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July 8, 2024

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

City of Fresno
Capital Projects Department
Capital Administration Division
Attn: Nancy Bruno, Real Estate Services
747 R Street, 2nd Floor
Fresno, California 93721

Re: **Blackstone-McKinley BNSF Grade Separation Project**
Subject Property Address: **1612 N. Blackstone Ave., Fresno, CA**
APNs: **446-232-41 and 446-232-37S**
July 25, 2024 Hearing at 9:30 am

Dear Ms. Bruno:

Owners of the referenced Assessor's Parcel Numbers, Donald and Sharon Dal Porto (collectively "**Owners**") respectfully submit their objections to the intended adoption of the Resolution of Necessity ("**RON**") following the notice of public hearing for July 25, 2024, pursuant to C.C.P. section 1245.235. We respectfully request that these objections be lodged in the official record of the public hearing and related proceedings, whether or not a personal appearance is made by Owners or their counsel.

Owners object on the basis that the proposed adoption of the RON would authorize an illegal act, based substantially if not entirely, on multiple violations of law, each of which are also alleged to have been, and continue to be violations of law. The exercise of the power of eminent domain may only be utilized where it is authorized by statute and where it satisfies the constitutional mandate of public use and just compensation. See the enabling statute in California, the Eminent Domain Law, is Title 7, Chapters 1 through 12 (sections 1230.010-1273.050) of the Code of Civil Procedure; and Cal. Const. Art. 1 section 19.

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Owners further object on the grounds that the authorization to proceed with the condemnation of their property would necessarily be based on a flawed adoption of the noticed RON in light of the following statutory provisions which demonstrates that the public use findings cannot be made: Code of Civil Procedure sections 1240.020, 1240.030, 1240.040, and 1245.230.

Owners further object on the basis of denial of Due Process. It is contrary to the foundational premise of just compensation law and procedure that a condemnee be provided a fair opportunity to appear and be heard based on full knowledge of what the condemnor's forced sale without the Owners' consent entails. City condemnor has neither provided the proposed RON nor the City's Staff reports and all "supporting" evidentiary materials. Owners herewith respectfully request that they be provided copies of all documentation that will be presented to the City Council for consideration at the hearing. Owners' request that it be provided a minimum of thirty (30) days after receipt of said materials before the Council conducts its hearing the RON.

Owners further object on the grounds that the appraisal statement and appraisal supporting the precondemnation offer required by Government Code section 7267.2 was inadequate and did not comply with Government Code section 7267.2, and does not qualify as a just compensation offer under the Evidence Code, the Government Code or under the law and rules of just compensation established by controlling United States Supreme Court case law and California Supreme Court and published Appellate Court case law. Therefore, no valid precondemnation offer has been made. Therefore, this required finding and foundational requirement which is a necessary condition precedent to proceeding to hearing and/or adopting the proposed RON cannot be satisfied.

Very truly yours,



C. William Brewer, P.C.

CWB:bmc

cc: Donald and Sharon Dal Porto