



Board Report

File #: 2021-0331, **File Type:** Policy

Agenda Number: 54.

**REGULAR BOARD MEETING
JUNE 24, 2021**

SUBJECT: LINK UNION STATION PROJECT

ACTION: APPROVE RECOMMENDATIONS

RECOMMENDATION

CONSIDER:

- A. HOLDING a public hearing on the proposed Resolution of Necessity; and
- B. ADOPTING the Resolution of Necessity authorizing the commencement of an eminent domain action to acquire APN: 5173-019-006 in fee simple and the non-movable assets, otherwise known as improvements pertaining to the realty or fixtures and equipment, located at 801 East Commercial Street, Los Angeles, CA 90012 (hereinafter called the "Property Interests" as shown in Attachment A).

(REQUIRES 2/3 VOTE OF THE BOARD)

ISSUE

Acquisition of the Property is required for the construction and operation of the Link Union Station Project ("Project"). To date, staff has been unable to reach an agreement with the owner or tenants for the acquisition of the Property Interests.

BACKGROUND

The Link Union Station Project ("Project") requires the fee simple acquisition of the property identified as APN 5173-019-006 for the construction of the Project. The acquisitions will result in the displacement of tenants from portions of the property. As a result of the acquisition and displacement, the Los Angeles County Metropolitan Transportation Authority (LACMTA) is required to appraise and make an offer to acquire the Property Interests. A written offer to acquire the fee simple interest was presented to the owner ("Property Owner") and written offers to acquire the non-movable assets including improvements pertaining to the realty ("Improvements Pertaining to Realty"), were presented to the Property Owner and to the leasehold interests ("Tenants") as required by California Government Code Section 7267.2. To date, staff has been unable to reach an agreement with the Property Owner or Tenants for the acquisition of the Property Interests.

DISCUSSION

Findings

The Property Interests are necessary for construction of the Project; therefore, staff recommends the acquisition of the Property Interests through eminent domain to maintain the Project schedule.

Considerations

Attached is the Staff Report prepared by staff and legal counsel setting forth the required findings for acquiring the Property Interests through the use of eminent domain (Attachment A). After LACMTA receives testimony and evidence from all interested parties, the LACMTA must make a determination as to whether to acquire the Property Interests by eminent domain and adopt the proposed Resolution of Necessity (Attachment B). The Board must find and determine that based upon all the evidence and the existence of the above stated conditions, acquisition by eminent domain is necessary; and a two-thirds vote of all the members of its governing body is required to adopt the Resolution of Necessity.

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 Interests is included in the Fiscal Year 2021 (FY21) budget under Project 460089 Link Union Station Project, in Cost Center 2415 (Regional Rail), and Account Number 53103 (Acquisition of Land) and Fund 3711.

Impact to Budget

The approved FY21 budget is designated for the Link Union Station Project and does not have an impact to operations funding sources. These funds were assumed in the Long-Range Transportation Plan for the Project.

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 LACMTA Vision 2028 Goal #1: Provide high quality mobility options that enable people to spend less time traveling. Adoption of the Resolution of Necessity is a required step to acquire these properties for the Link Union Station Project which will provide an additional mobility option.

ALTERNATIVES CONSIDERED

The Board could choose not to approve the recommendations. This is not recommended as it will hamper the Real Estate division's ability to respond quickly to the project's needs resulting in significant delays and cost increases for the project.

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 interests by eminent domain and to conclude those proceedings either by settlement or jury trial. Counsel will also be directed to seek and obtain an Order of Prejudgment Possession in accordance with the provisions of the eminent domain law.

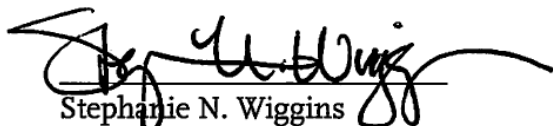
ATTACHMENTS

Attachment A - Staff Report

Attachment B - Resolution of Necessity

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Stephanie N. Wiggins
Chief Executive Officer

ATTACHMENT A

STAFF REPORT REGARDING THE NECESSITY FOR THE ACQUISITION OF THE PROPERTY INTERESTS REQUIRED FOR THE LINK UNION STATION (“PROJECT”)

BACKGROUND

The Property is required by the Los Angeles County Metropolitan Transportation Authority for the construction and operation of the Link Union State Project (“Project”). The address, record owner, physical description, and nature of the property interest sought to be acquired for the Project are summarized as follows:

Assessor's Parcel Number	Parcel Address	Property Owner/ Tenant	Purpose of Acquisition	Property Interest(s) Sought
5173-019-006	801 East Commercial Street (the “Property”), Los Angeles, CA 90012	Sovran Acquisition Limited Partnership, a Delaware limited partnership	Construction and operation of the Link Union Station Project	Fee Simple and Improvements Pertaining to Realty or Fixtures and Equipment
5173-019-006	801 East Commercial Street (the “Property”), Los Angeles, CA 90012	AT&T Cellular New Cingular Wireless PCS, LLC Site-ID CLL25681R	Construction and operation of the Link Union Station Project	Leasehold Interests and Improvements Pertaining to the Realty or Fixtures and Equipment
5173-019-006	801 East Commercial Street (the “Property”), Los Angeles, CA 90012	Sprint Cellular Services Site-ID LA25XC459	Construction and operation of the Link Union Station Project	Leasehold Interests and Improvements Pertaining to the Realty or Fixtures and Equipment

Property Requirements:

The following property requirements apply to the affected property listed in the above table:

Purpose of Acquisition: Construction and operation of the Link Union Station Project.

A first written offer was mailed to the Property Owner, Sovran Acquisition Limited Partnership, on October 1, 2020, for acquisition of fee simple interest the non-movable assets, otherwise known as improvements pertaining to the realty or fixtures and equipment. A first written offer was mailed to AT&T/New Cingular Wireless PCS, LLC on October 13, 2020 for acquisition of the non-movable assets, otherwise known as improvements pertaining to the realty or fixtures and equipment. A first written offer was mailed to Sprint Cellular Services on October 28, 2020 for acquisition of the non-movable assets, otherwise known as improvements pertaining to the realty or fixtures and equipment.

A. The public interest and necessity require the Project.

The need for the Project is generated by the forecasted increase in regional population and employment; implementation of federal, state, and regional transportation plans (RTP) that provide for increased operational capacity for commuter and intercity trains and accommodation of the planned new High-Speed Rail system in Southern California. Localized operational, safety, and accessibility upgrades in and around Los Angeles Union Station (LAUS) will be required to meet existing demand and future growth.

The public interest and necessity require the Project because the Project will:

1. Increase the commuter and intercity rail service capacity of LAUS;
2. Improve service reliability at LAUS through the implementation of a run through tracks configuration and elimination of the current stub end tracks configuration while preserving current levels of freight rail operations;
3. Accommodate the planned new HSR system in Southern California;
4. Increase the passenger/pedestrian capacity and enhance the safety of LAUS through the implementation of a new passenger concourse, meeting the multi modal transportation demands at LAUS.

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 Alternative Analysis (AA) Study was initiated in 2016 to identify all reasonable track alignment alternatives and passenger concourse options that meet the Project purpose and need. In November 2018, the LACMTA Board approved the designation of the California Environmental Quality Act (CEQA) "Proposed Project" in the Draft

Environmental Impact Report (DEIR) as Alternative 1 with Design Option B, which provides up to 10 run-through tracks with a loop track, and with shared lead tracks in the throat area. The CEQA Proposed Project includes an above-grade passenger concourse that will also include a new expanded, at-grade passageway.

The DEIR was distributed and made available for a 45-day public comment period from January 17, 2019, through March 4, 2019, pursuant to CEQA Guidelines Section 15105. Based on the substantial number of comments received regarding various aspects of the elevated portion of the above grade passenger concourse, as well as the outcome of recent coordination activities with project funding partners, Metro modified the Proposed Project in the Final EIR, with the removal of the above grade passenger concourse, minimizing to the extent feasible the footprint of the run-through track bridge structure as well as the construction access and staging areas.

The Final EIR project was analyzed under all CEQA issue areas to demonstrate that the changes to the project have been adequately analyzed in the Draft EIR and there is no need to recirculate the EIR.

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.

Due to its bulk, the FEIR is not physically included in the Board's agenda packet for this public hearing. However, the FEIR documents should be considered in connection with this matter, and by this reference they are incorporated herein. 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 Interests are necessary for the Project.

The Property Interests are required for construction and operation of the Project. The selected alignment requires the full acquisition of the property to construct the run-through tracks, a maintenance access ramp to the track structure, relocation of an existing storm drain and sanitary sewer lines along Commercial Street, and construction staging area to be used by LACMTA's construction contractor. The areas of the Property Interests are based on the approved FEIR for the Project.

Staff recommends that the Board find that the acquisition of the Property Interests are 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 and Tenants, 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 Tenants 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 Interests:

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.

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 Owner and Tenants.

E. LACMTA has fulfilled the necessary statutory prerequisites.

LACMTA is authorized to acquire property or property interests 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. LACMTA has complied with the California Environmental Quality Act.

A Draft EIR was circulated for public review and comment on January 17, 2019, through March 4, 2019. On June 27, 2019, the Board certified the FEIR. The 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, LACMTA has also

fulfilled the statutory prerequisites under Code of Civil Procedure § 1240.030 and Government Code § 7267.2.

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

CONCLUSION

Staff recommends that the Board approve the Resolution of Necessity.

**RESOLUTION OF THE
LOS ANGELES COUNTY METROPOLITAN TRANSPORTATION AUTHORITY
DECLARING CERTAIN REAL PROPERTY, LEASEHOLD INTERESTS, AND
IMPROVEMENT PERTAINING TO THE REALTY NECESSARY FOR PUBLIC
PURPOSES AND AUTHORIZING THE ACQUISITION THEREOF THROUGH THE
EXERCISE OF EMINENT DOMAIN
LINK UNION STATION PROJECT**

THE LOS ANGELES COUNTY METROPOLITAN TRANSPORTATION AUTHORITY BOARD OF DIRECTORS 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 or property interests described hereinafter are 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 or property interests 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 fee simple, as described more specifically in the legal description Exhibit "A-1", depicted on the Plat Map Exhibit "B-1", and the Improvements Pertaining to Realty or Fixtures and Equipment, as more particularly described in Exhibits "C-1", "C-2" and "C-3", (hereinafter, the "Property Interests").

Section 4.

- (a.) The acquisition of the above-described Property Interests is necessary for the development, construction, operation, and maintenance of the Link Union Station Project ("Project");
- (b.) The environmental impacts of the Project were evaluated in the Final Environmental Impact Report (FEIR), which was certified by the Board on June 27, 2019. and

- (c.) The Board has reviewed and considered the 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.) The Final Environmental Impact report 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 Interests are already devoted to a public use, the use to which the Property Interests are to be put is a more necessary public use than the use to which the Property Interests are 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 Interests are already devoted.

Section 7.

That notice of intention to adopt this resolution was given by first class mail to each person whose Property Interest 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 Interests described above by eminent domain. Counsel is also authorized and directed to seek and obtain an Order for Prejudgment Possession of said Property Interests 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 Interests, and, with the concurrence and approval of LACMTA Staff, to make minor adjustments to the scope and descriptions of easements or other Property Interests to be acquired in order to ameliorate any claims for severance damages.

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 actions to complete the acquisition, including stipulations as to judgment and other matters, and causing all payments to be made. If settlement cannot be reached, Counsel is authorized to proceed to resolve the proceedings by means of jury trial. Counsel is further authorized to associate with, at its election, a private law firm for the preparation and prosecution of said proceedings.

I, CHRISTINA GOINS, 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 24th day of June, 2021.

Date: _____

CHRISTINA GOINS
LACMTA Interim
Board Secretary

ATTACHMENTS

- Exhibit "A-1", "B-1" – Legal Description and Plat Map
- Exhibit "C-1" – Fee Owner Improvements Pertaining to the Realty
- Exhibit "C-2" – AT&T - Improvements Pertaining to the Realty
- Exhibit "C-3" – Sprint - Improvements Pertaining to the Realty

Legal Description

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

LOTS 11, AND 13 THROUGH 20, INCLUSIVE IN BLOCK "F" OF THE ALISO TRACT, IN THE CITY OF LOS ANGELES, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 4, PAGE 12, MISCELLANEOUS RECORDS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, TOGETHER WITH ALL RIGHT, TITLE AND INTEREST IN AND TO THOSE PORTIONS OF FRONTAGE STREET (FORMERLY KNOWN AS ALISO STREET) AND CENTER STREET ADJOINING LOTS 14, 16, 18, 19 AND 20 ON THE NORTH AND WEST.

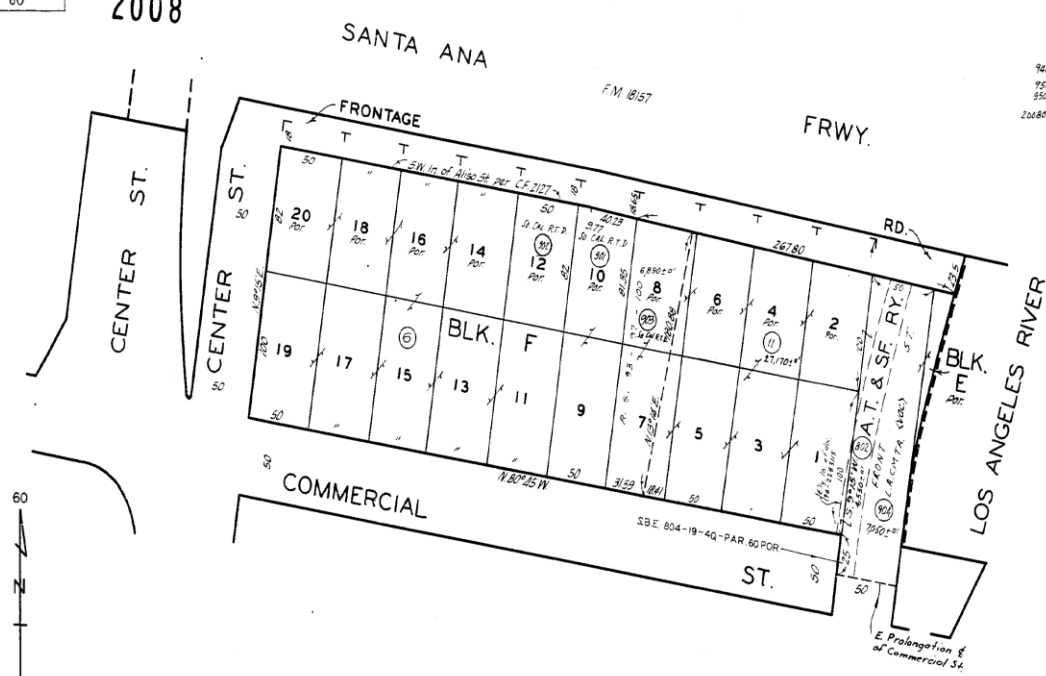
APN(s): 5173-019-006

Plat Map

5173 | 19
SCALE 1" = 60'

2008

REVIS
11-2-62
68101060
850520-85
89121811:
86092360:
870310665:
89121811:
7464141010001-23
75041205010001-23
550512
26683320101201-23



SUBDIVISION OF THE ALISO TRACT
M.R. 4-12-13

2 1 2008

Fee Owner - Improvements Pertaining to the Realty

Item No.	Qty.	Description
1	2	Signs, Channel letters, 2' to 3' high (estimate), "Life Storage", metal cabinets, 2-sided plastic fascias, interior illumination, local electrical, including, 2 company logos, 5' diameter (estimate), exterior wall-mounted
2	1	Office entrance door canopy, 5' x 3' x 4', tubular metal frame, canvass covering, with vinyl letters, "Office", exterior wall-mounted
3	1	Sign, projected, 2' W x 8' H (estimate), painted metal cabinet, 2-sided plastic fascias, "Office", with Life Storage logo, interior illumination, local electrical, exterior wall-mounted
4	12	Floor plan signs, throughout interior, 4' x 3', vinyl, with eyelets, tubular metal frames, 2" diameter pipes, 5' x 7' overall, wall and ceiling-mounted
5	3	Surveillance televisions, 42", wall-mounted, including 3 laminated box frames, in office
6	23	Fire extinguisher cabinets, metal, wall-recessed, throughout
7	43	Public address speakers, 8" diameter, throughout, including, wiring, brackets

AT&T - Improvements Pertaining to the Realty

Item No.	Qty.	Description
1	1	Roof mounted cellular site, including but not limited to:
	3	Antenna arrays, each consisting of: 4 antennas-(2) Quintel, (1) Kathrein, (1) CCI
	18	Radios, Ericsson, (3) M: 4449, (3) M: 4478, (3) M: RRUS32-B66, (3) M: RRUS32-B2, (3) RRUS32-B30, (3) M: RRUSE2-B29
	3	Surge protectors, M: DC6 "squid"
	3	Surge protectors, M: DC2
	3	Fiber spool boxes
	3	Antenna equipment support frames, L shape, 12'w x 10'h each side, 6" square steel with some angle iron, galvanized, roof attached, includes FRP facade
	1	Elevated cabinets platform, 33' x 18' x 2'h, galvanized steel, I-Beam frame, grate decking, handrails, 2 stairs
	1	PIM filter cabinet, Purcell, with filter
	1	BTS cabinet, Purcell, includes, (20 M: PP216, (2) M: XMU, (1) 5G unit M: 6630, (1) Cisco router M: SIAD, (1) GPS splitter, (1) GPS antenna
	2	UMTS cabinets, older technology
	1	Power plant cabinet, Purcell, 12 batteries, breakers, rectifiers, etc.
	1	Set of Verizon telco service equipment, including (2) NIU cabinets, (2) Telco cabinets, (1) Cinia cabinet, (1) GPS antenna, vendor provided, not appraised
	3	Surge protector cabinets at equipment platform, M: DC12, with coil pull box
	160	Linear feet of enclosed cable trays, Cope, aluminum, 14" x 6"
	1	Lot of cabling throughout

Sprint – Improvements Pertaining to the Realty

Item No.	Qty.	Description
1	1	Roof mounted cellular site, including but not limited to: <ul style="list-style-type: none"> <li data-bbox="456 485 1153 590">3 Antenna arrays, each consisting of: (1) I-20 antenna, with (2) 800RH radios and (1) 1900RRH radio, (1) Massive MIMO radio/antenna <li data-bbox="456 604 1052 636">1 Remote microwave antenna, "fastback" type <li data-bbox="456 646 1206 751">3 Antenna equipment support frames, 14'w x 10'h, 6" square steel with some angle iron, flying buttress supports, galvanized, roof attached, includes FRP facade <li data-bbox="456 766 1138 829">1 BTS cabinet, Purcell, including all equipment, GPS column, batteries, baseband units, etc. <li data-bbox="456 844 919 875">1 Power protection cabinet, Purcell <li data-bbox="456 886 1198 949">1 Telco cabinet, Purcell, no equipment installed in cabinet as of effective date of value <li data-bbox="456 963 1206 1037">1 Elevated cabinets platform, 18' x 12' x 3'10"h, galvanized steel, I-Beam frame, grate decking, handrails, 1 stairs <li data-bbox="440 1047 1206 1110">150 Linear feet of enclosed cable trays, Cope, aluminum, 14" x 6" <li data-bbox="456 1125 834 1157">1 Lot of cabling through out