S289391

SUPREME COURT OF THE STATE OF CALIFORNIA

TOWN OF APPLE VALLEY, Plaintiff/Appellant, vs. APPLE VALLEY RANCHOS WATER COMPANY, et al., Defendants/Respondents.	Case No. Case No. S289391 Fourth Appellate District, Division 2 No. E078348 San Bernardino County Superior Court No. CIVDS 1600180

AFTER A PUBLISHED DECISION BY
THE COURT OF APPEAL,
FOURTH APPELLATE DISTRICT, DIVISION TWO
CASE NO. E078348
SAN BERNARDINO COUNTY SUPERIOR COURT
DONALD R. ALVAREZ, JUDGE •
CASE NO. CIVDS1600180

APPLICATION FOR LEAVE TO FILE *AMICI CURIAE* BRIEF AND *AMICI CURIAE* BRIEF OF THE CITY OF SAN FRANCISCO AND THE CALIFORNIA STATE ASSOCIATION OF COUNTIES IN SUPPORT OF PLAINTIFF AND APPELLANT TOWN OF APPLE VALLEY

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APPLICATION TO FILE *AMICI CURIAE* BRIEF

I. INTRODUCTION

Pursuant to rule 8.520(f) of the California Rules of Court, the City and County of San Francisco ("San Francisco" or "City") and the California State Association of Counties ("CSAC") (collectively, "*Amici*") respectfully apply for leave to file the accompanying *amici curiae* brief in support of Respondent Town of Apple Valley ("Apple Valley"). *Amici* are familiar with the contents of the parties' briefs filed in this matter. This application is timely made pursuant to the Court's December 2, 2025, order granting an extension of time for the filing of amicus briefs in this matter. For the reasons set forth below, *Amici* respectfully request that the Court accept the accompanying brief for filing in this case.

II. ISSUE TO BE BRIEFED

The issue to be briefed by *Amici* is: When a public entity files an eminent domain action seeking to take privately held public utility property, and the owner objects to the right to take, what is the proper standard of judicial review for the trial court to apply to determine whether the property owner has rebutted the presumptions under California Code of Civil Procedure sections 1245.250, subdivision (b) and 1240.650, subdivision (c)?

III. INTEREST OF *AMICI CURIAE*[1]

San Francisco is a municipal corporation organized and existing under and by virtue of the laws of the State of California and the City's Charter, and is a political subdivision of the State of California with the authority to acquire property through eminent domain under California's Eminent Domain Law (Title 7, California Code of Civil Procedure sections 1230.010 et seq. [the "Eminent Domain Law"]) as well as the California Public Utilities Code. (Pub. Util. Code § 1403 [contemplates acquisition of public utility property by a political subdivision "under eminent domain proceedings, or otherwise"].)

The foundation for the City to provide its own electric service was laid in 1913 when the United States Congress enacted the Raker Act, granting San Francisco the right to develop a water and power supply system on certain federal lands in the Hetch Hetchy Valley of Yosemite National Park and the Stanislaus National Forest. (Pub.L. No. 63–41 (Dec. 19, 1913) 38 Stat. 242 ["Raker Act"].)[2] By adopting the Raker Act, Congress intended "to provide the people of San Francisco with the advantages of cheap power and City competition with private power companies such as Pacific Gas and Electric." (*City & Cty. of S.F. v.*

[1] *Amici*'s counsel have examined the briefs on file in this case, are familiar with the issues involved and the scope of their presentation, and do not seek to duplicate that briefing. Proposed *Amici* confirm, pursuant to California Rule of Court, rule 8.520(f)(4), that no one and no party other than Proposed *Amici*, and their counsel of record, made any contribution of any kind to assist in preparation of this brief or made any monetary contribution to fund the preparation of the brief.

[2] Pursuant to California Rule of Court, rule 8.520(h), *amici* include the text of the Raker Act as Exhibit A to this brief.

United Airlines (9th Cir. 1979) 616 F.2d 1063, 1068.) Under this authority, San Francisco has been generating electricity since 1918, when it began powering the construction of Hetch Hetchy water and power facilities in and around Yosemite. (*Pac. Gas & Elec. Co. v. City & Cnty. of San Francisco* (2012) 206 Cal.App.4th 897, 900; *S.F. Board of Supervisors Resolution 174-19*, at p. 1; https://sfgov.legistar.com/Legislation.aspx (April 18, 2019).)

The City owns and operates Hetch Hetchy Water and Power, a public utility that is managed by the San Francisco Public Utilities Commission ("SFPUC"). The SFPUC is responsible for the construction, management, operation, and use of all City properties, assets, and facilities used to provide utility services, including water, wastewater, and power. (S.F. Charter, art. IV, § 4.112; art. VIIIB, § 8B.121.) Although the City owns and operates transmission and distribution facilities within and outside of San Francisco, it lacks a comprehensive distribution system to serve its customers. (*Pac. Gas & Elec. Co. v. City & Cnty. of San Francisco, supra,* 206 Cal.App.4th at p. 900.) Rather, to meet the needs of City residents, the City purchases transmission service from Pacific Gas & Electric ("PG&E"). (*Ibid*.) But PG&E's ongoing challenges with providing safe and reliable gas and electric service throughout its service territory are well known. In fact, the California Public Utilities Commission
("CPUC") has acknowledged that PG&E's recent history of safety performance "has ranged from dismal to abysmal." (See Cal.P.U.C., *Decision Approving Reorganization Plan* (May 28, 2020, D.20-05-053) 2020 WL 6060324, at 16

<https://1.next.westlaw.com/Document/Ibadbf3f70e6311eba650e08c07e5b642/View/FullText.html?transitionType=UniqueDocItem&contextData=(sc.Search)&userEnteredCitation=2020+WL+6060324> [as of Jan. 20, 2026].) Consequently, San Francisco has an interest in the issues presented in this case arising from its need to secure additional facilities to meet the City's electric service needs.

The California State Association of Counties is a non-profit corporation. The membership consists of the 58 California counties. CSAC sponsors a Litigation Coordination Program, administered by the County Counsels' Association of California and is overseen by the Association's Litigation Overview Committee, comprised of county counsels throughout the state. The Litigation Overview Committee monitors litigation of concern to counties statewide and has determined that this case is a matter affecting all California counties.

IV. CONCLUSION

Amici have a substantial interest in the proper standard of judicial review when a public entity seeks to condemn privately held public utility property. Two California Courts of Appeal have considered the precise question before this Court, reaching conflicting results, compelling this Court to take review.

The trial court below examined the resolution of necessity ("RON") adopted by Apple Valley to acquire the water system from its private operator under the town's eminent domain powers. The trial court held in favor of the operator, concluding that it had successfully rebutted the presumption of public necessity and that

the town's use was not a "more necessary public use" as defined in California's Eminent Domain Law. (*Town of Apple Valley v. Apple Valley Ranchos Water* (2025) 108 Cal.App.5th 62, 73 [*Town of Apple Valley*].) Accordingly, the court dismissed the eminent domain action. (*Id*. at p. 74) Reversing the decision of the trial court, the Fourth District Court of Appeal acknowledged that the applicable statutory presumptions are rebuttable when a local public entity adopts its RON to take utility property. (*Id*. at p. 75.) In determining whether the operator had rebutted these presumptions, the Court of Appeal applied the deferential gross abuse of discretion standard of review and held that the operator did not overcome the rebuttable presumption in favor of the town. (*Id*. at p. 89.)

In reaching its conclusion in the present case, the Court of Appeal below expressly disagreed with and declined to follow the Third District Court of Appeal's decision in *Pacific Gas & Electric Co. v. Superior Court* (2023) 95 Cal.App.5th 819 (*PG&E*), in which that court applied a non-deferential independent judgment standard of review to conclude that PG&E had sufficiently rebutted the presumptions of California Code of Civil Procedure sections 1245.250 and 1240.650. (*Town of Apple Valley, supra*, 108 Cal.App.5th at p. 89.) While the Court of Appeal below relied in part on legislative history of the 1992 amendment that enacted the rebuttable presumptions for public utility takings (Senate Bill No. 1757 [1991-1992 Reg. Sess.), the *PG&E* court reached its conclusion based solely on what it characterized as the plain text of the relevant statutes. (*Town of Apple Valley*, *supra*, 108 Cal.App.5th at p. 81.)

The courts of appeal in these two cases reached contrary conclusions regarding the applicable standard of review where public entities seek to take privately owned public utility properties under the Eminent Domain Law. The result is a stark lack of "uniformity of decision" to guide future local legislative decisions regarding whether and how to acquire utilities for operation by public entities. (Cal. Rules of Court, rule 8.500.) Specifically, public agencies, investor-owned utilities, and the courts need guidance on the proper interpretation and application of the rebuttable presumptions set forth in Code of Civil Procedure sections 1245.250, subdivision (b) and 1240.650, subdivision (c). For these reasons, *Amici* have identified this case as one of statewide significance and offer the perspective of public entities empowered to exercise the right of eminent domain to

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take privately held public utility property in order to assist the Court in its determination of this key threshold question.

Dated: January 21, 2026

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BRIEF OF AMICI CURIAE

INTRODUCTION AND SUMMARY OF ARGUMENT

Appellant asks this Court to ignore the state and federal legislatures' delegation of authority to local governments to determine when the public interest requires water, gas and electric utilities to be publicly owned and operated, and instead give the courts the power to determine the right to take in these cases. In short, Appellant argues that courts should give no deference to the factual findings and policy determinations of cities and counties when applying the Eminent Domain Law's rebuttable presumptions concerning public necessity and "more necessary public use" of a potential utility acquisition. (See *Town of Apple Valley v. Apple Valley Ranchos Water* (2025) 108 Cal.App.5th 62*,* 86.) Their approach ignores the fundamentally legislative nature of these determinations, and makes superfluous the role of elected local policy makers in determining how to balance the public's need for reliable, safe, and affordable supply of water and power against the interests of privately owned utilities and their ratepayers. To reach this conclusion, Appellant invites the Court to reject the longstanding deference provided to the legislative decision-making of local agencies, which extends to the eminent domain context. (See, e.g., *Western States Petroleum Ass'n. v. Superior Court* (1995) 9 Cal.4th 559, 572 [*Western States*]; *Anaheim Redevelopment Agency v. Dusek* (1987) 193 Cal.App.3d 249, 255 [*Dusek*]; *Santa Cruz Redevelopment Agency v. Izant* (1995) 37 Cal.App.4th 141, 150 [*Izant*] [a "resolution of necessity is a legislative act ... and thus great deference must be given to the legislative determination"].)

Instead, Appellant wants the Court to assume that, in adding the rebuttable presumption to the Eminent Domain Law in 1992, the Legislature intended to override the California Constitution's clear separation of powers *by implication*. (Cal. Const., art. III, § 3; see, generally, Opening Brief on the Merits ["OBM"] at pp. 37-40 [arguing that the "plain language" of the statute supports their argument].) But there is no evidence that the Legislature intended to delegate the fundamentally legislative role of local agencies to the courts. In fact, that argument is illogical given both the detailed and prescriptive provisions of the Eminent Domain Law (Cal. Code Civ. Proc. §§1230.010 et seq.) and the legislative context of the 1992 amendments.

ARGUMENT

I. LOCAL JURISDICTIONS LIKE SAN FRANCISCO POSSESS SUPERIOR EXPERTISE TO MAKE DECISIONS TO ACQUIRE REAL PROPERTY FOR PUBLIC PURPOSES.

California law recognizes that the regulation of privately-owned utilities is a core function of the state and its subdivisions under the traditional police power to ensure the health, safety, and welfare of their citizens. (*S. California Gas Co. v. City of Los Angeles* (1958) 50 Cal.2d 713, 718 [recognizing the right of municipal corporations to require utilities to relocate their lines as an exercise of the police power].) Similarly, the United States Congress recognized this fact when, in 1913, it adopted the Raker Act, granting the City rights of way in the Stanislaus National Forest and Yosemite National Park to build, operate and maintain

the Hetch Hetchy hydroelectric project. (Pub.L. No. 63–41 (Dec. 19, 1913) 38 Stat. 242, Exh. A at §1.) In San Francisco, the Charter reflects this core function by expressing the "declared purpose and intention of the people of the City and County, when public interest and necessity demand, that public utilities shall be gradually acquired and ultimately owned by the City and County." (S.F. Charter, art. XVI, § 16.101; see also S.F. Charter of 1971, §3.591 (Dec. 7, 1971) ["(SFPUC) shall have charge of all valuation work relative or incidental to purchase proceedings initiated by the city and county for the acquisition of any public utility."].) San Francisco's efforts to ensure a safe and reliable electrical grid, like the efforts of Apple Valley in advance of its decision to condemn utility assets in this case, demonstrate why the court below applied the correct standard of review.

Generally, electric service provided by publicly owned utilities is more affordable than service from investor-owned utilities, due to factors such as the absence of large executive bonuses, shareholders, and taxes. (*Public Power for Your Community* (2016) American Public Power Association, at pp. 20-21 <https://www.publicpower.org/system/files/documents/municipalization-what_is_public_power.pdf> [as of Jan. 20, 2020].) In fact, the City's two publicly owned power programs, Hetch Hetchy Power and CleanPowerSF, already serve more than 75 percent of the electricity demand in San Francisco. (*Draft Environmental Impact Report PG&E Power Asset Acquisition Project* Case No. 2023-005370ENV (2025) San Francisco Planning Department, Case No. 2023-005370ENV), <https://citypln-m-

extnl.sfgov.org/SharedLinks.aspx?accesskey=5dc4cfce6be2a655145613242de28a959645225d8dd1d76994e0c7429911b344&VaultGUID=A4A7DACD-B0DC-4322-BD29-F6F07103C6E0> (as of Jan. 20, 2026), at p. S-2 ["DEIR"].) Another approximately 15 percent of electricity demand in San Francisco is served by other private providers, and less than 10 percent of the electricity demand in San Francisco is sourced by PG&E. (*Ibid*.) Nevertheless, PG&E owns, controls, and is responsible for 100 percent of the grid pathways within San Francisco that are needed to deliver electricity to all of San Francisco's electricity users. (*Ibid*.) The City's service connections, therefore, are subject to the physical constraints of PG&E's distribution grid and the rules and requirements imposed by PG&E through its open access tariff. (*Ibid*.) Thus, since 1913, San Francisco has attempted several times to purchase elements of PG&E's electric grid, portions of which have been in place since 1879. (*Fed. Energy Regul. Comm'n, City and Cnty of San Francisco v. Pacific Gas and Electric Co.* [Feb. 1, 2016, FERC Docket EL15-3-002] Direct Testimony of James J. Hoecker, Ex. SF-1, at pp. 11-17 <https://elibrary.ferc.gov/eLibrary/filelist?accession_number=20160202-5258>; *150 Years of Energy: the History of PG&E Corporation*, PG&E Corporation <https://web.archive.org/web/20120629010809/http://www.pgecorp.com/150_non_flash/index.html> [as of Jan. 20, 2026].).

Unable to acquire those assets in the past, San Francisco began using PG&E's transmission and distribution lines to serve its residents in 1945, purchasing wholesale transmission and distribution services under a series of bilateral agreements that

have allowed the City to deliver its power supplies to individual customers located throughout San Francisco. (DEIR, *supra*, at p. S-2.) The last of these bilateral agreements expired on June 30, 2015. But even under these purchase agreements, PG&E's supply of electricity to the City has been inconsistent, at best, and dangerous, at worst.[3] (Cal.P.U.C., Decision Approving Reorganization Plan [May 28, 2020, D.20-05-053, 2020] WL 6060324, at 16 <https://1.next.westlaw.com/Document/Ibadbf3f70e6311eba650e08c07e5b642/View/FullText.html?transitionType=UniqueDocItem&contextData=(sc.Search)&userEnteredCitation=2020+WL+6060324> [as of Jan. 20, 2026].)[California Public Utilities Commission acknowledges that PG&E's recent history of safety performance "has ranged from dismal to abysmal."].) As a result, the City now proposes to advance the aim embodied in its Charter by acquiring certain PG&E-owned electrical transmission and distribution lines and equipment located in San Francisco and San Mateo counties (the "Assets") to provide electric service to customers within San

[3] For recent examples of PG&E's challenges, see, e.g. Marazzi Sassoon, Alessandro, *Power Restored for Most of San Francisco After Widespread Outage*, The New York Times (December 20, 2025) <https://www.nytimes.com/2025/12/20/us/san-francisco-electricity-out.html> [as of January 20, 2026]; *Tens of thousands of Bay Area PG&E customers without power on Christmas Day*, NBC Bay Area (Dec. 25, 2025) <https://www.nbcbayarea.com/news/local/bay-area-pge-power-outages-christmas-day/4003333/> [as of Jan. 20, 2026]; DiNatalie, PG&E outages: Backlash grows after thousands in S.F. Lose power twice in a week, S.F. Chronicle (Dec. 28, 2025) <https://www.sfchronicle.com/sf/article/pge-outage-21264014.php> [as of Jan. 20, 2026]; Hernandez, *PG&E transformer fire triggers another unplanned power outage in S.F*, S.F. Chronicle (Dec. 29, 2025) <https://www.sfchronicle.com/bayarea/article/sf-power-outage-21265683.php> [as of Jan. 20, 2026].)

Francisco. (DEIR, *supra*, p. S-1.) The City also proposes to acquire property and rights needed to operate and maintain the Assets and new City equipment on public and private lands. (*Ibid*.) If the City is able to acquire the Assets, the City would own, operate, and maintain the entire electricity grid serving San Francisco. (*Ibid*.)

The City's proposed acquisition of the Assets would allow the City to

> provide and deliver Hetch Hetchy hydropower, and other clean power, to all customers in San Francisco; improve the cost and efficiency of new electrical grid connections for critical City functions, such as public safety, affordable housing production, transportation, utility infrastructure, and schools; and (3) allow the City to own and manage the City's electric system with transparency and accountability, consistent with a cost-based, not-for-profit business model that will prioritize affordable, cost-effective, reliable, safe, and timely service in San Francisco.

(*Id*. at p. S-2.) San Francisco and its elected officials would consider how best to acquire the property in a manner that will benefit the City and all electric customers within San Francisco, not harm remaining PG&E ratepayers, nor detract from the City's ability to fund other municipal obligations including protecting the health, safety, and welfare of its citizens.

San Francisco's policy goal of electric self-sufficiency, authorized by federal law since Congress adopted the Raker Acti in 1913 (Exh. A, § 2 et seq.), and echoed in its Charter (S.F. Charter, art. XVI, § 16.101), is driven by PG&E's historic failure to provide adequate service to the City's municipal electric utility under relevant Federal Energy Regulatory Commission ("FERC") tariffs; PG&E's general failure to provide reasonable, safe, and cost-

effective service to its ratepayers, including those in San Francisco; and the City's commitment to making changes that address climate change, including changes that require the City to own its electric grid. (See, e.g., San Francisco Environment Department, *San Francisco's Climate Action Plan 2021,* (Dec. 2021) at p. 53, <https://www.sfenvironment.org/media/14441>[as of Jan. 2026].)

Having suffered the repercussions of PG&E's repeated failures, coupled with the City's century of providing safe and reliable electric services to its citizens, San Francsico possesses unique expertise in determining whether such an acquisition, through purchase or other means, serves the public necessity and is a "more necessary public use." But before even considering whether to purchase or acquire utility property through eminent domain, California law and the San Francisco Charter require San Franciso to follow prescribed steps. San Francisco commenced this process in 2019, when then Mayor London N. Breed sent a letter to the General Manager of the SFPUC, initiating San Francisco's review of the cost and feasibility of acquiring PG&E's electric distribution facilities that serve San Francisco. (DEIR, at p. 1-10.)

On May 18, 2019, the Board of Supervisors determined that the "public interest and necessity require changing the electric service provided in San Francisco, and these changes may include the acquisition of PG&E's electric system serving San Francisco, construction of new facilities by the City, or completion of the City's own electric system." (*Requesting the San Francisco Public Utilities Commission to Report on Options for Improving Electric Service through Acquisition, Construction, or Completion of Public Utility*

(Resolution 174-19, April 9, 2019) S.F. Board of Supervisors, <https://sfgov.legistar.com/View.ashx?M=F&ID=7179277&GUID=29D5F90F-0712-4381-A6F6-6DC2FE9FCFBD>[as of Jan. 20, 2026].) In reaching this conclusion, San Francisco's legislators weighed the numerous benefits to San Francisco citizens and businesses, including enabling the City to provide affordable, safe, and reliable electric service, and take meaningful environmental and climate action while improving its programs to ensure workforce development and equity. (*Ibid.*) Electric service provided by the City would also be more transparent and accountable to customers, because bi-weekly meetings of the San Francisco Public Utilities Commission ("SFPUC") are open to the public. (https://www.sfpuc.gov/about-us/boards-commissions-committees/sfpuc-commission) Rate setting decisions are governed by the City's Charter, which requires independent review, and are subject to rejection by the Board of Supervisors. (S.F. Charter, art. VIIIB, § 8B.125.) SFPUC Commissioners, in turn, are appointed by the Mayor, subject to approval by the Board, and are therefore directly accountable to the voters, rather than PG&E's shareholders. (S.F. Charter, art IV, §4.112(a).)

In July 2021, San Francisco filed a Petition for a Valuation of the PG&E Assets (Petition No. 1421P. 21-07-_027) pursuant to Public Utilities Code section 1401. And, in March 2025, San Francisco's Planning Department prepared an initial study under the California Environmental Quality Act (Pub. Res. Code §§ 21000 et seq.) (DEIR, *supra*, App. A) to identify topics for which the project's effects would be less than significant and not require

further analysis, and those topics that warrant more detailed environmental analysis in an environmental impact report ("EIR"). The City then prepared a Draft EIR for the proposed acquisition of PG&E assets. (DEIR, *supra*.) Valuation and environmental review of the Assets continues.

San Francisco's century-long history of operating electric utilities through Hetch Hetchy Power and working with PG&E, along with the intensive work it has performed over the last six years, give San Francisco substantial expertise concerning San Francisco's electrical grid, and uniquely qualify the City to both weigh the interests of all stakeholders, and to operate those facilities to provide safe, reliable, and cost-effective electric distribution service to all San Francisco electric customers. Appellant asks courts, like this one, to ignore the kind of deep experience with utility operations and their effects on citizens and give no deference to the decisions of the elected and appointed officials of municipalities who determine that the best interests of their citizens support the acquisition of those utility assets. (OBM at pp. 13, 39, 53 [arguing that trial court "sits as a trier of fact to decide whether the presumptions have been rebutted."].)

II. THE EXPERIENCE IN OTHER JURISDICTIONS SIMILARLY DEMONSTRATES THE SUPERIOR EXPERTISE OF LEGISLATIVE DECISIONMAKING.

The *PG&E* case provides further evidence of the significant expertise developed by local jurisdictions in the process of acquiring public utility assets and the comparative advantage these jurisdictions have over trial courts to weigh the complex technical

issues of fact and policy involved in a decision to acquire a privately owned utility. Like San Francisco, the South San Joaquin Irrigation District (the "District") has dedicated over twenty years to its efforts to acquire electric service assets, including in-depth environmental and other analysis of the benefits and challenges of such acquisition. In 2005, the District developed a plan to provide retail electric service within its existing service territory. That plan included the acquisition of certain existing PG&E distribution facilities either through purchase or eminent domain. As part of this process, San Joaquin County prepared an environmental impact report to study to the proposed acquisition, concluding there would be no significant impacts on the environment. And, as in San Francisco's case, PG&E opposed the District's plan. The California Public Utilities Commission analyzed the plan and concluded it would not substantially impair PG&E's ability to provide adequate service at a reasonable rate. (See *San Joaquin Cnty. Loc. Agency Formation Comm'n v. Superior Ct.* (2008) 162 Cal.App.4th 159, 164 ["*San Joaquin Cnty.*"].)

III. CALIFORNIA LAW PRESCRIBES THE MEANS FOR CHALLENGING A LOCAL GOVERNMENT'S DETERMINATION TO CONDEMN PROPERTY.

California's Eminent Domain Law (Code Civ. Proc., § 1230.010 et seq.) provides courts with "[t]he entire framework which exists for the exercise of the inherent governmental power of eminent domain in California," and "these statutory provisions must be strictly complied with when proceeding in an eminent domain action." (*Town of Apple Valley, supra*, 108 Cal.App.5th at p.

74. [citing *San Bernardino County Flood Control District v. Grabowski* (1988) 205 Cal.App.3d 885, 893.]) The law narrowly constrains the means for private property owners to challenge a public entity's determination to take private property for public use and establishes the burdens of proof applicable to the parties in such disputes. Appellant argues that these constraints place courts, rather than local agencies, in the role of factfinder, allowing private owners of public serving utilities to rebut the statutory presumptions "by introducing any otherwise admissible evidence." (OBM at p. 13.) This reading of the Eminent Domain Law would prohibit courts from "uphold[ing] the agency's decision merely because its resolution was supported by substantial evidence and does not reflect a gross abuse of discretion." (*Ibid*.) The Court should reject Appellant's construction of the law, because it ignores the fundamentally legislative nature of the decision to condemn private property, the historic delegation of that responsibility under state and federal laws, and the resulting expertise of local jurisdictions in reaching the decision to condemn private property.

To establish the right to condemn property in California, a public entity must first adopt a Resolution of Necessity ("RON") in which it finds and determines that its "project" meets three criteria:

(1) the public interest and necessity require the project;

(2) the project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury; and

(3) the property sought to be acquired is necessary for the project.

(Cal. Code Civ. Proc., §§ 1240.030, subds. (a)-(c); 1245.220; see also *SFPP v. Burlington Northern & Santa Fe Ry. Co.* (2004) 121 Cal.App.4th 452, 468.) An additional requirement applies when, as here, the local government entity seeks to take property that is already appropriated to a public use. In those cases, the proposed use of the property must be for "a more necessary public use than the use to which the property is appropriated." (Cal. Code Civ. Proc., § 1240.610.) Satisfaction of this requirement, in turn, must be reflected in the adopted RON, which must specifically refer to section 1240.610. Finally, with exceptions not applicable here, where the property to be taken is in use as an electric, gas, or water public utility that the condemning entity proposes to put to the same use, the "more necessary public use" element of section 1240.610 creates a rebuttable presumption affecting the parties' burden of proof. (Cal. Code Civ. Proc., § 1240.650.)

The task before this Court is to determine, within the strict confines prescribed by the Eminent Domain Law and in the unique context of utility condemnations, the proper standard of judicial review for trial courts to apply in determining whether the property owner has adequately rebutted the presumptions under Code of Civil Procedure sections 1245.250, subdivision (b) and 1240.650, subdivision (c). In so doing, the Court must consider the respective roles of the courts and legislative policymakers in the eminent domain context.

IV. FEDERAL, STATE AND LOCAL LAW TASKS LEGISLATIVE BODIES OF CITIES AND COUNTIES, AND NOT THE COURTS, WITH WEIGHING THE DECISION TO CONDEMN PRIVATE UTILITIES.

Contrary to Appellant's argument, the nature of Apple Valley's decision to condemn is critical to this Court's analysis of the applicable standard of judicial review. (See OBM at pp. 45-47.) As courts have recognized for nearly 40 years,

> The distinction [between legislative and adjudicative acts of local governments] is crucial to determining the appropriate standard of review. If the Agency's adoption of the resolution is legislative, then its validity should be tested by the arbitrary and capricious standard of ordinary mandamus under section 1085. [citation omitted.] If, on the other hand, the action is adjudicative, then the more rigorous standard of review compelled by section 1094 governs.

(*Dusek*, *supra*, 193 Cal.App.3d at p. 259 (citing *Gabric v. City of Rancho Palos Verdes* (1977) 7 Cal.App.3d 183, 193.) In fact, the decision to condemn private property for public use is "a fundamental political question" and therefore a quasi-legislative act. (*Id*. at p. 260.) The decision to condemn is "much more than a private dispute," and requires the condemning agency to weigh the property owner's interests against the policy goals to be advanced by the condemnation. (*Ibid*.) "These considerations are inherently legislative." (*Ibid*.) Therefore, whether raised as a defense in an eminent domain action or before such action through a writ of mandate, all challenges to a resolution of necessity are reviewed under the deferential standard of review provided by Code of Civil Procedure section 1085. (*Inglewood Redevelopment Agency v. Aklilu* (2007) 153 Cal.App.4th 1095, 1113 [*Aklilu*]["Adoption of a

resolution of necessity is a quasi-legislative decision."]; see also *Santa Clarita Organization for Planning & Environment v. Castaic Lake Water Agency* (2016) 206 Cal.Rptr.3d 33, modified on denial of rehearing, review filed, review denied [public agency's decision to initiate eminent domain proceedings is quasi-legislative because it requires the agency to consider and balance policy concerns;].)

It is undisputed that eminent domain is an "inherent attribute of sovereignty[,]" and this inherent characteristic means that a legislative body's condemnation decisions are subject to deference by the courts. (*In People ex rel. Department of Public Works v. Chevalier* (1959) 52 Cal.2d 299.) "[T]he only constitutional limitations on this sovereign power are that the taking be for a 'public use' and that 'just compensation' be paid for such taking[;]" "'all other questions involved in the taking of private property are of a legislative nature.'" (*Id.* at p. 304.)

Federal, state and local law alike recognize the authority of cities and counties to determine whether to acquire the assets of privately owned public utilities. By adopting the Raker Act in 1913, Congress recognized this authority by granting San Francisco rights to develop and operate Hetch Hetchy on federal lands. (Raker Act *supra*, Exh. A. at § 1.) The California Constitution provides that "[a] municipal corporation may establish, purchase, and operate public works to furnish its inhabitants with light, water, power, heat, transportation, or means of communications." (Cal. Const., art. XI, Section 9.) California Public Utilities Code sections 1401 et seq. also contemplate the acquisition of public utility properties by a political subdivision "under eminent domain proceedings, or

otherwise." (Pub. Util. Code, §§ 1401-1403.) And San Francisco's Charter tasks its legislative body to determine when the public interest is best served by public ownership of utilities, providing that public utilities shall be gradually acquired when the Board of Supervisors determines that the public interest and necessity demand. (San Francisco Charter, art. XVI § 16.101.) Notably, these sources of authority to condemn public utilities, all of which predate the 1992 amendment to the Eminent Domain Law relied on by Appellant, do not delegate to the *courts* the authority to determine, in the first instance, when the public interest or necessity demand such acquisition.

It is not surprising, then, that California cases decided both before and after 1992 recognize that RONs authorizing intraterritorial condemnation are legislative/quasi-legislative acts. (E.g., *Dusek, supra*, 193 Cal.App.3d at p. 260; *Izant, supra,* 37 Cal.App.4th at p. 150; *Council of San Benito County Governments v. Hollister Inn, Inc.* (2012) 209 Cal.App.4th 473, 485; *City of Saratoga v. Hinz* (2004) 115 Cal.App.4th 1202, 1221; *Aklilu*, *supra* 153 Cal.App.4th at p. 1113; *Redevelopment Agency of City of Chula Vista v. Rados Bros.* (2001) 95 Cal.App.4th 309, 316 [*Rados Bros.*]; *City of Carlsbad v. Wight* (1963) 221 Cal.App.2d 756, 761 [*Wight*].) In its prescription of a standard of review for RONs, the Eminent Domain Law likewise recognizes that these determinations should be made by local agencies with the power to condemn, rather than the courts. Thus, whether a property owner challenges a resolution of necessity as a defense in an eminent domain action or as a challenge by way of a writ of mandate, the trial court applies a

section 1085 deferential standard of review. (*Aklilu, supra,* 153 Cal. App. 4th at p. 1114.) Similarly, as the Court of Appeal below recognized (*Town of Apple Valley* at p. 75), whether a property owner seeks judicial review of the validity of a RON or asserts a challenge after commencement of the action by objection to the right to take (Code Civ. Proc., § 1245.255, subd. (a)), "[u]nder either procedure, the trial court is required to apply a Code of Civil Procedure section 1085 deferential standard of review." (See, e.g., *Rados Bros.*, *supra,* 95 Cal.App.4th at p. 316.) By requiring that all challenges to an eminent domain proceeding are governed by Section 1085, the Legislature has made it clear that the deferential standard of judicial review inherent in Section 1085 governs the local entities' determinations of public use and more necessary use--regardless of when and how a challenge is brought to those determinations.

V. THE STANDARD OF JUDICIAL REVIEW OF LEGISLATIVE DETERMINATIONS RECOGNIZES THE EXPERTISE OF LOCAL GOVERNMENTS.

"The appropriate degree of judicial scrutiny in any particular case … lies somewhere along a continuum with nonreviewability at one end and independent judgment at the other. [] Quasi-legislative administrative decisions are properly placed at that point of the continuum at which judicial review is more deferential[.]" (*W. States Petroleum Assn. v. Superior Ct.* (1995) 9 Cal.4th 559, 575–76 [citations omitted].) Where, as in the case of eminent domain proceedings, a legal challenge must be brought as an ordinary

mandamus action, the standard of review leans towards the deferential end of this spectrum.

> 'In ordinary mandamus proceedings courts exercise very limited review "out of deference to the separation of powers between the Legislature and the judiciary, to the legislative delegation of administrative authority to the agency, and to the presumed expertise of the agency within its scope of authority." [] The court may not weigh the evidence adduced before the administrative agency or substitute its judgment for that of the agency, for to do so would frustrate the legislative mandate.' [Citation.]"

(*Rados Bros.*, *supra*, 95 Cal.App.4th at p. 316.) In contrast, adjudicative decisions are subject to a more rigorous standard of review under section 1094.5. (*Dusek, supra*, 193 Cal.App.3d at p. 259.)

Judicial deference to legislative determinations results largely from the recognition, in the words of this Court, that "administrative agencies to which the Legislature has delegated regulatory authority in particular areas often develop a high degree of expertise in those areas and the body of law that governs them." (*Western States, supra,* at p. 572 [citations omitted].) The question of whether to take property is just such a " 'fundamental political question' " (*Dusek, supra* at p. 260), which the Legislature has delegated to local governments. "Other factors also lead the courts to defer to an agency's determination in the eminent domain context. Specifically, "[t]he courts exercise limited review of legislative acts by administrative bodies out of deference to the separation of powers between the Legislature and the judiciary, to the legislative delegation of administrative authority to the agency, and to the presumed expertise of the agency within its scope of

authority." (*California Hotel & Motel Assn. v. Industrial Welfare Com.* (1979) 25 Cal.3d 200, 211-212.)

Because of the constitution's separation of powers between the Legislative and Judicial branches, courts must "begin with the proposition that a court's authority to second-guess" legislative determinations "is extremely limited." (*Connecticut Indem. Co. v. Superior Court* (2000) 23 Cal.4th 807, 814 [legislative branch is entitled to deference from the courts because of the constitutional separation of powers].) In fact, "courts are not authorized to second-guess the motives of a legislative body"; rather, "if reasonable, legislation will not be disturbed." (*Ibid.*; see also *Western States, supra,* 9 Cal.4th at p. 572 [In determining the scope of the review of legislative/quasi-legislative acts, "consideration must be given to the fact that the courts must not usurp legislative power and thereby violate the separation of powers provision in the Constitution."); *County of Los Angeles v. City of Los Angeles* (2013) 214 Cal.App.4th 643, 654 ["Deferential review of quasi-legislative activity minimizes judicial interference in the interests of the separation of powers doctrine."].) "[E]xcessive judicial interference with [a public entity's] quasi-legislative actions would conflict with the well-settled principle that the legislative branch is entitled to deference from the courts because of the constitutional separation of powers." (*San Joaquin Cnty., supra, 162 Cal.App.4th 159, 167.*) In fact, a trial court reviewing a city's "quasi-legislative act" would commit reversible error by "conduct[ing] an independent review of the evidence and reach[ing] its own conclusions regarding what was

necessary or convenient[.]" (*County of Los Angeles v. City of Los Angeles, supra,* 214 Cal.App.4th at p. 655.)

Appellant fails to provide this Court with a basis to upend this well-settled constitutional principle as applied to a subclass of eminent domain actions. In fact, their proposal would transform the courts into unelected local legislators, determining matters of significant local policy without accountability to the affected residents.

VI. THE COURT SHOULD REJECT APPELLANT'S INVITATION TO IGNORE THE CONSTITUTIONAL SEPARATION OF POWERS BY IMPLICATION.

Appellant asks the Court to read the rebuttable presumptions set forth in Code of Civil Procedure sections 1245.250, subdivision (b) and 1240.650, subdivision (c) as evidencing the Legislature's intent to override the constitutional separation of powers between local legislative bodies and the courts in the context of public utility condemnations. (OBM at 37-40.) The argument is framed as a review of the "plain language" of the statutes. (OBM at 37-38.) Specifically, Appellant posits that "[t]he only reasonable interpretation" of the public necessity and more necessary public use elements of a RON is that "a utility opposing a taking may present evidence in the trial court to demonstrate the public necessity elements and the more necessary public use requirement have not been satisfied and that the trial court, in reviewing such evidence, sits as a trier of fact to decide whether the presumptions have been rebutted." (OBM at 37-38.) But "plain language" does not mean the Court ignores the legal landscape in which the 1992

amendments to these code sections were adopted—including the constitutional separation of powers long recognized in the eminent domain context—and neither their plain language, nor their legislative history, support Appellant's interpretation.

This court has long held that it will not presume an intent to "overthrow long-established principles of law" absent an "express declaration or necessary implication". (*County of Los Angeles v. Frisbie* (1942) 19 Cal.2d 634, 644.) But Appellant's reading of the rebuttable presumptions would ignore California courts' long recognition that the determinations required in a RON are legislative or quasi-legislative in nature (see Section IV, *infra*) and make *courts* responsible for the weighing of competing public and private costs and benefits that are traditionally the domain of legislative bodies. In short, their approach ignores both the constitutional separation of powers and the delegation of legislative responsibility for takings in federal, state and local laws.

Appellant's attempt to support its argument that the rebuttable presumptions confer on the courts the same power over utility condemnations that they possess over extraterritorial takings misses the mark. By equating the presumption affecting the burden of proof applicable to utility condemnations under sections 1245.250(b) and 1240.650(c)--by analog--to the presumption affecting the burden of producing evidence applicable to extraterritorial takings in section 1245.250(c) (OBM at 50), Appellant ignores the differences in language chosen by the Legislature. Suggesting that the differences between the burdens of proof for extraterritorial condemnation and utility condemnation

where the property lies entirely within the legislative body's jurisdiction are merely "superficial" or "minor" (OBM at 50), Appellant asks the Court to assume that the Legislature did not understand the difference between evidentiary presumptions. (But see *Farr v. County of Nevada* (2010) 187 Cal.App.4th 669, 680 [Distinguishing presumptions affecting the burden of proof from presumptions affecting the burden of producing evidence.)

"A presumption affecting the burden of proof imposes a much more onerous burden" (*In re G.Z. v. Kimberly D.* (2022) 85 Cal.App.5th 857, 884) on the privately owned utility than a presumption affecting the production of evidence. This difference is entirely logical where municipalities generally cannot exercise their powers beyond their corporate boundaries, without an express grant of legislative authority. (*Wight, supra,* 221 Cal.App.2d at p. 760.) Thus, different standards logically apply to a proposed public improvement within a municipality's boundaries (a legislative, not a judicial, matter), whereas "when a city seeks to condemn land without its corporate limits, it devolves upon the courts to determine whether the taking of the particular land is necessary for the use[.]" (*Id* at p. 761)

Finally, "[w]hen the Legislature uses different words as part of the same statutory scheme, those words are presumed to have different meanings." (*Romano v. Mercury Ins. Co.* (2005) 128 Cal.App.4th 1333, 1343.) As a result, the court below correctly concluded that

> … if the Legislature wanted the same law to apply to extraterritorial and public utility takings, then it would have used the same language in sections 1245.360, subdivisions (b)

> and (c). Second, and more importantly, there is good reason to distinguish between extraterritorial takings and public utility takings: an extraterritorial taking, unless otherwise authorized, is not a valid legislative action, while an intraterritorial public utility taking is.

Town of Apple Valley, supra, 108 Cal.App.5th at p. 85.) After it "scoured the legislative history" of the amendments to the Eminent Domain Law, the Court of Appeal "found nothing that suggests that, by enacting the 1992 amendments, the Legislature intended to so fundamentally alter the courts' role in reviewing eminent domain decisions concerning public utilities. If the Legislature had intended such a significant departure from decades of well-established case law, we presume it clearly would have said so." (*Id.* at 87.)

VII. THE COURT OF APPEAL APPLIED THE CORRECT STANDARD OF REVIEW.

The Fourth Appellate District Court of Appeal in this case acknowledged that the presumptions of public necessity and a "more necessary public use" are rebuttable when a local public entity adopts its RON to take electric, gas, or water utility property. (*Town of Apple Valley, supra,* 108 Cal.App.5th at p. 75.) The Court then properly applied the gross abuse of discretion standard to determine whether the presumptions had been rebutted by the party challenging the proposed taking. (*Id.* at pp. 83-84, 91.) In reaching this conclusion, the Court expressly disagreed with and declined to follow the Third Appellate Court of Appeal's decision in the *PG&E* case (see *Town of Apple Valley,* 108 Cal.App.5th at p. 89). In *PG&E*, the Court gave no deference to the condemning agency's

superior expertise, significant investment of time and expense, and thoughtful weighing of the interests of the public served by the utility against the private property rights of that entity. Instead, while acknowledging that '[t]he necessity of a taking is a legislative question[,]" the *PG&E* Court concluded that "… the question of necessity can be made a judicial question by statute, and the Legislature has done just that in the context of public utilities." (*PG&E, supra*, 95 Cal. App. 5th at p. 837.) For the reasons set forth above, *amici curiae* assert that the Court must respect the constitutional separation of legislative and judicial powers, apply the judicial deference due to the quasi-legislative decisions of public agencies exercising their power of eminent domain, affirm the decision of the court below, and reject the holding in *PG&E*.

CONCLUSION

For the reasons set forth above, *Amici* respectfully request that this Court should affirm the decision below.

Dated: January 21, 2026

DAVID CHIU
City Attorney
KRISTEN A. JENSEN,
Assistant Chief Land Use Deputy

By:/s/ *KRISTEN A. JENSEN*
KRISTEN A. JENSEN
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THE CALIFORNIA STATE ASSOCIATION OF COUNTIES

CERTIFICATE OF COMPLIANCE

I hereby certify that this brief has been prepared using proportionately double-spaced 13 point Century Schoolbook typeface. According to the "Word Count" feature in my Microsoft Word for Windows software, this brief contains 7,007 words.

I declare under penalty of perjury that this Certificate of Compliance is true and correct and that this declaration was executed on January 21, 2026.

DAVID CHIU
City Attorney
KRISTEN A. JENSEN
Assistant Chief Land Use Deputy

By: *KRISTEN A. JENSEN*
KRISTEN A. JENSEN
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CITY AND COUNTY OF SAN FRANCISCO and THE CALIFORNIA STATE ASSOCIATION OF COUNTIES

PROOF OF SERVICE

I, LAUREN SKELLEN, declare as follows:

I am a citizen of the United States, over the age of eighteen years and not a party to the above-entitled action. I am employed at the City Attorney's Office of San Francisco, City Hall, Room 234, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

On January 21, 2026, I served the following document(s):

APPLICATION FOR LEAVE TO FILE *AMICI CURIAE* BRIEF AND *AMICI CURIAE* BRIEF OF THE CITY OF SAN FRANCISCO AND THE CALIFORNIA STATE ASSOCIATION OF COUNTIES IN SUPPORT OF PLAINTIFF AND APPELLANT TOWN OF APPLE VALLEY

on the following persons at the locations specified:

Edward L. Xanders Timothy T. Coates Kendall MacVey Christopher M. Pisano Guillermo Frias Joseph V. Bui	Attorneys for Plaintiff/Appellant Town of Apple Valley
Charles Cummings D. Daniel Pranata	Attorneys for Defendants/Respondents Jess Ranch Development Company, Inc. Jess Ranch Water Company, Inc.
Bradley S. Pauley Robert Herring Wright	Attorneys for Defendant/Respondent Apple Valley Ranchos Water

in the manner indicated below:

☒ **BY ELECTRONIC MAIL:** Based on a court order or an agreement of the parties to accept electronic service, I caused the documents to be served electronically through True Filing in portable document format ("PDF") Adobe Acrobat.

I declare under penalty of perjury pursuant to the laws of the State of California that the foregoing is true and correct.

Executed January 21, 2026, at San Francisco, California.

/s/ LAUREN SKELLEN
LAUREN SKELLEN

4927-8715-5082, v. 1

EXHIBIT A:
RAKER ACT OF 1913

December 19, 1913.
[H. R. 7207.]
[Public, No. 41.]

CHAP. 4.—An Act Granting to the city and county of San Francisco certain rights of way in, over, and through certain public lands, the Yosemite National Park, and Stanislaus National Forest, and certain lands in the Yosemite National Park, the Stanislaus National Forest, and the public lands in the State of California, and for other purposes.

San Francisco, Cal. Right of way granted to, through public lands, etc., for water uses.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there is hereby granted to the city and county of San Francisco, a municipal corporation in the State of California, all necessary rights of way along such locations and of such width, not to exceed two hundred and fifty feet, as in the judgment of the Secretary of the Interior may be required for the purposes of this Act, in, over, and through the public lands of the United States in the counties of Tuolumne, Stanislaus, San Joaquin, and Alameda, in the State of California, and in, over, and through the Yosemite National Park and the Stanislaus National Forest, or portions thereof, lying within the said counties, for the purpose of constructing, operating, and maintaining aqueducts, canals, ditches, pipes, pipe lines, flumes, tunnels, and conduits for conveying water for domestic purposes and uses to the city and county of San Francisco and such other municipalities and water districts as, with the consent of the city and county of San Francisco, or in accordance with the laws of the State of California in force at the time application is made, may hereafter participate in the beneficial use of the

Electric plants, etc.

rights and privileges granted by this Act; for the purpose of constructing, operating, and maintaining power and electric plants, poles, and lines for generation and sale and distribution of electric energy; also for the purpose of constructing, operating, and maintaining telephone and telegraph lines, and for the purpose of constructing, operating, and maintaining roads, trails, bridges, tramways, railroads, and other means of locomotion, transportation, and communication, such as may be necessary or proper in the construction, maintenance, and operation of the works constructed by the

Lands for reservoirs, etc., in Hetch Hetchy Valley, etc.

grantee herein; together with such lands in the Hetch Hetchy Valley and Lake Eleanor Basin within the Yosemite National Park, and the Cherry Valley within the Stanislaus National Forest, irrespective of the width or extent of said lands, as may be determined by the Secretary of the Interior to be actually necessary for surface or

Power houses, etc.

underground reservoirs, diverting and storage dams; together with such lands as the Secretary of the Interior may determine to be actually necessary for power houses, and all other structures or buildings necessary or properly incident to the construction, operation, and maintenance of said water-power and electric plants, telephone and telegraph lines, and such means of locomotion, transportation,

Construction material from Yosemite Park, Stanislaus Forest, etc.

and communication as may be established; together with the right to take, free of cost, from the public lands, the Yosemite National Park, and the Stanislaus National Forest adjacent to its right of way, within such distance as the Secretary of the Interior and the Secretary of Agriculture may determine, stone, earth, gravel, sand, tufa, and other materials of like character actually necessary to be used in the construction, operation, and repair of its said water-power and electric plants, its said telephone and telegraph lines, and its said means of locomotion, transportation, or communication,

Conditions, etc.

under such conditions and regulations as may be fixed by the Secretary of the Interior and the Secretary of Agriculture, within their respective jurisdictions, for the protection of the public lands, the

Provisos. Maps to be filed.

Yosemite National Park, and the Stanislaus National Forest: *Provided,* That said grantee shall file, as hereinafter provided, a map or maps showing the boundaries, location, and extent of said proposed rights of way and lands for the purposes hereinabove set forth: *Pro-*

Approval of location.

vided further, That the Secretary of the Interior shall approve no location or change of location in the national forests unless said loca-

tion or change of location shall have been approved in writing by the Secretary of Agriculture.

Maps to be filed in land offices.

SEC. 2. That within three years after the passage of this Act said grantee shall file with the registers of the United States land offices, in the districts where said rights of way or lands are located, a map or maps showing the boundaries, locations, and extent of said proposed rights of way and lands required for the purposes stated in section one of this Act; but no permanent construction work shall be commenced on said land until such map or maps shall have been filed as herein provided and approved by the Secretary of the Interior: *Provided, however*, That any changes of location of any of said rights of way or lands may be made by said grantee before the final completion of any of said work permitted in section one hereof, by filing such additional map or maps as may be necessary to show such changes of location, said additional map or maps to be filed in the same manner as the original map or maps; but no change of location shall become valid until approved by the Secretary of the Interior, and the approval by the Secretary of the Interior of said map or maps showing changes of location of said rights of way or lands shall operate as an abandonment by the city and county of San Francisco to the extent of such change or changes of any of the rights of way or lands indicated on the original maps: *And provided further*, That any rights inuring to the grantee under this Act shall, on the approval of the map or maps referred to herein by the Secretary of the Interior, relate back to the date of the filing of said map or maps with the register of the United States Land Office as provided herein, or to the date of the filing of such maps as they may be copies of as provided for herein: *And provided further*, That with reference to any map or maps heretofore filed by said city and county of San Francisco or its grantor with any officer of the Department of the Interior or the Department of Agriculture, and approved by said department, the provisions hereof will be considered complied with by the filing by said grantee of copies of any of such map or maps with the register of the United States Land Office as provided for herein, which said map or maps and locations shall as in all other cases be subject to the approval of the Secretary of the Interior.

Commencement of construction.

Provisos. Changes.

Approval required.

Rights relate back to date of filing.

Acceptance of previous maps.

Rights of way subject to purchase of valid grants, etc.

SEC. 3. That the rights of way hereby granted shall not be effective over any lands upon which homestead, mining, or other existing valid claim or claims shall have been filed or made and which now in law constitute prior rights to any claim of the grantee until said grantee shall have purchased such portion or portions of such homestead, mining, or other existing valid claims as it may require for right-of-way purposes and other purposes herein set forth, and shall have procured proper relinquishments of such portion or portions of such claims, or acquired title by due process of law and just compensation paid to said entrymen or claimants, and caused proper evidence of such fact to be filed with the Commissioner of the General Land Office, and the right of such entrymen or claimants to sell and of said grantee to purchase such portion or portions of such claims are hereby granted: *Provided, however*, That this Act shall not apply to any lands embraced in rights of way heretofore approved under any Act of Congress for the benefit of any parties other than said grantee or its predecessors in interest.

Proviso. Lands in former rights of way not affected.

Park and forest regulations to govern.

SEC. 4. That the said grantee shall conform to all regulations adopted and prescribed by the Secretary of the Interior governing the Yosemite National Park and by the Secretary of Agriculture governing the Stanislaus National Forest, and shall not take, cut, or destroy any timber within the Yosemite National Park or the Stanislaus National Forest, except such as may be actually necessary in order to construct, repair, and operate its said reservoirs, dams, power plants, water-power and electric works, and other structures above men-

Timber regulations.

tioned, but no timber shall be cut or removed from lands outside of the right of way until designated by the Secretary of the Interior or the Secretary of Agriculture, respectively; and it shall pay to the United States the full value of all timber and wood cut, injured, or destroyed on or adjacent to any of the rights of way and lands, as required by the Secretary of the Interior or the Secretary of Agriculture: *Provided*, That no timber shall be cut by the grantee in the Yosemite National Park except from land to be submerged or which constitutes an actual obstruction to the right or rights of way or to any road or trail provided in this Act: *Provided further*, That for and in consideration of the rights and privileges hereby granted to it the said grantee shall construct and maintain in good repair such bridges or other practicable crossings over its rights of way within the Stanislaus National Forest as may be prescribed in writing by the Secretary of Agriculture, and elsewhere on public lands along the line of said works, and within the Yosemite National Park as may be prescribed in writing by the Secretary of the Interior; and said grantee shall, as said waterworks are completed, if directed in writing by the Secretary of the Interior or the Secretary of Agriculture, construct and maintain along each side of said right of way a lawful fence of such character as may be prescribed by the proper Secretary, with such suitable lanes or crossings as the aforesaid officers shall prescribe: *And provided further*, That the said grantee shall clear its rights of way within the Yosemite National Park and the Stanislaus National Forest and over any public land of any débris or inflammable material as directed by the Secretary of the Interior and the Secretary of Agriculture, respectively; and said grantee shall permit any road or trail which it may construct over the public lands, the Yosemite National Park, or the Stanislaus National Forest to be freely used by the officials of the Government and by the public, and shall permit officials of the Government, for official business only, the free use of any telephone or telegraph lines, or equipment, or railroads that it may construct and maintain within the Yosemite National Park and the Stanislaus National Forest, or on the public lands, together with the right to connect with any such telephone or telegraph lines private telephone wires for the exclusive use of said Government officials: *And provided further*, That all reservoirs, dams, conduits, power plants, water power and electric works, bridges, fences, and other structures not of a temporary character shall be sightly and of suitable exterior design and finish so as to harmonize with the surrounding landscape and its use as a park; and for this purpose all plans and designs shall be submitted for approval to the Secretary of the Interior.

Provisos.
In Yosemite Park.

Bridges, fences, and roads required.

Removal of débris, etc.

Public use of roads, etc.

Structures, etc., to be sightly and suitable.

Restriction of easements.

SEC. 5. That all lands over which the rights of way mentioned in this Act shall pass shall be disposed of only subject to such easements: *Provided, however*, That the construction of the aforesaid works shall be prosecuted diligently, and no cessation of such construction shall continue for a period of three consecutive years, and in the event that the Secretary of the Interior shall find and determine that there has not been diligent prosecution of the work or of some integral and essential part thereof, or that there has been a cessation of such construction for a period of three consecutive years, then he may declare forfeited all rights of the grantee herein as to that part of the works not constructed, and request the Attorney General, on behalf of the United States, to commence suit in the United States District Court for the Northern District of California for the purpose of procuring a judgment declaring all such rights to that part of the works not constructed to be forfeited to the United States, and upon such request it shall be the duty of the said Attorney General to cause to be commenced and prosecuted to a final judgment

Provisos.
Progress of construction required.

Forfeiture on failure.

such suit: *Provided further*, That the Secretary of the Interior shall make no such finding and take no such action if he shall find that the construction or progress of the works has been delayed or prevented by the act of God or the public enemy, or by engineering or other difficulties that could not have been reasonably foreseen and overcome, or by other special or peculiar difficulties beyond the control of the said grantee: *Provided further*, That, in the exercise of the rights granted by this Act, the grantee shall at all times comply with the regulations herein authorized, and in the event of any material departure therefrom the Secretary of the Interior or the Secretary of Agriculture, respectively, may take such action as may be necessary in the courts or otherwise to enforce such regulations.

Determination by Secretary of the Interior.

Compliance with regulations required.

SEC. 6. That the grantee is prohibited from ever selling or letting to any corporation or individual, except a municipality or a municipal water district or irrigation district, the right to sell or sublet the water or the electric energy sold or given to it or him by the said grantee: *Provided*, That the rights hereby granted shall not be sold, assigned, or transferred to any private person, corporation, or association, and in case of any attempt to so sell, assign, transfer, or convey, this grant shall revert to the Government of the United States.

Selling of water, etc., restricted.

Proviso. Prohibition on assignment of grant.

SEC. 7. That for and in consideration of the grant by the United States as provided for in this Act the said grantee shall assign, free of cost to the United States, all roads and trails built under the provisions hereof; and further, after the expiration of five years from the passage of this Act the grantee shall pay to the United States the sum of $15,000 annually for a period of ten years, beginning with the expiration of the five-year period before mentioned, and for the next ten years following $20,000 annually, and for the remainder of the term of the grant shall, unless in the discretion of Congress the annual charge should be increased or diminished, pay the sum of $30,000 annually, said sums to be paid on the first day of July of each year. Until otherwise provided by Congress, said sums shall be kept in a separate fund by the United States, to be applied to the building and maintenance of roads and trails and other improvements in the Yosemite National Park and other national parks in the State of California. The Secretary of the Interior shall designate the uses to be made of sums paid under the provisions of this section under the conditions specified herein.

Roads and trails to be assigned to United States.

Annual cash payments.

Application of fund.

SEC. 8. That the word "grantee" as used herein shall be understood as meaning the city and county of San Francisco and such other municipalities or water district or water districts as may, with the consent of the city and county of San Francisco or in accordance with the laws of the State of California, hereafter participate in or succeed to the beneficial rights and privileges granted by this Act.

"Grantee" construed.

SEC. 9. That this grant is made to the said grantee subject to the observance on the part of the grantee of all the conditions hereinbefore and hereinafter enumerated:

Specified conditions.

(a) That upon the completion of the Hetch Hetchy Dam or the Lake Eleanor Dam, in the Yosemite National Park, by the grantee, as herein specified, and upon the commencement of the use of any reservoirs thereby created by said grantee as a source of water supply for said grantee, the following sanitary regulations shall be made effective within the watershed above and around said reservoir sites so used by said grantee:

Yosemite Park. Sanitary regulations.

First. No human excrement, garbage, or other refuse shall be placed in the waters of any reservoir or stream or within three hundred feet thereof.

Refuse, etc.

Second. All sewage from permanent camps and hotels within the watershed shall be filtered by natural percolation through porous earth or otherwise adequately purified or destroyed.

Sewage.

Pollution of waters.

Third. No person shall bathe, wash clothes or cooking utensils, or water stock in, or in any way pollute, the water within the limits of the Hetch Hetchy Reservoir or any reservoir constructed by the said grantee under the provisions of this grant, or in the streams leading thereto, within one mile of said reservoir; or, with reference to the Hetch Hetchy Reservoir, in the waters from the reservoir or waters entering the river between it and the "Early intake" of the aqueduct, pending the completion of the aqueduct between "Early intake" and the Hetch Hetchy Dam site.

Expense of inspection.

Fourth. The cost of the inspection necessary to secure compliance with the sanitary regulations made a part of these conditions, which inspection shall be under the direction of the Secretary of the Interior, shall be defrayed by the said grantee.

Filtration plant, etc.

Fifth. If at any time the sanitary regulations provided for herein shall be deemed by said grantee insufficient to protect the purity of the water supply, then the said grantee shall install a filtration plant or provide other means to guard the purity of the water. No other sanitary rules or restrictions shall be demanded by or granted to the said grantee as to the use of the watershed by campers, tourists, or the occupants of hotels and cottages.

Use by campers, etc.

Modesto and Turlock Irrigation Districts.

Prior rights recognized.

(b) That the said grantee shall recognize the prior rights of the Modesto Irrigation District and the Turlock Irrigation District as now constituted under the laws of the State of California, or as said districts may be hereafter enlarged to contain in the aggregate not to exceed three hundred thousand acres of land, to receive two thousand three hundred and fifty second-feet of the natural daily flow of the Tuolumne River, measured at the La Grange Dam, whenever the same can be beneficially used by said irrigation districts, and that the grantee shall never interfere with said rights.

Additional water flow.

(c) That whenever said irrigation districts receive at the La Grange Dam less than two thousand three hundred and fifty second-feet of water, and when it is necessary for their beneficial use to receive more water the said grantee shall release free of charge, out of the natural daily flow of the streams which it has intercepted, so much water as may be necessary for the beneficial use of said irrigation districts not exceeding an amount which, with the waters of the Tuolumne and its tributaries, will cause a flow at La Grange Dam of two thousand three hundred and fifty second-feet; and shall also recognize the rights of the said irrigation districts to the extent of four thousand second-feet of water out of the natural daily flow of the Tuolumne River for combined direct use and collection into storage reservoirs as may be provided by said irrigation districts, during the period of sixty days immediately following and including April fifteenth of each year, and shall during such period release free of charge such quantity of water as may be necessary to secure to the said irrigation districts such four thousand second-feet flow or portion thereof as the said irrigation districts are capable of beneficially directly using and storing below Jawbone Creek: *Provided, however*, That at such times as the aggregate daily natural flow of the watershed of the Tuolumne and its tributaries measured at the La Grange Dam shall be less than said districts can beneficially use and less than two thousand three hundred and fifty second-feet, then and in that event the said grantee shall release, free of charge, the entire natural daily flow of the streams which it has under this grant intercepted.

Tuolumne River supply.

Proviso.
Release of daily flow.

Delivery of stored water.

(d) That the said grantee whenever the said irrigation districts desire water in excess of that to which they are entitled under the foregoing, shall on the written demand of the said irrigation districts sell to the said irrigation districts from the reservoir or reservoirs of the said grantee such amounts of stored water as may be needed for the beneficial use of the said irrigation districts at such a price as will return to the grantee the actual total costs of providing such stored

water, such costs to be computed in accordance with the currently accepted practice of public cost accounting as may be determined by the Secretary of the Interior, including, however, a fair proportion of the cost to said grantee of the conduit, lands, dams, and water-supply system included in the Hetch Hetchy and Lake Eleanor sites; upon the express condition, however, that the said grantee may require the said irrigation districts to purchase and pay for a minimum quantity of such stored water, and that the said grantee shall be entitled to receive compensation for a minimum quantity of stored water and shall not be required to sell and deliver to the said irrigation districts more than a maximum quantity of such stored water to be released during any calendar year: *Provided, however*, That if the said irrigation districts shall develop sufficient water to meet their own needs for beneficial use and shall so notify in writing the Secretary of the Interior, the said grantee shall not be required to sell or deliver to said irrigation districts the maximum or minimum amount of stored waters hereinbefore provided for, and shall release the said districts from the obligation to pay for such stored water: *And provided further*, That said grantee shall without cost to said irrigation districts return to the Tuolumne River above the La Grange Dam for the use of the said irrigation districts all surplus or waste water resulting from the development of hydroelectric energy generated by the said grantee.

Determination of compensation, etc.

Provisos. Restriction.

Return of waste water.

(e) That such minimum and maximum amounts of such stored water to be so released during any calendar year as hereinbefore provided and the price to be paid therefor by the said irrigation districts are to be determined and fixed by the Secretary of the Interior in accordance with the provisions of the preceding paragraph.

Amounts of stored water to be released.

(f) That the Secretary of the Interior shall revise the maximum and minimum amounts of stored water to be supplied to said irrigation districts by said grantee as hereinbefore provided, whenever the said irrigation districts have properly developed the facilities of the Davis Reservoir of the Turlock Irrigation District and the Warner-Dallas Reservoir of the Modesto Irrigation District to the fullest practicable extent up to a development not exceeding in cost $15 per acre-foot storage capacity, and whenever additional storage has been provided by the said irrigation districts which is necessary to the economical utilization of the waters of said watershed, and also after water losses and wastes have been reduced to such reasonable minimum as will assure the economical and beneficial use of such water.

Revision of maximum and minimum.

(g) That the said grantee shall not be required to furnish more than the said minimum quantity of stored water hereinbefore provided for until the said irrigation districts shall have first drawn upon their own stored water to the fullest practicable extent.

Restriction on water to be furnished.

(h) That the said grantee shall not divert beyond the limits of the San Joaquin Valley any more of the waters from the Tuolumne watershed than, together with the waters which it now has or may hereafter acquire, shall be necessary for its beneficial use for domestic and other municipal purposes.

Limit of diversion beyond San Joaquin Valley.

(i) That the said grantee shall, at its own expense, locate and construct, under the direction of the Secretary of the Interior, such weirs or other suitable structures on sites to be granted, if necessary, by the United States, for accurately measuring the flow in the said river at or above La Grange Dam, and measuring the flow into and out from the reservoirs or intakes of said districts, and into and out from any reservoirs constructed by the said grantee, and at any other point on the Tuolumne River or its tributaries, which he may designate, and fit the same with water-measuring apparatus satisfactory to said Secretary and keep such hydrographic records as he may direct, such apparatus and records to be open to inspection by any interested party at any time.

Gauging water flow.

Terms construed.

(j) That by "the flow," "natural daily flow," "aggregate daily natural flow," and "what is naturally flowing," as are used herein, is meant such flow as on any given day would flow in the Tuolumne River or its tributaries if said grantee had no storage or diversion works on the said Tuolumne watershed.

Hetch Hetchy Reservoir. Dam to be built.

(k) That when the said grantee begins the development of the Hetch Hetchy Reservoir site, it shall undertake and vigorously prosecute to completion a dam at least two hundred feet high, with a foundation capable of supporting said dam when built to its greatest economic and safe height.

Sale of excess electrical energy within irrigation districts.

(l) That the said grantee shall, upon request, sell or supply to said irrigation districts, and also to the municipalities within either or both said irrigation districts, for the use of any land owner or owners therein for pumping subsurface water for drainage or irrigation, or for the actual municipal public purposes of said municipalities (which purposes shall not include sale to private persons or corporations) any excess of electrical energy which may be generated, and which may be so beneficially used by said irrigation districts or municipalities, when any such excess of electric energy may not be required for pumping the water supply for said grantee and for the actual municipal public purposes of the said grantee (which purposes shall not include sale to private persons or corporations) at such price as will actually reimburse the said grantee for developing and maintaining and transmitting the surplus electrical energy thus sold;

Power plants limited.

and no power plant shall be interposed on the line of the conduit except by the said grantee, or the lessee, as hereinafter provided, and for the purposes and within the limitations in the conditions set forth herein: *Provided*, That said grantee shall satisfy the needs of

Proviso. Priority for irrigation, municipal, etc., uses.

the landowners in said irrigation districts for pumping subsurface water for drainage or irrigation, and the needs of the municipalities within such irrigation districts for actual municipal public purposes, after which it may dispose of any excess electrical energy for commercial purposes.

Conditions of grant for municipal or commercial use.

(m) That the right of said grantee in the Tuolumne water supply to develop electric power for either municipal or commercial use is to be made conditional for twenty years following the completion of any portion of the works adapted to the generation of electrical

Minimum power in three years.

energy, as follows: The said grantee shall within three years from the date of completion of said portion of the works install, operate, and maintain apparatus capable of developing and transmitting not less than ten thousand horsepower of electric power for municipal and commercial use, said ten thousand horsepower to be actually

In ten years.

used or offered for use; and within ten years from the completion of said portion of the works not less than twenty thousand horsepower; and within fifteen years therefrom not less than thirty thousand

In twenty years.

horsepower; and within twenty years therefrom not less than sixty thousand horsepower, unless in the judgment of the Secretary of the Interior the public interest will be satisfied with a lesser development. The said grantee shall develop and use hydroelectric power

Sale of power for irrigation, etc. Computation of price.

for the use of its people and shall, at prices to be fixed under the laws of California or, in the absence of such laws, at prices approved by the Secretary of the Interior, sell or supply such power for irrigation, pumping, or other beneficial use, said prices not to be less than will return to said grantee the actual total costs of providing and supplying said power, which costs shall be computed in accordance with the currently accepted practice of public cost accounting, as shall be determined by the Secretary of the Interior, including, however, a fair proportion of cost of conduit, lands, dams, and water-supply system; and further, said grantee shall, before using any of said water for the purpose of developing hydroelectric power, file such maps, surveys, field notes, or other data as may be required by law,

and shall conform to any law existing and applicable to said subject of development of said hydroelectric power for municipal or commercial uses.

Electric power requirements after twenty years.

(n) That after the period of twenty years hereinbefore provided for the development, transmission, use, and sale of electric power, the Secretary of the Interior, under authorization hereby given, may require the grantee, within a time fixed by the Secretary, to develop, transmit, and use, or offer for sale, such additional power, and also such power less than sixty thousand horsepower as the grantee may have failed to develop, transmit, use, or sell, within the twenty years aforesaid, as in the judgment of said Secretary the grantee may or ought to develop under this grant, and which in his judgment the public interest demands or convenience requires; and in case of the failure of the grantee to carry out any such requirements of the Secretary of the Interior the latter is hereby authorized so to do, and he may, in such manner and form and upon such terms and conditions as he may determine, provide for the development, transmission, use, and sale of such additional power and such power not so developed, transmitted, or used by the grantee at the end of said twenty years up to sixty thousand horsepower; and for that purpose the Secretary of the Interior may take possession of and lease to such person or persons as he may designate such portion of the rights of way, structures, dams, conduits, and other property acquired or constructed by the grantee hereunder as may be necessary for the development, transmission, use, and sale of such power.

Procedure on failure.

Leases authorized.

Rates to conform to State laws, etc.

(o) That the rates or charges to be made by the grantee or by any lessee under the last preceding paragraph for the use of power for commercial purposes shall at all times conform to the laws of the State of California or, in the absence of any such statutory law, be subject to the approval of the Secretary of the Interior, and in the absence of such law no rates or charges shall be made, fixed, or collected without such approval, and the grantee shall at any time, upon the demand of the Secretary of the Interior allow the latter or such person or persons as he may designate full and free access, right, and opportunity to examine and inspect all of the grantee's books, records, and accounts, and all the works constructed and property occupied hereunder by the grantee.

Roads, trails, etc., to be built.

(p) That this grant is upon the further condition that the grantee shall construct on the north side of the Hetch Hetchy Reservoir site a scenic road or trail, as the Secretary of the Interior, may determine, above and along the proposed lake to such point as may be designated by the said Secretary, and also leading from said scenic road or trail a trail to the Tiltill Valley and to Lake Vernon, and a road or trail to Lake Eleanor and Cherry Valley via McGill Meadow; and likewise the said grantee shall build a wagon road from Hamilton or Smiths Station along the most feasible route adjacent to its proposed aqueduct from Groveland to Portulaca or Hog Ranch and into the Hetch Hetchy Dam site, and a road along the southerly slope of Smiths Peak from Hog Ranch past Harden Lake to a junction with the old Tioga Road, in section four, township one south, range twenty-one east, Mount Diablo base and meridian, and such roads and trails made necessary by this grant, and as may be prescribed by the Secretary of the Interior. Said grantee shall have the right to build and maintain such other necessary roads or trails through the public lands, for the construction and operation of its works, subject, however, to the approval of the Secretary of Agriculture in the Stanislaus National Forest, and the Secretary of the Interior in the Yosemite National Park. The said grantee shall further lay and maintain a water pipe, or otherwise provide a good and sufficient supply of water for camp purposes at the Meadow, one-third of a mile, more or less, southeasterly from the Hetch Hetchy Dam site.

Approval, etc.

Water supply for camp purposes.

Approval of roads, etc.

That all trail and road building and maintenance by the said grantee in the Yosemite National Park and the Stanislaus National Forest shall be done subject to the direction and approval of the Secretary of the Interior or the Secretary of Agriculture according to their respective jurisdictions.

Water to occupants of lands.
Reimbursement for road maintenance, etc.

(q) That the said grantee shall furnish water at cost to any authorized occupant within one mile of the reservoir and in addition to the sums provided for in section seven it shall reimburse the United States Government for the actual cost of maintenance of the above roads and trails in a condition of repair as good as when constructed.

Investigation expenses.

(r) That in case the Department of the Interior is called upon, by reason of any of the above conditions, to make investigations and decisions respecting the rights, benefits, or obligations specified in this Act, which investigations or decisions involve expense to the said Department of the Interior, then such expense shall be borne by said grantee.

Formal acceptance.

(s) That the grantee shall file with the Secretary of the Interior, within six months after the approval of this Act, its acceptance of the terms and conditions of this grant.

Lands to be conveyed to United States.

(t) That the grantee herein shall convey to the United States, by proper conveyance, a good and sufficient title free from all liens and encumbrances of any nature whatever, to any and all tracts of land which are now owned by said grantee within the Yosemite National Park or that part of the national forest adjacent thereto not actually required for use under the provisions of this Act, said conveyance to be approved by and filed with the Secretary of the Interior within six months after the said grantee ceases to use such lands for the purpose of construction or repair under the provisions of this Act.

Sale of water to War Department.

(u) That the city and county of San Francisco shall sell to the United States, for the use of the War Department, such water as the War Department may elect to take, and shall deliver the same through its system in or near the city of San Francisco to the mains or systems of such military reservations in that vicinity as may be designated by the Secretary of War, under such rules and regulations as he may prescribe. In payment for such water and the delivery thereof the United States shall pay to the said city and county of San Francisco a rental, to be calculated at a fixed rate per one thousand gallons, said rate not to exceed the actual cost of said water to said city and county for all the water so furnished, as determined by meter measurements: *And provided further*, That payment of said rental shall be made by the local disbursing officer of the War Department in the usual manner: *Provided, however*, That the grantee shall at all times comply with and observe on its part all the conditions specified in this Act, and in the event that the same are not reasonably complied with and carried out by the grantee, upon written request of the Secretary of the Interior, it is made the duty of the Attorney General in the name of the United States to commence all necessary suits or proceedings in the proper court having jurisdiction thereof, for the purpose of enforcing and carrying out the provisions of this Act.

Annual rental.

Provisos.
Payment.
Compliance with all conditions required.

Rights of irrigation districts.

SEC. 10. That this grant, so far as it relates to the said irrigation districts, shall be deemed and held to constitute a binding obligation upon said grantee in favor of the said irrigation districts which said districts, or either of them, may judicially enforce in any court of competent jurisdiction.

State laws not affected.

SEC. 11. That this Act is a grant upon certain express conditions specifically set forth herein, and nothing herein contained shall be construed as affecting or intending to affect or in any way to interfere with the laws of the State of California relating to the control, appropriation, use, or distribution of water used in irrigation or for municipal

or other uses, or any vested right acquired thereunder, and the Secretary of the Interior, in carrying out the provisions of this Act, shall proceed in conformity with the laws of said State.

Approved, December 19, 1913.

December 22, 1913.
[S. 2689.]
[Public, No. 42.]

CHAP. 5.—An Act Amending an Act entitled "An Act to increase the limit of cost of certain public buildings, to authorize the enlargement, extension, remodeling, or improvement of certain public buildings, to authorize the erection and completion of public buildings, to authorize the purchase of sites for public buildings, and for other purposes," approved March fourth, nineteen hundred and thirteen.

Public buildings.
Bureau of Mines laboratories, Pittsburgh, Pa.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section twenty-six of the Act approved March fourth, nineteen hundred and thirteen, which authorizes the Secretary of the Treasury to enter into a contract or contracts for the erection of fireproof laboratories for the Bureau of Mines in the city of Pittsburgh, Pennsylvania, and so forth, is hereby amended so as to authorize the Secretary of the Treasury, in his discretion, to accept and expend, in addition to the limit of cost therein fixed, such funds as may be received by contribution from the State of Pennsylvania, or from other sources, for the purpose of enlarging, by purchase, condemnation, or otherwise, and improving the site authorized to be acquired for said Bureau of Mines, or for other work contemplated by said legislation: *Provided,* That the acceptance of such contributions and the improvements made therewith shall involve the United States in no expenditure in excess of the limit of cost heretofore fixed.

Acceptance of additional funds.
Vol. 37, p. 886.

Proviso.
Limit of cost.

Approved, December 22, 1913.

December 23, 1913.
[H. R. 7837.]
[Public, No. 43.]

CHAP. 6.—An Act To provide for the establishment of Federal reserve banks, to furnish an elastic currency, to afford means of rediscounting commercial paper, to establish a more effective supervision of banking in the United States, and for other purposes.

Federal Reserve Act.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the short title of this Act shall be the "Federal Reserve Act."

Terms construed.

Wherever the word "bank" is used in this Act, the word shall be held to include State bank, banking association, and trust company, except where national banks or Federal reserve banks are specifically referred to.

The terms "national bank" and "national banking association" used in this Act shall be held to be synonymous and interchangeable. The term "member bank" shall be held to mean any national bank, State bank, or bank or trust company which has become a member of one of the reserve banks created by this Act. The term "board" shall be held to mean Federal Reserve Board; the term "district" shall be held to mean Federal reserve district; the term "reserve bank" shall be held to mean Federal reserve bank.

FEDERAL RESERVE DISTRICTS.

Federal reserve districts.

Designation of Federal reserve cities.

SEC. 2. As soon as practicable, the Secretary of the Treasury, the Secretary of Agriculture and the Comptroller of the Currency, acting as "The Reserve Bank Organization Committee," shall designate not less than eight nor more than twelve cities to be known as Federal reserve cities, and shall divide the continental United States, excluding Alaska, into districts, each district to contain only one of such Federal reserve cities. The determination of said organization

Districts.