



Board Report

File #: 2021-0332, **File Type:** Policy

Agenda Number: 55.

**REGULAR BOARD MEETING
JUNE 24, 2021**

SUBJECT: LINK US PROJECT - PBR REALTY, LLC

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 APNs: 5173-003-012 and 5173-018-001 and in fee simple located at 621 and 703 Commercial Street, Los Angeles, CA 90012 (hereinafter called the "Property" as identified 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.

BACKGROUND

A written offer to purchase was presented to the owner pursuant to Government Code Section 7267.2. The owner has not accepted the offer of Just Compensation made by the Los Angeles County Metropolitan Transportation Authority ("LACMTA"), and we have not reached a negotiated settlement of the acquisition. Because the property is necessary for the construction and operation of the Project, staff recommends the acquisition of the Property through eminent domain to obtain possession and determine the value in order to maintain the Project's schedule.

In accordance with the provision of the California Eminent Domain law and Sections 30503, 30600, 130051.13, 130220.5 and 132610 of the California Public Utilities Code (which authorizes the public acquisition of private property by eminent domain), LACMTA has prepared and mailed notice of this hearing to the owner informing them of the 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; (5) that any environmental review of the Project, as may be necessary, pursuant to the California Environmental Quality Act has occurred 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.

DISCUSSION

Findings

The Property is necessary for the construction of the Project; therefore, staff recommends the acquisition of the Property 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 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 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

The 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 Fiscal Year 2021 budget under Project 460089 Link Union Station Project, in Cost Center 2415 (Regional Rail), 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

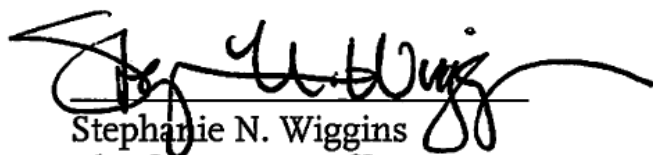
Once this action is approved by the Board, the LACMTA's condemnation counsel will be instructed to take all steps necessary to commence legal proceedings in a court of competent jurisdiction to acquire the Property by eminent domain and to conclude those proceedings either by settlement or jury trial. 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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Reviewed by: James de la Loza, Chief Planning Officer, (213) 922-2920



Stephanie N. Wiggins
Chief Executive Officer

ATTACHMENT A

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

BACKGROUND

The Property is required by the Los Angeles County Metropolitan Transportation Authority (“LACMTA”) for the construction and operation of the Project (“Project”). The address, record owner, physical description, and nature of the property 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
5173-018-001	703 East Commercial Street (the “Property”), Los Angeles, CA 90012	PBR Realty, LLC, a Delaware limited liability company	Construction and operation of the Link Union Station Project	Fee Simple
5173-003-012	621 East Commercial Street (the “Property”), Los Angeles, CA 90012	PBR Realty, LLC, a Delaware limited liability company	Construction and operation of the Link Union Station Project	Fee Simple

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 on December 19, 2019, for acquisition of the Property.

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 is necessary for the Project.

The Property is required for construction and operation of the Project. The selected alignment requires the full acquisition of the property to construct the run-through tracks, construction access and relocation of the existing overhead electrical line along the north side of Commercial Street, and construction staging area to be used by LACMTA's construction contractor. The areas of the Property is based on the approved 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 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:

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 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 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 NECESSARY FOR PUBLIC PURPOSES
AND AUTHORIZING THE ACQUISITION THEREOF THROUGH THE EXERCISE OF
EMINENT DOMAIN
LINK UNION STATION PROJECT, (“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 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 the 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 consists of the acquisition of fee simple, as described more specifically in the legal descriptions Exhibit “A-1” and Exhibit “A-2” and depicted in the Plat Maps Exhibit “B-1” and “B-2”. (hereinafter, the “Property”).

Section 4.

(a.) The acquisition of the above-described Property 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.) 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, and, with the concurrence and approval of LACMTA Staff, to make minor adjustments to the scope and descriptions of easements or other Property 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 and A-2 – Legal Description

Exhibit B-1 and B-2 – Plat Map

LEGAL DESCRIPTION

703 East Commercial Street, Los Angeles

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 5 TO 18 INCLUSIVE, IN BLOCK "G" OF THE ALISO TRACT, IN THE CITY OF LOS ANGELES, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS PER MAP RECORDED IN [BOOK 4, PAGES 12](#) AND 13 OF MISCELLANEOUS RECORDS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

EXCEPT THEREFROM THE NORTH 18 FEET OF LOTS 6, 8, 10, 12, 14, 16 AND 18, AS CONDEMNED FOR THE WIDENING OF ALISO STREET BY FINAL DECREES ENTERED IN CASE NO. 452144, SUPERIOR COURT, LOS ANGELES COUNTY, CERTIFIED COPIES THEREOF BEING RECORDED IN [BOOK 19670, PAGE 113](#), OFFICIAL RECORDS AND IN [BOOK 19235, PAGE 268](#), OFFICIAL RECORDS.

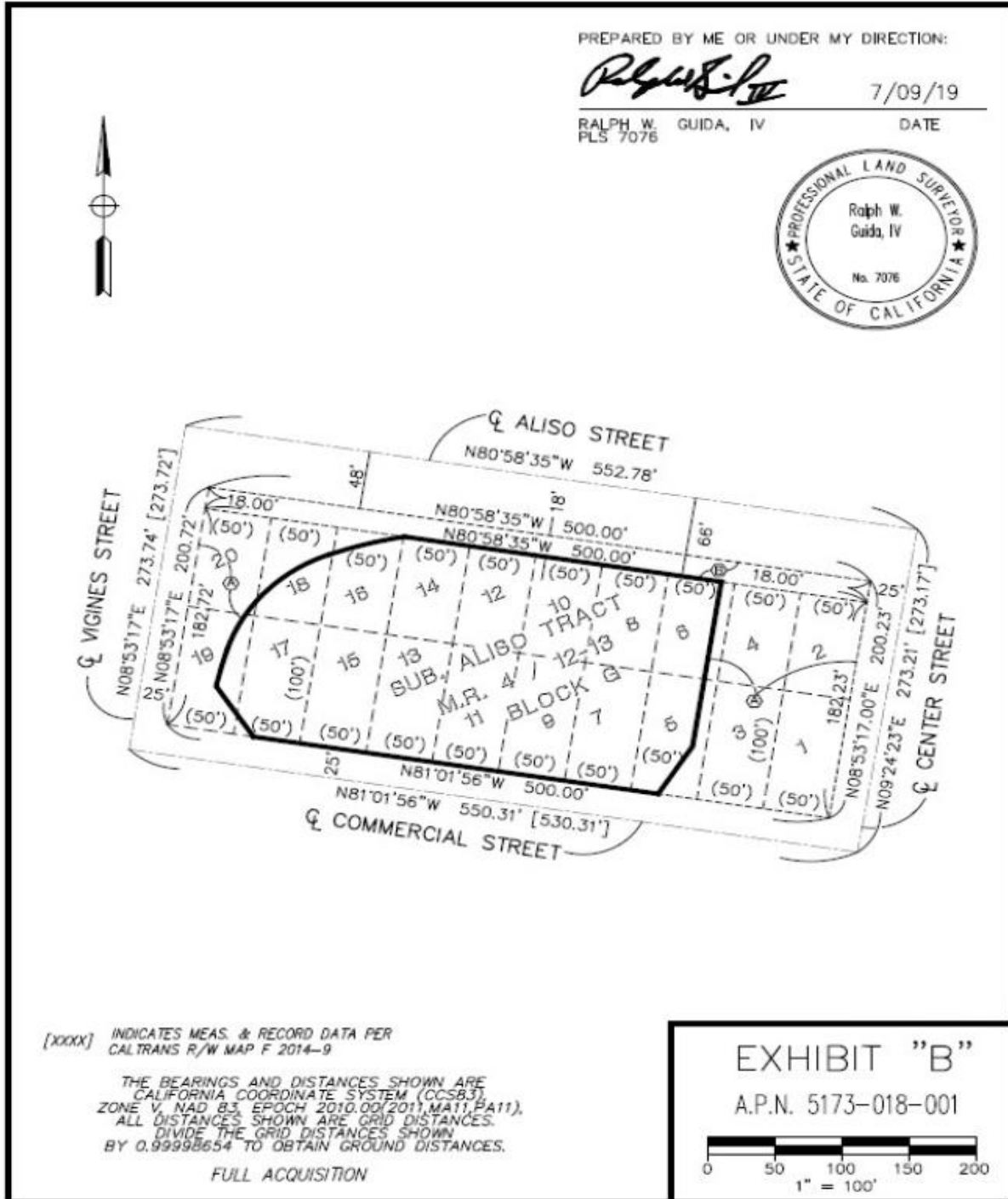
ALSO EXCEPT THEREFROM THOSE PORTIONS OF LOTS 5, 6, 14, 16, 17 AND 18, AS CONDEMNED FOR FREEWAY PURPOSES BY FINAL ORDER OF CONDEMNATION ENTERED IN CASE NO. 611479, SUPERIOR COURT, LOS ANGELES COUNTY, A CERTIFIED COPY THEREOF BEING RECORDED JULY 12, 1956 AS [INSTRUMENT NO. 4157, OFFICIAL RECORDS](#).

[APN: 5173-018-001](#)

EXHIBIT "B-1"

PLAT MAP

703 East Commercial Street, Los Angeles



LEGAL DESCRIPTION

621 East Commercial Street, Los Angeles

All that certain real property situated in the County of Los Angeles, State of California, described as follows:

THAT PORTION OF LOTS 1 TO 8 INCLUSIVE OF BLOCK "H" OF THE SUBDIVISION OF THE ALISO TRACT, IN THE CITY OF LOS ANGELES, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS PER MAP RECORDED IN [BOOK 4 PAGES 12](#) AND 13 OF MISCELLANEOUS RECORDS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT IN THE EAST LINE OF SAID BLOCK "H", SAID POINT BEING 25.50 FEET NORTHERLY MEASURED AT RIGHT ANGLES FORM THE SOUTH LINE OF SAID BLOCK "H"; THENCE WESTERLY PARALLEL WITH SAID SOUTH LINE NORTH 81° 01' 56" WEST, 182.04; THENCE NORTH 4° 02' 03" EAST, 80.95 FEET; THENCE NORTH 84° 07' 49" EAST, 105.33 FEET; THENCE NORTH 89° 12' 48" EAST, 88.29 FEET TO THE EAST LINE OF SAID BLOCK "H"; THENCE SOUTHERLY ALONG SAID EAST LINE SOUTH 8° 53' 17" WEST, 122.58 FEET TO THE POINT OF BEGINNING.

EXCEPT THEREFROM THAT PORTION LYING WITHIN THE FOLLOWING DESCRIPTION:

COMMENCING AT A POINT IN THE EAST LINE OF BLOCK "H" OF THE SUBDIVISION OF THE ALISO TRACT, IN THE CITY OF LOS ANGELES, AS PER MAP RECORDED IN [BOOK 4 PAGES 12](#) AND 13 OF MISCELLANEOUS RECORDS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, SAID POINT BEING 25.50 FEET NORTHERLY MEASURED AT RIGHT ANGLES FORM THE SOUTHERLY LINE OF SAID BLOCK "H"; THENCE WESTERLY PARALLEL WITH SAID SOUTHERLY LINE NORTH 81° 01' 56" WEST, 182.04 FEET; THENCE NORTH 4° 02' 03" EAST, 80.95 FEET; THENCE NORTH 84° 07' 49" EAST, 105.33 FEET; THENCE NORTH 89° 12' 48" EAST, 26.64 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 0° 47' 12" EAST, 6.00 FEET; THENCE NORTH 89° 12' 48" EAST, 15.45 FEET; THENCE NORTH 0° 47' 12" WEST, 6.00 FEET; THENCE SOUTH 89° 12' 48" WEST, 15.45 FEET TO THE POINT OF BEGINNING.

ALSO EXCEPT THEREFROM THAT PORTION LYING WITHIN THE FOLLOWING DESCRIPTION:

BEGINNING AT A POINT IN THE EAST LINE OF BLOCK "H" OF THE SUBDIVISION OF THE ALISO TRACT, IN THE CITY OF LOS ANGELES, AS PER MAP RECORDED IN [BOOK 4 PAGES 12](#) AND 13 OF MISCELLANEOUS RECORDS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, SAID POINT BEING 25.50 FEET NORTHERLY MEASURED AT RIGHT ANGLES FORM THE SOUTHERLY LINE OF SAID BLOCK "H"; THENCE WESTERLY PARALLEL WITH SAID SOUTHERLY LINE NORTH 81° 01' 56" WEST, 182.04 FEET; THENCE NORTH 4° 02' 03" EAST, 1.00 FEET; THENCE EASTERLY PARALLEL WITH SAID SOUTHERLY LINE SOUTH 81° 01' 56" EAST, 50.00 FEET; THENCE SOUTH 8° 58' 04" WEST, 0.50 FEET; THENCE PARALLEL WITH SAID SOUTHERLY LINE SOUTH 81° 01' 56" EAST, 132.13 FEET TO THE EAST LINE OF SAID BLOCK "H"; THENCE SOUTHERLY ALONG SAID EAST LINE SOUTH 8° 53' 17" WEST, 0.50 FEET TO THE POINT OF BEGINNING.

Assessor's Parcel Number: 5173-003-012

EXHIBIT "B-2"

PLAT MAP

621 East Commercial Street, Los Angeles

