RESOLUTION OF NECESSITY REQUIREMENTS

For each property interest to be acquired, a Resolution of Necessity must be adopted prior to the commencement of eminent domain proceedings pursuant to Code of Civil Procedure Section 1245.220. The statutory requirement that a public entity adopt a Resolution of Necessity before initiating a condemnation action "is designed to ensure that public entities will verify and confirm the validity of their intended use of the power of eminent domain prior to the application of that power in any one particular instance" (San. Bernadino. County.Flood.Control.Dist¡.v¡.Grabowski.(1988) 205 Cal.App.3d 885, 897).

A Resolution of Necessity must contain a general statement of the public use for which the property is to be taken, by reference to the statutes authorizing the exercise of eminent domain, a description of the property, and a declaration stating the each of the following have been found and determined by the City Council to be the case (Code of Civil Procedure §1245.230):

1. The public interest and necessity require the project;
2. The project is planned or located in the manner that will be most compatible with the greatest public good and least private harm;
3. The property sought to be acquired is necessary for the project; and
4. That either the offer required by Section 7267.2 of the Government Code has been made to the owner or owners of record, or the offer has not been made because the owner cannot be located with reasonable diligence.

   Issues relating to the amount or adequacy of compensation are not pertinent to the findings that the City Council must make in adopting Resolutions of Necessity.

In addition, before adopting a Resolution of Necessity, each person whose property is to be acquired by eminent domain must be given notice and a reasonable opportunity to appear and be heard on the matters referred to above. (Code of Civil Procedure §1245.230). The owner was sent a written Notice of the Hearing on July 25, 2024.