

## MEMORANDUM

To: CHAIR AND COMMISSIONERS  
CALIFORNIA TRANSPORTATION COMMISSION

CTC Meeting: March 25, 2020

From: STEVEN KECK, Chief Financial Officer

Reference Number: 2.4a.(1), Action Item

Prepared By: Mark Phelan, Chief (Acting)  
Division of Right of Way and Land Surveys

Subject: **RESOLUTION OF NECESSITY – WRITTEN APPEARANCE**

### **ISSUE:**

Should the California Transportation Commission (Commission) adopt Resolution of Necessity (Resolution) C-21841, for the parcel whose owners are contesting the declared findings of the California Department of Transportation (Department) under Section 1245.230 of the Code of Civil Procedure?

Prior to initiating Eminent Domain proceedings to acquire needed right of way for a programmed project, the Commission must first adopt a Resolution, stipulating specific findings identified under Section 1245.230 of the Code of Civil Procedure, which are:

1. The public interest and necessity require the proposed project.
2. The proposed project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury.
3. The property is necessary for the proposed project.
4. An offer to acquire the property in accordance with Government Code Section 7267.2 has been made to the owner of record.

In this case, the property owners are contesting the Resolution and have requested a written appearance before the Commission. At the request of the property owners, objections to the Resolution have been submitted in writing to be made part of the official record of the Commission meeting, in lieu of a personal appearance before the Commission. The property owners' objections are included as Attachment A. The Department's responses to the property owners' objections are contained in Attachment B.

*“Provide a safe, sustainable, integrated and efficient transportation system  
to enhance California’s economy and livability”*

**RECOMMENDATION:**

The Department recommends the Commission adopt Resolution C-21841 summarized on the following page. This Resolution is for a transportation project on State Route 18 in District 8, in San Bernardino County.

**BACKGROUND:**

Discussions have taken place with the owners, who have been offered the full amount of the Department's appraisal and, where applicable, advised of any relocation assistance benefits to which they may subsequently be entitled. Adoption of this Resolution will not interrupt the Department's efforts to secure an equitable settlement. In accordance with statutory requirements, the owners have been advised that the Department is requesting the Resolution at the Commission's March 25-26, 2020 meeting. Adoption will assist the Department in the continuation of the orderly sequence of events required to meet construction schedules.

C-21841 - Theodore J. Crocker and Anna M. Crocker, husband and wife as joint tenants  
08-SBd-18-PM 99.15 - Parcel 24731-1, 2, 3, 4 - EA 1E0609.

Right of Way Certification Date: 05/01/20; Ready to List Date: 05/05/20. Conventional highway - construct raised curb median, widen roadway and install traffic signals. Authorizes condemnation of permanent easements for slope and drainage purposes, and a temporary easement for constructions purposes. Located in the city of Victorville at 13689 Palmdale Road. Assessor's Parcel Numbers 3105-201-05, -06.

Attachments:

- Attachment A - Property Owners' letter to the Commission dated January 8, 2020
- Attachment B - Department Response dated January 31, 2020
- Attachment C - Fact Sheet
- Exhibit A - Parcel Maps
- Exhibit B - Resolution of Necessity C-21841

# ATTACHMENT A

RECD BY CTC  
JAN 13 2020

**HUBBARD LAW FIRM**

~~3890 Eleventh St., Suite 214~~  
Riverside, CA 92501  
HubbardLawFirm@gmail.com

January 8, 2020

Founded 2008

(951) 686-2660

*Forwarded to:  
Rish at work  
1/13/20  
Copied to:  
Tara Anderson*

Exec. Director, Cal. Transp. Comm'n  
P.O. Box 942873, Mail Station 52  
Sacramento, CA 94273-0001

Re: Project #0813000140, Parcel 24731-1 -2 -3 -4 (Hearing on Res. of Nec.)

Dear Executive Director:

Hubbard Law Firm has been retained by the Crockers, owners of the property identified above. The Crockers wish to register the following objections with respect to the hearing on the resolution of necessity, scheduled for January 29-30, 2020:

1. The Crockers reserve judgment as to whether the project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury because their own expert appraiser has not completed an assessment of the taking at this time.
2. The Crockers do not believe a good faith offer has been extended to them, in that they do not believe a sincere and serious inquiry into severance damages has been undertaken.

Sincerely,



David F. Hubbard

HUBBARD LAW FIRM

cc: clients

# ATTACHMENT B

**DEPARTMENT OF TRANSPORTATION**

OFFICE OF RIGHT OF WAY  
464 WEST FOURTH STREET, MS 950  
SAN BERNARDINO, CA 92401-1400  
MAIN (909) 383-4561  
DIRECT (909) 889-3196  
FAX (909) 383-4960  
TTY 711  
www.dot.ca.gov/dist8



Making Conservation  
a California Way of Life.

January 31, 2020

Mr. David F. Hubbard  
Hubbard Law Firm  
3890 Eleventh Street, Suite 214  
Riverside, CA 92501

Re: Written Appearance  
08 – SBd -018 - P.M. 99.15  
E.A. 1E060  
Project # 0813000140  
Grantor: Theodore J. Crocker and Anna M. Crocker, husband and wife as joint tenants

Dear Mr. Hubbard:

In response to your written letter of objection dated January 8, 2020, the District would like to respond with the following information.

Objection #1:

"The Crockers reserve judgment as to whether the project has been planned or located in the manner that will be most compatible with the greatest good and the least private injury..."

District Response:

The easements on this parcel are necessary as a result of the roadway widening. The existing RC-Box culvert under SR-18 needs to be extended and the wingwall and basin need to be reconstructed to convey water efficiently. To make these improvements, Caltrans needs to acquire a portion of the land adjacent to the project for two slope easements, a drainage easement and a temporary construction easement to complete the project.

Objection #2:

"The Crockers do not believe a good faith offer has been extended to them, in that they do not believe a sincere and serious inquiry into severance damages has been undertaken".

District Response:

- a. An appraisal for the required property was completed on June 13, 2019, and an offer for the full appraised value, \$7,700.00, was

Mr. Hubbard  
January 31, 2020  
Page 2

presented to the grantor on July 23, 2019. The Appraiser considered curable and incurable severance damages with regard to the subject property in the after condition. It was concluded that the remainder would continue to have the same highest and best use, continued access and development potential as in the before condition, therefore there were no severance damages to the remainder by the construction, in the manner proposed.

- b. The grantors were made aware of their right to obtain an independent appraisal throughout negotiations. They opted not to secure an appraisal and requested that the District begin eminent domain proceedings.

As discussed, your concerns will be included in the official record of the March 25-26, 2020, California Transportation Meeting, in-lieu of a personal appearance.

Should you have any questions, please contact Right of Way Agent Mallory Benns at (909) 889-3196.

Sincerely,



Rebecca Guirado  
Deputy District Director  
Division of Right of Way  
District 8

# ATTACHMENT C



## Resolution of Necessity Appearance Fact Sheet

<b>PROJECT DATA</b>	08-SBd-18-PM 97.0/99.5 Project ID: 0813000140 (EA 1E0609)
<u>Location:</u>	In San Bernardino County, in and near the city of Victorville, from Amargosa Road to Cobalt Road on State Route (SR) 18
<u>Limits:</u>	San Bernardino County SR 18 from Amargosa Road (PM 97.0) to the intersection with Cobalt Road (PM 99.5)
<u>Cost:</u>	Programmed Construction Cost: \$8,332,443 (Capital) Current right of way cost estimate: \$1,328,500 (Capital)
<u>Funding Source:</u>	State Highway Operation and Preservation Program
<u>Number of Lanes:</u>	Existing: Four lane Conventional Highway Proposed: Four lane Conventional Highway with raised curb median
<u>Proposed Major Features:</u>	<p>Constructing a raised curb median and widening a portion of existing roadway. In addition, a retaining wall will be constructed, driveways will be reconstructed, Americans with Disabilities Act ramps will be modified or installed, signal and lighting will be modified or installed, a 6-foot Class 2 bike lane will be added, existing cross culverts will be extended, rumble strips will be installed and guardrail will be upgraded to current standard within the project limits.</p> <p>The travel way on SR 18 will consist of eleven (11) foot and twelve (12) foot lanes in each direction with eight (8) foot outside shoulders and two to three (2-3) foot inside shoulders. The raised curb median will vary from three (3) feet to twelve (12) feet in width. There are seven (7) left turn pockets for this project.</p>

Traffic: The scope of this project does not include an increase in the capacity of the facility to carry traffic, as such, forecasted traffic information is not required

**PARCEL DATA**

Property Owner: Theodore J. Crocker and Anna M. Crocker, husband and wife as joint tenants

Parcel Location: 13689 Palmdale Road, in the city of Victorville

Present Use: Single Family Residence

Area of Property: 193,473 Square Feet (SF)

Area Required: Parcel 24731-1: 1,050 SF - Slope Easement  
Parcel 24731-2: 1,352 SF - Slope Easement  
Parcel 24731-3: 515 SF - Drainage Easement  
Parcel 24731-4: 1,674 SF - Temporary Construction Easement

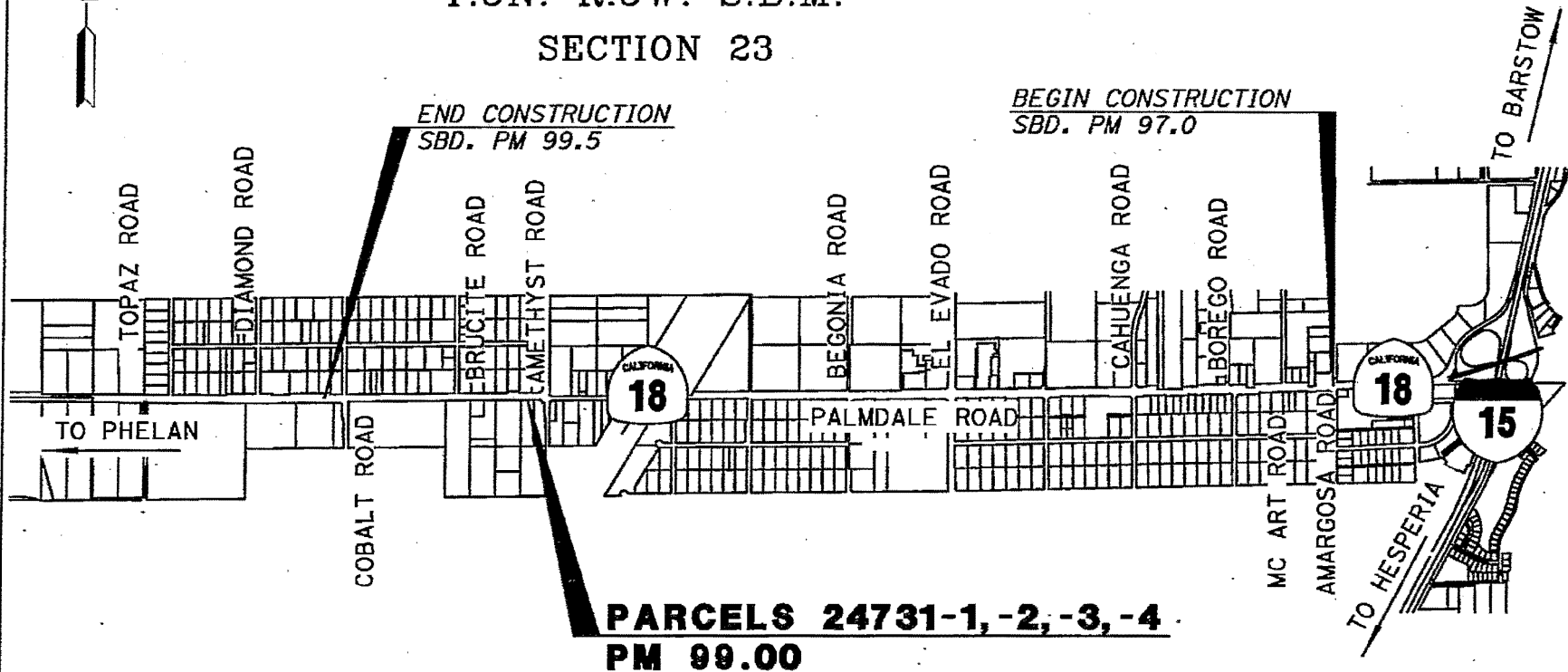
# EXHIBIT A

**CITY OF VICTORVILLE  
COUNTY OF SAN BERNARDINO**

T.5N. R.5W. S.B.M.

SECTION 23

NOTE: The State of California or its officers or agents shall not be responsible for the accuracy or completeness of digital images of this map.



REF. INFO. DISTRICT 08 R/W MAP NO.  
RW000336-03

**NOTES**  
Coordinates and bearings are on CCS 83 Zone 5 (EPOCH 2007.0) Distances and stationing are grid distances. Divide by 0.99978613 to obtain ground distances. All distances are in feet unless otherwise noted.

STATE OF CALIFORNIA  
CALIFORNIA STATE TRANSPORTATION AGENCY  
DEPARTMENT OF TRANSPORTATION  
**RIGHT OF WAY  
RESOLUTION OF NECESSITY**  
EXHIBIT A  
INDEX MAP  
COPYRIGHT 2019 CALIFORNIA DEPARTMENT OF TRANSPORTATION.  
ALL RIGHTS RESERVED.  
NOT TO SCALE

DRAFTED BY	DATE	DISTRICT	COUNTY	ROUTE	SHEET PM	SHEET NO.	TOTAL SHEETS
B. CEBALLOS	09/27/2019	08	Sbd	18	99.15	1	2

**CITY OF VICTORVILLE  
COUNTY OF SAN BERNARDINO**

T.5N. R.5W. S.B.M.

SECTION 23

NOTE: The State of California or its officers or agents shall not be responsible for the accuracy or completeness of digital images of this map.



CENTER SECTION LINE

IMP. STATE ROUTE 18

**PARCEL 24731-1  
SLOPE EASEMENT**

**PARCEL 24731-2  
SLOPE EASEMENT**

P.O.B.  
PARCEL 24731-1

P.O.C.  
PARCEL  
24731-4

EXISTING R/W

21.00'

EXISTING R/W

21.00'

P.O.B.  
PARCEL 24731-2

21.00'

10.50'

P.O.B.  
PARCEL  
24731-4

26.00'

26.00'

49.00'

49.00'

**PARCEL 24731-4  
TEMPORARY  
CONSTRUCTION  
EASEMENT**

64.36'

**PARCEL 24731-3  
DRAINAGE EASEMENT**



P.O.B.  
PARCEL 24731-3

10.50'

P.O.B. = POINT OF BEGINNING  
P.O.C. = POINT OF COMMENCEMENT

**NOTES**

Coordinates and bearings are on CCS 83 Zone 5 (EPOCH 2007.0) Distances and stationing are grid distances. Divide by 0.99978613 to obtain ground distances. All distances are in feet unless otherwise noted.

STATE OF CALIFORNIA  
CALIFORNIA STATE TRANSPORTATION AGENCY  
DEPARTMENT OF TRANSPORTATION

**RIGHT OF WAY  
RESOLUTION OF NECESSITY**

**EXHIBIT B  
DETAIL MAP**

COPYRIGHT 2019 CALIFORNIA DEPARTMENT OF TRANSPORTATION.  
ALL RIGHTS RESERVED.  
SCALE: 1" = 30'



DRAFTED BY	DATE	DISTRICT	COUNTY	ROUTE	SHEET PM	SHEET NO.	TOTAL SHEETS
B. CEBALLOS	09/27/2019	08	SBd	18	99.15	2	2

# EXHIBIT B

1 **TRANSPORTATION COMMISSION**  
2 **RESOLUTION NO.**

3 **C-21841**

4 CALIFORNIA TRANSPORTATION COMMISSION  
5 RESOLUTION OF NECESSITY  
6 TO ACQUIRE CERTAIN REAL PROPERTY  
7 OR INTEREST IN REAL PROPERTY BY EMINENT DOMAIN  
8 HIGHWAY 08-SBd-18-PM 99.15 PARCEL 24731-1, 2, 3, 4  
9 OWNER: Theodore J. Crocker and Anna M. Crocker, husband and wife as joint tenants

10 Resolved by the California Transportation Commission after notice (and hearing)  
11 pursuant to Code of Civil Procedure Section 1245.235 that it finds and determines and  
12 hereby declares that:

13 The hereinafter described real property is necessary for State Highway purposes  
14 and is to be acquired by eminent domain pursuant to Streets and Highways Code Section  
15 102;

16 The public interest and necessity require the proposed public project, namely a State  
17 highway;

18 The proposed project is planned and located in the manner that will be most  
19 compatible with the greatest public good and the least private injury;

20 The property sought to be acquired and described by this resolution is necessary for  
21 the public project;

22 The offer required by Section 7267.2 of the Government Code has been made to the  
23 owner or owners of record; and be it further

24 **RESOLVED** by this Commission that the Department of Transportation be and said  
Department is hereby authorized and empowered;

**APPROVED AS TO FORM AND PROCEDURE**

**APPROVAL RECOMMENDED**

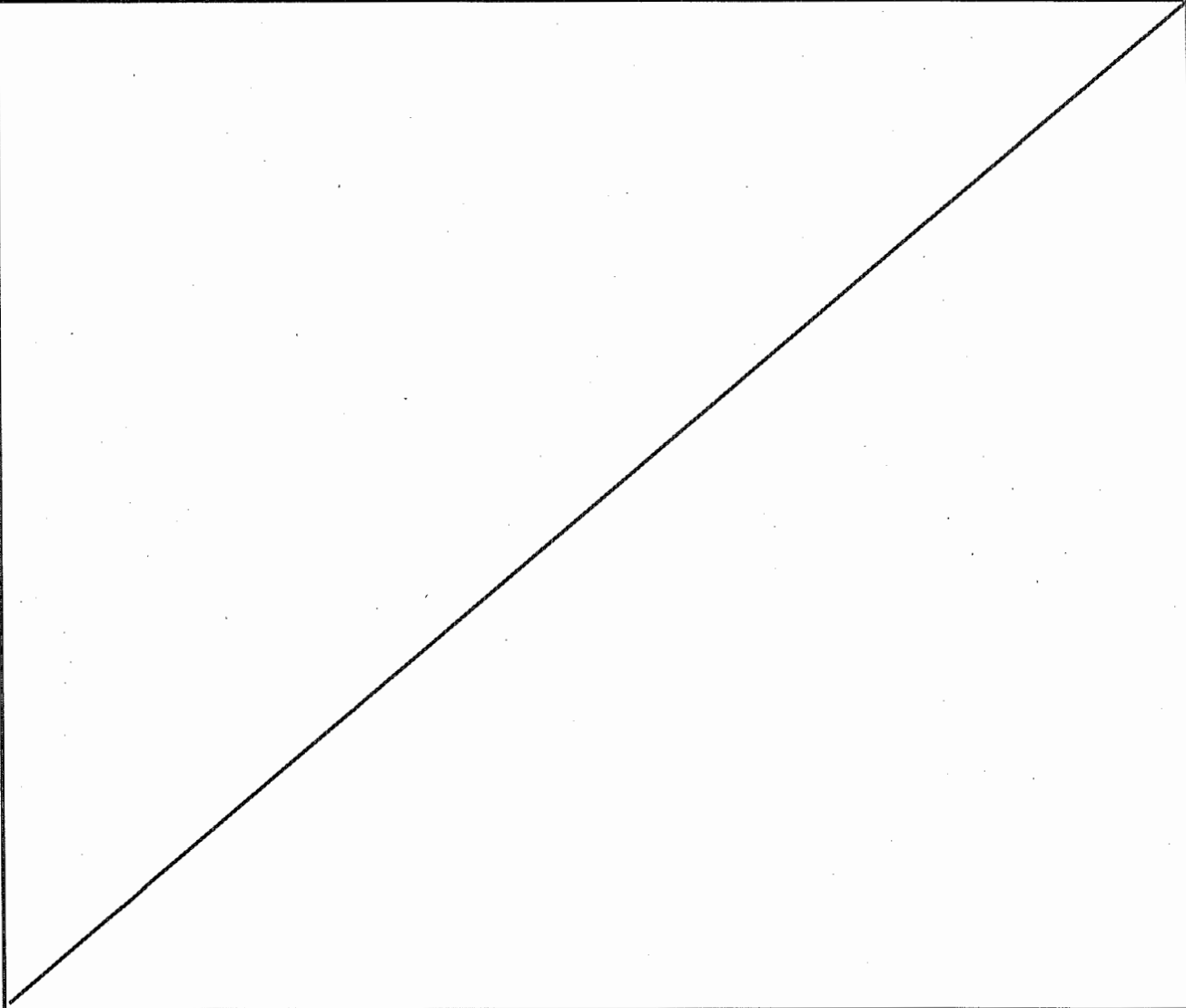
\_\_\_\_\_  
Attorney, Department of Transportation

\_\_\_\_\_  
DIVISION OF RIGHT OF WAY

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To acquire, in the name of the People of the State of California, in fee simple absolute, unless a lesser estate is hereinafter expressly described, the said hereinafter described real property, or interests in real property, by condemnation proceeding or proceedings in accordance with the provisions of the Streets and Highways Code, Code of Civil Procedure and of the Constitution of California relating to eminent domain;

The real property or interests in real property, which the Department of Transportation is by this resolution authorized to acquire, is situated in the County of San Bernardino, State of California, Highway 08-SBd-18 and described as follows:





## LEGAL DESCRIPTION

### Parcel 24731-1

An easement for slope purposes in and to that portion of the West 1/2 of the East 1/2 of the Northeast 1/4 of the Northeast 1/4 of the Southeast 1/4 of Section 23, Township 5 North, Range 5 West, San Bernardino Meridian, in the County of San Bernardino, State of California, according to the Official Government Survey, described as follows:

**BEGINNING** at the southwest corner of land described in the Grant Deed recorded August 13, 1992 as Instrument No. 1992-335371 of Official Records in the Office of the County Recorder of said county; thence along the southerly line of said land North 89° 45' 53" East 50.00 feet to the northwest corner of land described in the Easement Deed recorded August 13, 1992 as Instrument No. 1992-335372 of said Official Records; thence along the westerly line of said Easement Deed South 00° 16' 03" East 21.00 feet; thence South 89° 45' 53" West 50.00 feet to the westerly line of Parcel No. 1 as described in the Grant Deed recorded September 5, 1978 in Book 9510, Page 432, of said Official Records; thence along said westerly line North 00° 16' 03" West 21.00 feet to the **POINT OF BEGINNING**.

The bearings and distances used in the above description are on the California Coordinate System of 1983, Zone 5 (Epoch 2007.00). Divide the above distances by 0.99978613 to obtain ground level distances.

Reserving unto OWNER of the above described parcel of land, their successors or assigns, the right at any time to remove such slopes or portions thereof upon removing the necessity for maintaining such slopes or portions thereof or upon providing in place thereof other adequate lateral support, the design and construction of which shall be first approved by the State of California, Department of Transportation, for the protection and support of the highway.

**Parcel 24731-2**

An easement for slope purposes in and to that portion of the West 1/2 of the East 1/2 of the Northeast 1/4 of the Northeast 1/4 of the Southeast 1/4 of Section 23, Township 5 North, Range 5 West, San Bernardino Meridian, in the County of San Bernardino, State of California, according to the Official Government Survey, described as follows:

**BEGINNING** at the southeast corner of land described in the Grant Deed recorded August 13, 1992 as Instrument No. 1992-335371 of Official Records in the Office of the County Recorder of said county; thence along the southerly line of said land South 89° 45' 53" West 64.41 feet to the northeast corner of land described in the Easement Deed recorded August 13, 1992 as Instrument No. 1992-335372 of said Official Records; thence along the easterly line of said land South 00° 16' 03" East 21.00 feet; thence North 89° 45' 53" East 64.39 feet to the easterly line of Parcel No. 1 as described in the Grant Deed recorded September 5, 1978 in Book 9510, Page 432, of said Official Records; thence along said easterly line North 00° 11' 52" West 21.00 feet to the **POINT OF BEGINNING**.

The bearings and distances used in the above description are on the California Coordinate System of 1983, Zone 5 (Epoch 2007.00). Divide the above distances by 0.99978613 to obtain ground level distances.

Reserving unto OWNER of the above described parcel of land, their successors or assigns, the right at any time to remove such slopes or portions thereof upon removing the necessity for maintaining such slopes or portions thereof or upon providing in place thereof other adequate lateral support, the design and construction of which shall be first approved by the State of California, Department of Transportation, for the protection and support of the highway.

**Parcel 24731-3**

An easement for drainage purposes under, over, through, and across that portion of the West 1/2 of the East 1/2 of the Northeast 1/4 of the Northeast 1/4 of the Southeast 1/4 of Section 23, Township 5 North, Range 5 West, San Bernardino Meridian, in the County of San Bernardino, State of California, according to the Official Government Survey, described as follows:

**BEGINNING** at the southwest corner of land described in the Easement Deed recorded August 13, 1992 as Instrument No. 1992-335372 of Official Records in the Office of the County Recorder of said county; thence along the westerly line of said land North 00° 16' 03" West 49.00 feet; thence South 89° 45' 53" West 10.50 feet; thence South 00° 16' 03" East 49.00 feet; thence North 89° 45' 53" East 10.50 feet to the **POINT OF BEGINNING**.

Together with the right to construct, operate, and maintain such facilities as necessary to effect the purpose.

The bearings and distances used in the above description are on the California Coordinate System of 1983, Zone 5 (Epoch 2007.00). Divide the above distances by 0.99978613 to obtain ground level distances.

**Parcel 24731-4**

A temporary easement for constructions purposes and incidents thereto in and to that portion of the West 1/2 of the East 1/2 of the Northeast 1/4 of the Northeast 1/4 of the Southeast 1/4 of Section 23, Township 5 North, Range 5 West, San Bernardino Meridian, in the County of San Bernardino, State of California, according to the Official Government Survey, described as follows:

**COMMENCING** at the northeast corner of land, described in the Easement Deed recorded August 13, 1992 as Instrument No. 1992-335372 of Official Records in the Office of the County Recorder of said county; thence along the easterly line of said land South 00° 16' 03" East 21.00 feet to the **TRUE POINT OF BEGINNING**, thence continuing along said easterly line South 00° 16' 03" East 26.00 feet; thence North 89° 45' 53" East 64.36 feet to the easterly line of Parcel No. 1 as described in the Grant Deed recorded September 5, 1978 in Book 9510, Page 432, of said Official Records; thence along said easterly line North 00° 11' 52" West 26.00 feet; thence South 89° 45' 53" West 64.39 feet to the **TRUE POINT OF BEGINNING**.

Rights to the above described temporary easement shall cease and terminate on December 08, 2021. The rights may also be terminated prior to the above date by STATE upon notice to OWNER.

The bearings and distances used in the above description are on the California Coordinate System of 1983, Zone 5 (Epoch 2007.00). Divide the above distances by 0.99978613 to obtain ground level distances.