

**Board Report**

File #: 2018-0559, **File Type:** Policy

Agenda Number: 43.

**REGULAR BOARD MEETING
SEPTEMBER 27, 2018**

SUBJECT: WESTSIDE PURPLE LINE EXTENSION SECTION 2

ACTION: APPROVE RECOMMENDATIONS

RECOMMENDATION

CONSIDER:

- A. HOLDING a public hearing on proposed Resolutions of Necessity (Attachment B); and
- B. ADOPTING Resolutions of Necessity authorizing the commencement of eminent domain actions to acquire subsurface easements in the properties identified as Parcels W-3404 (APN 4328-008-050 through 4328-008-053); W-3501 (APN 4328-007-020); W-3503 (APN: 4328-007-107, 4328-007-108, 4328-007-109, and 4328-007-110); W-3504 (APN 4328-007-017); and W-3505 (APN 4328-005-001) (hereinafter the "Property").

(REQUIRES 2/3 VOTE OF THE BOARD)

BACKGROUND

Acquisition of the above-referenced subsurface easements referred to herein as the "Property" is required for the construction and operation of the Westside Purple Line Extension Section 2 ("Project"). The subsurface easements are required for the tunnel alignment that will connect the Century City Constellation Station with the Beverly Hills Wilshire Rodeo Station.

Written offers to purchase were delivered to the Owners of Record ("Owners") of the Property as required by California Government Code Section 7267.2. The address, record owners (as indicated by a title report) ("Owners") physical description, and nature of the property interest sought to be acquired for the Project are summarized on Attachment A1 to the attached Staff Report. The Owners have not accepted the Offers of Just Compensation made by the Los Angeles County Metropolitan Transportation Authority ("LACMTA"), and the parties have not reached a negotiated settlement as of this date because the Property is necessary for construction of the Project. Staff recommends the acquisition of the Property through eminent domain to maintain the Project schedule.

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 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 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; (5) whether environmental review of the Project has complied with the California Environmental Quality Act (CEQA) and (6) 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 evidence has been received by LACMTA from all interested parties at the hearing, LACMTA must make a determination as to whether to adopt the proposed Resolutions of Necessity to acquire the Property by eminent domain. In order to adopt the resolutions, LACMTA must, based on 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 - 6 above exist. Attached is evidence submitted by staff that supports adoption of the Resolutions that have been approved by counsel, and which sets forth the required findings (Attachment A).

IMPLEMENTATION OF STRATEGIC PLAN GOALS

EQUITY PLATFORM FRAMEWORK CONSISTENCY

Implementation of the State's eminent domain laws assures that equity is afforded to property owners to engage and have a voice in the decision making process with regards to the acquisition of their property.

STRATEGIC PLAN CONSISTENCY

The Board action is consistent with Metro Vision 2028 Goal #1: Provide high quality mobility options that enable people to spend less time traveling. Adoption of the Resolution of Necessity is a required step to acquire these properties for the Westside Purple Line Extension which will provide an additional mobility option.

DETERMINATION OF SAFETY IMPACT

This Board action will not have an impact on LACMTA's safety standards.

FINANCIAL IMPACT

The funding for the acquisition of the Property is included in the approved fiscal year 2019, Project budget under Measure R Project 865522 (Purple Line Westside Extension Project Section 2), in Cost Center 8510, and Account Number 53103 (Acquisition of Land). Approval of the recommendation does not impact the FY19 adopted project budget.

Since this is a multi-year project, the Cost Center Manager, the Project Manager and the Chief

Executive Officer - Program Management will be responsible for future fiscal year budgeting and the Life of Project Budget.

Impact to Budget

The approved FY19 budget is designated for the Westside Purple Line Extension, Section 2 and does not have an impact to operations funding sources. The funds were assumed in the Long Range Transportation Plan for the Project. This Project is not eligible for Proposition A and C funding due to the proposed tunneling element of the Project. No other funds were considered.

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 by eminent domain. Counsel will also be directed to seek and obtain Orders of Prejudgment Possession in accordance with the provisions of California Eminent Domain Law.

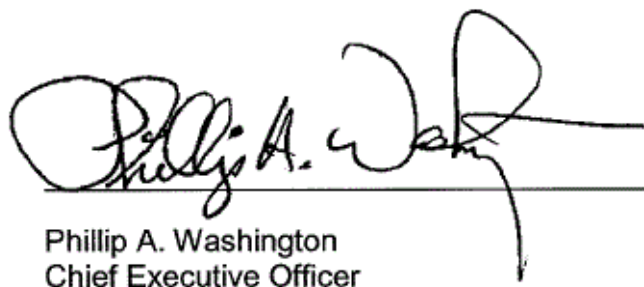
ATTACHMENTS

Attachment A - Staff Report

Attachment B - Resolutions of Necessity

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Phillip A. Washington
Chief Executive Officer

ATTACHMENT A1

SUMMARY OF PROPERTY OWNERS AND PROPERTY REQUIREMENTS

Parcel No. Assessor's No. Parcel Number	Parcel Address	Property Owner	Purpose of Acquisition	Property Interest(s) Sought
W-3404 4328-008- 050 Through 4328-008- 053	133 S. Spalding Dr., Beverly Hills, CA	Spaulding Court, LLC, a California Limited Liability Company	Construction and operation of underground tunnel	Exclusive Subsurface Easement with upper limit of <u>100</u> feet below finish grade; lower limit <u>143</u> feet.
W-3501 4328-007- 020	200 S. Lasky Drive Beverly Hills, CA	Lasky LLC, a limited liability company	Construction and operation of underground tunnel	Exclusive Subsurface Easement with upper limit of <u>87</u> feet below finish grade; lower limit <u>131</u> feet
W-3503 4328-007- 107 Through 4328-007- 110	208 S. Lasky Drive Beverly Hills, CA	Payman Eskandari, a married man as his sole and separate property and Arian Eskandari, as to an undivided 2/3 interest and Alex Ashtiani and Roya Ashtiani, Trustees of the Alex and Roya Ashtiani Family Trust, as to an undivided 1/3 interest	Construction and operation of underground tunnel	Exclusive Subsurface Easement with upper limit of <u>82</u> feet below finish grade; lower limit <u>126</u> feet
W-3504 4328-007- 017	212 S. Lasky Drive Beverly Hills, CA	EPDE Holdings, LLC, a California limited liability company	Construction and operation of underground tunnel	Exclusive Subsurface Easement with upper limit of <u>79</u> feet below finish grade; lower limit <u>123</u> feet
W-3505 4328-005- 001	223 S. Lasky Drive Beverly Hills, CA	Beverly Lasky, LLC, a California Limited Liability Company	Construction and operation of underground tunnel	Exclusive Subsurface Easement with upper limit of <u>68</u> feet below finish grade; lower limit <u>117</u> feet

ATTACHMENT A

STAFF REPORT REGARDING THE NECESSITY FOR THE ACQUISITION OF PROPERTY”) FOR THE WESTSIDE PURPLE LINE EXTENSION SECTION 2

BACKGROUND

The Property is required for the construction and operation of the Westside Purple Line Extension Section 2 ("Project"). The address, record owners (as indicated by a title report) ("Owners"), physical description, and nature of the property interest sought to be acquired for the Project are summarized on Attachment "A" attached hereto.

A written offer to acquire the Property, consisting of Parcels W-3404, W-3501, W-3503, W-3504, and W-3505 was mailed to the Owners by letters dated April 20, 2018 and April 27, 2018 for acquisition of a subsurface tunnel easement under the subject property. To date, the Owners have not accepted the offers to purchase.

A. The public interest and necessity require the Project.

The need for the Project is based on population and employment growth, the high number of major activity centers served by the Project, high existing transit usage, and severe traffic congestion in Los Angeles County. The Project area bisects 12 large population and employment centers, all of which are served by extremely congested road networks that will deteriorate further with the projected increase in population and jobs. This anticipated growth will further affect transit travel speeds and reliability, even with a dedicated lane for express bus service on Wilshire Boulevard. The public interest and necessity require the Project for the following specific reasons:

1. The population and employment densities in the Project area are among the highest in the metropolitan region. Approximately five percent of the Los Angeles County population and 10 percent of County jobs are concentrated in the Project area.
2. Implementation of the Project will result in a reduction of vehicle miles per day and reduction of auto air pollutants.
3. The Project will relieve congestion on the already over-capacity Interstate-405 San Diego and Interstate 10 Santa Monica Freeways and surrounding major thoroughfares. In addition, it will reduce the parking demands in the Westside area by providing an alternative means of transportation. It will also provide a competitive means of transportation to the automobile in rush-hour travel times.
4. The Project will be a major link in the existing County-wide rail transit system, and will thereby provide alternative means of transportation during fuel crises and mitigate increased future traffic congestion.
5. The Project will improve transportation equity by meeting the need for improved transit service of the significant transit-dependent population within the Project area.
6. The Project will help meet Regional Transit Objectives through the Southern California Association of Governments' (SCAG's) Performance Indicators of mobility, accessibility, reliability, and safety.

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.

An Alternatives Analysis (AA) Study was initiated in 2007 to identify all reasonable, fixed-guide way, alternative alignments and transit technologies within the proposed Project Area. The fixed-guide way alternative alignments studied and analyzed during the AA process were heavy rail transit (HRT), light rail transit (LRT), bus rapid transit (BRT), and monorail (MR). Due to its capacity to meet the anticipated ridership demand and limit the number of transfers, HRT was identified as the preferred technology for further study.

In January 2009, the Metro Board approved the AA Study and authorized preparation of a Draft Environmental Impact Statement/Draft Environmental Impact Report (DEIS/DEIR). A total of seven alternatives, including five heavy rail subway (HRT) Build Alternatives, a No Build Alternative, and a relatively low-cost Transportation System Management (TSM) Alternative, were presented in the DEIS/DEIR. The DEIS/DEIR was circulated and reviewed by interested and concerned parties, including private citizens, community groups, the business community, elected officials and public agencies. Public hearings were held to solicit citizen and agency comments.

In October 2010, the Board approved the DEIS/DEIR and the Wilshire Boulevard to Santa Monica HRT option was selected as the Locally Preferred Alternative (LPA) for further analysis in the FEIS/FEIR. The FEIS/FEIR was released in March 2012 for public review. On April 26, 2012, the Board certified the FEIS/FEIR, and in May 24, 2012, it approved the route and station locations for the Project. A Record of Decision was received from the Federal Transit Administration in August of 2012.

The approved LPA will extend HRT (as subway) approximately nine (9) miles from the existing Metro Purple Line terminus at the Wilshire/ Western Station to a new western terminus at the West Los Angeles Veterans Affairs Hospital (Westwood/ VA Hospital Station). The LPA will include seven new stations spaced in approximately one-mile intervals, as follows:

- Wilshire/La Brea
- Wilshire/Fairfax
- Wilshire/La Cienega
- Wilshire/Rodeo
- Century City
- Westwood/UCLA
- Westwood/VA Hospital

The Project may cause the temporary displacement or relocation of certain owners and users of private property. 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 FEIS/FEIR is not physically included in the Board's agenda packet for this public hearing, but is accessible to the Board and the public at: www.metro.net Accordingly, the FEIS/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 is required for construction and operation of the underground tunnel connecting Wilshire/Rodeo Station and Century City/Constellation Station. The selected alignment requires subsurface tunneling beneath the Property to connect the two stations. The subsurface easements required for the Project are listed in Attachment A. The legal description of the required subsurface easement is attached to each Resolution of Necessity as Exhibit "A" and is depicted on the Plat Map attached as Exhibit B. The Property requirements were chosen based upon the approved FEIS/FEIR for the Project.

It is recommended 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 Owner, or the offer has not been made because the Owner cannot be located with reasonable diligence.

California Government Code Section 7267.2 requires that an offer be made to the Owner 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. Retained an independent appraiser to determine the fair market value of the Property;
2. Reviewed and approved the appraisals, and established the amount it believes to be just compensation for the Property;
3. Determined the Owners of the Property by examining the County assessor's

records, preliminary title reports, and occupancy of the Property;

4. Made a written offer to purchase to the Owners for the full amount of just compensation - which was not less than the approved appraised value;
5. Provided the Owners with a written statement of, and summary of the basis for, the amount established as just compensation with respect to the foregoing offer.

It is recommended that based on the above actions, the Board find and determine that the offer required by Section 7267.2 of the California Government Code has been made to the Owners.

E. Metro has fulfilled the necessary statutory prerequisites.

Metro is authorized to acquire property by eminent domain for the purposes contemplated by the Project under Public Utilities Code §§ 30503, 30600, 130051.13, and 130220.5; Code of Civil Procedure §§ 1230.010-1273.050; and Article I, § 19 of the California Constitution.

F. Metro has complied with the California Environmental Quality Act.

A draft EIR/EIS was circulated for public review and comment. The FEIS/FEIR was released in March 2012 for public review. On April 26, 2012, the Board certified the FEIS/FEIR, and in May 24, 2012, it approved the route and station locations for the Project. A Record of Decision was received from the Federal Transit Administration in August of 2012. The FEIS/FEIR documents therefore comply with the California Environmental Quality Act. Since that time, none of the circumstances identified in CEQA Guidelines Section 15162 have occurred which would require the preparation of a subsequent EIR. As set forth above, Metro has also fulfilled the statutory prerequisites under Code of Civil Procedure § 1240.030 and Government Code § 7267.2.

Accordingly, Metro has fulfilled the necessary statutory prerequisites to acquire the Property by eminent domain.

CONCLUSION

Staff recommends that the Board adopt the Resolution of Necessity.

ATTACHMENTS

Attachment A1 – Summary of Property Owners and Property Requirements
Attachment B1 – B5 – Resolution of Necessity for each Acquisition

Attachment B1-B5

http://libraryarchives.metro.net/DB_Attachments/2018-0559_Attachment%20B1-B5_ROM_for_each_Acquisition.pdf