

# Memorandum

# TAB 3

**To:** CHAIR AND COMMISSIONERS  
CALIFORNIA TRANSPORTATION COMMISSION

**CTC Meeting:** December 6-7, 2017

**Reference No:** 2.4a. – **REVISED ITEM**  
Action Item

**From:** NORMA ORTEGA  
Chief Financial Officer

**Prepared by:** Jennifer S. Lowden, Chief  
Division of Right of Way  
and Land Surveys

**Subject:** **RESOLUTIONS OF NECESSITY – APPEARANCE**

## ISSUE:

Should the California Transportation Commission (Commission) adopt Resolution of Necessity (Resolution) C-21573, 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 an appearance before the Commission. The primary concerns and objections expressed by the property owners are related to whether or not the proposed project is planned or located in the manner that will be most compatible with the greatest public good and least private injury. The property owners' objections and the Department's responses are contained in Attachments B.

## RECOMMENDATION:

The Department recommends the Commission adopt Resolution C-21573 summarized on the following page. This Resolution is for a transportation project on State Route (SR) 58 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 this time. Adoption will assist the Department in the continuation of the orderly sequence of events required to meet construction schedules.

Extensive discussions have been ongoing between the property owners and the Department to address and resolve the issues. **For example, to resolve one of the primary objections raised by the property owners, the Department changed its project requirements from acquiring a fee interest, to a highway easement. This change accommodates both the Department's use of the property as a highway, and the property owners use of the property as an electric transmission corridor. Although, progress** Progress has been made, but in order to keep the project schedule, the Department is requesting that this appearance proceed to the December 6-7, 2017 Commission meeting. Legal possession will allow the construction activities on the parcel to commence, thereby avoiding and/or mitigating considerable right of way delay costs that will accrue if efforts to initiate the condemnation process are not taken immediately to secure legal possession of the subject property.

C-21573 - Southern California Public Power Authority

08-SBd-58-PM R5.78 - Parcel 23492-1, 2 - EA 347709.

Right of Way Certification Date: 04/30/18; Ready to List Date: Construction Manager/General Contractor. Expressway - construct a four-lane divided expressway. Authorizes condemnation of permanent easement for a State highway purposes, extinguishment of abutter's rights of access and a non-exclusive easement for ingress and egress purposes. Located in the unincorporated area of Kramer Junction, approximately one-quarter mile east of United States Route 395, north of State Route 58. Assessor Parcel Numbers 0492-192-22, -29.

Attachments:

Attachment A - Project Information

Exhibit A1 and A2 - Project Maps

Attachment B - Parcel Panel Report

Exhibit B1 and B2 - Parcel Maps

Exhibit B3 - Resolution of Necessity C-21573

Attachment C - Property Owner's letter to the Commission Dated April 25, 2016