

RESOLUTION NO. 2021-006

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 NUMBER: PARENT PARCEL 016-221-12 (CONDOMINIUM ASSESSOR PARCEL NUMBERS 932-11-138 THROUGH 932-11-145).

WHEREAS, the Orange County Transportation Authority (the "Authority") is undertaking the State Route 55 ("SR-55") Improvement Project between Interstate 405 and Interstate 5, 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 travel and high occupancy vehicle (HOV) lanes in each direction; 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, portions of the real property located at 1540-1554 E. Warner Avenue, in the City of Santa Ana, California (the "Subject Property") are required for the Project. The specific portions of the Subject Property required for the Project are one partial fee acquisition as described and depicted in Exhibit "A" attached hereto, one highway easement interest as legally described and depicted in Exhibit "B" attached hereto and a temporary construction easement as legally described and depicted in Exhibit "C" attached hereto (the "Property Interests"); and

WHEREAS, if such access currently exists, 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 January 8, 2021, 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 Santa Ana 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 8, 2021 at 9:00 a.m. 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 a reasonable opportunity to be heard; and

WHEREAS, said hearing has been held by the Authority's Board of Directors; 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 Interests 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 travel and high occupancy vehicle (HOV) lanes in each direction; 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", "B" and "C" 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 Property Interests are already devoted to a public use, the use proposed by this Project is a more necessary public use than the use to which the Property Interests, or any portion thereof, are 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 Property Interests, or any portion thereof, are already devoted.

Section 8. Acquisition of Substitute Property. To the extent portions of the real property to be acquired for the Project are currently devoted to or held for some public use, the Authority intends to acquire substitute property pursuant to California Code of Civil Procedure sections 1240.320 and 1240.330. The requirements of said Code sections have been satisfied and the acquisition of said substitute property is necessary for the Project. The substitute property may be conveyed by the Authority to the owner(s) of the necessary property.

Section 9. Authority to Exercise Eminent Domain. The Authority is hereby authorized and empowered to acquire the Property Interests, including the improvements thereon, if any, by eminent domain for the proposed Project.

Section 10. 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 11. Effective Date. This Resolution of Necessity shall take effect upon adoption.

PASSED, APPROVED, and ADOPTED on this _____ day of _____, 2021.

ANDREW DO, CHAIRMAN
ORANGE COUNTY
TRANSPORTATION AUTHORITY

APPROVED AS TO FORM:

JAMES M. DONICH
GENERAL COUNSEL

ATTEST:

I, Andrea West, Interim Clerk of the Board of Directors of the Orange County Transportation Authority, do hereby certify that the foregoing Resolution No. 2021-006 by the following votes:

AYES:

NOES:

ABSENT:

ANDREA WEST
INTERIM CLERK OF THE BOARD

EXHIBIT "A"

EXHIBIT "A"
LEGAL DESCRIPTION

Parcels 103721-1, 103761-1 & 103762-1: FEE

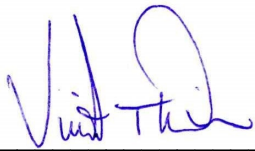
That portion of Parcel 1, in the City of Santa Ana, County of Orange, State of California, as shown on Parcel Map No. 2014-179 filed in book 383, Pages 39 through 44 of Parcel Maps, in the office of the County Recorder of said County, said portion also being a part of the common area belonging to Units 1540 A & B, 1544 A & B, 1548 A & B and 1554 A & B, as shown and described on that certain Condominium Plan recorded September 24, 2015 as Instrument No. 2015000490092 of Official Records in the office of said County Recorder, lying southeasterly of the following described line:

BEGINNING at a point on that certain course shown as having a bearing of North 49°21'29" West and a length of 204.53 in the southwesterly line of said Parcel 1, distant thereon South 49°22'20" East 196.12 feet from the northwesterly terminus of said certain course; thence leaving said southwesterly line, North 40°38'58" East 821.94 feet; thence North 43°30'43" East 39.03 feet to the northeasterly line of said Parcel 1.

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.

The bearings shown herein are based on the California Coordinate System of 1983, Zone VI, North American Datum of 1983 (1991.35 epoch). The distances shown herein are grid distances. Ground distances may be obtained by dividing grid distances by the combination factor of 0.99997834.




This real property description has been prepared by me, or under my direction, in conformance with the Professional Land Surveyors' Act.

Signature: 
Vincent T. Davis

Date: 21 Jan 2021



LEGEND:

	= ACCESS PROHIBITED
	= SUPERSEDED RIGHT OF WAY
	= PROPOSED RIGHT OF WAY
P.O.B.	= POINT OF BEGINNING

LINE DATA:

NO.	BEARING	DISTANCE
L1	N43°30'43"E	39.03'
L2	S75°03'22"E	7.22'
L3	N49°22'20"W	8.46'

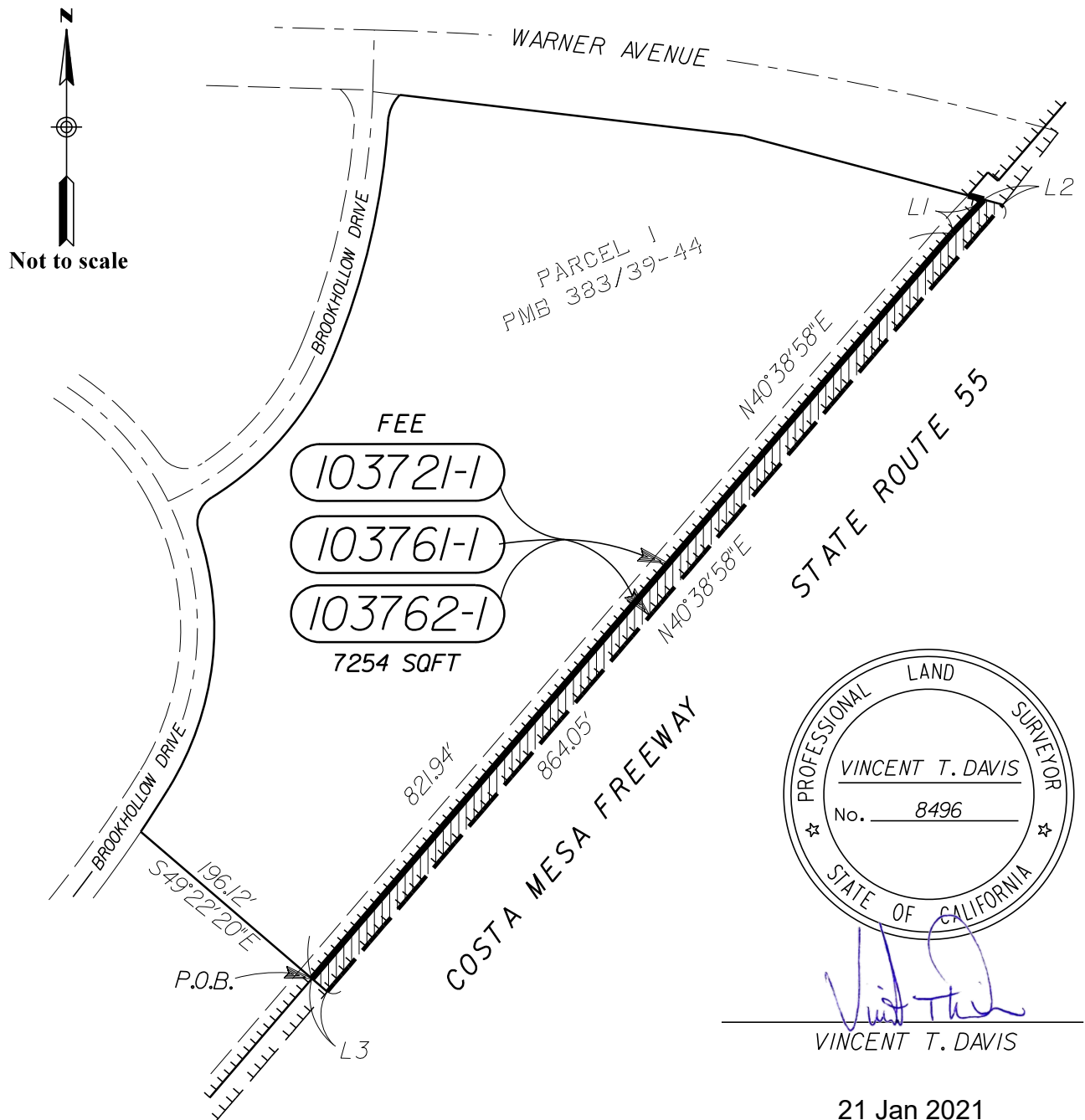


EXHIBIT "A1"

(Page 1 of 1)

COUNTY: ORA
RTE: 55
P.M.: 8.4

NOT TO SCALE
DATE: JAN 2021

PARCELS:
103721-1
103761-1
103762-1

EXHIBIT "B"

HIGHWAY EASEMENT
ATTACHMENT TO LEGAL DESCRIPTION
Assessor Parcel No.: 932-111-38, 932-111-39 and 932-111-140 Thru 932-111-45
Caltrans Parcel No.: 103721-2, 103761-2, and 103762-2

This non-exclusive highway easement shall be in, on, over, under, and across that certain real property described in Exhibit "B" attached hereto, subject to the rights and limitations described herein ("Highway Easement"). The Highway Easement shall be used by the Orange County Transportation Authority and its employees, agents, representatives, contractors, successors and assigns (collectively, "OCTA") for purposes of constructing, compacting, maintaining, removing, and replacing, as applicable, compacted material thereto in connection with the construction of the SR 55 Improvement Project.

The owner and occupant(s) of the real property subject to the Highway Easement shall not landscape or construct any improvements within the easement area described in the attached Exhibit "B". OCTA will install compacted material, within that portion of the Highway Easement area affected by OCTA's work. The owner and occupant(s) shall not excavate within the Highway Easement area or disturb any compacted material installed within the Highway Easement area. The owner and occupant(s) of the real property subject to the Highway Easement will have the right to use the surface of the easement area described in the attached Exhibit "B" for access or automobile parking purposes, once the compacted material is in place.

The rights and obligations of OCTA and the owner of the real property subject to the Highway Easement shall run with the land and be binding upon and/or inure to the benefit of OCTA's and the property owner's respective heirs, successors and assigns.

OCTA expressly reserves the right to convey, transfer, or assign the Highway Easement subject to the same rights and limitations described herein.

EXHIBIT "B"
LEGAL DESCRIPTION

Parcels 103721-2, 103761-2, & 103762-2: HIGHWAY EASEMENT

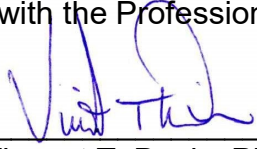
That portion of Parcel 1, in the City of Santa Ana, County of Orange, State of California, as shown on Parcel Map No. 2014-179 filed in book 383, Pages 39 through 44 of Parcel Maps, in the office of the County Recorder of said County, said portion also being a part of the common area belonging to Units 1540 A & B, 1544 A & B, 1548 A & B and 1554 A & B, as shown and described on that certain Condominium Plan recorded September 24, 2015 as Instrument No. 2015000490092 of Official Records in the office of said County Recorder, lying southeasterly of the following described line:

BEGINNING at a point on that certain course shown as having a bearing of North 49°21'29" West and a length of 204.53 in the southwesterly line of said Parcel 1, distant thereon South 49°22'20" East 194.62 feet from the northwesterly terminus of said certain course; thence leaving said southwesterly line, North 40°38'58" East 821.98 feet; thence North 43°30'43" East 38.25 feet to the northeasterly line of said Parcel 1.

EXCEPTING THEREFROM that portion lying southeasterly of the following described line: **BEGINNING** at a point on that certain course shown as having a bearing of North 49°21'29" West and a length of 204.53 in the southwesterly line of said Parcel 1, distant thereon South 49°22'20" East 196.12 feet from the northwesterly terminus of said certain course; thence leaving said southwesterly line, North 40°38'58" East 821.94 feet; thence North 43°30'43" East 39.03 feet to the northeasterly line of said Parcel 1.

The bearings shown herein are based on the California Coordinate System of 1983, Zone VI, North American Datum of 1983 (1991.35 epoch). The distances shown herein are grid distances. Ground distances may be obtained by dividing grid distances by the combination factor of 0.99997834.

This real property description has been prepared by me, or under my direction, in conformance with the Professional Land Surveyors' Act.

Signature: 
Vincent T. Davis, PLS

Date: 21 Jan 2021

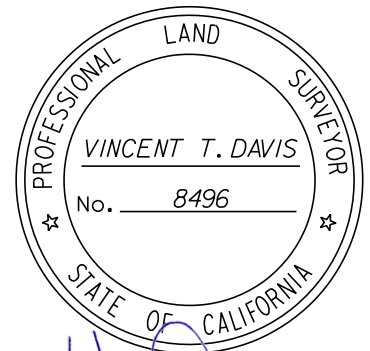
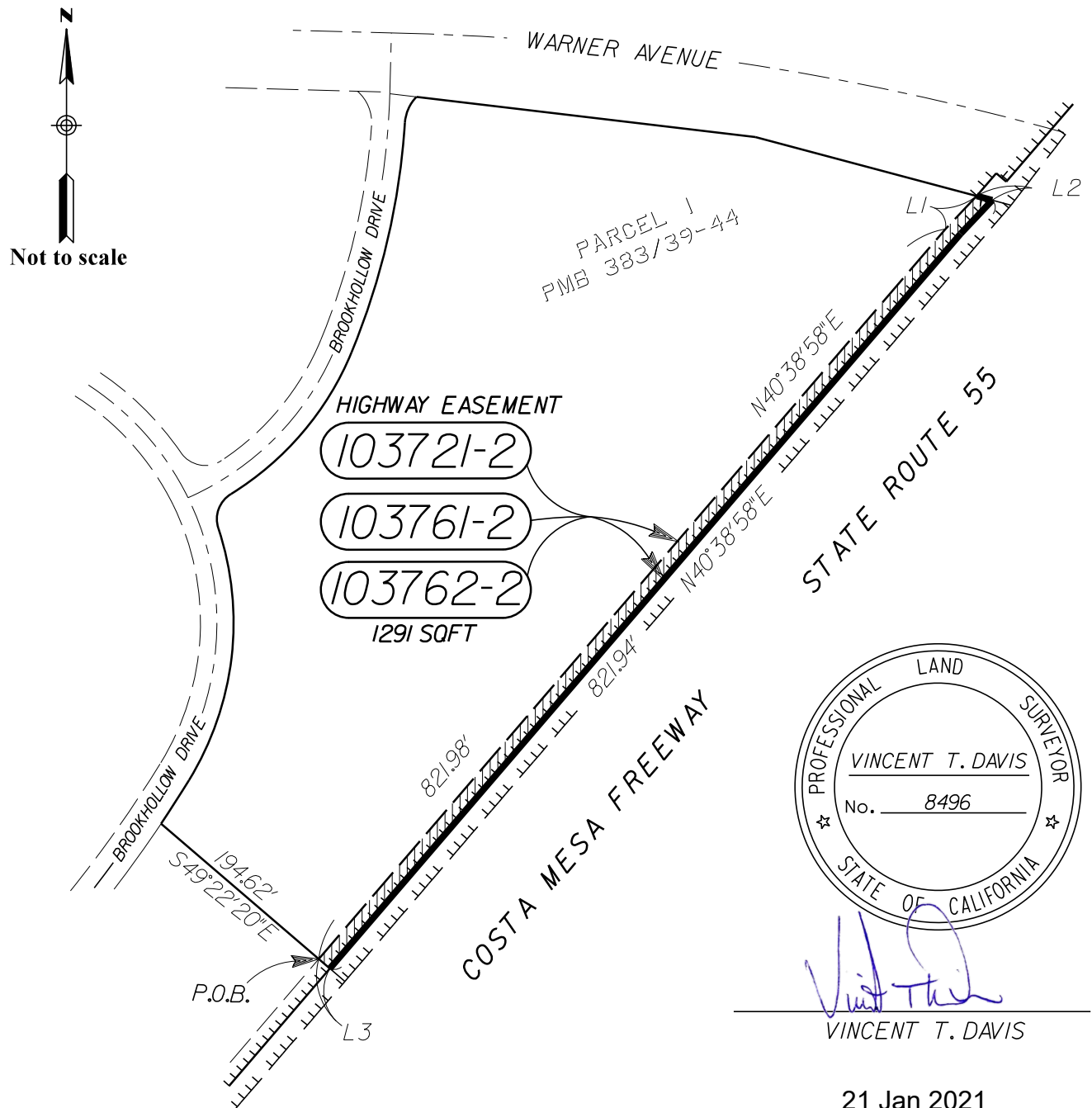


LEGEND:

	= ACCESS PROHIBITED
	= SUPERSEDED RIGHT OF WAY
	= PROPOSED RIGHT OF WAY
P.O.B.	= POINT OF BEGINNING

LINE DATA:

NO.	BEARING	DISTANCE
L1	N43°30'43"E	38.25'
L2	S75°03'22"E	1.71'
L3	N49°22'20"W	1.50'



Vincent T. Davis

VINCENT T. DAVIS

21 Jan 2021

DATE

EXHIBIT "B1"

(Page 1 of 1)

COUNTY: ORA
RTE: 55
P.M.: 8.4

NOT TO SCALE
DATE: JAN 2021

PARCELS:
103721-2
103761-2
103762-2

EXHIBIT "C"

**TEMPORARY CONSTRUCTION EASEMENT
ATTACHMENT TO LEGAL DESCRIPTION
Assessor Parcel Nos.: 932-111-38 Thru 932-111-45
Caltrans Parcel No.: 103721-3, 103761-3, and 103762-3**

This temporary construction easement shall be in, on, over, under, and across that certain real property described in Exhibit "C1" and depicted in Exhibit "C2" attached hereto, subject to the rights and limitations set forth 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 SR 55 Improvement Project. The TCE shall be for a period of sixty (60) months, a portion of which shall be exclusive (subject to the Rights and Limitations of Use and Occupancy 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 Rights and Limitations of Use and Occupancy 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 Limitations 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.
- During the Construction Period, OCTA may place a temporary fence around the TCE area.
- Reasonable pedestrian and vehicular access to the property shall be maintained at all times.
- Access to the TCE area by OCTA shall be from the public right of way.
- Improvements within the TCE area will be removed as needed by OCTA to allow for construction activities. Any and all improvements so removed shall be included in the compensation paid by OCTA for this TCE.
- Prior to the termination of the Construction Period, OCTA will remove from the TCE area all construction equipment and materials, 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.

EXHIBIT "C"
LEGAL DESCRIPTION

CALTRANS PARCEL NOS. 103721-3, 103761-3 AND 103762-3

TEMPORARY CONSTRUCTION EASEMENT

THAT PORTION OF PARCEL 1 OF PARCEL MAP NO. 2014-179, IN THE CITY OF SANTA ANA, COUNTY OF ORANGE, STATE OF CALIFORNIA, PER MAP FILED IN BOOK 383, PAGES 39 THROUGH 44, OF PARCEL MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE MOST WESTERLY CORNER OF SAID PARCEL 1;

THENCE ALONG THE SOUTHWESTERLY LINE OF SAID PARCEL 1 SOUTH 49°22'20" EAST, 194.62 FEET TO THE **TRUE POINT OF BEGINNING**;

THENCE LEAVING SAID SOUTHWESTERLY LINE NORTH 40°38'58" EAST, 821.98 FEET;

THENCE NORTH 43°30'43" EAST, 38.25 FEET TO THE GENERALLY NORTHERLY LINE OF SAID PARCEL 1;

THENCE ALONG SAID GENERALLY NORTHERLY LINE NORTH 75°03'22" WEST, 5.45 FEET;

THENCE LEAVING SAID GENERALLY NORTHERLY LINE SOUTH 40°38'58" WEST, 857.82 FEET TO SAID SOUTHWESTERLY LINE;

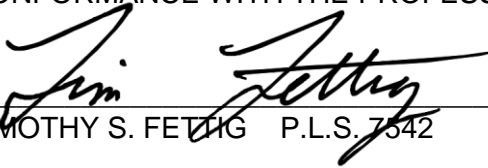
THENCE ALONG SAID SOUTHWESTERLY LINE SOUTH 49°22'20" EAST, 3.00 FEET TO THE TRUE POINT OF BEGINNING.

THE ABOVE DESCRIBED PARCELS CONTAIN A TOTAL GRID AREA 2,611 SQUARE FEET OR 0.060 ACRES, MORE OR LESS.

THE BEARINGS AND DISTANCES USED IN THE ABOVE DESCRIPTION ARE CALIFORNIA COORDINATE SYSTEM (CCS83), ZONE VI, NAD 83 (1991.35 EPOCH OCS ADJUSTMENT), ALL DISTANCES SHOWN ARE GRID, TO OBTAIN GROUND DISTANCES DIVIDE BY 0.99997834.

ALL AS MORE PARTICULARLY SHOWN ON EXHIBIT "C1", ATTACHED HERETO AND MADE A PART HEREOF.

THIS DOCUMENT HAS BEEN PREPARED BY ME, OR UNDER MY DIRECTION, IN CONFORMANCE WITH THE PROFESSIONAL LAND SURVEYOR'S ACT.


TIMOTHY S. FETTING P.L.S. 7542

1/22/21

DATE



PLAT TO ACCOMPANY
LEGAL DESCRIPTION

NOTE:

SEE SHEET 2 FOR
LINE TABLE

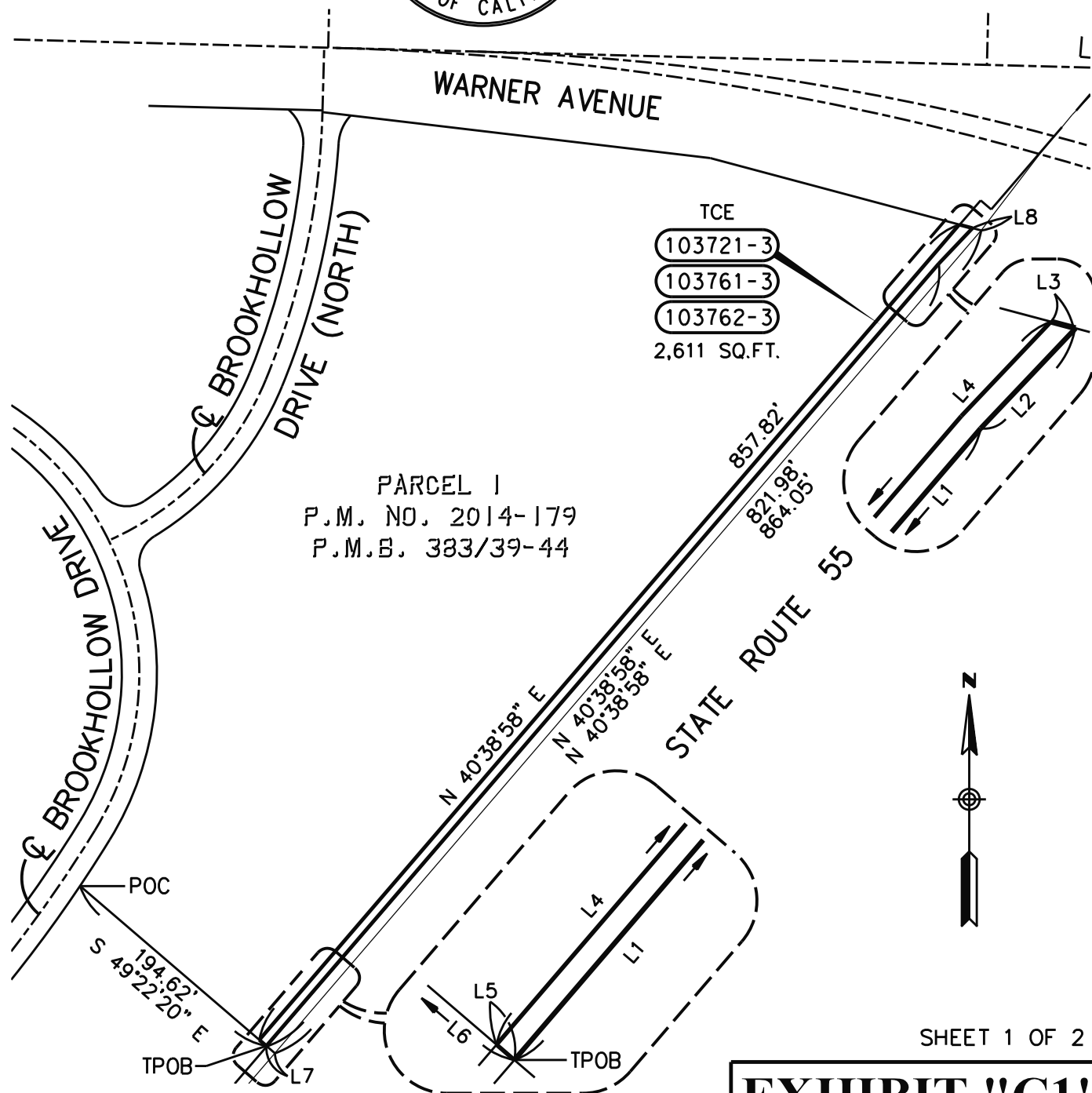


PREPARED BY ME OR UNDER MY DIRECTION:

Tim Fetting
TIMOTHY S. FETTING P.L.S. 7542

1/22/21

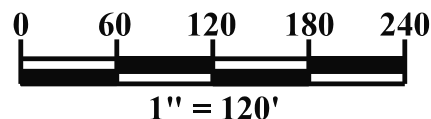
DATE



SHEET 1 OF 2

EXHIBIT "C1"

103721-3 103761-3 103762-3



THE BEARINGS AND DISTANCES SHOWN ARE
CALIFORNIA COORDINATE SYSTEM OF 1983 (CCS83),
ZONE VI, NAD 83 (1991.35 EPOCH
O.C.S. GPS ADJUSTMENT).

ALL DISTANCES SHOWN ARE GRID DISTANCES.
DIVIDE THE GRID DISTANCES SHOWN
BY 0.99997834 TO OBTAIN GROUND DISTANCES.

LINE TABLE		
NO.	BEARING	LENGTH
L1	N 40°38'58" E	821.98'
L2	N 43°30'43" E	38.25'
L3	N 75°03'22" W	5.45'
L4	S 40°38'58" W	857.82'
L5	S 49°22'20" E	3.00'
L6	S 49°22'20" E	194.62'
L7	N 49°22'20" W	9.96'
L8	N 75°03'22" W	8.93'

SHEET 2 OF 2

EXHIBIT "C1"

103721-3 103761-3 103762-3

NOTE:

SEE SHEET 1 FOR
BOUNDARY