



Board Report

File #: 2016-0723, **File Type:** Policy

Agenda Number: 38.

**REGULAR BOARD MEETING
SEPTEMBER 22, 2016**

SUBJECT: METRO BLUE LINE TRACK IMPROVEMENT PROJECT

ACTION: ADOPT A RESOLUTION OF NECESSITY TO ACQUIRE A FEE INTEREST IN REAL PROPERTY IDENTIFIED AS ASSESSOR'S PARCEL NO. 5106-026-017 IN THE CITY OF LOS ANGELES

RECOMMENDATION

CONSIDER:

- A. Holding a public hearing on the proposed **Resolution of Necessity**; and
- B. **ADOPTING** a Resolution of Necessity authorizing the commencement of an eminent domain action to acquire a fee interest in the real property identified as portions of **Assessor's Parcel No. 5106-026-017**, described above and shown on Attachment "A" (hereinafter the "Property").

(REQUIRES 2/3 VOTE OF THE BOARD)

BACKGROUND

Acquisition of the Property is required in connection with the construction and operation of the Metro Blue Line Track Improvement Project (hereinafter the "Project"). A written offer was presented to the Owner of Record, Residential Holdings & Investment, LLC (hereinafter "Owner"), as required by California Government Code Section 7267.2. The Owner has rejected the offer, and to date the parties have been unable to reach a negotiated agreement. 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, 130220.5 and 132610 of the California Public Utilities Code (which authorize the public acquisition of private property by eminent domain), the Los Angeles County Metropolitan Transportation Authority ("Metro") has prepared and mailed notice of this hearing to the Owner 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 public good and the least private injury; (3) whether the Property is necessary for the Project; and (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.

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"). After all of the testimony and other evidence has been received by the Metro from all interested parties, Metro must make a determination as to whether to adopt the proposed Resolution of Necessity (Attachment "C") to acquire the Property by eminent domain. In order to adopt the Resolution, Metro 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 above exist.

DETERMINATION OF SAFETY IMPACT

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

FINANCIAL IMPACT

Funding for the acquisition of the property is included in the FY17 budget, in Construction Cost Center 8510, Project 211005 - Metro Blue Line Track Improvement, account number 53103 - Acquisition of Land.

Impact to Budget

The source of funds for this procurement will come from Prop A 35% funding, which eligible for Rail Capital Projects. This funding source will maximize the use of funds for these activities.

NEXT STEPS

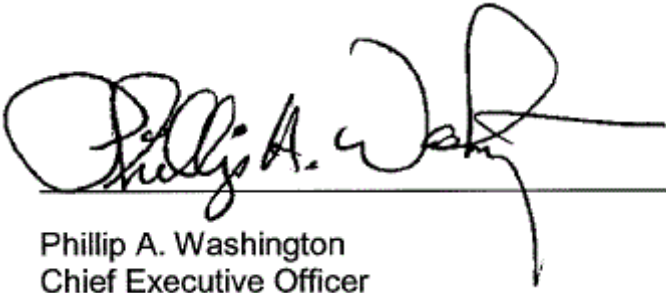
If this action is approved by the Board, Metro's condemnation counsel will be instructed to take all steps necessary to commence legal proceedings in a court of competent jurisdiction to acquire the Property by eminent domain. Counsel will also be directed to seek and obtain an Order of Prejudgment Possession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

ATTACHMENTS

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

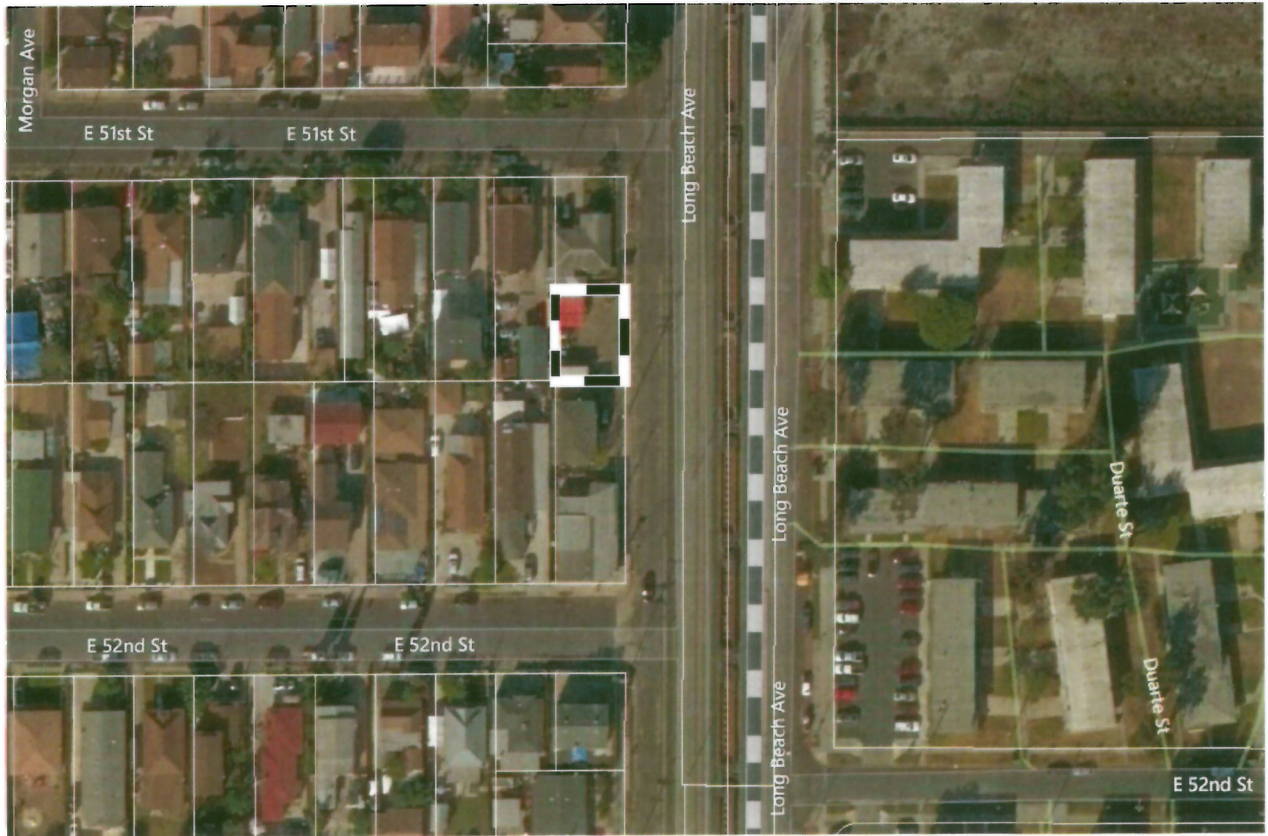
Prepared by: Carol A. Chiodo, Director of Real Property Management and Development, (213) 922-2404

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



Phillip A. Washington
Chief Executive Officer

ATTACHMENT A



5109 Long Beach Avenue West, Los Angeles, CA

APN: 5106-026-017

METRO Blue Line Track Improvement Project (Re-Signaling Portion)

ATTACHMENT B

STAFF REPORT REGARDING THE NECESSITY FOR THE ACQUISITION OF FEE INTERESTS IN REAL PROPERTY COMMONLY KNOWN AS 5109 LONG BEACH AVENUE WEST, IN THE CITY OF LOS ANGELES (THE "PROPERTY") FOR THE METRO BLUE LINE TRACK IMPROVEMENT PROJECT

BACKGROUND

The Property is required for the construction and operation of the Metro Blue Line Track Improvement Project ("Project"). The address, record owner (as indicated by a title report prepared by Orange Coast Title Company), physical description, and nature of the property interest sought to be acquired for the Project is summarized as follows:

Assessor's Parcel Number	Parcel Address	Owner	Purpose of Acquisition	Property Interest(s) Sought
5106-026-017	5109 Long Beach Avenue West, in the City of Los Angeles	Residential Holdings & Investment, LLC	Installation of signaling devices and related improvements and equipment	Fee Simple Interests in APN 5106-026-017 consisting of 2,731 square feet.

A written offer for the fee simple property interest was presented to the Owner and Tenants on May 20, 2015 and June 30, 2016. To date, the offer has not been accepted, and negotiations have not resulted in a settlement agreement.

A. The public interest and necessity require the Project.

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

1. The population and employment densities in the Blue Line Transit Corridor ("Corridor") are extremely high and very transit dependent. The Corridor (inclusive of the cities of Los Angeles, Compton, Long Beach and Los Angeles County) has a high concentration of low-income, minority, transit-dependent residents. Forecasts show a growing transit-dependent population, with projected increases in Corridor residents that rely on, or will rely on the area's transit system. The Project will provide significant improvements for low-income, elderly and transit-dependent persons living in the Corridor area by improving signalization along the Blue Line.
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 710 Pasadena

and the I-10 Santa Monica Freeways and surrounding major thoroughfares. In addition, it will reduce the parking demands in the Project area by providing an alternative means of transportation, competitive in rush-hour travel times with the automobile.

4. The Project will increase operation efficiencies, and continue providing alternative means of transportation during fuel crises and increased future traffic congestion.
5. The Project will meet the need for improved transit service of the significant transit-dependent population within the Project area.

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.

Metro prepared an Initial Study/Mitigated Negative Declaration (IS/MND) for the MBL Track Improvement Project in compliance with the California Environmental Quality Act (CEQA) Guidelines. On May 14, 2015, the IS/MND was circulated and reviewed by interested and concerned parties, including private citizens, community groups, the business community, elected officials and public agencies.

Changes were subsequently made to the Project and an Addendum to the IS/MND was prepared pursuant to and in compliance with CEQA Guidelines. The Addendum was prepared and distributed to public agencies and the general public by Metro in June 2015 for a 30-day public review period. A Notice of Availability (NOA) for public review was posted at the Los Angeles County Clerk's Office, a public notice was published in the Los Angeles Times on May 16, 2015, and a Notice of Completion (NOC) was filed with the State Clearinghouse of the Governor's Office of Planning and Research. No substantive comments on content of the Addendum or significant environmental issues related to the proposed Project were raised. The CEQA process concluded December 2015 with no comments or challenges.

The Project will cause private injury, including the 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.

C. The Property is necessary for the Project.

The Property is required for the installation of signaling devices and related improvements and equipment to refurbish and modernize the Automatic Train Control and Signaling Systems in support of the Project. The Property was chosen based upon the approved IS/MND and Addendum 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 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. Obtained an appraisal to determine the fair market value of the Property;
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 a written offer to the Owner for the full amount of just compensation - which was not less than the approved appraised value; and
5. Provided the Owner with a written statement of the basis for, the amount established as just compensation.

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.

CONCLUSION

Staff recommends that the Board approve the Resolution of Necessity.

**RESOLUTION OF THE
LOS ANGELES COUNTY METROPOLITAN TRANSPORTATION AUTHORITY
DECLARING CERTAIN REAL PROPERTY INTERESTS NECESSARY FOR PUBLIC
PURPOSES AND AUTHORIZING THE ACQUISITION THEREOF IN SUPPORT OF THE
METRO BLUE LINE TRACK IMPROVEMENT PROJECT ("PROJECT").**

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

Section 1.

The LOS ANGELES COUNTY METROPOLITAN TRANSPORTATION AUTHORITY ("METRO") 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 real 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 real property interest to be acquired consists of a fee interest in APN 5106-026-017, commonly known as 5109 Long Beach Avenue West, in Los Angeles, California (hereinafter, the "Property"). The Property is further described in the legal description (Exhibit A), and depicted on the plat map (Exhibit B), 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 Metro Blue Line Track Improvement Project ("Project");

(b) The environmental impacts of the Project were evaluated in the Final Initial Study/Mitigated Negative Declaration (IS/MND). the IS/MND was circulated

and reviewed by interested and concerned parties, including private citizens, community groups, the business community, elected officials and public agencies. Changes were subsequently made to the Project and an Addendum to the IS/MND was prepared pursuant to and in compliance with CEQA Guidelines. No substantive comments on content of the Addendum or significant environmental issues related to the proposed project were raised, and the CEQA process concluded December 2015 with no comments or challenges; and

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; and
- (d) The offers required by Section 7267.2 of the Government Code have been made to the Property Owners.

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 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 22nd day of September, 2016.

Date: _____

MICHELLE JACKSON
METRO Secretary

ATTACHMENTS

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

EXHIBIT A

LEGAL DESCRIPTION

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

LOT 31 OF RUFUS J. STUKEY TRACT IN THE CITY OF LOS ANGELES, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA AS PER MAP RECORDED IN BOOK 7 PAGE 13 OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

EXCEPTING THE NORTH 76.25 FEET THEREOF. ALSO EXCEPT THEREFROM ALL CRUDE OIL, PETROLEUM, GAS, BREA, ASPHALTUM AND ALL KINDRED SUBSTANCES AND OTHER MINERALS UNDER AND IN SAID LAND THAT MAY BE PRODUCED FROM A DEPTH OF 500 FEET BELOW THE SURFACE OF SAID LAND AND AS RESERVED BY LUTHER J. SHEAFFER AND BILLIE C. SHEAFFER, HUSBAND AND WIFE IN DEED RECORDED MARCH 4, 1970, IN BOOK C-4648, PAGE 372, OFFICIAL RECORDS.

APN 5106-026-017

EXHIBIT B

