

**RESOLUTION NO. 2023-003**

**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. 359-221-63.**

**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 at the southwesterly terminus of Beauty Drive in the City of Anaheim, California (Assessor Parcel No. 359-221-63) ("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 104159-1) and a temporary construction easement as described and depicted in Exhibit "B" attached hereto (Parcel 104159-2) (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. 2023-003, by the following votes:

AYES:

NOES:

ABSENT:

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Andrea West  
INTERIM CLERK OF THE BOARD

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

**Parcel 104159-1: FEE**

That portion of Lot "K" of Tract No. 17879, in the City of Anaheim, County of Orange, State of California, as shown on a map filed in Book 964, pages 38 through 46, of Miscellaneous Maps, in the office of the County Recorder of said County, lying southeasterly of the following described line:

**COMMENCING** at a point on the southeasterly line of said Lot "K", said point being the southerly terminus of said southeasterly line having a bearing of North 49°10'22" East and a length of 185.99 feet; thence North 49°09'58" East 168.17 feet along said southeasterly line to the **POINT OF BEGINNING**; thence leaving said southeasterly line, North 44°20'29" East 29.19 feet to the northeasterly line of said Lot "K".

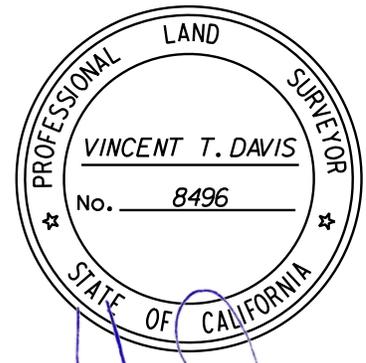
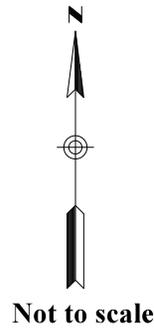
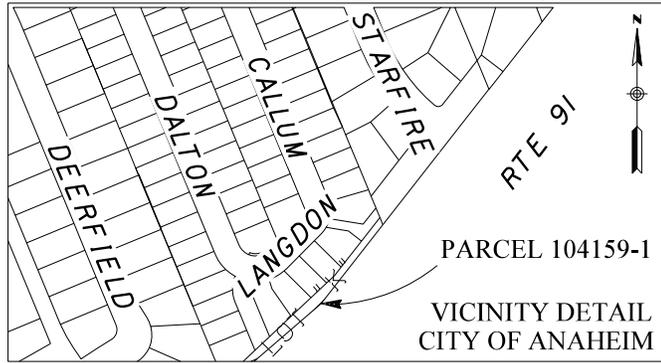
This conveyance is made for the purpose of a freeway and the GRANTOR hereby releases and relinquishes to the GRANTEE any and all abutter's rights including access rights, appurtenant to GRANTOR's remaining property, in and to the freeway.

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

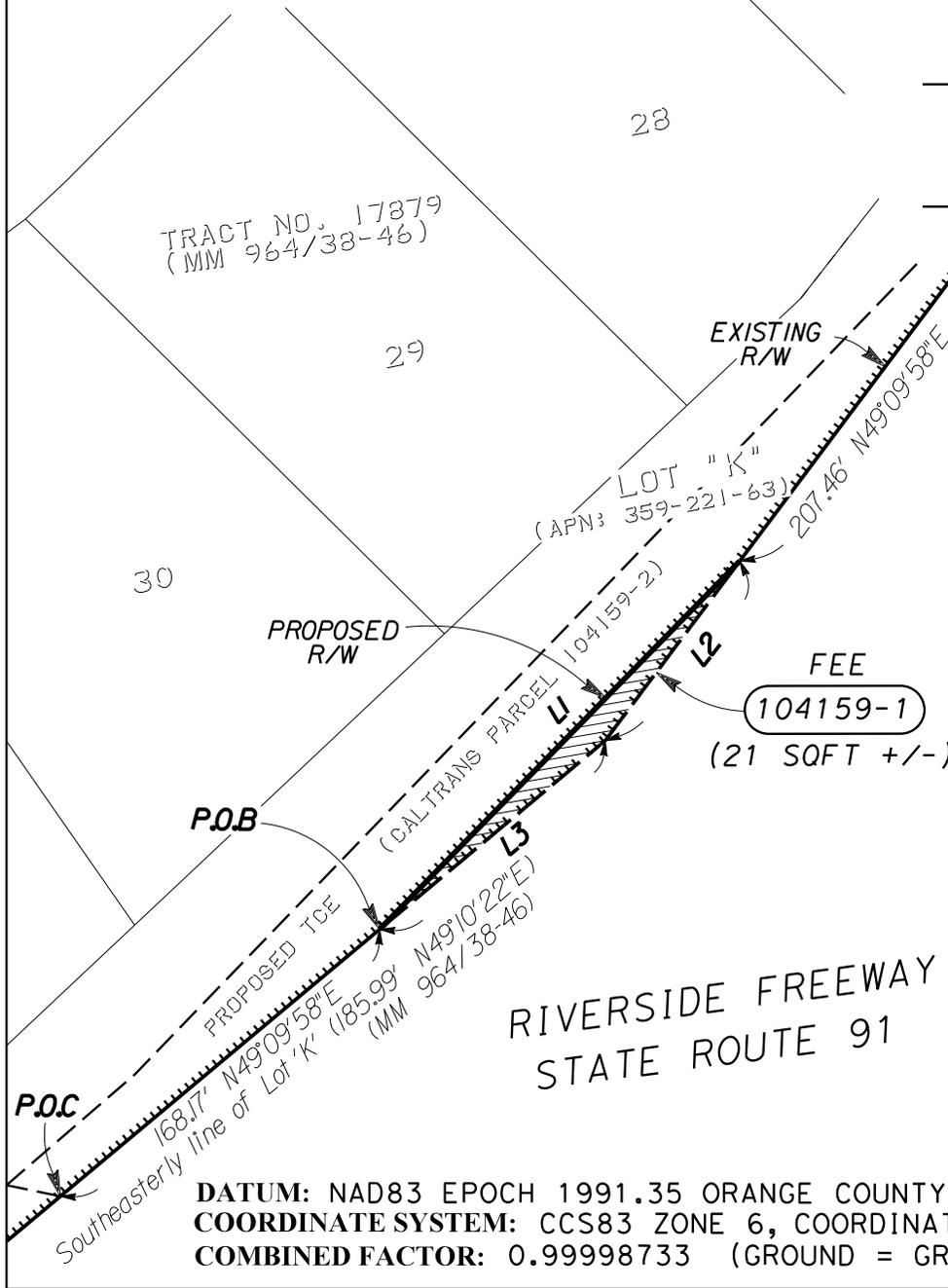
Date: 12 Oct 2021





*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	N44°20'29"E	29.19'
L2	S38°00'25"W	12.68'
L3	S49°09'58"W	16.64'

**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)

<b>EXHIBIT "A1"</b>  (Page 1 of 1)	COUNTY: ORA	NOT TO SCALE	<b>PARCEL:</b> <b>104159-1</b> APN: 359-221-63
	RTE: 91 P.M.: 9.8	DATE: DEC 2022	

# PSOMAS

## EXHIBIT 'B1'

### LEGAL DESCRIPTION

#### Caltrans Parcel No. 104159-2

#### Temporary Construction Easement

APN 359-221-63

That portion of Lot K of Tract No. 17879, filed in Book 964, Pages 38 through 46 of Miscellaneous Maps, in the Office of the County Recorder of Orange County, in the City of Anaheim, County of Orange, State of California, said portion more particularly described as Parcel 2 (C2543-2) in Grant Deed recorded on September 17, 1968 in Book 8723, page 16, of Official Records in the office of said County Recorder, described as follows:

**Beginning** at the easterly terminus of that certain course described as having a bearing of South 38°00'32" West and a length of 219.99 feet in the southerly line of the land described in said Grant Deed, the bearing of said course being South 38°00'25" West for the purposes of this description; thence along said certain course and southerly line, South 38°00'25" West 77.99 feet to the **True Point of Beginning**; thence continuing along said certain course and southerly line South 38°00'25" West 129.47 feet; thence leaving said southerly line South 44°20'29" West 29.19 feet to said southerly line; thence along said southerly line South 49°09'58" West 168.17 feet to the northerly line of the Santa Ana Valley Irrigation Company, as described in a Quitclaim Deed recorded July 18, 1934 in Book 685, page 255, of Official Records in the office of said County Recorder; thence along said southerly and northerly line South 67°16'12" West 19.31 feet; thence leaving said southerly and northerly line North 49°09'58" East 122.02 feet; thence North 43°57'37" East 159.10 feet; thence North 38°00'15" East 62.34; thence South 51°59'45" East 5.09 feet to the **Point of Beginning**.

# PSOMAS

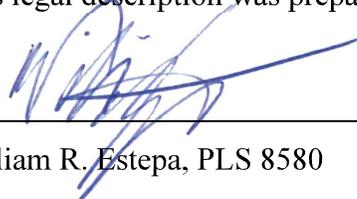
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Containing 2,482 square feet.

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

\_\_\_\_\_  
11/30/2021

Date



**TEMPORARY CONSTRUCTION EASEMENT  
ATTACHMENT TO LEGAL DESCRIPTION**

**Assessor Parcel No.: 359-221-63**

**Caltrans Parcel No.: 104159-2**

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 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.

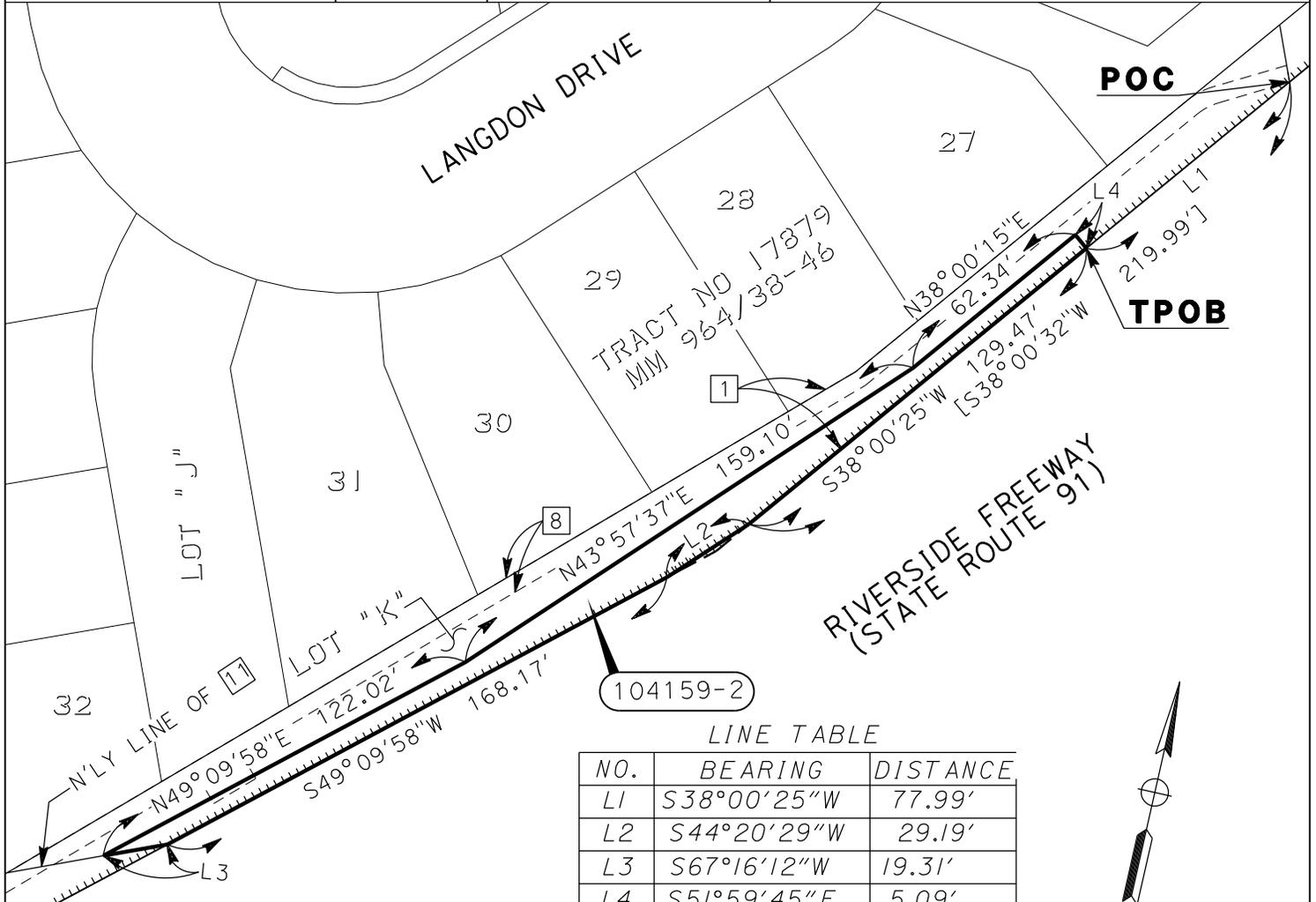
**Rights and Limitations of Use and Occupancy of TCE:**

- 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 and curb 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
104159-2	TCE	2,482 SF	359-221-63



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 GRANT DEED REC'D 09/17/1968, BOOK 8723, PAGE 16, O.R.	[]

### EASEMENT NOTES:

- [1] NON-EXCLUSIVE UTILITY EASEMENT TO STATE OF CALIFORNIA PER PARCEL 2 (C2543-2) IN GRANT DEED, REC'D 09/17/1968, BOOK 8723, PAGE 16, O.R.
- [8] PUBLIC UTILITY AND TELECOMMUNICATION EASEMENT TO THE CITY OF ANAHEIM PER PARCEL 16 IN EASEMENT DEED, REC'D 10/18/2017, INSTRUMENT NO. 2017-000443168, O.R.
- [11] RIGHT OF WAY FOR THE LAND OF THE SANTA ANA VALLEY IRRIGATION (S.A.V.I.) COMPANY PER QUITCLAIM DEED, REC'D 07/18/1934, BOOK 685, PAGE 255, 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.

104159-2

TEMPORARY CONSTRUCTION EASEMENT

FEET 0 25 50 100 150

PREPARED BY: <b>PSOMAS</b> <small>1650 Spruce Street, Ste. 400          Riverside, California 92507          (951)787-8421</small>	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