



# AGENDA REPORT

SAN CLEMENTE CITY COUNCIL MEETING  
Meeting Date: November 19, 2013

Agenda Item 9A  
Approvals:  
City Manager [Signature]  
Dept. Head WEC  
Attorney JAN  
Finance [Signature]

**Department:** Public Works / Engineering  
**Prepared By:** Tom Bonigut, Assistant City Engineer TB

**Subject:** ***APPROVAL OF COOPERATIVE AND UTILITY AGREEMENTS WITH THE ORANGE COUNTY TRANSPORTATION AUTHORITY (OCTA) RELATED TO PLANNED INTERSTATE 5 (I-5) IMPROVEMENTS.***

**Fiscal Impact:** None. Approval of the cooperative and utility agreements will provide reimbursement of City expenses in support of the upcoming I-5 improvements.

**Summary:** Staff recommends that the City Council approve cooperative and utility agreements with OCTA to provide reimbursement for City services during the construction of the upcoming Interstate 5 improvements as described below.

**Discussion:** Cooperative Agreement  
OCTA and Caltrans will soon begin construction on three major I-5 improvement projects, two of which are within the City of San Clemente, as summarized in the following table:

Project Description	Planned Construction Contract Award
Widen I-5 to add center high occupancy vehicle (HOV) lanes: San Juan Creek Road to Camino de Estrella interchange	January 2014
Widen I-5 to add center high occupancy vehicle (HOV) lanes: Camino de Estrella interchange to Avenida Vista Hermosa interchange	April 2014
Re-build I-5/Avenida Pico interchange	September 2014

During construction of the projects, the City may need to provide support services including: traffic engineering (e.g. electrical inspection and traffic inspection and coordination); police enforcement and support on city streets; maintenance inspection and coordination; and public outreach support (to supplement or assist with OCTA's outreach efforts). Staff has estimated up to \$60,000 for such services, which would be reimbursed by OCTA via the attached cooperative agreement. If it turns out that additional services beyond this initial estimate are required during project construction, the agreement can be further amended.

The cooperative agreement also identifies certain materials that the City will furnish for the traffic signal at Avenida Pico and Calle De Industrias and for which OCTA will provide reimbursement. This is to ensure that furnished materials are consistent with those used by the City for its traffic signals but which cannot be included in Caltrans' project bid package due to Federal contracting requirements. An appropriation for

these materials (about \$83,000) will be included in the proposed Fiscal Year 2015 Gas Tax Fund budget and invoices will then be provided to OCTA once the City acquires these materials. If the actual cost exceeds the initial estimates included in this agreement, the agreement can be further amended to ensure full reimbursement to the City.

#### Utility Agreement

The reconstruction of the I-5/Avenida Pico interchange will require the City to relocate or adjust a number of water, sewer and irrigation facilities within the project limits. City, OCTA and Caltrans staff have identified these facilities and estimated the associated relocation or adjustment costs, which will be reimbursed by OCTA via the attached utility agreement. Similar to the cooperative agreement, the utility agreement can be amended if actual costs are projected to exceed the initial estimate of about \$144,000. City staff and the City Attorney have reviewed both agreements and recommend City Council approval.

#### Construction Traffic Congestion and Safety

The upcoming projects will result in construction activity along I-5 and at the Pico interchange from early 2014 through mid 2017. Caltrans and OCTA have developed Traffic Management Plans (TMPs) to manage construction-related congestion and mitigate delays to motorists travelling through the work zones. The TMPs along with detailed project specifications also serve to maximize safety. Key features include:

- Listing of State holidays and local San Clemente dates on which no work will be allowed (e.g. SCHS graduation, Oceanfest etc.).
- Wide range of public outreach, motorist information and traffic management strategies to inform motorists on what to expect and guide motorists through work areas and temporary detours.
- Project construction sequence that minimizes temporary closures to nights and some weekends, and weekend ramp closures at the Pico interchange which are staggered (e.g. only one ramp can be closed at any given time) to minimize impact.
- Flexibility to make traffic management changes if needed.
- Project specifications that require the contractors to implement devices and practices to ensure a safe work zone.

City staff has provided review and comment on these plans and will continue to coordinate with OCTA and Caltrans during the construction phase to identify any appropriate changes as the construction progresses.

#### **Recommended**

#### **Action:**

STAFF RECOMMENDS THAT the City Council:

1. Approve and authorize the Mayor to sign Cooperative Agreement No. C-3-2079 with the Orange County Transportation Authority for reimbursement of as-needed City services during construction of the Interstate 5 Widening/HOV and Pico Interchange improvement projects; and

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2. Approve and authorize the Mayor to sign Utility Agreement No. CSC-1 with the Orange County Transportation Authority for reimbursement of City-provided utility relocation services for the Interstate 5/Pico Interchange improvement project.

**Attachments:** 1. OCTA Cooperative Agreement No. C-3-2079.  
2. OCTA Utility Agreement No. CSC-1.

**Notification:** None.

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**ATTACHMENT 1**

**OCTA COOPERATIVE AGREEMENT NO. C-3-2079**

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1 COOPERATIVE AGREEMENT NO. C-3-2079

2 BETWEEN

3 ORANGE COUNTY TRANSPORTATION AUTHORITY

4 AND

5 CITY OF SAN CLEMENTE

6 FOR

7 INTERSTATE 5 IMPROVEMENT PROJECT BETWEEN AVENIDA PICO AND

8 SAN JUAN CREEK ROAD

9  
10 THIS COOPERATIVE AGREEMENT, is effective this \_\_\_\_\_ day of \_\_\_\_\_, 2013,  
11 by and between the Orange County Transportation Authority, 550 South Main Street, P.O. Box  
12 14184, Orange, California 92863-1584, a public corporation of the State of California  
13 (hereinafter referred to as "AUTHORITY"), and the City of San Clemente, 100 Avenida  
14 Presidio, San Clemente, California 92672, a municipal corporation (hereinafter referred to as  
15 "CITY"), each individually known as "Party" and collectively known as the "Parties".

16 **RECITALS:**

17 **WHEREAS,** AUTHORITY, in cooperation and partnership with the California  
18 Department of Transportation (Caltrans), is proposing to implement capacity and operational  
19 improvements on the San Diego Freeway (Interstate 5) between Avenida Pico and San Juan  
20 Creek Road (herein referred to as "PROJECT"); and

21 **WHEREAS,** PROJECT will add a carpool lane in both directions of the Interstate 5  
22 between Avenida Pico and San Juan Creek Road, improve sight distance on southbound  
23 horizontal curve north of the Pacific Coast Highway, reconstruct the Avenida Pico interchange  
24 including widening the northbound Avenida Pico on-ramp to three lanes, provide dual left turn  
25 lanes to both southbound and northbound Avenida Pico off-ramps, and add soundwalls where  
26 needed; and

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1           **WHEREAS**, AUTHORITY has engaged in Parsons Transportation Group, Inc.,  
2 AECOM, Inc., and TRC Solutions, Inc. (herein referred to as "CONSULTANTS) to prepare the  
3 plans, specifications, and estimates (PS&E) for PROJECT. The final PS&E will be submitted  
4 to Caltrans who will advertise, award, and administer the construction contracts for PROJECT.  
5 AUTHORITY, the primary agency for PROJECT, will continue to manage PROJECT through  
6 completion and will require Caltrans to comply with all applicable requirements contained in  
7 this Agreement; and

8           **WHEREAS**, this PROJECT has been certified under the California Environmental  
9 Quality Act (CEQA) as a Mitigated Negative Declaration; and

10           **WHEREAS**, AUTHORITY has requested and CITY has agreed to furnish materials for  
11 the traffic signal at Avenida Pico and Calle De Industrias, as shown in Exhibit A; and

12           **WHEREAS**, this Cooperative Agreement defines the specific terms, conditions and  
13 funding responsibilities between AUTHORITY and CITY for completion of final design and  
14 construction for PROJECT; and

15           **WHEREAS**, CITY's City Council approved this Agreement on the \_\_\_\_\_ day of  
16 \_\_\_\_\_, 2013; and

17           **NOW, THEREFORE**, it is mutually understood and agreed by AUTHORITY and CITY  
18 as follows:

19           **ARTICLE 1. COMPLETE AGREEMENT**

20           A. This Agreement, including any attachments incorporated herein and made  
21 applicable by reference, constitutes the complete and exclusive statement of the term(s)  
22 and conditions(s) of this agreement between AUTHORITY and CITY and it supersedes all  
23 prior representations, understandings, and communications. The invalidity in whole or in  
24 part of any term or condition of this Agreement shall not affect the validity of other term(s) or  
25 conditions(s) of this Agreement. The above referenced Recitals are true and correct and are  
26 incorporated by reference herein.

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1           B.     AUTHORITY'S failure to insist on any instance(s) of CITY's performance of any  
2 term(s) or condition(s) of this Agreement shall not be construed as a waiver or relinquishment  
3 of AUTHORITY's right to such performance or to future performance of such term(s) or  
4 condition(s), and CITY's obligation in respect thereto shall continue in full force and effect.  
5 Changes to any portion of this Agreement shall not be binding upon AUTHORITY except when  
6 specifically confirmed in writing by an authorized representative of AUTHORITY by way of a  
7 written amendment to this Agreement and issued in accordance with the provisions of this  
8 Agreement.

9           C.     CITY's failure to insist on any instance(s) of AUTHORITY's performance of any  
10 term(s) or condition(s) of this Agreement shall not be construed as a waiver or relinquishment  
11 of CITY's right to such performance or to future performance of such term(s) or condition(s),  
12 and AUTHORITY's obligation in respect thereto shall continue in full force and effect.  
13 Changes to any portion of this Agreement shall not be binding upon CITY except when  
14 specifically confirmed in writing by an authorized representative of CITY by way of a written  
15 amendment to this Agreement and issued in accordance with the provisions of this Agreement.

16           **ARTICLE 2. SCOPE OF AGREEMENT**

17           This Agreement specifies the roles and responsibilities of the PARTIES as they pertain  
18 to the subjects and projects addressed herein. Both AUTHORITY and CITY agree that each  
19 will cooperate and coordinate with the other in all activities covered by this Agreement and any  
20 other supplemental agreements that may be required to facilitate purposes thereof.

21           **ARTICLE 3. RESPONSIBILITES OF AUTHORITY**

22           AUTHORITY agrees to the following responsibilities for PROJECT:

23           A.     To provide the staff to manage final engineering design and oversee Caltrans  
24 construction of PROJECT.

25           B.     To oversee the right-of-way acquisition and certification for PROJECT performed  
26 by Caltrans.

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1 C. To monitor all PROJECT activities to ensure that the approved PROJECT  
2 schedule, quality, and budget goals are met.

3 D. To prepare a Traffic Management Plan (TMP) for CITY review and approval that  
4 addresses, to the extent appropriate, construction-related impacts to existing CITY street  
5 traffic. The TMP will include normal traffic handling requirements during construction of the  
6 PROJECT, including staging, lane closures, ramp closures, detours, signage, Intelligent  
7 Transportation Systems (ITS), and signalization, and will specify requirements for  
8 communicating with the public and local agencies during construction.

9 E. To implement a public awareness campaign (PAC) during design and  
10 construction of the PROJECT, that advises CITY, local CITY businesses, residents, elected  
11 officials, motorists, and media of construction status, and street detours.

12 F. To work with CITY to develop and implement a business outreach program  
13 during construction of the PROJECT.

14 G. To reimburse CITY, within 30 days of receipt of an acceptable invoice, for  
15 furnishing materials for the traffic signal at Avenida Pico and Calle De Industrias, as shown in  
16 Exhibit A. The total amount for these materials shall not exceed Eighty Two Thousand Seven  
17 Hundred Forty Nine Dollars (\$82,749). This amount will not be exceeded without the prior  
18 written amendment to this Agreement.

19 H. To reimburse CITY, within 30 days of receipt of an acceptable invoice, for actual  
20 costs, including staff overhead, for the following as-needed services: traffic engineering  
21 services (including electrical inspection, traffic inspection and coordination, and any  
22 modifications to streets, intersections, signals, etc. required to address traffic impacts during  
23 construction); police enforcement and support; maintenance inspection and coordination; and  
24 public outreach support. The total amount for these services shall not exceed Sixty Thousand  
25 Dollars (\$60,000). This amount will not be exceeded without the prior written amendment to  
26 this Agreement, which approval shall not be unreasonably withheld or delayed, it being



1 understood that this amount is an estimate based on the as-needed and sporadic nature of the  
2 services and is subject to update.

3 **ARTICLE 4. RESPONSIBILITIES OF CITY**

4 CITY agrees to the following responsibilities for PROJECT:

5 A. To collaborate and cooperate with AUTHORITY and Caltrans staff,  
6 CONSULTANTS, and contractors during design and construction of PROJECT.

7 B. To review and concur with the Transportation Management Plan (TMP)  
8 prepared by AUTHORITY that addresses, to the extent appropriate, construction-related  
9 impacts to existing CITY street traffic. The TMP will include normal traffic handling  
10 requirements during construction of PROJECT, including staging, lane closures, ramp  
11 closures, detours, signage, Intelligent Transportation Systems (ITS), and signalization, and will  
12 specify requirements for communicating with the public and local agencies during construction.

13 C. To make reasonable efforts to issue no-fee permits for work done within CITY  
14 jurisdiction within thirty (30) calendar days from request, and not cause delay to the PROJECT  
15 construction schedules.

16 D. To furnish materials for the traffic signal at Avenida Pico and Calle De Industrias, as  
17 shown in Exhibit A.

18 E. To submit monthly invoices to AUTHORITY for actual costs incurred by CITY for  
19 traffic engineering services (including electrical inspection, traffic inspection and coordination,  
20 and any modifications to streets, intersections, signals, etc. required to address traffic impacts  
21 during construction); police enforcement and support; maintenance inspection and  
22 coordination; and public outreach support. Invoices shall be submitted in duplicate to  
23 AUTHORITY's Program Manager. Each invoice shall include the following information:

- 24 a. Agreement Number C-3-2079  
25 b. The time period covered by the invoice and the work for which payment is  
26 being requested;

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1 c. Monthly Activity Report which includes a detailed description of  
2 PROJECT;

3 d. Total invoice amount, personnel name and hourly rate, if appropriate,  
4 timesheets, and supporting documentation for all expenses incurred; and

5 e. Such other information as requested by the AUTHORITY.

6 **ARTICLE 5. DELEGATED AUTHORITY**

7 The actions required to be taken by CITY in the implementation of this Agreement are  
8 delegated to its Mayor, or designee, and the actions required to be taken by AUTHORITY in  
9 the implementation of this Agreement are delegated to its Chief Executive Officer or designee.

10 **ARTICLE 6. AUDIT AND INSPECTION**

11 AUTHORITY and CITY shall maintain a complete set of records in accordance with  
12 generally accepted accounting principles. Upon reasonable notice, AUTHORITY and CITY  
13 shall permit each PARTY's authorized representatives to inspect and audit all work, materials,  
14 payroll, books, accounts, and other data and records of the other PARTY for a period of four  
15 (4) years after final payment, or until any on-going audit is completed. For purposes of audit,  
16 the date of completion of this Agreement shall be the date of the AUTHORITY's final notice of  
17 project completion. AUTHORITY shall have the right to reproduce any such books, records,  
18 and accounts. The above provision with respect to audits shall extend to and/or be included in  
19 contracts with CITY contractor.

20 **ARTICLE 7. INDEMNIFICATION**

21 A. To the fullest extent permitted by law, CITY shall defend (at CITY's sole cost and  
22 expense with legal counsel reasonably acceptable to AUTHORITY), indemnify, protect, and  
23 hold harmless AUTHORITY, its officers, directors, employees, and agents (collectively the  
24 "Indemnified Parties"), from and against any and all liabilities, actions, suits, claims, demands,  
25 losses, costs, judgments, arbitration awards, settlements, damages, demands, orders,  
26 penalties, and expenses including legal costs and attorney fees (collectively "Claims"),

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1 including but not limited to Claims arising from injuries to or death of persons (CITY's  
2 employees included), for damage to property, including property owned by AUTHORITY, or  
3 from any violation of any federal, state, or local law or ordinance, alleged to be caused by the  
4 negligent acts, omissions or willful misconduct of CITY, its officers, directors, employees or  
5 agents in connection with or arising out of the performance of this Agreement.

6 B. To the fullest extent permitted by law, AUTHORITY shall defend (at  
7 AUTHORITY's sole cost and expense with legal counsel reasonably acceptable to CITY),  
8 indemnify, protect, and hold harmless CITY, its officers, directors, employees, and agents  
9 (collectively the "Indemnified Parties"), from and against any and all liabilities, actions, suits,  
10 claims, demands, losses, costs, judgments, arbitration awards, settlements, damages,  
11 demands, orders, penalties, and expenses including legal costs and attorney fees (collectively  
12 "Claims"), including but not limited to Claims arising from injuries to or death of persons  
13 (AUTHORITY's employees included), for damage to property, including property owned by  
14 CITY, or from any violation of any federal, state, or local law or ordinance, alleged to be  
15 caused by the negligent acts, omissions or willful misconduct of AUTHORITY, its officers,  
16 directors, employees or agents in connection with or arising out of the performance of this  
17 Agreement.

18 C. The indemnification and defense obligations of this Agreement shall survive its  
19 expiration or termination.

20 **ARTICLE 8. MAXIMUM OBLIGATION**

21 AUTHORITY's maximum obligation for all costs under this Agreement shall not exceed  
22 One Hundred Forty Two Thousand Seven Hundred Forty Nine Dollars (\$142,749.00), unless  
23 such maximum obligation is increased by an amendment to this Agreement.

24 **ARTICLE 9. ADDITIONAL PROVISIONS**

25 The AUTHORITY and CITY agree to the following mutual responsibilities for  
26 PROJECT:

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COOPERATIVE AGREEMENT NO. C-3-2079

1 A. Term of Agreement: This Agreement shall be effective on \_\_\_\_\_ 2013,  
2 and shall be in full force and effect for 28 months through March 31, 2016.

3 B. Termination: In the event either Party defaults in the performance of their  
4 obligations under this Agreement or breaches any provisions of this Agreement, the non-  
5 faulting Party shall have the option to terminate this Agreement upon thirty (30) days' prior  
6 written notice to the other Party.

7 C. Termination for Convenience: Either Party may terminate this Agreement for its  
8 convenience by providing thirty (30) days' prior written notice of its intent to terminate for  
9 convenience to the other Party.

10 D. AUTHORITY and CITY shall comply with all applicable federal, state, and local  
11 laws, statues, ordinances and regulations of any governmental authority having jurisdiction  
12 over the PROJECT.

13 E. Legal Authority: AUTHORITY and CITY hereto consent that they are authorized  
14 to execute this Agreement on behalf of said parties and that, by so executing this agreement,  
15 the parties hereto are formally bound to the provisions of this Agreement.

16 F. Severability: If any term, provision, covenant or condition of this Agreement is  
17 held to be invalid, void or otherwise unenforceable, to any extent, by any court of competent  
18 jurisdiction, the remainder of this Agreement shall not be affected thereby, and each term,  
19 provision, covenant or condition of this Agreement shall be valid and enforceable to the fullest  
20 extent permitted by law.

21 G. Counterparts of Agreement: This Agreement may be executed and delivered in  
22 any number of counterparts, each of which, when executed and delivered shall be deemed an  
23 original and all of which together shall constitute the same agreement. Facsimile signatures  
24 will be permitted.

25 H. Force Majeure: Either Party shall be excused from performing its obligations  
26 under this Agreement during the time and to the extent that it is prevented from performing by

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1 an unforeseeable cause beyond its control, including but not limited to; any incidence of fire,  
2 flood; acts of God; commandeering of material, products, plants or facilities by the federal,  
3 state or local government; national fuel shortage; or a material act or omission by the other  
4 party; when satisfactory evidence of such cause is presented to the other Party, and provided  
5 further that such nonperformance is unforeseeable, beyond the control and is not due to the  
6 fault or negligence of the Party not performing.

7 I. Assignment: Neither this Agreement, nor any of the Parties rights, obligations,  
8 duties, or authority hereunder may be assigned in whole or in part by either Party without the  
9 prior written consent of the other Party in its sole and absolute discretion. Any such attempt of  
10 assignment shall be deemed void and of no force and effect. Consent to one assignment shall  
11 not be deemed consent to any subsequent assignment, nor the waiver of any right to consent  
12 to such subsequent assignment.

13 J. Governing Law: The laws of the State of California and applicable local and  
federal laws, regulations and guidelines shall govern this Agreement.

15 K. Litigation fees: Should litigation arise out of this Agreement for the performance  
16 thereof, the court shall award costs and expenses, including attorney's fees, to the prevailing  
17 party.

18 L. Notices: Any notices, requests, or demands made between the parties pursuant  
19 to this Agreement are to be directed as follows:

20 /

21 /

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COOPERATIVE AGREEMENT NO. C-3-2079

To CITY:	To AUTHORITY:
City of San Clemente	Orange County Transportation Authority
910 Calle Negocio, Suite 100 San Clemente, CA 92673	550 S. Main Street P. O. Box 14184 Orange, CA 92863-1584
Attention: Tom Bonigut, P.E. Assistant City Engineer Tel: 949-361-6187 Email: <a href="mailto:BonigutT@san-clemente.org">BonigutT@san-clemente.org</a>	Attention: Lydia Bilynsky Principal Contract Administrator Tel: 714-560-5568 Email: <a href="mailto:lbilynsky@octa.net">lbilynsky@octa.net</a>

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**COOPERATIVE AGREEMENT NO. C-3-2079**

This Agreement shall be made effective upon execution by both parties.

**IN WITNESS WHEREOF**, the parties hereto have caused this Cooperative Agreement No. C-3-2079 to be executed on the date first above written.

**CITY OF SAN CLEMENTE**

**ORANGE COUNTY TRANSPORTATION  
AUTHORITY**

By: \_\_\_\_\_  
Robert Baker  
Mayor

By: \_\_\_\_\_  
Darrell Johnson  
Chief Executive Officer

**ATTEST:**

**APPROVED AS TO FORM:**

By: \_\_\_\_\_  
Joanne Baade  
City Clerk

By: \_\_\_\_\_  
Kennard R. Smart, Jr.  
General Counsel

Dated: \_\_\_\_\_

**APPROVED AS TO FORM:**

By: \_\_\_\_\_  
Jeff Goldfarb  
City Attorney

Dated: \_\_\_\_\_

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Traffic Signal at Avenida Pico & Calle De Industrias C/o San Clemente Traffic Signal Equipment		QTY	UNIT	MATERIAL UNIT COST	MATERIAL TOTAL COST
1	Intelight Advanced Transportation Controller (ATC) NEMA X2 with D-Connector adapter cable and City Software	1	ea	\$4,500	\$4,500
2	Myers Power Back System model number PBM-2000E	1	ea	\$2,700	\$2,700
3	Stainless Steel Electrical Service Enclosure (Type 3)	1	ea	\$8,000	\$8,000
4	Stainless Steel Controller cabinet (Type P44)	1	ea	\$24,000	\$24,000
5	Rack-mounted Detector Systems detectors sensors	10	ea	\$150	\$1,500
6	Opticom model 762 rack-mounted phase selector	4	ea	\$1,800	\$7,200
7	Detector cable	5000	lf	\$0.35	\$1,750
8	IBM-compatible EVP system software	1	ea	\$500	\$500
9	EVP Card rack (Type P cabinet-compatible)	1	ea	\$700	\$700
10	Southern Mfg "Clean Profile IISNS LED" includes Southern Mfg. light mounting part number OMB100, Top Mount-EZ Bar (TJ Type mounting bracket).	4	ea	\$3,000	\$12,000
11	TORK 3000 series photoelectric control	4	ea	\$40	\$160
12	LED Pedestrian Countdown Signals with clamshell mount	5	ea	\$375	\$1,875
13	Corning 24 single-mode optical and 12 single-mode optical fibers cable	1300	lf	\$5	\$6,500
14	TMC Core Layer 3 data Switch (TMCL3) -Cisco WS- C3560-48PD-E Ethernet switch, implement Rapid Spanning Tree Protocol (IEEE 802.1w) on all Ethernet switches	1	ea	\$8,500	\$8,500
15	Layer 2 Gigabit Ethernet Switch type 1 - GigE Ruggedcom RS900G managed Ethernet switch.	1	ea	\$2,000	\$2,000
16	EDI Conflict Monitor	1	ea	\$ 864	\$864
<b>Total:</b>					<u>\$ 82,749</u>

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**ATTACHMENT 2**

**OCTA UTILITY AGREEMENT CSC-1**

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UTILITY AGREEMENT

Notice Number CSC-1

Table with 5 columns: Project, County, Route, Location, Post Mile. Row 1: I-5 HOV Improvements/ Avenida Pico, Orange, I-5, Avenida Pico San Clemente, 3.0-3.7. Includes rows for Federal Aid No., Federal Participation, Owners File, and Date/ Freeway checkboxes.

UTILITY AGREEMENT NO: CSC-1 DATE 10-8-13

The Orange County Transportation Authority, herein after called "OCTA", proposes to construct High Occupancy Vehicle (HOV) lanes on the I-5 at Avenida Pico and widen Avenida Pico.

City of San Clemente (CSC), herein after called "OWNER," owns and maintains water, sewer and irrigation controller Facilities within the limits of OCTA'S project which requires the removal/relocation and/or adjustments.

To accommodate OCTA'S project

It is hereby mutually agreed that:

I. WORK TO BE PERFORMED

In accordance with Notice to Owner No. CSC-1 dated September 19, 2013, OWNER shall relocate as shown on attached plans. All work shall be performed substantially in accordance with OCTA's Utility Details Plans UD-1 (Locations 8, 10 & 15), UD-2 (Locations 18), UD-3 (Locations 26, 30, 31 & 35) & UD-4 Location 40) and Utility Plan sheets U-2 ( Location 42) & U-4 (for reference only) dated 7-19-13 , consisting of six (6) sheets, a copy of which is on file in the office of the OCTA at 550 South Main Street, Orange CA 92863-1584.

II. LIABILITY FOR WORK

The existing facilities described in Section I above will be relocated at 100% OCTA expense.

III. PERFORMANCE OF WORK:

OWNER agrees to perform the herein-described work with its own forces or to cause the herein described work to be performed by the OWNER's contractor, employed by written contract on a continuing basis to perform work of this type, and to provide and furnish all necessary labor, materials, tools and equipment required therefore, and to prosecute said work diligently to completion.

Use of out-of-state personnel (or personnel requiring lodging and meal "per diem" expenses) will not be allowed without prior written authorization by State's representative. Requests for such authorization must be contained in OWNER'S estimate of actual and necessary relocation costs. OWNER shall include an explanation why local employee or contract labor is not considered adequate for the relocation work proposed. Per diem expenses shall not exceed the per diem expense amounts allowed under the State's Department of Personnel Administration travel expense guidelines.

Pursuant to Public Works Case No. 2001-59 determination by the California Department of Industrial Relations dated October 25, 2002, work performed by OWNER's contractor is a public work under the definition of Labor Code Section 1720(a) and is therefore subject to prevailing wage requirements. OWNER shall verify compliance with this requirement in the administration of its contracts referenced above.

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**UTILITY AGREEMENT**

**IV. PAYMENT FOR WORK**

The OCTA shall pay its share of the actual and necessary cost of the herein described work within 45 days after receipt of five (5) copies of OWNER'S itemized bill, signed by a responsible official of OWNER'S organization and prepared on OWNER'S letterhead, compiled on the basis of the actual and necessary cost and expense incurred and charged or allocated to said work in accordance with the uniform system of accounts prescribed for OWNER by the California Public Utilities Commission, Federal Energy Regulatory Commission or Federal Communications Commission, whichever is applicable.

It is understood and agreed that the OCTA will not pay for any betterment or increase in capacity of OWNER'S facilities in the new location and that OWNER shall give credit to OCTA for the "used life" or accrued depreciation of the replaced facilities and for the salvage value of any material or parts salvaged and retained or sold by OWNER.

Not more frequently than once a month, but at least quarterly, OWNER will prepare and submit progress bills for costs incurred not to exceed OWNER'S recorded costs as of the billing date less estimated credits applicable to completed work. Payment of progress bills not to exceed the amount of this Agreement may be made under the terms of this Agreement. Payment of progress bills which exceed the amount of this Agreement may be made after receipt and approval by OCTA of documentation supporting the cost increase and after an Amendment to this Agreement has been executed by the parties to this Agreement.

The OWNER shall submit a final bill to the OCTA within 360 days after the completion of the work described in Section I above. If the OCTA has not received a final bill within 360 days after notification of completion of OWNER'S work described in Section I of this Agreement, and OCTA has delivered to OWNER fully executed Director's Deeds, Consent to Common Use or Joint Use Agreements for OWNER'S facilities (if required), OCTA will provide written notification to OWNER of its intent to close its file within 30 days. OWNER hereby acknowledges, to the extent allowed by law, that all remaining costs will be deemed to have been abandoned. If the OCTA processes a final bill for payment more than 360 days after notification of completion of OWNER'S work, payment of the late bill may be subject to allocation and/or approval by the California Transportation Commission.

The final billing shall be in the form of an itemized statement of the total costs charged to the project, less the credits provided for in this Agreement, and less any amounts covered by progress billings. However, the OCTA shall not pay final bills which exceed the estimated cost of this Agreement without documentation of the reason for the increase of said cost from the OWNER and approval of documentation by OCTA. Except, if the final bill exceeds the OWNER'S estimated costs solely as the result of a revised Notice to Owner as provided for in Section I, a copy of said revised Notice to Owner shall suffice as documentation. In either case, payment of the amount over the estimated cost of this Agreement may be subject to allocation and/or approval by the California Transportation Commission.

In any event if the final bill exceeds 125% of the estimated cost of this Agreement, an Amended Agreement shall be executed by the parties to this Agreement prior to the payment of the OWNER'S final bill. Any and all increases in costs that are the direct result of deviations from the work described in Section I of this Agreement shall have the prior concurrence of OCTA.

Detailed records from which the billing is compiled shall be retained by the OWNER for a period of three years from the date of the final payment and will be available for audit by State and/or Federal auditors. Owner agrees to comply with Contract Cost Principles and Procedures as set forth in 48 CFR, Chapter 1, part 31, et seq., 23 CFR, Chapter 1, Part 645 and/or 18 CFR, Chapter 1, Parts 101, 201, et al. If a subsequent State and/or Federal audit determines payment to be unallowable, OWNER agrees to reimburse OCTA upon receipt of OCTA billing.

**V. GENERAL CONDITIONS**

All costs accrued by owner as a result of OCTA's request of August 8, 2012 to review, study and/or prepare relocation plans and estimates for the project associated with this Agreement may be billed pursuant to the terms and conditions of this Agreement.

If OCTA's project which precipitated this Agreement is cancelled or modified so as to eliminate the necessity of work by OWNER, OCTA will notify OWNER in writing and OCTA reserves the right to terminate this Agreement by Amendment. The Amendment shall provide mutually acceptable terms and conditions for terminating the Agreement.

OWNER shall submit a Notice of Completion to the OCTA within 30 days of the completion of work described herein.

Upon completion of the work to be done by OCTA in accordance with the above-mentioned plans and specifications, the new facilities shall become the property of the OWNER, and OWNER shall have the same rights in the new location that it had in the old location.

It is understood that said highway is a Federal aid highway and accordingly, 23 CFR, Chapter 1, Part 645 is hereby incorporated into this Agreement by reference; provided, however, that the provisions of any agreements entered into between the OCTA and the OWNER pursuant to State law for apportioning the obligations and costs to be borne by each, or the use of accounting procedures prescribed by applicable Federal or State regulatory body and approved by the Federal Highway Administration, shall govern in lieu of the requirements of said 23 CFR 645.

The estimated cost to OCTA for its share of the above described work is \$143,763.98.

UTILITY AGREEMENT NO. CSC-1

9A19



**UTILITY AGREEMENT**

IN WITNESS WHEREOF, the parties have executed this AGREEMENT as of, and this AGREEMENT shall be effective as of, the "Date" set forth on the face page of this AGREEMENT.

**City of San Clemente**

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

**ORANGE COUNTY  
TRANSPORTATION AUTHORITY,  
A public entity**

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

**Approved As To Form:**

By: \_\_\_\_\_

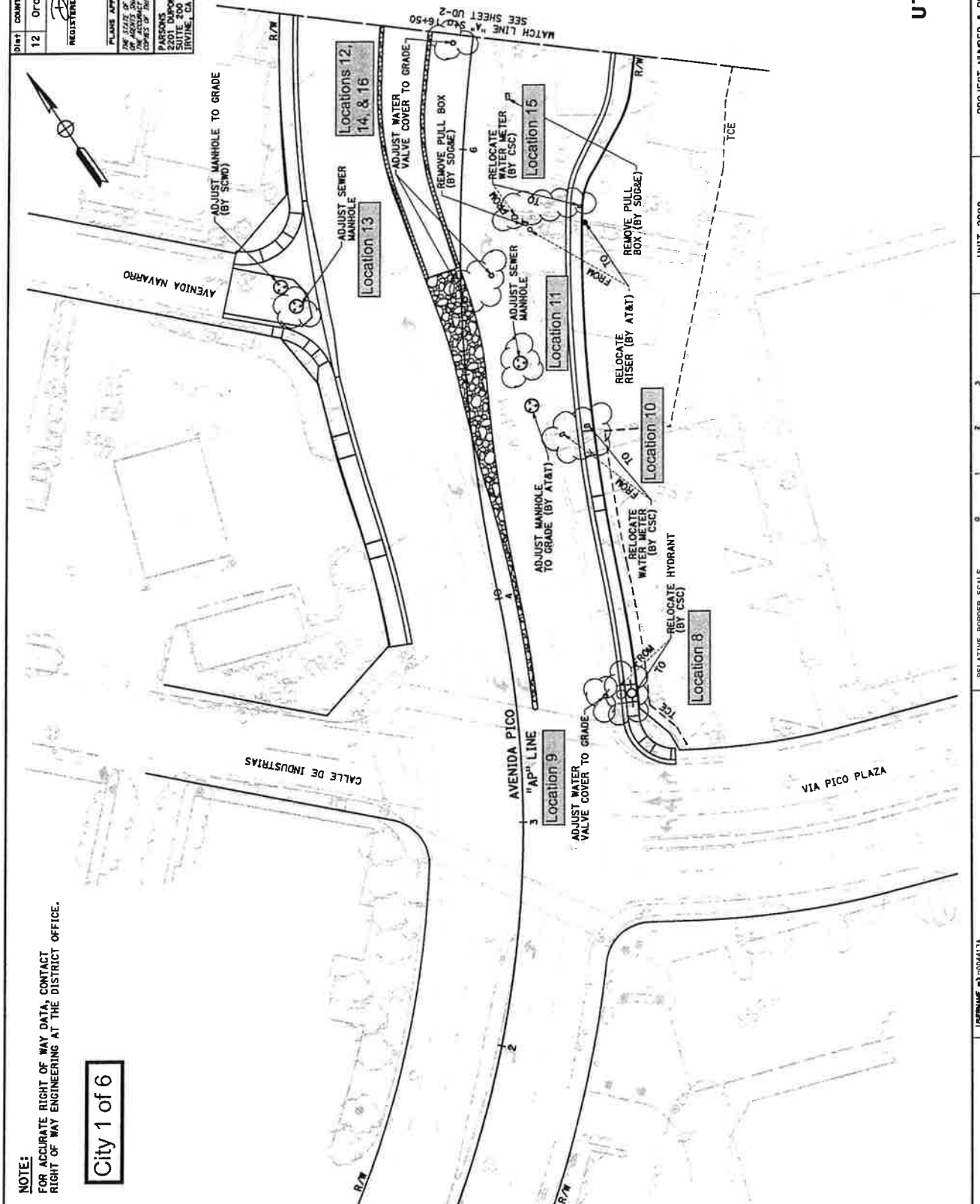
Kennard R. Smart, Jr.  
General Counsel

9A20

STATE OF CALIFORNIA - DEPARTMENT OF TRANSPORTATION	CONSULTANT FUNCTIONAL SUPERVISOR	DAVID LEW	CHECKED BY	DAVID LEW	DATE REVISED	
	DESIGNED BY	MICK POLICETTI	REVISD BY			

NOTE:  
FOR ACCURATE RIGHT OF WAY DATA, CONTACT  
RIGHT OF WAY ENGINEERING AT THE DISTRICT OFFICE.

City 1 of 6



DIST	COUNTY	ROUTE	POST MILE	SHEET NO.	TOTAL SHEETS
12	Orf	5	3.0/3.7		

REGISTERED CIVIL ENGINEER  
DATE 7-19-13



PLANS APPROVAL DATE  
THE STATE OF CALIFORNIA OR ITS OFFICERS  
IN ACCORDANCE WITH THE PROVISIONS OF  
CHAPTER 9 OF TITLE 9 OF THE CALIFORNIA  
CODES OF REGULATIONS  
ORANGE COUNTY  
TRANSPORTATION AUTHORITY  
2201 DUPONT DRIVE  
SUITE 200  
IRVINE, CA 92612

UTILITY DETAILS  
SCALE 1"=20'

UD-1

PROJECT NUMBER & PHASE

UNIT 2998

RELATIVE BORDER SCALE  
15" IN INCHES

USERNAME -> p00413A  
DWG FILE -> 120002027hcd001.dgn

BORDER LAST REVISED 7/2/2010

12-31

**NOTE:**  
FOR ACCURATE RIGHT OF WAY DATA, CONTACT  
RIGHT OF WAY ENGINEERING AT THE DISTRICT OFFICE.

City 2 of 6

DIST	COUNTY	ROUTE	POST MILE	SHEET NO.	TOTAL SHEETS
12	Oran	5	3.0/3.7		

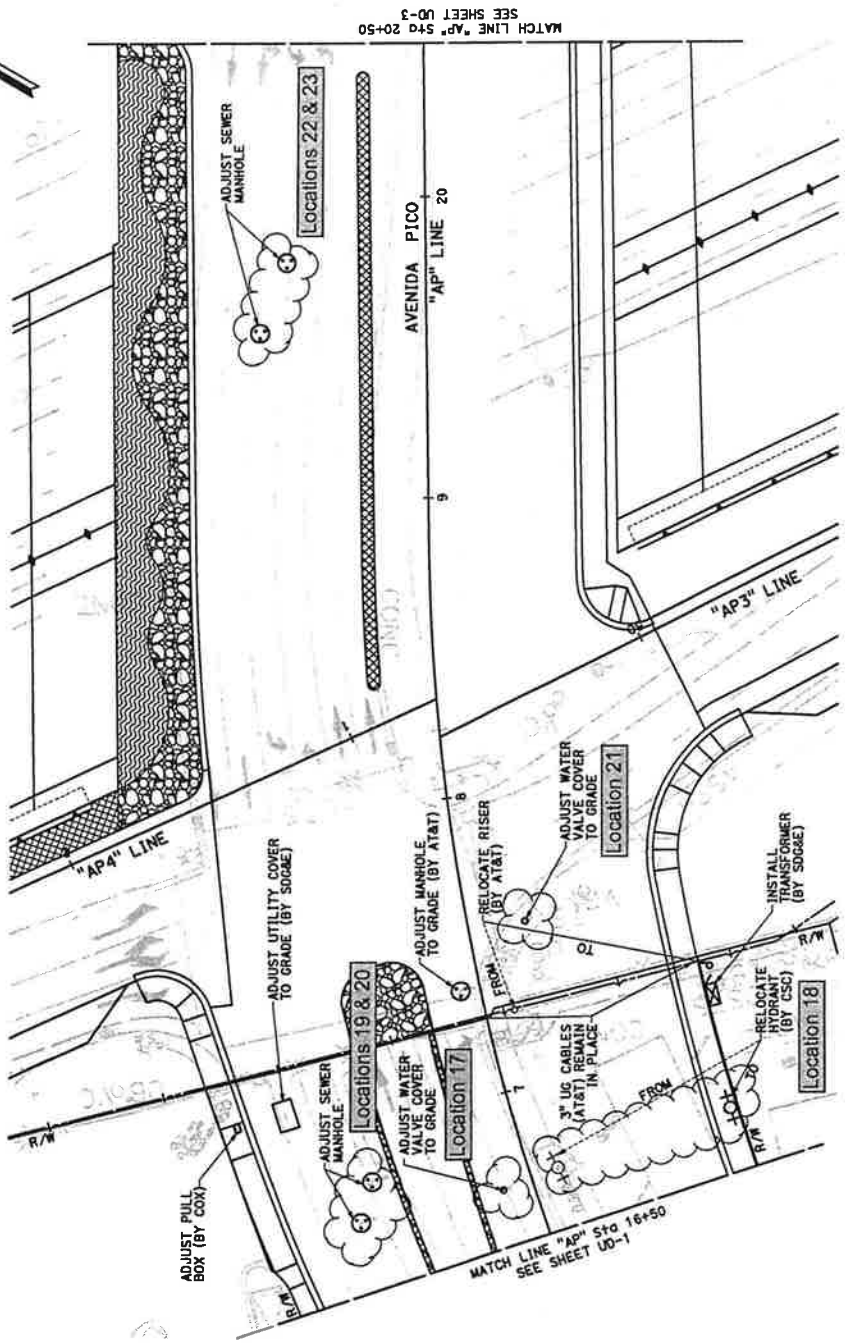
REGISTERED CIVIL ENGINEER DATE 7-19-13

PLANS APPROVAL DATE

THE STATE OF CALIFORNIA  
DIVISION OF LICENSING  
REGISTERED CIVIL ENGINEERS  
NO. 61802/LS

DAVID LEM  
REGISTERED CIVIL ENGINEER

ORANGE COUNTY  
PLANNING AND DEVELOPMENT AUTHORITY  
350 SOUTH MAIN STREET  
IRVINE, CA 92612



MATCH LINE "AP" 5+0 20+50  
SEE SHEET UD-3

MATCH LINE "AP" 5+0 16+50  
SEE SHEET UD-1

**UTILITY DETAILS**  
SCALE 1"=20'

PROJECT NUMBER & PHASE  
12000202771

UNIT 2998

RELATIVE BORDER SCALE  
IS IN INCHES

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JOB FILE: 12000202771\ud-02.dgn

BORDER LAST REVISED 7/2/2010

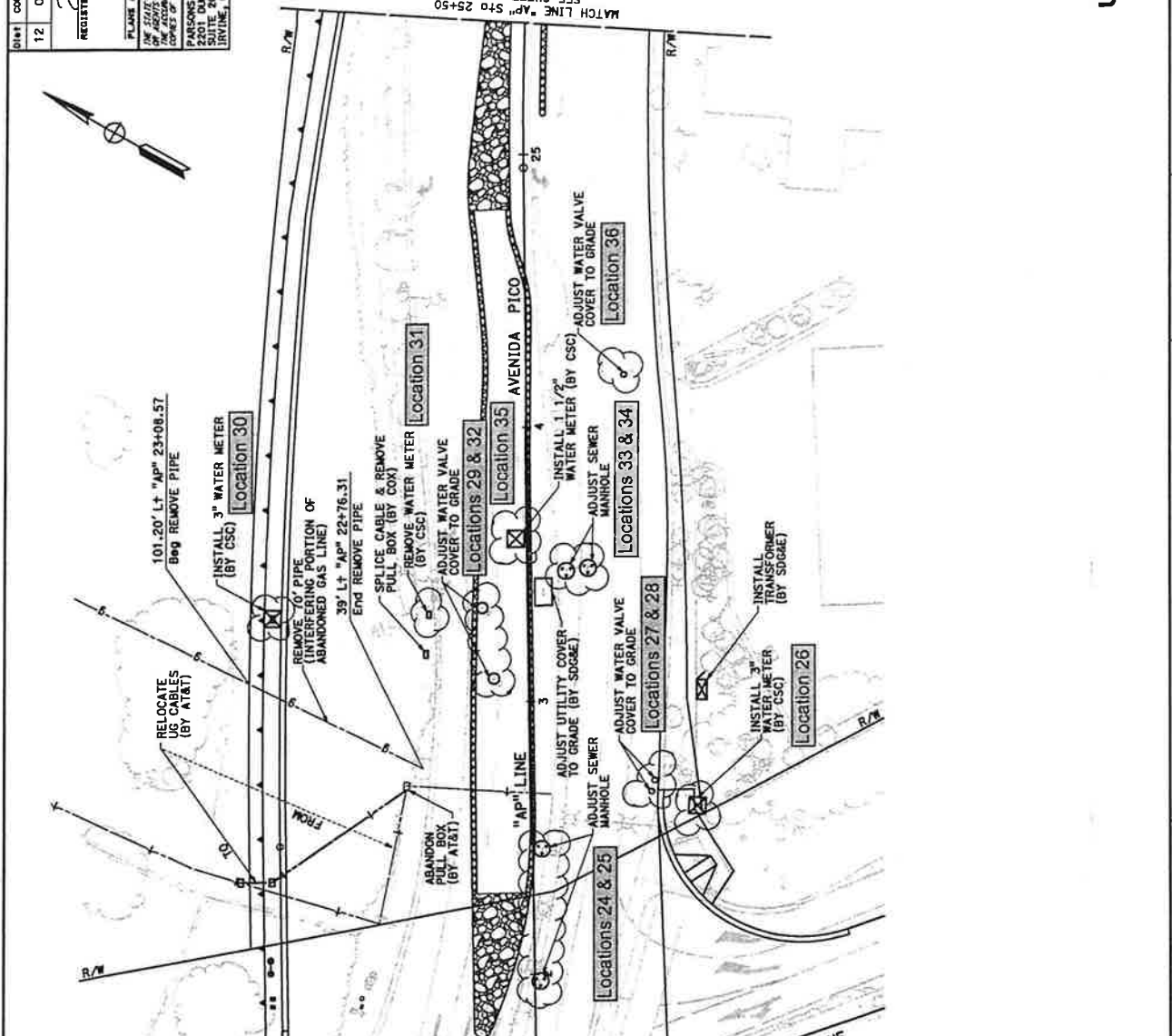
9A22

STATE OF CALIFORNIA - DEPARTMENT OF TRANSPORTATION	CONSULTANT FUNCTIONAL SUPERVISOR	DAVID LEM
DESIGNED BY	CHECKED BY	DAVID LEM
REVISOR	DATE REVISED	DAVID LEM

STATE OF CALIFORNIA - DEPARTMENT OF TRANSPORTATION	CONSULTANT FUNCTIONAL SUPERVISOR	DAVID LEV	CHECKED BY	DAVID LEV	DATE REVISIED	
	DESIGNED BY	NICK POLICCHETTI	REVISIED BY			

NOTE:  
FOR ACCURATE RIGHT OF WAY DATA, CONTACT  
RIGHT OF WAY ENGINEERING AT THE DISTRICT OFFICE.

City 3 of 6



DIST#	COUNTY	ROUTE	SHEET TOTAL	SHEET NO.	SHEET TOTAL
12	OrCo	5	3,0	3,7	

REGISTERED CIVIL ENGINEER  
DAVID LEV  
No. 620015  
STATE OF CALIF.

PLANS APPROVAL DATE: 7-19-13

ORANGE COUNTY PUBLIC WORKS AUTHORITY  
550 SOUTH MAIN STREET  
IRVINE, CA 92612

UTILITY DETAILS  
SCALE 1"=20'  
UD-3

BORDER LAST REVISED 7/2/2010  
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DWG FILE => 1200020277mc03.dgn  
RELATIVE BORDER SCALE IS IN INCHES  
UNIT 2998  
PROJECT NUMBER & PHASE 12000202771

9953



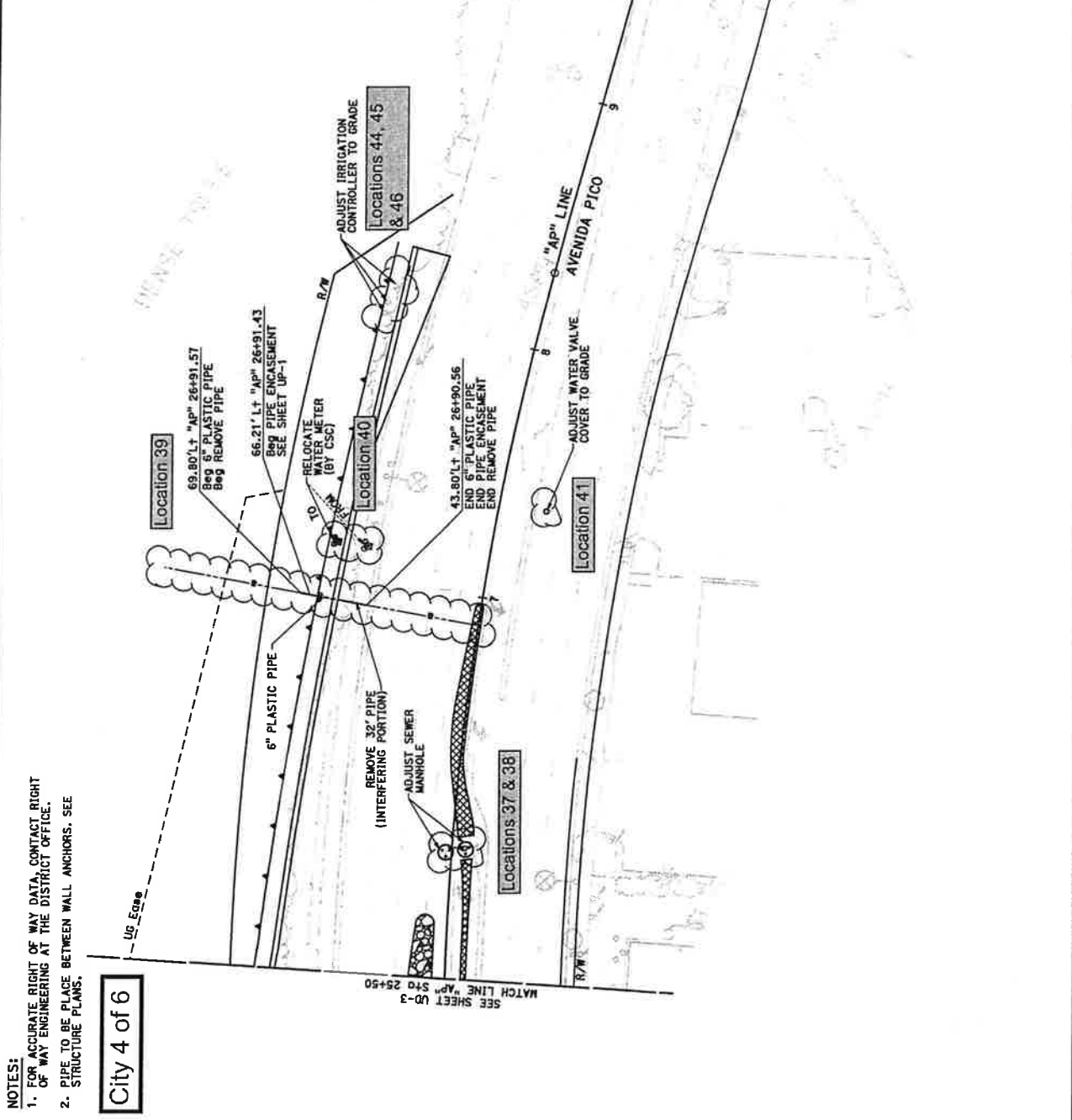
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Project No.	1200020271	City	Orange	Date	7-19-13	Scale	1"=20'



REGISTERED CIVIL ENGINEER  
 DAVID LEW  
 No. 42063  
 State of California  
 Mechanical Engineering

PLANS APPROVAL DATE: 7-19-13  
 THE STATE OF CALIFORNIA DEPARTMENT OF INDUSTRIAL RELATIONS  
 THE ASSURANCE OF COMPLETION OF WORK  
 TERMS OF THIS PLAN SHEET

ORANGE COUNTY  
 PERMITS DIVISION  
 450 SOUTH MAIN STREET  
 IRVINE, CA 92612



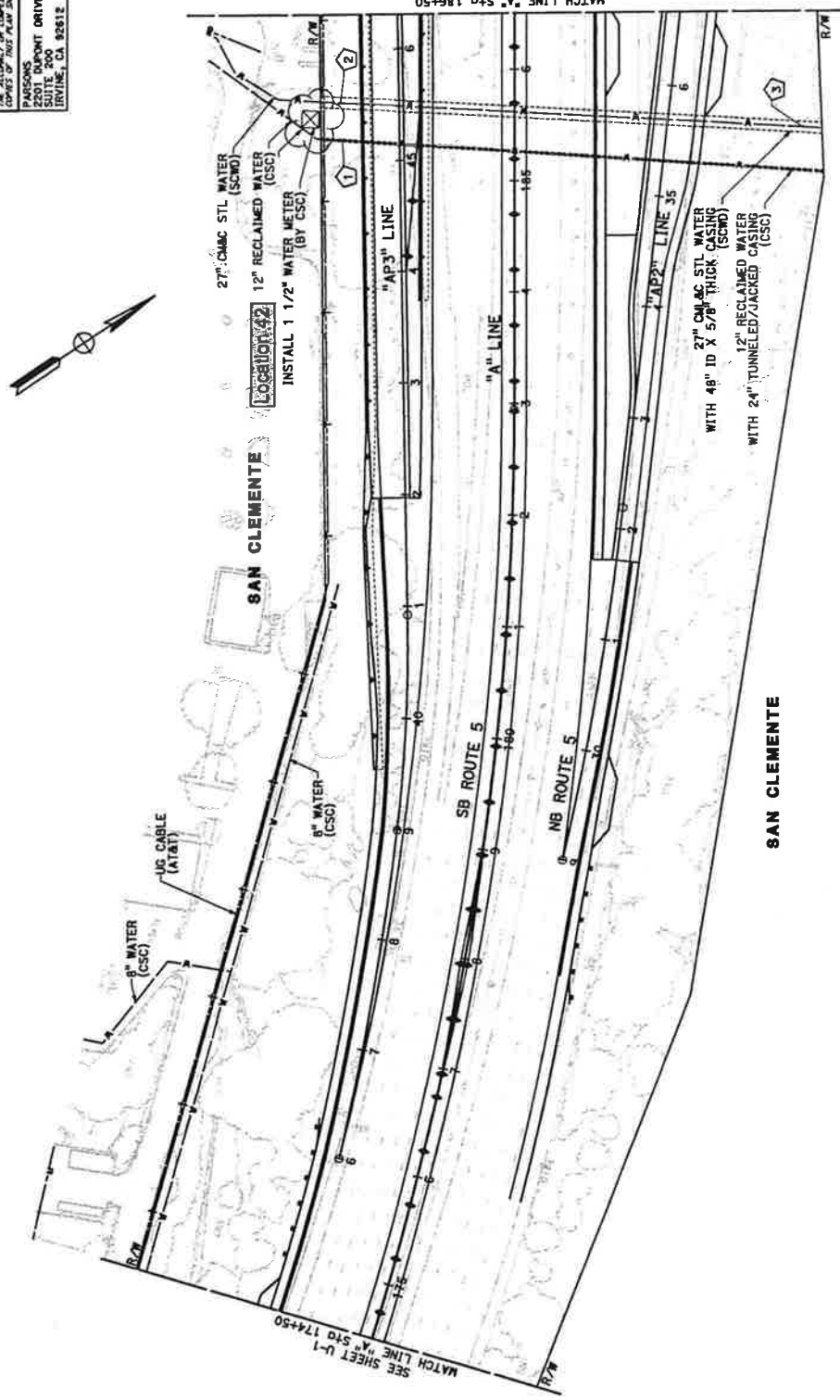
UTILITY DETAILS  
 SCALE 1"=20'  
 UD-4

Handwritten note: 24-24

STATE OF CALIFORNIA - DEPARTMENT OF TRANSPORTATION	CONSULTANT FUNCTIONAL SUPERVISOR	DAVID LEW	CHECKED BY	DAVID LEW	DATE REVISED	
	DESIGNED BY	MICK POLICETTI	REVISOR			

**NOTE:**  
FOR ACCURATE RIGHT OF WAY DATA, CONTACT  
RIGHT OF WAY ENGINEERING AT THE DISTRICT OFFICE.

City 5 of 6



DATE PLOTTED	7/20/2013
TIME PLOTTED	2:28:12 PM
DATE MODIFIED	
TIME MODIFIED	
SHEET NUMBER	U-2
TOTAL PROJECT SHEETS	12
ROUTE	5
COUNTY	OrCo
DATE	7-19-13
PROJECT ENGINEER	DAVID LEW
REGISTERED CIVIL ENGINEER	620015
DATE	7-19-13
PLANS APPROVAL DATE	
PLANS APPROVAL BY	
PLANS APPROVAL TITLE	
ORANGE COUNTY AUTHORITY	550 SOUTH MAIN STREET
IRVINE, CA 92612	

**UTILITY PLAN**  
SCALE 1"=50'

PROJECT NUMBER & PHASE  
UNIT 2998

APPROVED FOR UTILITY INFORMATION ONLY

RELATIVE BORDER SCALE  
IS IN INCHES

USERNAME → p0044011  
JOB FILE → 1200020277u002.dgn

BORDER LAST REVISED 7/2/2010

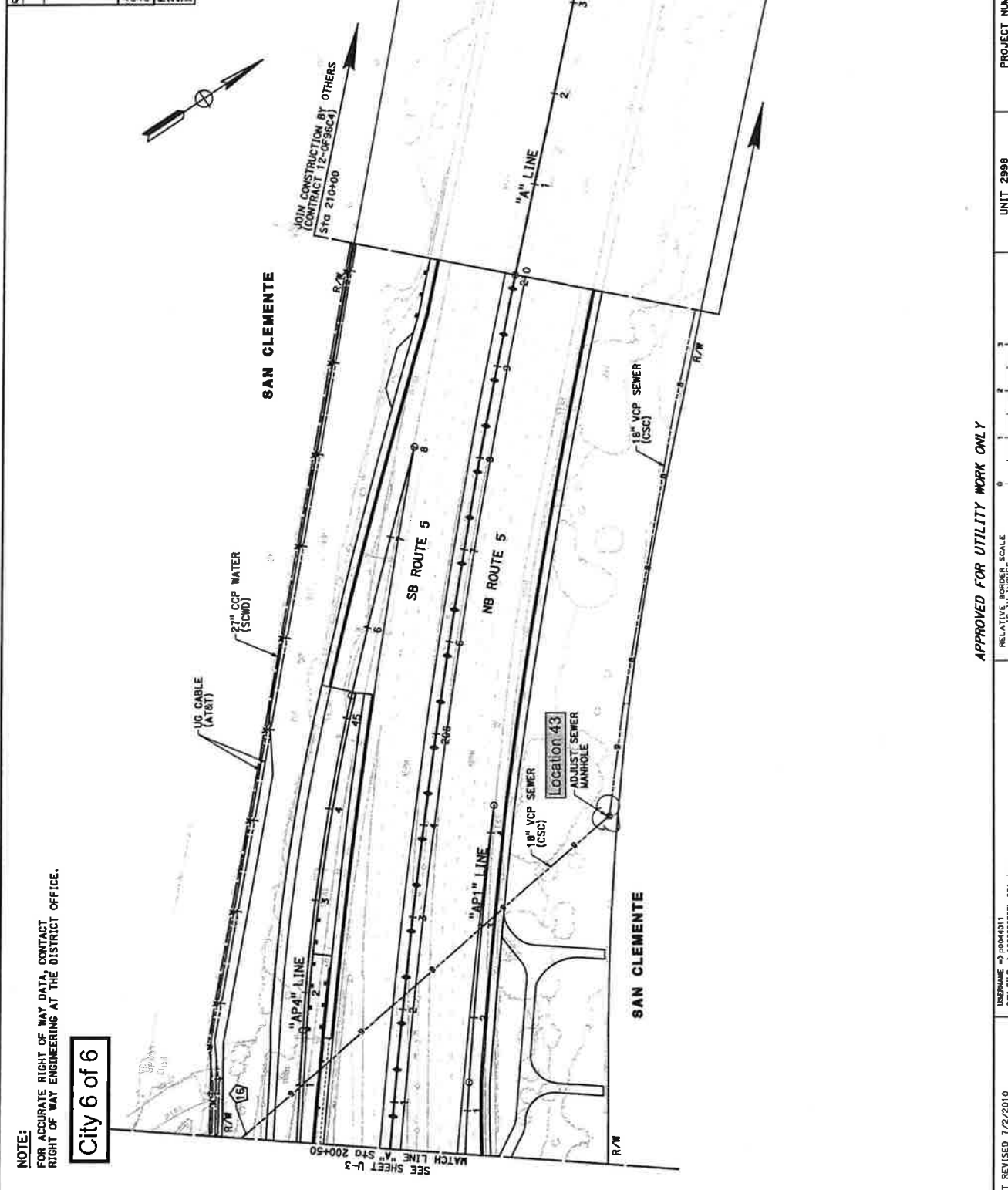
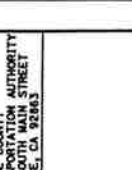
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Sheet No.	County	Route	Scale	Project Name	City
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REGISTERED CIVIL ENGINEER DATE 7-19-13



PLANS APPROVAL DATE 7-19-13  
 ORANGE COUNTY HEALTH CARE AUTHORITY  
 550 SOUTH MAIN STREET  
 IRVINE, CA 92613



**NOTE:**  
 FOR ACCURATE RIGHT OF WAY DATA, CONTACT  
 RIGHT OF WAY ENGINEERING AT THE DISTRICT OFFICE.

City 6 of 6

STATE OF CALIFORNIA - DEPARTMENT OF TRANSPORTATION	CONSULTANT FUNCTIONAL SUPERVISOR	DAVID LEM	CHECKED BY	DAVID LEM	DATE REVISION
BORDER LAST REVISED 7/2/2010	DESIGNED BY	NICK POLICETTI	REVISIONS		

# UTILITY PLAN

SCALE 1"=50'

## U-4

APPROVED FOR UTILITY WORK ONLY

UNIT 2998	PROJECT NUMBER & PHASE	12000202771
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DATE PLOTTED 7/20/2010 2:28:32 PM

9A-26