



Board Report

File #: 2019-0073, File Type: Policy

Agenda Number: 37.

REGULAR BOARD MEETING FEBRUARY 28, 2019

SUBJECT: PURPLE LINE WESTSIDE SUBWAY EXTENSION TRANSIT PROJECT SECTION 2

ACTION: APPROVE RECOMMENDATIONS

RECOMMENDATION

CONSIDER:

- A. HOLDING a public hearing on the proposed Resolutions of Necessity; and
- B. ADOPTING Resolutions of Necessity authorizing the commencement of an eminent domain action to acquire a subsurface easement in the properties identified as parcels W-3301 (APN: 4328-014-005) and W-3303 (APN: 4328-009-023), hereinafter the "Property".

(REQUIRES 2/3 VOTE OF THE BOARD)

BACKGROUND

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

A written offer was delivered to the Owners of Record ("Owners") of each affected property, as required by California Government Code Section 7267.2. The Owners have not accepted the offer of Just Compensation made by the Los Angeles County Metropolitan Transportation Authority ("LACMTA"), and the parties have not at this time reached a negotiated settlement on a contemplated acquisition. Because the Property is necessary for construction of the Project, staff recommends the acquisition of the Property through eminent domain, to determine the value of the Property, and to provide for obtaining possession thereof 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 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; (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, LACMTA must make a determination as to whether to adopt the proposed Resolutions of Necessity (Resolutions) 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).

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 budget under Measure R Project 865522 (Westside Subway Extension Purple Line Transit Project Section 2), in Cost Center 8510 (Construction Procurement), and Account Number 53103 (Acquisition of Land).

Impact to Budget

The approved FY19 budget include funds such as Federal Section 5309 New Starts, TIFIA Loan Proceeds, CMAQ and Measure R 35% which is designated for the Westside Purple Line Subway Extension Transit Project, Section 2. These funds do not have an impact to operations funding sources. 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.

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 Resolutions of Necessity is a required step to acquire these properties for the Westside Purple Line Subway Extension Transit Project, Section 2, which will provide an additional mobility option.

NEXT STEPS

If this action is approved by the Board, the 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. At the appropriate time, counsel will also be directed to seek and obtain an Order of Prejudgment Possession in accordance with the provisions of the eminent domain law.

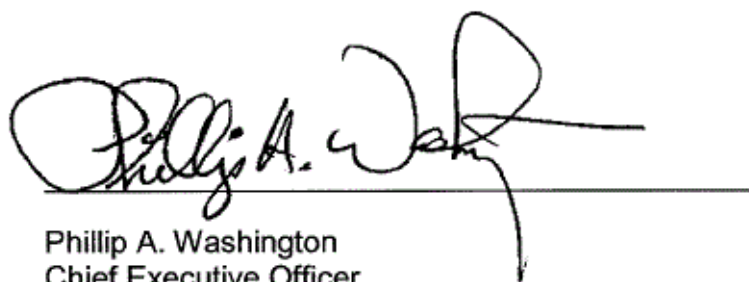
ATTACHMENTS

Attachment A - Staff Report

Attachment B - Resolutions of Necessity (B-1 & B-2)

Prepared by: Velma C. Marshall, Deputy Executive Officer - Real Estate, (213) 922-2415

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



Phillip A. Washington
Chief Executive Officer

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

BACKGROUND

The Property is required by the Los Angeles County Metropolitan Transportation Authority (“LACMTA” or “Metro”) for the construction and operation of the Purple Line Westside Subway Extension Transit Project 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 “1” attached hereto.

A written offer for acquisition of a subsurface tunnel easement under the Property was mailed the respective property Owners by letters dated June 29, 2018. The parcels are identified as W-3301 (APN: 4328-014-005) and W-3303 (APN: 4328-009-023); (hereinafter the “Property”).

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 (“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 County population and 10 percent of the 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 1-405 San Diego Freeway and the 1-10 Santa Monica Freeway and surrounding major thoroughfares. In addition, it will reduce the parking demands in the Westside area by providing an alternative means of transportation, with 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 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 Final Environmental Impact Statement/Final Environmental Impact Report ("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 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.

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 is required for construction and operation of the underground tunnel connecting Wilshire/Rodeo Station and Century City/Constellation Station. 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 Subsurface Easement is further described in Exhibit C. The Property requirements were chosen based upon the approved FEIS/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 California 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 interest to be acquired. 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;

3. Determined the Owners of the Property by examining the County Assessor Office's record a preliminary title report, and occupancy of the Property;
4. Made a written offer 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 Evidence, 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 California Public Utilities Code §§ 30503, 30600, 130051.13, and 130220.5; California 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 California 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 A – Summary of Property Owners and Property Requirements
Attachment B1– B2 – Resolution of Necessity for each affected Parcel

ATTACHMENT A

SUMMARY OF PROPERTY OWNERS AND PROPERTY REQUIREMENTS

Parcel No. Assessor's No. Parcel	Parcel Address	Property Owner	Purpose of Acquisition	Property Interest(s) Sought
W-3301 4328-014-005	9730 Wilshire Blvd., Beverly Hills, CA 90212	WILSHIRE-LINDEN PROPERTIES, LTD., a California limited partnership	Construction and operation of underground tunnel	Exclusive Subsurface Easement with upper limit of <u>101</u> feet below finish grade; lower limit <u>143</u> feet.
W-3303 4328-009-023	9754 Wilshire Blvd., Beverly Hills, CA 90212	Southeast Corner, LLC, a California limited liability company	Construction and operation of underground tunnel	Exclusive Subsurface Easement with upper limit of <u>102</u> feet below finish grade; lower limit <u>145</u> feet.

**RESOLUTION OF THE
LOS ANGELES COUNTY METROPOLITAN TRANSPORTATION AUTHORITY
DECLARING CERTAIN REAL PROPERTY NECESSARY FOR PUBLIC PURPOSES
AND AUTHORIZING THE ACQUISITION THEREOF
WESTSIDE PURPLE LINE EXTENSION PROJECT SECTION 2 - PARCEL NO. W-3301**

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 interests 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 subsurface easement , as described more specifically in the legal description (Exhibit A), depicted on the Plat Map (Exhibit B), and described in the Subsurface Easement (Exhibit C), attached hereto (hereinafter, the "Property"), 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 Westside Purple Line Extension Section 2 ("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 April 26, 2012 and May 24, 2012. 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;
- (d.) The offer required by Section 7267.2 of the Government Code has been made to the Owner; and
- (e.) Environmental review consistent with the California Environmental Quality Act (CEQA) for the Project has been previously certified by this Board.

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 February, 2019.

MICHELLE JACKSON
LACMTA Secretary

Date: _____

ATTACHMENTS

- 1 - Legal Description (Exhibit "A")
- 2 - Plat Map (Exhibit "B")
- 3 - Subsurface Easement (Exhibit "C")

**EXHIBIT A
LEGAL DESCRIPTION**

LEGAL DESCRIPTION

EXHIBIT "A"

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

THAT PORTION OF LOTS 20, 21, AND 22 OF TRACT NO. 6648, AS PER MAP RECORDED IN BOOK 71, PAGE 48 OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, LYING WITHIN THE FOLLOWING DESCRIBED PARCEL OF LAND:

BEGINNING AT THE NORTHWEST CORNER OF SAID LOT 22; THENCE SOUTH 89°42'07" EAST, 143.64 FEET ALONG THE SOUTHERLY RIGHT OF WAY LINE OF WILSHIRE BOUEVARD TO A POINT ON A NON-TANGENT CURVE CONCAVE SOUTHEASTERLY HAVING A RADIUS OF 962.50 FEET, A RADIAL LINE TO SAID POINT BEARS NORTH 10°11'37" WEST; THENCE SOUTHWESTERLY 148.81 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 08°51'30" TO THE WEST LINE OF SAID LOT 22; THENCE NORTH 00°18'20" EAST, 38.28 FEET ALONG SAID WEST LINE TO THE **POINT OF BEGINNING**.

THE UPPER ELEVATION LIMIT OF THE SUBSURFACE EASEMENT HEREIN DESCRIBED IS A HORIZONTAL PLANE WITH AN APPROXIMATE ELEVATION OF +156 FEET MEAN SEA LEVEL AND THE LOWER ELEVATION LIMIT OF THE SUBSURFACE EASEMENT HEREIN DESCRIBED IS A HORIZONTAL PLANE WITH AN APPROXIMATE ELEVATION OF +114 MEAN SEA LEVEL BASED ON THE CITY OF LOS ANGELES PUBLISHED ELEVATION OF 285.39 FT FOR BENCH MARK NO. 13-13450. THE UPPER LIMIT OF THIS EASEMENT IS APPROXIMATELY 101 FEET BELOW FINISH GRADE (SURFACE ELEVATION), AND THE LOWER LIMIT OF THIS EASEMENT IS APPROXIMATELY 143 FEET BELOW FINISH GRADE (SURFACE ELEVATION). THESE DEPTH ELEVATIONS WERE DETERMINED FROM THE LOS ANGELES METRO WESTSIDE PURPLE LINE EXTENSION PROJECT – SECTION 2 PROJECT DEFINITION DRAWINGS.

AFFECTS APN: 4328-014-005

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:

Janeen Nedlik

JANEEN NEDLIK, P.L.S. 7563

June 28, 2017

DATE



**EXHIBIT B
PLAT MAP**

EXHIBIT B

Plat Map of the Required Subsurface Easement, Parcel W-3301



EXHIBIT C
SUBSURFACE EASEMENT

EXHIBIT C

SUBSURFACE EASEMENT

A perpetual, assignable and exclusive subsurface easement ("Easement") to the LOS ANGELES COUNTY METROPOLITAN TRANSPORTATION AUTHORITY ("LACMTA"), its successors, and assigns.

This Easement shall be for use by LACMTA and its "Permittees" (which term refers to the officers, directors, employees, agents, contractors, licensees, customers, visitors, invitees, tenants and concessionaires of LACMTA) to construct, maintain, repair, operate, replace, relocate, remove, use and occupy LACMTA's improvements for mass transit purposes, including, but not limited to, a portion of an underground rail tunnel, and all incidental uses related thereto ("LACMTA's Facilities"). LACMTA intends to use the Easement to operate and provide rail train service as part of LACMTA's rail transit operations.

There shall be no building or use of any property upon, above, or contiguous to the Easement that would interfere with, damage or endanger LACMTA's Facilities, or the excavation, construction, maintenance, replacement, enjoyment or use thereof. In order to ensure the structural integrity of LACMTA's Facilities, there shall be no excavation or construction above or adjacent to the Easement without LACMTA's express written consent, and after LACMTA's review of the plans and specifications for excavation or construction. LACMTA's right to consent to such excavation or construction is limited to this purpose, and LACMTA may not unreasonably withhold its consent.

The Easement and all the provisions hereof shall inure to the benefit of, and be binding upon, all parties who claim an interest in the property and LACMTA, and their respective successors and assigns.

**RESOLUTION OF THE
LOS ANGELES COUNTY METROPOLITAN TRANSPORTATION AUTHORITY
DECLARING CERTAIN REAL PROPERTY NECESSARY FOR PUBLIC PURPOSES
AND AUTHORIZING THE ACQUISITION THEREOF
WESTSIDE PURPLE LINE EXTENSION PROJECT SECTION 2 - PARCEL NO. W-3303**

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 interests 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 subsurface easement , as described more specifically in the legal description (Exhibit A), depicted on the Plat Map (Exhibit B), and described in the Subsurface Easement (Exhibit C), attached hereto (hereinafter, the "Property"), 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 Westside Purple Line Extension Section 2 ("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 April 26, 2012 and May 24, 2012. 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;
- (d.) The offer required by Section 7267.2 of the Government Code has been made to the Owner; and
- (e.) Environmental review consistent with the California Environmental Quality Act (CEQA) for the Project has been previously certified by this Board.

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 February, 2019.

MICHELLE JACKSON
LACMTA Secretary

Date: _____

ATTACHMENTS

- 1 - Legal Description (Exhibit "A")
- 2 - Plat Map (Exhibit "B")
- 3 – Subsurface Easement (Exhibit "C")

**EXHIBIT A
LEGAL DESCRIPTION**

LEGAL DESCRIPTION

EXHIBIT "A"

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

THAT PORTION OF LOT 37 OF TRACT NO. 6648, AS PER MAP RECORDED IN BOOK 71, PAGE 48 OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, TOGETHER WITH THAT PORTION OF LOT 650 AND LOT 651 OF TRACT NO. 7710 AS PER MAP RECORDED IN BOOK 83, PAGES 94 THROUGH 95 INCLUSIVE OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, LYING WITHIN THE FOLLOWING DESCRIBED PARCEL OF LAND:

COMMENCING AT THE NORTHEAST CORNER OF SAID LOT 37; THENCE SOUTH 00°18'31" WEST, 33.07 FEET ALONG THE EAST LINE OF SAID LOT 37 TO THE **POINT OF BEGINNING**; THENCE CONTINUING SOUTH 00°18'31" WEST, 78.50 FEET ALONG SAID EAST LINE TO A POINT ON A NON-TANGENT CURVE CONCAVE SOUTHEASTERLY HAVING A RADIUS OF 962.50 FEET, A RADIAL LINE TO SAID POINT BEARS NORTH 29°32'51" WEST; THENCE SOUTHWESTERLY 45.20 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 02°41'26" TO THE SOUTH LINE OF SAID LOT 37; THENCE NORTH 89°42'04" WEST, 119.53 FEET ALONG SAID SOUTH LINE AND THE SOUTH LINE OF SAID LOT 650 AND LOT 651 TO A POINT ON A NON-TANGENT CURVE CONCAVE SOUTHEASTERLY HAVING A RADIUS OF 1037.50 FEET, A RADIAL LINE TO SAID POINT BEARS NORTH 32°44'17" WEST; THENCE NORTHEASTERLY 187.60 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 10°21'36" TO THE **POINT OF BEGINNING**.

THE UPPER ELEVATION LIMIT OF THE SUBSURFACE EASEMENT HEREIN DESCRIBED IS A HORIZONTAL PLANE WITH AN APPROXIMATE ELEVATION OF +157 FEET MEAN SEA LEVEL AND THE LOWER ELEVATION LIMIT OF THE SUBSURFACE EASEMENT HEREIN DESCRIBED IS A HORIZONTAL PLANE WITH AN APPROXIMATE ELEVATION OF +114 MEAN SEA LEVEL BASED ON THE CITY OF LOS ANGELES PUBLISHED ELEVATION OF 285.39 FT FOR BENCH MARK NO. 13-13450. THE UPPER LIMIT OF THIS EASEMENT IS APPROXIMATELY 102 FEET BELOW FINISH GRADE (SURFACE ELEVATION), AND THE LOWER LIMIT OF THIS EASEMENT IS APPROXIMATELY 145 FEET BELOW FINISH GRADE (SURFACE ELEVATION). THESE DEPTH ELEVATIONS WERE DETERMINED FROM THE LOS ANGELES METRO WESTSIDE PURPLE LINE EXTENSION PROJECT – SECTION 2 PROJECT DEFINITION DRAWINGS.

AFFECTS APN: 4328-009-023

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:

Janeen Nedlik

JANEEN NEDLIK, P.L.S. 7563

June 15, 2017

DATE



**EXHIBIT B
PLAT MAP**

Plat Map of the Required Subsurface Easement, Parcel W-3303



EXHIBIT C
SUBSURFACE EASEMENT

EXHIBIT C

SUBSURFACE EASEMENT

A perpetual, assignable and exclusive subsurface easement ("Easement") to the LOS ANGELES COUNTY METROPOLITAN TRANSPORTATION AUTHORITY ("LACMTA"), its successors, and assigns.

This Easement shall be for use by LACMTA and its "Permittees" (which term refers to the officers, directors, employees, agents, contractors, licensees, customers, visitors, invitees, tenants and concessionaires of LACMTA) to construct, maintain, repair, operate, replace, relocate, remove, use and occupy LACMTA's improvements for mass transit purposes, including, but not limited to, a portion of an underground rail tunnel, and all incidental uses related thereto ("LACMTA's Facilities"). LACMTA intends to use the Easement to operate and provide rail train service as part of LACMTA's rail transit operations.

There shall be no building or use of any property upon, above, or contiguous to the Easement that would interfere with, damage or endanger LACMTA's Facilities, or the excavation, construction, maintenance, replacement, enjoyment or use thereof. In order to ensure the structural integrity of LACMTA's Facilities, there shall be no excavation or construction above or adjacent to the Easement without LACMTA's express written consent, and after LACMTA's review of the plans and specifications for excavation or construction. LACMTA's right to consent to such excavation or construction is limited to this purpose, and LACMTA may not unreasonably withhold its consent.

The Easement and all the provisions hereof shall inure to the benefit of, and be binding upon, all parties who claim an interest in the property and LACMTA, and their respective successors and assigns.