State of California
DEPARTMENT OF TRANSPORTATION

Business, Transportation and Housing Agency

M e m o r a n d u m

To: CHAIR AND COMMISSIONERS
CALIFORNIA TRANSPORTATION COMMISSION

CTC Meeting: March 23-24, 2011

Reference No.: 2.4a.(2)
Action Item

From: NORMA ORTEGA
Chief Financial Officer

Prepared by: Brent Green
Chief
Division of Right of Way and
Land Surveys

Subject: **RESOLUTION OF NECESSITY - APPEARANCE**

RECOMMENDATION:

The California Department of Transportation (Department) recommends the California Transportation Commission (Commission) adopt Resolution of Necessity (Resolution) C-20473 summarized on the following page. This Resolution is for the Design-Build project in District 7 to widen the 405 Freeway in the city of Los Angeles, county of Los Angeles.

ISSUE:

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 and located in a manner that will be most compatible with the greatest public good and the least private injury.
3. This property is necessary for the proposed project.
4. An offer to acquire the property in compliance with Government Code Section 7267.2 has been made to the owner of record.

In this case, the property owner is contesting the Resolution and has requested a written appearance before the Commission to challenge the outstanding issues. At the request of the property owner, objections to the Resolution have been submitted in writing to be made part of the official record of the Commission. The owner's objections are included as Attachment A. The Department's responses to the owner's objections are contained in Attachment B.

BACKGROUND:

Discussions have taken place with the owner, who has been offered the full amount of the Department's appraisal and, where applicable, advised of any relocation assistance benefits to which the owner may subsequently be entitled. Adoption of the Resolution will not interrupt the Department's efforts to secure an equitable settlement. In accordance with statutory requirements, the owner has been advised that the Department is requesting the Resolution at the Commission's March 23-24, 2011 meeting. Adoption will assist the Department in the continuation of the orderly sequence of events required to meet construction schedules.

C-20473 - Public Storage Pickup & Delivery, L.P., a California Limited Partnership
07-LA-405-PM 29.8 - Parcel 79621-1, 2, 3 - EA 120309.
Right of Way Certification Date: 06/28/11; Ready to List Date: Design-Build. Freeway - widening for high occupancy vehicle lane. Authorizes condemnation of land in fee for a State highway, extinguishment of abutter's rights of access, a temporary easement for construction purposes, and a permanent aerial easement. Located in the city of Los Angeles at 11200 West Pico Boulevard. Assessor's Parcel Number 4256-010-011.

Attachments:
Attachment A - Owner's Written Objections dated March 5, 2010 and January 12, 2011
Attachment B - Department Response dated February 7, 2011
Attachment C - Owner's Written Objections dated February 17, 2011
Attachment D - Department Response dated February 25, 2011, includes legal description and Exhibit Maps
Attachment E - Fact Sheet

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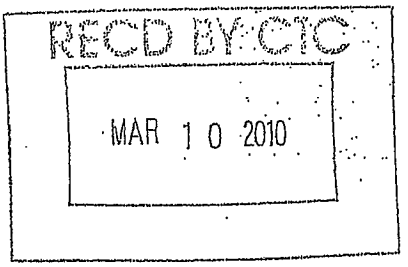
REFER TO FILE NO.
15372-021

March 5, 2010



VIA FACSIMILE & U.S. MAIL

Executive Director
California Transportation Commission
P.O. Box 942873
Mail Station 52
Sacramento, California 94273-0001

Re: **Objection to Proposed Adoption of Resolution of Necessity for Acquisition of Certain Real Property Identified As Assessor Parcel Number 79621-1, -2, & -3, by Caltrans - PS#29143 - 11200 W. Pico Blvd., Los Angeles**

Dear Executive Director:

This firm represents Public Storage Pickup & Delivery, L.P. ("Pubic Storage"), owner of the above-referenced property. We have received notice of the California Transportation Commission's (CTC) intent to adopt a resolution of necessity authorizing The People of the State of California, acting by and through the Department of Transportation (the "State" and/or "Caltrans"), to take certain portions of the subject property by condemnation for freeway purposes. Based on this notice, the CTC's hearing is scheduled for April 7 & 8, 2010, in Irvine, California. No time was specified in the notice.

The purpose of this letter is to provide written objection on behalf of the property owner to the adoption of the resolution of necessity. Accordingly, we request that this letter be included as part of the formal record on that agenda item. Additionally, we intend and hereby request to appear and be heard on our objection at the hearing.

ATTACHMENT A

Public Storage objects to the adoption of the resolution of necessity on each of the following specific grounds:

1. The Property Sought To Be Acquired Is Not Necessary For the Project.

One of the mandatory components to the necessity determination is that the property sought to be acquired must be necessary for the project. (Code Civ. Proc. § 1240.030, subd. (c).) The Eminent Domain Law defines "property" to include real and personal property and any interest thereon. (Code Civ. Proc., § 1235.170.) Thus, the City must not only consider whether the property is necessary for the project but also whether the particular interest in property that the City seeks to take is necessary. In the absence of substantial evidence supporting such a determination, the Resolution of Necessity will be invalid.

In this case, the State is seeking to condemn more property than its needs for the proposed project. Specifically, the State seeks to take aerial easements which include surface rights not necessary for the construction of an overpass structure in connection with the freeway expansion project. Yet, the State does not need these additional surface rights for construction of the proposed project. Though the property owner has attempted to work with the State to minimize the project's impact on the subject property including, but not limited to, identifying viable project alternatives that would provide all of the amenities of the proposed project but with less private property, to date, the State has failed to consider these alternatives. Barring such consideration, the CTC cannot make an informed determination as to whether the subject property is actually necessary for the proposed project.

2. The State's Proposed Project Is Not Planned Or Located In The Manner That Will Be Most Compatible With The Greatest Public Good And The Least Private Injury.

One of the necessity components that must be analyzed when considering the adoption of a resolution to authorize the taking of private property is whether the proposed project for which the property is sought to be taken is planned or located in a manner that is most compatible with the greatest public good and causes the least private injury. (Code Civ. Proc., § 1240.030, subd. (b).) In the absence of substantial evidence supporting the CTC's determination as to the planning and location of the proposed project, the Resolution of Necessity is invalid.

As discussed in the preceding section, the property owner has diligently attempted to work with the State to minimize the proposed project's anticipated impacts on the subject property and self-storage business operated thereon. The State, however, has failed and refused to consider viable project alternatives that would reduce the damaging impacts to the subject property while maintaining (or improving) any claimed beneficial aspects of the project. Because alternatives exist that would enable the CTC to achieve its project objectives at a greatly reduced private injury, the CTC must consider those alternatives before an informed determination can be made as to whether the project as proposed is "most compatible with the greatest public good and the least private injury."

3. The State Failed To Extend A Legitimate Precondemnation Offer Pursuant To Government Code Section 7267.2.

Government Code section 7267.2 requires that the State make a legitimate offer of just compensation based upon an approved appraisal prior to initiating condemnation proceedings. A written statement and summary basis for the offer must include sufficient details to indicate clearly the basis for the offer. (Gov. Code, § 7267.2, subd. (b).)

The State's precondemnation offer is invalid insofar as it was predicated upon an appraisal that failed to address the considerable damages that will result from the acquisition, construction and use of the project in the manner proposed. The offer ignores any of the damages or impacts to the property owner from the project as a whole. As such, the offer is invalid and cannot support the adoption of a resolution of necessity authorizing the acquisition of the interests in the subject property by eminent domain.

4. The State Failed To Negotiate In Good Faith Pursuant To Government Code Section 7267.1.

Government Code section 7267.1 imposes an affirmative obligation on a public entity seeking to condemn property to seek to acquire that property first by negotiation. (*Johnston v. Sonoma County Agricultural Preservation & Open Space Dist.* (2002) 100 Cal.App.4th 973.) "The public entity shall make every reasonable effort to acquire expeditiously real property by negotiation." (Gov. Code, § 7267.1, subd. (a).) The duty to negotiate is designed to avoid litigation. "In order to encourage and expedite the acquisition of real property by agreements with owners, to avoid litigation and relieve congestion in the courts, to assure consistent treatment for owners in the public programs, and to promote public confidence in public land acquisition practices, public entities

shall, to the greatest extent practicable, make every reasonable effort to acquire property by negotiation." (8 Witkin, Summary of Cal. Law (9th ed. 2004) Const. Law, § 972.)

The State's recent "take it or leave it" offer is an example of the State's refusal to engage in negotiations with the property owner for (a) recognition of the true impacts to the subject property and business operated thereon from the project as currently proposed and extension of a legitimate offer of compensation based thereon; and (b) revisions to the project plans to mitigate potentially devastating impacts to the subject property and business operations. Not only has the State refused to address the property owner's concerns regarding the project, but its recent precondemnation offer of compensation was based upon an appraisal that failed to consider any of the aforementioned project impacts and, therefore, did not include any compensation for the resulting damages.

The State's project as currently proposed will result in substantial damages to the subject property and the business operated thereon, which damages the State has neither appraised nor made an offer of compensation to redress. The State's statutory obligation to "make every reasonable effort to acquire expeditiously real property by negotiation" means *nothing* if it does not include either making reasonable efforts to modify project plans to eliminate or mitigate potentially damaging project impacts or making an offer of compensation to pay for the damages that cannot otherwise be mitigated. Here, the State has done neither.

To the extent that the State's offer was predicated upon an appraisal that failed to account for significant project impacts, as partially described above, that offer was inadequate as a matter of law and would not constitute an effort to acquire the property interests "expeditiously and by negotiation" as required by California Government Code section 7267.1. (Gov. Code, § 7267.1.)

5. <u>The City Is Incapable Of Conducting A Fair, Legal and Impartial Hearing On The Proposed Adoption Of The Resolution</u>.

The State has already committed itself to the purported project, and taking. As such, any hearing resulting in the adoption of the resolution by the City would be a predetermined result. The proposed resolution hearing is a pretense and artifice and any resolution adopted under these circumstances would be voidable by a court of competent jurisdiction. (See, *Redevelopment Agency v. Norm's Slauson* (1985) 173 Cal.App.3d 1121, 1127.)

As a condition precedent to the exercise of the power of eminent domain, a public agency must hold a public hearing to determine whether a particular taking meets the public interest and necessity criteria articulated in Code of Civil Procedure section 1240.030. (Code Civ. Proc., § 1245.235.) If, after such public hearing, the public agency determines that the proposed taking meets that criteria, then it must adopt a resolution of necessity before proceeding to condemn the property. (Code Civ. Proc., §§ 1240.040, 1245.220.) Implicit in this requirement of a hearing and the adoption of a resolution of necessity is the concept that, in arriving at its decision to take, the agency engage in a good faith and judicious consideration of the pros and cons of the issue and that the decision to take be buttressed by substantial evidence of the existence of the three basic requirements set forth in Code of Civil Procedure section 1240.030. (*Redevelopment Agency v. Norm's Slauson* (1985) 173 Cal.App.3d 1121, 1125-1126.) In the absence of a fair and impartial hearing, the resolution of necessity is void.

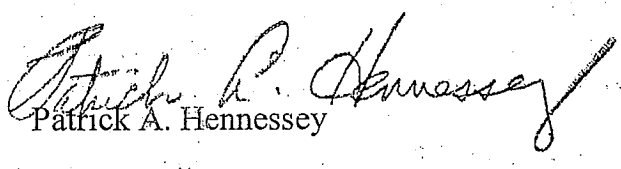
In this case, the State appears to have already predetermined the outcome of the hearing even well before it was set. In this regard, it is believed that the State has devoted substantial resources and entered into specific agreements for the freeway expansion project, all of which were focused with the pre-determined assumption that certain portions of the subject property would be condemned in order to accommodate the expansion project. Accordingly, if the Resolution of Necessity is adopted, the hearing which led to its adoption will have been a pretense and the CTC's policy-making board will simply be "rubber stamping" a pre-determined result. Such an action would constitute more than a gross abuse of discretion; it would represent the elimination of any discretion whatsoever. Accordingly, if the Resolution is adopted, it will be subject to attack on this basis.

6. **The Taking and Proposed Project Violate the Precepts of the California Environmental Quality Act (CEQA) Pub. Res. Code, §§ 21000, *et seq*; CEQA Guidelines §§ 15000, *et seq.*).**

Though the CTC is attempting to acquire portions of the subject property for a freeway expansion project, the property owners are informed and believe that the State has ignored the fundamental precepts of CEQA entirely by failing to conduct a proper environmental analysis. The property owner is informed and believes that the State's CEQA analysis is inadequate and may potentially invalidate any subsequent eminent domain action.

Based on the foregoing objections, the property owners request that the CTC not adopt the Resolution of Necessity.

Very truly yours,



Patrick A. Hennessey

PAH:cv
cc: Andrew P. Nierenberg (via facsimile)
Maan Faelnar-Belisario
Michael L. D'Angelo

PROOF OF SERVICE

I am employed in the County of Orange, State of California. I am over the age of 18 and not a party to the within action. My business address is 2603 Main Street, East Tower - Suite 1300, Irvine, California 92614-4281.

On March 5, 2010, I served on the interested parties in said action the within:

OBJECTION TO PROPOSED ADOPTION OF RESOLUTION OF NECESSITY FOR ACQUISITION OF CERTAIN REAL PROPERTY IDENTIFIED AS ASSESSOR PARCEL NUMBER 79621-1, -2, & -3, BY CALTRANS - PS#29143 - 11200 W. PICO BLVD., LOS ANGELES

by placing a true copy thereof in a sealed envelope(s) addressed as stated below.

Executive Director
California Transportation Commission
1120 "N" Street, MS-52
Sacramento, CA 95814

Facsimile No.: (916) 653-2134

Andrew P. Nierenberg
District Manager Right of Way 7
STATE OF CALIFORNIA
DEPARTMENT OF TRANSPORTATION
Southern Right of Way Region
Los Angeles Field Office, MS-6
100 South Main Street
Los Angeles, CA 90012

Facsimile No.: (213) 897-8902

Maan Faelnar-Belisario
Right of Way Agent
Caltrans, District 7
100 S. Main Street
Los Angeles, CA 90012

Facsimile No.:

[X] (MAIL) I am readily familiar with this firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. postal service on that same day in the ordinary course of business. I am aware that on motion of party served, service is presumed invalid if postal cancellation date or postage meter date is more than 1 day after date of deposit for mailing in affidavit.

[X] (FACSIMILE as indicated above) By transmitting a true copy of said document from facsimile machine whose telephone number is (949) 794-0725,

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on March 5, 2010, at Irvine, California.

Chantal Vaznaian
(Type or print name)

(Signature)

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*A PROFESSIONAL CORPORATION

January 12, 2011

VIA E-MAIL & U.S. MAIL

Kirk Hsu
Right of Way Agent
California Department of Transportation
District 7
Office of Right of Way
100 S. Main Street, MS-6
Los Angeles, CA 90012

Re: **Acquisition of Certain Real Property Identified As Assessor Parcel Number 79621-1, -2, & -3, by Caltrans - PS#29143 - 11200 W. Pico Blvd., Los Angeles**

Dear Mr. Hsu:

Upon further review of the State's revised right of way contract and accompanying documentation relating to the above-described parcels, Public Storage has determined that it will not attend the second Condemnation Panel Review Meeting previously scheduled for January 13, 2011.

Public Storage originally submitted written objections to the State's proposed acquisition of these parcels in a letter dated March 5, 2010. Public Storage's objections to the acquisition at that time included both that the State sought to condemn more property than was needed for the proposed project and that the proposed project was neither planned nor located in a manner that was most compatible with the greatest public good and the least private injury.

On May 12, 2010, Carolynn Ruth and I attended a first Condemnation Review Panel Meeting at which we discussed these and other objections to the proposed acquisition with a panel of State agents. At the conclusion of that meeting, we were led to believe that the State understood Public Storage's concerns, agreed that the proposed aerial easement was more expansive than was necessary for the project, and would revise the language of the easement to include only those rights that actually were necessary for the project. After waiting for more than seven months for that revision, however, Public Storage learned in late-December 2010 that although the State had revised its precondemnation offer of compensation, it would *not* reduce the scope of the property interests sought to be acquired.

Notwithstanding the State's revised offer of compensation, Public Storage maintains the following objections to the proposed acquisition:

1. <u>The Property Sought To Be Acquired Is Not Necessary For the Project.</u>

One of the mandatory components to the necessity determination is that the property sought to be acquired must be necessary for the project. (Code Civ. Proc., § 1240.030, subd. (c).) The Eminent Domain Law defines "property" to include real and personal property and any interest thereon. (Code Civ. Proc., § 1235.170.) Thus, in considering whether to condemn certain property, the State must consider whether the property interests sought to be acquired are necessary for the project. In the absence of substantial evidence supporting such a determination, any Resolution of Necessity to condemn the described property interests will be invalid.

Here, the State seeks to acquire more property than it needs for the proposed project. Specifically, the State seeks to take an aerial easement that includes surface rights not necessary for the construction of the overpass structure in connection with its freeway expansion project. The State does not *need* these surface rights and, in the absence of such need, the California Transportation Commission ("CTC") cannot make the requisite determination that the described property is actually necessary for the proposed project.

2. **The State's Proposed Project Is Not Planned Or Located In The Manner That Will Be Most Compatible With The Greatest Public Good And The Least Private Injury.**

One of the necessity components that must be analyzed when considering the adoption of a resolution to authorize the taking of private property is whether the proposed project for which the property is sought to be taken is planned or located in a manner that is most compatible with the greatest public good and causes the least private injury. (Code Civ. Proc., § 1240.030, subd. (b).) In the absence of substantial evidence supporting such a finding, any Resolution of Necessity to condemn the described property interests will be invalid.

Here, the State seeks to acquire valuable surface rights to property that Public Storage presently needs for access to and circulation around the existing improvements at the subject property. While the State does not need the described surface rights for the construction and use of its project in the manner proposed, the resulting loss of essential access and circulation at the subject property will result in substantial damages both to the subject property and Public Storage's business operation thereon. Public Storage has attempted to work with the State to minimize the proposed project's anticipated impacts on the subject property and business, but the State has failed and/or refused to consider viable project alternatives that would reduce the damaging impacts to the subject property.

Because alternatives exist that would enable the State to achieve its project objectives at a greatly reduced private injury, the State must consider those alternatives before a determination can be made that the project as proposed is "most compatible with the greatest public good and the least private injury."

3. **The State Is Incapable Of Conducting A Fair, Legal, and Impartial Hearing On The Proposed Adoption Of The Resolution of Necessity.**

As a condition precedent to the exercise of the power of eminent domain, a public agency must hold a public hearing to determine whether a particular taking meets the public interest and necessity criteria articulated in Code of Civil Procedure § 1240.030. (Code Civ. Proc., § 1245.235.) If, after such public hearing, the public agency determines that the proposed taking meets that criteria, then it must adopt a resolution of necessity before proceeding to condemn the property. (Code Civ. Proc., §§ 1240.040, 1245.220.) Implicit in this requirement of a hearing and the adoption of a resolution of

necessity is the concept that, in arriving at its decision to take: (a) the agency will engage in a good faith and judicious consideration of the pros and cons of the issue; and (b) the decision to take will be buttressed by substantial evidence of the existence of the three basic requirements set forth in Code of Civil Procedure § 1240.030. (*Redevelopment Agency v. Norm's Slauson* (1985) 173 Cal.App.3d 1121, 1125-1126.) In the absence of a fair and impartial hearing, the resolution of necessity is void.

Here, the State appears to have already predetermined the outcome of the hearing even well before it was set. In this regard, it is believed that the State has devoted substantial resources and entered into specific agreements for the freeway expansion project, all of which were focused with the pre-determined assumption that certain portions of the subject property would be condemned in order to accommodate the expansion project. Accordingly, if the Resolution of Necessity is adopted, the hearing which led to its adoption will have been a pretense and the CTC's policy-making board will simply be "rubber stamping" a pre-determined result. Such an action would constitute more than a gross abuse of discretion; it would represent the elimination of any discretion whatsoever. Accordingly, if the Resolution is adopted, it will be subject to attack on this basis.

4. The Taking and Proposed Project Violate the Precepts of the California Environmental Quality Act (CEQA) Pub. Res. Code, §§ 21000, *et seq*; CEQA Guidelines §§ 15000, *et seq.*).

Though the CTC is attempting to acquire portions of the subject property for a freeway expansion project, the property owners are informed and believe that the State has ignored the fundamental precepts of CEQA entirely by failing to conduct a proper environmental analysis. The property owner is informed and believes that the State's CEQA analysis is inadequate and may potentially invalidate any subsequent eminent domain action.

Each of these objections previously was raised by Public Storage and made the subject of a Condemnation Review Panel Meeting. As the State evidently has elected to proceed with its acquisition of the described property interests irrespective of these objections, Public Storage does not see any reason to attend another Condemnation Review Panel Meeting that will focus upon the same issues and, in all likelihood, lead to the same result. Public Storage intends to maintain these objections for the purpose of any future proceedings by the State to condemn the above-described property interests and, therefore, requests that this letter be included as part of the formal record in any

proceeding by the CTC to adopt a resolution of necessity authorizing the condemnation of those parcels.

If you have any questions regarding the foregoing, please do not hesitate to call me at 949 851 7323.

Sincerely,

Michael L. D'Angelo

MLD:cv
cc: Carolynn Ruth (via email)

DEPARTMENT OF TRANSPORTATION
Right of Way Division
100 S. Main Street
Los Angeles, CA 90012
PHONE (213) 897-1901
FAX (213) 897-5603

Flex your power!
Be energy efficient!

February 7, 2011

Mr. Michael L. D'Angelo
Law Offices of Palmieri, Tyler, Wiener, Wilhelm & Waldron, LLP
2603 Main Street
Irvine, CA 92614-42816

VIA CERTIFIED MAIL

07-LA-405-P.M. 29.8
EA: 120309
Parcel No. 79621-1, -2, -3
APN: 4256-010-011
Grantor: Public Storage Pickup & Delivery, L.P.

Re: **Public Storage**
11200 W. Pico Blvd., Los Angeles, CA 90064

Dear Mr. D'Angelo:

This letter is in response to your letters dated March 5, 2010 and January 12, 2011. In your letters, you addressed specific concerns and objections to the California Transportation Commission's (hereinafter "CTC") proposed action on several grounds regarding the above referenced parcel.

The following is the State of California, Department of Transportation's ("Department") response to the concerns and objections set forth in your letters:

1. **The Property Sought to Be Acquired is Not Necessary for the Project.**

As previously discussed, the fee requirement is necessary to accommodate the bridge and the footing, and the temporary construction easement is necessary for construction activities. The aerial easement is required as per the mandatory standard in section 309.4 of the Highway Design Manual "Lateral Clearance for Elevated Structures," which states that an adequate clearance must be provided for maintenance, repair, construction, or reconstruction of adjacent buildings and of the structure; to avoid damage to the structure from a building fire or to the buildings from a vehicle fire; and to permit operation of equipment for fire fighting and other emergency teams. As such, surface rights are a necessary component of the proposed aerial easement which is needed for the project.

ATTACHMENT B

2. The State's Proposed Project is Not Planned or Located in the Manner That Will Be Most Compatible with the Greatest Public Good and the Least Private Injury.

The overall purpose of the project is to increase the capacity of the Interstate 405 freeway in order to improve mobility for motorists and improve safety and access. The work involves the addition of one northbound HOV lane between the Interstate 10 and US-101 freeways; removal and replacement of the Skirball Center Drive, Sunset Boulevard, and Mulholland Drive bridges; realignment of 27 key on and off ramps; widening of 13 existing under-crossings and structures; and construction of approximately 18 miles of retaining and sound walls.

Segmenting a larger project is done with the greatest public good and least private injury in mind. The State plans a large project such as this in phases or segments in order to manage the construction and the funding efficiently. Closing all ramps at once for the approximate 12½ mile stretch would create great damage to the communities and the businesses in the area. The traffic circulation problems would be prolonged as well. Also, the start of the project may be delayed because of the additional time that would be needed to obtain possession of all the required right of way which is necessary prior to the award of the construction contract.

The manner in which the Interstate 405 Project is planned is basically reducing the impact on the communities as well as reducing the impact on the right of way activities on this parcel.

3. The State is Incapable of Conducting a Fair, Legal and Impartial Hearing on the Proposed Adoption of the Resolution.

You have cited *Redevelopment Agency v. Norm's Slauson* (1985) 173 Cal.App.3d 1121, for the proposition that the State's actions regarding the Interstate 405 Project, specifically your client's property, is a "predetermined result" such that the hearing before the CTC would be a pretense resulting in a rubber stamping of the project.

However, your reliance on this case (hereinafter cited as "*Norm's Slauson*") is misplaced; factually, this case bears absolutely no relation to the facts of the Interstate 405 Project. Prior to the condemnation proceedings in *Norm's Slauson*, the local entity had made an agreement with a private developer that it would take four lots owned by Norm's and sell these lots to this developer (by means of the issuance and sales of tax exempt city bonds). The City did not inform Norm's of this arrangement, and then, after public hearings on the proposed condemnation of the lots, obtained a Resolution of Necessity and proceeded to trial. The trial court ruled that the Agency had no right to take the property and the Court of Appeal upheld the decision. The Court of Appeal stated that "In short, the agency, without any notice to Norm's, sold the property", *Norm's Slauson, supra*, at 1125. These actions on the part of the City were an abuse of discretion, *Norm's Slauson, supra* at 1126, and therefore "the hearing which led to the adoption of the Resolution of Necessity was a sham and the Agency's policy making board simply 'rubber stamped' a predetermined result", *Norm's Slauson, supra*, at 1127.

No similar facts exist with respect to the Interstate 405 Project. A portion of your client's property is necessary for a public project which is necessary for a public purpose and the acquisition of the particular property is compatible with the greatest public good and the least private injury (Code of Civil Procedure, section 1245.235). The Department is not engaged in a private sale of the affected property, as was the case in *Norm's Slauson.* The Department has held public meetings, and has and continues to solicit public input and work to find solutions to mitigate or minimize impact due to the project.

There is no "predetermined result" for the Interstate 405 Project. The CTC, which is responsible for adopting the Resolution of Necessity, is an independent public agency whose members are appointed by the Governor, the Senate Rules Committee and the Speaker of the Assembly. The CTC neither rubber stamps or has a predetermined result when a Resolution of Necessity is presented. The CTC is dedicated to ensuring a safe, financially sustainable, world-class multimodal transportation system.

Prior to obtaining the Resolution of Necessity, the Department is required to take numerous steps. Some of these steps include a District Condemnation Evaluation Meeting and Condemnation Panel Review Meeting, both of which afford your client the opportunity for input.

The Department must present substantial evidence to the CTC of the existence of the three basic requirements under Code of Civil Procedure, section 1240.030. Your client has the right to appear before the CTC to challenge whether:

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 the least private injury.
3. The property sought to be condemned is necessary for the project.

In arriving at its decision, the State has and continues to engage in a good faith and judicious consideration of the pros and cons of the issue and believes that the decision to take is buttressed by substantial evidence of the existence of the three basic requirements set forth in Code of Civil Procedure, section 1240.30.

4. The Taking and Proposed Project Violate the Precepts of the California Environmental Quality Act (CEQA) Pub. Res. Code, §§ 21000, *et seq*; CEQA Guidelines §§ 15000, *et seq.*).

The subject property (APN 4256-010-011) was identified in the I-405 Sepulveda Pass Widening Project Draft EIR/EIS as a partial acquisition in Appendix H: Right-of-Way Impacts.

The comment period for the I-405 Sepulveda Pass Widening Project Draft EIR/EIS was extended to October 1, 2007 completing a 133-day public review period which commenced on May 22, 2007. CEQA and NEPA require up to 60 days. Below is a timeline of the circulation of the Draft EIR/EIS to the approval of the Final EIR/EIS:

• Approval of Draft EIR/EIS	May 22, 2007
• Notice of Availability (NOA) published in the Federal Register	June 1, 2007
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• NOA of Final EIS published in the Federal Register	March 14, 2008
• Approval of ROD	April 25, 2008
• Statue of Limitations published in the Federal Register	May 20, 2008
• End of Statute of Limitations	November 17, 2008

Pursuant to Section 15162 of the CEQA Guidelines, the Department has made the decision not to prepare a subsequent EIR on the basis that substantial evidence in the light of the whole record does not introduce new significant environmental effects or a substantial increase in the severity of previously identified significant effects.

5. The State Failed to Extend a Legitimate Precondemnation Offer Pursuant to Government Code Section 7267.2.

The Department's first written offer was based on a fair market value appraisal for a portion of your client's property and was provided to your client's representative, Carolynn Ruth, on January 12, 2010. This offer addressed the fee, aerial easement and temporary construction easement required for the project. Subsequent meetings were held with your client's representative; Department Design, Right of Way and Right of Way Engineering staff to address your client's concerns and technical issues. The Department subsequently revised the original appraisal to further address the loss in utility to the subject property as a result of the proposed aerial easement. A revised appraisal addressing the restrictive nature of the aerial easement and the breadth of the Department's rights was completed December 22, 2010. A revised offer in compliance with Government Code Section 7367.2 for the full amount of the Department's approved appraisal was then mailed to Carolynn Ruth on December 29, 2010.

6. The State Failed to Negotiate in Good Faith Pursuant to Government Code Section 7267.1.

The acquisition agent, Kirk Hsu, has been in contact with you and your client's representative via telephone, mail and e-mail, and the State remains ready and willing to engage in continued negotiations. We have suggested and placed an incentive system to encourage the contractors on early completion of construction activities in the area to minimize impact to the business.

In order to meet the project deadlines and prevent further delays, the Department is proceeding to the March 23-24, 2011 CTC meeting that will be held in San Diego, California. Per your written request, your letters will be included as part of the formal record of the March CTC meeting, at which the CTC will be asked to adopt a Resolution of Necessity for the Public Storage parcel.

If you have any questions, please feel free to contact Kirk Hsu at (213) 897-0780.

Very truly yours,

ANDREW P. NIERENBERG
Deputy District Director
Right of Way
Department of Transportation
Caltrans – District 7

Enclosure

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REFER TO FILE NO.
15372-021

ANGELO J. PALMIERI (1926-1996)
ROBERT F. WALDRON (1927-1998)

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ROBERT C. IHRKE*
JAMES E. WILHELM*
DENNIS G. TYLER*
MICHAEL J. GREENE*
DENNIS W. GHAN*
DAVID D. PARR*
CHARLES H. KANTER*
PATRICK A. HENNESSEY
DON FISHER
GREGORY N. WEILER
WARREN A. WILLIAMS
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MICHAEL H. LEIFER
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MICHAEL L. D'ANGELO
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*A PROFESSIONAL CORPORATION

February 17, 2011

VIA FACSIMILE & U.S. MAIL

Executive Director
California Transportation Commission
P.O. Box 942873
Mail Station 52
Sacramento, California 94273-0001

Re: **Objection to Proposed Adoption of Resolution of Necessity for Acquisition of Certain Real Property Identified As Assessor Parcel Number 79621-1, -2, & -3, by Caltrans - PS#29143 - 11200 W. Pico Blvd., Los Angeles**

Dear Executive Director:

This firm represents Public Storage Pickup & Delivery, L.P. ("Pubic Storage"), owner of the above-referenced property. We have received notice of the California Transportation Commission's (CTC) intent to adopt a resolution of necessity authorizing The People of the State of California, acting by and through the Department of Transportation (the "State" and/or "Caltrans"), to take certain portions of the subject property by condemnation for freeway purposes (the "Notice"). According to the Notice, the CTC's hearing is scheduled for March 23-24 in San Diego, California; no specific time for the hearing was specified.

This letter sets forth Public Storage's written objection to the adoption of the resolution of necessity. Accordingly, we request that this letter be included as part of the formal record on that agenda item.

ATTACHMENT C

Public Storage objects to the adoption of the resolution of necessity on each of the following specific grounds:

1. **The State's Proposed Resolution of Necessity Fails to Define Exactly the Property Interests Sought to be Condemned.**

The Resolution of Necessity must conclusively define the scope of the property interests sought to be condemned. Here, discrepancies exist between the property interests described within the legal descriptions and those depicted within the parcel map attached to the Notice. The metes and bounds of the proposed acquisition must be defined clearly and accurately, and the parcel map brought into conformance therewith, before the CTC can make an informed determination as to at least one of the factors prerequisite to adopting a resolution of necessity, specifically, that the property described in the resolution is necessary for the proposed project. (Code Civ. Proc., § 1240.030.) The State's failure to address and correct these discrepancies prior to the CTC's adoption of a resolution of necessity to condemn the described property interests would render the CTC's action invalid and reveal the entire resolution process to be a sham.

2. **The Property Sought To Be Acquired Is Not Necessary For the Project.**

One of the mandatory components to the necessity determination is that the property sought to be acquired must be necessary for the project. (Code Civ. Proc., § 1240.030, subd. (c).) The Eminent Domain Law defines "property" to include real and personal property and any interest thereon. (Code Civ. Proc., § 1235.170.) Thus, in considering whether to condemn certain property, the State must consider whether the property interests sought to be acquired are necessary for the project. In the absence of substantial evidence supporting such a determination, any Resolution of Necessity to condemn the described property interests will be invalid.

Here, the State seeks to acquire more property than it needs for the proposed project. Specifically, the State seeks to take an aerial easement that includes surface rights not necessary for the construction of the overpass structure in connection with its freeway expansion project. The State does not *need* these surface rights and, in the absence of such need, the California Transportation Commission ("CTC") cannot make the requisite determination that the described property is actually necessary for the proposed project.

3. **The State's Proposed Project Is Not Planned Or Located In The Manner That Will Be Most Compatible With The Greatest Public Good And The Least Private Injury.**

One of the necessity components that must be analyzed when considering the adoption of a resolution to authorize the taking of private property is whether the proposed project for which the property is sought to be taken is planned or located in a manner that is most compatible with the greatest public good and causes the least private injury. (Code Civ. Proc., § 1240.030, subd. (b).) In the absence of substantial evidence supporting such a finding, any Resolution of Necessity to condemn the described property interests will be invalid.

Here, the State seeks to acquire valuable surface rights to property that Public Storage presently needs for access to and circulation around the existing improvements at the subject property. While the State does not need the described surface rights for the construction and use of its project in the manner proposed, the resulting loss of essential access and circulation at the subject property will result in substantial damages both to the subject property and Public Storage's business operation thereon. Public Storage has attempted to work with the State to minimize the proposed project's anticipated impacts on the subject property and business, but the State has failed and/or refused to consider viable project alternatives that would reduce the damaging impacts to the subject property.

Because alternatives exist that would enable the State to achieve its project objectives at a greatly reduced private injury, the State must consider those alternatives before a determination can be made that the project as proposed is "most compatible with the greatest public good and the least private injury."

4. **The State Is Incapable Of Conducting A Fair, Legal, and Impartial Hearing On The Proposed Adoption Of The Resolution of Necessity.**

As a condition precedent to the exercise of the power of eminent domain, a public agency must hold a public hearing to determine whether a particular taking meets the public interest and necessity criteria articulated in Code of Civil Procedure § 1240.030. (Code Civ. Proc., § 1245.235.) If, after such public hearing, the public agency determines that the proposed taking meets that criteria, then it must adopt a resolution of necessity before proceeding to condemn the property. (Code Civ. Proc., §§ 1240.040, 1245.220.) Implicit in this requirement of a hearing and the adoption of a resolution of

necessity is the concept that, in arriving at its decision to take: (a) the agency will engage in a good faith and judicious consideration of the pros and cons of the issue; and (b) the decision to take will be buttressed by substantial evidence of the existence of the three basic requirements set forth in Code of Civil Procedure § 1240.030. (*Redevelopment Agency v. Norm's Slauson* (1985) 173 Cal.App.3d 1121, 1125-1126.) In the absence of a fair and impartial hearing, the resolution of necessity is void.

Here, the State appears to have already predetermined the outcome of the hearing even well before it was set. In this regard, it is believed that the State has devoted substantial resources and entered into specific agreements for the freeway expansion project, all of which were focused with the pre-determined assumption that certain portions of the subject property would be condemned in order to accommodate the expansion project. Accordingly, if the Resolution of Necessity is adopted, the hearing which led to its adoption will have been a pretense and the CTC's policy-making board will simply be "rubber stamping" a pre-determined result. Such an action would constitute more than a gross abuse of discretion; it would represent the elimination of any discretion whatsoever. Accordingly, if the Resolution is adopted, it will be subject to attack on this basis.

5. The Taking and Proposed Project Violate the Precepts of the California Environmental Quality Act (CEQA) Pub. Res. Code, §§ 21000, *et seq*; CEQA Guidelines §§ 15000, *et seq.*).

Though the CTC is attempting to acquire portions of the subject property for a freeway expansion project, the property owners are informed and believe that the State has ignored the fundamental precepts of CEQA entirely by failing to conduct a proper environmental analysis. The property owner is informed and believes that the State's CEQA analysis is inadequate and may potentially invalidate any subsequent eminent domain action.

Each of these objections previously was raised by Public Storage and made the subject of a Condemnation Review Panel Meeting. As the State evidently has elected to proceed with its acquisition of the described property interests irrespective of these objections, Public Storage does not see any reason to attend another Condemnation Review Panel Meeting that will focus upon the same issues and, in all likelihood, lead to the same result. Public Storage intends to maintain these objections for the purpose of any future proceedings by the State to condemn the above-described property interests and, therefore, requests that this letter be included as part of the formal record in any

proceeding by the CTC to adopt a resolution of necessity authorizing the condemnation of those parcels.

Based on the foregoing objections, the property owners request that the CTC not adopt the Resolution of Necessity.

Sincerely,

Michael L. D'Angelo

MLD:cv
cc via email: Andrew P. Nierenberg
Kirk Hsu

DEPARTMENT OF TRANSPORTATION
Right of Way Division
100 S. Main Street
Los Angeles, CA 90012
PHONE (213) 897-1901
FAX (213) 897-5603

Flex your power!
Be energy efficient!

February 25, 2011

Mr. Michael L. D'Angelo
Law Offices of Palmieri, Tyler, Wiener, Wilhelm & Waldron, LLP
2603 Main Street
Irvine, CA 92614-42816

VIA CERTIFIED MAIL

07-LA-405-P.M. 29.8
EA: 120309
Parcel No. 79621-1, -2, -3
APN: 4256-010-011
Grantor: Public Storage Pickup & Delivery, L.P.

Re: **Public Storage**
11200 W. Pico Blvd., Los Angeles, CA 90064

Dear Mr. D'Angelo:

This letter is in response to your letter dated February 17, 2011. In your letter, you addressed specific concerns and objections to the California Transportation Commission's (hereinafter "CTC") proposed action on several grounds regarding the above referenced parcel.

The following is the State of California, Department of Transportation's ("Department") response to the concerns and objections set forth in your letter:

1. **The State's Proposed Resolution of Necessity Fails to Define Exactly the Property Interests Sought to be Condemned.**

Per our Right of Way Engineering calculations, the legal descriptions dated September 7, 2010 are true and accurate as to defining the property interests that are required for the proposed project. After receipt of your recent letter, the maps and legal descriptions were resubmitted to our Right of Way Engineering department on February 24, 2011 and were verified to be correct.

ATTACHMENT D

2. **The Property Sought to Be Acquired is Not Necessary for the Project.**

As previously discussed, the fee requirement is necessary to accommodate the bridge and the footing, and the temporary construction easement is necessary for construction activities. The aerial easement is required as per the mandatory standard in section 309.4 of the Highway Design Manual "Lateral Clearance for Elevated Structures," which states that an adequate clearance must be provided for maintenance, repair, construction, or reconstruction of adjacent buildings and of the structure; to avoid damage to the structure from a building fire or to the buildings from a vehicle fire; and to permit operation of equipment for fire fighting and other emergency teams. As such, surface rights are a necessary component of the proposed aerial easement which is needed for the project.

3. **The State's Proposed Project is Not Planned or Located in the Manner That Will Be Most Compatible with the Greatest Public Good and the Least Private Injury.**

The overall purpose of the project is to increase the capacity of the Interstate 405 freeway in order to improve mobility for motorists and improve safety and access. The work involves the addition of one northbound HOV lane between the Interstate 10 and US-101 freeways; removal and replacement of the Skirball Center Drive, Sunset Boulevard, and Mulholland Drive bridges; realignment of 27 key on and off ramps; widening of 13 existing under-crossings and structures; and construction of approximately 18 miles of retaining and sound walls.

Segmenting a larger project is done with the greatest public good and least private injury in mind. The State plans a large project such as this in phases or segments in order to manage the construction and the funding efficiently. Closing all ramps at once for the approximate 12½ mile stretch would create great damage to the communities and the businesses in the area. The traffic circulation problems would be prolonged as well. Also, the start of the project may be delayed because of the additional time that would be needed to obtain possession of all the required right of way which is necessary prior to the award of the construction contract.

The manner in which the Interstate 405 Project is planned is basically reducing the impact on the communities as well as reducing the impact on the right of way activities on this parcel.

4. **The State is Incapable of Conducting a Fair, Legal and Impartial Hearing on the Proposed Adoption of the Resolution.**

You have cited *Redevelopment Agency v. Norm's Slauson* (1985) 173 Cal.App.3d 1121, for the proposition that the State's actions regarding the Interstate 405 Project, specifically your client's property, is a "predetermined result" such that the hearing before the CTC would be a pretense resulting in a rubber stamping of the project.

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No similar facts exist with respect to the Interstate 405 Project. A portion of your client's property is necessary for a public project which is necessary for a public purpose and the acquisition of the particular property is compatible with the greatest public good and the least private injury (Code of Civil Procedure, section 1245.235). The Department is not engaged in a private sale of the affected property, as was the case in *Norm's Slauson*. The Department has held public meetings, and has and continues to solicit public input and work to find solutions to mitigate or minimize impact due to the project.

There is no "predetermined result" for the Interstate 405 Project. The CTC, which is responsible for adopting the Resolution of Necessity, is an independent public agency whose members are appointed by the Governor, the Senate Rules Committee and the Speaker of the Assembly. The CTC neither rubber stamps or has a predetermined result when a Resolution of Necessity is presented. The CTC is dedicated to ensuring a safe, financially sustainable, world-class multimodal transportation system.

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1. The public interest and necessity require the project.
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3. The property sought to be condemned is necessary for the project.

In arriving at its decision, the State has and continues to engage in a good faith and judicious consideration of the pros and cons of the issue and believes that the decision to take is buttressed by substantial evidence of the existence of the three basic requirements set forth in Code of Civil Procedure, section 1240.30.

5. The Taking and Proposed Project Violate the Precepts of the California Environmental Quality Act (CEQA) Pub. Res. Code, §§ 21000, *et seq*; CEQA Guidelines §§ 15000, *et seq*.).

The subject property (APN 4256-010-011) was identified in the I-405 Sepulveda Pass Widening Project Draft EIR/EIS as a partial acquisition in Appendix H: Right-of-Way Impacts.

The comment period for the I-405 Sepulveda Pass Widening Project Draft EIR/EIS was extended to October 1, 2007 completing a 133-day public review period which commenced on May 22, 2007. CEQA and NEPA require up to 60 days. Below is a timeline of the circulation of the Draft EIR/EIS to the approval of the Final EIR/EIS:

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• End of Statute of Limitations	November 17, 2008

Pursuant to Section 15162 of the CEQA Guidelines, the Department has made the decision not to prepare a subsequent EIR on the basis that substantial evidence in the light of the whole record does not introduce new significant environmental effects or a substantial increase in the severity of previously identified significant effects.

If you have any questions, please feel free to contact Kirk Hsu at (213) 897-0780.

Very truly yours,

ANDREW P. NIERENBERG
Deputy District Director
Right of Way
Department of Transportation
Caltrans – District 7

Enclosure

Parcel 79621-1

For freeway purposes, that portion of Parcel A in the City of Los Angeles, County of Los Angeles, State of California, as shown on Parcel Map L.A. 3450, filed in Book 91, pages 83 to 85 inclusive of Parcel Maps, in the Office of County Recorder of said county, described as follows:

Beginning at the most Westerly corner of said parcel; thence along the Southwesterly line thereof, S 32° 45' 53" E, 19.72 feet to a non tangent curve concave Northeasterly, having a radius of 1800.00 feet, a radial of said curve to said point bears S 61° 34' 48" W; thence Northwesterly along said curve through a central angle of 0° 37' 40", an arc length of 19.73 feet to the Southeasterly line of Pico Boulevard, 100.00 feet wide, as shown on said map; thence along said Southeasterly line S 59° 29' 33" W, 1.60 feet to the point of beginning.

Lands abutting said freeway shall have no right or easement of access thereto.

Parcel 79621-2

For freeway purposes, an aerial easement and right of way to construct, reconstruct, replace, widen, improve, inspect, test, maintain, repair, retrofit, operate or remove a freeway viaduct, supporting columns and footings, including any and all appurtenances thereto, over, under, upon and across those portions of Parcel A and C in the City of Los Angeles, County of Los Angeles, State of California, as shown on Parcel Map L.A. 3450, filed in Book 91, pages 83 to 85 inclusive of Parcel Maps, in the Office of County Recorder of said county, described as follows:

Beginning at a point on the Southwesterly line of said Parcel A, distant thereon S 32° 45' 53" E, 19.72 feet from the most Westerly corner thereof, said point being the beginning of a non tangent curve concave Northeasterly, having a radius of 1800.00 feet, a radial of said curve to said point bears S 61° 34' 48" W; thence Northwesterly along said curve through a central angle of 0° 37' 40", an arc length of 19.73 feet to the Southeasterly line of Pico Boulevard, 100.00 feet wide, as shown on said map; thence along said Southeasterly line, N 59° 29' 33" E, 23.45 feet; thence leaving said Southeasterly line S 30° 39' 18" E, 245.62 feet to a point on the Northerly line of Southern Pacific Company (Santa Monica Branch), 93.00 feet wide, as shown on said map, said point being on a curve concave Southerly having a

radius of 14374.00 feet, a radial of said curve to said point bears N 13° 00' 32" W; thence Westerly along said Northerly line and said curve, through a central angle of 0° 04' 04", an arc distance of 16.99 feet to the most Southerly corner of said Parcel C; thence N 32° 45' 53" W, 220.98 feet along the Southwesterly lines of said Parcel A and C to the point of beginning.

ALSO, TOGETHER with non-exclusive right of access to the aerial easement hereinabove described for the purpose of inspection, maintaining, retrofitting and repairing said freeway structures and for inspecting the uses made of the land under the aerial easement by way of such roads or passageways as may now or hereafter exist on owner's remaining property; provided, however, that State's exercise of such right of access shall not unreasonably interfere with owner's use of such roads or passageways.

RESERVING unto owner, its successors and assigns, lessees and licensees all rights in and to the airspace at an elevation higher than a plane parallel with and 9 meters above the roadway surface of said freeway structure as originally constructed, provided, that the use of such space shall not interfere with the enjoyment, safety and compatibility of said aerial easement, provided further, that owner, its lessees and/or licensees shall first secure such encroachment permits as may be required by law, which permits shall not be unreasonably withheld. Encroachment permits issued to owner or its subsidiaries or affiliated companies, shall have designated across the face thereof "For Notice of Record Purposes Only"; provided however, that in case of any subsequent conveyance by owner, its subsidiaries or affiliated companies, such facilities and installations shall be subject to a standard encroachment permit.

ALSO RESERVING unto owner, its successors and assigns, the general right to use and enjoy the area of land under the aerial easement hereinabove described. The general right to use and enjoy said land by owner, its successors and assigns, shall however, be subject to the following limitations and conditions:

1. No use may be made of the area of land under the aerial easement hereinabove described which would impair the full use and safety of said freeway structure, or would otherwise interfere with the free flow of traffic thereon or would unreasonably impair the maintenance thereof.
2. No use may be made of the area of land under said aerial easement hereinabove described for the manufacture or storage of flammable, volatile, explosive or corrosive substances, and such

substances shall not be brought onto said land except in such quantities as are normally required for the maintenance operations of occupants of said land and except as may be transported by rail or pipelines. Installation of any pipelines carrying volatile substances shall have the written approval of the State as to the safety and compatibility with freeway purposes and such discretion shall not be exercised in a capricious or arbitrary manner. The use of any such substances shall be in conformance with all applicable code requirements.

3. No hazardous or unreasonably objectionable smoke, fumes, vapors, dust or odors shall be permitted, which would adversely affect the use or maintenance of said freeway or the traveling public thereon.
4. No building of combustible construction shall hereafter be constructed on the area of land under the aerial easement hereinabove described. The State shall be given the opportunity to review and approve plans for any construction within said aerial easement area 60 days prior to said construction. No buildings, no permanent structures, and no advertising displays, may be constructed within 2.5 meters of the undersides nor within 4.5 meters (measured horizontally) of the sides of said freeway structure without the express written approval of the State. The State shall have the discretion to determine whether such proposed construction will be inimical to or incompatible with the full enjoyment of the public rights in the freeway or against the public interest, but such discretion shall not be exercised in a capricious or arbitrary manner.

Lands abutting said freeway shall have no right or easement of access thereto.

Parcel 79621-3

For freeway purposes, a temporary construction easement in and to that portion of Parcel A in the City of Los Angeles, County of Los Angeles, State of California, as shown on Parcel Map L.A. 3450, filed in Book 91, pages 83 to 85 inclusive of Parcel Maps, in the Office of County Recorder of said county, described as follows:

Beginning at a point on the Southwesterly line of said parcel distant thereon S 32° 45' 53" E, 19.72 feet from most Westerly corner thereof, said point being the beginning of a non tangent curve concave

Northeasterly, having a radius of 1800.00 feet, a radial of said curve to said point bears S 61° 34' 48" W; thence Northwesterly along said curve through a central angle of 0° 37' 40", an arc length of 19.73 feet to the Southeasterly line of Pico Boulevard, 100.00 feet wide, as shown on said map; thence along said Southeasterly line, N 59° 29' 33" E, 17.52 feet; thence leaving said Southeasterly line S 28° 57' 51" E, 27.25 feet; thence S 13° 15' 25" E, 23.64 feet, thence S 30° 35' 07" E, 13.36 feet; thence S 59° 13' 22" W, 8.91 feet to the Southwesterly line of said parcel; thence along said Southwesterly line N 32° 45' 53" W, 43.55 feet to the point of beginning.

The above described parcel of land is to be used for temporary construction purposes and incidents thereto in connection with the construction of Route 405 freeway project designated 07-LA-405-PM 29.8 (KP 48.0) on maps in the office of the Department of Transportation, State of California, at Los Angeles, California, and the rights to be acquired therein shall cease and terminate not later than December 31, 2013.

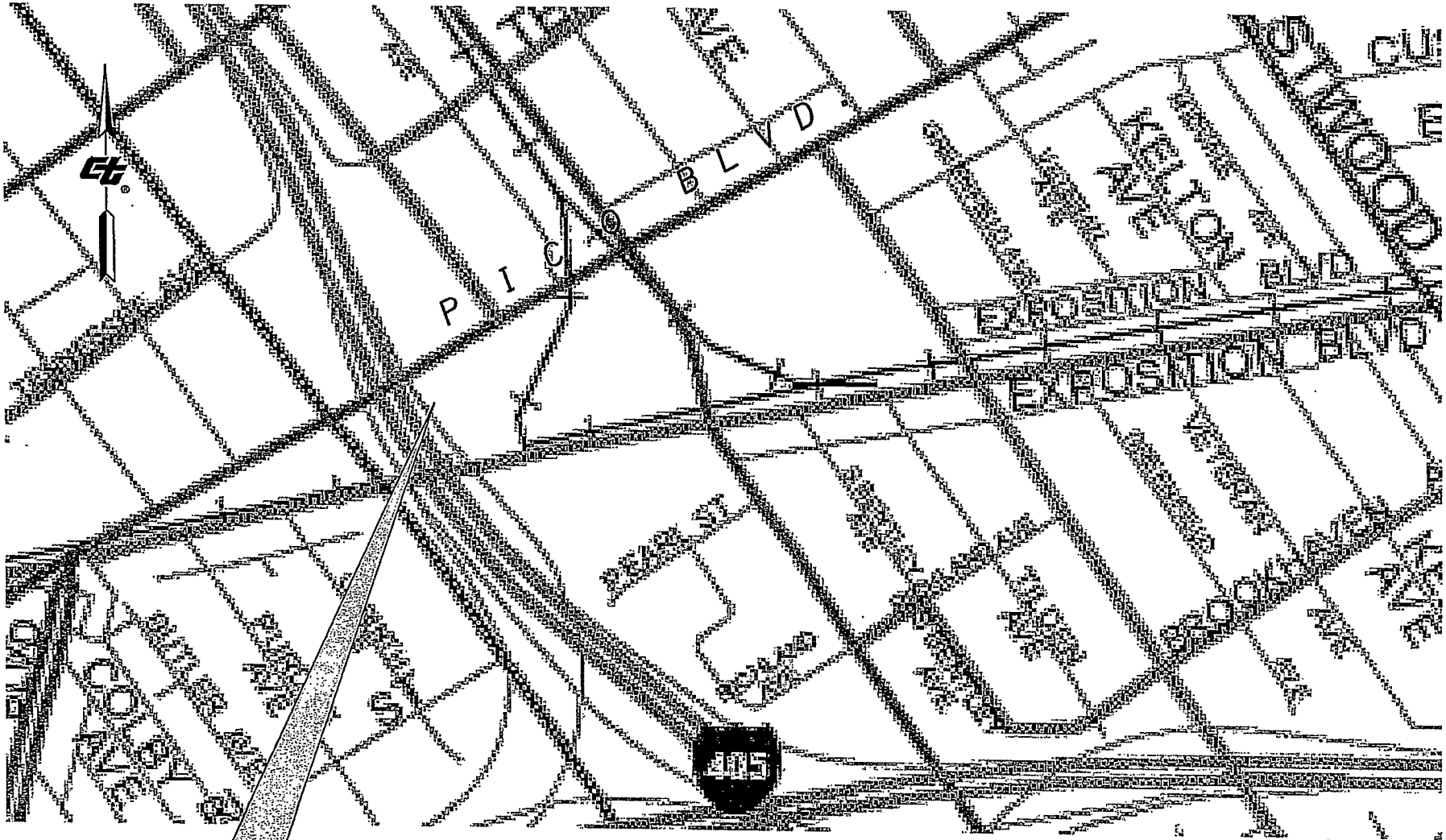
This real property description has been prepared by me, or under my direction, in conformance with the Professional Land Surveyors' Act.

Signature: Kilyong Yi

Date: 9/07/10

79621

PROFESSIONAL LAND SURVEYOR
KILYONG K. YI
Exp. 12/31/10
No. L6428
STATE OF CALIFORNIA



NOTE: The State of California or its officers or agents shall not be responsible for the accuracy or completeness of digital images of this map.

STATE OF CALIFORNIA
BUSINESS, TRANSPORTATION AND HOUSING AGENCY
DEPARTMENT OF TRANSPORTATION

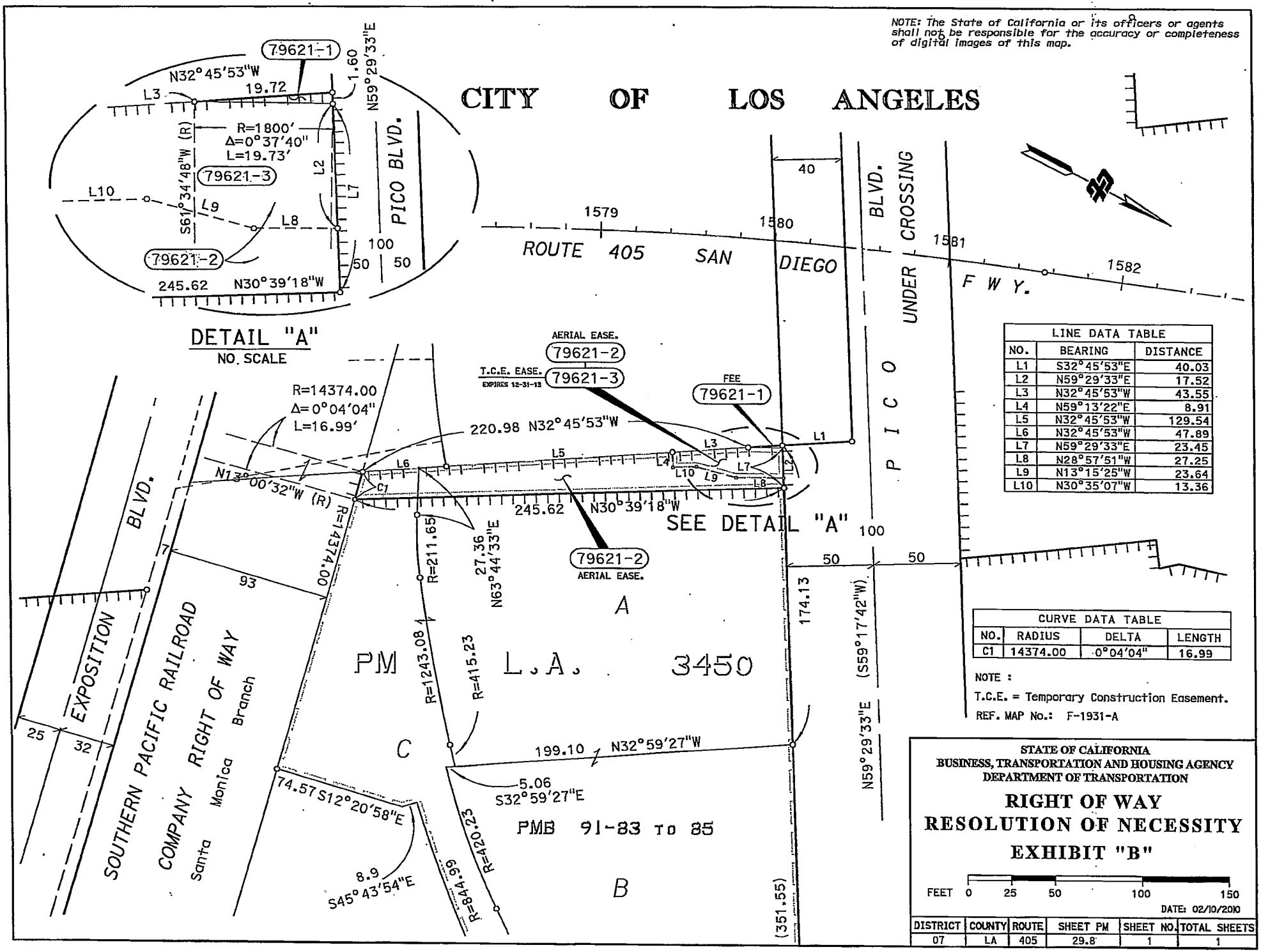
RIGHT OF WAY
RESOLUTION OF NECESSITY

EXHIBIT A

NOT TO SCALE

DISTRICT	COUNTY	ROUTE	SHEET PM	SHEET NO.	TOTAL SHEETS
07	LAV	405	29.8	1	

NOTE: The State of California or its officers or agents shall not be responsible for the accuracy or completeness of digital images of this map.



LINE DATA TABLE		
NO.	BEARING	DISTANCE
L1	S32°45'53"E	40.03
L2	N59°29'33"E	17.52
L3	N32°45'53"W	43.55
L4	N59°13'22"E	8.91
L5	N32°45'53"W	129.54
L6	N32°45'53"W	47.89
L7	N59°29'33"E	23.45
L8	N28°57'51"W	27.25
L9	N13°15'25"W	23.64
L10	N30°35'07"W	13.36

CURVE DATA TABLE			
NO.	RADIUS	DELTA	LENGTH
C1	14374.00	0°04'04"	16.99

NOTE :
T.C.E. = Temporary Construction Easement.
REF. MAP No.: F-1931-A

STATE OF CALIFORNIA
BUSINESS, TRANSPORTATION AND HOUSING AGENCY
DEPARTMENT OF TRANSPORTATION

RIGHT OF WAY
RESOLUTION OF NECESSITY
EXHIBIT "B"

FEET 0 25 50 100 150

DATE: 02/10/2010

DISTRICT	COUNTY	ROUTE	SHEET PM	SHEET NO.	TOTAL SHEETS
07	LA	405	29.8	1	1

Resolution of Necessity Appearance Fact Sheet

PROJECT DATA	07-LA-405-PM 28.8/39.0 Expenditure Authorization 120309
Location:	Interstate 405 (I-405) in Los Angeles County in the city of Los Angeles
Limits:	Between I-10 and State Route 101
Cost:	Programmed construction cost: $876,000,000.00 Current right of way cost estimate: $82,000,000.00
Funding Source:	American Recovery and Reinvestment Act of 2009, Traffic Congestion Relief Program, Regional Surface Transportation Program, Proposition 1B, Local Funds, and the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users
Number of Lanes:	Existing: five mixed-flow lanes in each direction, one southbound high occupancy vehicle (HOV) lane Proposed: five mixed-flow lanes and one HOV lane in each direction
Proposed Major Features:	Interchanges at Santa Monica, Wilshire, Sunset, Ventura, and Valley Vista/Sepulveda Boulevards, Moraga, Getty Center, and Skirball Center Drives; an additional 10-mile HOV lane on northbound I-405 between I-10 and Route 101 freeways; removal and replacement of the Skirball Center Drive, Sunset Boulevard, and Mulholland Drive bridges; realignment of 27 key on and off ramps; widening of 13 existing under-crossings and structures; construction of approximately 18 miles of retaining and sound walls
Traffic:	Existing I-405 (year 2010): 299,100 Annual Daily Traffic (ADT) Proposed I-405 (year 2033): 400,800 ADT
PARCEL DATA	
Property Owner:	Public Storage Pickup & Delivery, L.P., a California limited partnership
Parcel Location:	11200 West Pico Boulevard, Los Angeles Assessor Parcel Number 4256-010-011
Present Use:	Four-Story Self-Storage Facility Zoned M2-1-O: Light Industrial, Height + Oil Drilling District
Area of Property:	101,337 Square Feet (SF)
Area Required:	Parcel 79621-1 - 15 SF - Fee Parcel 79621-2 - 4,986 SF - Aerial Easement Parcel 79621-3 - 906 SF - Temporary Construction Easement