



Board Report

File #: 2016-0724, File Type: Policy

Agenda Number: 39.

REGULAR BOARD MEETING
SEPTEMBER 22, 2016**SUBJECT: CRENSHAW/LAX TRANSIT CORRIDOR PROJECT PROPERTY ACQUISITION****ACTION: ADOPT RESOLUTION OF NECESSITY TO ACQUIRE PROPERTY INTERESTS IN PORTIONS OF EUCALYPTUS AVENUE****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 in fee simple, a portion of Eucalyptus Avenue. Metro must proceed with a condemnation action to clear various title issues and vacate the street as part of the Crenshaw/LAX Transit Corridor Project. The property sought to be condemned is a **765 square foot portion of Eucalyptus Avenue**, located adjacent to 320 N. Eucalyptus Avenue, north of W. Florence Avenue, in the City of Inglewood (hereinafter the "Property"). The Property is owned by Daniel Freeman, and is encumbered by a public street operated by the City of Inglewood.

(REQUIRES 2/3 VOTE OF THE BOARD)

BACKGROUND

Los Angeles County Metropolitan Transportation Authority ("METRO") seeks to acquire the Property set forth in (Attachment "A") for the construction and operation of the Crenshaw/LAX Transit Corridor Project ("Project") and in particular as part of realignment of Eucalyptus Avenue, adjacent driveways, and for parking mitigation purposes. Metro's review of title records has revealed that title to the property is held by Daniel Freeman. Mr. Freeman has been deceased since 1908. A written offer was presented to Christie M. Bourdet on July 18, 2016, the only known living heir of Daniel Freeman ("Owners"), as required by California Government Code Section 7267.2. The Owners have not accepted the offer made by METRO or presented counter offers; and consequently, negotiated agreements have not been reached. The Property is necessary for construction of the Project, and for mitigation and realignment of driveways and streets; therefore, staff recommends the acquisition of the Property through eminent domain in order 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), METRO has prepared and mailed notice of this hearing to each Owner informing the Owner of its 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 Owners of Record, or the offer has not been made because the Owner cannot be located with reasonable diligence. In addition, notice of this hearing was published in the Los Angeles Daily Journal for four consecutive weeks beginning August 30, 2016.

Attached is evidence from staff and legal counsel setting forth the required findings for acquiring the Property through the use of eminent domain (Attachment "B"). After METRO receives all of the testimony and other evidence from all interested parties, the METRO Board 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, the METRO Board must find and determine, based upon all the evidence before it and by a two-thirds vote of all the members of its governing body 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

The funding for the acquisition of the Properties is included in the LOP budget under Measure R project 865512 (Crenshaw/LAX Transit Corridor Project), in cost center number 8510, and account number 53013 (Acquisition of Land).

Impact to Budget

The source of funds for this action is Measure R 35%. These funds are not eligible for transit operations.

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 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 as necessary.

ATTACHMENTS

Attachment A - Property Information
Attachment B - Staff Report
Attachment C - Resolution of Necessity

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

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



Phillip A. Washington
Chief Executive Officer

ATTACHMENT A

Assessor's Parcel Number	Parcel Address	Property Owner	Purpose of Acquisition	Property Interest(s) Sought	METRO Parcel Number
None (See Legal Description and Plat Map)	Portion of N. Eucalyptus Avenue adjacent to 320 N. Eucalyptus Ave., Inglewood, CA	Daniel Freeman, Heirs & Devisees	Driveway relocation, street realignment parking mitigation	Fee Simple	None

ATTACHMENT B

STAFF REPORT REGARDING THE NECESSITY FOR THE ACQUISITION OF A PORTION OF EUCALYPTUS AVENUE (THE "PROPERTY") FOR THE CRENSHAW/LAX TRANSIT CORRIDOR PROJECT

BACKGROUND

Fee simple interest in the Property is required for the construction and operation of the Crenshaw/LAX Transit Corridor Project ("Project"). The Property is a portion of N. Eucalyptus Avenue currently encumbered by a public right of way. No complete parcels are sought to be acquired and no residences or businesses will be displaced by acquisition of the Property. The address, record owner, physical description, and nature of the property interests sought to be acquired for the Project are summarized as follows:

Assessor's Parcel Number	Parcel Address	Property Owner	Purpose of Acquisition	Property Interest(s) Sought	METRO Parcel Number
None	A 765 sq. ft. portion of N. Eucalyptus Ave adjacent to 320 N. Eucalyptus Ave., Inglewood, CA	Daniel Freeman, Heirs & Devisee	Driveway relocation, street realignment and parking mitigation	Fee Simple	None

A written offer for the property was presented to the Owners heirs and negotiations are continuing. The Owners have not accepted the offer made by the Los Angeles County Metropolitan Transportation Authority ("METRO"); consequently, negotiated agreements have not been reached.

A. The public interest and necessity require the Project.

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

1. The population and employment densities in the Crenshaw/LAX Transit Corridor are extremely high and very transit-dependent. The population and employment densities are four times higher than Los Angeles County as a whole. The Corridor has a high concentration of low-income, minority, transit-dependent residents. More than 49 percent of all Corridor households are designated as low income. In addition, 16 percent of all Corridor households do not have access to an automobile, compared to 8 percent in the County's urbanized area. Forecasts show a growing transit-dependent population, with a projected 55 percent increase 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.

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 I-405 San Diego and the I-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, competitive in rush-hour travel times with the automobile.
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 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.

On September 11, 2009, a Draft Environmental Impact Statement / Draft Environmental Impact Report (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. A total of four alternatives, including two build alternatives, were presented in the September 2009 DEIS/DEIR. On December 20, 2009, the Board adopted the Light Rail Transit (LRT) Alternative as the Locally Preferred Alternative (LPA), after review and consideration of the comments received from circulation of the 2009 DEIS/DEIR. The Board certified the FEIR on September 22, 2011. A Record of Decision was received from the Federal Transit Administration on December 30, 2011.

The Corridor has some of the highest population and employment density in the Southern California region, as well as the highest proportion of transit ridership. No significant expansion of existing freeway and street networks is planned to accommodate this growth. During various community meetings, the residents of the Corridor area expressed their need for improved transit service because many are transit-dependent and need better access to the region's educational, employment, and cultural opportunities. The LPA addresses those needs and moves more people in a way that is energy efficient and with the least environmental impact.

The Project is a LRT dual-track alignment, which will extend from the existing Metro Exposition Line at Crenshaw and Exposition Boulevards. The LRT line will travel 8.5

miles to the Metro Green Line Aviation/LAX Station and will serve the cities of Los Angeles, Inglewood, Hawthorne and El Segundo and portions of unincorporated Los Angeles County. The project includes six stations and two optional stations:

- Crenshaw / Exposition
- Crenshaw / Martin Luther King Jr.
- Leimert Park
- Crenshaw / Slauson
- Florence / West
- Hindry
- Aviation / Century

The overall Project will cause private injury, including the displacement or relocation of certain owners and users of private property. The Property under consideration as part of this Resolution of Necessity will not cause such displacement. Moreover, 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. However, 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 consists of a 765 square foot portion of N. Eucalyptus Avenue located adjacent to 320 N. Eucalyptus Ave., north of Florence Avenue, in the City of Inglewood. The Property is part of the current public right of way known as Eucalyptus Avenue. METRO has been working with the City of Inglewood to vacate a portion Eucalyptus Ave to realign the street as part of the Project. Additionally, a portion of the Property is necessary to mitigate parking and driveway issues for adjacent property owners. While the City of Inglewood is agreeable to voluntarily vacating a portion of the street and granting the Property to METRO, after conducting title searches, it has been determined that said portion of Eucalyptus Avenue is not owned by the adjacent property owner, nor does there appear to be a properly recorded street easement in favor of the City of Inglewood. Accordingly, to clear all title issues related to the Property, METRO seeks to condemn the Property in fee simple and grant interest to the various parties as necessary to maintain the public street, to accomplish the realignment and to mitigate any driveway and parking issues for adjacent property owners. The property interest is depicted in the legal description and plat map attached as exhibits to the Proposed Resolution of Necessity.

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(s) of record, or the offer has not been made because the owner(s) cannot be located with reasonable diligence.

California Government Code Section 7267.2 requires that an offer be made to the owner or to the owner(s) of record 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(s) 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, which included consideration of any immovable fixtures and equipment as appropriate;
2. Reviewed and approved the appraisal, and established the amount it believes to be just compensation;
3. Determined the owner(s) of the Property by examining the county assessor's record and the title report;
4. Made a written offer to the only known Heir and Devisee of 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, and summary of the basis for, the amount established as just compensation with respect to the foregoing offer.

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(s) of record.

E. The environmental review is consistent with the California Environmental Quality Act.

The required environmental review of the Project was completed and certified by the Board. On September 22, 2011, the Board certified the FEIS/FEIR. A Record of Decision was received from the Federal Transit Administration in December of 2011. The FEIS/FEIR documents were consistent with the California Environmental Quality Act Guidelines.

CONCLUSION

Staff recommends that the Board approve the Resolution of Necessity.

**RESOLUTION OF THE
LOS ANGELES COUNTY METROPOLITAN TRANSPORTATION AUTHORITY
DECLARING CERTAIN REAL PROPERTY NECESSARY FOR PUBLIC PURPOSES
AND AUTHORIZING THE ACQUISITION THEREOF
(CRENSHAW / LAX TRANSIT CORRIDOR PROJECT
PORTION OF N. EUCALYPTUS AVENUE)**

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 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, 130220.5, and 132610, 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 to be acquired consists of the fee simple interest as designated below, and as described more specifically in the exhibits attached hereto (hereinafter, the "Property"), all of which are incorporated herein by this reference:

METRO Parcel Number	Assessor's Parcel Number	Parcel Address	Property Owner	Purpose of Acquisition	Property Interest(s) Sought
None	None	Portion of N. Eucalyptus Ave., adjacent to 320 N. Eucalyptus Ave., Inglewood, CA	Daniel Freeman, Heirs & Devisees	Driveway relocation, street realignment and parking mitigation	See Exhibits 1A and 1B

METRO's acquisition of the above property interests is subject to the following limitation:

Construction of temporary or permanent improvements will not adversely impact the normal operations of surface traffic, or performance of utilities in the Project area. During construction, reasonable access to businesses and residences will be maintained at all times.

Section 4.

(a) The acquisition of the above-described Property is necessary for the development, construction, operation, and maintenance of the Crenshaw / LAX Transit Corridor Project ("Project");

(b) The environmental impacts of the Project were evaluated in the Final Environmental Impact Statement/Final Environmental Impact Report (FEIS/FEIR), which was certified by the Board on September 22, 2011. The Board found that in accordance with the California Environmental Quality Act (CEQA) Guidelines, Section 15162, no subsequent or supplemental Environmental Impact Report is required for the Project, and the FEIS/FEIR documents are consistent with CEQA; and

(c) The Board has reviewed and considered the FEIS/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; and

(d) The offer required by Section 7267.2 of the Government Code has been made to the owner(s) of record.

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 also authorized to reduce or modify the extent of the interests or property to be acquired so as to reduce the compensation payable in the action where such change would not substantially impair the construction and operation for the project for which the real property is being acquired.

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 13th day of November 2014.

MICHELLE JACKSON
METRO Secretary

Date: _____

ATTACHMENTS

1 - Exhibit "1" – Parcel Legal & Plat

EXHIBIT 1 – A&B

PSOMAS

EXHIBIT 'A'

LEGAL DESCRIPTION

Portion of Eucalyptus Avenue

In the City of Inglewood, County of Los Angeles, State of California, being a portion of Eucalyptus Avenue, 60 feet wide, as shown on Parcel Map No. 12542, filed in book 121 of Parcel Maps, pages 73 and 74, in the office of the County Recorder of said County, described as follows:

Beginning at the southwesterly corner of Parcel A of Parcel Map No. 12174, filed in book 113 of Parcel Maps, pages 15 and 16, in the office of said Recorder; thence along the westerly line of said Parcel A, North 00°15'04" East 103.83 feet; thence North 89°44'56" West 2.30 feet to a non-tangent curve concave westerly having a radius of 675.00 feet, a radial line to said curve bears South 87°01'00" East; thence southerly along said curve an arc distance of 103.38 feet through a central angle of 8°46'32" to the westerly prolongation of the southerly line of said Parcel A; thence along said prolongation South 84°39'19" East 15.16 feet to the **Point of Beginning**.

Containing 765 square feet.

All as shown on Exhibit "B" attached hereto and made a part thereof.

This legal description was prepared by me or under my direction.

Peter Fitzpatrick

March 25, 2016

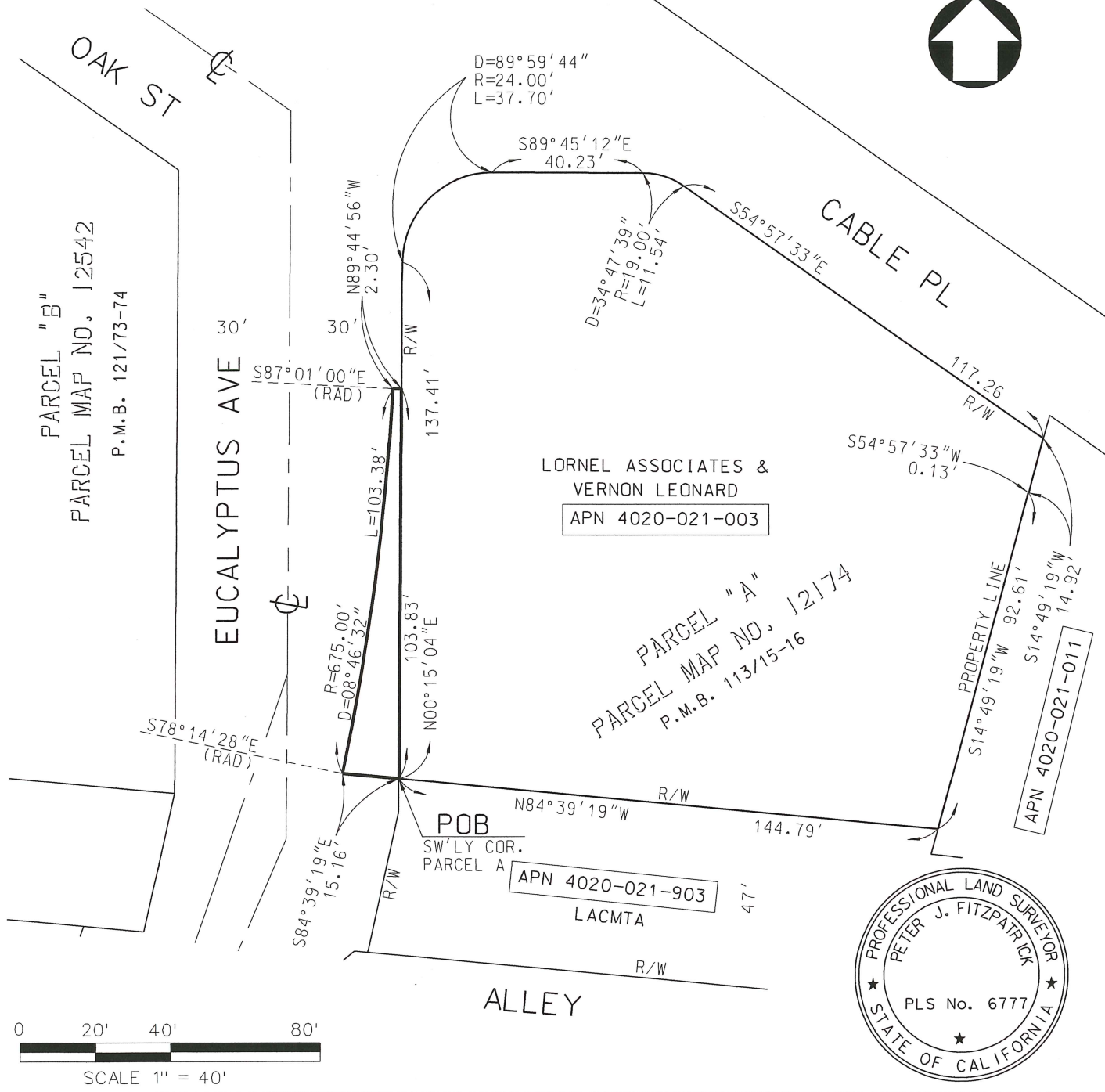
Peter J. Fitzpatrick, PLS 6777

Date



GRANTOR : DANIEL FREEMAN		The data shown on this plat are based on record information. Any topographic features shown are based on a field survey dated February 2016. Bearings and distances are based on California Coordinate System 83 Zone 5.		
DESCRIPTION : A PORTION OF EUCALYPTUS AVENUE AS SHOWN ON PARCEL MAP NO. 12174, P.M.B. 113/15-16				
IN THE CITY OF INGLEWOOD, STATE OF CALIFORNIA.				
TITLE REPORT : 08026633 (COMMONWEALTH)		0	3-22-2016	Original Submittal
ASSESSORS REF. N/A (ADJ. TO 4020-021-003)	ROW REF : N/A	NO.	DATE	REVISION DESCRIPTION

EXHIBIT "B"



AREA OF PROPERTY				
765 SQ. FT				

<p>LOS ANGELES COUNTY METROPOLITAN TRANSPORTATION AUTHORITY CRENSHAW CORRIDOR PROJECT</p>	<p>PARCEL PLAT EUCALYPTUS AVE.</p>	<p>CONTRACT NO. N/A</p> <p>SCALE 1"=40'</p> <p>DATE 3-23-2016</p> <p>DRAWN BY AAP</p> <p>CHECKED BY PJF</p> <p>REV. DATE 3-23-2016 REV. NO. 0</p>
	<p>PREPARED BY: <i>Peter Fitzpatrick</i> 3-25-16</p> <p>SUBMITTED BY: PROJECT MANAGER DATE</p>	<p>APPROVED BY:</p> <p>PROJECT MANAGER DATE</p>

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