

MEMORANDUM

TAB 57

To: CHAIR AND COMMISSIONERS
CALIFORNIA TRANSPORTATION COMMISSION

CTC Meeting: May 16-17, 2024

From: STEVEN KECK, Chief Financial Officer

Reference Number: 2.4a., Action Item - ***YELLOW REPLACEMENT ITEM***

Prepared By: Kimberly Ellis Erickson, Chief
Division of Right of Way and Land Surveys

Subject: **RESOLUTION OF NECESSITY – APPEARANCE**

ACTION UPDATE: *Updated project milestone dates, and Project Information in the memorandum and Attachment A.*

ISSUE:

Should the California Transportation Commission (Commission) adopt Resolution of Necessity (Resolution) C-22401, for the parcel whose owners are contesting the declared findings of the California Department of Transportation (Department) under Section 1245.230 of the Code of Civil Procedure?

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

In this case, the property owners are contesting the Resolution and have requested an appearance before the Commission. The primary concerns and objections expressed by the property owners through their attorney is that the proposed project is not planned or located in the manner that will be most compatible with the greatest public good with the least private injury, the property sought to be acquired is not necessary for the project, and that a legitimate

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offer pursuant to Government Code Section 7267.2 has not been made. The property owner's objections and the Department's responses are contained in Attachment B.

RECOMMENDATION:

The Department recommends that the Commission adopt Resolution C-22401 summarized on the following pages. This Resolution is for a transportation project on State Route (SR) 66 in District 8, in San Bernardino County.

BACKGROUND:

Discussions have taken place with the owners, who have been offered the full amount of the Department's appraisal and, where applicable, advised of any relocation assistance benefits to which they may subsequently be entitled. Adoption of this Resolution will not interrupt the Department's efforts to secure an equitable settlement. In accordance with statutory requirements, the owners have been advised that the Department is requesting the Resolution at the Commission's May 16-17, 2024, meeting. Adoption will assist the Department in the continuation of the orderly sequence of events required to meet construction schedules.

Discussions have been ongoing between the property owners and the Department to address and resolve the issues. Progress has been made, but in order to keep the project schedule, the Department is requesting that this appearance proceed to the May 16-17, 2024, Commission meeting. Legal possession will allow the construction activities on the parcel to commence, thereby avoiding and/or mitigating considerable right of way delay costs that will accrue if efforts to initiate the condemnation process are not taken immediately to secure legal possession of the subject property.

C-22401 - JAGDISH PATEL and RAMILA PATEL, husband and wife as joint tenants, as to an undivided 50% interest; MANOJ PATEL, a married man as his sole and separate property, as to an undivided 25% interest and to SAMIR PATEL, an unmarried man, as to an undivided 25% interest

08-SBd-66-PM 20.30 - Parcel 25301-1, 2, 3 - EA 1G6609.

Right of Way Certification Date: 09/27/24; Ready to List Date: 10/04/24. Conventional highway - rehabilitate pavement, add barrier separation, upgrade bridge rail and upgrade facilities to Americans with Disabilities Act (ADA) standards and add sidewalk as a Complete Streets element. Authorizes condemnation of land in fee for a State highway, a temporary easement for construction purposes, and underlying fee. Located in the city of San Bernardino at 2728 West Foothill Boulevard. Assessor's Parcel Number (APN) 0142-491-22.

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Attachments:

Attachment A - Project Information

Exhibit A - Project Maps

Attachment B - Parcel Panel Report

Exhibit B - Parcel Maps

Exhibit C - Resolution of Necessity C-22401

Attachment C - Property owner's letters to the Commission dated July 14, 2023,
and April 26, 2024.

Attachment A

PROJECT INFORMATION

PROJECT DATA

08-SBd-66-PM 20.1/S23.2
Project ID: 0821000054 (EA 1G6609)

Location: In San Bernardino County on SR 66 from Pepper Avenue to H Street

Limits: San Bernardino County along SR 66 from PM 20.1 to S23.2

Cost: Construction cost estimate: \$26,209,000 (Capital)
Current right of way cost estimate: \$3,507,000 (Capital)

Funding Source: State Highway Operation and Protection Program (SHOPP)
Minor Pavement Rehabilitation Program and the Bridge Rail Replacement and Upgrade Program

Number of Lanes: Existing: SR 66 - four lane conventional highway with center median widths that range from 2 to 12 feet, and shoulder widths that range from 2 to 18 feet

Proposed: SR 66 - four lane conventional highway with standard center median and shoulder widths

Proposed Major Features: Rehabilitate pavement, upgrade facilities to ADA standards, incorporate Complete Street elements where feasible, add sidewalks, widen three bridges to include standard shoulders and upgrade bridge rails.

Traffic: Traffic volumes are projected to increase by approximately 25% within the next 48 years.

NEED FOR THE PROJECT

The purpose of this project is to repair damaged pavement, improve ride quality, preserve and extend the life of the pavement, upgrade the existing pedestrian facilities to meet current ADA standards per Design Information Bulletin (DIB) 82-06 "Pedestrian Accessibility Guidelines for Highway Projects."; and upgrade the bridge rails to the current standard and/or widen bridges. This project is in alignment with Department's goals of safety first, multimodal transportation, and equity & livability.

The project scope is on SR 66 from PM 20.1 at the intersection of Pepper Avenue, in the cities of Rialto and San Bernardino to PM S23.2 at H Street, in the city of San Bernardino, to rehabilitate the pavement, upgrade facilities to meet current ADA standards, incorporate Complete Streets elements where feasible, and upgrade bridge rails to meet current standards. Currently, the pavement within the project limits is exhibiting severe distress and unacceptable ride quality. If left uncorrected, it will deteriorate to a major roadway rehabilitation need. Closing sidewalk gaps and upgrading non-standard driveways on the north side of SR 66 will facilitate better connectivity while addressing Complete Streets. Upgrading the bridge rails and/or widening bridges will improve pedestrian accessibility.

The selected pavement strategy involves cold planing the existing pavement and overlaying with rubberized hot mix asphalt - gap graded (RHMA-G). Distressed localized areas will be repaired with dig outs. In addition, the bridge deck of the Lytle Basin Overhead will have the asphalt concrete removed and the deck treated with polyester concrete overlay. Other improvements under this project include upgrading ADA non-compliant curb ramps and non-standard bridge rail, constructing new curb ramps, sidewalks, and driveways at specified locations.

Roadway (SR 66) Deficiencies:

The existing asphalt concrete (AC) pavement exhibits alligator cracks, patching, bleeding, and poor ride quality. If left uncorrected, the pavement will continue to deteriorate and lead to a major roadway rehabilitation. Conventional mill and overlay with localized digouts will restore and extend the life of the pavement and improve ride quality. The existing ADA curb ramps do not meet current DIB 82-06 standards. Deficiencies of ADA curb ramp include required dimensions of ramp, landing areas, directional ramp slopes, cross slopes, maximum slopes at landing, and lack of detectable warning surfaces (DWS). Within the project limits, there is no continuous sidewalk for pedestrians. Upgrading ADA curb ramps and constructing additional sidewalks to close the gaps will improve connectivity and help achieve the Department's Complete Streets goal.

Structure Deficiencies:

- 1) Lytle Basin Overhead (Bridge No. 54 - 0834) on SR 66: The Bridge Needs Report dated December 17, 2020, determined there are longitudinal cracks on the soffit with some rust stains. It is recommended to remove AC and place a polyester concrete overlay. Also, installing a sidewalk will facilitate a continuous walkway for pedestrians and help achieve the Department's Complete Streets goal. The existing 18-foot shoulder will be converted to a 12-foot shoulder with a 6-foot sidewalk.
- 2) East Branch Lytle Creek Bridge (Bridge No. 54 - 1043) on SR 66: The Bridge Needs Report dated December 12, 2018, indicated that the bridge was in good condition. However, bridge widening on the north side is required to accommodate a standard shoulder and a sidewalk.
- 3) Retaining wall on westbound SR 66, west of Terrace Road: In order to add sidewalks at this location, a portion of the side slope needs to be modified. The Project Development Team (PDT) reviewed grading and retaining wall options for providing the standard side slope after modification. Grading requires extensive temporary construction easement (TCE) and right of way acquisition and this could not be easily achieved due to the historical nature of this area. The retaining wall option was chosen by PDT due to less Right of Way, Environmental, and cost impacts.

Traffic and Collision Analysis:

Although the scope of this project does not propose to increase the capacity of the facility to carry traffic, traffic volumes are projected to increase by approximately 25% within the next 48 years.

The collision and accident history for SR 66 from PM 20.1 to PM S23.2 was reviewed based on available data obtained from the Department's Traffic Accident Surveillance and Analysis System (TASAS) - Transportation System Network (TSN) for a three-year period from July 1, 2018, to June 30, 2021. According to TASAS-TSN, the collision/accident history for this segment of SR 66 shows that the actual fatal and fatal plus injury accident rates are higher than the statewide average. The primary collision factor was speeding (28.6%) followed by other violations (21.4%) and failure to yield (19.0%). The main types of collisions were broadside (26.2%), rear end (21.4%), and sideswipe/hit object (16.7% each). The Auto-Pedestrian collision was 4.8%.

This project closes the key sidewalk gaps along the north side of SR 66, which will provide enhanced safety, continuity, and accessible routes for pedestrians. In addition, standard shoulders will also be installed along the limits of the project, thereby providing adequate space

for vehicles to pull over if necessary and providing a refuge for vehicles during a roadside emergency. These project features, along with the installation of curbs and gutters, are expected to reduce the number of Auto-Pedestrian collisions, by separating motorists and pedestrians, and improving the overall safety of the traveling public.

PROJECT PLANNING AND LOCATION

The purpose of this project is to rehabilitate the pavement, upgrade facilities to meet current ADA standards, incorporate Complete Streets elements where feasible, install standard shoulders and upgrade bridge rails to meet current standards.

Project History

EA 1G6609:

A Project Initiation Proposal (PIP) No. 4278, prepared by the District 8 Office of Maintenance Engineering, was approved on September 14, 2015. The PIP identified the need for rehabilitating the pavement on SR 66, from the intersection of Pepper Avenue (PM 20.1) to H Street, including the spur along H Street (PM S23.4). On November 8, 2016, an approximately quarter-mile long spur along H Street from 4th Street to 6th Street was relinquished to the City of San Bernardino per the California Transportation Commission No. R-3968. Thus, the eastern end of the project limits was revised to PM S23.2. A Project Initiation Report (PIR) was prepared and approved on February 7, 2017, for this project. The scope of work consisted of cold planing the existing pavement and overlaying with RHMA-G per DIB 81-02 "Minor Pavement Rehabilitation Guidelines", repairing severely distressed localized areas with digouts, and upgrading existing curb ramps to meet current standards per DIB 82-06 "Pedestrian Accessibility Guidelines for Highway Projects." In addition, it was proposed to remove the asphalt concrete on the bridge deck of Lytle Basin Overhead (Br. No. 54-0834) and treat the deck with polyester concrete overlay. Three supplemental PIRs were processed and approved on September 18, 2018, June 13, 2019, and September 8, 2020.

The scope of work of the first supplemental PIR consisted of updating capital cost, support cost, delivery schedule, and risk register. The second supplemental PIR was prepared to comply with the newly reduced annual escalation rate for the capital construction and the support cost. The third Supplemental PIR, as a requirement of the Complete Streets Augmentation Reservation Fund Program, documented the additional scope of work, which includes construction of three new curb ramps and construction of an additional 2,855 feet of new sidewalk on the north side of SR 66 between Macy Street and Flores Street. The new sidewalks will close key sidewalk gaps on the northerly side of SR 66. Due to adjacent local land uses and pedestrian points of interest, the District 8 identified these sidewalk gaps on the north side of SR 66 as being critical for connectivity to an existing bus stop, an existing Veteran of Foreign Wars building that hosts local

events, and existing sidewalks on the east end leading to the Omni trans Public Transportation Agency bus bays and Headquarters Building.

It was determined that standard shoulders and sidewalks would be installed without widening the Lytle Basin Overhead (Bridge No. 54-0834) and East Branch Lytle Creek Bridge (Bridge No. 54-1043). The SR 66/I-215 Separation and Overhead (Bridge No. 54-1250) facilitates Complete Streets elements, and no work was proposed under this project.

1G6609 will be combined with 1F4009 for advertising and construction. 1F4009 is another project within the limits of 1G6609.

Community Interaction

The Department makes it a priority to engage the public, stakeholders, the media, and others on any project that the Department is developing. This generally involves one or more of the following actions: holding and attending public meetings, meeting with partner agencies, sending out virtual notifications via social media and email, and sending out notification letters to partner agencies.

During the Project Approval and Environmental Document phase, efforts were made to engage and partner with local agencies to gain input on the project scope. On March 9, 2021, the City of San Bernardino was updated on the scope of work for EA 1G6609. On November 5, 2021, the cities of San Bernardino and Rialto were updated about the progress of the proposed project. As part of the project development process, the Draft Environmental Document (DED), an Initial Study with Proposed Mitigated Negative Declaration, was posted on the State Clearinghouse (SCH) website for public review from April 15 to May 16, 2022, under SCH# 2022040328. A virtual (online) public meeting was held for the DED by the PDT on April 27, 2022. Responses to public comments on the DED are provided in the final environmental document, an Initial Study with Mitigated Negative Declaration (IS-MND). Finally, on December 4, 2023, the City of San Bernardino was again updated with the Draft 95% Project Plans for their review and comments, if any.

The project listed for the 2020 SHOPP has been shared with the Regional Transportation Planning Agency. In accordance with the Departments Equity Statement and District 8 Directive D08-16-01: Community Engagement, an Equity and Community Engagement Plan will be prepared and followed in subsequent phases of the project development. The Project Manager sent notification letters to local partners (San Bernardino County and the City of San Bernardino) on August 12, 2021, and will conduct outreach with local communities as appropriate. Prior to the contract bid, District 8 Public Affairs will coordinate a community outreach effort to inform the public of the project and the impacts that may take place.

Existing Facility

Roadway:

SR 66 is an east-west oriented, four-lane conventional highway with a single left-turn pocket at most intersections. The width of the outside shoulder varies between 2 and 18 feet. The median width ranges from 2 to 12 feet. The paved surface of the traveled way and shoulder consists of AC. The posted speed from Pepper Avenue to 4th Street is 50 miles per hour and from 4th Street to H Street is 40 miles per hour.

Structures within the project:

- 1) Lytle Basin Overhead (Bridge No. 54 - 0834) on SR 66 is a 5-span, cast-in-place, reinforced concrete structure. It was built in 1967 with a total length of 123 feet and a width of 99 feet. It consists of four 12-foot lanes, a 12-foot median, and 18 to 19-foot shoulders. The deck is overlaid with AC. The bridge rails are Type 1 concrete barriers. A longitudinal 30-inch diameter storm drain is attached to the northern edge of the deck.
- 2) East Branch Lytle Creek Bridge (Bridge No. 54 - 1043) on SR 66 is a 3-span, cast-in-place, reinforced concrete T-Beam structure. It was built in 1976 with a total length of 201 feet and a width of 70 feet. It consists of four 12-foot lanes with 2-foot shoulders, a 12-foot median, and 3-foot sidewalks. The bridge rails are Type 1 concrete barriers.

Project Alternatives:

There were two alternatives considered during the Project Report phase, the Build and No Build alternatives.

Build Alternative:

The following is a list of the proposed engineering features associated with the Build Alternative.

Roadway (SR 66) Improvements:

- Cold plane 0.20-foot of main lanes pavement including median and shoulder, and overlay with 0.20-foot RHMA-G
- Repair severely distressed main lanes pavement areas with localized digouts to a depth of 0.40 feet
- Upgrade existing ADA curb ramps to meet current standards and install additional 4 new curb ramps to facilitate a continuous sidewalk on the north side of SR 66
- Upgrade/modify existing driveways to meet city and Department standards
- Install DWS and Accessible Pedestrian Signal

- Close the key sidewalk gaps on the north side of SR 66
- As a result of a new barrier separation at Lytle Basin Overhead, relocate the bus stop located at SR 66/Macy Street to facilitate a clear corner sight distance for motorists entering from Macy Street to SR 66
- Construct additional bus pads as part of Complete Streets elements
- Upgrade approach guardrails to Midwest Guardrail System
- Improve impacted drainage facilities
- Relocate all above ground utilities between Macy Street and Flores Street

Structure Improvements:

- Lytle Basin Overhead (Bridge No. 54 - 0834) on SR 66:
 - Remove the existing AC on the deck and treat with polyester concrete overlay
 - On the north side, install a 6-foot sidewalk with a barrier separation
 - Upgrade the north side bridge rail with a Concrete Barrier Type 732SW (Modified) and a chain link railing (Type 7)
 - Protect in place 30-inch diameter storm drain to ease bridge rail upgrading
 - Install structure approach Type R (30)
 - Place new joint seal
- East Branch Lytle Creek (Bridge No. 54 - 1043) on SR 66:
 - Widen north side to provide an 8-foot standard shoulder and a 7-foot sidewalk
 - Upgrade the north side bridge rail with a Concrete Barrier Type 732SW (Modified) and a chain link railing (Type 7)
 - Install structure approach Type N (30) and Type R (30)
 - Place new joint seal
- Special Design Retaining Wall on SR 66:
 - Construct a retaining wall on westbound SR 66, west of Terrace Road to facilitate continuous sidewalk and minimize impacts to the adjacent historic property

No Build Alternative:

The No-Build Alternative would maintain the existing facility in its present condition. Under this alternative, no improvements would be made and the existing condition of SR 66 would remain unchanged. As such this alternative was rejected as the purpose and need of the project would not be met.

The project received an environmental determination of an IS-MND under the California Environmental Quality Act (CEQA) and a Categorical Exclusion (CE) in compliance with the National Environmental Policy Act (NEPA). This document was signed on June 27, 2022; and the Project Report was approved on June 29, 2022. This project is currently programmed in the 2020 SHOPP Minor Pavement Rehabilitation Program and the Bridge Rail Replacement and Upgrade Program with a fiscal year delivery 2023/2024. The current Right of Way capital cost estimate is \$3,507,000, and the Construction cost is estimated to be \$26,209,000. Right of Way Certification is scheduled for September 27, 2024, with a Ready to List Date of October 4, 2024. Advertisement is tentatively set for January 10, 2025.