



Board Report

File #: 2017-0039, **File Type:** Policy

Agenda Number: 44.

REVISED
REGULAR BOARD MEETING
FEBRUARY 23, 2017

SUBJECT: METRO BLUE LINE PEDESTRIAN SWING GATE PROJECT

ACTION: ADOPT RESOLUTION OF NECESSITY TO ACQUIRE A PORTION OF THE PROPERTY LOCATED AT 1725 E. FLORENCE AVENUE, LOS ANGELES, CA, APN: 6009-029-059

RECOMMENDATION

CONSIDER:

- A. HOLDING a public hearing on the proposed Resolution of Necessity.
- B. ADOPTING a Resolution of Necessity authorizing the commencement of an eminent domain action to acquire a portion of APN: 6009-029-059 in fee simple, an area of 211 sq. ft. on private property located at **1725 E. Florence Avenue, Los Angeles, CA.**

(REQUIRES TWO-THIRDS VOTE)

BACKGROUND

Acquisition of a portion of Parcel No. 6009-029-059 (“Property” - See Attachment “A”) is required for the construction of the Metro Blue Line Pedestrian Swing Gate Project (“Project”). A written offer was presented to the owner of record, El Dorado Capital, Inc. (“Owner”) as was required by California Government Code Section 7267.2. To date, staff has been unable to reach an agreement with the property owner due to Owner’s nonresponsiveness. This portion is necessary for construction of the Project; therefore, staff recommends the acquisition of this portion through eminent domain to maintain the Project schedule.

In accordance with the provisions of the California Eminent Domain law and sections 30503, 130220.5., and 132610 of the Public Utilities Code (which authorize the public acquisition of private property by eminent domain) the Metropolitan Transportation Authority (“Metro”) has prepared and mailed a notice of this hearing to the property owner of record informing him of his 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; and (5) that any environmental review of the Project, as may be necessary, pursuant to the California Environmental Quality Act (CEQA) has occurred.

Attached is the Staff Report setting forth the required findings for acquiring the Property through the use of eminent domain (Attachment "B"). After the Metro Board 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 Property is included in the approved FY 17 Project budget under Proposition C 25% cash and Proposition C 25% bond for the Metro Blue Pedestrian Swing Gate Project in Cost Center 205104, and Account Number 8510 (Acquisition of Land).

Impact to Budget

The approved FY 17 budget is designated for the Metro Blue Line Pedestrian Swing Gate Project and does not have an impact on operations funding sources. This Project is eligible for Proposition C funding as allocated above. No other funds were considered.

NEXT STEPS

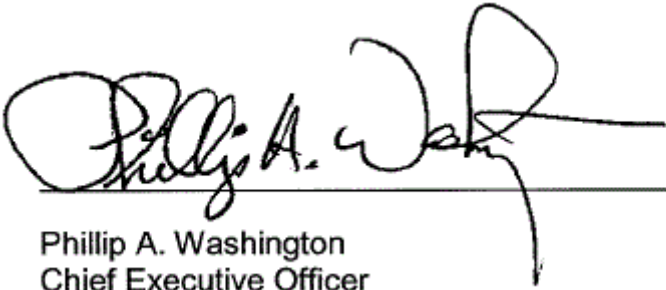
If this action is approved by the Board, Metro's condemnation counsel will be instructed to take all steps necessary to commence legal proceedings in a court of competent jurisdiction to acquire the property interest by eminent domain. Counsel will also be directed to seek and obtain an Order of Prejudgment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

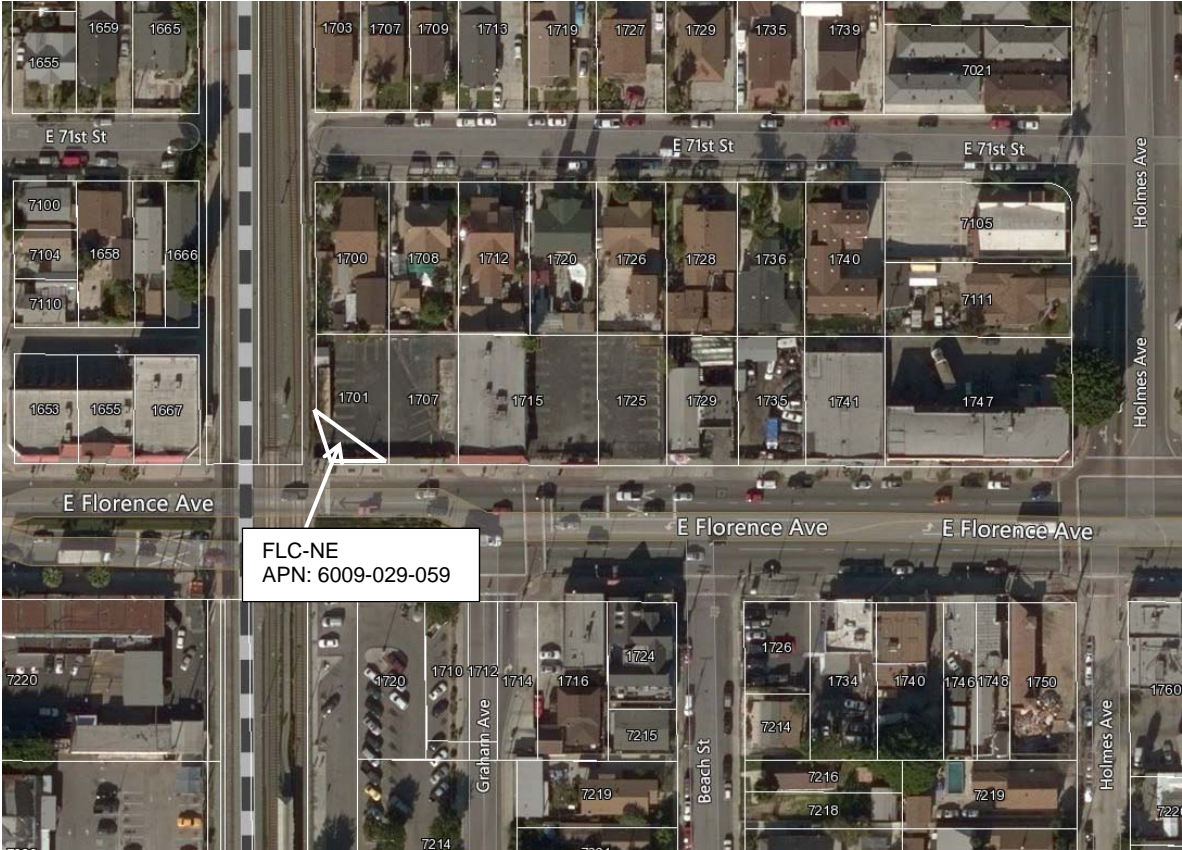
Prepared by: Carol A. Chiodo, Director of Real Property Management & Development, (213) 922-2415
Cal Hollis, SEO, Countywide Planning & Development, (213) 922-7319

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



Phillip A. Washington
Chief Executive Officer

ATTACHMENT A



Owner: El Dorado Capital, LLC
1725 E. Florence Ave. LA, CA 90001
APN: 6009-029-059

ATTACHMENT B

STAFF REPORT REGARDING THE NECESSITY FOR THE ACQUISITION OF A PORTION OF 1725 E. FLORENCE AVENUE, LOS ANGELES, CA. FOR THE METRO BLUE LINE PEDESTRIAN SWING GATE PROJECT

BACKGROUND

Fee simple interest in a portion of private property located at 1725 Florence Avenue, Los Angeles, CA. ("Property") required for the construction and operation of the Metro Blue Line Pedestrian Swing Gate Project ("Project"). The address, record owner, physical description, and nature of the property interest 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
6009-029-059	A 211 sq. ft. portion of 1725 E. Florence Ave., Street, Los Angeles, CA	El Dorado Capital, Inc.	Metro Blue Line Pedestrian Swing Gate Project	Fee Simple	Florence NE

A written offer for the Property was presented to the Owner on May 9, 2016 and, due to the Owner's non-responsiveness, staff has been unable to reach an agreement with the owner of the property. The Owner has not accepted the offer made by the Los Angeles County Metropolitan Transportation Authority ("Metro"); consequently, a negotiated agreement has 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 Blue Line Transit Corridor ("Corridor") are extremely high and very transit-dependent and are much 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.
2. Implementation of the Project will result in a reduction in motor and personal accidents and loss of lives. The Project will provide increased safety measures for transit-dependent persons living in the Corridor area which includes the low-income and elderly.

3. 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 May 14, 2015, a Draft Initial Study/ Mitigated Negative Declaration (“IS/MND”) was circulated and reviewed by interested and concerned parties, including private citizens, community groups, the business community, elected officials and public agencies. This pedestrian gate is located at the northeast corner of Florence and Graham Avenue, and the Union Pacific Railroad (“UPRR”) Right of Way. The area surrounding the proposed pedestrian gate is composed primarily of commercial and single family residential land uses. The nearest residential land use is approximately 100 feet from the center of the proposed construction activity. The dominant noise source at this location is the traffic traveling on Florence Avenue and the light rail and freight trains traveling on the nearby tracks. 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 projected Corridor growth. This project addresses the need of the local residents, as expressed in community meetings.

The Property under consideration as part of this Resolution will cause the least private injury and will not cause displacement or relocation of owners and users of private property. 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.

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 211 square feet portion of 1725 E. Florence Ave and is located at the northeast corner of Florence Avenue and Graham Avenue, and the UPRR Right of Way. The area surrounding the proposed pedestrian gate is composed primarily of commercial and single-family residential land uses. The installation of the pedestrian safety gates increase pedestrian safety with the addition of pedestrian-oriented crossing arms, bells and flashing lights that are activated along with the grade crossing warning systems. The barriers create queuing zones separated from the track areas and also reduce jaywalking.

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) has been non-responsive.

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 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.

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.~~ **On May 14, 2015, a Draft Initial Study/ Mitigated Negative**

Declaration (“IS/MND”) was circulated and reviewed by interested and concerned parties, including private citizens, community groups, the business community, elected officials and public agencies. The FEIS/FEIR **IS/MND** 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 approve the Resolution of Necessity.

ATTACHMENT C

**RESOLUTION OF THE
LOS ANGELES COUNTY METROPOLITAN TRANSPORTATION AUTHORITY
DECLARING CERTAIN REAL PROPERTY NECESSARY FOR PUBLIC PURPOSES
AND AUTHORIZING THE ACQUISITION THEREOF
PORTION OF 1725 E. FLORENCE AVENUE, LOS ANGELES, CA**

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 - See Exhibit:
Florence NE	6009-029-059	211 sq. ft. portion of 1725 E. Florence Avenue, Los Angeles, CA.	El Dorado Capital, Inc.	Metro Blue Line Pedestrian Swing Gates Project	Fee Simple as shown on Exhibit A & B

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 Metro Blue Line Pedestrian Swing Gate Project ("Project");

(b) The environmental impacts of the Project were evaluated in the Initial Study/Mitigated Negative Declaration.

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.

Environmental review of the Project consistent with the California Environmental Quality Act ("CEQA") has occurred.

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, and with the concurrence and approval of Metro staff, to make minor adjustments to the scope and descriptions of easements to be acquired in order to ameliorate any claims for severance damages.

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 23rd day of February, 2017.

MICHELLE JACKSON
METRO Secretary

Date: _____

ATTACHMENTS

1 - Exhibit "1" – Parcel Legal & Plat

Project name: METRO Blue Line Pedestrian/Quad Gate
FLORENCE AVENUE 50-1PW
A.I.N. 6009-029-059
Second District
X220000900

LEGAL DESCRIPTION
NORTH EAST FLORENCE AVENUE/EAST OF LACMTA

PARCEL 50-1PW (EASEMENT FOR PEDESTRIAN WALKWAY OR SIDEWALK PURPOSES):

THAT PORTION OF LOT 20 IN BLOCK "R" OF FLORENCITA PARK, IN THE UNINCORPORATED TERRITORY OF THE COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS SHOWN ON MAP RECORDED IN BOOK 6, PAGE 138 OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, DESCRIBED AS FOLLOWS

BEGINNING AT THE SOUTHWESTERLY CORNER OF THAT CERTAIN PARCEL OF LAND DESCRIBED IN DEED RECORDED JULY 02, 1999 AS INSTRUMENT NO. 99-1216481, IN OFFICIAL RECORDS, IN THE OFFICE OF SAID COUNTY RECORDER, SAID CORNER BEING AT THE NORTHERLY LINE OF FLORENCE AVENUE, 100.00 FEET WIDE, AS SHOWN ON A RECORD OF SURVEY FILED IN BOOK 152, PAGES 14 TO 26, INCLUSIVE OF RECORD OF SURVEY, SAID CORNER BEING ALSO ON A CURVE CONCAVE WESTERLY AND HAVING A RADIUS OF 11467.95 FEET, A RADIAL LINE TO SAID CORNER BEARS N89°25'40"E; THENCE NORTHERLY ALONG THE WESTERLY BOUNDARY OF SAID PARCEL OF LAND AND ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 00°03'43", AN ARC LENGTH OF 12.42 FEET; THENCE LEAVING SAID WESTERLY BOUNDARY, S89°38'46"E 17.10 FEET; THENCE S00°21'14"W 12.42 FEET TO SAID NORTHERLY LINE OF FLORENCE AVENUE; THENCE ALONG SAID NORTHERLY LINE, N89°38'46"W 16.90 FEET TO THE POINT OF BEGINNING.

CONTAINS: 211 SQUARE FEET, MORE OR LESS.

NOTE:

THIS LEGAL DESCRIPTION WAS NOT PREPARED FOR ANY PURPOSE THAT WOULD BE IN VIOLATION OF THE STATE OF CALIFORNIA SUBDIVISION MAP ACT OR LOCAL ORDINANCES OF THE GOVERNING BODY HAVING JURISDICTION.

PREPARED BY:

Stephanie A. Wagner
STEPHANIE A. WAGNER, P.L.S. 5752

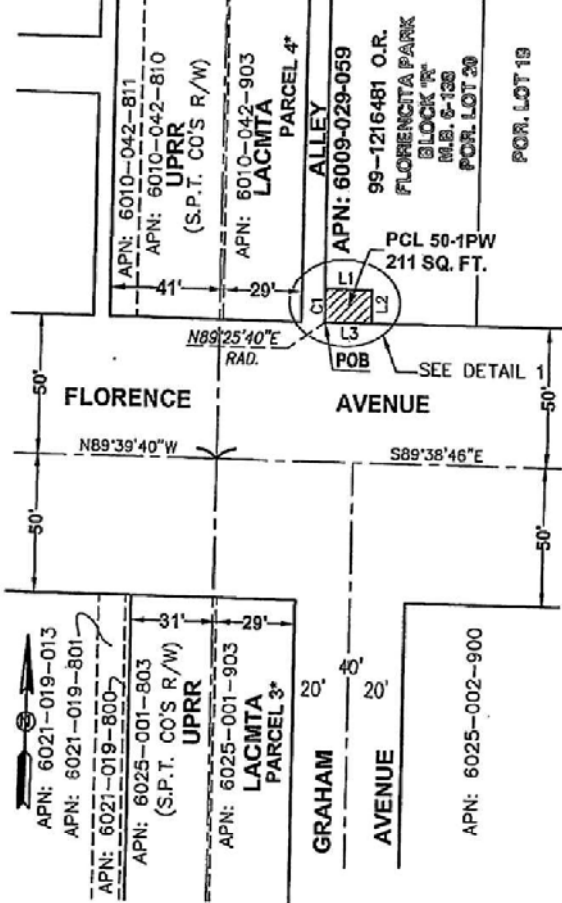
December 14, 2016
DATE:



PORTION OF LOT 20, IN BLOCK "R" OF FLORENCITA PARK, IN THE UNINCORPORATED TERRITORY OF THE COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 6, PAGE 138.

THE BASIS OF BEARINGS IS PER CCS, ZONE 5, NAD 83 (EPOCH 2010), AS DETERMINED LOCALLY BY NGS STATIONS DY1716 AND DY9296.

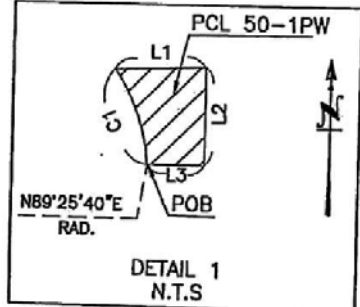
Assessor's Ref: 6009-029-059 ROW Ref: No. Date Revision Description



- LEGEND:
- - RECORD OF SURVEY, R.S. 152/14-28.
 - LACMTA - LOS ANGELES COUNTY METROPOLITAN TRANSPORTATION AUTHORITY
 - PCL-PARCEL
 - PW- PEDESTRIAN WALKWAY OR SIDEWALK
 - POB-POINT OF BEGINNING
 - RS- RECORD OF SURVEY
 - SPRR - SOUTHERN PACIFIC RAILROAD COMPANY
 - S.P.T.CO.-SOUTHERN PACIFIC TRANSPORTATION COMPANY (PREDECESSOR TO UPRR)
 - ASSESSOR'S PARCEL LINE
 - - - CENTER LINE

LINE TABLE		
LINE	BEARING	LENGTH
L1	S89°38'46"E	17.10'
L2	S00°21'14"W	12.42'
L3	N89°38'46"W	16.90'

CURVE TABLE			
CURVE	LENGTH	RADIUS	DELTA
C1	12.42'	11467.95'	0°03'43"



APPROVED BY: **M Metro**

PROJECT MANAGER

DATE

PREPARED BY: *Stephanie Wagner*

CHECKED BY: *Stephanie Wagner*

DATE

12/14/2016

SCALE: 1"=50'

REV. No. DATE

PROJECT ID: MPM0000701

PARCEL No. 50-1PW

METRO BLUE LINE
 PEDESTRIAN GATE
 INSTALLATION
 FLORENCE AVENUE
 NORTH EAST
 UNINCORPORATED TERRITORY OF
 THE COUNTY OF LOS ANGELES

EXHIBIT "B"