

**Fernando A. Kellenberger, et. al. As Joint Tenants  
Parcel 104334**

**The Fernando Kellenberger & Annette Changala Living Trust  
Parcel 104335**

**Margaret Bratton Brutocao & Roberto Giovanni Brutocao  
As Joint Tenants  
Parcel 104337**

**State Route 74 Widening Project  
Orange County, District 12**

**Rizwan Tanvir, Caltrans**

# **Presentation Overview**

1. Project and Parcels Location
2. Parcels Acquisition
3. Four Statutory Findings
4. Property Owner's Contentions  
and Caltrans' Responses
5. Summary

# Project Vicinity



# Project and Kellenberger & Brutocao Parcels Location



Parcels



Hunt Club Dr

Brutocao Parcel  
104337

Shade Tree Ln

Kellenberger Parcel  
104335

State Route 74

Kellenberger Parcel  
104334

Calle Entradero

City of San Juan Capistrano  
Eastern End

# Kellenberger Parcels 104334 104335 Acquisitions



# Brutocao Parcel 104337 Acquisitions

- Project Location 
- Kellenberger Parcels 
- TCE 
- FEE 
- Exist. Caltrans R/W Line (Access Controlled) 



# Statutory Findings

- Code of Civil Procedure 1245.230
  1. The public interest and necessity require the proposed project.
  2. This project is planned and located in a manner that will be most compatible with the greatest public good and least private injury.
  3. The property sought to be condemned is necessary for the proposed project.
  4. An offer of just compensation has been made in accordance with Government Code 7267.2.

# Statutory Findings

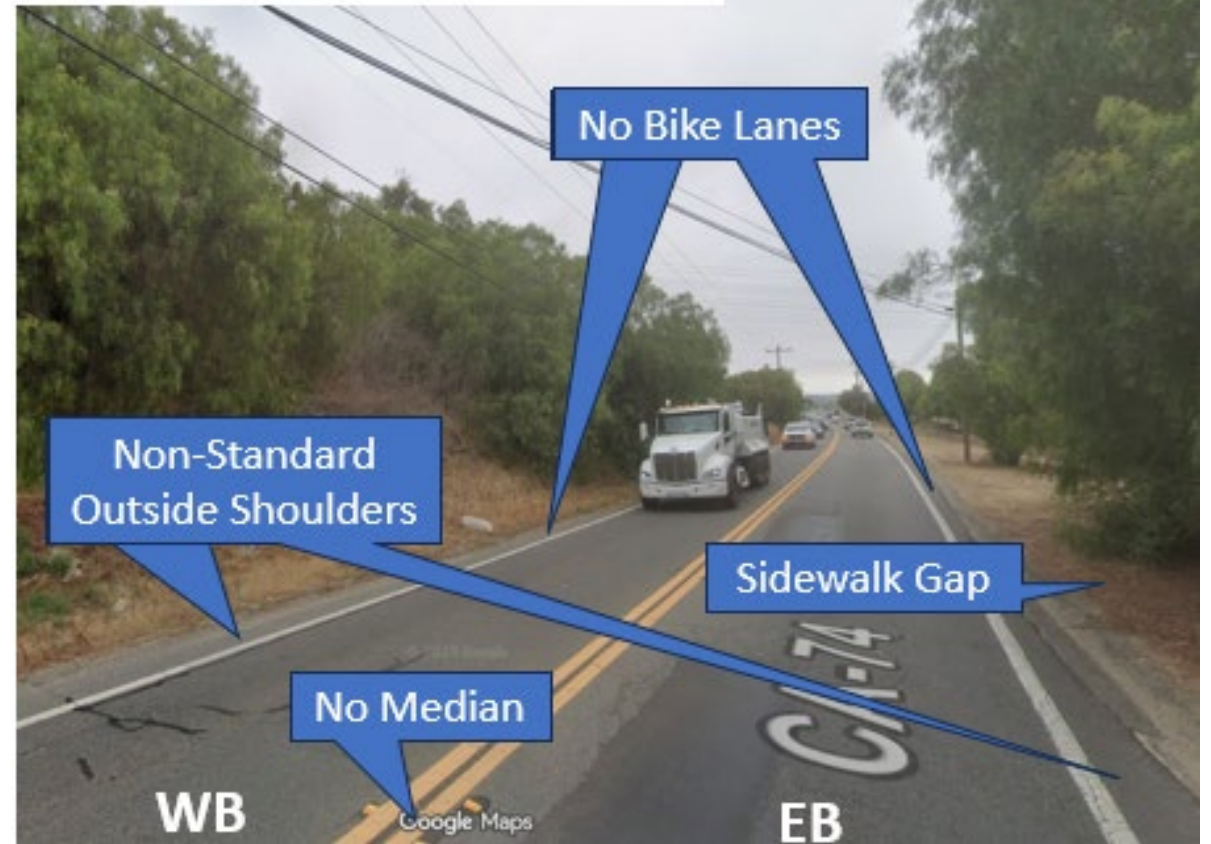
## 1. The public interest and necessity require the proposed project

Picture 1 - Traffic Congestion



- Traffic congestion
- No median except for a few short segments
- No bike lanes

Picture 2 – Existing Deficiencies



- 790 ft. of sidewalk gap along EB SR-74
- Non-standard outside shoulders

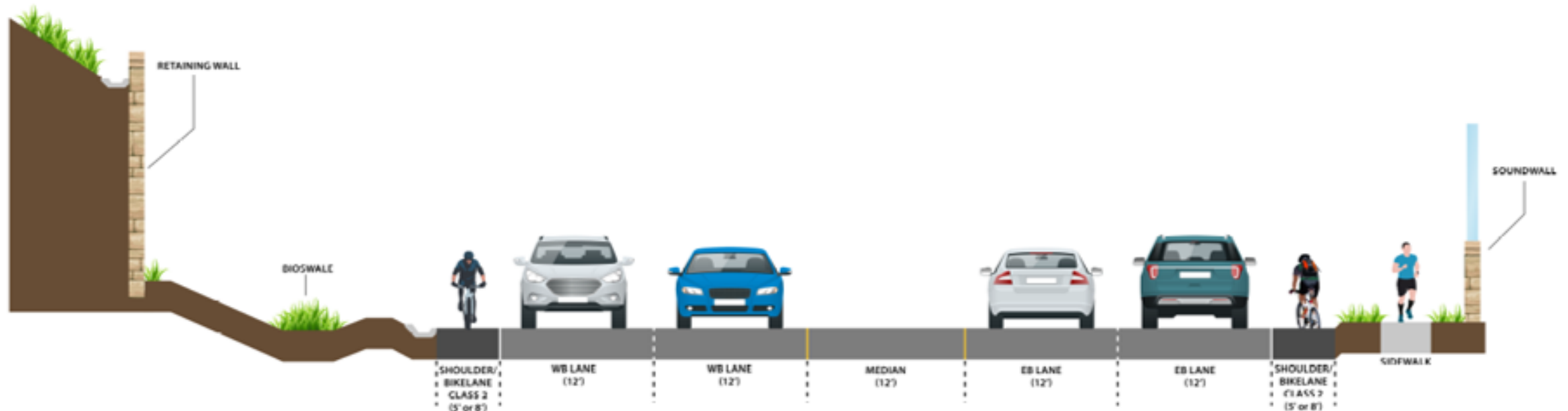
# Statutory Findings

2. The project is planned or located in a manner that will be most compatible with the greatest public good and least private injury.

## Greatest Public Good

Improves:

- ✓ Traffic congestion
- ✓ Safety for motorist, cyclist, and pedestrian
- ✓ Noise mitigation for the residents



Visualized Post-Construction Image

# Statutory Findings

2. The project is planned or located in a manner that will be most compatible with the greatest public good and least private injury.

## Least Private Injury Overall:

Widening SR 74 on the north side to minimize impact on private properties.




# Statutory Findings: 2. The project is planned or located in a manner that will be most compatible with the greatest public good and least private injury.

## Constructing retaining walls to minimize Fee Acquisition.

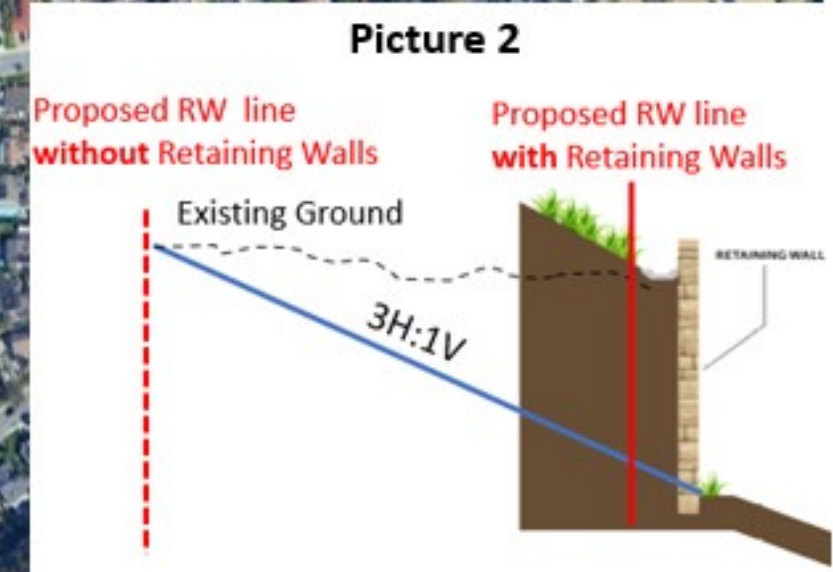
Least Private Injury Overall	Fee Acquisition Needed without Retaining Wall & 3H:1V Grading	Proposed Fee Acquisition with Retaining Wall	Acquisition Reduced by:
Fee Acquisition	~8 Acres	0.4 Acres	~7.6 Acres



Acquisition Reduced 



Graphics not to Scale



# Statutory Findings: 2. The project is planned or located in a manner that will be most compatible with the greatest public good and least private injury.

## Least Private Injury for Kellenberger Parcels:

Parcel	RW Acquisition Without Retaining Walls	RW Acquisition With Retaining Walls	RW Acquisition Reduced
104334	1.20 acres	0.06 acres	1.14 acres
104335	1.45 acres	0.04 acres	1.41 acres



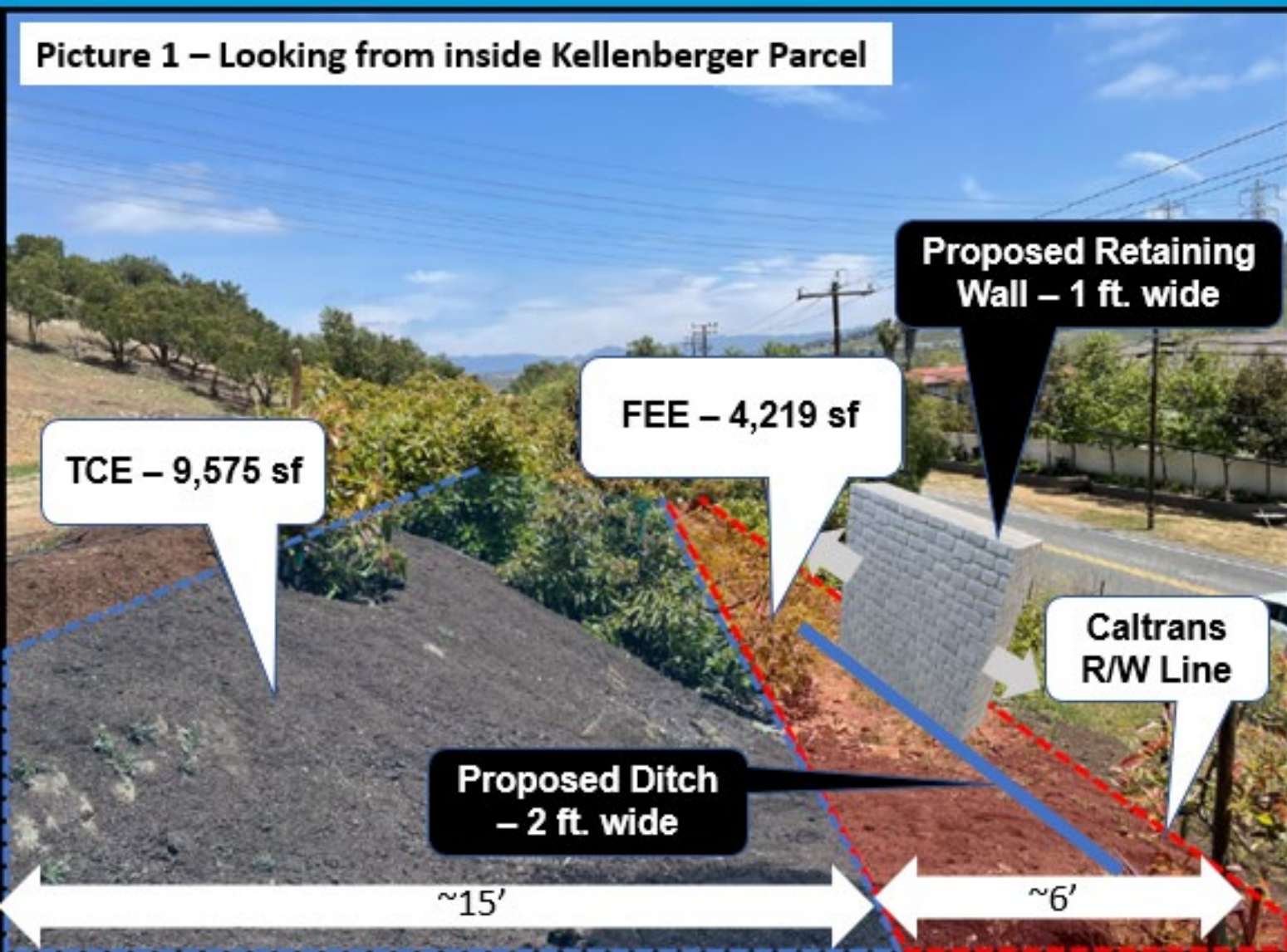
# Statutory Findings: 2. The project is planned or located in a manner that will be most compatible with the greatest public good and least private injury.

## Least Private Injury for Brutocao Parcel:

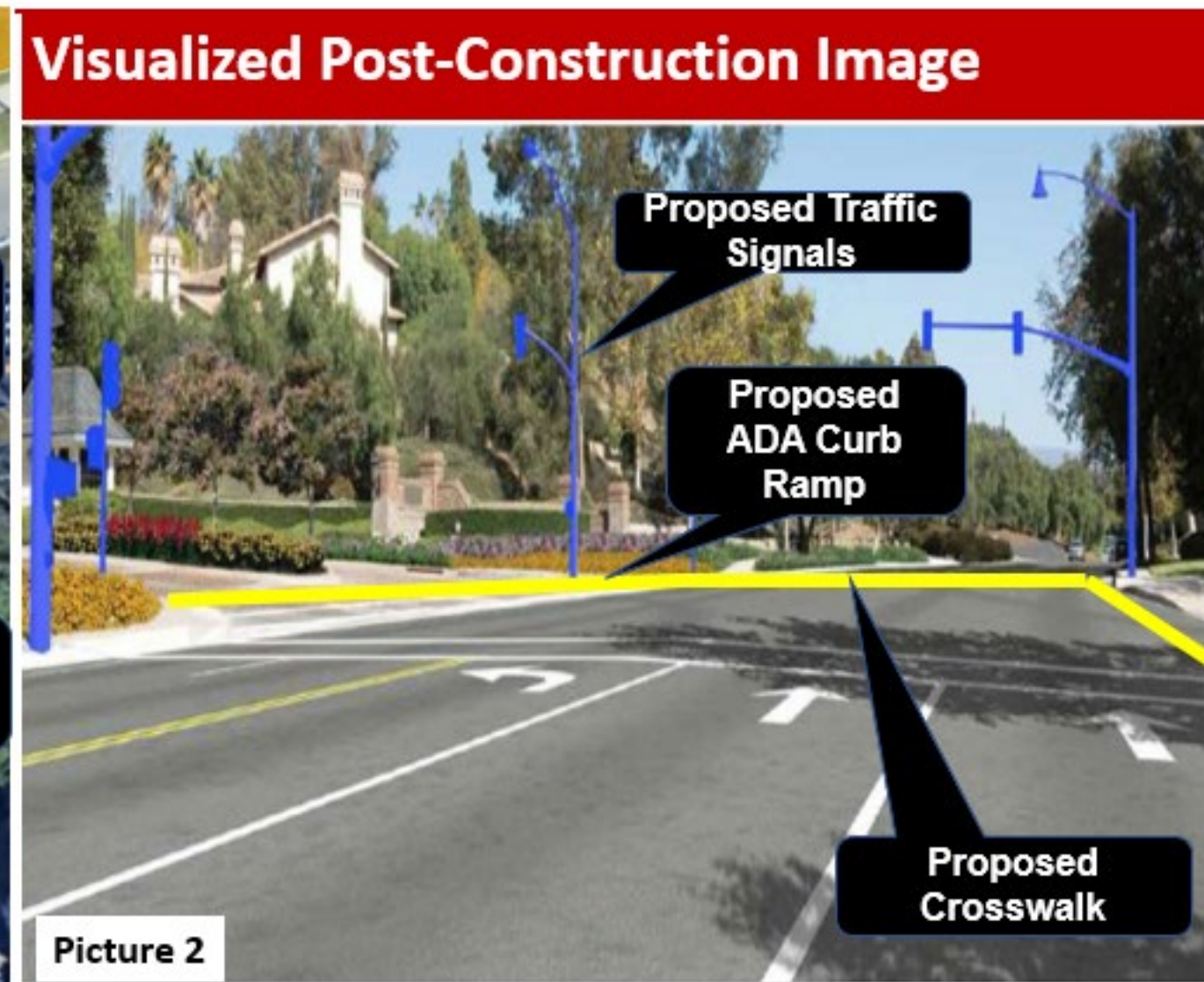
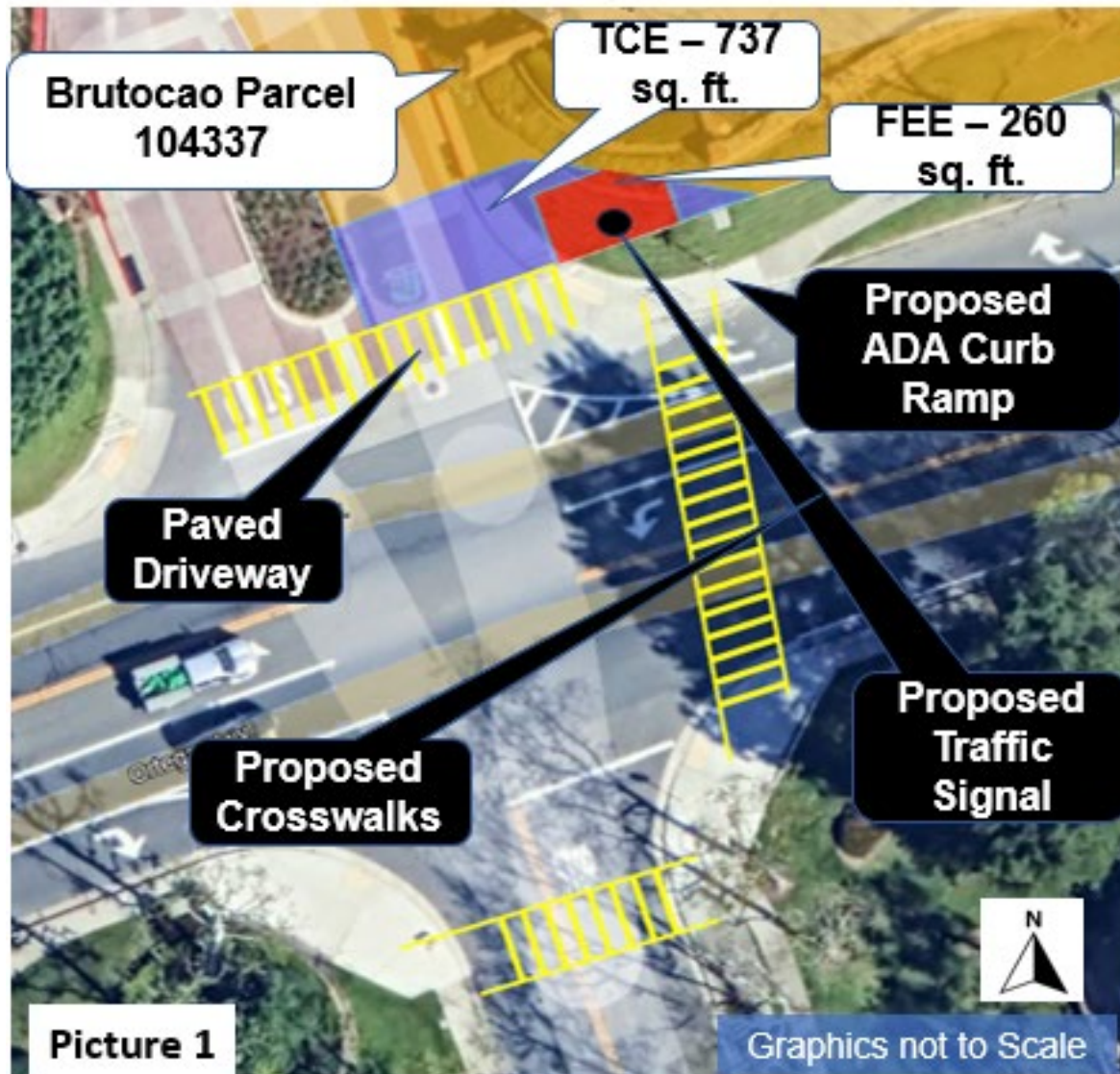
- ✓ 260 sq. ft. in FEE and 737 sq. ft. in TCE are the bare minimum areas required to construct the proposed improvements.
- ✓ Access to the Brutocao will remain open throughout construction.
- ✓ All temporary easements will be returned to the property owner upon completion of the construction.



**Statutory Findings: 3. The property sought to be condemned is necessary for the proposed project.**  
**Kellenberger Parcels 104334 and 104335**



**Statutory Findings: 3. The property sought to be condemned is necessary for the proposed project.**  
**Brutocao Parcel 104337**



# Statutory Findings

## 4. An offer of just compensation has been made in accordance with Government Code 7267.2.

### Parcels 104334 & 104335

- On July 3, 2025, Caltrans District 12 provided the first written offer to the property owners and their attorney.

### Parcel 104337

- On March 27, 2025, Caltrans District 12 mailed the first written offer to the property Owners.
- The property owners confirmed receiving the offer on March 31, 2025.

# Summary of Communication with Property Owner Parcels 104334 and 104335

- ✓ 06/25/19 – Public Hearing information/documents.
- ✓ 11/19/24 – Sent a Notice of Decision to Appraise (NDA).
- ✓ 04/30/25 – Appraiser visited and inspected project site.
- ✓ 05/30/25 - Appraisal approved (104335).
- ✓ 06/18/25 – Appraisal approved (104334).
- ✓ 07/03/25 – First Written Offer (FWO) was made via a personal meeting.
- ✓ 07/22/25-10/1/25 – R/W Agent contacted owners’ attorneys.
- ✓ 09/15/25 – Notice of Intent (NOI) mailed.
- ✓ 10/02/25 – Appearance request letter received from Grantor’s attorney.
- ✓ 10/16/25-11/05/25 – R/W Agent contacted owners’ attorney regarding District Condemnation Evaluation (DCEM) meeting.
- ✓ 11/06/25 – Conducted DCEM meeting.
- ✓ 11/19/25 – Owners’ attorney requested additional information/documents.
- ✓ 11/25/25 – District provided documents requested by owners’ attorneys.
- ✓ 12/02/25 – Response letter addressing DCEM concerns emailed.
- ✓ 12/18/25 – Conducted Condemnation Panel Review (CPRM) Meeting.
- ✓ 12/24/25 & 01/09/26 & 01/13/26 – District provided additional documents requested by attorney.
- ✓ 01/13/26 – Response letter addressing CPRM concerns emailed.
- ✓ 1/22/26-02/10/26– R/W Agent contacted owner’s attorney

Type of Contact	Number of Contacts
Mailing of Information	4
Emails	34
Phone Calls	7
Meetings	3

# Summary of Communication with Property Owner Parcels 104337

- ✓ 06/25/19 – Public Hearing
- ✓ 06/13/24 – Sent a Notice of Decision to Appraise (NDA).
- ✓ 08/13/24 – Appraiser visited and inspected project site.
- ✓ 02/26/25 – Appraisal approved.
- ✓ 03/27/25 – First Written Offer (FWO) was made via email and certified mail.
- ✓ 04/7/25 – Design and R/W Agent met with owners to review acquisition staking and additional FWO documents were provided to the owners.
- ✓ 05/05/25-05/28/25 Owners raised reflective noise concerns; R/W Agent provided project materials and noise study reports.
- ✓ 06/10/25 Meeting with property owners to discuss reflective noise.
- ✓ 09/15/25 – Notice of Intent (NOI) mailed.
- ✓ 10/02/25 – Appearance request letter received from owners’ attorney.
- ✓ 11/06/25 – Conducted District Condemnation Evaluation (DCEM) meeting.
- ✓ 11/19/25 – Attorney requested additional information /documents and noise receptor placement.
- ✓ 12/08/25 – Response letter addressing DCEM concerns.
- ✓ 12/18/25 – Conducted Condemnation Panel Review(CPRM) Meeting.
- ✓ 01/09/26 –District provided additional documents requested by attorney.
- ✓ 01/14/26 – Response letter addressing CPRM concerns.

Type of Contact	Number of Contacts
Mailing of Information	6
Emails	51
Phone Calls	10
Meetings	4

**Finding 2: The project is planned or located in a manner that will be most compatible with the greatest public good and least private injury**



**PROPERTY OWNER CONTENDS (Kellenberger):**  
Losing direct access to SR-74

**CALTRANS RESPONSE:**

- All Vehicular Access Rights to SR-74 were released and relinquished as of August 29, 1979, per Parcel Map PMB 137/ 40-22.
- Caltrans Right of Way is Access Controlled along Kellenberger parcel. Thus, the driveway is unpermitted.



Related to the findings of the Code of Civil Procedure 1245.230:

## **2. The project is planned or located in a manner that will be most compatible with the greatest public good and least private injury**

PROPERTY OWNER CONTENDS (Kellenberger):

- Increased noise in the after-condition. Why does the project include a soundwall on the south side of SR 74, but only a retaining wall on the north side adjacent to the Kellenberger property?

CALTRANS RESPONSE:

- Noise threshold for considering a soundwall: 67 dB(A).
- 2018 Noise Study Report shows the after-condition noise levels for the Kellenberger parcel increasing
- from approx. 57 dB(A) to 61 dB(A) – a 4 dB(A) change, which is barely noticeable to the human ear.
- Since 61 dB(A) is below the 67 dB(A) threshold, a soundwall is not warranted for Kellenberger parcels.
- The properties located south of SR 74 are closer to the highway, while the Kellenberger property sits higher on the hillside and farther away, which reduces the noise levels reaching the residence.

Related to the findings of the Code of Civil Procedure 1245.230:

**2. The project is planned or located in a manner that will be most compatible with the greatest public good and least private injury**

PROPERTY OWNER CONTENDS (Kellenberger):

- Potential slope failure during construction.

CALTRANS RESPONSE:

- Based on the project's geotechnical evaluations, no slope instability is expected during construction.
- Excavation activities will follow Cal-OSHA and Caltrans safety requirements to maintain adjacent slope stability throughout construction.
- Qualified Caltrans inspectors will monitor slope condition during construction to ensure safety.

Related to the findings of the Code of Civil Procedure 1245.230:

**2. The project is planned or located in a manner that will be most compatible with the greatest public good and least private injury**

PROPERTY OWNER CONTENDS (Kellenberger):

- Potential issues with the retaining wall design and what can be done to reduce the impact on the property.

CALTRANS RESPONSE:

- A retaining wall is proposed to minimize grading and reduce right-of-way acquisition by 2.55 acres, ensuring the least private injury to the Kellenberger property.
- Retaining walls are designed in accordance with applicable AASHTO and Caltrans design standards.
- Qualified Caltrans inspectors will monitor retaining wall construction.

Related to the findings of the Code of Civil Procedure 1245.230:

## **2. The project is planned or located in a manner that will be most compatible with the greatest public good and least private injury**

PROPERTY OWNER CONTENDS (Kellenberger):

- Concerns with creep issues mentioned in the April 2025 Foundation Report

CALTRANS RESPONSE:

- The project in the manner proposed does not contemplate any potential “creep” issues
- The term “creep” referenced in the April 2025 Foundation Report applies specifically to the proposed vertical ground anchors associated with the retaining wall foundations.
- Measurements of creep movement and compliance will be conducted in accordance with Caltrans Standard Specifications Sections 46-2.01D(2)(b)(ii) (Test Procedures) and 46-3.01D(3)(b)(ii) (Acceptance Criteria), as well as the project’s non-standard special provisions for extended creep testing, to verify that the proposed retaining wall meets the specified creep performance requirements. The monitoring will be performed in a manner intended to preserve the stability and integrity of the existing slope

Related to the findings of the Code of Civil Procedure 1245.230:

## **2. The project is planned or located in a manner that will be most compatible with the greatest public good and least private injury**

PROPERTY OWNER CONTENDS (Brutocao):

- Increased after-condition noise, particularly reflective noise. Why wasn't a soundwall proposed on the north side of SR 74?

CALTRANS RESPONSE:

- 2018 Noise Study Report shows the after-condition noise levels for the Brutocao parcel increasing
- from 60.5 dB(A) to 63.9 dB(A) – a 3.4 dBA change, which is barely noticeable to the human ear.
- Since 63.9 dB(A) is below the 67 dB(A) threshold, a soundwall is not warranted for the Brutocao parcel.
- Reflective noise from the proposed soundwall was not evaluated because the approved FHWA TNM 2.5 model for analysis does not include provisions for single-barrier reflection calculations.
- Per FHWA guidance, a single noise barrier on the opposite side of the highway reflects very little sound, with field measurements showing only about a 1-2 dB(A) increase, a level barely noticeable to the human ear.

# Summary

1. The public interest and necessity require the proposed project. **Yes.**
2. This project is planned and located in a manner that will be most compatible with the greatest public good and least private injury. **Yes.**
3. The property sought to be condemned is necessary for the proposed project. **Yes.**
4. An offer of just compensation has been made in accordance with Government Code 7267.2. **Yes.**