



Board Report

File #: 2018-0331, **File Type:** Policy

Agenda Number: 60.

**REGULAR BOARD MEETING
JUNE 28, 2018**

**SUBJECT: AIRPORT METRO CONNECTOR 96TH STREET
TRANSIT STATION PROJECT (THE HERTZ CORPORATION, "OWNERS")**

ACTION: APPROVE RECOMMENDATIONS

RECOMMENDATION

CONSIDER:

- A. HOLDING a public hearing on the proposed Resolution of Necessity; and
- B. ADOPTING a Resolution of Necessity (Attachment C) authorizing the commencement of an eminent domain action to acquire the fee interest in the property located at 9225 Aviation Boulevard, Los Angeles, CA 90045 (APN 4128-001-008, the "Property").

DISCUSSION

Acquisition of the Property (see Attachment A) is required for the construction and operation of a multi-modal transit project. The Airport Metro Connector 96th Street Transit Station Project ("Project") will include an at-grade light rail station that is served by the Crenshaw/LAX and Metro Green Lines. Other features include a new bus plaza sized to accommodate bus terminal and layover functions for Metro buses as well as municipal bus operators that serve the LAX area; private vehicle pick-up/drop-off areas; bicycle stations, pedestrian amenities including clear signage and passenger information and a transit center/terminal building that connects the at-grade transit services with the Los Angeles World Airports (LAWA) aerial Automated People Mover (APM) Station.

A written offer was presented to the owners of record ("Owners"), as required by California Government Code Section 7267.2. The Owners have not accepted the offer from Los Angeles County Metropolitan Transportation Authority ("LACMTA"), and the parties have not at this time been able to reach a negotiated settlement. Because the Property is necessary for construction of the Project, staff recommends the acquisition of the Property through eminent domain.

In accordance with the provisions of the California Eminent Domain law and Sections 30503, 30600, 130051.13, 130220.5 and 132610 of the California Public Utilities Code (which authorize the public acquisition of private property by eminent domain), LACMTA has prepared and mailed notice of this hearing to the Owners informing them of their right to appear at this hearing and to be heard on the

following issues: (1) whether the public interest and necessity require the Project; (2) whether the Project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury; (3) whether the Property is necessary for the Project; (4) whether either the offer required by Section 7267.2 of the Government Code has been made to the Owner, or the offer has not been made because the Owner cannot be located with reasonable diligence; and (5) whether LACMTA has given the notice(s) and followed the procedures that are a prerequisite to the exercise of the power of eminent domain.

After all of the testimony and other evidence has been received by LACMTA from all interested parties, LACMTA must make a determination as to whether to adopt the proposed Resolution of Necessity to acquire the Property by eminent domain. In order to adopt the resolution, LACMTA must, based upon all the evidence before it, and by a vote of two-thirds of all the members of its governing body, find and determine that the conditions stated in the items (1) through (4) above exist. Attached is evidence submitted by staff that supports adoption of the Resolution that has been approved by counsel, and which sets forth the required findings (Attachment B).

DETERMINATION OF SAFETY IMPACT

This Board action will not have an impact on safety standards for Metro.

FINANCIAL IMPACT

Funding for the acquisition of the Property is included in the approved fiscal year 2018 Project budget, under Measure M Project 860303 (Airport Metro Connector/96th Street Station/Green Line Ext. LAX Project), in Cost Center 8510, and Account Number 53103 (Acquisition of Land).

Impact to the Budget

The funding source is Measure M Transit Construction 35%. The fund is not eligible for bus and rail operating. It will not impact ongoing bus and rail operating, the Proposition A and C and TDA administration budget or the Measure R administration budget.

NEXT STEPS

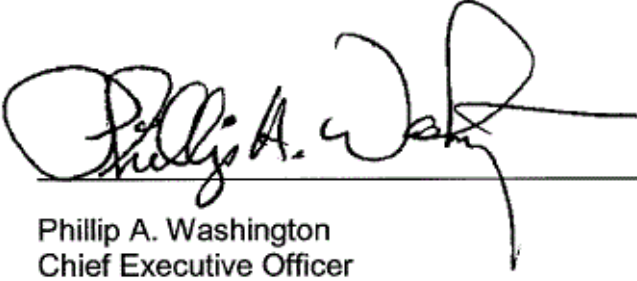
If this action is approved by the Board, LACMTA's condemnation counsel will be instructed to take all steps necessary to commence legal proceedings in a court of competent jurisdiction to acquire the Property interest by eminent domain. Counsel will also be directed to seek and obtain an Order of Prejudgment Possession in accordance with the provisions of the eminent domain law.

ATTACHMENTS

Attachment A - Site Plan
Attachment B - Staff Report
Attachment C - Resolution of Necessity

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Reviewed by: Therese W. McMillan, Chief Planning Officer, (213) 922-7077



Phillip A. Washington
Chief Executive Officer

ATTACHMENT A



9225 Aviation Boulevard

STAFF REPORT REGARDING THE NECESSITY FOR THE ACQUISITION OF ASSESSOR PARCEL NO. 4128-001-008 (THE “PROPERTY”) FOR THE AIRPORT CONNECTOR PROJECT

BACKGROUND

The Property is required for the construction and operation of the Airport Connector Project ("Project"). The address, record Owner (as indicated by a title report prepared by Orange Coast Title Company dated), physical description, and nature of the property interest sought to be acquired for the Project are summarized as follows:

Assessor's Parcel Number	Parcel Address	Owner	Purpose of Acquisition	Property Interest(s) Sought
4128-001-008	9225 Aviation Boulevard	The Hertz Corporation	Construction and operation	Fee simple interest to 83,553 square feet

A written offer for the fee simple interest was presented to the Owner by letter dated August 14, 2017. In addition, by letters dated August 14, 2017, Metro also presented offers to the Owner and to the tenants, Clean Energy and Outfront Media, Inc., for the acquisition of their immovable business fixtures and equipment (“F&E”). To date, all of the offers have not been accepted and the Owner has communicated that it will not oppose the adoption of a Resolution of Necessity.

A. The public interest and necessity require the Project.

The public interest and necessity require the Project for the following reasons:

1. The Project will connect the expanding Metro Rail system to LAX and thereby provide an alternative means of transportation to LAX for both air passengers and employees.

2. The Project will provide improved access to the local and regional transit network by connecting 13 Metro and municipal bus lines with two Metro Rail lines serving the new light rail station.

3. Implementation of the Project will result in a reduction of bus and vehicle miles traveled within the project area.

4. The Project will help relieve congestion in the LAX central terminal area as well as on roadways and freeways in the vicinity of LAX.

It is recommended that based on the above evidence, the Board find and determine that the public interest and necessity require the Project.

B The Project is planned or located in the manner that will be most compatible with the greatest public good and least private injury.

On June 22, 2016, a Draft Environmental Impact Report (DEIR) was circulated and reviewed by interested and concerned parties, including private citizens, community groups, the business community, elected officials and public agencies. A public hearing was held on July 13, 2016 to solicit citizen and agency comments. The Board certified the FEIR on January 26, 2017. Documentation for a categorical exclusion under 23 CFR part 771.118(d) was submitted to the Federal Transit Administration (FTA) on March 13, 2017. On April 26, 2017, Metro received concurrence from the FTA that the Project qualified as a categorical exclusion.

The Project will include an at grade light rail station that is served by the Crenshaw LAX and Metro Green Lines. Other features include a new bus plaza sized to accommodate a bus terminal and layover functions for Metro buses as well as municipal bus operators that serve the LAX area, private vehicle pick-up/drop off area; bicycle stations, pedestrian amenities including clear signage and passenger information and a transit center/terminal building that connects the at-grade transit services with the Los Angeles World Airports (LAWA) aerial Automated People Mover (APM) station.

The Project study area has persistent traffic congestion due, in part, to LAX being one of the busiest airports in the world. No significant expansion of existing freeway and street networks is planned to accommodate all the growth expected for travel to and from LAX. During various community meetings, stakeholders expressed the need for improved transit service to LAX to address existing and future traffic congestion. The Project addresses those needs and moves more people in a way that is energy efficient and with the least environmental impact.

The Project will cause private injury, including the displacement or relocation of the car and bus maintenance operations of a rental car company, a natural gas fueling facility, and two billboard structures. However, no other alternative locations for the Project provide greater public good with less private injury. Therefore, the Project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury.

Due to its bulk, the FEIR is not physically included in the Board's agenda packet for this public hearing. However, the FEIR documents should be considered in connection with this matter. It is recommended that, based upon the foregoing, the Board find and determine that the Project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury.

C. The Property is necessary for the Project.

The property interests required for the project is described above and are described in the Exhibit A, attached hereto, and is depicted on the Plat Map attached hereto as Exhibit B. The Property is needed for the construction and operation of the Project. The Property was chosen based upon the FEIR for the Project.

Staff recommends that the Board find that the acquisition of the Property is necessary for the Project.

D. Offers were made in compliance with Government Code Section 7267.2.

California Code of Civil Procedure Section 1245.230 requires that a Resolution of Necessity contain a declaration that the governing body has found and determined that either the offer required by Section 7267.2 of the California Government Code has been made to the Owners, or the offer has not been made because the Owners cannot be located with reasonable diligence.

California Government Code Section 7267.2 requires that an offer be made to the Owners and in an amount which the agency believes to be just compensation. The amount must not be less than the agency's approved appraisal of the fair market value of the property. In addition, the agency is required to provide the Owner with a written statement of, and summary of the basis for, the amount it established as just compensation.

Staff has taken the following actions as required by California law for the acquisition of the Property:

1. Obtained appraisals to determine the fair market value of the Property and the F&E;
2. Reviewed and approved the appraisal, and established the amount it believes to be just compensation;
3. Determined the Owner of the Property by examining the county assessor's record and the title report;
4. Made written offers to the Owner and the tenants for the full amount of just compensation - which was not less than the approved appraised values;
5. Provided the Owner and tenants with written statements of, and summaries of the basis for, the amounts established as just compensation with respect to the foregoing offers.

It is recommended that the based on the above Evidence, the Board find and determine that the offer required by Section 7267.2 of the California Government Code has been made to the Owner or owners of record.

E. Based upon the foregoing, included approval of the FEIR described in Section above, it is recommended that the Board find and determine that it has given the

notices and followed the procedure required by law.

CONCLUSION

Staff recommends that the Board approve the Resolution of Necessity.

ATTACHMENTS

- 1 - Legal Description (Exhibit "A")
- 2 - Plat Map (Exhibit "B")

EXHIBIT A

9225 Aviation Boulevard: Legal Description

Lot 1 and 2 of [Tract No. 16047](#), in the City of Los Angeles, in the County of Los Angeles, State of California, as per Map recorded in book 440 pages 24, 25 and 26 of Maps, in the office of the County Recorder of said County.

Except that portion of Lot 2, lying Southerly of the Southerly line of the 10 foot easement granted to the City of Los Angeles for public utilities purposes by said Tract 16047.

Assessor's Parcel Numbers(s): 4128-001-008

EXHIBIT B



9225 Aviation Boulevard

**RESOLUTION OF THE
LOS ANGELES COUNTY METROPOLITAN TRANSPORTATION AUTHORITY
DECLARING CERTAIN REAL PROPERTY INTERESTS NECESSARY FOR PUBLIC
PURPOSES AND AUTHORIZING THE ACQUISITION THEREOF
(Assessor Parcel No. 4128-001-008)**

THE LOS ANGELES COUNTY METROPOLITAN TRANSPORTATION AUTHORITY HEREBY FINDS, DETERMINES, AND RESOLVES AS FOLLOWS:

Section 1.

The LOS ANGELES COUNTY METROPOLITAN TRANSPORTATION AUTHORITY ("LACMTA") is a public entity organized and existing pursuant to Chapter 2 of Division 12 of the California Public Utilities Code (commencing with Section 130050).

Section 2.

The property interest described hereinafter is to be taken for public use, namely, for public transportation purposes and all uses necessary, incidental or convenient thereto, and for all public purposes pursuant to the authority conferred upon the Board to acquire property by eminent domain by California Public Utilities Code Sections 30000-33027, inclusive, and particularly Section 30503 and 30600, Sections 130000-132650, inclusive, and particularly Sections 130051.13 and 130220.5, Code of Civil Procedure Sections 1230.010-1273.050, inclusive, and particularly Sections 1240.510 and 1240.610, and Article I, Section 19 of the California Constitution.

Section 3.

The property interest consists of the acquisition of a fee interest as described more specifically in the legal description (Exhibit A) and depicted on the Plat Map (Exhibit B), attached hereto (hereinafter, the "Property"), all of which are incorporated herein by this reference.

Section 4

(a) The acquisition of the above-described Property is necessary for the development, construction, operation, and maintenance of the Airport Connector Project ("Project");

(b) The environmental impacts of the Project were evaluated in the Final

Environmental Impact Report (FEIR) for this Project which was certified by the Board on January 26, 2017. The Board found that in accordance with the California Environmental Quality Act Guidelines, Section 15162, no subsequent or supplemental Environmental Impact Report is required for the Project; and

(c) The Board has reviewed and considered the FEIR, before and as part of the process of determining whether to acquire the above-referenced Property.

Section 5.

The Board hereby declares that it has found and determined each of the following:

(a) The public interest and necessity require the proposed Project;

(b) The proposed Project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury;

(c) The Property sought to be acquired, which has been described herein, is necessary for the proposed Project;

(d) The offer required by Section 7267.2 of the Government Code has been made to the Owner or owners of record; and

(e) The LACMTA has given the notice(s) and followed the procedures that are the prerequisite to the exercise of the power of eminent domain.

Section 6.

Pursuant to Sections 1240.510 and 1240.610 of the Code of Civil Procedure, to the extent that the Property is already devoted to a public use, the use to which the Property is to be put is a more necessary public use than the use to which the Property is already devoted, or, in the alternative, is a compatible public use which will not unreasonably interfere with or impair the continuance of the public use to which the Property is already devoted.

Section 7.

That notice of intention to adopt this resolution was given by first class mail to each person whose Property is to be acquired by eminent domain in accordance with Section 1245.235 of the Code of Civil Procedure and a hearing was conducted by the Board on the matters contained herein.

Section 8.

Legal Counsel is hereby authorized and directed to take all steps necessary to commence legal proceedings, in a court of competent jurisdiction, to acquire the Property described above by eminent domain. Counsel is also authorized and directed to seek and obtain an Order for Prejudgment Possession of said Property in accordance with the provisions of the eminent domain law and is directed that the total sum of probable just compensation be deposited with the State Treasurer or the Clerk of the Superior Court. Counsel may enter into stipulated Orders for Prejudgment Possession and/or Possession and Use Agreements, where such agreements constitute the functional equivalent of an Order for Prejudgment Possession. Counsel is further authorized to correct any errors or to make or agree to any non-material changes to the legal description of the real property that are deemed necessary for the conduct of the condemnation action or other proceedings or transactions required to acquire the Property.

Counsel is further authorized to compromise and settle such eminent domain proceedings, if such settlement can be reached, and in that event, to take all necessary action to complete the acquisition, including stipulations as to judgment and other matters, and causing all payments to be made. Counsel is further authorized to associate with, at its election, a private law firm for the preparation and prosecution of said proceedings.

I, MICHELLE JACKSON, Secretary of the Los Angeles County Metropolitan Transportation Authority, do hereby certify that the foregoing Resolution was duly and regularly adopted by a vote of two-thirds of all the members of the Board of the Metropolitan Transportation Authority at a meeting held on the 28th day of June, 2018

MICHELLE JACKSON
LACMTA Secretary

Date: _____

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- 2 - Plat Map (Exhibit "B")

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Assessor's Parcel Numbers(s): 4128-001-008

EXHIBIT B



9225 Aviation Boulevard