-11	Mar-12	Jun-12	Aug-12	Sep-15
Project D	\$75.1	Sep-05	Jun-09	Jan-09	Dec-11	Apr-12	Jun-12	Aug-12	Jan-16
 I-5, I-5/Ortega Interchange (Landscape)	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Project D	N/A	N/A	N/A	Jan-14	Oct-14	Feb-15	Aug-15	Sep-15	Sep-16
 I-5, SR-73 to Oso Parkway	\$151.9	Sep-11	Jun-14	Mar-15	Jan-18	May-18	Aug-18	Dec-18	Jan-24
Project C & D Cost/Schedule Risk	\$190.5	Oct-11	May-14	Mar-15	Aug-18	Feb-19	Jun-19	Oct-19	Oct-24
 I-5, Oso Parkway to Alicia Parkway	\$196.2	Sep-11	Jun-14	Nov-14	Jun-17	Dec-17	Feb-18	Jun-18	Feb-23
Project C & D Cost/Schedule Risk	\$191.0	Oct-11	May-14	Nov-14	Dec-17	Jun-18	Aug-18	Dec-18	Aug-23
 I-5, Alicia Parkway to El Toro Road	\$133.6	Sep-11	Jun-14	Mar-15	Jun-18	Dec-18	Jan-19	May-19	Jun-23
Project C Cost/Schedule Risk	\$166.5	Oct-11	May-14	Mar-15	Apr-19	Oct-19	Feb-20	Jun-20	Jun-24
 I-5, I-5/El Toro Road Interchange	TBD	Apr-17	Nov-19	TBD	TBD	TBD	TBD	TBD	TBD
Project D	TBD	Apr-17	Nov-19	TBD	TBD	TBD	TBD	TBD	TBD
 I-5, I-405 to SR-55	TBD	May-14	Aug-18	TBD	TBD	TBD	TBD	TBD	TBD
Project B	TBD	May-14	Dec-18	TBD	TBD	TBD	TBD	TBD	TBD
 I-5, SR-55 to SR-57	\$38.1	Jul-11	Jun-13	Jun-15	Mar-17	Jul-17	Sep-17	Dec-17	Feb-20
Project A Cost/Schedule Risk	\$39.9	Jun-11	Apr-15	Jun-15	Jun-17	Dec-17	Mar-18	Jun-18	Aug-20
 SR-55, I-405 to I-5	TBD	Feb-11	Nov-13	Sep-17	Apr-20	Dec-20	Apr-21	Jul-21	Aug-25
Project F Cost/Schedule Risk	\$410.9	May-11	Aug-17	Sep-17	Apr-20	Dec-20	Apr-21	Jul-21	Aug-25
 SR-55, I-5 to SR-91	TBD	Dec-16	Jan-20	TBD	TBD	TBD	TBD	TBD	TBD
Project F	TBD	Dec-16	Jan-20	TBD	TBD	TBD	TBD	TBD	TBD
 SR-57 Northbound (NB), Orangewood Avenue to Katella Avenue	TBD	Apr-16	Dec-18	TBD	TBD	TBD	TBD	TBD	TBD
Project G	TBD	Apr-16	Dec-18	TBD	TBD	TBD	TBD	TBD	TBD
 SR-57 (NB), Katella Avenue to Lincoln Avenue	\$78.7	Apr-08	Jul-09	Jul-08	Nov-10	Mar-11	May-11	Aug-11	Sep-14
Project G	\$38.0	Apr-08	Nov-09	Aug-08	Dec-10	Apr-11	Jul-11	Oct-11	Apr-15
 SR-57 (NB), Katella Avenue to Lincoln Avenue (Landscape)	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Project G	N/A	N/A	N/A	May-09	Jul-10	Jun-17	Jul-17	Sep-17	Oct-18

Capital Action Plan

Status Through March 2018














Updated: April 20, 2018

	Capital Projects	Cost	Schedule							
		Baseline/Forecast	Plan/Forecast							
		(millions)	Begin Environmental	Complete Environmental	Begin Design	Complete Design	Construction Ready	Advertise Construction	Award Contract	Complete Construction
	SR-57 (NB), Orangethorpe Avenue to Yorba Linda Boulevard	\$80.2	Aug-05	Dec-07	Feb-08	Dec-09	Apr-10	Jun-10	Oct-10	May-14
	Project G	\$52.3	Aug-05	Dec-07	Feb-08	Jul-09	Dec-09	May-10	Oct-10	Nov-14
	SR-57 (NB), Yorba Linda Boulevard to Lambert Road	\$79.3	Aug-05	Dec-07	Feb-08	Dec-09	Apr-10	Jun-10	Oct-10	Sep-14
	Project G	\$54.1	Aug-05	Dec-07	Feb-08	Jul-09	Mar-10	May-10	Oct-10	May-14
	SR-57 (NB), Orangethorpe Avenue to Lambert Road (Landscape)	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
	Project G	N/A	N/A	N/A	Oct-14	Aug-17	Dec-17	Jan-18	Feb-18	Apr-19
	SR-57 (NB), Lambert Road to Tonner Canyon	TBD	TBD	TBD	TBD	TBD	TBD	TBD	TBD	TBD
		TBD	Jul-20	Jan-23	TBD	TBD	TBD	TBD	TBD	TBD
	SR-91 Westbound (WB), I-5 to SR-57	\$78.1	Jul-07	Apr-10	Oct-09	Feb-12	Jul-12	Aug-12	Nov-12	Apr-16
	Project H	\$59.7	Jul-07	Jun-10	Mar-10	Apr-12	Aug-12	Oct-12	Jan-13	Jun-16
	SR-91 Westbound (WB), I-5 to SR-57 (Landscape)	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
	Project H	N/A	N/A	N/A	Nov-14	Aug-16	Dec-16	Feb-17	Mar-17	Nov-17
	SR-91, SR-57 to SR-55	TBD	Jan-15	Oct-18	TBD	TBD	TBD	TBD	TBD	TBD
	Project I Cost/Schedule Risk	TBD	Jan-15	Aug-19	TBD	TBD	TBD	TBD	TBD	TBD
	SR-91 (WB), Tustin Interchange to SR-55	\$49.9	Jul-08	Jul-11	Jul-11	Mar-13	Jul-13	Aug-13	Oct-13	Jul-16
	Project I	\$42.8	Jul-08	May-11	Jun-11	Feb-13	Apr-13	Jun-13	Oct-13	Jul-16
	SR-91, SR-55 to SR-241	\$128.4	Jul-07	Jul-09	Jun-09	Jan-11	Apr-11	Jun-11	Sep-11	Dec-12
	Project J	\$79.7	Jul-07	Apr-09	Apr-09	Aug-10	Dec-10	Feb-11	May-11	Mar-13
	SR-91, SR-55 to SR-241 (Landscape)	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
	Project J	N/A	N/A	N/A	May-12	Feb-13	Apr-13	Jul-13	Oct-13	Feb-15
	SR-91 Eastbound, SR-241 to SR-71	\$104.5	Mar-05	Dec-07	Jul-07	Dec-08	Mar-09	May-09	Jul-09	Nov-10
	Project J	\$57.8	Mar-05	Dec-07	Jul-07	Dec-08	May-09	Jun-09	Aug-09	Jan-11
	91 Express Lanes to SR-241 Toll Connector	TBD	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
		TBD	Nov-13	TBD	Dec-16	TBD	TBD	TBD	TBD	TBD
	I-405, I-5 to SR-55	TBD	Dec-14	Jul-18	TBD	TBD	TBD	TBD	TBD	TBD
	Project L	TBD	Dec-14	Jul-18	TBD	TBD	TBD	TBD	TBD	TBD
	I-405, SR-55 to I-605 (Design-Build)	\$1,900.0	Mar-09	Mar-13	Mar-14	Nov-15	Feb-16	Mar-16	Nov-16	May-23
	Project K	\$1,900.0	Mar-09	May-15	Mar-14	Nov-15	Feb-16	Mar-16	Nov-16	May-23
	I-405/SR-22 HOV Connector	\$195.9	N/A	N/A	Sep-07	Sep-09	Mar-10	May-10	Aug-10	Aug-14
		\$120.3	N/A	N/A	Sep-07	Jun-09	Sep-09	Feb-10	Jun-10	Mar-15
	I-405/I-605 HOV Connector	\$260.4	N/A	N/A	Sep-07	Sep-09	Mar-10	May-10	Oct-10	Jan-15
		\$172.6	N/A	N/A	Sep-07	Sep-09	Feb-10	May-10	Oct-10	Mar-15
	I-405/SR-22/I-605 HOV Connector (Landscape)	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
		N/A	N/A	N/A	Jun-08	May-09	Feb-16	May-16	Jul-16	Feb-18
	I-605, I-605/Katella Interchange	TBD	Aug-16	Nov-18	TBD	TBD	TBD	TBD	TBD	TBD
	Project M	TBD	Aug-16	Nov-18	TBD	TBD	TBD	TBD	TBD	TBD

Capital Action Plan

Status Through March 2018

Updated: April 20, 2018

Capital Projects	Cost	Schedule							
	Baseline/Forecast	Plan/Forecast							
	(millions)	Begin Environmental	Complete Environmental	Begin Design	Complete Design	Construction Ready	Advertise Construction	Award Contract	Complete Construction
Grade Separation Projects:									
 Sand Canyon Avenue Railroad Grade Separation	\$55.6	N/A	Sep-03	Jan-04	Jul-10	Jul-10	Oct-10	Feb-11	May-14
Project R	\$62.1	N/A	Sep-03	Jan-04	Jul-10	Jul-10	Oct-10	Feb-11	Jan-16
 Raymond Avenue Railroad Grade Separation	\$77.2	Feb-09	Nov-09	Mar-10	Aug-12	Nov-12	Feb-13	May-13	Aug-18
Project O Cost/Schedule Risk	\$127.6	Feb-09	Nov-09	Mar-10	Dec-12	Jul-13	Oct-13	Feb-14	Aug-18
 State College Boulevard Railroad Grade Separation (Fullerton)	\$73.6	Dec-08	Jan-11	Jul-06	Aug-12	Nov-12	Feb-13	May-13	May-18
Project O	\$97.0	Dec-08	Apr-11	Jul-06	Feb-13	May-13	Sep-13	Feb-14	Jan-18
 Placentia Avenue Railroad Grade Separation	\$78.2	Jan-01	May-01	Jan-09	Mar-10	May-10	Mar-11	Jun-11	Nov-14
Project O	\$64.6	Jan-01	May-01	Jan-09	Jun-10	Jan-11	Mar-11	Jul-11	Dec-14
 Kraemer Boulevard Railroad Grade Separation	\$70.4	Jan-01	Sep-09	Jan-09	Jul-10	Jul-10	Apr-11	Aug-11	Oct-14
Project O	\$64.1	Jan-01	Sep-09	Feb-09	Jul-10	Jan-11	Jun-11	Sep-11	Dec-14
 Orangethorpe Avenue Railroad Grade Separation	\$117.4	Jan-01	Sep-09	Feb-09	Dec-11	Dec-11	Feb-12	May-12	Sep-16
Project O	\$108.6	Jan-01	Sep-09	Feb-09	Oct-11	Apr-12	Sep-12	Jan-13	Oct-16
 Tustin Avenue/Rose Drive Railroad Grade Separation	\$103.0	Jan-01	Sep-09	Feb-09	Dec-11	Mar-12	May-12	Aug-12	May-16
Project O	\$98.3	Jan-01	Sep-09	Feb-09	Jul-11	Jun-12	Oct-12	Feb-13	Oct-16
 Lakeview Avenue Railroad Grade Separation	\$70.2	Jan-01	Sep-09	Feb-09	Oct-11	Oct-12	Feb-13	May-13	Mar-17
Project O	\$110.6	Jan-01	Sep-09	Feb-09	Jan-13	Apr-13	Sep-13	Nov-13	Jun-17
 17th Street Railroad Grade Separation	TBD	Oct-14	Jun-16	TBD	TBD	TBD	TBD	TBD	TBD
Project R	TBD	Oct-14	Nov-17	TBD	TBD	TBD	TBD	TBD	TBD
Rail and Station Projects:									
 Rail-Highway Grade Crossing Safety Enhancement	\$94.4	Jan-08	Oct-08	Jan-08	Sep-08	Sep-08	Sep-08	Aug-09	Dec-11
Project R	\$90.4	Jan-08	Oct-08	Jan-08	Sep-08	Sep-08	Sep-08	Aug-09	Dec-11
 San Clemente Beach Trail Safety Enhancements	\$6.0	Sep-10	Jul-11	Feb-12	Apr-12	Apr-12	Jul-12	Oct-12	Jan-14
Project R	\$5.0	Sep-10	Jul-11	Feb-12	Jun-12	Jun-12	Oct-12	May-13	Mar-14
San Juan Capistrano Passing Siding	\$25.3	Aug-11	Jan-13	Mar-15	May-16	May-16	Aug-16	Dec-16	Jan-19
Cost/Schedule Risk	\$30.8	Aug-11	Mar-14	Mar-15	May-18	May-18	Jul-18	Nov-18	Dec-20
 OC Streetcar	\$310.4	Aug-09	Mar-12	Feb-16	Sep-17	Oct-17	Dec-17	Aug-18	Aug-21
Project S Cost/Schedule Risk	\$310.4	Aug-09	Mar-15	Feb-16	Nov-17	Dec-17	Dec-17	Aug-18	Aug-21
 Placentia Metrolink Station and Parking Structure	\$34.8	Jan-03	May-07	Oct-08	Jan-11	TBD	TBD	TBD	TBD
Project R Cost/Schedule Risk	\$34.8	Jan-03	May-07	Oct-08	Feb-11	Jul-18	Jul-18	Nov-18	Jun-20
Anaheim Canyon Station	\$27.9	Jan-16	Dec-16	Mar-19	TBD	TBD	TBD	TBD	TBD
	\$27.9	Jan-16	Jun-17	Mar-18	May-19	May-19	Jul-19	Nov-19	Feb-21
Orange Station Parking Expansion	\$33.2	Dec-09	Dec-12	Nov-10	Apr-13	Jul-16	Jul-16	Nov-16	Feb-19
Cost/Schedule Risk	\$32.3	Dec-09	May-16	Nov-10	Apr-16	Jul-16	Jul-16	Jun-17	Feb-19
Fullerton Transportation Center - Elevator Upgrades	\$3.5	N/A	N/A	Jan-12	Dec-13	Dec-13	Jun-14	Sep-14	Mar-17
Cost/Schedule Risk	\$4.6	N/A	N/A	Jan-12	Dec-13	Dec-13	Aug-14	Apr-15	Sep-18

Capital Action Plan

Status Through March 2018

Updated: April 20, 2018

Capital Projects	Cost	Schedule							
	Baseline/Forecast	Plan/Forecast							
	(millions)	Begin Environmental	Complete Environmental	Begin Design	Complete Design	Construction Ready	Advertise Construction	Award Contract	Complete Construction
Laguna Niguel/Mission Viejo Station ADA Ramps	\$3.5	Jul-13	Jan-14	Jul-13	Aug-14	Aug-14	Sep-14	Jan-15	Apr-17
	\$5.2	Jul-13	Feb-14	Jul-13	Jul-15	Jul-15	Jul-15	Oct-15	Sep-17
Anaheim Regional Transportation Intermodal Center	\$227.4	Apr-09	Feb-11	Jun-09	Feb-12	Feb-12	May-12	Jul-12	Nov-14
Project R & T	\$232.2	Apr-09	Feb-12	Jun-09	May-12	May-12	May-12	Sep-12	Dec-14

Note: Costs associated with landscape projects are included in respective freeway projects.

Grey = Milestone achieved

Green = Forecast milestone meets or exceeds plan

Yellow = Forecast milestone is one to three months later than plan

Red = Forecast milestone is over three months later than plan

Begin Environmental: The date work on the environmental clearance, project report, or preliminary engineering phase begins.

Complete Environmental: The date environmental clearance and project approval is achieved.

Begin Design: The date final design work begins, or the date when a design-build contract begins.

Complete Design: The date final design work is 100 percent complete and approved.

Construction Ready: The date contract bid documents are ready for advertisement, including certification of right-of-way, all agreements executed, contract constraints are cleared.

Advertise for Construction: The date a construction contract is both funded and advertised for bids.

Award Contract: The date the construction contract is awarded.

Construction Complete: The date all construction work is completed and the project is open to public use.

Acronyms

I-5 - Santa Ana Freeway (Interstate 5)

SR-73 - San Joaquin Freeway (State Route 73)

SR-55 - Costa Mesa Freeway (State Route 55)

SR-57 - Orange Freeway (State Route 57)

SR-91 - Riverside Freeway (State Route 91)

SR-22 - Garden Grove Freeway (State Route 22)

I-405 - San Diego Freeway (Interstate 405)

SR-241 - Foothill/Eastern Transportation Corridor (State Route 241)

I-605 - San Gabriel River Freeway (Interstate 605)

ADA - Americans with Disabilities Act

Capital Programs Division

Fiscal Year 2017-18 Performance Metrics Through March 2018

Begin Environmental

Project Description	FY 18 Qtr 1		FY 18 Qtr 2		FY 18 Qtr 3		FY 18 Qtr 4		FY 18 Fcst
	Fcst	Actual	Fcst	Actual	Fcst	Actual	Fcst	Actual	
No "Begin Environmental" milestones scheduled for fiscal year 2017-18									
Total Forecast/Actual	0	0	0	0	0	0	0	0	0

Complete Environmental

Project Description	FY 18 Qtr 1		FY 18 Qtr 2		FY 18 Qtr 3		FY 18 Qtr 4		FY 18 Fcst
	Fcst	Actual	Fcst	Actual	Fcst	Actual	Fcst	Actual	
SR-55, I-405 to I-5	X	✓							
17th Street Railroad Grade Separation			X	✓					
91 Express Lanes to SR-241 Toll Connector					X				
Total Forecast/Actual	1	1	1	1	1	0	0	0	3

Begin Design

Project Description	FY 18 Qtr 1		FY 18 Qtr 2		FY 18 Qtr 3		FY 18 Qtr 4		FY 18 Fcst
	Fcst	Actual	Fcst	Actual	Fcst	Actual	Fcst	Actual	
SR-55, I-405 to I-5	X	✓							
Anaheim Canyon Metrolink Station					X	✓			
Total Forecast/Actual	1	1	0	0	1	1	0	0	2

Complete Design

Project Description	FY 18 Qtr 1		FY 18 Qtr 2		FY 18 Qtr 3		FY 18 Qtr 4		FY 18 Fcst
	Fcst	Actual	Fcst	Actual	Fcst	Actual	Fcst	Actual	
SR-57 (Northbound), Orangethorpe Avenue to Lambert Road Landscape	X	✓							
OC Streetcar	X			✓					
I-5, Oso Parkway to Alicia Parkway			X	✓					
San Juan Capistrano Passing Siding			X						
I-5, SR-73 to Oso Parkway					X				
Total Forecast/Actual	2	1	2	2	1	0	0	0	5

Construction Ready

Project Description	FY 18 Qtr 1		FY 18 Qtr 2		FY 18 Qtr 3		FY 18 Qtr 4		FY 18 Fcst
	Fcst	Actual	Fcst	Actual	Fcst	Actual	Fcst	Actual	
Placentia Metrolink Station and Parking Structure	X								
I-5, SR-55 to SR-57			X	✓					
SR-57 (Northbound), Orangethorpe Avenue to Lambert Road Landscape			X	✓					
San Juan Capistrano Passing Siding			X						
OC Streetcar			X	✓					
I-5, Oso Parkway to Alicia Parkway							X		
Total Forecast/Actual	1	0	4	3	0	0	1	0	6

Advertise Construction

Project Description	FY 18 Qtr 1		FY 18 Qtr 2		FY 18 Qtr 3		FY 18 Qtr 4		FY 18 Fcst
	Fcst	Actual	Fcst	Actual	Fcst	Actual	Fcst	Actual	
SR-57 (Northbound), Katella Avenue to Lincoln Avenue Landscape	X	✓							
OC Streetcar			X	✓					
Placentia Metrolink Station and Parking Structure			X						
I-5, SR-55 to SR-57					X	✓			
SR-57 (Northbound), Orangethorpe Avenue to Lambert Road Landscape					X	✓			
San Juan Capistrano Passing Siding					X				
Total Forecast/Actual	1	1	2	1	3	2	0	0	6

Capital Programs Division

Fiscal Year 2017-18 Performance Metrics Through March 2018

Award Contract

Project Description	FY 18 Qtr 1		FY 18 Qtr 2		FY 18 Qtr 3		FY 18 Qtr 4		FY 18 Fcst
	Fcst	Actual	Fcst	Actual	Fcst	Actual	Fcst	Actual	
SR-57 (Northbound), Katella Avenue to Lincoln Avenue Landscape		✓	X						
SR-57 (Northbound), Orangethorpe Avenue to Lambert Road Landscape					X	✓			
Placentia Metrolink Station and Parking Structure					X				
I-5, SR-55 to SR-57							X		
OC Streetcar							X		
Total Forecast/Actual	0	1	1	0	2	1	2	0	5

Complete Construction

Project Description	FY 18 Qtr 1		FY 18 Qtr 2		FY 18 Qtr 3		FY 18 Qtr 4		FY 18 Fcst
	Fcst	Actual	Fcst	Actual	Fcst	Actual	Fcst	Actual	
I-5, Vista Hermosa to Pacific Coast Highway	X	✓							
Laguna Niguel/Mission Viejo Station ADA Ramps		✓	X						
I-405/SR-22/I-605 HOV Connector Landscape					X	✓			
State College Boulevard Railroad Grade Separation (Fullerton)					X	✓			
I-5, Pico to Vista Hermosa							X		
I-5, Pacific Coast Highway to San Juan Creek Road							X		
SR-91 (Westbound), I-5 to SR-57 Landscape				✓			X		
Total Forecast/Actual	1	2	1	1	2	2	3	0	7

Totals	7	7	11	8	10	6	6	0	34
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Begin Environmental: The date work on the environmental clearance, project report, or preliminary engineering phase begins.

Complete Environmental: The date environmental clearance and project approval is achieved.

Begin Design: The date final design work begins or the date when a design-build contract begins.

Complete Design: The date final design work is 100 percent complete and approved.

Construction Ready: The date contract bid documents are ready for advertisement, right-of-way certified, all agreements executed, and contract constraints are cleared.

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I-405 - San Diego Freeway (Interstate 405)

SR-241 - Foothill/Eastern Transportation Corridor (State Route 241)

ADA - Americans with Disability Act

HOV - high-occupancy vehicle

X = milestone forecast in quarter

✓ = milestone accomplished in quarter



May 14, 2018

To: Members of the Board of Directors

From: Darrell E. Johnson, Chief Executive Officer

Subject: Orange County Transportation Authority Fiscal Year 2018-19 Budget Workshop

Overview

The Orange County Transportation Authority is developing the fiscal year 2018-19 budget, which identifies available revenues and the costs associated with providing transportation services and programs for Orange County. The proposed budget will be reviewed in detail in a two-hour informal workshop following the May 14, 2018, Orange County Transportation Authority Board of Directors' meeting.

Recommendation

Review the fiscal year 2018-19 proposed budget in a workshop setting following the regularly scheduled Orange County Transportation Authority Board of Directors' meeting on May 14, 2018.

Discussion

The preparation of the Orange County Transportation Authority's (OCTA) annual budget began in December 2017 with the development of initial revenue projections, a service plan, and program goals and objectives for the upcoming fiscal year (FY). The service plan and program goals and objectives were developed in accordance with those of the Board of Directors (Board) and Chief Executive Officer (CEO).

Each division developed and submitted its budget requests in January, which were subject to successive internal reviews. The proposed budget was reviewed by a CEO-appointed internal budget review committee, consisting of the Deputy CEO, Executive Director of Finance and Administration, and Executive Director of Human Resources and Organizational Development, to ensure a balanced and fiscally responsible budget is delivered consistent with the Board's goals, CEO's goals, OCTA Strategic Plan, Comprehensive Business Plan, and the Next 10 Plan.

The development of the FY 2018-19 proposed budget was based on a series of programmatic assumptions that were presented to the Finance and Administration Committee on February 28, 2018. The presentation covered the guiding principles and assumptions used to develop the budget for OCTA's major programs including: Measure M2 (M2), bus operations, rail, Motorist Services, and the 91 Express Lanes.

In FY 2018-19, the sales tax growth rate for the M2 Program is forecasted to be 3.7 percent, and the growth rate for the ¼ cent Local Transportation Fund sales tax is forecasted to be 3.1 percent, based on the Board-approved sales tax methodology.

The FY 2018-19 proposed budget includes \$27.5 million of Senate Bill 1 funding. This includes \$6.8 million for streets and roads, \$1.5 million for freeway service patrol, and \$19.2 million for the bus program, with approximately \$13.5 million eligible for transit capital and/or operations purposes, and approximately \$5.7 million annually for capital purposes.

The FY 2018-19 proposed budget represents a balanced plan of sources and uses of funds. Sources of funds include new revenues received within the year, as well as planned uses of prior year designations. Planned uses of prior year designations are funds set aside (designated) in prior FYs to be utilized in the current FY. The uses of these funds are planned and do not represent a utilization of funds as a result of deficit spending. Expenditures include current year expenditures, as well as funds designated in the current FY to be used in a future FY.

The combination of estimated revenues and planned use of reserves produces available funding of \$1,299.1 million, while proposed expenditures and designations yield a total use of funds of \$1,299.1 million. On a year-over-year comparison to the approved FY 2017-18 budget, the FY 2018-19 proposed budget is less than 1 percent, or \$9.3 million, higher than the FY 2017-18 budget. The increase is driven by capital expenditures anticipated for freeway and transit projects funded by M2. Capital expenditures for the Transit Extensions to Metrolink Program are larger primarily due to anticipated expenditures for the OC Streetcar Project (\$184.7M). Capital expenditures for the Freeways Program are larger primarily due to anticipated expenditures for the I-405 Improvement Project (\$201.7M).

Service levels are proposed to remain the same as the current FY for fixed-route service at 1.6 million revenue hours. The proposed budget continues to include fixed-route service at 60 percent directly-operated and 40 percent of the service delivered by OCTA's contracted service provider. Efforts to increase ridership

will continue with OC Bus 360. In addition, two new services will begin next FY, which include the OCFlex pilot service and the BRAVO 529 Express Service. No fare increase is assumed in the budget.

Staff will be presenting the FY 2018-19 budget in detail in an informal workshop setting on May 14, 2018. The presentation will include a discussion of program goals and objectives, proposed staffing plan, and the sources and uses of funds planned to meet specified program goals. The presentation will be solely informational for the Board. No public hearing will be held at the meeting, nor will the Board be asked to vote on the budget at the meeting. A public hearing for the budget is scheduled to occur at the June 11, 2018, Board meeting, after which staff anticipates seeking Board approval of the budget.

Summary

Staff will conduct a budget workshop for the OCTA Board immediately following the Directors' Reports scheduled at the May 14, 2018, Board meeting. The presentation will be solely informational for the Board. No public hearing will be held at the meeting, nor will the Board be asked to vote on the budget at the meeting. A public hearing for the budget is scheduled to occur at the June 11, 2018, Board meeting, after which staff anticipates seeking Board approval of the budget.

Attachment

A. Fiscal Year 2018-19 Budget Workshop

Prepared by:



Victor Velasquez
Manager,
Financial Planning and Analysis
(714) 560-5592

Approved by:



Andrew Oftelie
Executive Director,
Finance and Administration
(714) 560-5649



Fiscal Year 2018-19 Budget Workshop



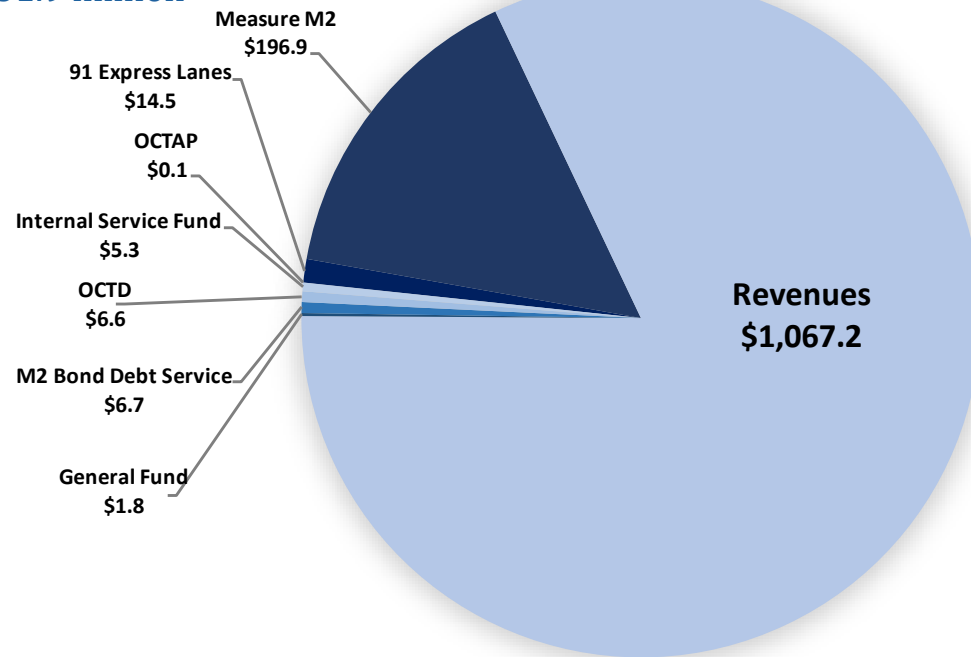
Budget Themes

- Budget delivers on Board initiatives and CEO goals
- Budget is balanced
- Implementation of Next 10 Plan
 - I-405 project moving forward with utilization of M2 and TIFIA funds
 - OC Streetcar project advancing in anticipation of federal funds
- Continuation of OC Bus 360°
 - OC Flex pilot launch and additional Bravo! service
 - No fare increase
 - SB 1 funds sustaining service levels
- OCTAP sunsets

Budget Overview

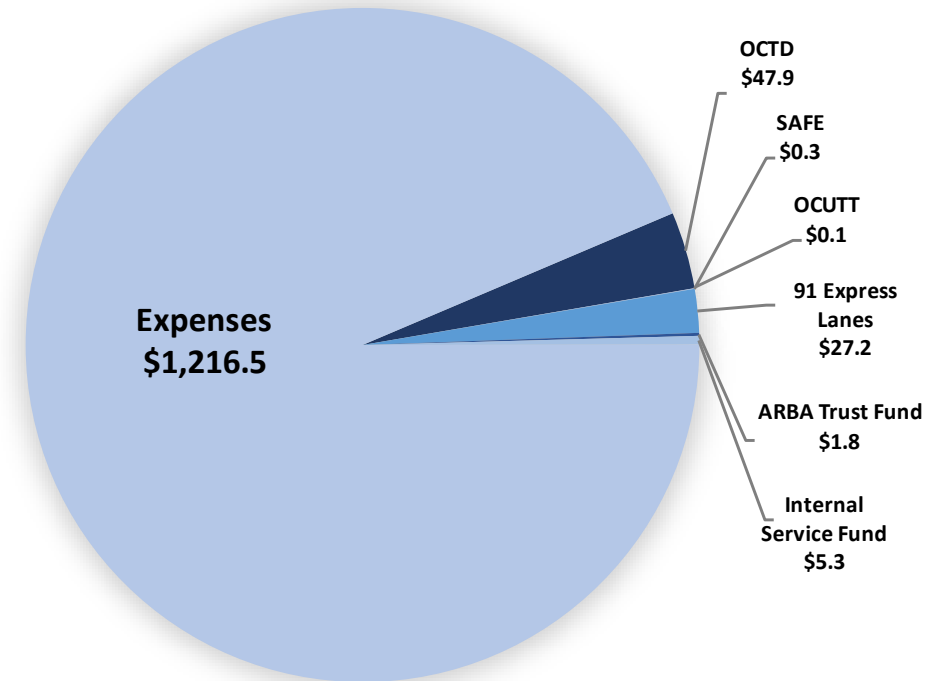
Source of Funds
\$1,299.1 million

Use of Prior Year
Designations
\$231.9 million



Use of Funds
\$1,299.1 million

Designations
\$82.6 million



Budget Sources & Uses

In Millions Sources	FY 2017-18 Approved Budget	FY 2018-19 Proposed Budget	Change \$	Change %
Revenues	\$ 1,057.2	\$ 1,067.2	\$ 10.0	0.9%
Use of Prior Year Designations	232.6	231.9	(0.7)	-0.3%
Total Revenue / Use of Designations	\$ 1,289.8	\$ 1,299.1	\$ 9.3	0.7%
Uses				
Salaries and Benefits	\$ 158.8	\$ 163.6	\$ 4.8	3.0%
LOSSAN Salaries and Benefits	1.4	2.4	1.0	71.4%
Services and Supplies	294.7	325.5	30.8	10.5%
Contributions to Other Agencies	185.9	189.1	3.2	1.7%
Interest/Debt Service	34.6	56.6	22.0	63.6%
Capital	471.7	479.3	7.6	1.6%
Designations	142.7	82.6	(60.1)	-42.1%
Total Expenditures / Designations	\$ 1,289.8	\$ 1,299.1	\$ 9.3	0.7%

Revenues

In Millions Sources	FY 2017-18 Approved Budget	FY 2018-19 Proposed Budget	Change \$	Change %
M2 Local Transportation Authority 1/2 Cent Sales Tax	\$317.4	\$332.2	\$14.8	4.7%
Federal Grants	338.1	306.2	(31.9)	-9.4%
Local Transportation Fund 1/4 Cent Sales Tax	162.2	170.9	8.7	5.4%
91 Express Lanes (Toll and Non-Toll)	46.7	57.7	11.0	23.6%
Passenger Fares	47.9	48.1	0.2	0.4%
State Grants	67.2	48.8	(18.4)	-27.4%
Interest	21.6	25.4	3.8	17.6%
Senate Bill 1 (Transit)	12.9	19.2	6.3	49.0%
State Transit Assistance	16.0	16.5	0.5	3.1%
Property Tax	15.2	16.1	0.9	5.9%
Other	8.0	13.8	5.8	72.5%
Senate Bill 1 (Streets, Roads, and Freeway Service Patrol)	-	8.3	8.3	100.0%
Advertising	4.0	4.0	-	0.0%
Subtotal Sources	\$ 1,057.2	\$ 1,067.2	\$ 10.0	0.9%
Use of Prior Year Designations	232.6	231.9	(0.7)	-0.3%
Total Revenues / Use of Designations	\$ 1,289.8	\$ 1,299.1	\$ 9.3	0.7%

Planned Use of Prior Year Designations

In Millions Fund	Program	FY 2017-18 Approved Budget	FY 2018-19 Proposed Budget
Local Transportation Authority Measure M2	<i>Freeways, Streets & Roads, Transit, and Rail</i>	\$ 163.4	\$ 165.0
Commuter Rail	<i>Rail</i>	31.4	31.9
91 Express Lanes	<i>Rail and Freeways</i>	20.4	14.5
Measure M2 Debt Service	<i>M2 Debt Service</i>	6.7	6.7
Orange County Transit District	<i>Transit</i>	4.3	6.6
Internal Service Fund - Public Liability and Property Damage	<i>PL & PD Claim Expense</i>	4.1	5.3
General Fund	<i>Freeways</i>	1.3	1.8
Orange County Taxi Administration Program	<i>Motorist Services</i>	0.2	0.1
Service Authority for Freeway Emergencies	<i>Motorist Services</i>	0.9	-
Total Use of Prior Year Designations		\$ 232.6	\$ 231.9

Expenditures

In Millions Uses	FY 2017-18 Approved Budget	FY 2018-19 Proposed Budget	Change \$	Change %
Salaries and Benefits	\$ 160.2	\$ 166.0	\$ 5.8	3.6%
OCTA Salaries and Benefits	158.8	163.6	4.8	3.0%
LOSSAN Salaries and Benefits	1.4	2.4	1.0	71.4%
Services and Supplies	\$ 294.7	\$ 325.5	\$ 30.8	10.5%
Professional and Outside Services	159.0	184.0	25.0	15.7%
Contract Transportation Services	97.1	100.8	3.7	3.8%
Maintenance Parts & Fuel	16.8	15.3	(1.5)	-8.9%
General & Administration	13.2	14.5	1.3	9.8%
Insurance Claims/Premiums	8.6	10.9	2.3	26.7%
Contributions to Other Agencies	\$ 185.9	\$ 189.1	\$ 3.2	1.7%
Contributions to Other Agencies	80.1	72.4	(7.7)	-9.6%
Measure M2 Local Fair Share	53.8	55.6	1.8	3.3%
Measure M2 Regional Capacity	52.0	61.1	9.1	17.5%
Interest / Debt Service	\$ 34.6	\$ 56.6	\$ 22.0	63.6%
Long-Term Debt Principal Payments	7.8	11.3	3.5	44.9%
Interest Expense	26.8	45.3	18.5	69.0%
Capital	\$ 471.7	\$ 479.3	\$ 7.6	1.6%
Subtotal Uses	\$ 1,147.1	\$ 1,216.5	\$ 69.4	6.1%
Designations	142.7	82.6	(60.1)	-42.1%
Total Expenditures / Designations	\$ 1,289.8	\$ 1,299.1	\$ 9.3	0.7%

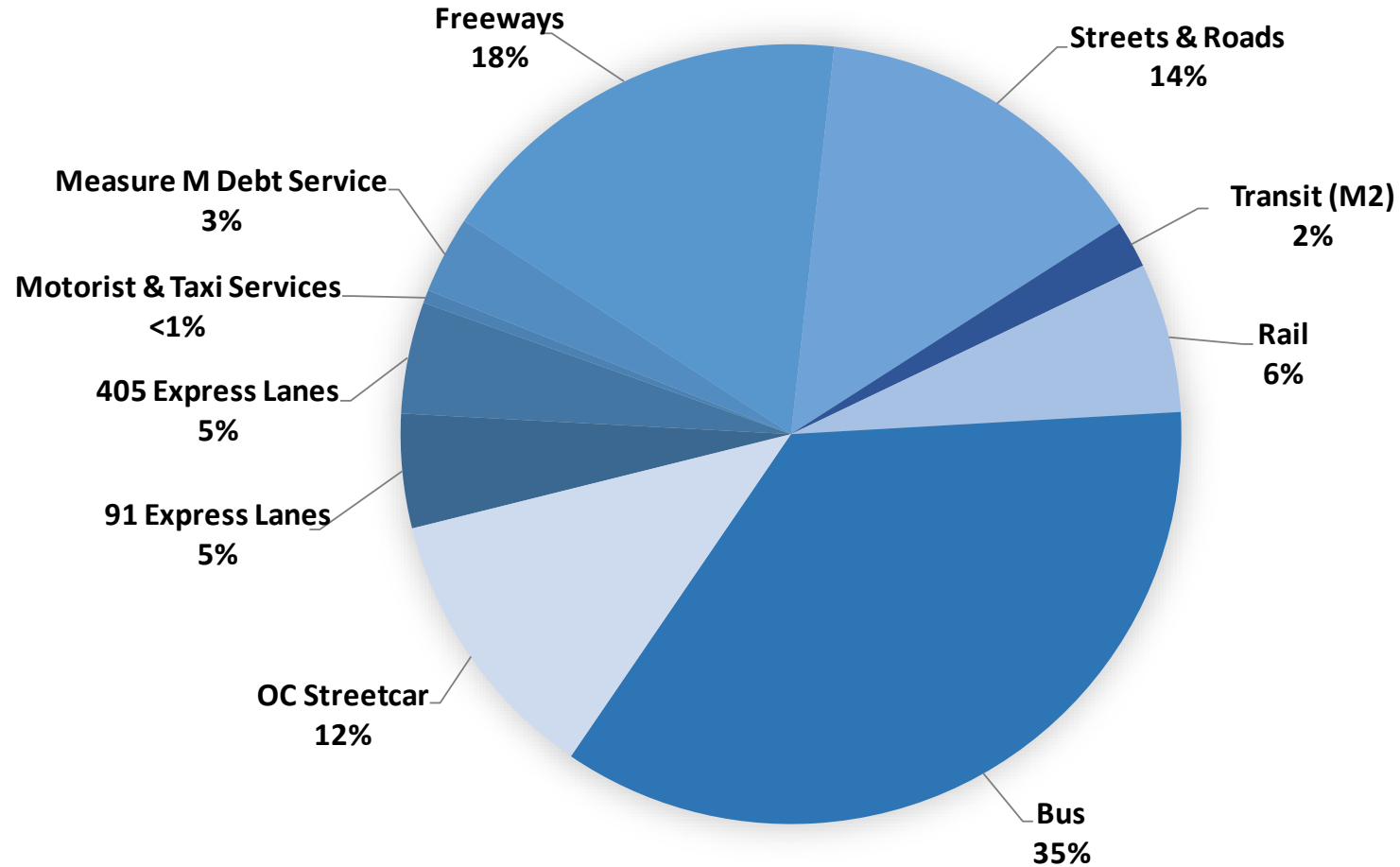
Key Expenditures by Fund

Measure M2	I-405, San Diego Freeway from I-605 to SR-55 (Project K)	\$ 127,835,200	ROW support & capital, utilities, PMC services and support
	I-5, Santa Ana Freeway (Project C)	\$ 67,577,642	ROW capital, construction, construction management services
	Regional Capacity Program (Project O)	\$ 61,438,750	Competitive funding for local agency streets and roads projects
	Local Fair Share (Project Q)	\$ 55,774,482	18% of M2 net revenues to local agencies for streets and roads
	Regional Traffic Signal Synchronization (Project P)	\$ 28,216,530	Signal synchronization projects to be implemented along OC Corridors
	Clean-up Highway/Street Runoff (Project X)	\$ 13,887,100	Payments for M2 environmental cleanup program projects
	OC Bridges (Project O)	\$ 11,275,000	Grade separation agreements and ROW acquisition
	Community Based Transit Circulator (Project V)	\$ 8,353,328	M2 Project V payments and community transit circulators
	Senior Mobility and Non-Emergency Medical Programs (Project U)	\$ 6,451,929	Senior Non-Emergency Medical Transportation and SMP for local agencies
	Rail Capital Projects (Project R)	\$ 5,371,000	M2 rail construction, project management support, ROW and design services
	Freeway Environmental Mitigation	\$ 4,863,150	M2 mitigation program endowment, property acquisition and restoration projects
	Orange Freeway (SR-57) Improvements (Project G)	\$ 3,852,000	Landscape construction
	LTA - CDTFA	\$ 3,614,112	SBOE fees for the collection and distribution of the M2 local sales tax
	Costa Mesa Freeway (SR-55) Improvements (Project F)	\$ 3,012,000	Design services, PAED and public outreach
	I-5, SR-55 to SR-57 (Project A)	\$ 2,285,500	Construction management and design services
405 Express Lanes	405 Express Lanes	\$ 71,914,440	ROW capital & utilities, TIFIA loan interest and project management support
OC Streetcar	OC Streetcar	\$ 182,759,309	OC Streetcar construction, ROW acquisition and utility relocation
91 Express Lanes	91 Express Lanes Operating Expense	\$ 23,534,029	Contract to operate toll road and administration of the 91 Express Lanes
	91 Express Lanes Capital Expense	\$ 7,570,000	Customer Service Center improvements and transponders
Measure M2 Debt	Taxable/Tax-Exempt Bonds	\$ 44,364,570	Interest and principal payment for Measure M2 bonds
Commuter Rail	Placentia Metrolink Rail Station	\$ 25,947,500	Construction, construction management and design services
	Laguna Niguel to San Juan Capistrano Passing Siding	\$ 24,533,000	Construction, construction management services and SCRRA COOP construction support
	SCRRA Budget	\$ 23,628,239	Metrolink operating subsidy
	Orange Transportation Center Parking Expansion	\$ 7,573,000	Construction and construction management services
	Rail Station Improvements	\$ 6,579,500	Rail station construction, construction management and ROW services
	OCTA Rail Support Services	\$ 3,860,422	Rail ROW maintenance services and outreach
	Slope Stabilization	\$ 2,615,000	Construction, construction management services and SCRRA cooperative agreement
	Rail Transit Police Services	\$ 2,222,500	Orange County Sheriff's contract for railroad transit police services

Key Expenditures by Fund (Continued)

OCTD	Paratransit Services	\$ 45,837,374	ADA ACCESS service and ADA supplemental taxi services
	Contracted Fixed Route Services	\$ 38,313,669	Contracted fixed route variable and fixed costs
	Fuels	\$ 9,427,820	CNG, gasoline and CNG electricity costs
	Bus Base and Transit Center Projects	\$ 8,605,645	Building updates at bus bases and transit centers
	Transit Security Sheriff Services	\$ 6,173,784	Orange County sheriffs transit police services
	Contracted Special Agency Services	\$ 5,063,081	OCTA subsidy of transportation services provided by agencies for senior and disabled passengers
	New Freedoms & Job Access and Reverse Commute Programs	\$ 3,404,627	Transportation services for persons of low income, seniors, and persons with disabilities
	Maintenance Parts	\$ 3,223,067	Maintenance parts for buses
	Vanpool Program	\$ 2,893,292	OCTA Vanpool program subsidy and outreach for vanpools
	Transit Technology and Communications	\$ 2,436,816	Administration of the OBVSS and Integrated transportation management system services
	CNG Equipment Operations & Maintenance	\$ 2,268,389	Operations and maintenance of CNG equipment at all bases
	LTF - CDTFA	\$ 2,192,762	SBOE fees for the collection and distribution of the local sales tax
	Utilities	\$ 2,188,966	Gas, electric, water, waste management for all locations
	Tires	\$ 2,142,588	Tire replacement and leasing for OCTA owned fleet
	Transit Security & Operations Center	\$ 1,701,074	Transit security & operations center design
	OCTA Vocational Visions Transportation Program	\$ 1,396,220	Program to provide persons with disabilities access to employment programs
	LTF Article 3 - SCAG	\$ 1,265,055	LTF Article 3 - SCAG
	OC Flex Pilot Service	\$ 1,224,094	Pilot program for on-demand services
	Janitorial Services	\$ 1,148,972	Janitorial services for all operated facilities
	LTF Article 4 - Laguna Beach Transit	\$ 1,142,777	LTF Article 4 - Laguna Beach Transit
General Fund	Customer Information Center	\$ 1,060,880	Operation of a call center to provide information on OCTA's bus program
	Technical Infrastructure and Business Systems Support	\$ 11,962,658	Software and hardware acquisition, maintenance and licensing
	Office Space Leases	\$ 3,414,642	Lease agreement with PMRG for the Orange building locations
	Transportation Planning and Studies	\$ 2,220,000	Transit corridor and intercounty studies
	Local Agency Projects and Pedestrian Facilities	\$ 1,667,481	Externally funded OCTA awards to local agencies
	Legal Fees	\$ 1,200,000	General counsel services
	iShuttle	\$ 1,182,404	Contribution to the Irvine iShuttle as part of the repayment of Proposition 116 funds
Motorist Services	Motorist Services	\$ 7,157,382	FSP tow service, CHP, 511 program, call box maintenance and OCTAP
ARBA	ARBA Payments	\$ 1,044,478	ARBA benefit payment
Internal Service Funds	Workers' Compensation	\$ 6,764,878	Claims expense and liability insurance related to workers' compensation
	PL & PD Legal, Insurance and Claims Expense	\$ 5,149,688	Legal fees, liability & property insurance and broker services
		\$ 1,015,783,794	These items represent 84% of the Proposed Budget Expenditures

Total Budget by Program



Freeway Summary

In Millions	FY 2018-19 Proposed Budget
Freeways	
I-405, San Diego Freeway from I-605 to SR-55 (Project K)	\$ 127.8
I-405 Express Lanes	73.9
I-5, Santa Ana Freeway (Project C)	67.6
Freeway Environmental Mitigation	4.9
Orange Freeway (SR-57) Improvements (Project G)	3.9
Costa Mesa Freeway (SR-55) Improvements (Project F)	3.0
I-5, SR-55 to SR-57 (Project A)	2.3
SR-91, Riverside Freeway Improvements from SR-57 to SR-55 (Project I)	0.6
I-5, I-405 to SR-55 (Project B)	0.6
SR-22 Design Build (Measure M1)	0.4
I-405, San Diego Freeway from SR-55 to I-5 (Project L)	0.3
SR-91, Riverside Freeway Improvements from I-5 to SR-57 (Project H)	0.3
San Gabriel (I-605) Freeway Improvements (Project M)	0.1
SR-73/I-405 (Connector B) (Measure M1)	0.1
I-5, Santa Ana Freeway Interchange Improvements (Project D)	0.1
Total	\$ 285.9

Streets & Roads Summary

In Millions	FY 2018-19 Proposed Budget	
Streets & Roads		
Regional Capacity Program (Project O)	\$	61.4
Local Fair Share (Project Q)		55.8
Regional Traffic Signal Synchronization (Project P)		28.2
Clean-up Highway/Street Runoff (Project X)		13.9
O.C. Bridges (Project O)		11.3
Bristol Street Widening Project		0.1
Total	\$	170.7

Rail Program Summary

- Revenue
 - Operating
 - M2 High Frequency Metrolink Service (Project R)
 - FTA Section 5307
 - Capital
 - FTA Section 5337
- Expenditures
 - Sustain current service levels
 - Orange County Transportation Authority operating subsidy of \$29.4 million
 - Metrolink will directly draw down \$6.0 million in OCTA's FTA 5307 funds
 - Net budgeted operating subsidy of \$23.4 million
- Major capital projects
 - Placentia Metrolink Station
 - Laguna Niguel to San Juan Capistrano Passing Siding
 - Orange Transportation Center

Rail Summary

In Millions		FY 2017-18	FY 2018-19		
Sources		Approved Budget	Proposed Budget	Change \$	Change %
State Assistance	\$	15.3	\$ 10.8	\$ (4.5)	-29.5%
Federal Assistance		29.7	21.4	(8.3)	-28.0%
Reimbursement from Other Agencies		3.5	5.3	1.8	51.0%
Interest Income		2.1	1.8	(0.3)	-16.2%
Other Non-Operating Revenue		0.8	1.2	0.4	51.7%
Proceeds Sale of Capital Asset		3.0	3.5	0.5	16.7%
Transfers In		23.5	25.2	1.7	7.4%
Use of Prior Year Designations		31.4	31.9	0.5	1.7%
Total Revenue / Use of Designations	\$	109.2	\$ 100.9	\$ (8.3)	-7.6%

Uses		FY 2017-18	FY 2018-19		
Rail Capital Projects	\$	76.8	\$ 67.2	\$ (9.6)	-12.5%
SCRRA Budget		22.2	23.4	1.2	5.2%
Rail Operating Expenses		7.1	6.3	(0.8)	-11.0%
Overhead Allocation		3.1	2.8	(0.3)	-9.5%
Transfers Out		-	1.2	1.2	0.0%
Designations		-	-	-	0.0%
Total Expenditures / Designations	\$	109.2	\$ 100.9	\$ (8.3)	-7.6%

Rail Capital Summary

In Millions

Rail Capital Projects

**FY 2018-19
Proposed
Budget**

Placentia Metrolink Rail Station	\$	25.9
Laguna Niguel to San Juan Capistrano Passing Siding		24.5
Orange Transportation Center Parking Expansion		7.6
Rail Station Improvements		6.6
Slope Stabilization		2.6
Total	\$	67.2

OC Streetcar Summary

In Millions	FY 2017-18	FY 2018-19	Change
Sources	Approved Budget	Proposed Budget	\$
Federal Capital Assistance	\$ 194.1	\$ 139.3	\$ (54.8)
Reimbursement from Other Agencies	-	2.7	2.7
Transfers In	45.8	42.7	(3.1)
Use of Prior Year Designations	-	-	-
Total Revenue / Use of Designations	\$ 239.9	\$ 184.7	\$ (55.2)
Uses			
Overhead Allocation	\$ 6.3	\$ 2.1	\$ (4.2)
Professional Services	7.2	8.1	0.9
Contributions to Other Agencies	1.5	1.1	(0.4)
Capital	224.9	173.4	(51.5)
Designations	-	-	-
Total Expenditures / Designations	\$ 239.9	\$ 184.7	\$ (55.2)

405 Express Lanes Summary

In Millions	FY 2017-18		FY 2018-19		Change
Sources	Approved Budget		Proposed Budget		\$
State Assistance	\$	4.1	\$	-	\$ (4.1)
Federal Capital Assistance - TIFIA		9.3		73.9	64.6
Reimbursement from Other Agencies		4.7		-	(4.7)
Use of Prior Year Designations		-		-	-
Total Revenue / Use of Designations	\$	18.2	\$	73.9	\$ 55.8
Uses					
Overhead Allocation	\$	0.5	\$	2.0	\$ 1.5
Professional Services		4.9		10.6	5.7
Interest Expense		0.5		7.2	6.7
Capital		12.3		54.1	41.8
Designations		-		-	-
Total Expenditures / Designations	\$	18.2	\$	73.9	\$ 55.7

91 Express Lanes Summary

In Millions	FY 2017-18	FY 2018-19	Change
Sources	Approved Budget	Proposed Budget	\$
Toll Revenue	\$ 40.1	\$ 50.9	\$ 10.8
Non-Toll Revenue	6.6	6.8	0.2
Reimbursement from Other Agencies	0.9	1.1	0.2
Interest Income	0.9	2.2	1.3
Use of Prior Year Designations	20.4	14.5	(5.9)
Total Revenue / Use of Designations	\$ 68.9	\$ 75.5	\$ 6.6

Uses

Tollroad Management Contract	\$ 7.2	\$ 7.6	\$ 0.4
Overhead Allocation	2.8	2.8	(0.0)
Pavement Rehabilitation and Other Technical Support	7.2	9.4	2.2
Insurance Claims/Premiums	0.8	0.8	-
Leases & Other Office Expenses	0.7	0.8	0.1
Interest Expense	5.3	5.0	(0.3)
Operating Transfers Out	14.3	14.5	0.2
Capital	11.5	7.6	(3.9)
Designations	19.2	27.2	8.0
Total Expenditures / Designations	\$ 68.9	\$ 75.5	\$ 6.6

Motorist Services Program Summary

- Service Authority for Freeway Emergency
 - Revenue
 - Department of Motor Vehicles fees consistent with prior year at \$3 million
 - Freeway Service Patrol revenues consistent with prior year at \$2.5 million
 - SB1 revenue in the amount of \$1.5 million
 - Expenditures
 - Freeway Service Patrol
 - Approximately 84 thousand scheduled service hours
 - SB 1 service expansion set to begin in FY 2018-19
 - Call box and 511 Programs
- Orange County Taxi Administration Program
 - Revenue
 - Permit fees increased by 4 percent
 - External contributions necessary to balance the budget
 - Program ending January 1, 2019
 - Expenditures
 - Expenses outpacing revenues
 - Cities to contribute towards final six months of expenditures to backfill revenue shortfall

Orange County Taxi Administration Program

In Thousands		FY 2017-18	FY 2018-19		
Sources		Approved	Proposed	Change	
		Budget	Budget	\$	%
License Fees	\$	368.2	\$ 40.3	\$ (327.9)	-89.0%
Interest Income		3.6	5.5	1.9	53.5%
Other Non-Operating Revenue		149.9	148.9	(1.0)	-0.6%
Use of Prior Year Designations		168.7	87.5	(81.2)	-48.1%
Total Revenue / Use of Designations	\$	690.4	\$ 282.2	\$ (408.2)	-59.1%
Uses					
Salaries and Benefits	\$	405.9	\$ 144.5	\$ (261.4)	-64.4%
Overhead Allocation		251.3	125.7	(125.6)	-50.0%
Legal, Background Checks & Office Expenses		33.2	12.1	(21.1)	-63.5%
Designations		-	-	-	0.0%
Total Expenditures / Designations	\$	690.4	\$ 282.2	\$ (408.2)	-59.1%

Bus Program Assumptions

- OC Bus 360° Plan is ongoing
 - Community Based Transit Circulator (Project V)
 - OCFlex Pilot service anticipated to begin
 - Bravo! 529 service anticipated to begin
- No fare increase in FY 2018-19
- Fixed-route ridership at 38.2 million for FY 2018-19
- Paratransit trips estimated to increase by approximately 2.8 percent

Bus Service Levels

- Fixed-route service levels

- Base revenue hours

- FY 2017-18 budget – 1,603,817
 - FY 2018-19 budget – 1,602,272

- New services

- Bravo! 529 service revenue hours

- FY 2018-19 budget – 8,133 consumed

- OCFlex Pilot service revenue hours

- FY 2018-19 budget – 22,992

- ACCESS service

- Primary service revenue hours

- FY 2017-18 budget – 527,451
 - FY 2017-18 estimate – 522,888
 - FY 2018-19 budget – 532,070

- Supplemental service trips

- FY 2017-18 budget – 333,295
 - FY 2017-18 estimate – 307,917
 - FY 2018-19 budget – 314,975

- Same day taxi trips

- FY 2017-18 budget – 147,697
 - FY 2017-18 estimate – 161,779
 - FY 2018-19 budget – 202,257

Cost Summary

FY 2018-19 Proposed Budget

	Performance Indicators	Directly Operated Fixed Route	Contracted Fixed Route	ACCESS	ADA Taxi Service	Same Day Taxi Service	Special Agency Services	System Total
Service Provided	Vehicle Hours (VH)	1,072,468	698,439	628,792				2,399,699
	Vehicle Miles (VM)	13,561,433	9,630,284	9,375,100				32,566,817
	Revenue Hours (RVH)	975,365	649,899	532,070				2,157,334
	Revenue Miles (RVM)	11,357,631	7,736,025	7,764,951				26,858,607
Passenger Usage	Boardings	25,825,519	12,461,381	965,492	314,975	202,257	281,800	40,051,424
	Boardings per VH	24.08	17.65	1.54				16.69
	Boardings per VM	1.90	1.28	0.10				1.23
	Boardings per RVH	26.48	19.66	1.81				18.57
	Boardings per RVM	2.27	1.59	0.12				1.49
Operating Costs	Costs	\$140,256,097	\$70,089,917	\$51,409,519	\$16,668,538	\$2,533,167	\$7,371,181	\$288,328,419
	Cost per VH	\$130.78	\$100.35	\$81.76				\$120.15
	Cost per VM	\$10.34	\$7.28	\$5.48				\$8.85
	Cost per RVH	\$143.80	\$111.80	\$96.62				\$133.65
	Cost per RVM	\$12.35	\$9.06	\$6.62				\$10.74
	Cost per Boarding	\$5.43	\$5.69	\$53.25	\$52.92	\$12.52	\$26.16	\$7.20
Fare Revenues	Revenue	\$28,125,022	\$13,219,492	\$5,457,520	\$1,219,906			\$48,021,939
	Revenue per VH	\$26.22	\$18.73	\$9.87				\$20.01
	Revenue per VM	\$2.07	\$1.36	\$0.66				\$1.47
	Revenue per RVH	\$28.84	\$20.87	\$11.67				\$22.26
	Revenue per RVM	\$2.48	\$1.69	\$0.80				\$1.79
	Revenue per Boarding	\$1.09	\$1.06	\$6.43				\$1.20
Farebox Recovery Ratio		20.05%	18.67%	10.62%				16.66%
Farebox Recovery Ratio (Per Senate Bill 508: Revisions to the Transportation Development Act)								23.62%
* All paratransit boardings are reported in terms of trips. ** OC Flex service included under Contracted Fixed Route. This includes 23k RVH and 135k expected boardings.								

OCTD Sources & Uses

In Millions Sources	FY 2017-18 Approved Budget	FY 2018-19 Proposed Budget	Change \$	Change %
LTF	\$ 154.4	\$ 162.4	\$ 8.0	5.2%
Federal Operating Assistance Grants	56.1	53.7	(2.4)	-4.3%
Passenger Fares	47.9	48.0	0.1	0.3%
Senate Bill 1	12.9	19.1	6.2	48.2%
STAF	16.0	16.5	0.5	3.1%
Property Taxes	15.2	16.1	0.9	5.9%
Grant Revenue (One Time Swap)	14.5	-	(14.5)	-100.0%
Other Non-Operating Revenue	6.1	11.4	5.3	86.4%
Interest Income	4.9	5.9	1.0	19.5%
Federal Capital Assistance Grants	4.6	5.6	1.0	21.6%
State Assistance	0.2	4.8	4.6	1916.7%
Reimbursements from Other Agencies	3.4	3.1	(0.3)	-8.4%
Vanpool Revenue	2.8	2.9	0.1	2.6%
Measure M2	6.0	2.9	(3.1)	-52.2%
Commuter Rail	-	1.2	1.2	0.0%
Use of Prior Year Designations	4.3	6.6	2.3	52.9%
Total Revenue / Use of Designations	\$ 349.4	\$ 360.1	\$ 10.7	3.1%

Uses

Salary and Benefits	\$ 110.3	\$ 113.2	\$ 2.9	2.6%
Operating Services & Supplies	133.2	136.6	3.4	2.6%
Overhead Allocation	30.8	39.2	8.4	27.4%
Bus Capital Projects	8.6	14.3	5.7	66.2%
Special Programs	4.0	6.3	2.3	55.9%
Rail, M2 Transit and Streets & Roads Programs	3.1	2.6	(0.5)	-14.8%
Designations	59.4	47.9	(11.5)	-19.3%
Total Expenditures / Designations	\$ 349.4	\$ 360.1	\$ 10.7	3.1%

Staffing Levels

OCTA Staffing	FY 2017-18 FTE	FY 2018-19 FTE	FY 2018-19 New Hires*	FY 2018-19 Reductions	Difference
Administrative	486.5	493.0	8.0	(1.5)	6.5
Union	851.0	847.0	-	(4.0)	(4.0)
Coach Operators	643.0	639.0	-	(4.0)	(4.0)
Maintenance	171.0	171.0	-	-	-
Facility Technicians and Parts Clerks	37.0	37.0	-	-	-
OCTA Positions	1,337.5	1,340.0	8.0	(5.5)	2.5
LOSSAN	9.0	13.0	4.0	-	4.0
Total Authority Positions	1,346.5	1,353.0	12.0	(5.5)	6.5

*Establishing proper structure for Express Lanes Program

Employee Compensation Assumptions

- Employees Subject to Collective Bargaining Agreement
 - Coach operators
 - Collective bargaining agreement expired April 30, 2017
 - Maintenance
 - Collective bargaining agreement effective through September 30, 2019
 - Facilities technicians and parts clerks
 - Collective bargaining agreement effective through May 31, 2020
- Administrative Employees
 - Continue pay-for-performance program
 - Employees governed by the Personnel and Salary Resolution, which is approved annually as part of the budget

Personnel and Salary Resolution

- Incorporates legal recommendations
- Minor clarifications
- Adjust the maximum of the salary grade range by 2%
 - Minimum and mid salary grade ranges adjusted accordingly
 - No automatic increases for any employees
- Recommendation to add salary grade W
 - Created to address market issues with the Program Manager position in the Capital Programs Division
 - Adjusted salary grade W to maintain appropriate differential between salary grades U and W

Pay for Performance

- Recommendation of 4% for merit pool
 - Base building
- Recommendation of 3% for special performance award pool
 - Non-base building

Next Steps

- Committee meetings and One-on-One meetings with Board Members May 14-June 8
- Public Hearing Preview – F&A Committee May 23
- Public Hearing – Board (public hearing and approval) June 11
- Back-up Public Hearing – Board (public hearing and approval) June 25