



Board Report

File #: 2022-0298, File Type: Policy

Agenda Number:

REGULAR BOARD MEETING
AUGUST 25, 2022

**SUBJECT: WESTBOUND SR-91 ALONDRA BOULEVARD TO SHOEMAKER AVENUE
IMPROVEMENT PROJECT RESOLUTION OF NECESSITY**

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 a partial fee interest (“Fee”) and a 48-month Temporary Construction Easement (“TCE”) from the property located at 12642 Palm Street, Cerritos, California 90703 with APN of 7016-020-026 (the “Property Interest”) as identified in Attachment A.

(REQUIRES 2/3 VOTE OF THE BOARD)

ISSUE

Acquisition of the Property Interest is required for the construction and operation of the Westbound State Route 91 (SR-91) Alondra Boulevard to Shoemaker Avenue Improvement Project (“Project”). After testimony and evidence has been received from all interested parties at the hearing, Los Angeles County Metropolitan Transportation Authority (“LACMTA”), by a vote of two-thirds of its Board of Directors (“Board”), must make a determination as to whether to adopt the proposed Resolution of Necessity (Attachment B) to acquire the Property Interest by eminent domain. Attached is evidence submitted by staff that supports adoption of the resolution and which sets forth the required findings (Attachment A).

BACKGROUND

The Project intends to widen and improve approximately four (4) miles of freeway along westbound SR-91 between Shoemaker Avenue and the Interstate 605 (I-605) interchange, and at the northbound I-605 exit to Alondra Boulevard, which will reduce congestion and improve freeway operations (both mainline and ramps), improve safety and reduce accidents, and improve local and system interchange operations on the westbound SR-91 to the northbound I-605. The project traverses the cities of Cerritos and Artesia and includes westbound SR-91 Post Miles R16.9- R19.8

and northbound 1-605 Post Miles R5.0-R5.8. Even though this project was scoped and initiated before the adoption of Metro's Objectives for Multimodal Highway Investment (June, 2022), it is consistent with those objectives given that: 1) implementation of the project will not require any displacements; 2) the project supports traffic mobility, enhanced safety, economic vitality and access to opportunity, and; 3) multi-modal features were incorporated in the scope of the project (on local arterials) through an integrated planning approach to address the needs of local communities, and create a safer transportation system.

A new retaining wall is required along Bloomfield Avenue to stabilize the slope of the road. A new sound wall will be constructed on the retaining wall. An existing private retaining wall at the subject property at the bottom of the Bloomfield Avenue embankment slope is cracked and distressed and needs to be reconstructed or replaced as part of the project. The new retaining wall will be approximately 150' long and will vary up to 10' in height. The proposed retaining wall conforms to Caltrans Standard Plans.

Acquisition of the Property Interest is required for the construction and operation of the Project. The Fee, consisting of the area along the western property line, is required for the reconstruction and maintenance of the new retaining wall. The Fee is almost entirely located within the existing Bloomfield Avenue right-of-way.

The 48-month TCE is located adjacent to the Fee and grants the contractor access to the sound wall/retaining wall work area. The TCE is required to allow the contractor access to construct the new retaining wall/sound wall adjacent to Bloomfield Avenue. Additionally, the TCE provides the contractor access to rebuild a section of the private retaining wall on the owner's property. The portion of the private retaining wall is failing and poses a safety risk. The failing portion of the wall will be taken down and reconstructed as part of the Project. The total term of the TCE will be up to 48 months, with its term currently scheduled to commence on September 30, 2022 and terminating no later than September 30, 2026.

DISCUSSION

A written offer of Just Compensation to purchase the Property Interest was presented to the Owner of Record ("Owner") of the Property on April 22, 2022, as required by California Government Code Section 7267.2. The Owner has not accepted the offer of Just Compensation made by LACMTA, and the parties have not at this time reached a negotiated settlement for the acquisition. Because the Property Interest is necessary for the construction and operation of the Project, staff recommends the acquisition of the Property Interest through eminent domain to obtain possession in order to maintain the Project's schedule.

In accordance with the provision of the California Eminent Domain law and Section 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 (CEQA) 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.

There are no displacements of residents or local businesses resulting from the acquisition of the Property Interest.

DETERMINATION OF SAFETY IMPACT

The Board action will not have an impact on Metro's safety standards.

FINANCIAL IMPACT

The funding for the acquisition of the Property Interest is included in the fiscal year 2023 budget under Project, Cost Center 4720, in Westbound SR-91 Alondra Boulevard to Shoemaker Avenue Improvement Project 462314, Task 5.3.100, Professional Services Account 50316.

Impact to Budget

The source of funds will be Measure R Highway Capital (20%) and SB1 Trade Corridor Enhancement. These program funds are not eligible for bus and rail operations and/or capital expenditures.

EQUITY PLATFORM

No other alternative locations for the Project provide greater operational safety, decrease travel time, improve air quality, and e access to the corridor. This public good will also support the fulfillment of Metro's LA County traffic Improvement Plan under measure R. There are no displacements of residents or local businesses resulting from the acquisition of this Property Interest. An offer for the Property Interest was made in April 2022, based on an appraisal of fair market value. Fair market value is defined as "the highest price on the date of valuation that would be agreed to by a seller, being willing to sell but under no particular or urgent necessity for so doing, nor obliged to sell, and a buyer, being ready, willing, and able to buy but under no particular necessity for so doing, each dealing with the other with full knowledge of all the uses and purposes for which the property is reasonably adaptable and available." Metro staff has been negotiating with the Owner since April 2022, but agreement has not yet been reached. Approving this action will allow staff to continue negotiations while maintaining the project schedule.

IMPLEMENTATION OF STRATEGIC PLAN GOALS

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 Resolution of Necessity is a required step to acquire the Property Interest for the Project which will improve freeway operations (both

mainline and ramps) and improve local and system interchange operations on westbound SR-91 to northbound I-605.

ALTERNATIVES CONSIDERED

The Board could choose not to approve the recommendations. This is not recommended as it will result in significant delays and cost increases for the Project.

NEXT STEPS

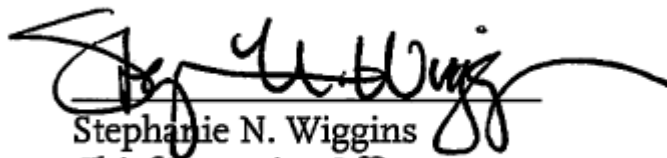
If this action is approved by the Board, Metro's condemnation counsel will be instructed to take all steps necessary to commence legal proceedings in a court of competent jurisdiction to acquire the Property Interest by eminent domain and to conclude those proceedings either by settlement or jury trial. 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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