

RESOLUTION NO. 2023-002

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. 359-113-21.

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, a portion of the real property located southerly of East Addington Street (generally between Bluerock Street and Deerfield Street) in the City of Anaheim, California (Assessor Parcel No. 359-113-21) ("Subject Property"), is required for the Project. The specific portion of the Subject Property required for the Project is a temporary construction easement as described and depicted in Exhibit "A" attached hereto (Parcel 104158-1) ("Property Interest"); 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 Interest; 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 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 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 Interest is 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 Interest.

Section 5. Description of Property Interest. The Property Interest sought to be acquired is more particularly described and depicted in Exhibit "A" 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 the Property Interest 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 Property Interest, 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 Property Interest, or any portion thereof, is 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 Interest, 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 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 11. Effective Date. This Resolution of Necessity shall take effect upon adoption.

PASSED, APPROVED, and ADOPTED on this _____ day of _____, 2023.

GENE HERNANDEZ, CHAIRMAN
ORANGE COUNTY
TRANSPORTATION AUTHORITY

APPROVED AS TO FORM:

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. 2023-002, by the following votes:

AYES:

NOES:

ABSENT:

Andrea West
INTERIM CLERK OF THE BOARD

PSOMAS

EXHIBIT 'B1'

LEGAL DESCRIPTION

Caltrans Parcel No. 104158-1

Temporary Construction Easement

APN 359-113-21

That portion of the lands of the Santa Ana Valley Irrigation Company, in the City of Anaheim, County of Orange, State of California, described in a Quitclaim Deed recorded July 18, 1934 in Book 685, page 255, of Official Records in the office of said County Recorder, also together with that portion of the Santa Ana Canyon Road as shown on Record of survey filed in Book 80, Pages 29 of Records of Surveys, in the office of said County Recorder, described as follows:

Beginning at the westerly terminus of that certain course described as having a bearing of North 57°33'12" East and a length of 199.67 feet in the southerly line of the land described as Parcel 6 (45515-6) in a Grant Deed recorded June 12, 1970 in Book 9314, page 638, of Official Records in the office of said County Recorder, the bearing of said course being North 57°33'09" East for the purposes of this description; thence along said certain course North 57°33'09" East 355.21 feet; thence North 53°57'42" East 183.56 feet; thence North 49°09'58" East 149.55 feet to the northerly line of said lands of the Santa Ana Valley Irrigation Company; thence along said northerly line South 67°16'12" West 19.31 feet; thence leaving said northerly line South 49°09'58" West 130.94 feet; thence South 53°57'42" West 183.12 feet; thence South 57°33'09" West 341.04 feet to the beginning of a non-tangent curve, concave northwesterly, having a radius of 2942.25 feet, a radial line to said point bears South 27°48'38" East; thence southwesterly along said curve 48.95 feet through a central angle of 00°57'12" to a point on said northerly line; thence leaving said curve and along said northerly line South 48°34'34" West 17.06 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 41°25'26" East; thence southwesterly along said curve and northerly line

PSOMAS

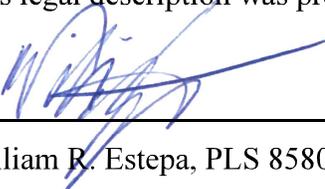
1 21.74 feet through a central angle of 02°10'14" to a point on said southerly line; thence
2 leaving said northerly line along said southerly line North 61°14'29" East 73.31 feet to
3 the **Point of Beginning**.

4
5 Containing 4,496 square feet.

6
7 See Exhibit 'B2' attached hereto and made a part hereof.

8
9 The distances described herein are grid distances and are based upon the North American
10 Datum of 1983 (NAD83) of the California Coordinate System of 1983 (CCS83), Zone 6,
11 1991.35 Epoch. Ground distances may be obtained by dividing grid distances by the
12 combination factor of 0.99998733.

13
14 This legal description was prepared by me or under my direction.

15
16 
17 _____
18 William R. Estepa, PLS 8580

19 10/15/2021
20 _____

21 Date



**TEMPORARY CONSTRUCTION EASEMENT
ATTACHMENT TO LEGAL DESCRIPTION**

Assessor Parcel No.: 359-113-21

Caltrans Parcel No.: 104158-1

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 actual 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.

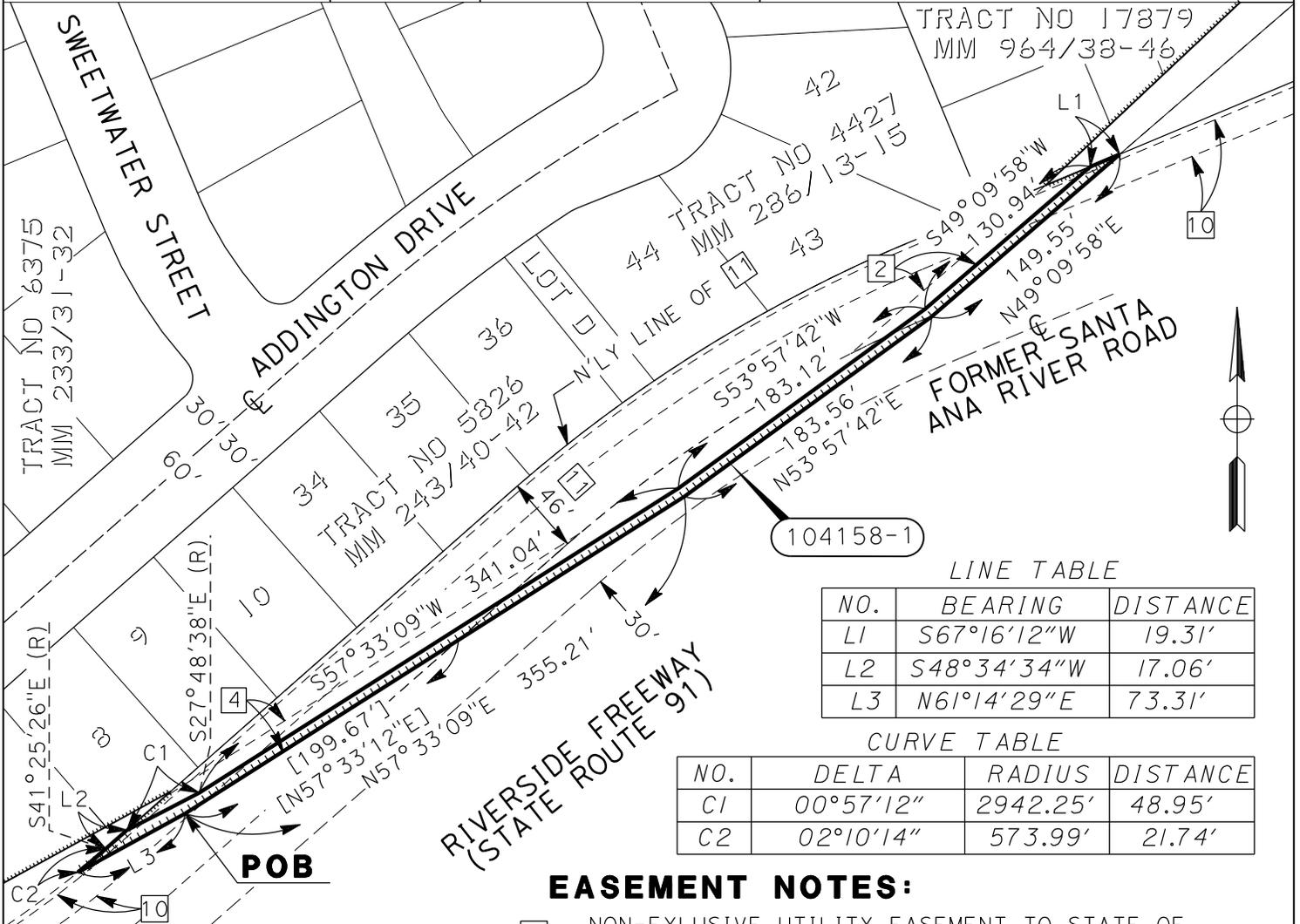
Rights and Limitations of Use and Occupancy of TCE:

- 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. Functionally equivalent pavement material will be installed by OCTA to restore the TCE area 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.

EXHIBIT B2

PARCEL#	TITLE	AREA	APN
104158-1	TCE	4,496 SF	359-113-21



LINE TABLE

NO.	BEARING	DISTANCE
L1	S67°16'12"W	19.31'
L2	S48°34'34"W	17.06'
L3	N61°14'29"E	73.31'

CURVE TABLE

NO.	DELTA	RADIUS	DISTANCE
C1	00°57'12"	2942.25'	48.95'
C2	02°10'14"	573.99'	21.74'

EASEMENT NOTES:

- [2] NON-EXCLUSIVE UTILITY EASEMENT TO STATE OF CALIFORNIA PER GRANT DEED PARCEL 7 (45515-7), REC'D 06/12/1970, BOOK 9314, PAGE 638, O.R.
- [4] NON-EXCLUSIVE UTILITY EASEMENT TO STATE OF CALIFORNIA PER GRANT DEED PARCEL 6 (45515-6), 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.
- [11] RIGHT OF WAY FOR THE LAND OF THE SANTA ANA VALLEY IRRIGATION (S.A.V.I.) COMPANY PER QUITCLIAM DEED, REC'D 07/18/1934, BOOK 685, PAGE 255, O.R.

LEGEND

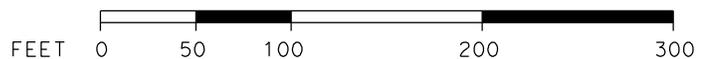
OLD RIGHT OF WAY (SUPERSEDED)	----
EXISTING RIGHT OF WAY	————
PROPOSED RIGHT OF WAY	—————
ACCESS PROHIBITED
TITLE TO STATE	○
POINT OF BEGINNING	POB
RADIAL BEARING	(R)
INDICATES RECORD DATA PER QUITCLAIM DEED REC'D 07/18/1934, BOOK 9314, PAGE 638, O.R.	[]

NOTES

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

104158-1

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