

ATTACHMENT B
GRANT OF EASEMENT AND AGREEMENT

Recording Requested By
and When Recorded Mail to:

City of Victorville
14343 Civic Drive
Victorville, CA 92392
Attn: Economic Development Dept.

GRANT OF EASEMENT AND AGREEMENT

No recording fee pursuant to Government Code §6103

THIS GRANT OF EASEMENT AND AGREEMENT (“Agreement”), made this ____ day of _____, 2024 (“Effective Date”), by and between CITY OF VICTORVILLE, California a municipal corporation, hereinafter referred to as “Grantor”, and NATIONAL RAILROAD PASSENGER CORPORATION, a corporation organized under 49 U.S.C §24101 *et seq.* and the laws of the District of Columbia, hereinafter referred to as “Grantee”.

WHEREAS, Grantor owns that certain parcel of real property located in the City of Victorville, San Bernardino County, California located at 16858 D Street, Victorville, CA 92395, which property is commonly known as APN No. 0478-172-19 (the “Land”), being more particularly shown on Exhibit “A-1”, attached hereto and made a part hereof; and

WHEREAS, Grantor and Grantee previously entered into a lease agreement (as amended, “Lease”), providing for Grantee’s lease of certain property owned by Grantor for Grantee’s use for parking and required ingress and egress to the parking at the passenger rail station; and

WHEREAS, the Lease has expired, and Grantee desires to acquire certain easements in a portion of the Land for Grantee’s continued use of parking for the passenger rail station including ingress and egress thereto.

NOW, THEREFORE, in consideration of the mutual covenants herein contained and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereto, intending to be legally bound, hereby agree to incorporate the above Recitals in this Agreement and further agree as follows:

1. **Easements:**

(a) Grantor hereby grants to Grantee an exclusive parking easement (“Parking Easement”) over, under, across, through and upon the parking easement area located as shown on Exhibit “A-2” attached hereto and incorporated herein by this reference (the “Parking Easement Area”) to be used exclusively by Grantee for the purpose of providing parking for Grantee’s personnel and visitors at the passenger rail station, including the right to use, occupy and maintain the Parking Easement Area for the benefit of Grantee’s operations and related activities.

(b) Grantor hereby grants to Grantee a non-exclusive access easement (“Access Easement”) over, across, through and upon the access easement area located as described

in Exhibit "A-3" (the "Access Easement Area") for so long as the Parking Easement exists. The Parking Easement and the Access Easement shall be collectively referred to herein as the "Easements." The Parking Easement Area and the Access Easement Area shall be collectively referred to herein as the "Easement Areas."

(c) Grantee shall comply with all applicable state and local laws, rules and regulations governing the use of the Easement Areas.

(d) Subject to the terms of this Agreement, Grantor expressly reserves for itself, its successors and its assigns, the right to use the Access Easement Area or to grant other easements or licenses at the Access Easement Area location so long as such other uses or grants or rights do not interfere with the rights of Grantee herein granted.

2. Grantee shall maintain the Parking Easement Area together with any improvements constructed or installed thereon by Grantee or associated with Grantee's use of the Parking Easement Area. The operation and maintenance of such improvements and of the Parking Easement Area shall be at Grantee's sole cost and expense.

3. This Agreement is subject and subordinate to all liens, encumbrances, covenants, conditions, restrictions, reservations, contracts, leases and licenses, easements, and rights of way pertaining to the Land, whether or not of record, existing prior to the Effective Date. The use of the word "grant" shall not imply any warranty on the part of the Grantor with respect to the Easements or the Easement Areas. Nothing in this Agreement shall be construed as transferring any fee interest in the Easement Areas or the Land to the Grantee.

4. Grantee shall comply with all applicable laws, ordinances and regulations, at Grantee's sole cost and expense, in its use of the Easement Areas.

5. Grantee shall not use, deposit or permit the use or deposit of any hazardous material or toxic waste or other harmful substances on the Easement Areas.

6. Grantor may relocate the Access Easement if in the reasonable opinion of Grantor it materially interferes with the present or future use by Grantor of the Land, with a minimum of sixty (60) days prior written notice to Grantee and as long as at such time. Grantor provides to Grantee a substitute Access Easement Area suited to Grantee's reasonable access needs at no additional cost to Grantee.

7. Grantee shall be responsible for any damage to the Land directly resulting from Grantee's or its employees or visitors use of the Easement Areas as permitted under this Agreement. Upon the termination of the Easements, Grantee shall promptly repair and restore to its original condition any of the Easement Areas, normal and reasonable wear and tear, condemnation and casualty excepted.

8. Grantor is entering into this Agreement on the express condition that Grantor is to be free from all liability by reason of injury or death to persons or injury to property from whatever cause arising out of Grantee's, its contractors', agents', officers', members', employees', invitees', or licensees' exercise of rights granted pursuant to the Easements or use of the Easement Areas or

of the improvements or personal property of Grantee thereto or thereon, including any liability for injury or death to the person or property of Grantee, its contractors, agents, officers, members, employees, invitees, or licensees or to any property under the control or custody of Grantee, except to the extent caused by the negligence or willful misconduct of Grantor or its contractors, agents, officers, members, employees, invitees, or licensees. Grantee hereby covenants and agrees to defend and indemnify Grantor, its officers, employees, agents, contractors, invitees and guests and save them harmless from any and all liability, loss, costs, or obligations on account of, or arising out of, any such injury or losses caused or claimed to be caused by the exercise of the Easements or use of the Easement Areas by Grantee, however occurring, other than those caused solely by the willful or negligent acts or omissions of Grantor.

9. Grantee shall be free from all liability by reason of injury or death to persons or injury to property from whatever cause arising out of Grantor's, its contractors', agents', officers', members', employees', invitees', or licensees' exercise of rights granted pursuant to the ownership and use of the Land or of the improvements or personal property of Grantor thereto or thereon, including any liability for injury or death to the person or property of Grantor, its contractors, agents, officers, members, employees, invitees, or licensees or to any property under the control or custody of Grantor, except to the extent caused by the negligence or willful misconduct of Grantee or its contractors, agents, officers, members, employees, invitees, or licensees. Grantor hereby covenants and agrees to defend and indemnify Grantee, its officers, employees, agents, students, invitees and guests and save them harmless from any and all liability, loss, costs, or obligations on account of, or arising out of, any such injury or losses caused or claimed to be caused by the ownership or use of the Land by Grantor, however occurring, other than those caused solely by the willful or negligent acts or omissions of Grantee.

10. Grantor may terminate the Easements and all of the rights granted herein any time after twelve (12) months of continuous non-use of the Easement Areas by Grantee. In the event of such termination, the Easement shall be quitclaimed from Grantee to Grantor, without expense to Grantor, and any and all interest in the Easement Areas conveyed in this Agreement shall automatically revert to Grantor, without the necessity of any further action to effect said reversion. All such improvements shall become the personal property of Grantor at no cost to Grantor.

11. Grantee is tax-exempt and shall not be responsible for paying any taxes, charges or use fee(s) levied by any governmental agency against Grantee's interest in the Easement Areas, or against any of Grantor's real property as a result of the Easements herein granted.

12. Except as provided in Section 15 hereof, neither party may assign this Agreement or any of the rights hereunder without the prior written consent of the other party.

13. This instrument shall bind and inure to the benefit of the respective successors and permitted assigns of the parties hereto.

14. Authority. Each party hereby covenants that it has full power and authority to enter into this Agreement upon the terms and conditions set forth herein. Each of the persons executing this Agreement on behalf of each party does hereby covenant and warrant that each person signing on behalf of Grantor or Grantee, as applicable, is authorized to do so and that no other actions are needed by such party to make this Agreement valid and binding on such party other than the execution and delivery by the person(s) executing this Agreement.

15. Amtrak Statutory Rights. Amtrak has been afforded certain statutory rights. The Parties agree that Grantor may in the future sell the Land to a third party for future development; provided, however, that any such sale shall not alter, modify or change the rights provided to Grantee under this Agreement. Prior to entering into any agreement with a third party to convey all, or a portion of the Land, said rights shall be preserved by the recording of this Agreement with the San Bernardino County Recorder's Office. Grantor agrees that it shall cause to be included into any sales agreement and deed of conveyance for all or a portion of the Land affected by the Easements, references to the Easements as set forth in this Agreement which sets forth Grantee's rights to use the Parking Easement Area and the Access Easement Area. Grantor shall not convey the Land unless the requirements of this Section have been met. Nothing herein shall waive any rights benefiting Grantee whether statutorily granted, in the land records for the Land or granted pursuant to other means. Any provision in this Agreement that Grantee has voluntarily agreed to that is inconsistent with any statutory or other rights of Grantee is not intended to be a waiver of such rights by Grantee, and such rights may be exercised by Grantee at any time. The rights and obligations of the parties in this Section shall survive the expiration or termination of this Agreement.

16. Run with the Land. The easements, rights and agreements set forth herein shall be deemed easements, rights and agreements running with the Land that is burdened and benefited by such easements, rights and agreements, and they shall benefit or bind, as applicable, Grantor and its respective successors, assigns and legal representatives. Each of the easements, rights and agreements contained herein shall be appurtenant to the Land thus affected and shall not be separated or separately conveyed or assigned. Effective upon the conveyance of Grantor's entire interest in the Land, Grantor shall thereupon be released and discharged from any and all obligations in connection with the Land that arise under this Agreement after the effective date of such conveyance (but Grantor shall remain liable for all such obligations arising under this Agreement prior to the date of such conveyance), and upon such conveyance of the Land, the grantee thereof shall assume in writing the obligations in connection with the Land that arise under this Agreement after the effective date of such conveyance

17. Except for the Lease, which has expired and which this Agreement is replacing, this instrument contains the entire agreement between the parties relating to the rights herein granted and the obligations herein assumed. Any oral representations or modifications concerning this instrument shall be of no force or effect except in a subsequent modification in writing, signed by the parties hereto.

[END OF PAGE]

IN WITNESS WHEREOF, the parties hereto have executed this instrument on the Effective Date.

GRANTOR: CITY OF VICTORVILLE

By _____

Its _____

GRANTEE: NATIONAL RAILROAD PASSENGER CORPORATION

By: _____

Name:

Title:

CERTIFICATE OF ACKNOWLEDGEMENT OF NOTARY PUBLIC

STATE OF CALIFORNIA,)
COUNTY OF _____)

On _____ 2024 before me, _____, a notary public in and for said County and State, personally appeared _____ personally known to me (or 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.

WITNESS my hand and official seal.

(Signature of Notary Public)

CERTIFICATE OF ACKNOWLEDGEMENT OF NOTARY PUBLIC

COMMONWEALTH OF PENNSYLVANIA)
COUNTY OF PHILADELPHIA)

On _____ 2024 before me, _____, a notary public in and for said County and State, personally appeared _____ personally known to me (or 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.

WITNESS my hand and official seal.

(Signature of Notary Public)

Exhibit "A-1, A-2, A-3"

Land, Parking Easement Area and Access Easement Area

EXHIBIT "A-1"

PLAT OF LAND OWNED BY THE CITY OF VICTORVILLE

Being Parcel 1 of Parcel Map 12557 in the City of Victorville, County of San Bernardino, State of California, as filed in Book 147 of Parcel Maps at Page 6, Records of San Bernardino County

This plat was prepared by:

David J. Cockrum 02-29-24

David J. Cockrum, PLS L7976

LEGEND

————— DENOTES PROPERTY BOUNDARY

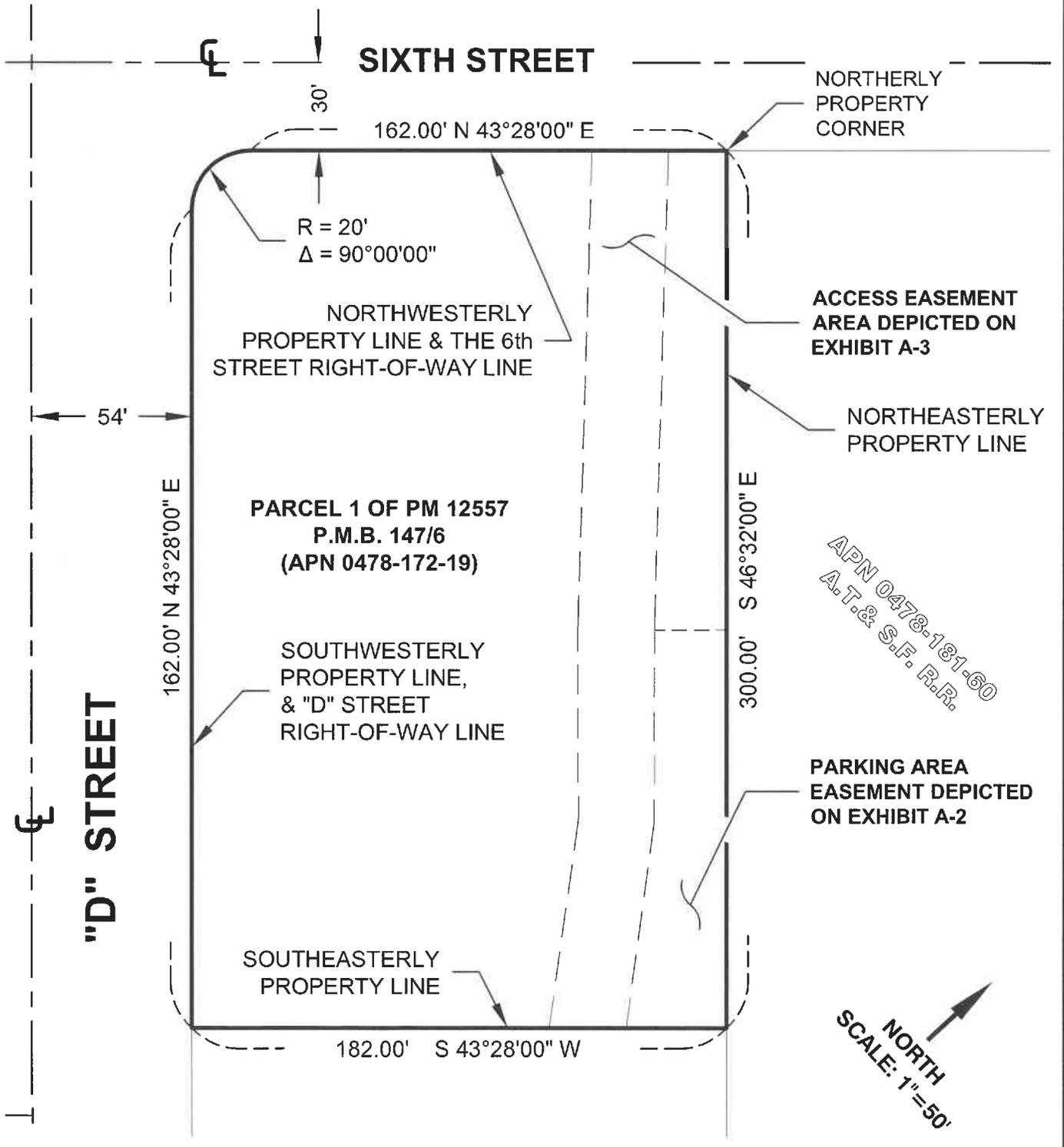


EXHIBIT "A-2"

PLAT OF PARKING AREA EASEMENT

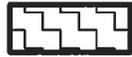
Being a portion of Parcel 1 of Parcel Map 12557 in the City of Victorville, County of San Bernardino, State of California, as filed in Book 147 of Parcel Maps at Page 6, Records of San Bernardino County

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LEGEND



DENOTES PARKING AREA EASEMENT, 3700 sq Ft ±

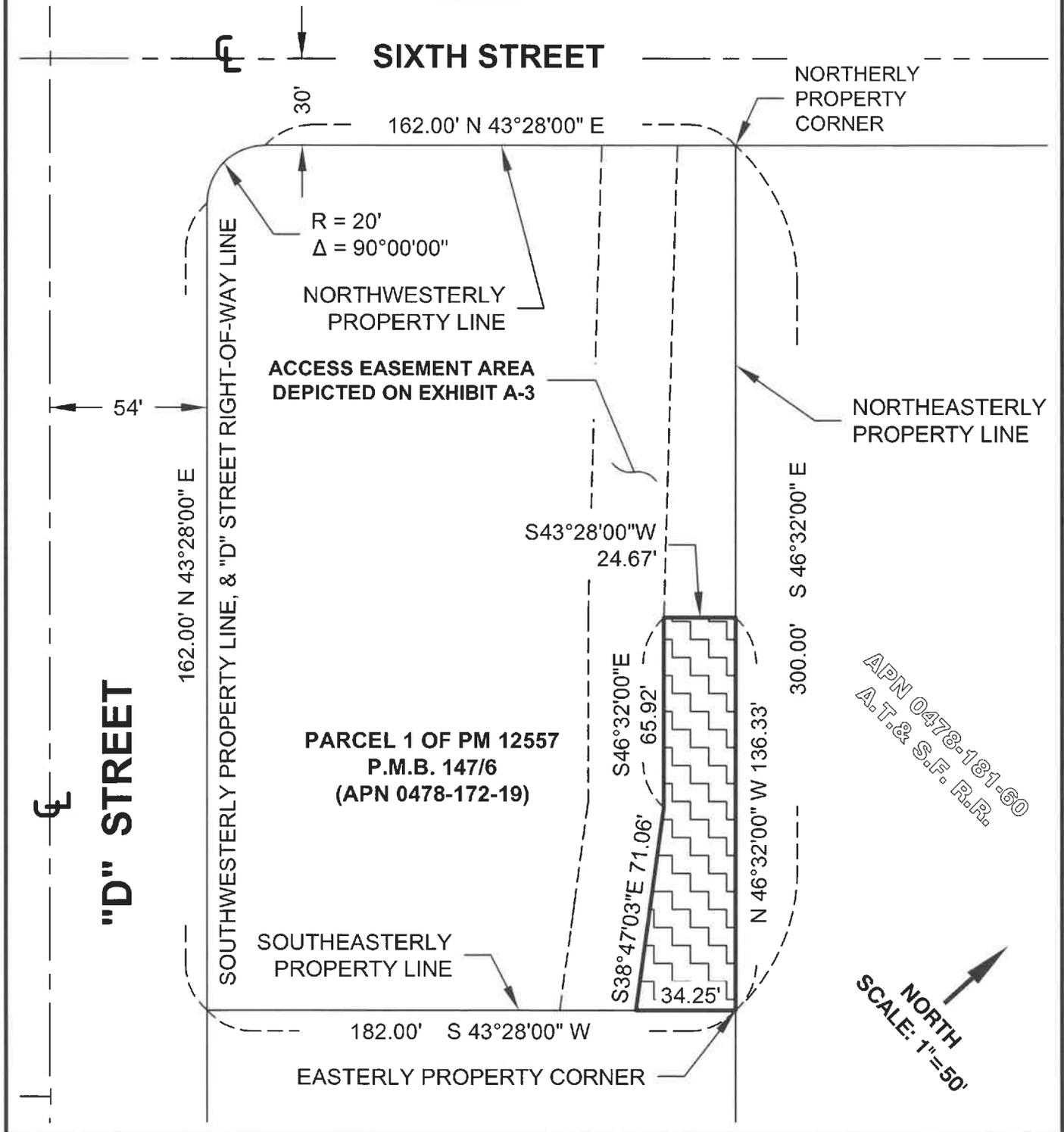


EXHIBIT "A-3"

PLAT OF ACCESS EASEMENT

Being a portion of Parcel 1 of Parcel Map 12557 in the City of Victorville, County of San Bernardino, State of California, as filed in Book 147 of Parcel Maps at Page 6, Records of San Bernardino County

This plat was prepared by:

David J. Cockrum 02-29-24

David J. Cockrum, PLS L7976

LEGEND



DENOTES ACCESS EASEMENT AREA, 7817 sq. ft. ±

