

APPENDIX JJ – Preparation Guidelines for Resolution of Necessity

ARTICLE 1 Resolution of Necessity Appearance Fact Sheet

The fact sheet should be kept to a single page. The design unit usually completes the project data portion while the right-of-way unit completes the parcel data portion. Standard wording is typed in regular typeface and project-specific wording and guidance is typed in italics. The following is the fact sheet template with the project identifiers placed in the header and the date added to the footer.

*District - County - Route - Begin Post Mile/End Post Mile
Expenditure Authorization (EA) – Project Number*

Resolution of Necessity Appearance Fact Sheet

PROJECT DATA

| | |
|-------------------------|---|
| <u>Location:</u> | <i>What highway in what county or city</i> |
| <u>Limits:</u> | <i>Between what major streets or landmarks</i> |
| <u>Contract Limits:</u> | <i>Use if project is broken down into several contracts</i> |
| <u>Cost:</u> | <i>Capital outlay right-of-way cost estimate and capital outlay construction cost estimate</i> |
| <u>Funding Source:</u> | <i>State (includes Federal-aid), local, or other such as: State Transportation Improvement Program (STIP) or State Highway Operation and Protection Program (SHOPP)</i> |
| <u>Number of Lanes:</u> | <i>Number of lanes; designate between mixed flow and high-occupancy vehicle Existing: Proposed:</i> |

Proposed Major Features: Interchanges: *List each street having an interchange*
Other: *Such as high-occupancy vehicle (HOV) interchanges, frontage roads, city street widening or shoulder widening that is affecting parcel*

Traffic Volumes: Existing (year): average daily traffic (ADT)
Proposed (year): average daily traffic (ADT)

PARCEL DATA

Property Owner: *Name of owner(s)*

Parcel Location: *For example: 12 First Avenue, Any Town, California; at the corner of First Avenue and Main Street, west of Route 99*

Present Use: *Residential, agricultural, industrial, business district; approximate number of tenants, General Plan zoning*

Area of Property: *Total area of larger parcel in acres or square feet*

Area Required: *List each sub-parcel number, the corresponding area of acquisition, type of acquisition (fee, easement, etcetera) in acres or square feet*

ARTICLE 2 Appearance Information Sheet

Standard wording is typed in regular typeface and project-specific wording and guidance is typed in italics. The following is the information sheet template with the project identifiers and owner's name placed in the header and the date added to the footer.

*District - County - Route - Begin Post Mile/End Post Mile
Expenditure Authorization (EA) – Project Number
Property Owner's Name*

Appearance Information Sheet

Under the eminent domain law, a property owner whose property is to be considered for a resolution of necessity has the right to appear before the California Transportation Commission (CTC) to question whether:

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

The CTC has no jurisdiction to set compensation or deal with issues other than those specifically listed above.

The CTC should expect an appearance at its (suggested CTC meeting date) meeting by (owner or representative) opposing the proposed acquisition of (briefly describe extent and type of acquisition) . *(Briefly state the project for which the acquisition is needed and the relationship of the needed property to the overall area in acres or square feet of the ownership.)* The full amount of the approved appraisal has been offered to (owner) .

PARCEL DESCRIPTION

Describe any pertinent features of the parcel—how used, area in square feet and acres, topography, buildings, access, etcetera.

Give the status of other parcels required for the project: total parcels needed; number of parcels acquired; number of parcels under order for possession; and number of other owners expected to request appearance before the CTC.

PROPERTY OWNER’S CONCERNS

Provide a listing of the owner’s primary concerns: compensation; design features; timing of the acquisition; lack of replacement housing; etcetera.

Quote or paraphrase the property owner’s objections to the project.

Give a description of any design or right-of-way modifications suggested by the owner.

DISTRICT’S RESPONSE

Include the district’s response to each concern or objection and the district’s opinion on the feasibility of the owner’s suggestions and the basis for the district opinion (why they are or are not feasible).

NEED FOR PROJECT

Give the reasons why the overall project is necessary—including, as appropriate, a description of the existing highway, current and design year traffic volumes, accident data and statewide rates, other warrants, etcetera. Discuss the project’s priority in relation to other projects in the district or region.

PROJECT PLANNING AND LOCATION

Describe the proposed project. Include historical background as appropriate. Give dates of project report and environmental document approval, current construction cost, State Transportation Improvement Program (STIP) or State Highway Operation and Protection Program (SHOPP) programming, source of funding, right-of-way certification date, Ready to List (RTL) date and tentative advertising date.

Give the reasons for the specific project location and/or design requirements. Discuss alternatives that were considered and the reasons for their rejection.

Describe other alternatives to the proposed acquisition that have been considered by the district (such as: modified access control, construction obligations to offset concerns, a lesser project, etcetera).

NEED FOR SUBJECT PROPERTY

Discuss the need for acquiring the individual parcel—could it be avoided? Discuss whether or not the project's impact on the owner's property could be lessened by reducing or modifying the planned right-of-way acquisition. What would be the effects of avoiding the parcel on costs and on impacts to other properties and facilities?

Include other pertinent factors.

DISCUSSION

This section should discuss other issues raised by the property owner or contain more detailed elaboration of the issues of project need, location, and design where challenged by the property owner.

Give the district's opinion of the potential for settling the parcel prior to the CTC meeting.

Provide an assessment of the willingness/availability of the owner to meet with the district (due to business, employment, or other reasons).

DISTRICT CONTACT LIST

Identify the appropriate contact person(s) in district right-of-way and design functions who can provide additional detailed information on the project (such as: right-of-way agent, project manager, etcetera.), including mailing information and phone numbers. If the district elects to identify a project point person as a single point of contact, please include here.

DISTRICT’S REQUEST FOR CONDEMNATION PANEL REVIEW MEETING

I have personally reviewed the attached documents and have actively participated in the District Condemnation Evaluation Meeting and the development of the District’s position that requires the proposed property acquisition. I agree with the project and parcel needs as described and attest to the accuracy of the information enclosed. I recommend that the District Director summon the Condemnation Panel to begin review of this project.

Deputy District Director, Right-of-Way

Deputy District Director, Design

I have personally reviewed the attached documents and have actively participated in the development of the District’s position that requires the proposed property acquisition. I agree with the project and parcel needs as described and attest to the accuracy of the information enclosed.

By way of this Appearance Information Sheet, I summon the Condemnation Panel to begin review of this project in pursuit of a Resolution of Necessity action through the CTC.

DISTRICT DIRECTOR

(District Director or a Deputy District Director from the district/region) will be the district’s representative to attend the CTC meeting where the Resolution of Necessity action will be presented. It is understood that this representative will conduct the presentation before the CTC if the Assistant Chief Engineer is not available, and must be able to address project history and local issues if raised by the Commissioners or the property owner. This representative will also be an active participant during the draft presentation at the Headquarters Resolution of Necessity Dry Run.

ATTACHMENTS:

| | |
|----------------|--|
| Project Map | <i>Furnish a clear print of the project title sheet. The location of the subject parcel is to be indicated on the print.</i> |
| Parcel Map | <i>Furnish a clear print showing relationship of the property needed to the total parcel and overall right-of-way requirements. Important topographic features should be shown, including planimetrics.</i> |
| Plan Sheets | <i>Furnish clear prints of plan sheets on 500:1 scale with geometric designs as necessary to illustrate issues.</i> |
| Chronology | <i>A chronology of official contacts or attempted contacts with the property owner (or representative) involving acquisition and formal offers must be included with this Appearance Information Sheet (AIS). Include also major project events accomplished and scheduled, including: public hearing date, environmental document approval date, right-of-way certification date, Ready to List date, advertising date, contract award date, and project completion date.</i> |
| Project Report | <i>Furnish a copy of the approved project report or appropriate scoping document along with any supplemental documents to support the current project purpose-and-need. Include all project report attachments identified in Appendix K – Preparation Guidelines for Project Report (especially the environmental document and the right-of-way data sheet).</i> |

Displays for CTC meetings will be developed by the districts from modified or enlarged project and parcel maps obtained from computer-aided design and drafting (CADD) files, or may be special combinations thereof to best illustrate the issues involved. Contact the Headquarters Division of Design Chief, Office of Project Support or the Assistant Chief Engineer to discuss special situations.