

RESOLUTION NO. 2018-061

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. 139-031-76.

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 1515 South Coast Drive, in the City of Costa Mesa, 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 in and depicted in Exhibit "1" hereto, a partial fee interest as legally described in and depicted in Exhibit "2" hereto, a temporary construction easement as legally described and depicted in Exhibit "3" hereto, and a temporary construction easement as legally described and depicted in Exhibit "4" hereto (collectively, the "Property Interests"); and

WHEREAS, 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 May 11, 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 Costa Mesa 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 June 25, 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" through "4" 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 partial fee interests and two temporary construction easements in the real property described and depicted in Exhibits "1" through "4" 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, CHAIRWOMAN
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. 2018-061, by the following votes:

AYES:

NOES:

ABSENT:

LAURENA WEINERT
CLERK OF THE BOARD

Exhibit 1

PSOMAS

EXHIBIT 'A1'

LEGAL DESCRIPTION

Caltrans Parcel No. 102839-1

Fee Acquisition

APN 139-031-76

In the City of Costa Mesa, County of Orange, State of California, being a portion of Parcel 3 as per the map filed in Book 115, Page 48 of Parcel Maps, in the Office of the Recorder of said County, described as follows:

Commencing at the centerline intersection of Hyland Avenue and South Coast Drive as shown on Parcel Map No. 2006-230 filed in Book 360, Pages 40 through 45 of said Parcel Maps; thence South 00°21'16" West 254.90 feet along the southerly prolongation of said centerline of Hyland Avenue to the westerly prolongation of the northerly line of said Parcel 3; thence South 89°34'10" East 419.98 feet along said westerly prolongation to the most westerly corner of said Parcel 3 and the **True Point of Beginning**; thence continuing South 89°34'10" East 10.58 feet along said northerly line; thence leaving said northerly line South 62°34'37" East 199.15 feet; thence South 62°04'35" East 88.81 feet to a point on the southwesterly line of said Parcel 3; thence North 63°21'11" West 297.42 feet along said southwesterly line to the **True Point of Beginning**.

Containing 773 square feet.

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.

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

PSOMAS

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

Jeremy L. Evans

Jeremy L. Evans, PLS 5282

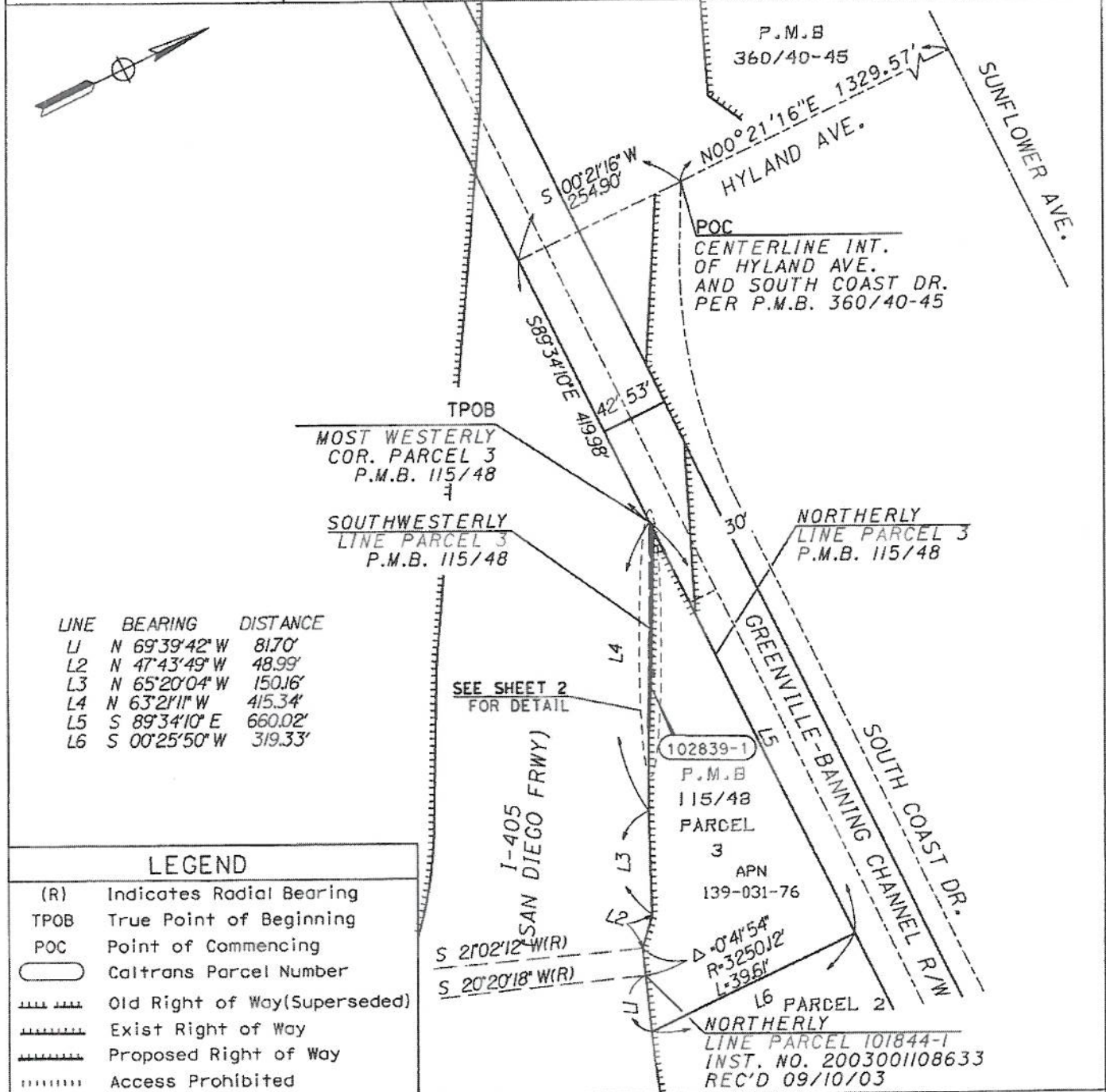
12.02.2016

Date



EXHIBIT A2

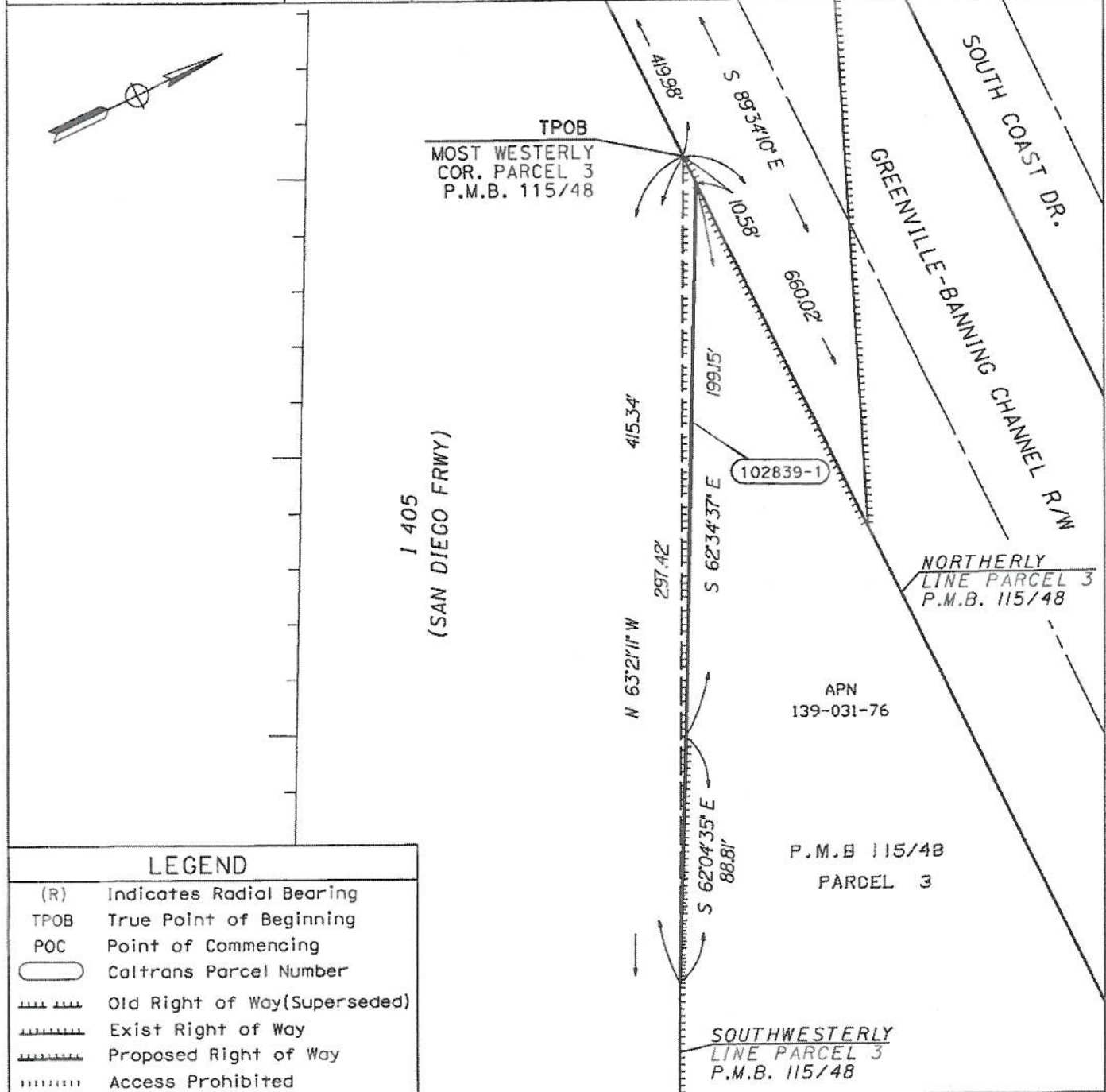
PARCEL#	TITLE	AREA	APN
102839-1	FEE	773 SF	139-031-76



PREPARED BY: PSOMAS 3 Hutton Centre Drive, Ste. 200 Santa Ana, California 92707 (714)751-7373/(714)545-8883 (Fax)		DATE: 12-2-16 REV.: EA: FA#:		SHEET PM SHEET NO. TOTAL SHEETS	
DISTRICT COUNTY ROUTE		12 ORANGE 405		11.64 1 2	

EXHIBIT A2

PARCEL#	TITLE	AREA	APN
102839-1	FEE	773 SF	139-031-76



LEGEND

(R)	Indicates Radial Bearing
TPOB	True Point of Beginning
POC	Point of Commencing
	Caltrans Parcel Number
	Old Right of Way(Superseded)
	Exist Right of Way
	Proposed Right of Way
	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.

102839-1

FEE ACQUISITION



PREPARED BY:

PSOMAS

3 Hutton Centre Drive, Ste. 200
Santa Ana, California 92707
(714)751-7373/(714)545-8883 (Fax)

DATE: 12/2/16

REV.:

EA:

FA#:

DISTRICT	COUNTY	ROUTE	SHEET PM	SHEET NO.	TOTAL SHEETS
12	ORANGE	405	11.64	2	2

Exhibit 2

PSOMAS

EXHIBIT 'B1'

LEGAL DESCRIPTION

Caltrans Parcel No. 102839-2

Fee Acquisition

APN 139-031-76

In the City of Costa Mesa, County of Orange, State of California, being a portion of Parcel 3 as per the map filed in Book 115, Page 48 of Parcel Maps, in the Office of the Recorder of said County, described as follows:

Commencing at the centerline intersection of Hyland Avenue and South Coast Drive as shown on Parcel Map No. 2006-230 filed in Book 360, Pages 40 through 45 of Parcel Maps of said County; thence South 00°21'16" West 254.90 feet along the southerly prolongation of said centerline of Hyland Avenue to a point on the westerly prolongation of the northerly line of said Parcel 3; thence South 89°34'10" East 419.98 feet along said westerly prolongation to the most westerly corner of said Parcel 3; thence along the southwesterly line of said Parcel 3 the following three (3) courses:

1. South 63°21'11" East 415.34 feet;
2. South 65°20'04" East 150.16 feet;
3. South 47°43'49" East 36.54 feet to the **True Point of Beginning** and the beginning of a non-tangent curve concave northeasterly having a radius of 2978.00 feet, a radial line to said beginning bears South 25°46'05" West; thence southeasterly 57.53 feet along said curve through a central angle of 01°06'25" to a point on the northerly line of Parcel 101844-1 conveyed to The State of California Department of Transportation per Deed recorded September 10, 2003 as Instrument No. 2003001108633 of Official Records of said County; thence along said northerly line the following two (2) courses:
 1. North 69°39'42" West 6.16 feet to the beginning of a curve concave northerly having a radius of 3250.12 feet;
 2. Northwesterly 39.61 feet along said curve through a central angle of 00°41'54"

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1 to a point on the southwesterly line of said Parcel 3; thence North 47°43'49" West
2 12.45 feet along said southwesterly line to the **True Point of Beginning**.

3
4 Containing 102 square feet.

5
6 This conveyance is made for the purpose of a freeway and the GRANTOR hereby
7 releases and relinquishes to the GRANTEE any and all abutter's rights including access
8 rights, appurtenant to GRANTOR's remaining property, in and to the freeway.

9
10 See Exhibit 'B2' attached hereto and made a part hereof.

11
12 The distances shown herein are grid distances. Ground distances may be obtained by
13 dividing grid distances by the combination factor of 0.99997837.

14
15 Prepared under the direction of

16
17
18
19 Jeremy L. Evans
20 Jeremy L. Evans, PLS 5282

12-02-2016
Date

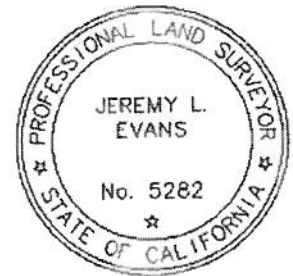
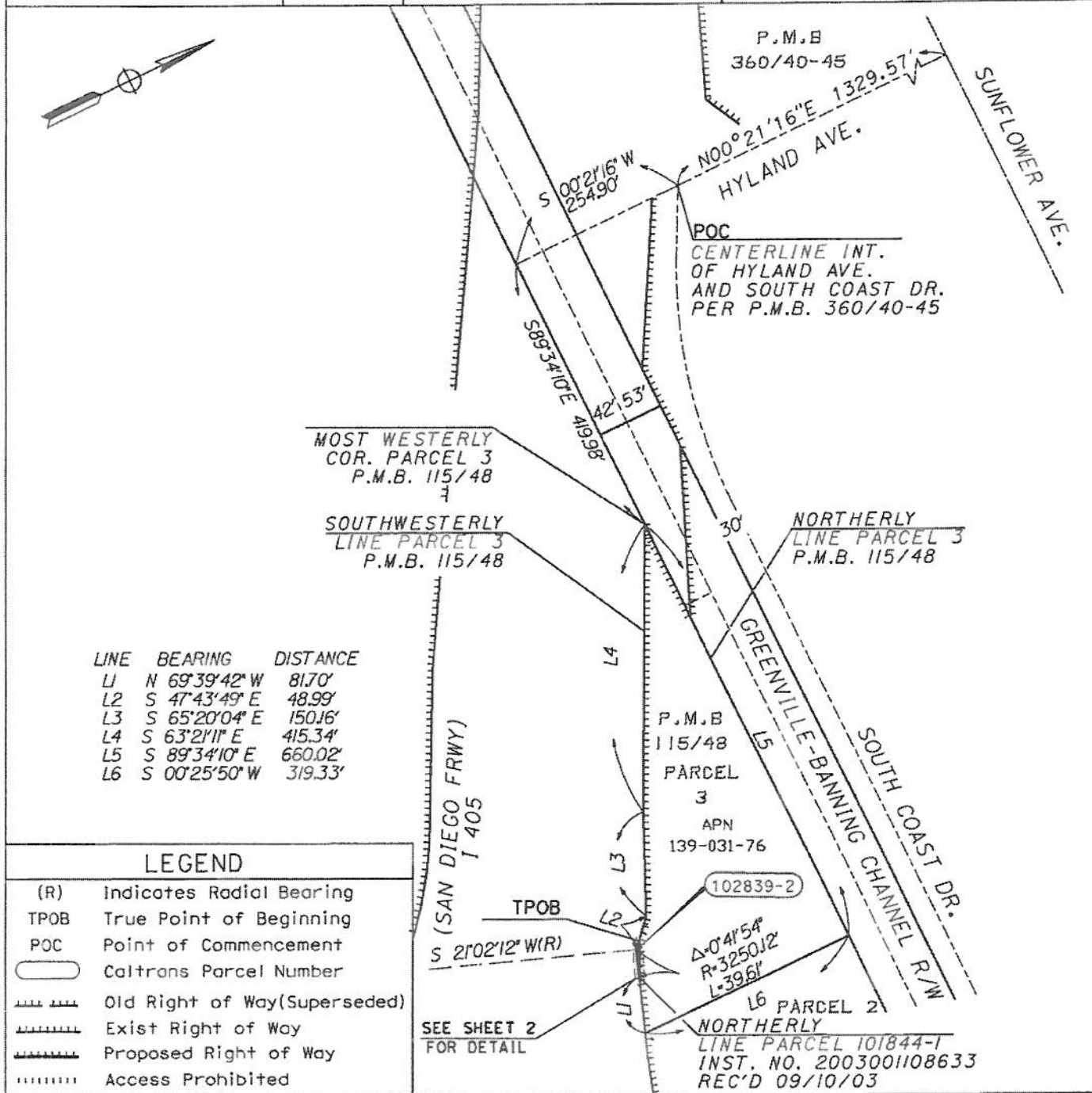


EXHIBIT B2

PARCEL#	TITLE	AREA	APN
102839-2	FEE	102 SF	139-031-76



NOTES

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

102839-2

FEE ACQUISITION



PREPARED BY:

P S O M A S

3 Hutton Centre Drive, Ste. 200
Santa Ana, California 92707
(714)751-7373/(714)545-8883 (Fax)

DATE: 12-2-16

REV.:

EA:

FA#:

DISTRICT

COUNTY

ROUTE

SHEET PM

SHEET NO.

TOTAL SHEETS

12

ORANGE

405

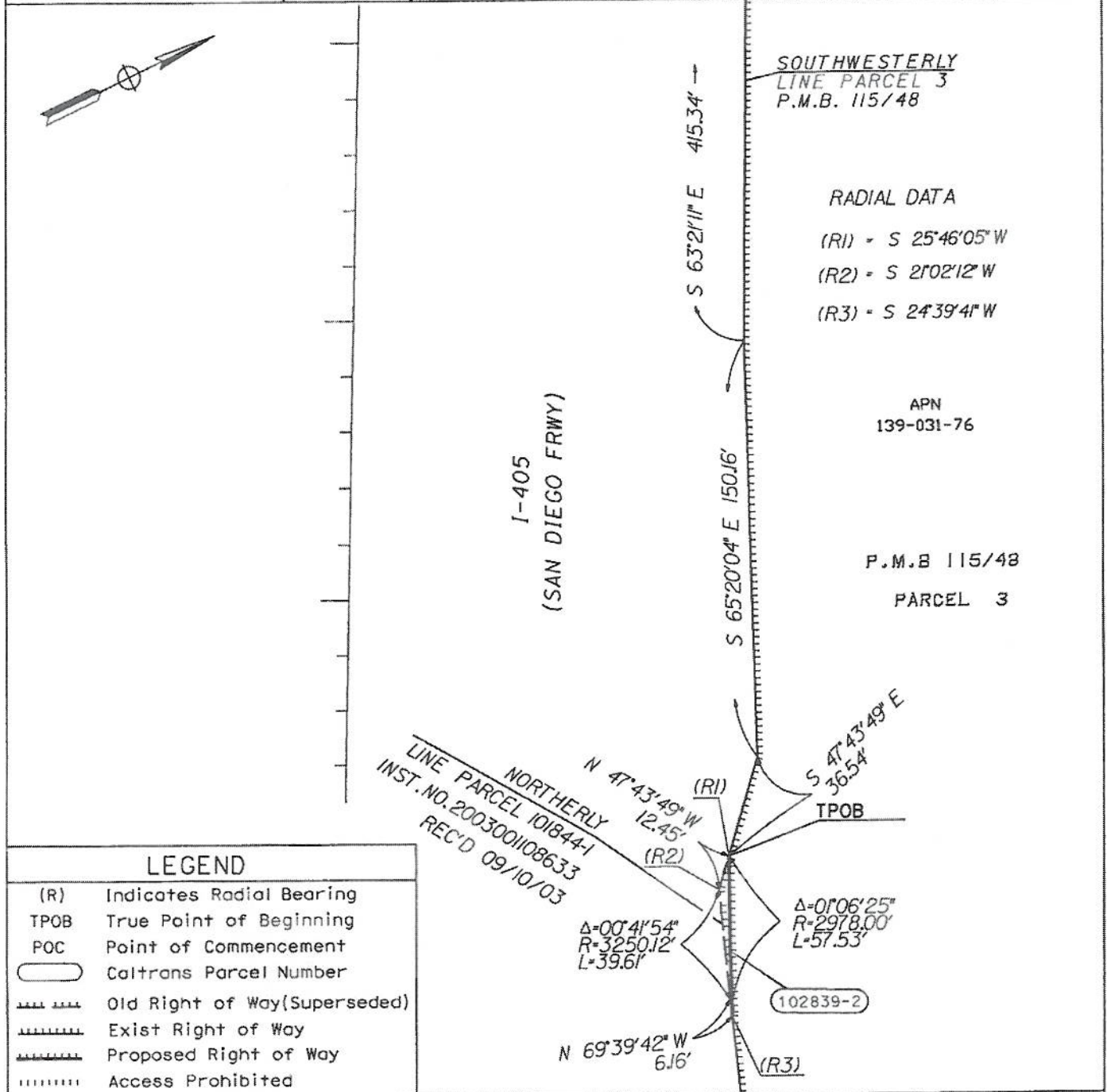
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EXHIBIT B2

PARCEL#	TITLE	AREA	APN
102839-2	FEE	102 SF	139-031-76



LEGEND

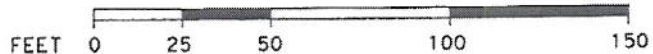
- (R) Indicates Radial Bearing
- TPOB True Point of Beginning
- POC Point of Commencement
- Caltrans Parcel Number
- Old Right of Way(Superseded)
- Exist Right of Way
- Proposed Right of Way
- Access Prohibited

NOTES

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

102839-2

FEE ACQUISITION



PREPARED BY:

PSOMAS

3 Hutton Centre Drive, Ste. 200
Santa Ana, California 92701
(714)751-7513/(714)545-8883 (Fax)

DATE: 12/2/16

REV.:

EA:

FA#:

DISTRICT	COUNTY	ROUTE	SHEET PM	SHEET NO.	TOTAL SHEETS
12	ORANGE	405	11.64	2	2

Exhibit 3

**TEMPORARY CONSTRUCTION EASEMENT
ATTACHMENT TO LEGAL DESCRIPTION**

Assessor Parcel No.: 139-031-76

Caltrans Parcel No.: 102839-3

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.
- OCTA will make reasonable mitigation efforts, including without limitation, coordinating with the owner and/or occupant of the property as to the timing of physical construction activities in an effort to minimize impacts to the existing business operation.
- 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.

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EXHIBIT 'C1' LEGAL DESCRIPTION

Caltrans Parcel No. 102839-3

Temporary Construction Easement

APN 139-031-76

In the City of Costa Mesa, County of Orange, State of California, being a portion of Parcel 3 as per the map filed in Book 115, Page 48 of Parcel Maps, in the Office of the Recorder of said County, described as follows:

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1. South 63°21'11" East 117.92 feet;
2. South 65°20'04" East 129.73 feet; thence North 62°04'35" West 512.81 feet to said northerly line; thence North 89°34'10" West 25.43 feet along said northerly line to the **True Point of Beginning**.

Containing 4422 square feet.

See Exhibit 'C2' attached hereto and made a part hereof.

PSOMAS

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

Jeremy L. Evans

Jeremy L. Evans, PLS 5282

12.02.2016

Date

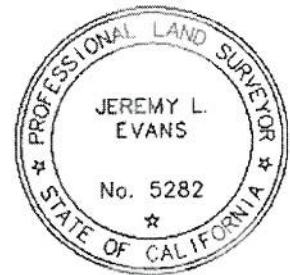


EXHIBIT C2

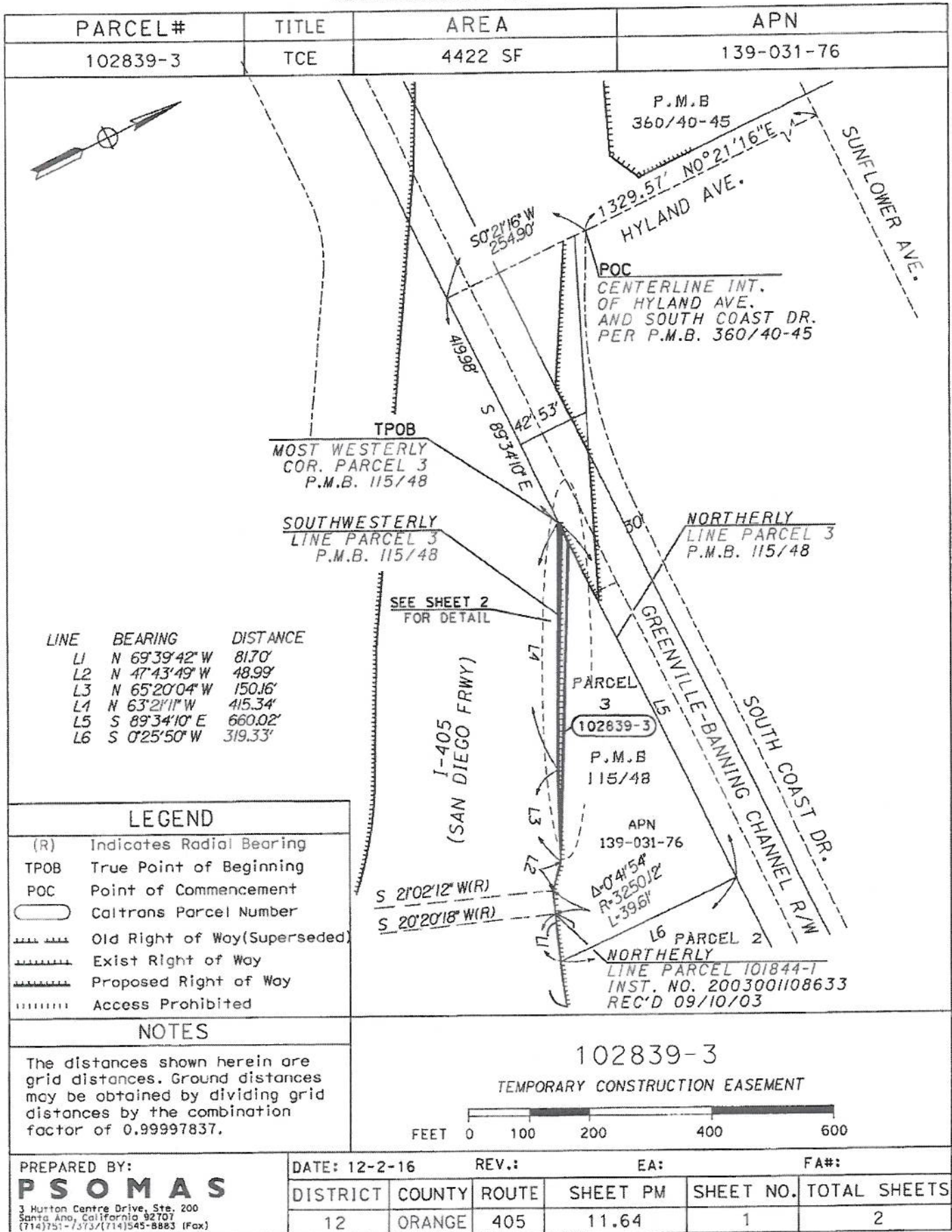


EXHIBIT C2

PARCEL#	TITLE	AREA	APN
102839-3	TCE	4422 SF	139-031-76

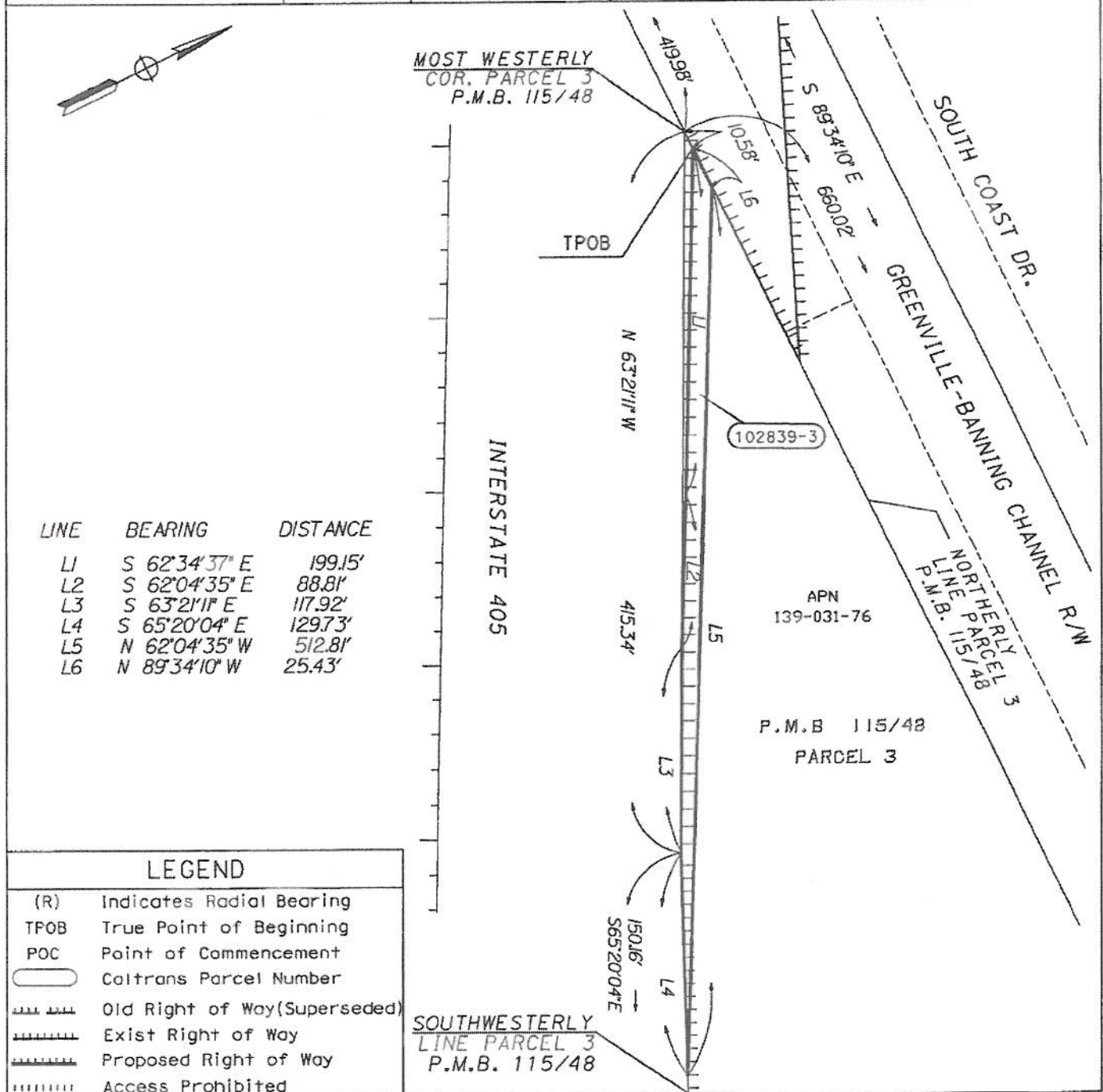


Exhibit 4

**TEMPORARY CONSTRUCTION EASEMENT
ATTACHMENT TO LEGAL DESCRIPTION**

Assessor Parcel No.: 139-031-76

Caltrans Parcel No.: 102839-4

The Orange County Transportation Authority seeks to acquire a temporary construction easement within and upon the real property described in Exhibit "B1" and depicted in Exhibit "B2" 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.
- OCTA will make reasonable mitigation efforts, including without limitation, coordinating with the owner and/or occupant of the property as to the timing of physical construction activities in an effort to minimize impacts to the existing business operation.
- 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.

PSOMAS

EXHIBIT 'D1' LEGAL DESCRIPTION

Caltrans Parcel No. 102839-4

Temporary Construction Easement

APN 139-031-76

In the City of Costa Mesa, County of Orange, State of California, being a portion of Parcel 3 as per the map filed in Book 115, Page 48 of Parcel Maps, in the Office of the Recorder of said County, described as follows:

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1. South 63°21'11" East 415.34 feet;
2. South 65°20'04" East 150.16 feet;
3. South 47°43'49" East 0.63 feet to the **True Point of Beginning**; thence continuing along said southwesterly line South 47°43'49" East 35.91 feet to the beginning of a non-tangent curve concave northeasterly having a radius of 2978.00 feet, a radial line to said beginning bears South 25°46'05" West; thence southeasterly 57.53 feet along said curve through a central angle of 1°06'25" to the northerly line of Parcel 101844-1 conveyed to The State of California Department of Transportation per Deed recorded September 10, 2003 as Instrument No. 2003001108633 of Official Records of said County; thence along said northerly line South 69°39'42" East 75.54 feet to the easterly line of said Parcel 3; thence along said easterly line North 0°25'50" East 5.71 feet to the beginning of a non-tangent curve concave northeasterly having a radius of 2968.00 feet, a radial line to said beginning bears South 23°15'08" West; thence northwesterly

Page 1 of 2

PSOMAS

1 164.76 feet along said curve through a central angle of $3^{\circ}10'50''$ to the True Point of
2 **Beginning.**

3
4 Containing 1302 square feet.

5
6 See Exhibit 'D2' attached hereto and made a part hereof.

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8
9 The distances shown herein are grid distances. Ground distances may be obtained by
10 dividing grid distances by the combination factor of 0.99997837.

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15 Prepared under the direction of

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20 Jeremy L. Evans
21 Jeremy L. Evans, PLS 5282

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12.02.2016
Date

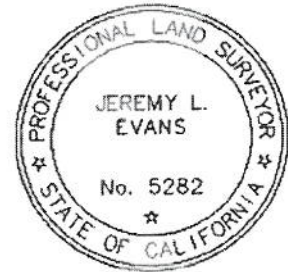
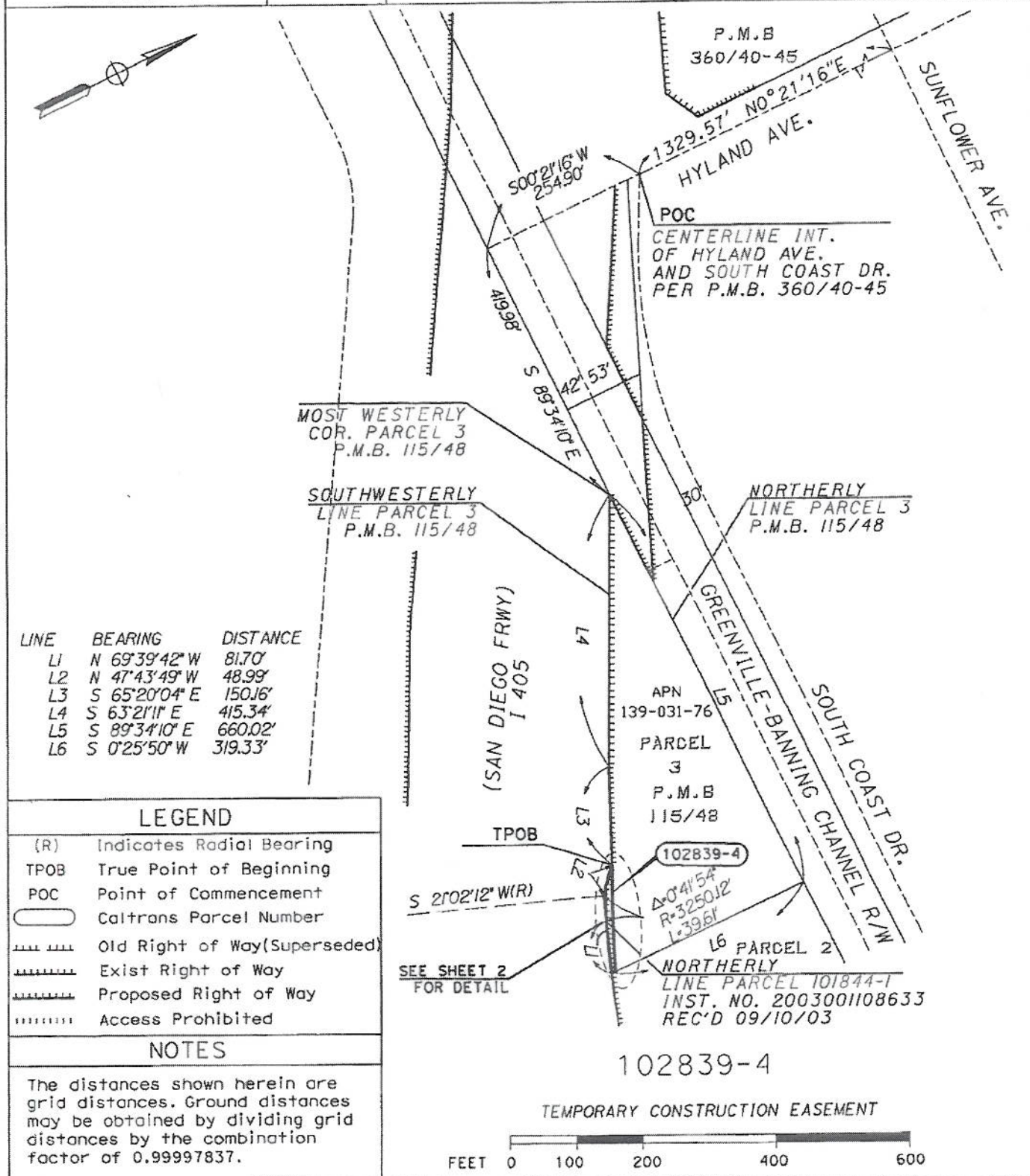


EXHIBIT D2

PARCEL#	TITLE	AREA	APN
102839-4	TCE	1302 SF	139-031-76



P S O M A S

3 Hutton Centre Drive, Ste. 200
Santa Ana, California 92707
(714)751-7373/(714)545-8883 (Fax)

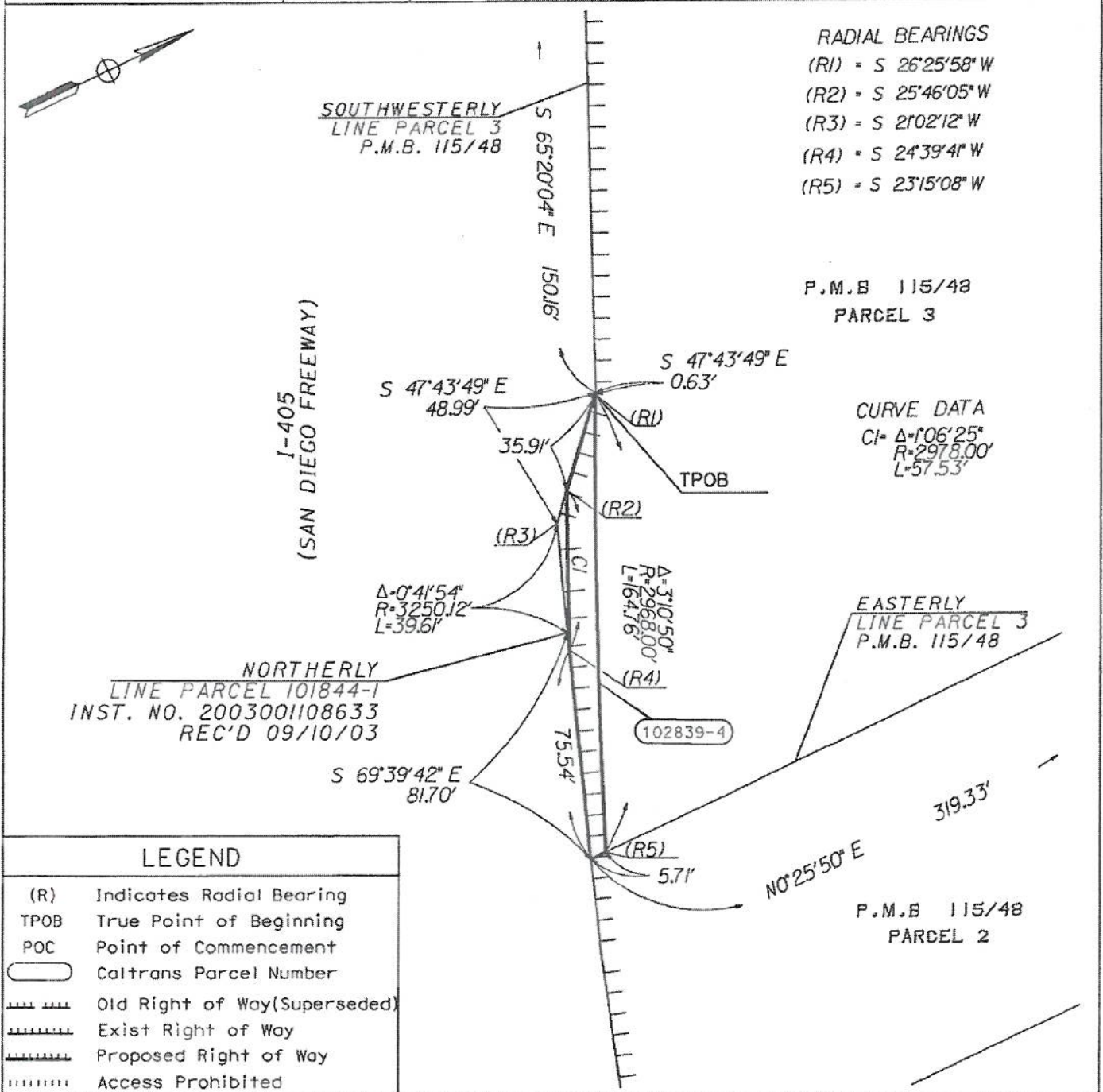
FA#:

TOTAL SHEETS

2

EXHIBIT D2

PARCEL#	TITLE	AREA	APN
102839-4	TCE	1302 SF	139-031-76



PREPARED BY: PSOMAS 3 Hutton Centre Drive, Ste. 200 Santa Ana, California 92707 (714)751-7373/(714)545-8883 (Fax)	DATE: 12-2-16		REV.:	EA:	FA#:	
	DISTRICT	COUNTY	ROUTE	SHEET PM	SHEET NO.	TOTAL SHEETS
	12	ORANGE	405	11.64	2	2