

RESOLUTION NO. 2021-049

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. 430-012-04.

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 2350 Pullman Street, in the City of Santa Ana, California ("Subject Property"), are required for the Project. The specific portions of the Subject Property required for the Project are a permanent utility easement as described and depicted in Exhibit "A" attached hereto (Parcel 103719-1) and a temporary construction easement as described and depicted in Exhibit "B" attached hereto (Parcel 103719-2) (collectively, 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 June 25, 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 July 26, 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" and "B" 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. 2021-049, by the following votes:

AYES:

NOES:

ABSENT:

ANDREA WEST
INTERIM CLERK OF THE BOARD

EXHIBIT "A"

**UNDERGROUND DISTRIBUTION EASEMENT
ATTACHMENT TO LEGAL DESCRIPTION**

Assessor Parcel No.: 430-012-04

Parcel No.: 103719-1

This underground distribution easement shall be in, on, over, under, across and along the real property described in Exhibit "A" and depicted in Exhibit "A1" attached hereto, subject to the rights and limitations described herein ("Distribution Easement"). The Distribution Easement shall be used by the Orange County Transportation Authority and its employees, agents, representatives, contractors, successors, and assigns (collectively, "OCTA" or "Easement Holder") for purposes of constructing, using, maintaining, operating, altering, adding to, repairing, replacing, reconstructing, inspecting, and/or removing, at any time and from time to time, underground electrical supply systems and communication systems (hereinafter referred to as "systems"), consisting of wires, underground conduits, cables, vaults, manholes, handholes, and including above-ground enclosures, markers and concrete pads and other appurtenant fixtures and equipment necessary or useful for distributing electrical energy and for transmitting intelligence, data and/or communications (eg. through fiber optic cable).

Easement Holder shall have the right to keep the Distribution Easement area free from brush or any accumulation of material as may endanger or interfere with said systems and shall have free access to said systems placed within the Distribution Easement and every part thereof, at all times, for the purpose of exercising the rights herein described.

The owner and occupant of the real property subject to the Distribution Easement shall not construct any permanent improvements within the easement area described in Exhibit "A" and depicted in Exhibit "A1" that would impede Easement Holder's rights as defined herein. The Distribution Easement area will be restored to grade, and Easement Holder will replace any existing landscaping material that is removed with functionally equivalent landscaping material, within that portion of the Distribution Easement area affected by Easement Holder's work. The owner and occupant of the real property subject to the Distribution Easement will have the right to use the surface of the easement area described in Exhibit "A" and depicted in Exhibit "A1" for all uses not inconsistent with the rights described herein, provided, however, that the exercise of such rights does not interfere with or endanger, in the opinion of Easement Holder, the operation or maintenance of the systems installed within the Distribution Easement, or Easement Holder's ready access to said systems, or the exercise of any of the rights herein granted to Easement Holder.

No other easement or easements shall be granted on, under, over, or within the Distribution Easement area described and depicted in Exhibits "A" and "A1," respectively, without the previous written consent of the Easement Holder.

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

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

EXHIBIT "A"
LEGAL DESCRIPTION
SERIAL NO: 72891A
APN: 430-012-04

Parcel 103719-1: UNDERGROUND DISTRIBUTION EASEMENT

That portion of Parcel 2, in the City of Santa Ana, County of Orange, State of California, as shown on a map filed in Book 109, Pages 48 and 49 of Parcel Maps, in the office of the County Recorder of said County, described as follows:

COMMENCING at the southeasterly corner of said Parcel 2, said point being on a non-tangent curve, concave southerly and having a radius of 429.99 feet, a radial line to said point bears North 25°57'03" East, said curve also being the southerly line of said Parcel 2; thence westerly 93.36 feet along said curve and said southerly line through a central angle of 12°26'21" to the **POINT OF BEGINNING**, a radial line to said point bears North 13°30'41" East; thence continuing westerly 18.55 feet along said curve and said southerly line through a central angle of 02°28'20"; thence leaving said southerly line, North 11°22'37" East, 15.24 feet; thence South 78°20'14" East, 18.54 feet; thence South 11°19'31" West, 15.43 feet to the **POINT OF BEGINNING**.

The above described parcel contains a grid area of 283 square feet or 0.006 acres, more or less.

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: _____

05 Apr 2021



DATUM: NAD83 EPOCH 1991.35 ORANGE COUNTY SURVEYOR ADJUSTMENT.
COORDINATE SYSTEM: CCS83 ZONE 6, COORDINATES, BEARINGS, DISTANCES
COMBINED FACTOR: 0.99997834 (GROUND = GRID/COMBINED FACTOR)

PARCEL 1
PMB 109/48-49
APN: 430-012-03

CITY OF SANTA ANA
COSTA MESA FREEWAY
STATE ROUTE 55

PROPOSED R/W
(CALTRANS PARCEL 103720-1,
APPRAISAL MAP E120133-20)

UNDERGROUND
DISTRIBUTION
EASEMENT

103719-1

283 SQFT OR
0.006 ACRES (+/-)

PARCEL 2
PMB 109/48-49

SUPERSEDED R/W
(CALTRANS PARCEL 103720-1,
APPRAISAL MAP E120133-20)

APN: 430-012-04

15.24'
N1°22'37"E

18.54'
S78°20'14"E

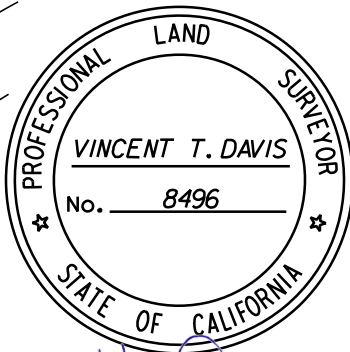
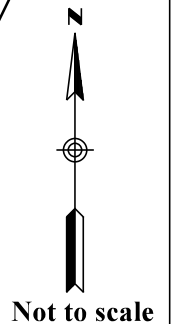
15.43'
S11°19'31"W

P.O.B.

PULLMAN ST.

P.O.C.

(SOUTHEASTERLY
CORNER PARCEL 2)



Vincent T. Davis

VINCENT T. DAVIS

05 Apr 2021

DATE

LEGEND:

	= ACCESS PROHIBITED
P.O.B.	= POINT OF BEGINNING
P.O.C.	= POINT OF COMMENCEMENT
////	= EASEMENT AREA

CURVE TABLE:

NO.	RADIUS	DELTA	TANGENT	LENGTH
C1	R= 429.99'	$\Delta = 12^{\circ}26'21''$	T= 46.86'	L= 93.36'
C2	R= 429.99'	$\Delta = 02^{\circ}28'20''$	T= 9.28'	L= 18.55'

EXHIBIT "A1"

(Page 1 of 1)

W.O. NO. 801843918
NOT. NO. 203698698

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

NOT TO SCALE
DATE: MAR 2021

PARCEL:
103719-1
SERIAL NO: 72891A

EXHIBIT "B"

**TEMPORARY CONSTRUCTION EASEMENT
ATTACHMENT TO LEGAL DESCRIPTION**

Assessor Parcel No.: 430-012-04

Caltrans Parcel No.: 103719-2

This temporary construction easement shall be in, on, over, under, and across that certain real property described in Exhibit "B1" and depicted in Exhibit "B2" 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 twenty-four (24) 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 twelve (12) consecutive months within the twenty-four (24) 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 twelve (12) 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.
- 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 "B1"
LEGAL DESCRIPTION

CALTRANS PARCEL NO. 103719-2

TEMPORARY CONSTRUCTION EASEMENT

APN 430-012-04

THAT PORTION OF PARCEL 2, IN THE CITY OF SANTA ANA, COUNTY OF ORANGE, STATE OF CALIFORNIA, PER MAP FILED IN BOOK 109, PAGES 48 AND 49, OF PARCEL MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE CENTERLINE B.C. OF PULLMAN STREET, 60.00 FEET WIDE, SAID POINT BEING THE SOUTHEASTERLY TERMINUS OF THE CURVE DESCRIBED AS "D=81°12'24" R=400.00' L=566.93'" AS SHOWN ON SAID PARCEL MAP, SAID POINT BEING THE BEGINNING OF A CURVE, CONCAVE SOUTHERLY, HAVING A RADIUS OF 399.99 FEET, A RADIAL LINE TO SAID CURVE BEARS NORTH 31°52'44" EAST;

THENCE NORTHWESTERLY ALONG SAID CENTERLINE OF PULLMAN STREET AND ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 05°55'41" AN ARC LENGTH OF 41.38 FEET;

THENCE LEAVING SAID CENTERLINE OF PULLMAN STREET AND ALONG A LINE RADIAL TO SAID CURVE NORTH 25°57'03" EAST, 30.00 FEET TO THE NORTHERLY RIGHT-OF-WAY LINE OF SAID PULLMAN STREET, SAID POINT BEING THE MOST SOUTHEASTERLY CORNER OF SAID PARCEL 2, SAID POINT ALSO BEING ON A CURVE, CONCAVE SOUTHERLY, HAVING A RADIUS OF 429.99 FEET, A RADIAL LINE TO SAID POINT BEARS NORTH 25°57'03" EAST;

THENCE NORTHWESTERLY AND WESTERLY ALONG SAID CURVE AND SAID NORTHERLY RIGHT OF WAY LINE THROUGH A CENTRAL ANGLE OF 10°50'17" AN ARC LENGTH OF 81.34 FEET TO THE **TRUE POINT OF BEGINNING**;

THENCE LEAVING SAID NORTHERLY RIGHT OF WAY LINE, NORTH 15°06'45" EAST 28.00 FEET;

THENCE NORTH 77°23'26" WEST, 40.01 FEET;

THENCE SOUTH 10°06'22" WEST, 28.00 FEET TO SAID NORTHERLY RIGHT OF WAY LINE, SAID POINT ALSO BEING ON SAID CURVE, CONCAVE SOUTHERLY, HAVING A RADIUS OF 429.99 FEET, A RADIAL LINE TO SAID POINT BEARS NORTH 10°06'22" EAST;

THENCE EASTERLY ALONG SAID CURVE AND SAID NORTHERLY RIGHT OF WAY LINE THROUGH A CENTRAL ANGLE OF 00°55'58" AN ARC LENGTH OF 7.00 FEET;

THENCE LEAVING SAID NORTHERLY RIGHT OF WAY LINE NORTH 11°22'37" EAST, 15.24 FEET;

THENCE SOUTH 78°20'14" EAST 18.54 FEET;

THENCE SOUTH 11°19'31" WEST 15.43 FEET TO SAID NORTHERLY RIGHT OF WAY LINE AND SAID CURVE, CONCAVE SOUTHERLY, HAVING A RADIUS OF 429.99 FEET, A RADIAL LINE TO SAID POINT BEARS NORTH 13°30'41" EAST;

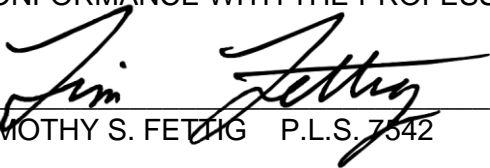
THENCE EASTERLY ALONG SAID CURVE AND SAID NORTHERLY RIGHT OF WAY LINE THROUGH A CENTRAL ANGLE OF 01°36'04" AN ARC LENGTH OF 12.02 FEET TO THE TRUE POINT OF BEGINNING.

THE ABOVE DESCRIBED PARCEL CONTAINS A GRID AREA 791 SQUARE FEET OR 0.018 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 "B2", 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

3/19/20
DATE



DETAIL "A"
N.T.S.

CURVE TABLE			
NO.	DELTA	RADIUS	LENGTH
C1	05°55'41"	399.99'	41.38'
C2	10°50'17"	429.99'	81.34'
C3	01°36'04"	429.99'	12.02'
C4	02°28'20"	429.99'	18.55'
C5	00°55'58"	429.99'	7.00'

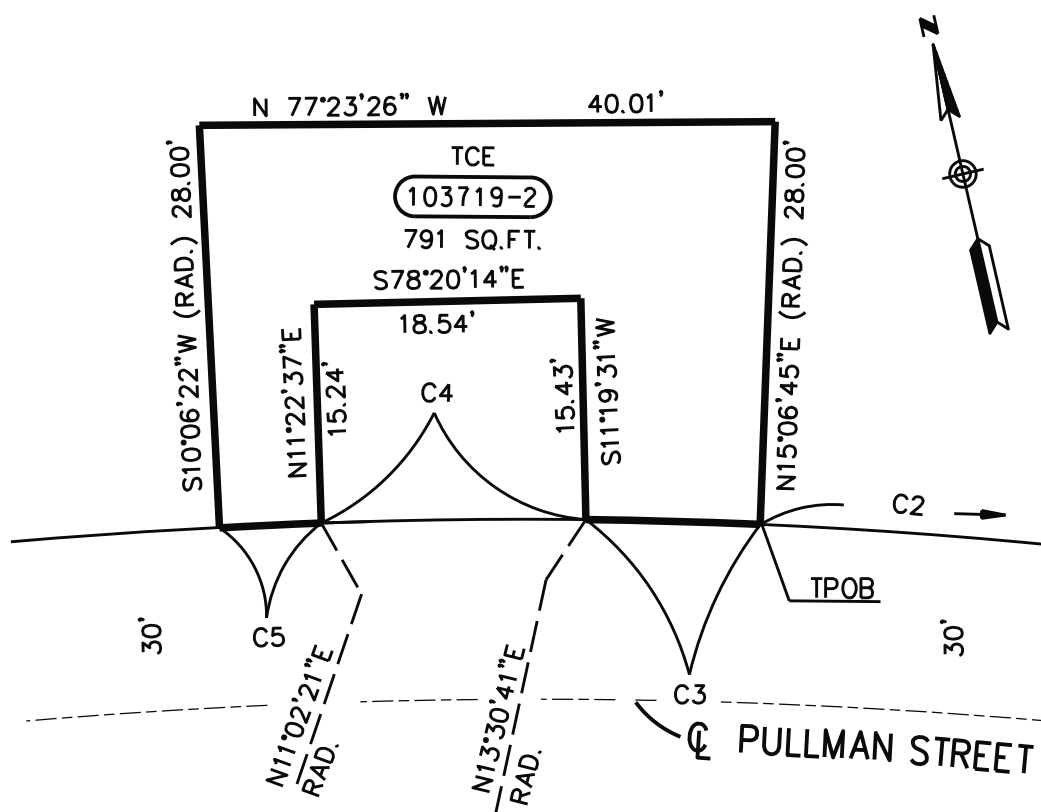


EXHIBIT "B2"
103719-2