

RESOLUTION NO. 2018-105

A RESOLUTION OF THE ORANGE COUNTY TRANSPORTATION AUTHORITY FINDING AND DETERMINING THAT THE PUBLIC INTEREST AND NECESSITY REQUIRE THE ACQUISITION BY EMINENT DOMAIN OF AN INTEREST IN CERTAIN REAL PROPERTY FOR PUBLIC USE AND AUTHORIZING AND DIRECTING CONDEMNATION OF A PORTION OF ASSESSOR PARCEL NO. 195-253-07.

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, a portion of the real property located at 6211 Mahogany Avenue, in the City of Westminster, California (the “Subject Property”) is required for the Project. The specific portion of the Subject Property required for the Project includes a temporary construction easement as legally described and depicted in Exhibit “A” hereto (the “Property Interest”); and

WHEREAS, the Authority communicated an offer of compensation to the owner or owners of record for the acquisition of the Property Interest; and

WHEREAS, in accordance with section 1245.235 of the California Code of Civil Procedure on June 8, 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 Interest. 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 hearing on the Resolution of Necessity for acquisition by eminent domain of the Property Interests was continued to November 12, 2018 at 9:00 a.m.; and

WHEREAS, the Authority mailed notice 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 to the City of Westminster, stating that the Hearing on the Intent of the Authority to Adopt a Resolution of Necessity had been continued to November 12, 2018 at 9:00 a.m. at 550 South Main Street, Orange, California; 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 November 12, 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 Interest.

Section 5. Description of Property Interest. The property interest 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 Property Interest sought to be acquired is 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 temporary construction easement in the real property 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 Property Interest 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 Interest at the earliest possible time.

Section 10. Effective Date. This Resolution of Necessity shall take effect upon adoption.

PASSED, APPROVED, and ADOPTED on this 12th day of November, 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. 2018-105, by the following votes:

AYES:

NOES:

ABSENT:

LAURENA WEINERT
CLERK OF THE BOARD

EXHIBIT “A”

PSOMAS

EXHIBIT 'A1'

LEGAL DESCRIPTION

Caltrans Parcel No. 103192-1

Temporary Construction Easement

APN 195-253-07

A strip of land, 7.00 feet wide, over that portion of Lot 22 of Tract No. 1822, in the City of Westminster, County of Orange, State of California, as per the map filed in Book 76, Pages 34 and 35 of Miscellaneous Maps, in the office of the County Recorder of said County, the northeasterly line of said trip of land being described as follows:

Commencing at the northwest corner of said Lot 22; thence South 89°32'12" East 112.68 feet along the northerly line of said Lot 22 to the southwesterly line of the land described in a Grant Deed to the State of California recorded May 24, 1961 in Book 5731, Page 659 of Official Records in the office of said County Recorder and the **True Point of Beginning**; thence South 44°02'23" East 15.24 feet along said southwesterly line to the southeasterly line of said Lot 22.

The sidelines of said strip of land shall be prolonged or shortened as necessary to terminate in the northerly and southeasterly lines of said Lot 22.

Containing 137 square 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

PSOMAS

Prepared under the direction of

Jeremy L. Evans

Jeremy L. Evans, PLS 5282

11.7.2016

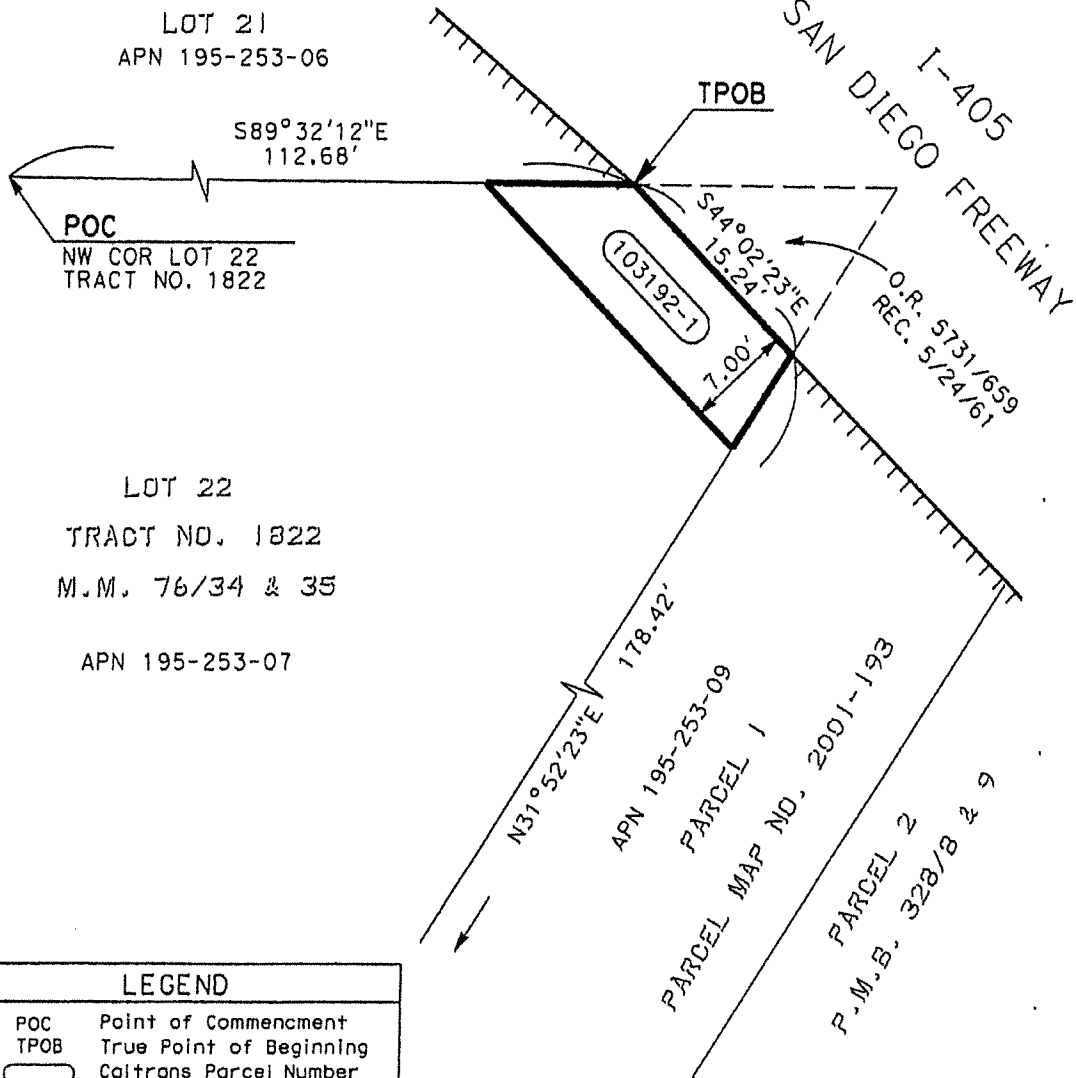
Date



EXHIBIT “A-2”

EXHIBIT A2

PARCEL#	TITLE	AREA	APN
103192-1	TCE	137 SF	195-253-07



LEGEND

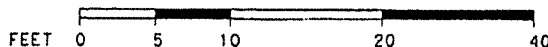
POC	Point of Commencement
TPOB	True Point of Beginning
	Caltrans Parcel Number
	Access Prohibited
(R)	Radial Bearing

NOTES

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

103192-1

TEMPORARY CONSTRUCTION EASEMENT



PREPARED BY:

PSOMAS

3 Hutton Centre Drive, Ste. 200
San Jose, California 95128
(714) 751-7373 / (714) 545-8863 (Fax)

DATE: 05-02-16

REV.: 11/07/16

EA: OF

FA#:

DISTRICT	COUNTY	ROUTE	SHEET PM	SHEET NO.	TOTAL SHEETS
12	ORANGE	405	19.01	1	1