

**RESOLUTION NO. 2018-013**

**A RESOLUTION OF THE ORANGE COUNTY TRANSPORTATION AUTHORITY FINDING AND DETERMINING THAT THE PUBLIC INTEREST AND NECESSITY REQUIRE THE ACQUISITION IN FEE BY EMINENT DOMAIN OF CERTAIN REAL PROPERTY FOR PUBLIC USE AND AUTHORIZING AND DIRECTING CONDEMNATION OF ASSESSOR PARCEL NOS. 096-522-02 AND 096-522-04.**

**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**, on August 21, 2017, the Authority communicated alternate offers of compensation to the owner or owners of record for either the acquisition of the full fee interest or portions of the real property located at 14980 Goldenwest in the City of Westminster, California. In accordance with section 1240.150 of the California Code of Civil Procedure, the Authority provided the owner or owners of record an opportunity to elect between a partial acquisition or a full fee acquisition of the real property in light of the potential impacts, acquisitions, and construction of the Project in the manner proposed. The owner or owners of record elected the full fee acquisition option. Accordingly, this Resolution of Necessity relates to a full fee acquisition of Assessor Parcel Numbers 096-522-02 and 096-522-04 based on the owner or owners of record's consent; and

**WHEREAS**, the real property located at 14980 Goldenwest, in the City of Westminster, California (the "Subject Property") is required for the Project. The real property required for the Project is legally described and depicted in Exhibit "A" hereto; and

**WHEREAS**, the Authority communicated an offer of compensation to the owner or owners of record for the acquisition of the Subject Property; 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 Subject Property. 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 Westminster 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 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 property 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 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 Subject Property.

Section 5.     Description of Subject Property. The property 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 Subject Property 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 the Subject Property in fee as described and depicted in Exhibit "A" 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 Subject Property 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 Subject Property 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. 2018-013, by the following votes:

AYES:

NOES:

ABSENT:

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LAURENA WEINERT  
CLERK OF THE BOARD

# Exhibit “A”

**All that certain real property situated in the County of Orange, State of California, described as follows:**

**Parcel 1:**

**That portion of the Southwest quarter of the Southwest quarter of Section 11, Township 5 South, Range 11 West, in the Rancho Las Bolsas, City of Westminster, County of Orange, State of California, as per map recorded in Book 51 Page 13 of Miscellaneous Maps, in the Office of the County Recorder of said County, described as follows:**

**Beginning at a point in the Northwesternly line of that certain parcel of land conveyed by the State of California by Director's Deed D-92.4, recorded in Book 9246 Page 905 of Official Records, distant thereon South 45°26'30" West, 140.47 feet from the most Northerly corner thereof; thence along the Southwesterly prolongation of said Northwesternly line, South 45°27'30" West, 21.79 feet to the intersection thereof with a curve concave Northeasterly and having a radius of 135.00 feet; thence Southeasterly along last said curve, from a tangent which bears South 6°42'58" East, through an angle of 87°20'38", an arc distance of 205.80 feet to a reverse curve concave Southerly and having a radius of 1054.00 feet; thence Easterly along last said curve, through an angle of 5°12'24", an arc distance of 95.78 feet to a line parallel with and distant Northerly 16.00 feet, measured at right angles from the Northerly line of Bolsa Avenue, 80.00 feet wide; thence along said parallel line South 89°32'45" East, 9.57 feet; thence North 44°42'09" West, 61.24 feet to the most Easterly corner of said parcel of land in said Director's Deed D-92.4; thence along the Northeasterly and Northwesternly boundaries of said parcel of land in said Director's Deed D-92.4, North 44°01'46" West 259.20 feet and South 45°27'30" West 140.47 feet to the point of beginning; and**

**Parcel 2:**

**That portion of the Southwest quarter of the Southwest quarter of Section 11, Township 5 South, Range 11 West, in the Rancho Las Bolsas, City of Westminster, County of Orange, State of California, as per map recorded in Book 51 Page 13 of Miscellaneous Maps, in the Office of the County Recorder of said County, described as follows:**

**Commencing at the Southwest corner of said Section 11, said Southwest corner being the intersection of Golden West Street formerly 60 feet wide, and Bolsa Avenue, formerly 80 feet wide; thence along the West line of said Section, said West line being the center line of said Golden West Avenue, North 0°27'30" East, 169.39 feet; thence South 89°13'30" East, 69.04 feet to that certain curve having a radius of 135 feet as described in**



Director's Deeds D-78.1 from the State of California to Stuart A. Riddle, recorded in Book 9663 Pages 491 to 495 inclusive of Official Records in said office and being the true point of beginning; thence Southeasterly along said curve concave Northeasterly having a radius of 135 feet through an angle of  $87^{\circ}20'38''$  an arc distance of 205.80 feet; thence South  $85^{\circ}14'51''$  West 116.65 feet to a tangent curve, concave Northeasterly having a radius of 27.00 feet; thence Northwesterly along said curve through an angle of  $95^{\circ}12'39''$  an arc distance of 44.87 feet; thence North  $0^{\circ}27'30''$  East, 100.38 feet; thence North  $45^{\circ}27'30''$  East 1.48 feet to said true point of beginning; said property being situated at the Northeast corner of Golden West Street and Bolsa Avenue.

Except from a portion of said land all oil, gas, hydrocarbons, asphaltum and minerals but without the right to drill or dig through the surface thereof as reserved in the deed from Reuben W. Edwards, and others, recorded July 27, 1953 in Book 2544 Page 579 of Official Records.

Also excepting from the remainder of said land all oil, oil rights, minerals, mineral rights, natural gas, natural gas rights and other hydrocarbons by whatsoever name known that may be within or under the parcel of land hereinabove described, together with the perpetual right of drilling, mining, exploring and operating therefore and removing the same from said land or any other land, including the right to whipstock or directionally drill and mine from lands, other than those hereinabove described, oil or gas wells, tunnels and shafts into, through or across the subsurface of the land hereinabove described, and to bottom such whipstocked or directionally drilled wells, tunnels and shafts under and beneath or beyond the exterior limits thereof, and to redrill, retunnel, equip, maintain, repair, deepen and operate any such wells or mines, without, however, the right to drill, mine, explore and operate through the surface of the upper 100 feet of the subsurface of the land hereinabove described or otherwise in such manner as to endanger the safety of any highway that may be constructed on said land, as reserved in the deed from Reuben W. Edwards and others, recorded May 2, 1963 in Book 6532 Page 365 of Official Records.

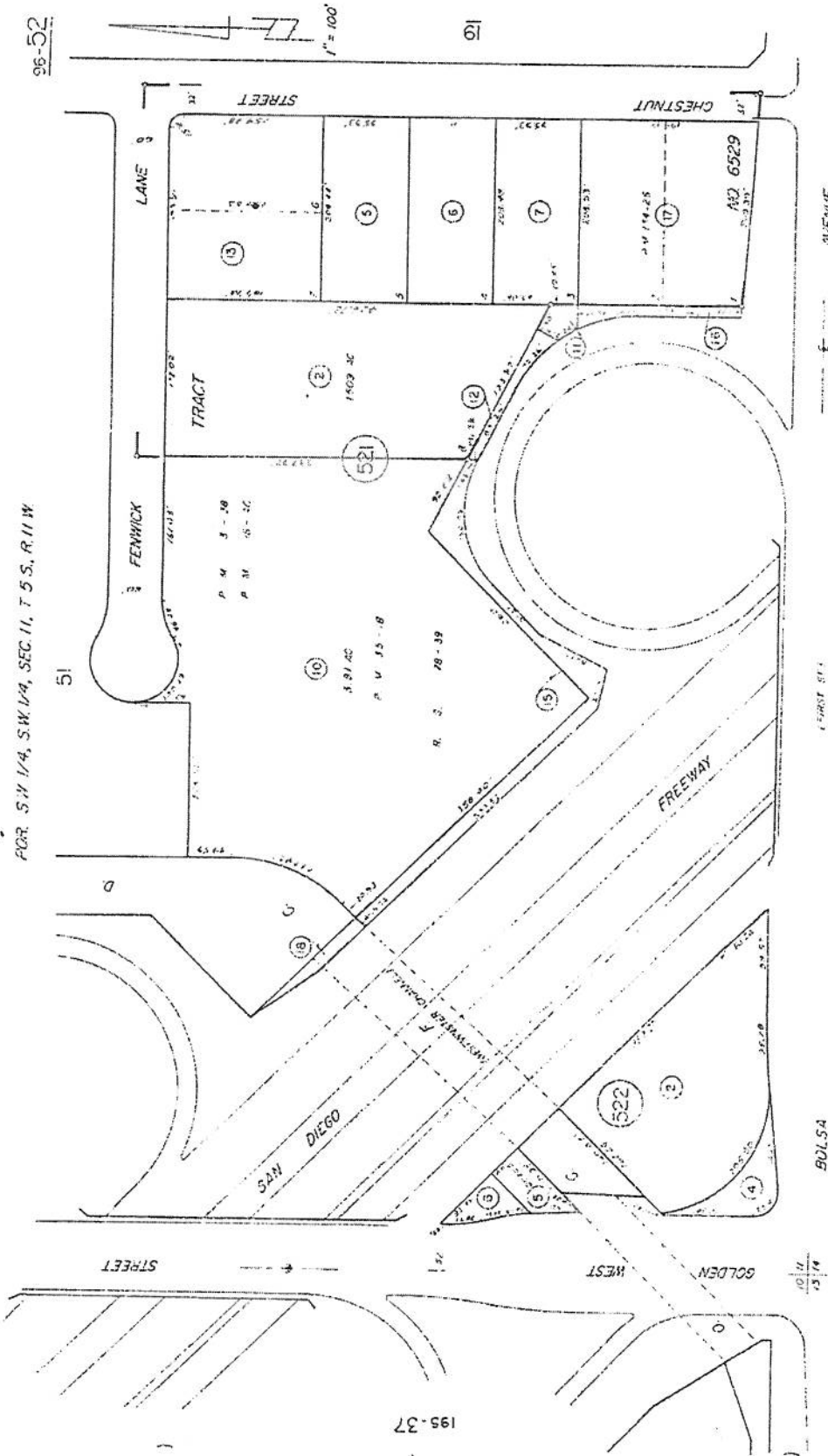
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Assessor's Parcel Number: 096-522-02,04



96-52

FOR S.W. 1/4, S.W. 1/4, SEC. 11, T. 5 S., R. 11 W.



ASSESSOR'S MAP  
BOOK 95 PAGE 52  
COUNTY OF ORANGE  
142-01

NOTE: ASSESSOR'S BLOCK a  
PARCEL NUMBERS  
SHOWN IN CIRCLES  
142-39

M.M. 253-25, 26  
TR NO 6529

MARCH 1969  
142-38