

**RESOLUTION NO. 2023-001**

**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. 359-084-21.**

**WHEREAS**, the Orange County Transportation Authority (the "Authority") is undertaking the State Route 91 Improvement Project Between State Route 57 and State Route 55 (the "Project"); and

**WHEREAS**, the Project is intended to increase freeway capacity, improve traffic and interchange operations, and enhance road safety through SR-91 freeway mainline widening, primarily in the eastbound direction, and modifications to various interchanges, connectors, ramps, and intersections; 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**, portions of the real property located southerly of Addington Street (generally between Bluerock Street and Redrock Street) in the City of Anaheim, California (Assessor Parcel No. 359-084-21) ("Subject Property"), are required for the Project. The specific portions of the Subject Property required for the Project are a partial fee interest as described and depicted in Exhibit "A" attached hereto (Parcel 104156-1) and a temporary construction easement as described and depicted in Exhibit "B" attached hereto (Parcel 104156-2) (collectively, "Property Interests"); and

**WHEREAS**, if such access currently exists, 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 19, 2021, 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 Anaheim 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 January 23, 2023, at 9:00 a.m. 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 a reasonable opportunity to be heard; and

**WHEREAS**, said hearing has been held by the Authority's Board of Directors; 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 Property Interests 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 increase freeway capacity, improve traffic and interchange operations, and enhance road safety; 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 the Property Interests are already devoted to a public use, the use proposed by this Project is a more necessary public use than the use to which the Property Interests, or any portion thereof, are 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 Property Interests, or any portion thereof, are already devoted.

Section 8. Acquisition of Substitute Property. To the extent portions of the real property to be acquired for the Project are currently devoted to or held for some public use, the Authority intends to acquire substitute property pursuant to California Code of Civil Procedure sections 1240.320 and 1240.330. The requirements of said Code sections have been satisfied and the acquisition of said substitute property is necessary for the Project. The substitute property may be conveyed by the Authority to the owner(s) of the necessary property.

Section 9. Authority to Exercise Eminent Domain. The Authority is hereby authorized and empowered to acquire the Property Interests, including the improvements thereon, if any, by eminent domain for the proposed Project.

Section 10. 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 11. Effective Date. This Resolution of Necessity shall take effect upon adoption.

PASSED, APPROVED, and ADOPTED on this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

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GENE HERNANDEZ, CHAIRMAN  
ORANGE COUNTY  
TRANSPORTATION AUTHORITY

APPROVED AS TO FORM:

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JAMES M. DONICH  
GENERAL COUNSEL

ATTEST:

I, Andrea West, Interim Clerk of the Board of Directors of the Orange County Transportation Authority, do hereby certify that the foregoing Resolution No. 2023-001, by the following votes:

AYES:

NOES:

ABSENT:

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Andrea West  
INTERIM CLERK OF THE BOARD

**EXHIBIT "A"**  
**LEGAL DESCRIPTION**

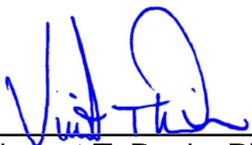
**Parcel 104156-1: FEE**

That portion of that certain strip of land, 46 feet wide, in the City of Anaheim, County of Orange, State of California, as described in a deed to Luther E. Secrest and Charmella C. Secrest, Trustees of the Brandon Chase Trust dated May 3, 2004, recorded February 14, 2012 as Document No. 2012000082453 of Official Records, in the office of the County Recorder of said County, lying easterly and southeasterly of the following described line:

**COMMENCING** at a point on the northwesterly line of Parcel 2 (45515-2) as described in a deed to the State of California recorded June 12, 1970 in Book 9314, Pages 638 through 646 of said Official Records, said point being the southwesterly terminus of said northwesterly line, having a bearing of North 71°54'32" East and a length of 174.10 feet; thence along said northwesterly line, North 72°10'29" East 143.97 feet to the **POINT OF BEGINNING**; thence leaving said northwesterly line, North 64°06'52" East 73.05 feet the northerly line of said certain strip of land.

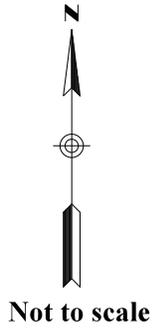
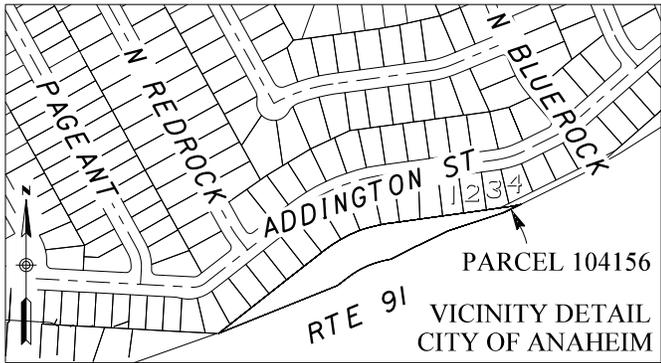
This conveyance is made for the purpose of a freeway and the GRANTOR hereby releases and relinquishes to the GRANTEE any and all abutter's rights including access rights, appurtenant to GRANTOR's remaining property, in and to the freeway.

This real property description has been prepared by me, or under my direction, in conformance with the Professional Land Surveyors' Act.

Signature:   
Vincent T. Davis, PLS

Date: 12 Oct 2021





*Vincent T. Davis*  
**VINCENT T. DAVIS**

**09 Jan 2023**  
**DATE**

**LEGEND:**

	ACCESS PROHIBITED
	SUPERSEDED R/W
	P.O.B. = POINT OF BEGINNING
	P.O.C. = POINT OF COMMENCEMENT
	R/W = RIGHT OF WAY (STATE OF CALIFORNIA)
	TCE = TEMPORARY CONSTRUCTION EASEMENT

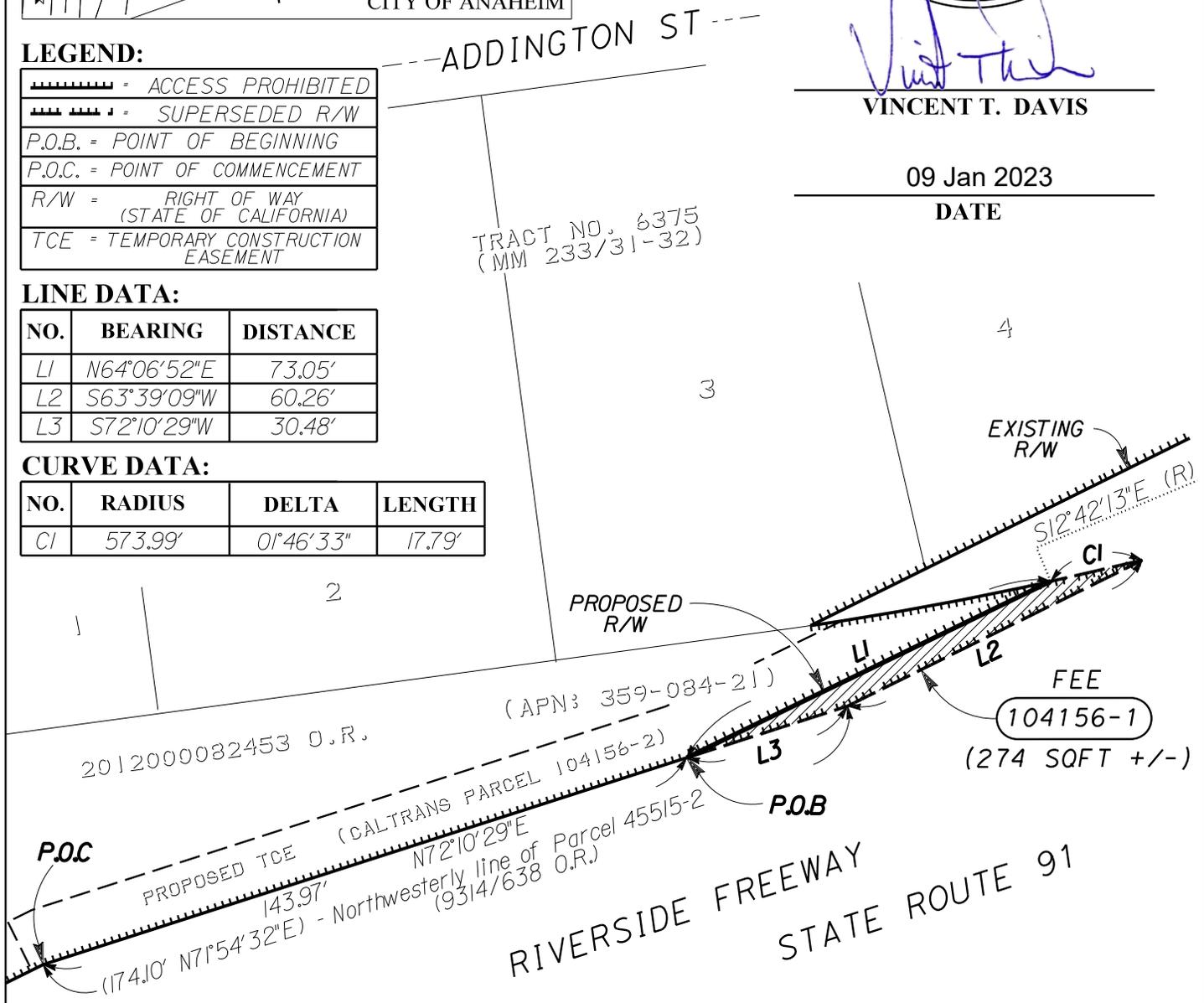
**LINE DATA:**

NO.	BEARING	DISTANCE
L1	N64°06'52"E	73.05'
L2	S63°39'09"W	60.26'
L3	S72°10'29"W	30.48'

**CURVE DATA:**

NO.	RADIUS	DELTA	LENGTH
C1	573.99'	0°46'33"	17.79'

TRACT NO. 6375  
 (MM 233/31-32)



**DATUM:** NAD83 EPOCH 1991.35 ORANGE COUNTY SURVEYOR ADJUSTMENT.  
**COORDINATE SYSTEM:** CCS83 ZONE 6, COORDINATES, BEARINGS, DISTANCES  
**COMBINED FACTOR:** 0.99998733 (GROUND = GRID/COMBINED FACTOR)

**EXHIBIT "A1"**  
 (Page 1 of 1)

COUNTY: ORA  
 RTE: 91  
 P.M.: 9.6

NOT TO SCALE  
 DATE: DEC 2022

**PARCEL:**  
**104156-1**  
 APN: 359-084-21

# PSOMAS

## EXHIBIT 'B1'

### LEGAL DESCRIPTION

#### Caltrans Parcel No. 104156-2

#### Temporary Construction Easement

APN 359-084-21

That portion of the lands of the Santa Ana Valley Irrigation Company, in the City of Anaheim, County of Orange, State of California, described as Parcel 5 (45515-5) in a Grant Deed recorded June 12, 1970 in Book 9314, Page 638, of Official Records in the office of said County Recorder, also together with that portion of the Santa Ana Canyon Road (30-foot half-width) as shown on Tract No. 6375 filed in Book 233, Pages 31 and 32 of Miscellaneous Maps, in the office of said County Recorder, described as follows:

**Commencing** at the easterly terminus of that certain course described as having a bearing of North 71°54'32" East and a length of 174.10 feet in the southerly line of the land described in said Grant Deed, the bearing of said course being North 72°10'29" East for the purposes of this description; thence along said certain course and said southerly line, South 72°10'29" West 30.48 feet to the **True Point of Beginning**; thence continuing along said certain course and southerly line South 72°10'29" West 143.97 feet; thence leaving said certain course and southerly line South 63°39'51" West 1.86 feet; thence North 26°20'50" West 10.00 feet; thence North 63°39'10" East 2.61 feet to a line that is parallel with and distant 10.00 feet northwesterly from said southerly line; thence along said parallel line North 72°10'29" East 144.01 feet; thence leaving said parallel line North 64°06'52" East 35.28 feet to the beginning of a non-tangent curve, concave northwesterly, having a radius of 573.99 feet, a radial line to said point bears South 08°52'15" East, said point also being on the northerly line of the lands of the Santa Ana Valley Irrigation Company, as shown on said Tract Map; thence southeasterly along said northerly line and said curve 38.40 feet through a central angle of 03°49'58" to a Point thereon; thence leaving said curve South 64°06'52" West 73.05 feet to the **True Point of Beginning**.

# PSOMAS

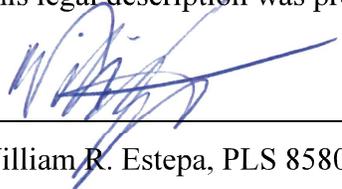
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Containing 1,996 square feet.

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

The distances described herein are grid distances and are based upon the North American Datum of 1983 (NAD83) of the California Coordinate System of 1983 (CCS83), Zone 6, 1991.35 Epoch. Ground distances may be obtained by dividing grid distances by the combination factor of 0.99998733.

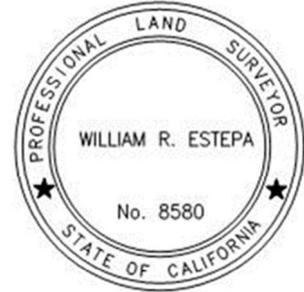
This legal description was prepared by me or under my direction.



William R. Estepa, PLS 8580

10/15/2021

Date



**TEMPORARY CONSTRUCTION EASEMENT  
ATTACHMENT TO LEGAL DESCRIPTION**

**Assessor Parcel No.: 359-084-21**

**Caltrans Parcel No.: 104156-2**

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 of Use and Occupancy set forth below ("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 SR 91 Improvement Project. The TCE shall be for a period of sixty (60) months, a period of which shall be exclusive (subject to Rights and Limitations of Use and Occupancy set forth below) and a period of which shall be non-exclusive. Specifically, the physical construction activities within the TCE area shall be limited to a period of twelve (12) consecutive months within the sixty (60) 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 of Use and Occupancy set forth below. OCTA's use and occupancy of the TCE during the remaining forty-eight (48) months of the TCE period will be non-exclusive.

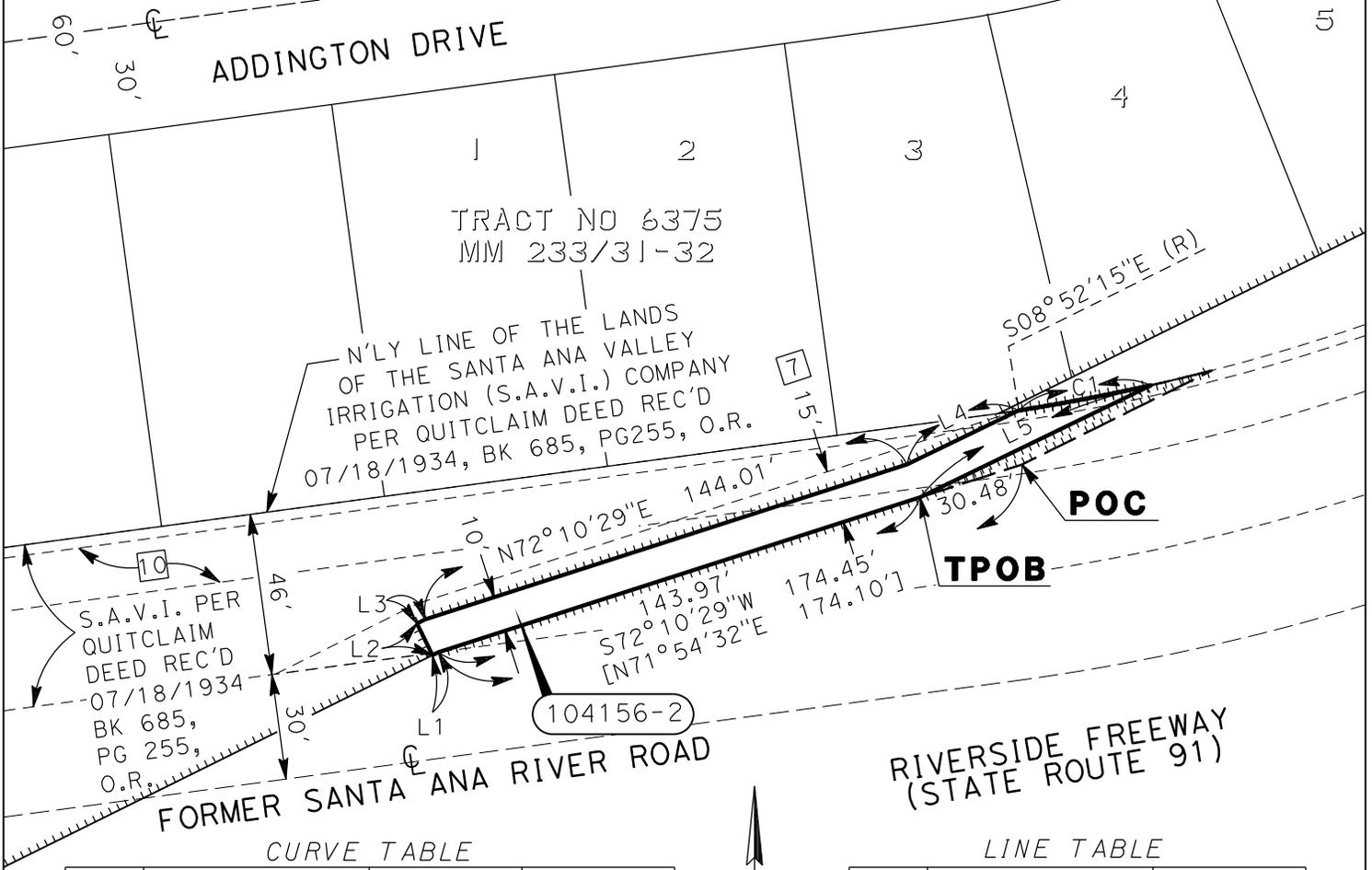
**Rights and Limitations of Use and Occupancy of TCE:**

- 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.
- 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. Any and 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, 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.

# EXHIBIT B2

PARCEL#	TITLE	AREA	APN
104156-2	TCE	1,996 SF	359-084-21



CURVE TABLE

NO.	DELTA	RADIUS	DISTANCE
C1	03°49'58"	573.99'	38.40'

LINE TABLE

NO.	BEARING	DISTANCE
L1	S63°39'51"W	1.86'
L2	N26°20'50"W	10.00'
L3	N63°39'10"E	2.61'
L4	N64°06'52"E	35.28'
L5	S64°06'52"W	73.05'



### LEGEND

OLD RIGHT OF WAY (SUPERSEDED)	-----
EXISTING RIGHT OF WAY	—————
PROPOSED RIGHT OF WAY	—————
ACCESS PROHIBITED	.....
TITLE TO STATE	○
TRUE POINT OF BEGINNING	TPOB
POINT OF COMMENCEMENT	POC
RADIAL BEARING	(R)
INDICATES RECORD DATA PER QUITCLAIM DEED REC'D 07/18/1934, BOOK 9314, PAGE 638, O.R.	□

### EASEMENT NOTES:

- 7 NON-EXCLUSIVE UTILITY EASEMENT TO STATE OF CALIFORNIA PER GRANT DEED PARCEL 5 (45515-5), REC'D 06/12/1970, BOOK 9314, PAGE 638, O.R.
- 10 EASEMENT TO SOUTHERN COUNTIES GAS COMPANY OF CALIFORNIA FOR PUBLIC GAS LINES PER GRANT DEED, REC'D 07/29/1964, BOOK 7154, PAGE 769, O.R.

### NOTES

The distances shown herein are grid distances. Ground distances may be obtained by dividing grid distances by the combination factor of 0.99998733.

## 104156-2

TEMPORARY CONSTRUCTION EASEMENT



PREPARED BY:

## PSOMAS

1650 Spruce Street, Ste. 400  
Riverside, California 92507  
(951)787-8421

DATE: 10-15-21

EA: OK981

FA#:

DISTRICT	COUNTY	ROUTE	SHEET PM	SHEET NO.	TOTAL SHEETS
12	ORANGE	91	9.3-9.9	1	1