

STATE OF CALIFORNIA-DEPARTMENT OF TRANSPORTATION

RIGHT OF WAY CONTRACT-STATE HIGHWAY- TEMPORARY CONSTRUCTION EASEMENT

RW 8-4 (Rev. 6/95)

_____ , California	<u>12</u>	<u>ORA</u>	<u>91</u>	<u>4.5</u>	<u>OC5709</u>
	Dist	Co	Rte	PM	Exp Auth
_____, 2012					
Orange County Flood Control District, a body corporate and politic					

THIS RIGHT OF WAY CONTRACT FOR ACQUISITION OF REAL PROPERTY ("**Contract**") is by and between Orange County Flood Control District, a body corporate and politic (hereinafter referred to as "**Grantor**"), and the State of California, by and through its Department of Transportation (hereinafter referred to as "**State**"). Grantor and State may herein be referred to individually as a "**Party**" or collectively "**Parties**."

RECITALS

- A. Grantor owns an approximately 37,105 square-foot parcel designated as Parcel 102792-1, (the "**Property**") as more particularly described in Exhibit A and illustrated on Exhibit B of Temporary Construction Easement ("**TCE**") attached hereto as **Attachment I** and made a part hereof. (As hereinafter used, the term "TCE" shall mean to the form of Temporary Construction Easement attached hereto as Attachment I and by this reference made a part hereof.)
- B. State intends to improve State Route 91 in the city of Anaheim, State of California ("**Project**").
- C. State wishes to purchase from Grantor and Grantor is willing to sell to State a 37-month TCE over the Property for the Project.

In consideration of which, and the other considerations hereinafter set forth, the Parties mutually agree:

- 1. The Parties agree that the Recitals constitute the factual basis upon which the Parties have entered into this Contract and each acknowledge the accuracy of the Recitals and agree that the Recitals are incorporated into this Contract as though fully set forth at length.
- 2. State requires the Property for construction of the Project, a public use for which State has the authority to exercise the power of eminent domain.
- 3. The State shall:
 - (A) Within thirty (30) business days of the Effective Date (as defined hereinbelow in section 5) of this Contract, pay to Grantor \$286,000 (the "**Purchase Price**") which represents the fair market value for the TCE which TCE shall:
 - 1. be granted to State or its authorized agent for the purpose of entering upon the Property, for construction staging purposes in conjunction with the Project;
 - 2. be effective for a term of thirty-seven (37) months commencing on May 15, 2013 or the Close of Escrow (as defined hereinbelow in section 6), whichever occurs earlier; and,
 - 3. not extend beyond the completion of the Project or July 1, 2016, whichever is earlier unless such extension is agreed upon in writing by Grantor's Director, OC Public Works, or designee ("**Director**") and State.
 - (B) Execute a Certificate of Acceptance of the TCE within ten (10) business days of receipt of the TCE executed by Grantor.
 - (C) Pay all escrow and recording fees, if any, incurred in this transaction and, if title insurance is desired by the State, the premium charged therefor.
 - (D) Not use or take possession of the Property prior to State's acceptance of the TCE.

RIGHT OF WAY CONTRACT - STATE HIGHWAY (Cont.)

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- (E) Upon extension of the TCE by mutual agreement of State and Director, pay Grantor Two Hundred Fifty-eight Dollars (\$258) per day, [daily rate is based on the Purchase Price (\$286,000 ÷ 1,110 days = \$258 rounded)], for any such extended period and such extended use shall be subject to all terms and conditions of the TCE.
4. Grantor shall provide written notification to any and all parties to whom Grantor plans to sell, lease, or rent the Property, or any portion thereof, while the TCE is in effect, of the TCE and State's associated Project.
5. The term of this Contract shall commence on the date that this Contract is executed by the Parties hereto ("**Effective Date**"). If the Parties execute this Contract on different dates, the later date shall control for purposes of establishing the Effective Date of this Contract, and shall terminate when State and Grantor have completed all obligations as provided for in this Contract.
6. It is agreed and confirmed by the Parties hereto that notwithstanding other provisions in this Contract:
- (A) the term "**Close of Escrow**" shall mean the date State presents Grantor with the Purchase Price;
- (B) the right of possession and use of the Property by State or its authorized agent shall begin upon commencement of the TCE;
- (C) that the Purchase Price constitutes full compensation for the fair market value of the Property and settlement of any just compensation claim for the 37-month term in eminent domain. Grantor acknowledges no further payments are due, owing or payable therefor.
7. Any notices relating to this Contract shall be addressed as follows:
- | | |
|---|---------------------------------|
| To Grantor: | To State: |
| County of Orange | State of California |
| OC Public Works/Real Estate Services | Department of Transportation |
| 300 N. Flower Street, 6 th Floor | 3347 Michelson Drive, Suite 100 |
| Santa Ana, CA 92703 | Irvine, CA 92612 |
| Attention: Property Management | Attention: Erika Irizarry |
| RE: Santa Ana R/W Contract Pcl. 102792-1 | |
- Either Party may change its address by written notice to the other.
8. State agrees to indemnify and hold harmless Grantor from any liability arising out of State's operations under this Contract. State further agrees to assume responsibility for damages proximately caused by reason of State's operations under this Contract and State shall, at its option, either repair or pay for such damage.
9. State acknowledges having made its own independent inspections and investigations concerning the Property and is depending on that investigation to determine the suitability of the Property, and not on any representations by Grantor, for the use intended by State.
10. The Purchase Price of the Property being acquired in this transaction reflects the fair-market value of the Property without the presence of significant contamination. If the Property being acquired is found to be significantly contaminated by the presence of Hazardous Material which requires mitigation under Federal or State law, the State may elect to recover its cleanup costs from those who caused or contributed to the contamination. As used herein, the term "**Hazardous Material**" means any hazardous or toxic substance, material or waste that is or shall become regulated by any governmental entity or agency, including without limitation, the County of Orange, the State of California, or the United States government.
11. The undersigned Grantor warrants that it is the owner in fee simple absolute of the Property, and has the right to convey the real property interests as provided herein.

RIGHT OF WAY CONTRACT - STATE HIGHWAY (Cont.)

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12. The Grantor agrees that no improvements, other than those already on the Temporary Construction Easement, shall be placed thereon; and the planting of any crops, trees, shrubs, or alterations, repair, or additions to existing improvements, which may be hereafter be placed thereon, are at Grantor's risk and without expectation of payment if removed by the State with Director's prior written consent.
 13. In consideration of the State's waiving defects and imperfections in the record title, the undersigned Grantor covenants and agrees to indemnify and hold the State of California harmless from any and all claims that other parties may make or assert on the title to the premises. The Grantor's obligation herein to indemnify the State shall not exceed the amount paid to the Grantor under this contract.
 14. The undersigned Grantor hereby agrees and consents to the dismissal of any eminent domain action filed in the Superior Court involving the Property and also waives any and all claims to any money that may now be on deposit in said action, and hereby waives any and all claims for attorney's fees, expert costs or litigation expenses.
 15. This Contract and attachments is the entire agreement between the Parties. It supersedes all prior agreements and understandings, whether oral or written, between the Parties with respect to the matters contained in this Contract. Any waiver, modification, consent or acquiescence with respect to any provision of this Contract shall be set forth in writing and duly executed by both Parties to be bound thereby.
 16. This Contract may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

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Signature Pages Follow

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RIGHT OF WAY CONTRACT - STATE HIGHWAY (Cont.)

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IN WITNESS WHEREOF, each Party hereto has executed this Contract by its duly authorized representatives as of the date set forth below.

GRANTOR

Orange County Flood Control District,
a body corporate and politic

By: _____
Chairman, Board of Supervisors
Orange County, California

Date: _____

Approved as to Form
Office of the County Counsel
Orange County, California

By: _____
Deputy

Date: 12/10/2012

Signed and certified that a copy of this document
has been delivered to the Chair of the Board per
G.C. Sec. 25103, Reso 79-1535

ATTEST:

Susan Novak
Clerk of the Board of Supervisors
Orange County Flood Control District
Orange County, California

STATE SIGNATURE ON FOLLOWING PAGE

RIGHT OF WAY CONTRACT - STATE HIGHWAY (Cont.)

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Approved:

STATE

STATE OF CALIFORNIA
Department of Transportation

Recommended for Approval:

By: _____
ERIKA IRIZARRY
Associate Right of Way Agent

By: _____
RICKY RODRIGUEZ
Office Chief
Office of Right of Way – District 12

Date: _____

By: _____
JOE CANCHOLA, Branch Chief
R/W Acquisition/Airspace/Railroads

NO OBLIGATIONS OTHER THAN THOSE SET FORTH HEREIN WILL BE RECOGNIZED

Attachment I

**RECORDED AT THE REQUEST OF
AND WHEN RECORDED MAIL TO:**

State of California
 Department of Transportation
 3347 Michelson Drive, Suite 100
 Irvine, California 92612-8894
 Attn: Erika Irizarry

Mail Tax Statements as shown above

THIS SPACE FOR RECORDER'S USE ONLY

APN: portion of 360-184-01

DOCUMENTARY TRANSFER TAX \$ _____

- ___ Computed on the consideration or value of property conveyed
 ___ Exempt per Revenue & Taxation Code Section 11922
 ___ Exempt from Recording Fees per Govt. Code Section 27383

By: _____
SIGNATURE OF DECLARANT OR AGENT DETERMINING TAX FIRM NAME

- ☐ Unincorporated Area
☒ Incorporated - City of Anaheim

Parcel No: E01-1605 (Caltrans No. 102792-1)
 Project: Santa Ana River/ SR 91

TEMPORARY CONSTRUCTION EASEMENT DEED

For valuable consideration, receipt of which is hereby acknowledged,

ORANGE COUNTY FLOOD CONTROL DISTRICT,
 a body corporate and politic,
 hereinafter referred to as "**DISTRICT**,"

does hereby grant to

the STATE OF CALIFORNIA, acting by and through its Department of Transportation,
 hereinafter referred to as "**STATE**," its, successor and assigns,

a temporary construction easement ("**Temporary Easement**") in, on, over, upon and across that certain real property (hereinafter referred to as "**Easement Area**") described in "**Exhibit A**," and illustrated in "**Exhibit B**," which exhibits are attached hereto and made a part hereof.

DISTRICT and STATE, may sometimes hereinafter be individually referred to as "**Party**" or jointly as "**Parties**."

STATE'S rights shall include rights to STATE, its officers, agents, employees, contractors, and subcontractors, to utilize the surface of the Easement Area to park, place, store and stockpile construction materials, tools, vehicles, storage containers, implements and other construction-related equipment and materials (STATE'S equipment and material), as the case may be, and to access STATE'S adjacent property during construction activities related to STATE'S State Route-91 Project ("**Project**") in the vicinity of the Easement Area. The rights granted under this Temporary Easement expressly prohibit the construction or placement of any improvements or facilities in, on, over, or across the Easement Area.

Attachment I

It is understood and agreed by the Parties hereto and their successor and assigns that the rights granted in this Temporary Easement shall be subject to the following terms, conditions, and reservations:

1. TERM

This Temporary Easement shall be effective for a maximum period of thirty-seven (37) months ("**Term**"), commencing on the earlier of May 15, 2013 or the date upon which STATE presents payment of \$286,000 to DISTRICT for the Temporary Easement, and shall terminate upon recordation of a Notice of Completion, or at the end of the Term, whichever first occurs.

2. EXTENSIONS

The Term may be extended by mutual agreement of the STATE and Director OC Public Works, or designee, (hereinafter referred to as "**Director**"). Any request for extension must be in writing, shall state the requested extension period, and be forwarded to the Director via Express or Certified U.S. Postal Service, personal delivery, by courier or by overnight delivery service and addressed as provided herein below in Section 8 (Notice) no less than thirty (30) days prior to the expiration of the Term of this Temporary Easement. Approval of such request shall be deemed denied unless, in Director's sole discretion, Director provides STATE with written approval of the requested extension within fifteen (15) days of receipt of the request to extend, which approval shall not be unreasonably withheld.

STATE shall pay DISTRICT Two Hundred Fifty-Eight dollars (\$258) per day for any approved extension period. Payment shall be due within fifteen (15) days of the date of notice approving the extension period. Payment shall be in lawful money of the United States of America, without offset or deduction or prior notice or demand. The Temporary Easement shall not extend beyond completion of the Project or July 1, 2016, whichever is earlier unless such extension is agreed upon in writing by Director and STATE.

3. STATE RESPONSIBILITIES

STATE hereby acknowledges that the Easement Area lies adjacent to a regional flood control facility, commonly referred to as the Santa Ana River Channel (hereinafter "**the Channel**"). STATE shall perform all work in such a manner that will allow for unobstructed flood control operations and maintenance of the Channel by DISTRICT.

STATE shall, at no cost to DISTRICT, maintain the Easement Area in good repair and in safe condition, and protect in place any slope features, trees and/or landscaping within the Easement Area throughout the Term, including any extension period, of this Temporary Easement.

STATE shall, at no cost to DISTRICT, conduct all activities, including but not limited to the storage of materials, in, on, or about the Easement Area in a safe, good and workmanlike manner and in compliance with all applicable building, fire, and sanitary laws, ordinances, and regulations and shall maintain all equipment, used in on or about the Easement Area in good repair and in safe condition.

STATE shall, at its own cost and expense, promptly and at all times observe, comply with and carry out all present and future orders, regulations, directions, rules, laws, ordinances, permits and requirements of all governmental authorities, including but not limited to environmental regulatory authorities, with jurisdiction in, on, over and about the Easement Area, which arise from STATE'S use of or performance of any activities permitted to be conducted in, on, over, or across the Easement Area.

In addition, STATE shall ensure that all activities in, on, over or about the Easement Area are performed in accordance with any NPDES (National Pollutant Discharge Elimination System) permit requirements or other water quality statutes, regulations, ordinances, or permits, applicable to such activities, including but not limited

Attachment I

to use of appropriate best management practices, so as to ensure that pollutants are not discharged into the Channel nor into DISTRICT'S flood control system.

No approvals or consents given hereunder by DISTRICT, as a party to this Temporary Easement, shall be deemed approval as to compliance or conformance with applicable governmental codes, laws, rules or regulations.

4. CONDITION OF EASEMENT AREA UPON TERMINATION

Prior to the filing of the Notice of Completion or to the expiration of this Temporary Easement, whichever first occurs, STATE agrees at its expense to restore the Easement Area to the condition that existed prior to the granting of this Temporary Easement, to Director's satisfaction. Said restoration shall include, but not be limited to the removal of construction materials (including stockpiled material), equipment, and trash and debris.

5. HOLD HARMLESS (PMES7.2N)

STATE acknowledges the Easement Area is in, on, and over DISTRICT'S Channel and may be subject to all hazards associated with flood conditions. STATE agrees to assume all risks, financial or otherwise, associated therewith.

STATE hereby releases and waives all claims and recourse against DISTRICT and County including the right of contribution for loss of or damage to property, or injury to or death of any person arising from, growing out of or in any way connected with or related to this Temporary Easement including any damage to or loss of STATE'S equipment and material, or interruption of STATE'S Project or use of the Easement Area caused by erosion, flood, or flood overflow conditions of the Channel, or caused by the operation, maintenance, repair, reconstruction, replacement, enlargement or improvement of the Channel or by DISTRICT'S flood control operations, except claims arising from the concurrent active, passive, or sole negligence of DISTRICT and/or County, their officers, agents, employees and contractors.

STATE hereby agrees to indemnify, defend and hold harmless, DISTRICT and County, their elected and appointed officials, officers, agents, employees and contractors against any and all claims, losses, demands, damages, cost, expenses or liability for injury to or death of any persons, or loss of or damage to any property, arising out of the maintenance, use of or operations or activities conducted in, on, or over the Easement Area, and/or the exercise of the rights under this Temporary Easement by STATE, its agents, officers, employees, invitees or licensees except for liability arising out of the concurrent active, passive or sole negligent acts of DISTRICT, and/or County, their elected and appointed officials, officers, agents, employees or contractors including the cost of defense of any lawsuit arising therefrom. If DISTRICT and/or County is/are named as co-defendant(s) in a lawsuit, STATE shall notify Director of such fact and shall represent DISTRICT/County in such legal action unless otherwise conflicted out. If a conflict exists, State will obtain cumis counsel to represent the DISTRICT. The selection of cumis counsel is subject to the DISTRICT's approval which will not be unreasonably withheld. If judgment is entered against DISTRICT/County and STATE by a court of competent jurisdiction or jury because of the concurrent active, passive or sole negligence of DISTRICT/County and STATE, DISTRICT and STATE agree that liability will be apportioned as determined by the court or jury, as applicable.

STATE acknowledges that it is familiar with the language and provisions of California Civil Code Section 1542 which provides as follows:

A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which, if known by him or her, must have materially affected his or her settlement with the debtor.

Attachment I

STATE, being aware of and understanding the terms of Section 1542, hereby waives all benefit of its provisions to the extent described in this section.

6. STATE'S LIABILITY FOR HAZARDOUS OR TOXIC MATERIALS (PMES8.2S)

STATE or STATE'S employees, agents, independent contractors or invitees ("**STATE Parties**") shall not cause or permit any "Hazardous Material," as hereinafter defined, to be brought upon, kept, stored, used, generated, released into the environment or disposed of on, under, from, in, on or about the Easement Area. Notwithstanding the foregoing, STATE or STATE Parties may use or keep small quantities of Hazardous Materials on the Easement Area that are used in the ordinary, customary, and lawful construction operations conducted on the Easement Area. If STATE, or STATE Parties breach(es) the obligations stated herein, or if contamination of the Easement Area by Hazardous Material otherwise occurs for which STATE is legally liable to DISTRICT for damage resulting therefrom, then STATE shall indemnify, defend and hold harmless, DISTRICT and/or County, and their elected or appointed officials, officers, agents, and employees from any and all claims, judgments, damages, penalties, fines, costs, liabilities, or losses (including, without limitation, diminution in value of the Easement Area, sums paid in settlement of claims, attorney fees, consultant fees, and expert witness fees) which arise during or after STATE'S use of the Easement Area as a result of such contamination. This indemnification includes, without limitation, costs incurred by DISTRICT in connection with any investigation of site conditions or any cleanup, remedial, removal, or restoration work required by any federal, state, or local governmental entity or agency because of Hazardous Material having been introduced, placed or released by STATE, and therefore, being present in the soil or ground water under the Easement Area. STATE shall promptly take all action, at its sole cost and expense, as is necessary to clean, remove, and restore the Easement Area to its condition prior to the introduction of such Hazardous Material by STATE, provided STATE shall first have obtained Director's written approval and the approval of any necessary governmental entities or agencies for any such remedial action.

As used herein, the term "**Hazardous Material**" means any hazardous or toxic substance, material, or waste which is or shall become regulated by any governmental entity or agency, including, without limitation, the County, the state of California, or the United States government.

7. CONVEYANCE SUBJECT TO EXISTING INTERESTS (PMES10.1S)

This Temporary Easement is subject to existing contracts, leases, licenses, easements, encumbrances, and claims which may affect the Easement Area and the use of the word "grant" herein shall not be construed as a covenant against the existence of any thereof.

Nothing contained herein, or in any document related hereto, shall be construed to imply the conveyance to GRANTEE STATE of rights in the Easement Area which exceed those owned by DISTRICT, or any representation or warranty, either express or implied, relating to the nature or condition of the Easement Area or DISTRICT'S interest therein.

8. NOTICES (PMES12.1S)

All notices, documents, correspondence and communications concerning this Temporary Easement shall be addressed as set forth in this Section, or as the Parties may hereafter designate by written notice, and shall be sent through the United States mail with postage prepaid. Any such mailing shall be deemed served or delivered twenty-four (24) hours after mailing. Each Party may change the address for notices by giving the other party at least ten (10) calendar days' prior written notice of the new address.

Notwithstanding the above, either Party may also provide notices, documents, correspondence, or such other communications to the other by personal delivery or by facsimile and so given shall be deemed to have been given upon receipt if provided by personal delivery; or if by facsimile on the day transmitted provided transmitted by 4:30 P.M. (PT) on the receiving Party's regular business day, otherwise delivery shall be deemed to have been given on the next business day.

Attachment I**To DISTRICT:**

Orange County Flood Control District
 c/o OC Public Works/Real Estate Services
 300 N. Flower Street, 6th Floor
 Santa Ana, CA 92703
 Facsimile: 714/834-2870
 Re: E01-1605 SAR Channel TCE

To STATE:

Department of Transportation, District 12
 c/o Office of Right-of-Way
 3347 Michelson Drive, Suite 100
 Irvine, CA 92612-0661
 Facsimile: 949/724-2622

9. VENUE (PMES13.1N)

The Parties hereto agree that this Temporary Easement has been negotiated and executed in the state of California and shall be governed by and construed under the laws of California. In the event of any legal action to enforce or interpret this Temporary Easement, the sole and exclusive venue shall be a court of competent jurisdiction located in the County of Los Angeles, California, and the Parties hereto agree to and do hereby submit to the jurisdiction of such court. Furthermore, absent good cause shown, the Parties hereto specifically agree to waive any and all rights to request that an action be transferred for trial to another county.

10. WAIVER OF RIGHTS (PMES14.1S)

The failure of DISTRICT to insist upon strict performance of any of the terms, covenants, or conditions of this Temporary Easement shall not be deemed a waiver of any right or remedy that DISTRICT may have, and shall not be deemed a waiver of the right to require strict performance of all the terms, covenants, and conditions of the Temporary Easement thereafter, nor a waiver of any remedy for the subsequent breach or default of any term, covenant, or condition of this Temporary Easement.

11. SEVERABILITY (PMES15.1S)

If any term, covenant, condition, or provision of this Temporary Easement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions hereof shall remain in full force and effect and shall in no way be affected, impaired or invalidated thereby.

12. ATTORNEYS' FEES (PMES16.1S)

In any action or proceeding brought to enforce or interpret any provision of this Temporary Easement, or where any provision hereof is validly asserted as a defense, each Party shall bear its own attorneys' fees and costs.

13. SUCCESSORS AND ASSIGNS (PMES18.1S)

The terms, covenants, and conditions contained herein shall apply to and bind the heirs, successors, executors, administrators and assigns of the Parties hereto.

14. AUTHORITY (PMES20.1S)

The Parties to this Temporary Easement represent and warrant that this Temporary Easement has been duly authorized and executed and constitutes the legally binding obligation of their respective organization or entity, enforceable in accordance with its terms.

15. RECORDATION PROHIBITED

The Parties agree this Temporary Easement shall not be recorded unless mutually agreed upon by Director and STATE. If recorded, STATE agrees to execute and deliver to Director for recordation in the Official Records of Orange County, California, a Quitclaim Deed sufficient to remove the encumbrance of this Temporary Easement Deed from title, within sixty (60) days of the expiration or sooner termination of this Temporary Easement.

ATTACHMENT A
Attachment I

Approved as to Form
Office of the County Counsel
Orange County, California

By: 
Deputy

Date: 12/10/2012

DISTRICT

ORANGE COUNTY FLOOD CONTROL
DISTRICT, a body corporate and politic

By: _____
Ignacio Ochoa, Interim Director
OC Public Works
Pursuant to Minute Order dated _____

STATE

STATE OF CALIFORNIA
Department of Transportation

By: _____
RICKY RODRIGUEZ
Office Chief
Office of Right of Way

PARCEL 102792-1

FOR FREEWAY PURPOSES, A TEMPORARY CONSTRUCTION EASEMENT, IN, ON, OVER, ALONG AND ACROSS THAT PORTION OF LOT 4 OF THE J. D. TAYLOR TRACT, IN THE CITY OF ANAHEIM, COUNTY OF ORANGE, STATE OF CALIFORNIA, AS SHOWN ON A MAP RECORDED IN BOOK 5, PAGE 16 OF MISCELLANEOUS MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, BEING DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE NORTHERLY LINE OF SAID LOT 4, SAID POINT BEING THE MOST WESTERLY CORNER OF PARCEL 1605, RECORDED IN BOOK 11341, PAGE 1126 OF OFFICIAL RECORDS OF SAID COUNTY AS SHOWN ON SHEET 19 OF RECORD OF SURVEY 94-1065; RECORDED IN BOOK 157, PAGES 1 THROUGH 22, INCLUSIVE, OF RECORDS OF SURVEYS IN THE OFFICE OF SAID COUNTY RECORDER; THENCE ALONG THE NORTHERLY LINE OF SAID LOT 4, N80°51'06"E 143.38 FEET; THENCE S48°03'04"E 192.45 FEET; THENCE S87°29'26"E 313.13 FEET TO THE MOST SOUTHEASTERLY CORNER OF SAID PARCEL 1605 AS SHOWN ON SAID RECORD OF SURVEY 94-1065; THENCE ALONG THE SOUTHERLY AND WESTERLY LINES OF SAID PARCEL 1605 THE FOLLOWING COURSES:

1. S81°56'05"W 405.25 FEET;
2. N48°03'04"W 263.91 FEET TO THE **POINT OF BEGINNING**.

RIGHTS TO THE ABOVE DESCRIBED TEMPORARY EASEMENT SHALL CEASE AND TERMINATE ON 7/01/2016. SAID RIGHTS MAY ALSO BE TERMINATED PRIOR TO THE ABOVE DATE BY STATE UPON NOTICE TO OWNER.

THE BEARINGS AND DISTANCES USED IN THE ABOVE DESCRIPTIONS ARE ON THE CALIFORNIA COORDINATE SYSTEM OF 1983, ZONE 6, (O.C.S. 1991.35 EPOCH). MULTIPLY ALL DISTANCES USED IN THE ABOVE DESCRIPTIONS BY 1.000012670 TO OBTAIN GROUND LEVEL DISTANCES.

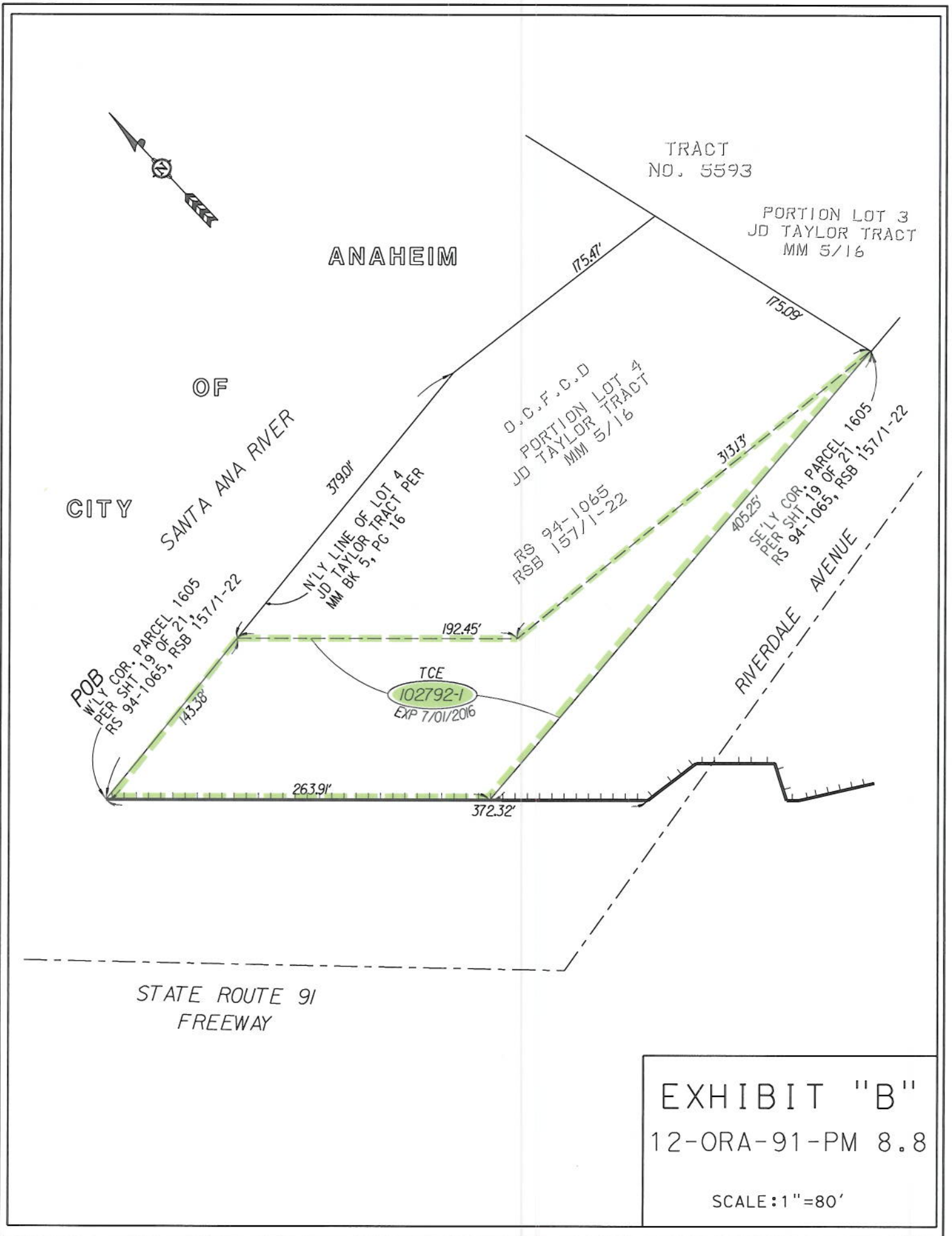


EXHIBIT "B"
12-ORA-91-PM 8.8

SCALE: 1"=80'

Attachment I

CERTIFICATE OF ACCEPTANCE

THIS IS TO CERTIFY that the interest in real property conveyed by this Temporary Construction Easement Deed from the Orange County Flood Control District to the State of California acting by and through the Department of Transportation (pursuant to Government Code Section 27281), is hereby accepted by the undersigned authorized officer for public purposes the real property described in the deed attached and agrees to be bound by its terms and consents to the recordation thereof.

Date

STATE OF CALIFORNIA
Department of Transportation

Malcolm Dougherty
Director of Transportation

By: _____
Attorney in fact
RICKY RODRIGUEZ
Office Chief
Office of Right of Way – District 12