



ZACKS & FREEDMAN PC

8-19-25
Item #5

August 19, 2025

Santa Clara City Council
CITY HALL COUNCIL CHAMBERS
1500 Warburton Avenue
Santa Clara, CA 95050
Clerk@santaclaraca.gov

Via Electronic Mail

Re: August 19, 2025 City Council Meeting
Item 5: Action on a Resolution of Necessity to Acquire Real Property Interests for
purposes of implementing 115kV Transmission Line Project
Property Address: 3508-3550 Bassett Street, Santa Clara, CA 95054

Dear Santa Clara City Council Members:

My office represents HGIT Bassett Campus, LP ("Owner"), Owner of 3508-3550 Bassett Street, Santa Clara, CA ("Property"), the Property at issue in the above-referenced matter. This letter outlines Owner's objections regarding the City of Santa Clara and Silicon Valley Power's proposed condemnation of an interest in the Property, by way of an overhead electric easement ("Electric Project").

In order to acquire an intended interest in real property, a condemnor must first adopt a resolution of necessity in conformance with Cal. Code of Civ. Proc. section 1240.030. The City has given its notice of intent to adopt a resolution of necessity for the Property on August 19, 2025, however, the City cannot meet the applicable legal standard. Cal. Code of Civ. Proc. section 1240.030 requires the following elements to be met prior to exercising the power of eminent domain:

- (1) The public interest and necessity require the proposed project.
- (2) The proposed project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury.
- (3) The property described in the resolution is necessary for the proposed project.

The City fails to meet any of these standards. The Property is not necessary for the Electric Project, nor is the Electric Project in the "public interest and necessity" or planned in a manner that will be compatible with the greatest public good and least private injury. (See, e.g. *Robinson v. Superior Ct.* (2023) 88 Cal.App.5th 1144, 1170 [facts failed to justify the need for an easement for transmission Lines over condemnee's property]; *San Diego Gas & Elec. Co. v. Lux Land Co.* (1961) 194 Cal.App.2d 472, 480 [no evidence of present plans to use easement for transmission lines].)

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POST MEETING MATERIAL

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In addition, it is virtually impossible for Owner to identify with precision the portion of the Property the City seeks to condemn, as the Electric Project's description in Silicon Valley Power's deficient offer of compensation is lacking in detail and labeled "preliminary" and "not precise." As I am sure the City is aware, it has a legal duty to adequately describe the Electric Project prior to moving forward with condemnation. (*City of Stockton v. Marina Towers LLC* (2009) 171 Cal.App.4th 93, 108, 114-115.)

Finally, Silicon Valley Power's precondemnation offer to Owner fails to comply with the "mandatory" requirements per Gov. Code section 7267.2, in that the summary basis for the alleged value is inadequate, and in any event wholly deficient and undervalued. (see, e.g., *City of San Jose v. Great Oaks Water Co.* (1987) 192 Cal.App.3d 1005, 1012.)

For these reasons and those to be presented at the hearing, Owner respectfully requests the City Council decline to adopt the resolution of necessity for the Property.

Very truly yours,

ZACKS & FREEDMAN, PC



Emily L. Brough

cc: Client



City Council


Action on a Resolution of Necessity (RON)
Making the Required Findings to Acquire
Certain Real Property Interests on 3508,
3520, 3530, 3540, & 3550 Bassett Street
for Purposes of Implementing the Silicon
Valley Power 115kV Transmission Line
Project

Nico Procos, Director of SVP
Agenda Item No. 5 (#25-820)
August 19th, 2025

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Background

- **115kV Project Scope:**
 - New 115kV overhead transmission line of approximately 2.24 miles
 - Between Northern Receiving Station (NRS) and Kifer Receiving Station (KRS) along Lafayette Street, Bassett Street, and Duane Avenue
- **Project Justification:**
 - Needed to accommodate load growth and maintain reliability
 - Transfer additional power from new CAISO/230kV line (At NRS) and redistribute loads
 - Increases System Operating Limit & System Reliability
 - With 115 kV line ~ capacity 1300 MW
 - Without 115 kV line ~ capacity 819MW
- **Project Progress:** 60% design completed



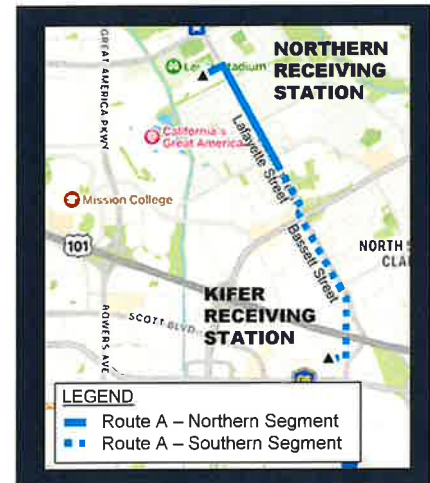
LEGEND
Route

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Project Approval/Alignment

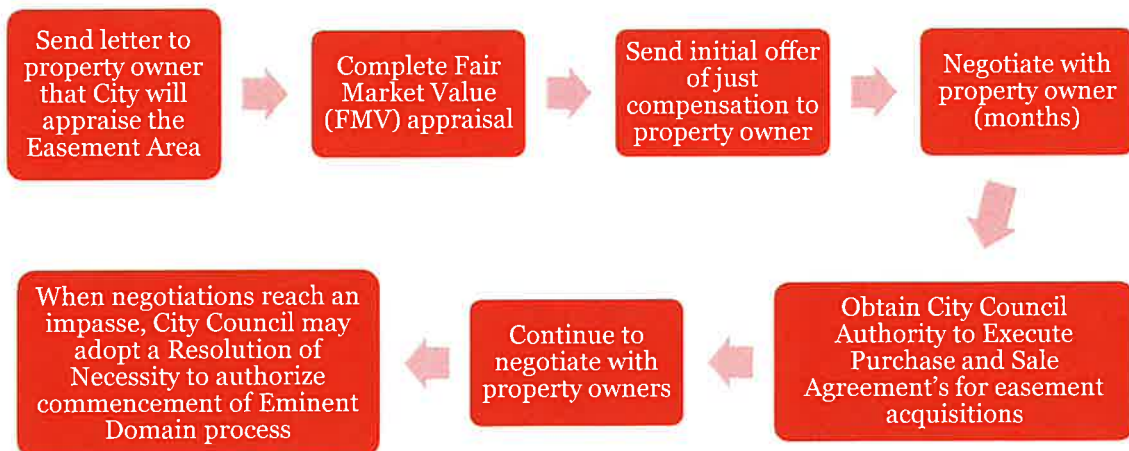
- On November 12, 2024, City Council approved the MND and selected Route A based on the following:
 - Overall feasibility
 - Least impact to residents and businesses, permitting constraints
 - Ability to meet the schedule, flexibility in power delivery
 - Ease of maintaining the system
 - Reduced construction disruption to the public as compared to the other alternatives
- Route A requires easements from 20 parcels along the Southern segment



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Easement Acquisition Process



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Easement Acquisition Process cont.



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Subject Property/Easement Area

- PID #11-15 only require one RON and hearing as there is unity of title and use and contiguity between and among the parcels, all parcels are part of the same campus
- Over 9 months of ongoing negotiations:
 - Initial Offer sent November 13, 2024
 - Counteroffer received almost four times the appraised fair market value on May 13, 2025
 - Counteroffer declined on May 30, 2025
- To meet Project timing/ implementation requirements, it is now necessary to consider commencement of eminent domain proceedings



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Required Steps

- 1 • Make and offer to purchase to the property owner of record based on an appraisal (Government Code Section 7267.2)
- 2 • Engage in good faith negotiations
- 3 • If impasse reached, schedule a hearing on a RON with a minimum of 15 days notice to the property owner (Code of Civil Procedure Section 1245.235)
- 4 • Conduct the public hearing, consider all testimony presented and adopt a RON making all required findings
 • **Note:** The RON hearing only establishes the matters set forth in the findings. The issue of just compensation for the taking will be resolved by a jury or by settlement in the eminent domain action.

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Resolution of Necessity Findings

1. The public interest and necessity require the Project
 - The completion of the 115kV Project is one of the key projects that are needed to increase SVP's system capacity to approximately 1300 MW. Until the Project is completed, SVP's system capacity will be limited to 819 MW which is insufficient to meet projected electric loads within the City.
2. The Project is planned or located in the manner that will be the most compatible with the greatest public good and the least private injury
 - The SVP evaluation team conducted a comprehensive analysis, employing various methodologies such as potholing and Ground Penetrating Radar (GPR) surveys. This in-depth assessment took into consideration SVP's load growth and system planning projections, schedule, cost estimation, required easements and permits, and engineering judgment. The goal was to determine feasible route alignments, identify a preferred route, and explore potential overhead and underground options within the preferred route. The Project route was selected based on its overall feasibility, least impact to residents and businesses, permitting constraints, ability to meet the schedule, flexibility in power delivery, ease of maintaining the system, and reduced construction disruption to the public.

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Resolution of Necessity Findings cont.

3. The Easement Area sought to be acquired is necessary for the Project

- The Electric Overhead Easement on Bassett Street is necessary to achieve the technical needs of the Project as it is within the alignment of the selected route. Mostly, the route will be built within the public right-of-way; however, the Easement Area adjacent to the right-of-way is required for maintenance purposes and to ensure the proper electrical conductor clearances are met. The Easement Area also reflects the necessary clearances from the blow out or sway of the electrical conductors.

4. All environmental review required by law has been prepared and adopted

- The MND & MMRP were adopted by City Council on November 12, 2024, by Resolution No. 24-9386

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Resolution of Necessity Findings cont.

5. The offer required by Section 7267.2 of the Government Code has been made to the owner of record for the full amount established as the fair market value of the property


- On November 13, 2024, the City made an offer to the owner of record to acquire the Easement Area for an electric overhead easement upon the value determined by an independent state licensed and certified appraiser in accordance with the above referenced Government Code section.

6. Notice of this hearing has been given in accordance with Code of Civil Procedure section 1245.235

- On July 23, 2025, a letter was mailed to the owner including notification of the public hearing and consideration of a Resolution of Necessity for 8/19/2025 and Request to be Heard documentation were also included as attachments to the letter.


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Recommended Action



Consider all written and oral testimony presented at this public hearing.



If satisfied that the information presented supports the required findings, Adopt the Resolution of Necessity in the form presented to Acquire the Real Property Interests Identified at 3508, 3520, 3530, 3540, and 3550 Bassett Street, Santa Clara, California, Making the Required Findings

Notes:

- Five affirmative votes are required to approve the RON
 - [California Code of Civil Procedure section 1245.245]
- Staff will continue to attempt to negotiate with the property owner for the City's voluntary acquisition of the real property interest

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City Council

Action on a Resolution of Necessity Making the Required Findings to Acquire Certain Real Property Interests on 3508, 3520, 3530, 3540, & 3550 Bassett Street for Purposes of Implementing the Silicon Valley Power 115kV Transmission Line Project

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Council Actions

- March 19, 2024 –
 - Informational Report Regarding Route Analysis for 115kV Transmission Line from NRS to KRS (RTC #24-1614)
- October 8, 2024 –
 - MND, MMRP and Route Approval for 115kV Transmission Line from NRS to KRS (RTC #24-751 – CONTINUED)
- November 12, 2024 –
 - MND, MMRP and Route Approval for 115kV Transmission Line from NRS to KRS (continued from Oct. 8, 2024) (RTC #24-1040)
- February 25, 2025 –
 - Authority to Execute PSA for Easement Acquisitions (RTC #25-212)
- Multiple actions for easement acquisition
- 20 parcels require easements



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