

RESOLUTION NO. 2018-002

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. 156-165-08.

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 interests; 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 18370 Pacific Street, 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 partial fee interest as legally described 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, 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 November 17, 2017, 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 January 22, 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 partial fee 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, CHAIR
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. 2018-002, by the following votes:

AYES:

NOES:

ABSENT:

LAURENA WEINERT
CLERK OF THE BOARD

EXHIBIT “A”

COAST SURVEYING, INC.

LEGAL DESCRIPTION

Caltrans Parcel No. 102897-1

Fee Acquisition

APN 156-165-08

In the City of Fountain Valley, County of Orange, State of California, being a portion of Parcel 13 as shown on a map filed in Book 36, Page 28 of Parcel Maps, in the office of the County Recorder of said County, described as follows:

Beginning at the northernmost corner of said Parcel 13, being at the northwestern terminus of the line dimensioned as "delta= 41°19'07" L=360.57' T=188.53" on said map, shown as delta = 41°13'30" length = 359.76 feet for purposes of this description, being the beginning of a curve concave southwesterly having a radius of 500.00 feet, to which point a radial line bears North 32°43'36" East; thence along the northerly line of said Parcel 13 southeasterly 159.72 feet along said curve through a central angle of 18°18'11" to the beginning of a non-tangent curve concave southerly having a radius of 480.00 feet, to which point a radial line bears North 49°01'21" East; thence leaving said northerly line of Parcel 13 northwesterly 67.67 feet along said curve through a central angle of 08°04'37"; thence non-tangent North 57°48'05" West 37.43 feet to the easterly line of an Orange County Water District well lot, described in a grant deed recorded in Book 11407 Page 993 of Official Records of said county; thence along the easterly, northerly and westerly lines of said well lot the following three (3) courses:

- 1) North 32°04'20" East 1.93 feet;
- 2) North 57°55'40" West 20.00 feet;
- 3) South 32°04'20" West 1.88 feet;

Thence leaving the westerly line of said well lot North 57°48'05" West 4.54 feet to the westerly line of said Parcel 13, being the beginning of a non-tangent curve concave westerly having a radius of 45.00 feet, to which point a radial line bears North 74°39'56" East; thence along said westerly line northwesterly 31.85 feet along said curve through a

COAST SURVEYING, INC.

1 central angle of 40°32'54" to the said northernmost corner of Parcel 13 and the **Point of**
2 **Beginning.**

3
4
5 Containing 599 square feet.

6
7 This conveyance is made for the purpose of a freeway and the GRANTOR hereby
8 releases and relinquishes to the GRANTEE any and all abutter's rights including access
9 rights, appurtenant to GRANTOR's remaining property, in and to the freeway.

10
11 See Exhibit 'A2' attached hereto and made a part hereof.

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

16
17 Prepared under the direction of

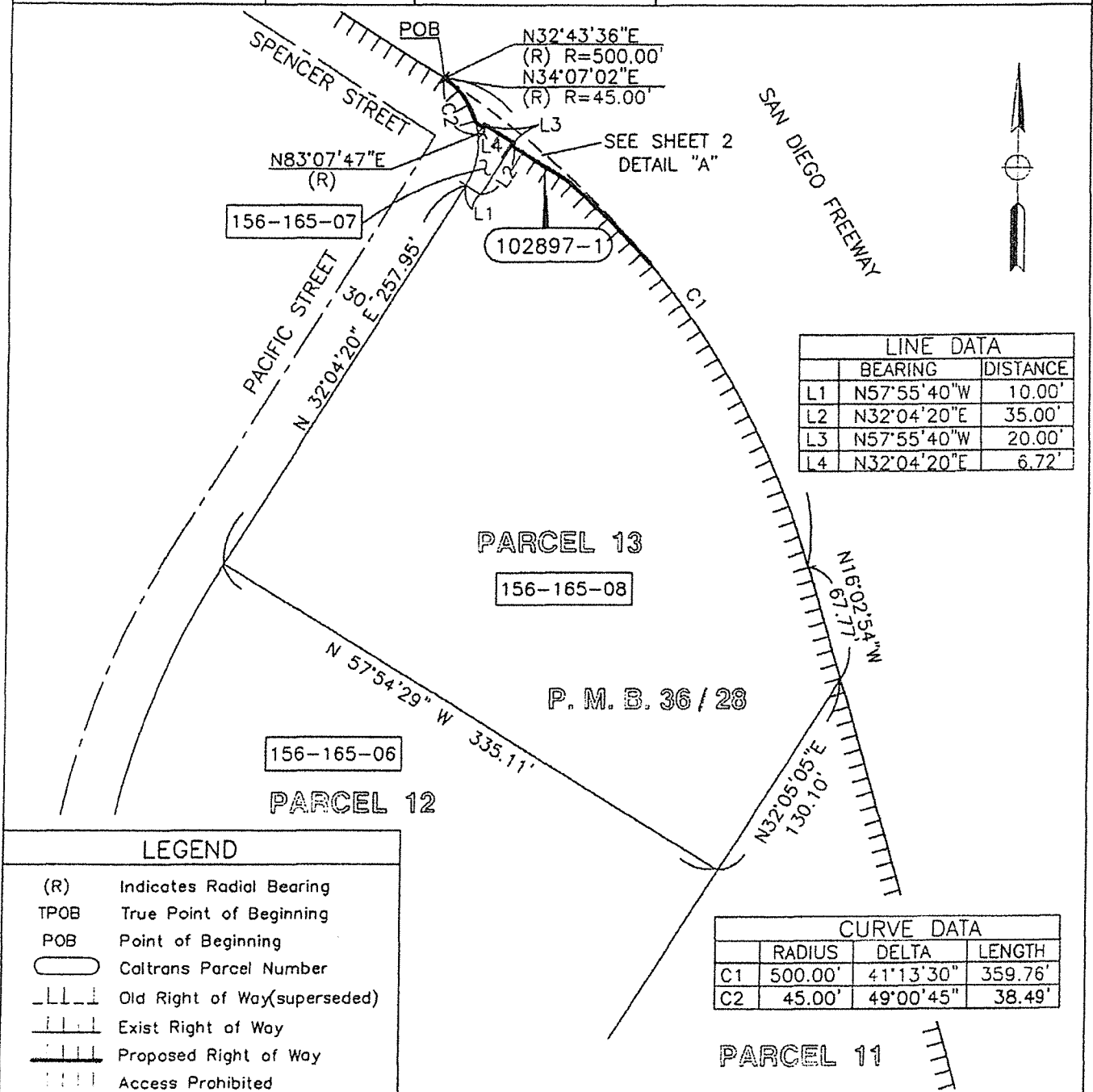
18
19
20 Kriss Larson

21 Kriss A. Larson, PLS 6179

7-1-16
Date



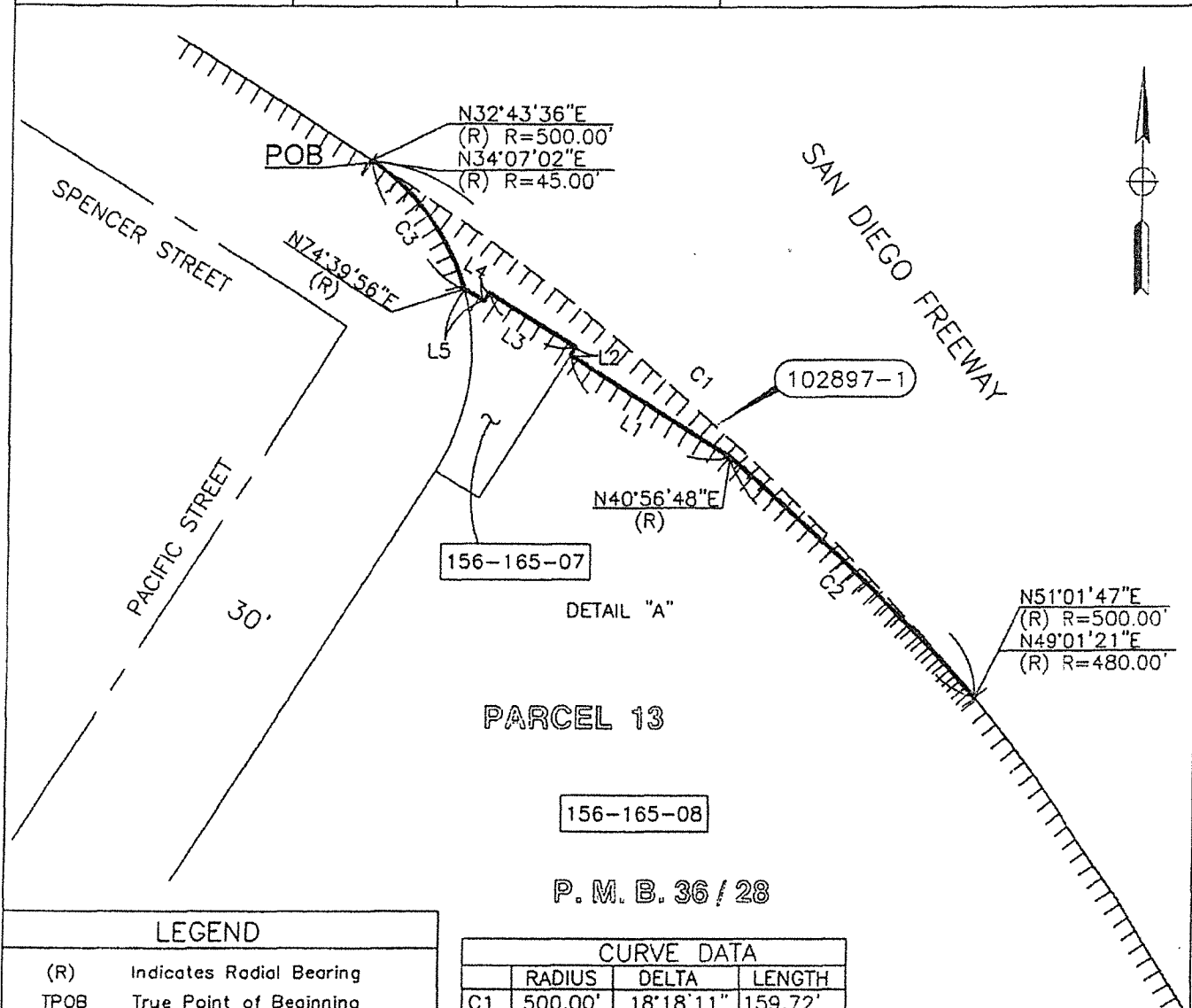
PARCEL#	TITLE	AREA	APN
102897-1	FEE	599 SF	156-165-08



PREPARED BY:
COAST SURVEYING
15031 PARKWAY LOOP, SUITE B
TUSTIN, CA 92780-6527
(714)918-6266

DATE: 7-1-16		REV.:	EA: XXXXX	FA#: -----	
DISTRICT	COUNTY	ROUTE	SHEET PM	SHEET NO.	TOTAL SHEETS
12	ORA	405	12.66	1	2

PARCEL#	TITLE	AREA	APN
102897-1	FEE	599 SF	156-165-08



LEGEND

- (R) Indicates Radial Bearing
- TPOB True Point of Beginning
- POB Point of Beginning
- 102897-1 Caltrans Parcel Number
- Old Right of Way (superseded)
- Exist Right of Way
- Proposed Right of Way
- Access Prohibited

CURVE DATA

	RADIUS	DELTA	LENGTH
C1	500.00'	18°18'11"	159.72'
C2	480.00'	8°04'37"	67.67'
C3	45.00'	40°32'54"	31.85'

LINE DATA

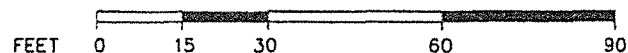
	BEARING	DISTANCE
L1	N57°48'05"W	37.43'
L2	N32°04'20"E	1.93'
L3	N57°55'40"W	20.00'
L4	S32°04'20"W	1.88'
L5	N57°48'05"W	4.54'

NOTES

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

102897-1

FEE ACQUISITION



PREPARED BY:
COAST SURVEYING
15031 PARKWAY LOOP, SUITE B
TUSTIN, CA 92780-6527
(714)918-6266

DATE: 7-1-16		REV.:	EA: XXXXX	FA#:	
DISTRICT	COUNTY	ROUTE	SHEET PM	SHEET NO.	TOTAL SHEETS
12	ORA	405	12.66	2	2

EXHIBIT “B”

**TEMPORARY CONSTRUCTION EASEMENT
ATTACHMENT TO LEGAL DESCRIPTION**

Assessor Parcel No.: 156-165-08

Caltrans Parcel No.: 102897-2

The Orange County Transportation Authority seeks to acquire two temporary construction easements within and upon the real property described in Exhibit "A1" and depicted in Exhibit "A2" attached hereto, subject to the rights and restrictions 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 sixty (60) months, a portion of which shall be exclusive (subject to the restrictions 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 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 restrictions set forth below. OCTA's use and occupancy of the TCE during the remaining thirty-six (36) 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. However, no temporary fence shall be in place during the thirty-six (36) months of OCTA's non-exclusive use of the TCE area, during which time reasonable pedestrian and vehicular access to the remaining property outside of the TCE area shall be maintained (provided said access existed prior to the acquisition of the TCE).
- 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. The business sign(s) and existing property fence within the TCE area 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 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.

COAST SURVEYING, INC.

LEGAL DESCRIPTION

Caltrans Parcel No. 102897-2

Temporary Construction Easement

APN 156-165-08

In the City of Fountain Valley, County of Orange, State of California, being a portion of Parcel 13 as shown on a map filed in Book 36, Page 28 of Parcel Maps, in the office of the County Recorder of said County, described as follows:

PARCEL 1

Commencing at the northernmost corner of said Parcel 13, being at the northwestern terminus of the line dimensioned as "delta= 41°19'07" L=360.57' T=188.53" on said map, shown as delta = 41°13'30" length = 359.76 feet for purposes of this description, being the beginning of a curve concave southwesterly having a radius of 500.00 feet, to which point a radial line bears North 32°43'36" East; thence along the northerly line of said Parcel 13 southeasterly 159.72 feet along said curve through a central angle of 18°18'11" to the **True Point of Beginning**, being the beginning of a non-tangent curve concave southerly having a radius of 480.00 feet, to which point a radial line bears North 49°01'21" East; thence leaving said northerly line of Parcel 13 northwesterly 67.67 feet along said curve through a central angle of 08°04'37"; thence non-tangent North 57°48'05" West 37.43 feet to the easterly line of an Orange County Water District well lot, described in a grant deed recorded in Book 11407 Page 993 of Official Records of said county; thence along said easterly line South 32°04'20" West 10.00 feet; thence leaving the said easterly line South 57°48'05" East 36.64 feet to the beginning of a non-tangent curve concave southwesterly having a radius of 470.00 feet, to which point a radial line bears North 41°02'18" East; thence southeasterly 246.03 feet along said curve through a central angle of 29°59'33"; thence non-tangent North 72°03'22" East 5.10 feet to the easterly line of said Parcel 13, being the beginning of a non-tangent curve concave southwesterly having a radius of 500.00 feet, to which point a radial line bears North

COAST SURVEYING, INC.

73°03'22" East; thence along said easterly line northwesterly 183.49 feet along said curve through a central angle of 21°01'35" to the **True Point of Beginning**.

Containing 2361 square feet.

PARCEL 2

Commencing at the northernmost corner of said Parcel 13, being at the northwestern terminus of the line dimensioned as "delta = 41°19'07" L=360.57' T=188.53" on said map, shown as delta = 41°13'30" length = 359.76 feet for purposes of this description, being the beginning of a curve concave southwesterly having a radius of 45.00 feet, to which point a radial line bears North 34°07'02" East, also being the westerly line of said Parcel 13; thence along said westerly line southeasterly 31.85 feet along said curve through a central angle of 40°32'54" to the **True Point of Beginning**; thence leaving said westerly line South 57°48'05" East 4.54 feet to the westerly line of an Orange County Water District well lot, described in a grant deed recorded in Book 11407 Page 993 of Official Records of said county; thence along the westerly line of said well lot South 32°04'20" West 4.83 feet to the said westerly line of Parcel 13, being the beginning of a non-tangent curve concave southwesterly having a radius of 45.00 feet, to which point a radial line bears North 83°07'47" East; thence along said westerly line northwesterly 6.65 feet through a central angle of 08°27'51" to the **True Point of Beginning**.

Containing 10 square feet.

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

COAST SURVEYING, INC.

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

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

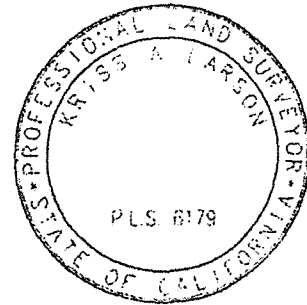
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8 Prepared under the direction of

9
10 Kriss Larson

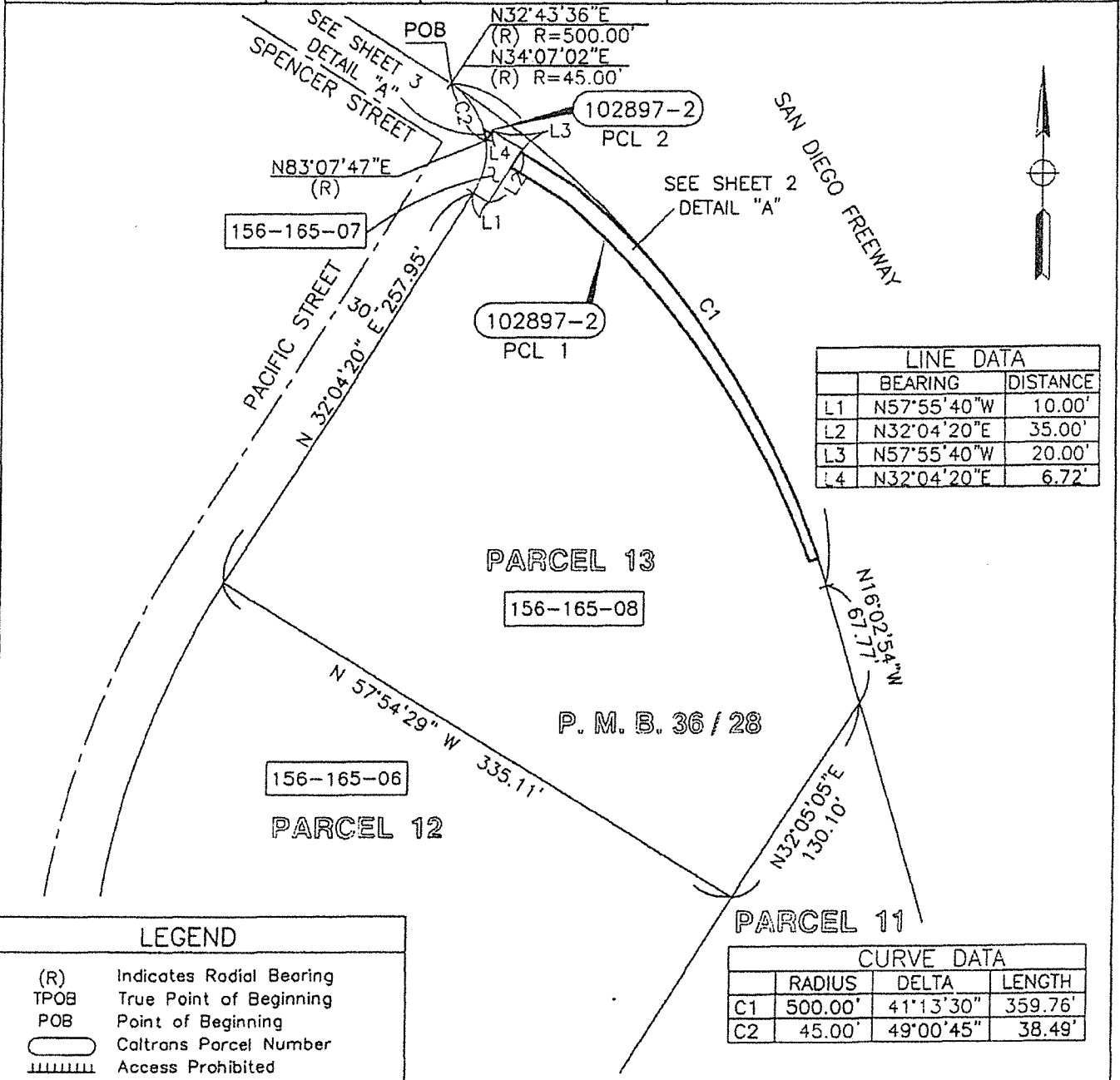
11
12 Kriss A. Larson, PLS 6179

3-18-16

Date



PARCEL#	TITLE	AREA	APN
102897-2 PCL 1	TCE	2361 SF	156-165-08
102897-2 PCL 2	TCE	10 SF	156-165-08

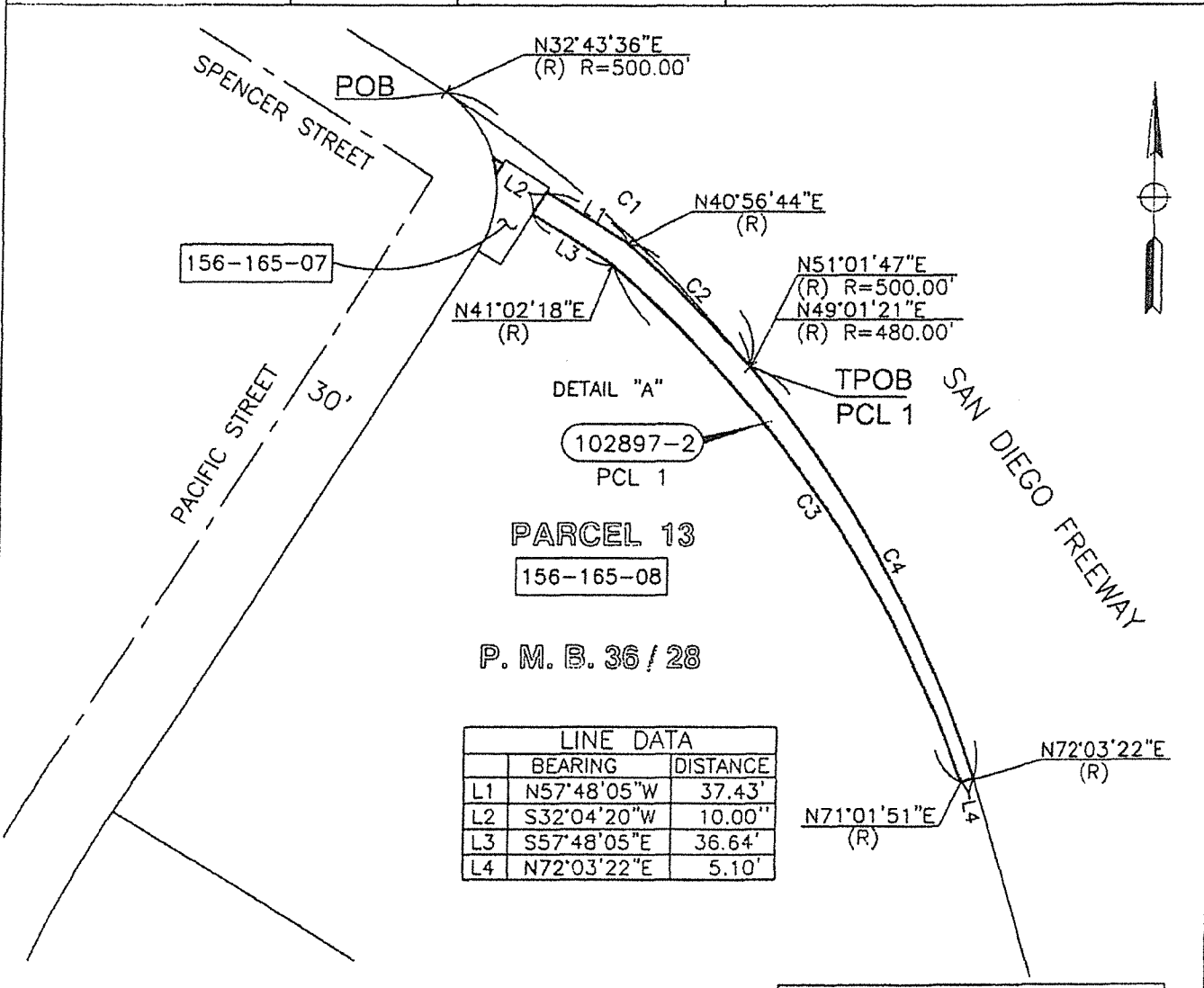


LEGEND	
(R)	Indicates Radial Bearing
TPOB	True Point of Beginning
POB	Point of Beginning
	Caltrans Parcel Number
	Access Prohibited

NOTES
The distances shown herein are grid distances. Ground distances may be obtained by dividing grid distances by the combination factor of 0.99998591

PREPARED BY: COAST SURVEYING 15031 PARKWAY LOOP, SUITE B TUSTIN, CA 92780-6527 (714)918-6266		DATE: 3-17-16	REV.:	EA: XXXXX	FA#:
DISTRICT	COUNTY	ROUTE	SHEET PM	SHEET NO.	TOTAL SHEETS
12	ORA	405		1	3

PARCEL#	TITLE	AREA	APN
102897-2 PCL 1	TCE	2,361 SF	156-165-08
102897-2 PCL 2	TCE	10 SF	156-165-08



PARCEL 13
156-165-08

P. M. B. 36 / 28

LINE DATA		
	BEARING	DISTANCE
L1	N57°48'05"W	37.43'
L2	S32°04'20"W	10.00"
L3	S57°48'05"E	36.64'
L4	N72°03'22"E	5.10'

CURVE DATA			
	RADIUS	DELTA	LENGTH
C1	500.00'	18°18'11"	159.72'
C2	480.00'	8°04'37"	67.67'
C3	470.00'	29°59'33"	246.03'
C4	500.00'	21°01'35"	183.49'

LEGEND

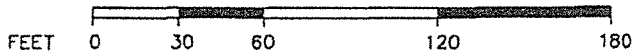
(R) Indicates Radial Bearing
TPOB True Point of Beginning
POB Point of Beginning
Caltrans Parcel Number
Access Prohibited

NOTES

The distances shown herein are grid distances. Ground distances may be obtained by dividing grid distances by the combination factor of 0.99998591

102897-2

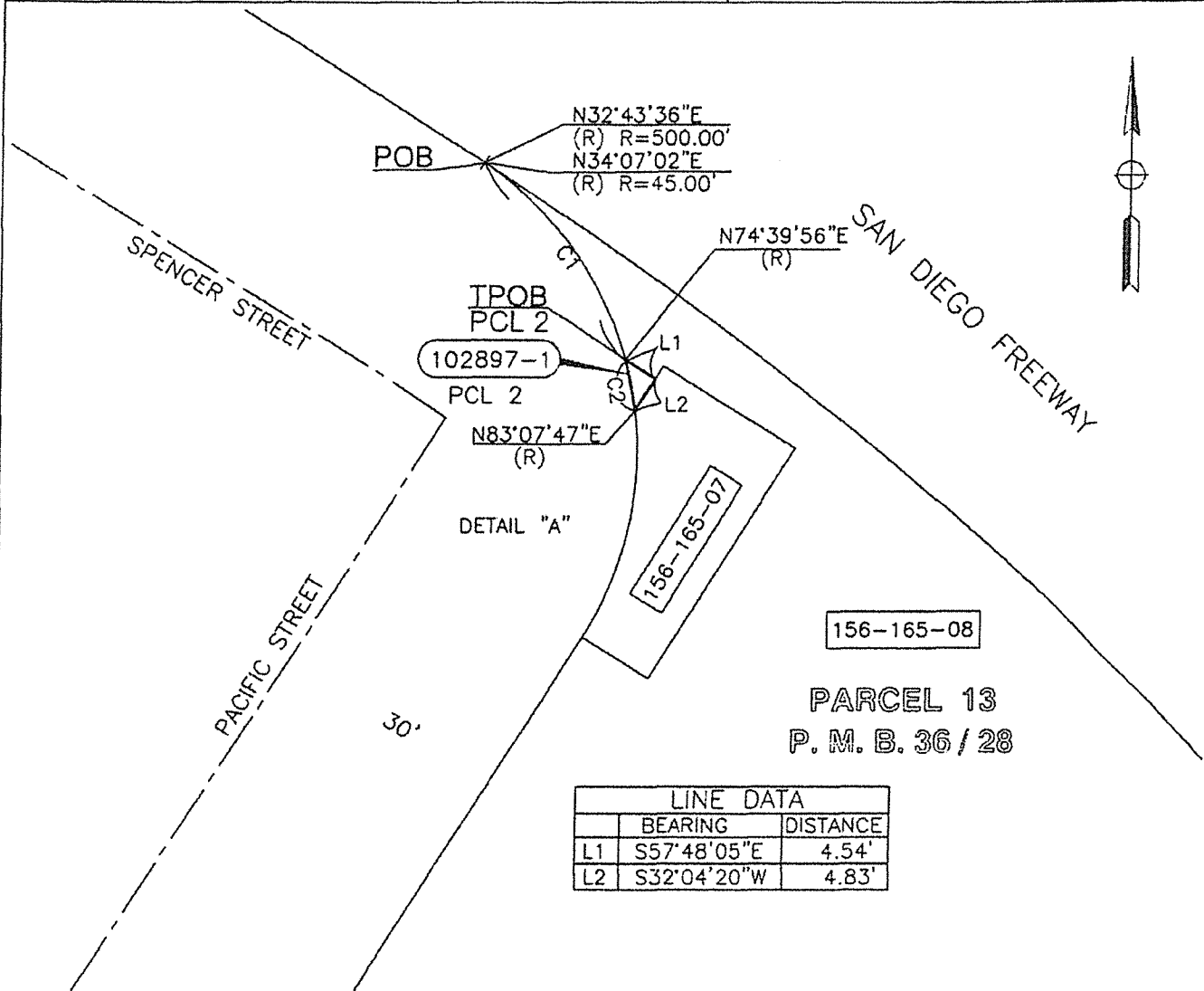
TEMPORARY CONSTRUCTION EASEMENT



PREPARED BY:
COAST SURVEYING
15031 PARKWAY LOOP, SUITE B
TUSTIN, CA 92780-6527
(714)918-6266

DATE: 3-17-16		REV.:	EA: XXXXX	FA#: _____	
DISTRICT	COUNTY	ROUTE	SHEET PM	SHEET NO.	TOTAL SHEETS
12	ORA	405		2	3

PARCEL #	TITLE	AREA	APN
102897-2 PCL 1	TCE	2,361 SF	156-165-08
102897-2 PCL 2	TCE	10 SF	156-165-08



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 0.99998591

102897-2

TEMPORARY CONSTRUCTION EASEMENT

FEET 0 10 20 40 60

PREPARED BY: COAST SURVEYING 15031 PARKWAY LOOP, SUITE B TUSTIN, CA 92780-6527 (714)918-6266		DATE: 3-17-16	REV.:	EA: XXXXX	FA#:	
DISTRICT	COUNTY	ROUTE	SHEET PM	SHEET NO.	TOTAL SHEETS	
12	ORA	405		3	3	