

**RESOLUTION NO. 2018-011**

**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. 156-094-01.**

**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 10480 Talbert Avenue, 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 temporary construction 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**, 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 January 12, 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 February 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 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 two temporary construction easements 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.

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LISA A. BARTLETT, CHAIRWOMAN  
ORANGE COUNTY  
TRANSPORTATION AUTHORITY

APPROVED AS TO FORM:

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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. 2018-011, by the following votes:

AYES:

NOES:

ABSENT:

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LAURENA WEINERT  
CLERK OF THE BOARD

Exhibit 1

**TEMPORARY CONSTRUCTION EASEMENT  
ATTACHMENT TO LEGAL DESCRIPTION**

**Assessor Parcel No.: 156-094-01**

**Caltrans Parcel No.: 102927-1**

The Orange County Transportation Authority seeks to acquire a temporary construction easement within and upon the real property described in Exhibit "A1" and depicted in Exhibit "A2" 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.
- OCTA will use the TCE area to adjust any grade differentials between the remaining property and the adjoining public right-of-way and/or to perform any necessary match work within the TCE area.
- 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.
- 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.



# COAST SURVEYING, INC.

## EXHIBIT 'A1'

### LEGAL DESCRIPTION

Caltrans Parcel No. 102927-1

Temporary Construction Easement

APN 156-094-01

In the City of Fountain Valley, County of Orange, State of California, being a portion of the northeasterly quarter of the northwesterly quarter of Section 32. Township 5 South, Range 10 West in the Rancho Las Bolsas, as shown on a map filed in Book 51, Page 12 of Miscellaneous Maps, as further described in a Grant Deed recorded as Instrument 2003000357203 in Official Records, all in the office of the County Recorder of said County described as follows:

**Commencing** at the centerline intersection of Ward Street and Talbert Avenue, as shown on a Parcel Map filed in Book 118, Pages 23-24 in the office of the County Recorder of said County; thence along the centerline of Talbert Avenue North 89°31'35" West 152.00 feet; thence perpendicular to said centerline South 00°28'25" West 50.00 feet to a corner on said Grant Deed being the westernmost terminus of the course stated as "North 89°31'21" West 102.00 feet" on said Grant Deed, shown as North 89°31'35" West 102.00 feet for purposes of this survey; then along the northerly line of said Grant Deed South 85°10'54" West 185.92 feet to the **True Point of Beginning**; thence continuing along said northerly line South 85°10'54" West 78.28 feet; thence leaving said northerly line South 04°49'06" East 10.00 feet; thence North 85°10'54" East 6.24 feet; thence South 00°41'11" West 10.05 feet; thence North 85°10'54" East 45.60 feet; thence North 00°41'11" East 10.05 feet; thence North 85°10'54" East 26.44 feet; thence North 04°49'06" West 10.00 feet to the said northerly line and the **True Point of Beginning**.

Containing 1239 square feet.



# COAST SURVEYING, INC.

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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

Kriss Larson

Kriss A. Larson, PLS 6179

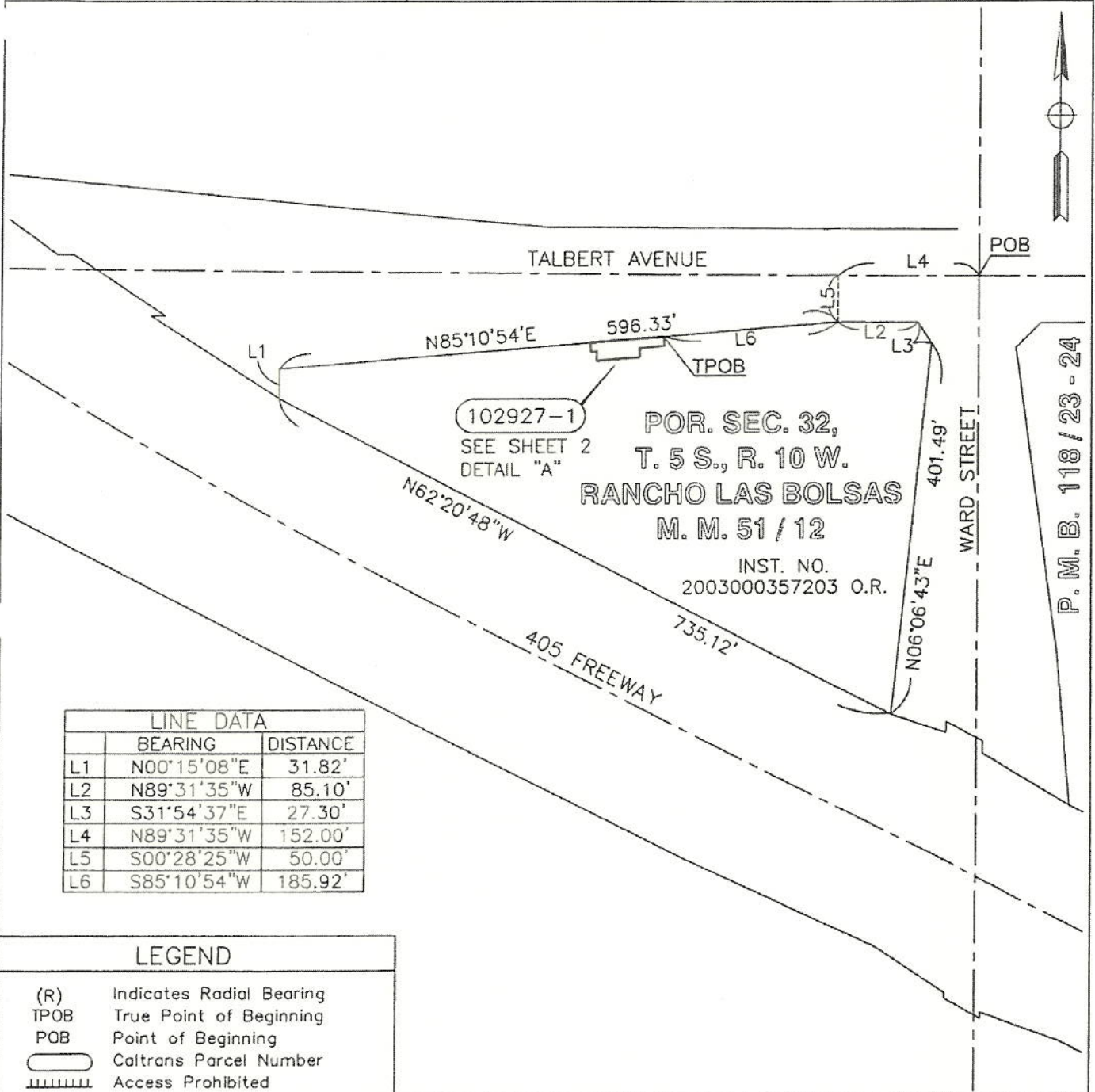
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Date



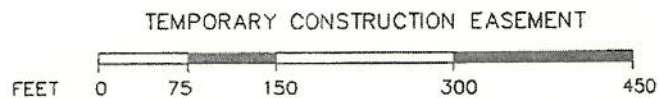
# EXHIBIT A2

PARCEL#	TITLE	AREA	APN
102927-1	TCE	1,239 SF	156-094-01



**NOTES**

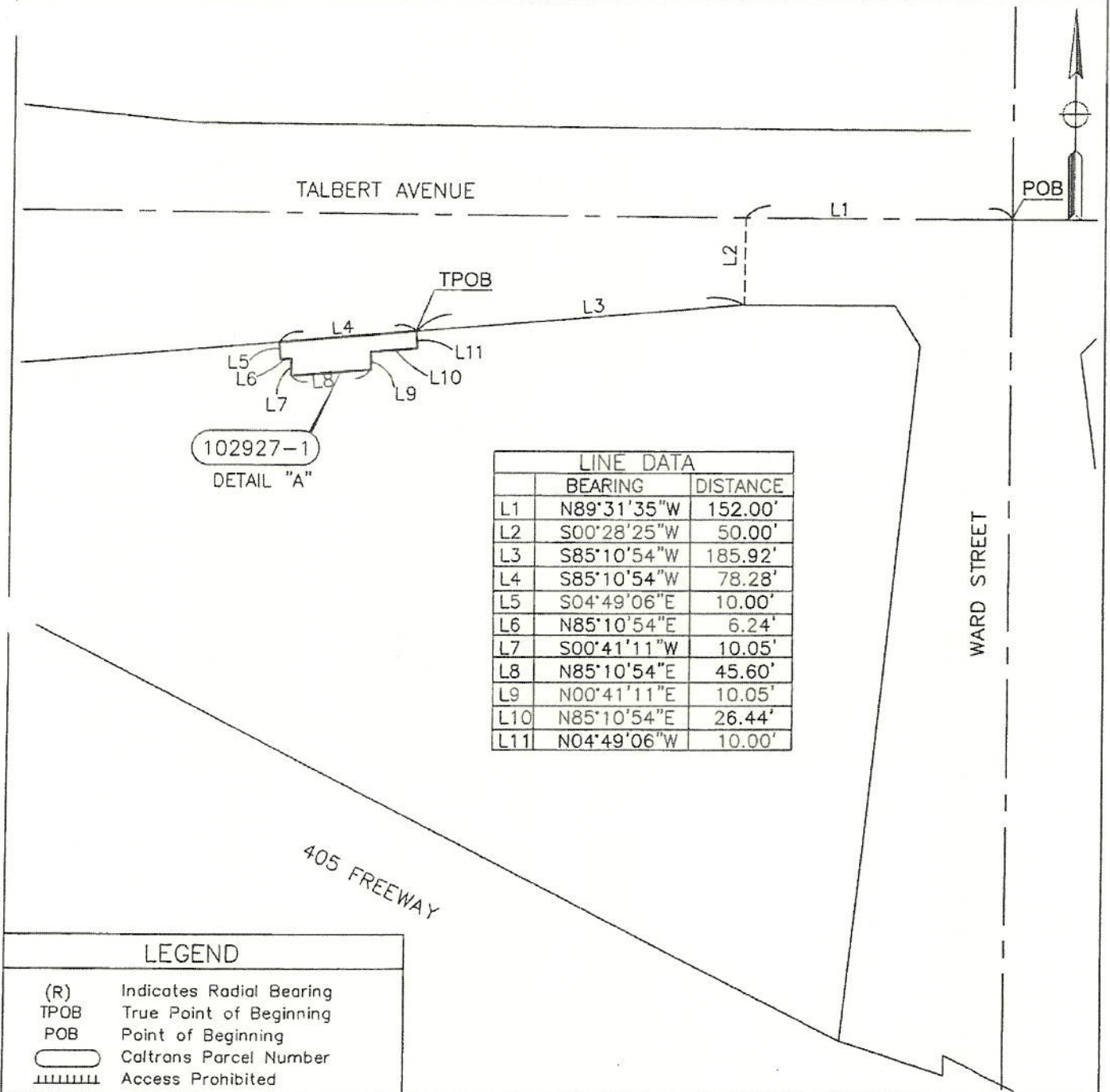
The distances shown herein are grid distances. Ground distances may be obtained by dividing grid distances by the combination factor of 0.99997837



PREPARED BY: COAST SURVEYING 15031 PARKWAY LOOP, SUITE B TUSTIN, CA 92780-6527 (714)918-6266	DATE: 4-13-16		REV.:		EA: <u>XXXXX</u>		FA#: <u>          </u>	
	DISTRICT	COUNTY	ROUTE	SHEET PM	SHEET NO.	TOTAL SHEETS		
	12	ORA	405	13.24	1	2		

# EXHIBIT A2

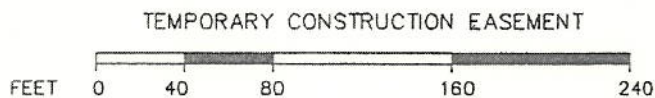
PARCEL#	TITLE	AREA	APN
102927-1	TCE	1,239 SF	156-094-01



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



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

DATE: 4-13-16		REV.:	EA: XXXXX	FA#:	
DISTRICT	COUNTY	ROUTE	SHEET PM	SHEET NO.	TOTAL SHEETS
12	ORA	405	13.24	2	2





**TEMPORARY CONSTRUCTION EASEMENT  
ATTACHMENT TO LEGAL DESCRIPTION  
Assessor Parcel No.: 156-094-01  
Caltrans Parcel No.: 102927-2**

The Orange County Transportation Authority seeks to acquire a temporary construction easement within and upon the real property described in Exhibit "A1" and depicted in Exhibit "A2" 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.
- Any signage and the existing fence along the TCE area will 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.

# COAST SURVEYING, INC.

## EXHIBIT 'A1'

### LEGAL DESCRIPTION

Caltrans Parcel No. 102927-2

Temporary Construction Easement

APN 156-094-01

In the City of Fountain Valley, County of Orange, State of California, being a portion of the northeasterly quarter of the northwesterly quarter of Section 32, Township 5 South, Range 10 West in the Rancho Las Bolsas, as shown on a map filed in Book 51, Page 12 of Miscellaneous Maps, as further described in a Grant Deed recorded as Instrument 2003000357203 in Official Records, all in the office of the County Recorder of said County described as follows:

**Commencing** at the centerline intersection of Ward Street and Talbert Avenue, as shown on a Parcel Map filed in Book 118, Pages 23-24 in the office of the County Recorder of said County; thence along the centerline of Talbert Avenue North 89°31'35" West 152.00 feet; thence perpendicular to said centerline South 00°28'25" West 50.00 feet to a corner on said Grant Deed being the westernmost terminus of the course stated as "North 89°31'21" West 102.00 feet" on said Grant Deed, shown as North 89°31'35" West 102.00 feet for purposes of this survey; then along the northerly line of said Grant Deed South 85°10'54" West 596.33 feet to the northwesternmost corner of said Grant Deed; thence along the westerly line of said Grant Deed South 00°15'08" West 31.82 feet to the southwesternmost corner of said Grant Deed and the **True Point of Beginning**; thence along the said westerly line North 00°15'08" East 5.63 feet; thence leaving said westerly line South 62°20'48" East 735.73 feet to the easterly line of said Grant Deed; thence along said easterly line South 06°06'43" West 5.38 feet to the southeasternmost corner of said Grant deed; thence along the southerly line of said Grant Deed North 62°20'48" West 735.11 feet to the southwesternmost corner of said Grant Deed and the **True Point of Beginning**.

# COAST SURVEYING, INC.

Containing 3677square 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

*Kriss Larson*

Kriss A. Larson, PLS 6179

*4-14-16*

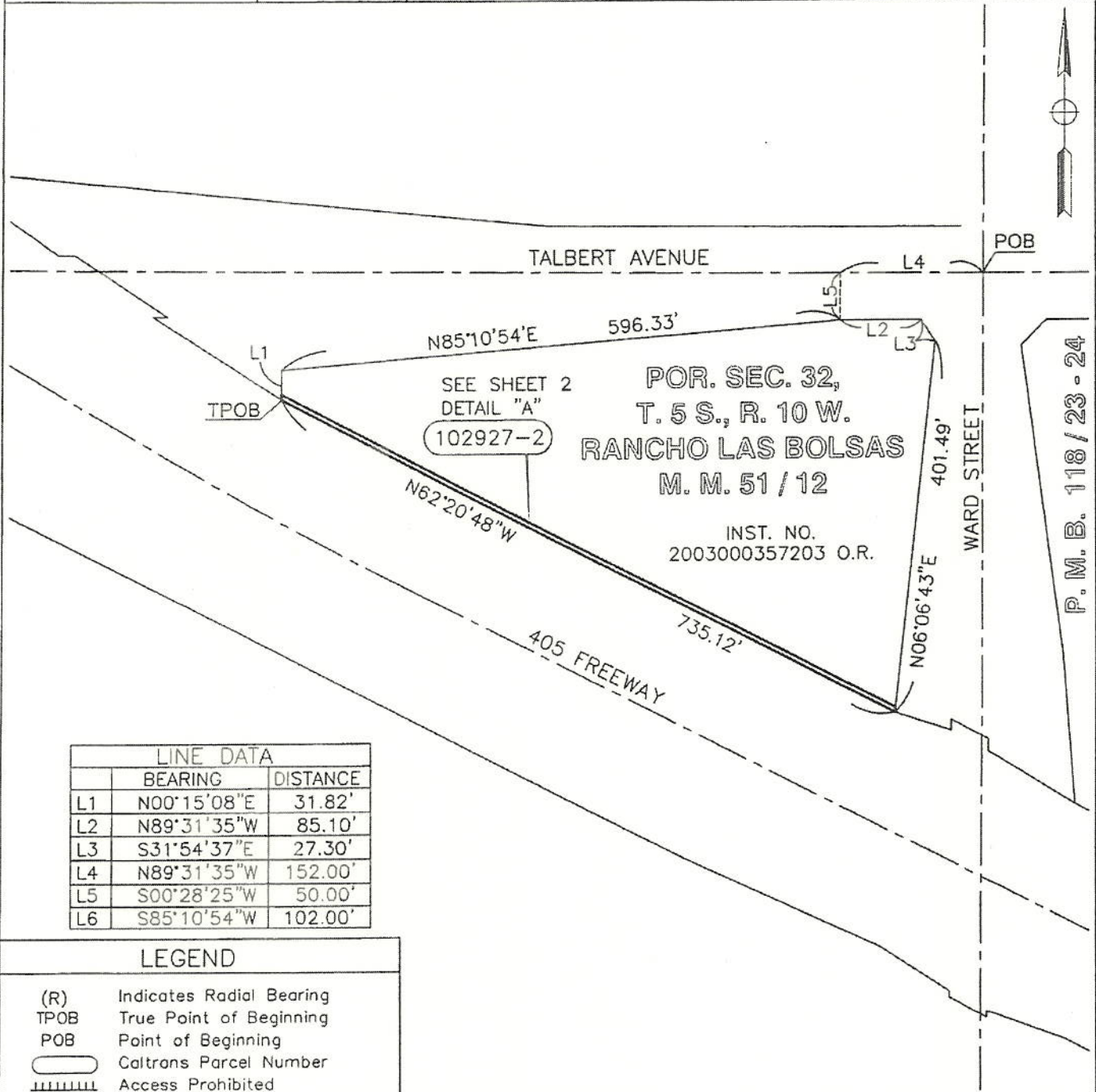
Date





# EXHIBIT A2

PARCEL#	TITLE	AREA	APN
102927-2	TCE	3,677 SF	156-094-01



**NOTES**

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

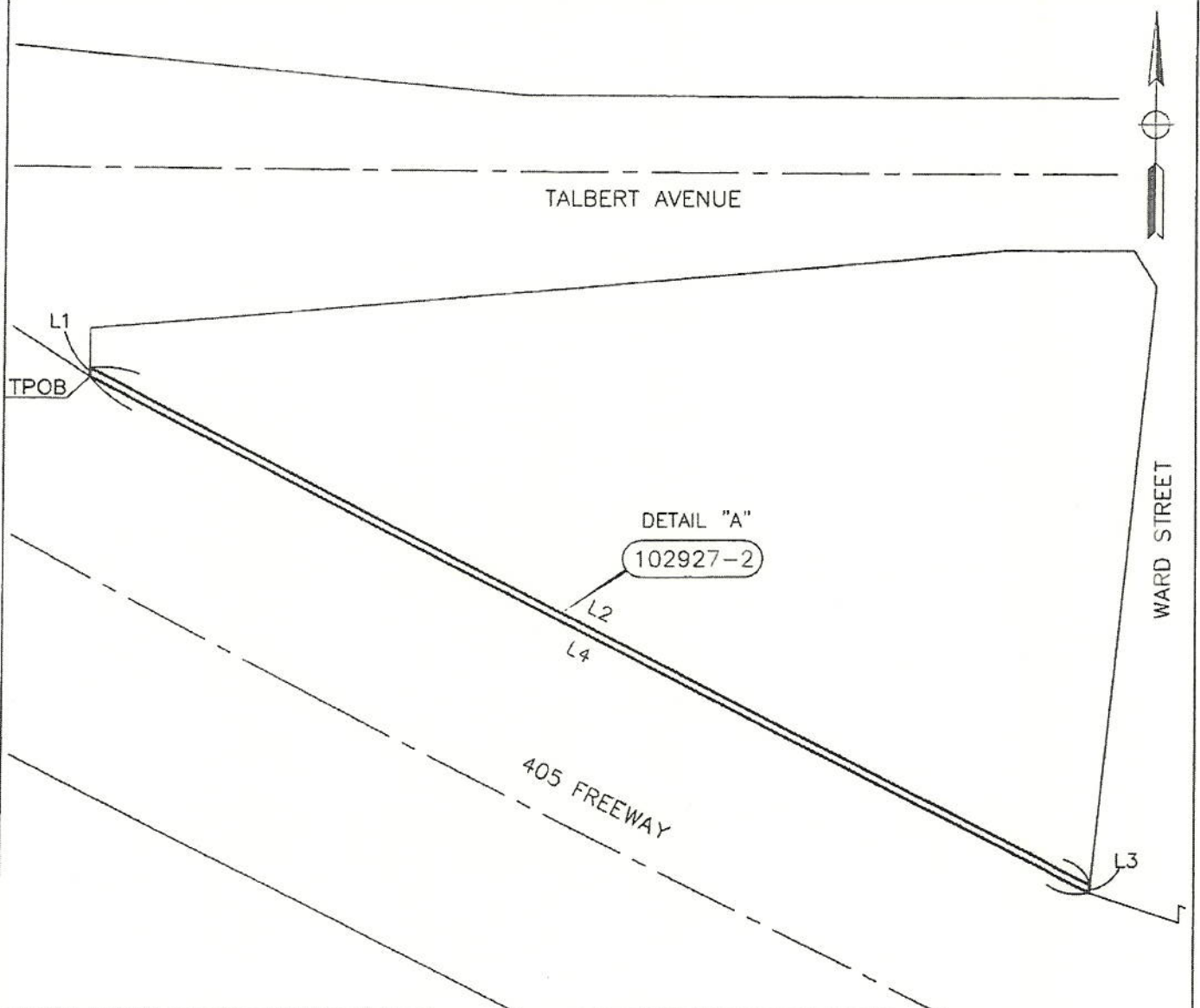
**TEMPORARY CONSTRUCTION EASEMENT**

FEET 0 75 150 300 450

PREPARED BY: <b>COAST SURVEYING</b> 15031 PARKWAY LOOP, SUITE B TUSTIN, CA 92780-6527 (714)918-6266		DATE: 4-13-16	REV.:	EA: XXXXX	FA#:	
DISTRICT	COUNTY	ROUTE	SHEET PM	SHEET NO.	TOTAL SHEETS	
12	ORA	405	13.24	1	2	

# EXHIBIT A2

PARCEL#	TITLE	AREA	APN
102927-2	TCE	3,677 SF	156-094-01



## LEGEND

- (R) Indicates Radial Bearing
- TPOB True Point of Beginning
- POB Point of Beginning
- 102927-2 Caltrans Parcel Number
- Access Prohibited

## LINE DATA

	BEARING	DISTANCE
L1	N00°15'08"E	5.63'
L2	S62°20'48"E	735.73'
L3	S06°06'43"W	5.38'
L4	N62°20'48"W	735.11'

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

DATE: 4-13-16		REV.:		EA: <u>XXXXX</u>	FA#: <u>                    </u>
DISTRICT	COUNTY	ROUTE	SHEET PM	SHEET NO.	TOTAL SHEETS
12	ORA	405	13.24	2	2