

ORANGE COUNTY TRANSPORTATION AUTHORITY
RIGHT OF WAY CONTRACT

CONFIDENTIAL

This document contains personal information, and pursuant to Civil Code section 1798.21, it shall be kept confidential in order to protect against unauthorized disclosure.

I-405 IMPROVEMENT PROJECT

Portions of Savoy Circle and Landau Lane
Huntington Beach, CA 92647

Property Address

103403-1

Parcel No.

N/A

APN.

STPLN-6212 (018)

Federal Project No.

N/A

Escrow No.

Title Order No.

RIGHT-OF-WAY CONTRACT

The City of Huntington Beach, a municipal corporation (hereinafter, "Grantor"), holds a possessory interest in streets thereon located on portions of Savoy Circle and Landau Lane, in the City of Huntington Beach, California (the "Property"). The Orange County Transportation Authority (hereinafter, "OCTA"), in cooperation with the State of California Department of Transportation is constructing an improvement to Interstate 405 to increase freeway capacity, improve traffic and interchange operations and enhance road safety (the "Project") which requires the relocation of specified facilities owned by Southern California Edison ("SCE Facilities") which are currently in private property in part by way of easement. A Joint Use Agreement (hereinafter "JUA") is needed over a portion of the Property for the relocation of the SCE Facilities. Document No. 103403-1 in the form of a JUA being granted directly to the Southern California Edison Company, a corporation ("SCE"), covering the property interest as described and depicted in Exhibits "A1" and "A2" is attached as Exhibit "1" hereto and incorporated herein by this reference (the "Property Interest").

In consideration of which, and the other considerations hereinafter set forth, it is mutually agreed as follows:

1. (A) The performance of this Right-of-Way Contract (hereafter, "Agreement") constitutes the entire consideration to be provided to Grantor and shall relieve OCTA of all further obligations or claims on this account, or on account of the location, grade or construction of the Project or relocation of the SCE Facilities.
- (B) OCTA requires said Property Interest for the Project, a public use for which OCTA has represented it has the authority to exercise the power of eminent domain.
- (C) Both Grantor and OCTA recognize the expense, time, effort, and risk to both parties in determining the compensation for the Property Interest by eminent domain litigation. The compensation set forth herein for the Property Interest is in compromise and settlement, in lieu of such litigation.
2. (A) OCTA shall pay Grantor the sum of One Hundred Four Thousand Eight Hundred Sixty Dollars and Zero Cents (\$104,860.00) for the Property Interest within five (5) business days of the recording of the JUA.
- (B) It is agreed by and between the parties hereto that the amount in Clause 2(A) above includes the sum of Six Thousand Eight Hundred Forty Dollars and Zero Cents (\$6,840.00) for the Property Interest and Ninety-Eight Thousand Twenty Dollars and Zero Cents (\$98,020.00) for Grantor's assumption of the possible cost liability risk for the relocation of utility facilities arising out of the grant of the JUA.

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3. **FULL AND COMPLETE SETTLEMENT.** Grantor hereby acknowledges that it possesses exclusive use of the Property and the compensation paid to Grantor through this Agreement constitutes the full and complete settlement of any and all claims against OCTA and the State of California, Department of Transportation (hereinafter, individually and collectively, "Releasee") by reason of the acquisition of the Property Interest, including, but not limited to, any costs that Grantor may incur in relocating utility facilities installed pursuant to the grant of the JUA, any and all rights or claims that Grantor had, currently has or may in the future have under Article 1, Section 19 of the California Constitution, the Eminent Domain Law, or any other law or regulation, except as provided herein. Grantor, on behalf of itself and its successors and assigns, further knowingly and voluntarily waives and expressly releases and discharges Releasee and any and all of Releasee's employees, agents, officers, servants, representatives, contractors, attorneys, partner agencies and assigns, from liability in regard to any claims for the following: pre-condemnation damages, inverse condemnation, lost business goodwill, lost profits, lost rents, severance damages, mitigation damages, compensation for the construction and use of the Project in the manner proposed, damage to or loss of improvements pertaining to the realty, machinery, fixtures, inventory, equipment and/or personal property, interest, any right to repurchase, leaseback, or receive any financial gain from, the sale of any portion of the Property, any right to challenge the adoption of a resolution of necessity, any right to receive any notices pursuant to Code of Civil Procedure section 1245.235, any right to enforce any obligation pursuant to the Eminent Domain Law, any other rights conferred upon Grantor pursuant to the Eminent Domain Law, and claims for litigation expenses, attorney's fees, statutory interest and/or costs. Grantor further consents to the dismissal of any Eminent Domain proceeding that is filed pertaining to the Property Interest and further waives all attorney's fees, costs, claims to money on deposit, disbursements and expenses in connection with the dismissal of said proceeding.
4. The parties intend that this Agreement will result in a full, complete and final resolution and settlement of any and all claims, causes of action or disputes which exist, or may exist, between them as to the acquisition, possession and/or use of the Property Interest and grant of the JUA, except as expressly provided herein. It is therefore understood that the waiver, under this Agreement, of any rights, damages, compensation or benefits to which Grantor is, or may be, entitled is intended to be full and complete. Accordingly, except as provided herein:
 - (A) Pursuant to the releases set forth in this Agreement, Grantor specifically waives the provision of section 1542 of the Civil Code of the City of California, which provides:

"A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or her, would have materially affected his or her settlement with the debtor or released party."
 - (B) Grantor represents and warrants that it understands the effect of this waiver of section 1542 and has had the opportunity to discuss the effect of this waiver with counsel of its choice.
5. Any monies payable under this Agreement shall be made payable to the City of Huntington Beach.

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6. Grantor represents and warrants that it holds a possessory interest in the Property and has the right to convey the Property Interest to SCE. Grantor will defend and indemnify OCTA, its successors and/or assigns against any and all claims, demands, causes of action filed against OCTA, its successors and/or assigns by someone claiming a legal interest in or right to the Property, or any portion thereof, which would interfere with the Property Interest. Grantor represents and warrants that it will defend and indemnify OCTA, its successor and/or assigns in the amount of any due and unpaid real property taxes, assessments, liens and any penalties and delinquencies on the Property. Grantor represents and warrants that it has made no assignment of any interest in the Property Interest.
7. Grantor represents and warrants that there are no oral or written leases on all or any portion of the Property Interest and Grantor agrees to defend and indemnify and hold OCTA harmless and reimburse OCTA for any and all of its losses and expenses occasioned by reason of any lease of said Property Interest held by any tenant of Grantor for a period exceeding one month. Grantor acknowledges that a general release or quitclaim deed will be required from any lessee that has a lease term exceeding one month.
8. It is understood and agreed by and between the parties hereto that included in the amount payable under Clause 2(A) above is payment in full to compensate Grantor for the purchase of the following improvements: None. Grantor agrees that it is not entitled to compensation for any improvements because there are no improvements located within the areas of the Property Interest being purchased pursuant to this Agreement.
9. Reserved.
10. Reserved.
11. It is understood and agreed by and between the parties hereto that payment as provided in Clause 2(A) includes, but is not limited to, payment for any and all past, present, and/or future damages, which have accrued or may accrue to Grantor's remaining property by reason of the Property Interest conveyed herein. This release is not intended to extend to any physical damage caused by the use of Property Interest.
12. Reserved.
13. It is agreed and confirmed by the parties hereto that notwithstanding other provisions in this Agreement, the right of possession and use of the Property Interest by OCTA or SCE, shall not commence prior to the date the amount of funds as specified in Clause 2(A) herein are paid to Grantor.
14. Any notice either party may or is required to give the other shall be in writing and shall be either personally delivered or sent by registered or certified mail, return receipt requested. If by mail, service shall be deemed to have been received by such party at the time the notice is delivered to the following addresses:

To Grantor:
City of Huntington Beach
Attn:
2000 Main Street
Huntington Beach, CA 92647

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To OCTA:
550 South Main Street
Orange, CA 92863-1584
Attn: Joey Mendoza

15. It is understood and agreed by and between the parties hereto that this Agreement inures to the benefit of, and is binding on, the parties, their respective heirs, personal representatives, subsequent purchasers, successors, and/or assignees.
16. It is understood and agreed that the fully executed JUA shall be recorded in the Recorder's Office for the County of Orange.
17. This Agreement constitutes the entire agreement between the parties hereto with respect to the subject matter of this Agreement and may not be modified except by an instrument in writing signed by the party to be bound thereby.
18. If any term or provision of this Agreement shall be held to be invalid or unenforceable, the remainder of the Agreement shall remain in full force and effect.
19. Each individual executing this Agreement on behalf of an entity represents and warrants that he or she has been authorized to do so by the entity on whose behalf he or she executes this Agreement and that said entity will thereby be obligated to perform the terms of this Agreement.
20. This Agreement may be executed in counterparts, including by facsimile and/or electronic mail, each of which so executed shall, irrespective of the date of its execution and delivery, be deemed an original, and all such counterparts together shall constitute one and the same instrument.
21. The Parties to this Agreement shall, pursuant to Section 21.7(a) of Title 49, Code of Federal Regulations, comply with all elements of Title VI of the Civil Rights Act of 1964. This requirement under Title VI and the Code of Federal Regulations is to complete the USDOT-Non-Discrimination Assurance requiring compliance with Title VI of the Civil Rights Act of 1964, 28 C.F.R. Section 50.3.
22. No person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of , or be otherwise subjected to discrimination under any program or activity that is the subject of this Agreement.
23. This Agreement may be subject to approval by OCTA's governing Board of Directors.

*REMAINDER OF PAGE INTENTIONALLY LEFT BLANK
SIGNATURE PAGE FOLLOWS*

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In Witness Whereof, the parties have executed this Agreement on the day and year set forth below.

GRANTOR
CITY OF HUNTINGTON BEACH, A MUNICIPAL
CORPORATION

By: _____
DATE

Its:

APPROVED AS TO FORM:

By: _____
Mike Vigliotta DATE 
City Attorney

ORANGE COUNTY TRANSPORTATION AUTHORITY

By: _____
James G. Beil DATE
Executive Director, Capital Programs

APPROVED AS TO FORM:

By: _____
James Donich DATE
General Counsel
Orange County Transportation Authority

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Exhibit "1"

**Joint Use Agreement
(Document No. 103403-1)**

RECORDING REQUESTED BY

SOUTHERN CALIFORNIA EDISON COMPANY

WHEN RECORDED MAIL TO

SOUTHERN CALIFORNIA EDISON COMPANY
2 INNOVATION WAY, 2ND FLOOR
POMONA, CA 91768

ATTN: TITLE & REAL ESTATE SERVICES

SPACE ABOVE THIS LINE FOR RECORDER'S USE

DOCUMENTARY TRANSFER TAX \$ NONE (VALUE AND CONSIDERATION LESS THAN \$100.00)	DISTRICT Huntington Beach	WORK ORDER 801760677	SERIAL NO. 72133A	MAP SIZE 043-090	AFFECTS SCE DOCUMENTS
SCE Company SIG. OF DECLARANT OR AGENT DETERMINING TAX FIRM NAME	FIM: 41-9A APN: 107-651-20, 23, 24, 25 and 26	APPROVED: V & LM SCE LAW Approved: CKK	BY SF/WJM/CK	DATE 03/17/2025	193583

JOINT USE AGREEMENT

THIS AGREEMENT, made and entered into this _____ day of _____, 20__, by and between SOUTHERN CALIFORNIA EDISON COMPANY, a corporation, hereinafter called "Company", and the CITY OF HUNTINGTON BEACH, a municipal corporation of the State of California, hereinafter called "City",

W I T N E S S E T H:

WHEREAS Company is the owner in possession of certain rights of way and easement(s) for electrical facilities by virtue of the following easement rights:

That certain Grant of Easement recorded April 12, 1961, as Instrument No. 7989, in Book 5689, Page 103, of Official Records, in the Office of the Orange County Recorder, hereinafter referred to as "Company's Easement"; and

WHEREAS City has acquired easement rights for a public street for the construction and/or improvement of Landau Lane and Savoy Circle in said City, County of Orange, State of California, hereinafter referred to as "street right of way", as shown on the print attached hereto, marked "Exhibit A1" and hereby made a part hereof; and

WHEREAS, the Orange County Transportation Authority ("OCTA") requested Company to relocate its existing aerial utility facilities out of the Company Easement area and into an underground location within the street right of way, at OCTA's expense;

WHEREAS, Company is unwilling to relocate out of Company's Easement into the street right of way without certain assurances from City, including those related to the costs of future relocations and/or rearrangements of Company's facilities; and

WHEREAS, among other things, City has agreed to pay for future relocations and rearrangements of the Company's facilities to be placed in the street right of way should the City's use of the street right of way require such relocations and/or rearrangements.

NOW THEREFORE, in consideration of the premises and the mutual covenants herein contained, Company and City do hereby agree as follows:

Company agrees to rearrange, relocate and reconstruct any of its facilities heretofore or now installed pursuant to Company's easement within the street right of way.

JOINT USE AGREEMENT
S.C.E. Co., a corp., to
The City of Huntington Beach
Serial No. 72133A
Affects SCE Document(s): 193583

Company has and reserves the right to use, in common with the public's use of said street, said new location for all of the purposes for which Company's easement was acquired, including the ability to install, operate and maintain underground electric facilities. Except in emergencies, Company shall give reasonable notice to City before performing any work on Company's facilities in the new location where such work will obstruct traffic and shall obtain permits, as necessary. In all cases, Company shall exercise due care for the protection of the traveling public and adjacent/nearby City utilities.

In the event that the future use of the street right of way shall at any time or times necessitate a rearrangement, relocation, reconstruction or removal of any of Company's facilities then existing in the street right of way, City shall notify Company in writing of such necessity and agree to reimburse Company on demand for its costs incurred in complying with such notice. Company will provide City with plans of its proposed rearrangement and an estimate of the cost thereof, and upon approval of such plans by City, Company will promptly proceed to effect such rearrangement, relocation, reconstruction or removal. Company shall exercise due care for the protection of the traveling public and adjacent/nearby City utilities. The parties will work together to identify a suitable replacement location for Company's facilities within the street right of way. No further permit or permission from City for such rearrangement, relocation or reconstruction shall be required and City will enter into a Joint Use Agreement on the same terms and conditions as are herein set forth covering any such subsequent relocation of Company's facilities within street or highway rights of way.

City agrees to indemnify, defend and reimburse Company for any loss Company may suffer because of any lack of or defect in City's title to said new location or any subsequent location within the street right of way, to which Company relocates its facilities pursuant to the provisions hereof, and City agrees that if Company is ever required to relocate its facilities because of any such lack of or defect in title, City shall reimburse Company for the cost of relocating its facilities and any other reasonable costs arising therefrom, such as, but not limited to, costs to acquire any right of way required for such relocation. City shall not reimburse Company for any loss caused by Company's own fault or negligence.

Company agrees to indemnify and hold harmless the City and its officers from all liability for damages proximately resulting from Company's use and enjoyment of the rights set forth herein.

Both City and Company shall use said new location in such a manner as not to interfere unduly with the rights of the other. Nothing herein contained shall be construed as a release or waiver of any claim for compensation or damages which Company or City may now have or may hereafter acquire resulting from the construction of additional facilities or the alteration of existing facilities by either City or Company in such a manner as to cause an unreasonable interference with the use of said new location by the other party. City agrees that Company's facilities shall not be damaged by reason of the construction, reconstruction or maintenance of the street, by the City or its contractors, and that, if necessary, City will protect Company's facilities against any such damage, at City's expense.

In the event that Company determines there is a need for Company to trim City trees or tree roots in connection with normal or routine maintenance and repair of Company's facilities within the street right of way, Company must obtain a City encroachment permit for such work. However, in the event of an emergency, defined as the need to trim City trees or tree roots to prevent an electrical outage, Company shall be allowed to trim City trees or tree roots and notify City of such emergency after such work. Any removal, trimming or topping of vegetation, brush, tree or trees which may grow in the street right of way and which, in the opinion of Company, may endanger or interfere with the proper operation or maintenance of Company's facilities, shall be limited to the extent reasonable and necessary to prevent any such interference or danger.

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This agreement shall inure to the benefit of and be binding upon the Company and the City and their respective successors and assigns.

IN WITNESS WHEREOF, the parties hereto have caused this agreement to be executed in duplicate by their respective officers thereunto duly authorized, as of the day and year herein first above written.

SOUTHERN CALIFORNIA EDISON
COMPANY, a corporation

By: 

Michael J. Williams
Real Estates & Facilities Advisor
Land Management Southern Region
Vegetation & Land Management

CITY OF HUNTINGTON BEACH,
a municipal corporation of the State of
California

Mayor

City Clerk

INITIATED AND APPROVED:

Public Works Director

REVIEWED AND APPROVED:

City Manager

APPROVED AS TO FORM:

City Attorney

JOINT USE AGREEMENT
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A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)

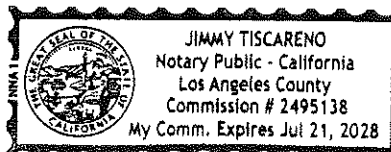
County of Los Angeles)

On 3/21/25 before me, Jimmy Tiscareno, a Notary Public, personally appeared Michael J. Williams, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature Jim Tiscareno



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State of California)

County of _____)

On _____ before me, _____, a Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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Signature _____

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State of California)

County of _____)

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I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____

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State of California)

County of _____)

On _____ before me, _____, a Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

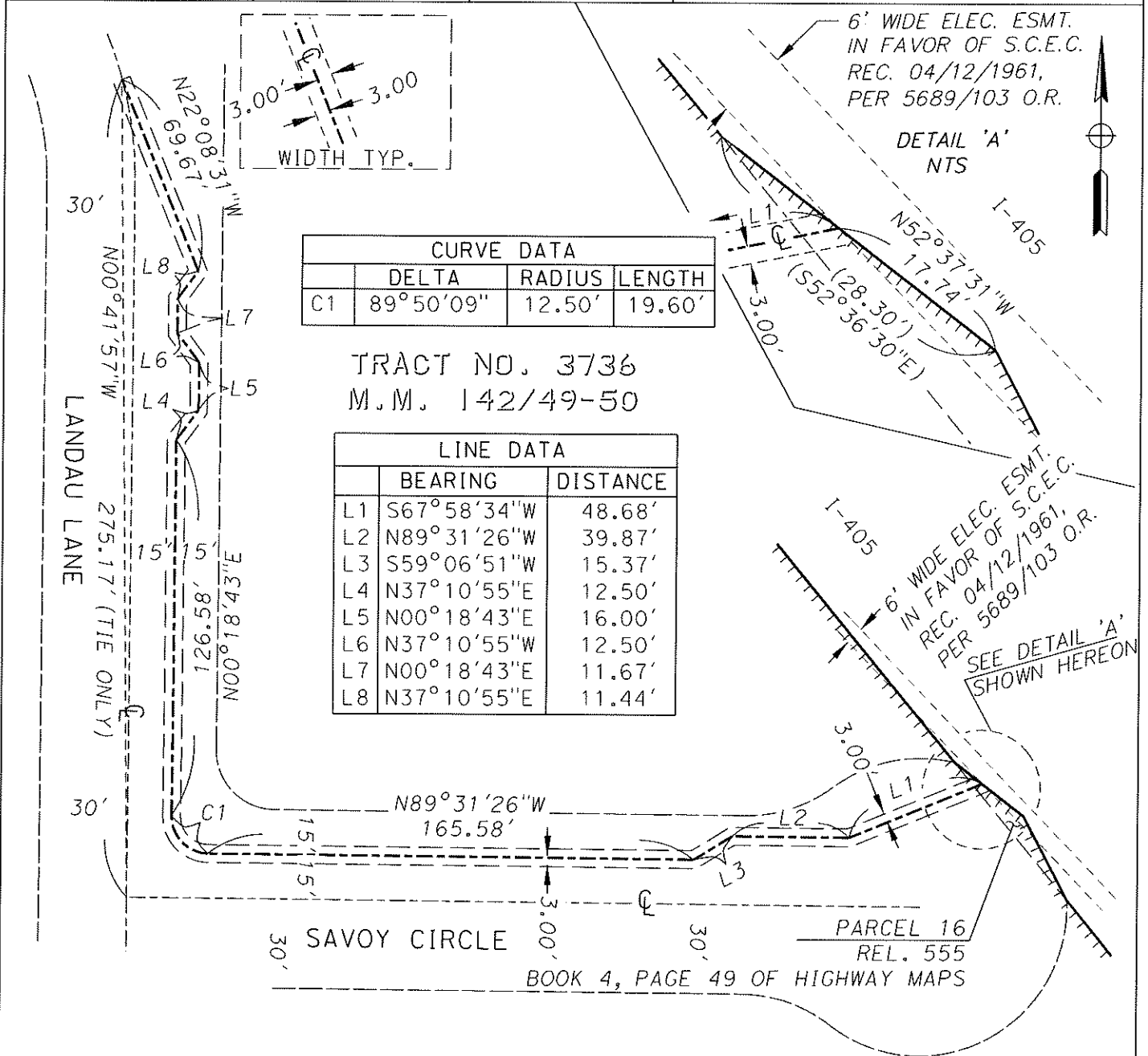
I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____

EXHIBIT A1

PARCEL#	TITLE	AREA	APN
N/A	JOINT USE AGREEMENT	3298 SF	PORTION OF LANDAU LN. AND SAVOY CIR.



State Jurisdiction Line
Access Prohibited
Proposed JUA Easement

() - INDICATES RECORD INFORMATION PER REL 553-555 PARCEL 16 BOOK 4, PAGE 49 OF HIGHWAY MAPS

NOTES

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

PREPARED BY: PSOMAS 3 Hutton Centre Drive, Ste. 200 Santa Ana, California 92707 (714)751-7373/(714)545-8883 (Fax)	DATE: 07-30-2020 REV.: EA: FA#:					
	DISTRICT	COUNTY	ROUTE	SHEET PM	SHEET NO.	TOTAL SHEETS
	12	ORANGE	405	15.49	1	1