

MEMORANDUM

To: CHAIR AND COMMISSIONERS
CALIFORNIA TRANSPORTATION COMMISSION

CTC Meeting: August 14-15, 2019

From: STEVEN KECK, Chief Financial Officer

Reference Number: 2.4e., Action Item

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

Subject: **RESCINDING RESOLUTIONS OF NECESSITY**

ISSUE:

Should the California Transportation Commission (Commission) adopt Resolutions of Necessity (Resolutions) CR-163 and CR-164, rescinding Resolutions C-21441 and C-21444, because condemnation lawsuits were never filed under the authority of the adopted Resolutions?

RECOMMENDATION:

The California Department of Transportation (Department) recommends the Commission adopt Resolutions CR-163 and CR-164. In accordance with Department requirements, the owners have been advised that the Department is requesting rescission of Resolutions C-21441 and C-21444 as summarized below.

BACKGROUND:

Resolutions C-21441 and C-21444 were adopted by the Commission on March 16, 2016 for Segment 13 of the State Route (SR) 138 widening project in Los Angeles County. These Resolutions authorized condemnation of land in fee for State highway purposes and underlying fee. Subsequent to the adoption of these Resolutions, funding for the project was withdrawn. As such, the Department cancelled all activities associated with the project, including condemnation. Based on the above, it is requested that these Resolutions be rescinded because the Department never filed condemnation lawsuits under the authority of the adopted Resolutions.

CR-163 - Aim High, LLC a Limited Liability Co.

07-LA-138-PM 69.3 - Parcel 76490-1 - EA 286309.

Right of Way Certification (RWC) Date: 07/23/21; Ready to List (RTL) Date: 07/30/21.

Conventional highway - widen conventional highway. Rescinds Resolution of Necessity

C-21441, adopted March 16, 2016, which Resolution authorized condemnation of land in fee

for a State highway and underlying fee. Resolution C-21441 is rescinded because no

condemnation lawsuit was ever filed under the authority of the adopted Resolution. Located in

the town of Llano between SR 138 and SR 18.

Assessor's Parcel Number (APN) 3033-016-047.

CR-164 - Aim High, LLC a Limited Liability Co.

07-LA-138-PM 69.8 - Parcel 77191-1 - EA 286309.

RWC Date: 07/23/21; RTL Date: 07/30/21. Conventional highway - widen conventional

highway. Rescinds Resolution of Necessity C-21444, adopted March 16, 2016, which

Resolution authorized condemnation of land in fee for a State highway and underlying fee.

Resolution C-21444 is rescinded because no condemnation lawsuit was ever filed under the

authority of the adopted Resolution. Located in the town of Llano, southeast of the SR 138

and SR 18 junction. APN 3033-016-051.

Attachments

1 **TRANSPORTATION COMMISSION**
2 **RESOLUTION NO.**

3 **CR-163**

4 CALIFORNIA TRANSPORTATION COMMISSION
5 RESOLUTION RESCINDING RESOLUTION OF NECESSITY NO. C-21441
6 ADOPTED March 16, 2016, PROJECT 07-LA-138

7 RESOLVED, that the action of the California Transportation Commission taken on
8 March 16, 2016, in adopting Resolution of Necessity No. C-21441 as to parcel 76490-1
9 therein, which resolution authorized condemnation of land in fee for a State Highway and
10 underlying fee, located in the County of Los Angeles, 07-LA-138, is hereby rescinded.

11
12
13
14
15
16
17
18
19
20
21
22
23 **APPROVED AS TO FORM AND PROCEDURE**

APPROVAL RECOMMENDED

24 _____
Attorney, Department of Transportation

DIVISION OF RIGHT OF WAY

C-21441

CTC

MAR 16 2016

CALIFORNIA
TRANSPORTATION COMMISSION

CALIFORNIA TRANSPORTATION COMMISSION
RESOLUTION OF NECESSITY
TO ACQUIRE CERTAIN REAL PROPERTY
OR INTEREST IN REAL PROPERTY BY EMINENT DOMAIN
HIGHWAY 07-LA-138-PM 69.3 PARCEL 76490-1
OWNER: Aim High, LLC a Limited Liability Co.

Resolved by the California Transportation Commission after notice (and hearing) pursuant to Code of Civil Procedure Section 1245.235 that it finds and determines and hereby declares that:

The hereinafter described real property is necessary for State Highway purposes and is to be acquired by eminent domain pursuant to Streets and Highways Code Section 102; Code of Civil Procedure Section 1240.510 in that the property being acquired is for a compatible use; and Code of Civil Procedure Section 1240.610 in that the property is required for a more necessary public use;

The public interest and necessity require the proposed public project, namely a State highway;


The proposed project is planned and located in the manner that will be most compatible with the greatest public good and the least private injury;

The property sought to be acquired and described by this resolution is necessary for the public project;

The offer required by Section 7267.2 of the Government Code has been made to the owner or owners of record; and be it further

APPROVED AS TO FORM AND PROCEDURE

APPROVAL RECOMMENDED

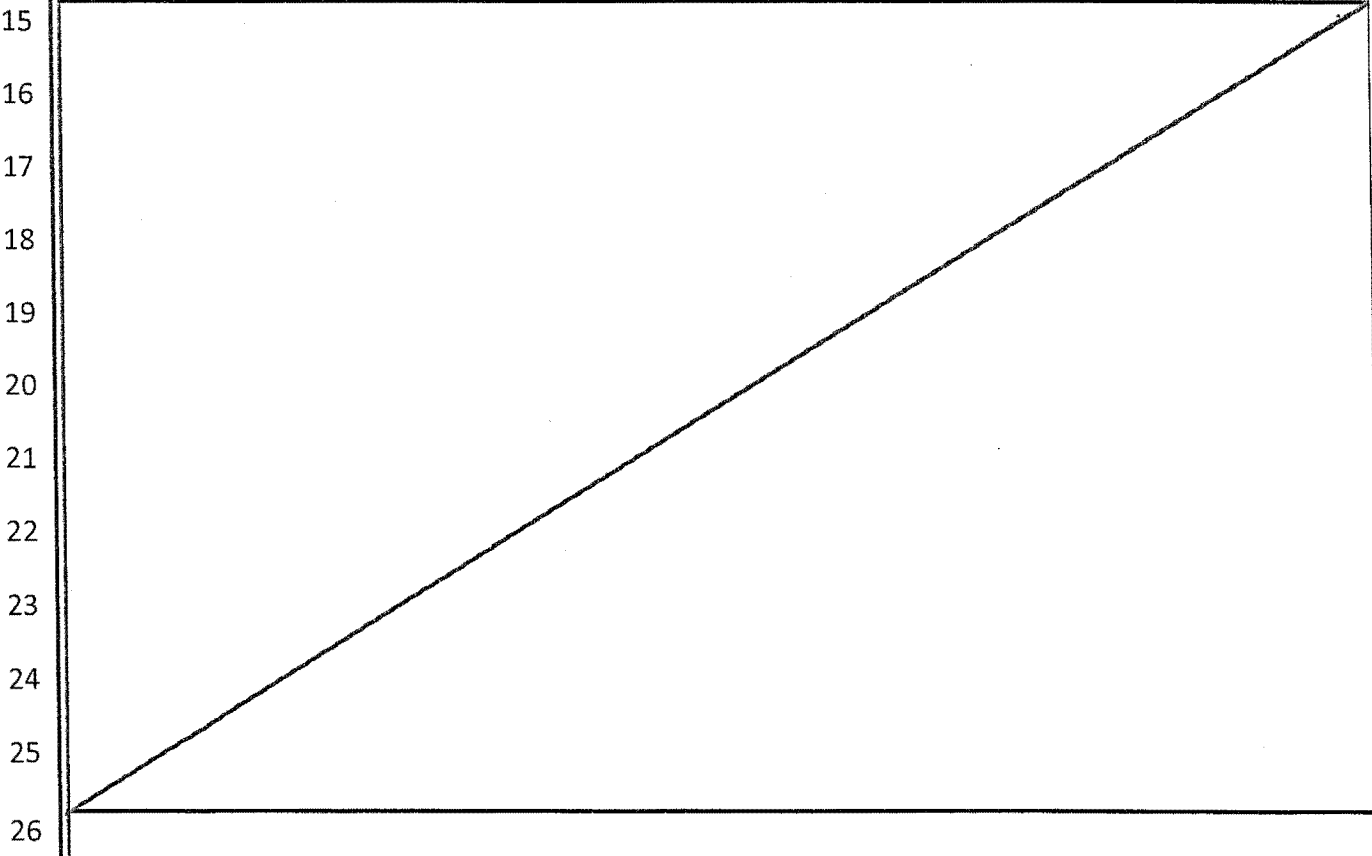

Attorney, Department of Transportation


DIVISION OF RIGHT OF WAY

1 RESOLVED by this Commission that the Department of
2 Transportation be and said Department is hereby authorized and
3 empowered;

4 To acquire, in the name of the People of the State of
5 California, in fee simple absolute, unless a lesser estate is
6 hereinafter expressly described, the said hereinafter described
7 real property, or interests in real property, by condemnation
8 proceeding or proceedings in accordance with the provisions of the
9 Streets and Highways Code, Code of Civil Procedure and of the
10 Constitution of California relating to eminent domain;

11 The real property or interests in real property, which the
12 Department of Transportation is by this resolution authorized to
13 acquire, is situated in the County of Los Angeles, State of
14 California, Highway 07-LA-138 and described as follows:



TITLE SHEET
(Resolution of Necessity Description)

District	County	Route	Post Mile
07	LA	138	69.3

Project ID 0713000216

Legal descriptions for the parcels listed below are attached.

This document consists of a total of 3 pages.

Parcels in Legal Description: <insert parcel numbers>					
76490-1					

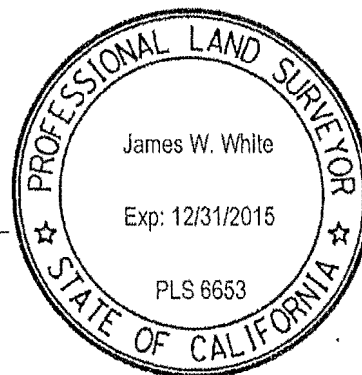
The attached real property description has been prepared by me, or under my direction, in conformance with the Professional Land Surveyors' Act.

Signature

James W. White
Professional Land Surveyor

Date

11/16/2015



RESOLUTION OF NECESSITY DESCRIPTION

PARCEL 76490-1:

For State Highway purposes, that portion of Parcel 2, in the County of Los Angeles, State of California as conveyed in a deed recorded September 22, 2005 as Instrument No. 05-2284715, Official Records, in the Office of the Registrar-Recorder/County Clerk of said county, described as follows:

Part "A"

All that land lying Northerly of the following described line:

Commencing at the intersection of the center line of 213th Street East, with the center line of Pearblossom Highway, said intersection also being the Northwest corner of Section 29, Township 5 North, Range 8 West, San Bernardino Meridian, according to the Official plat of said land; thence Easterly along said center line of Pearblossom Highway, said center line also being the North line of the Northwest quarter of said Section 29, N 89° 39' 25" E, 1,324.64 feet to the Northwest corner of the Northeast quarter of the Northwest quarter of said Section 29; thence Southerly along the West line of the Northeast quarter of the Northwest quarter of said Section 29, S 00° 29' 00" E, 216.35 feet to the BEGINNING OF THE DESCRIBED LINE; thence S 87° 28' 50" E, 148.90 feet to a tangent curve, concave Southerly and having a radius of 1,835.00 feet; thence Easterly along said curve through a central angle of 16° 39' 39", a length of 533.59 feet; thence tangent to said curve, S 70° 49' 11" E, 340.82 feet to a tangent curve, concave Northerly and having a radius of 2,175.00 feet; thence Easterly along said curve through a central angle of 18° 45' 58", a length of 712.38 feet; thence tangent to said curve, S 89° 35' 09" E, 1154.56 feet to a tangent curve, concave Northerly and having a radius of 2,175.00 feet; thence Easterly along said curve through a central angle of 16° 03' 13", a length of 609.41

feet; thence tangent to said curve, N 74° 21' 38" E, 547.55 feet to the East line of Northeast quarter of said Section 29; END OF DESCRIBED LINE.

The above described land shall be bounded Southwesterly by the Northeasterly line of the Antelope Highway, 150.00 feet wide, and Easterly by the East line of the Northeast quarter of said Section 29.

TOGETHER with underlying fee interest, if any, contiguous to the above described property, in and to the adjoining public way.

Part "B"

TOGETHER with the above described Part "A," being a 90.00 foot wide strip of land, the Southwesterly boundary of said strip being coincident with the Northeasterly boundary of Antelope Highway, being 150.00 feet wide, as described in Book 13604, page 102 in the Office of the Registrar-Recorder/County Clerk of said county.

The sidelines of the above described strip shall be lengthened or shortened so as to terminate Northwesterly with that land described above in Part "A" and Southeasterly with the Easterly line of said Section 29.

TOGETHER with underlying fee interest, if any, contiguous to the above described property, in and to the adjoining public way.

The bearings and distances used in this description are on the California Coordinate System of 1983 (Epoch 1991.35), Zone 5. The distances used in this description are grid distances (except record), divide said distances by 0.9997706 to obtain ground level distances.

END OF DESCRIPTION

THIS IS TO CERTIFY that the foregoing resolution was duly passed by the California Transportation Commission at its meeting regularly called and held on the 16th day of March 2016, in the city of Irvine and that the foregoing is a full and correct copy of the original resolution.
Dated this the 16th day of March 2016.



WILL KEMPTON, Executive Director
CALIFORNIA TRANSPORTATION COMMISSION

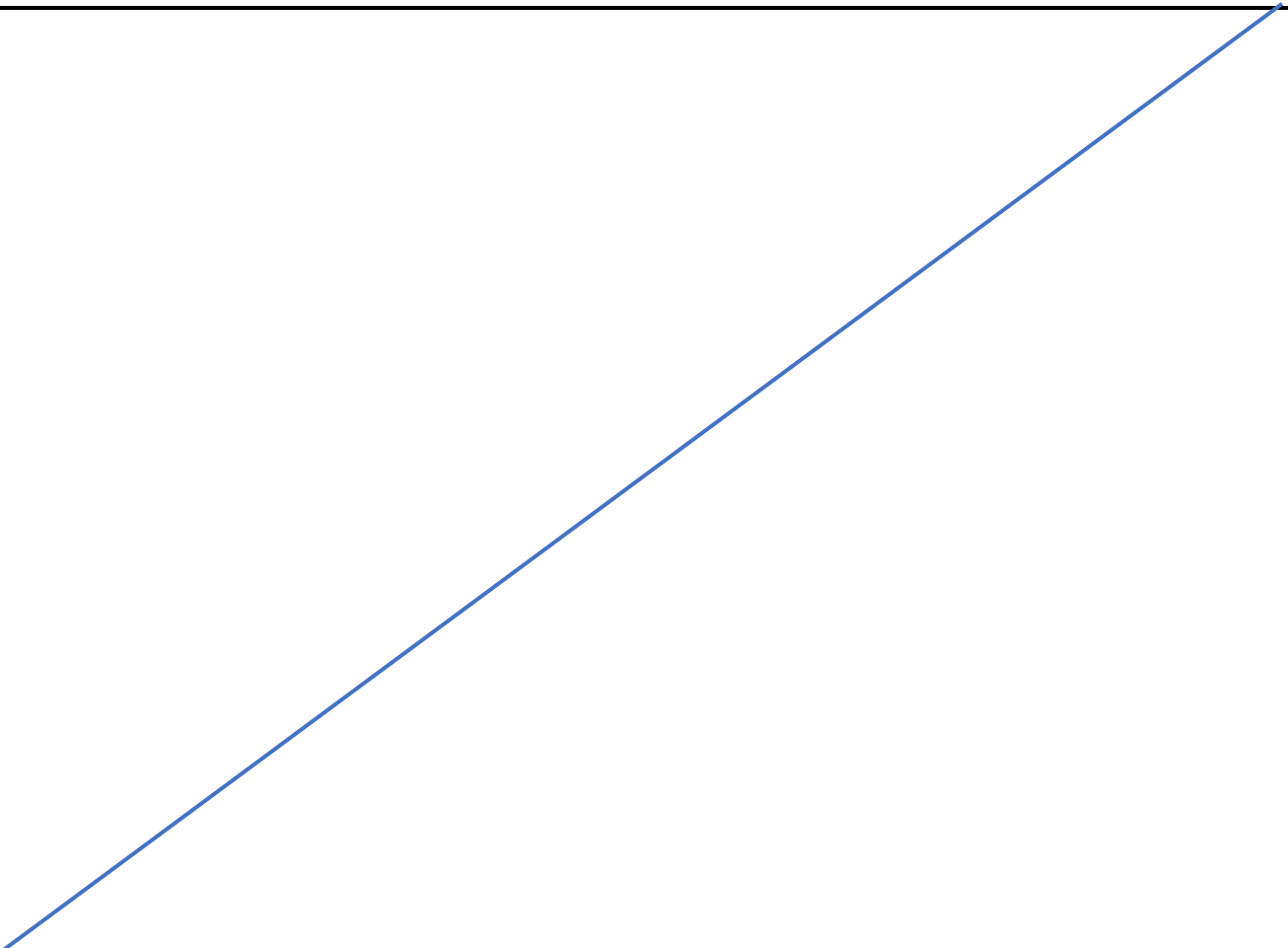
1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

**TRANSPORTATION COMMISSION
RESOLUTION NO.**

CR-164

CALIFORNIA TRANSPORTATION COMMISSION
RESOLUTION RESCINDING RESOLUTION OF NECESSITY NO. C-21444
ADOPTED March 16, 2016, PROJECT 07-LA-138

RESOLVED, that the action of the California Transportation Commission taken on March 16, 2016, in adopting Resolution of Necessity No. C-21444 as to parcel 77191-1 therein, which resolution authorized condemnation of land in fee for a State Highway and underlying fee, located in the County of Los Angeles, 07-LA-138, is hereby rescinded.



APPROVED AS TO FORM AND PROCEDURE

APPROVAL RECOMMENDED

Attorney, Department of Transportation

DIVISION OF RIGHT OF WAY

TRANSPORTATION COMMISSION
RESOLUTION NO.

C-21444

PASSED BY

CTC

CALIFORNIA TRANSPORTATION COMMISSION
RESOLUTION OF NECESSITY
TO ACQUIRE CERTAIN REAL PROPERTY
OR INTEREST IN REAL PROPERTY BY EMINENT DOMAIN
HIGHWAY 07-LA-138-PM 69.8 PARCEL 77191-1
OWNER: Aim High, LLC a Limited Liability Co.

MAR 16 2016

CALIFORNIA
TRANSPORTATION COMMISSION

Resolved by the California Transportation Commission after notice (and hearing) pursuant to Code of Civil Procedure Section 1245.235 that it finds and determines and hereby declares that:

The hereinafter described real property is necessary for State Highway purposes and is to be acquired by eminent domain pursuant to Streets and Highways Code Section 102; Code of Civil Procedure Section 1240.510 in that the property being acquired is for a compatible use; and Code of Civil Procedure Section 1240.610 in that the property is required for a more necessary public use;

The public interest and necessity require the proposed public project, namely a State highway;

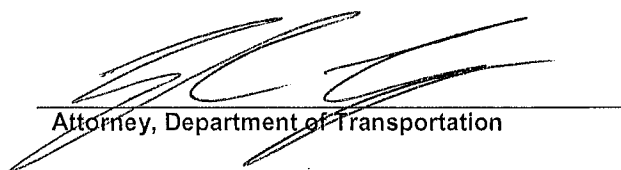
The proposed project is planned and located in the manner that will be most compatible with the greatest public good and the least private injury;

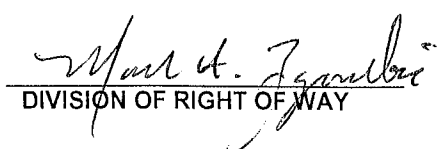
The property sought to be acquired and described by this resolution is necessary for the public project;

The offer required by Section 7267.2 of the Government Code has been made to the owner or owners of record; and be it further

APPROVED AS TO FORM AND PROCEDURE

APPROVAL RECOMMENDED

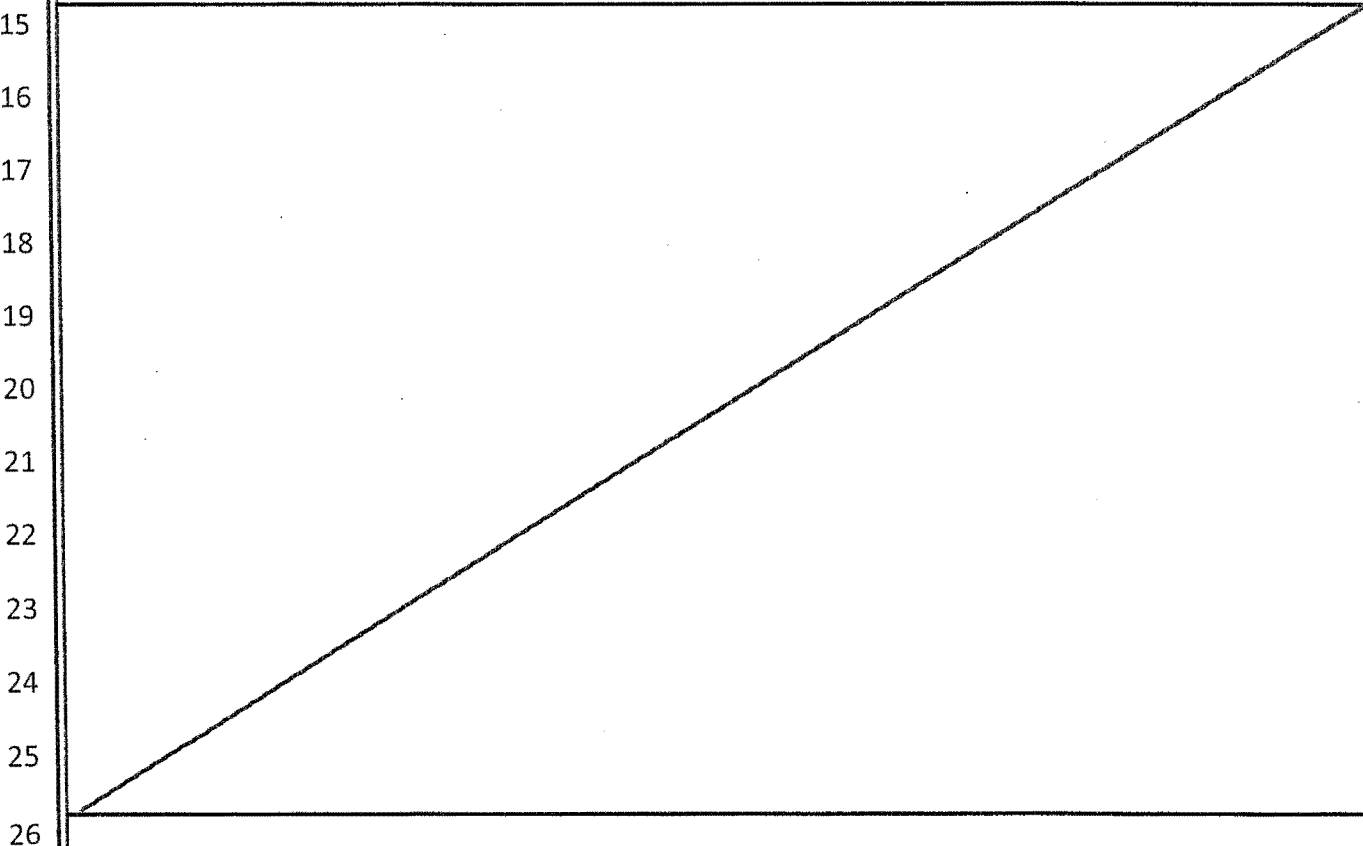

Attorney, Department of Transportation


DIVISION OF RIGHT OF WAY

1 RESOLVED by this Commission that the Department of
2 Transportation be and said Department is hereby authorized and
3 empowered;

4 To acquire, in the name of the People of the State of
5 California, in fee simple absolute, unless a lesser estate is
6 hereinafter expressly described, the said hereinafter described
7 real property, or interests in real property, by condemnation
8 proceeding or proceedings in accordance with the provisions of the
9 Streets and Highways Code, Code of Civil Procedure and of the
10 Constitution of California relating to eminent domain;

11 The real property or interests in real property, which the
12 Department of Transportation is by this resolution authorized to
13 acquire, is situated in the County of Los Angeles, State of
14 California, Highway 07-LA-138 and described as follows:



TITLE SHEET
(Resolution of Necessity Description)

District	County	Route	Post Mile
07	LA	138	69.8

Project ID 0713000216

Legal descriptions for the parcels listed below are attached.

This document consists of a total of 2 pages.

Parcels in Legal Description: <Insert parcel numbers>					
77191-1					

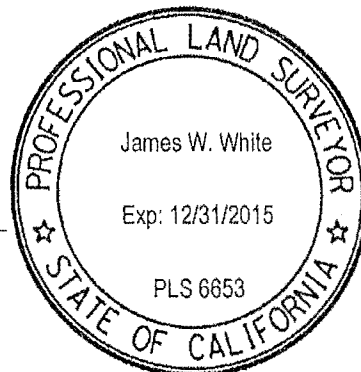
The attached real property description has been prepared by me, or under my direction, in conformance with the Professional Land Surveyors' Act.

Signature

James W. White
Professional Land Surveyor

Date

11/16/2015



RESOLUTION OF NECESSITY DESCRIPTION

PARCEL 77191-1:

For State Highway purposes, that portion of Parcel 3, conveyed in a deed recorded on September 22, 2005 as Instrument No. 05-2284715, Official Records, in the Office of the Registrar-Recorder/County Clerk of the County of Los Angeles, State of California, described as follows:


A strip of land 40.00 feet wide, the Northeasterly line being coincident with the Southwesterly line of Antelope Highway, being 150.00 feet wide as described in Book 13604, page 102, in the Office of the Registrar-Recorder/County Clerk of said county.

The sidelines of said strip shall be prolonged or shortened to end westerly at the Northwest line of said Parcel 3 and Easterly at the East line of said Parcel 3.

TOGETHER with underlying fee interest, if any, contiguous to the above described property, in and to the adjoining public way.

END OF DESCRIPTION

THIS IS TO CERTIFY that the foregoing resolution was duly passed by the California Transportation Commission at its meeting regularly called and held on the 16th day of March 2016, in the city of Irvine and that the foregoing is a full and correct copy of the original resolution.
Dated this the 16th day of March 2016.


WILL KEMPTON, Executive Director
CALIFORNIA TRANSPORTATION COMMISSION