



Board Report

File #: 2016-0904, File Type: Policy

Agenda Number: 46.

REGULAR BOARD MEETING
DECEMBER 1, 2016

SUBJECT: WILLOWBROOK/ROSA PARKS STATION IMPROVEMENT PROJECT

ACTION: ADOPT RESOLUTION OF NECESSITY TO ACQUIRE PORTIONS OF ASSESSOR'S
PARCEL NUMBERS (APNs) 6150-008-046, 6150-008-047 AND 6150-008-048

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 portions of APNs 6150-008-046, 6150-008-047 and 6150-008-048**, consisting of the fee and leasehold interests in real property, together with a permanent easement, temporary construction easements, and Improvements Pertaining to the Realty (hereinafter the "Property" as identified in Attachment A). This acquisition is for the Willowbrook/Rosa Parks Station Improvement project.

(REQUIRES TWO-THIRDS VOTE)

BACKGROUND

Acquisition of the Property is required for the construction of and operation of the Willowbrook/Rosa Parks Station Improvements ("Project"). A written offer was presented to the Owner of Record ("Owner") and the owner of the Leasehold Interest ("Master Tenant"), as required by California Government Code Section 7267.2. To date, staff has been unable to reach an agreement with the Master Tenant. The Owner has waived its right to receive compensation for its ownership of the fee interest, and the permanent and temporary easements as confirmed by prior Resolution adopted by the Board of Supervisors. The Property is necessary for construction of the Project; therefore, staff recommends the acquisition of the Property through eminent domain 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), Metro has prepared and mailed notice of this hearing to the Owner and Master Tenant 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 Government Code has been made to the Owner, or the offer has not been made because the Owner cannot be located with reasonable diligence; and (5) that any environmental review of the Project, as may be necessary, pursuant to the California Environmental Quality Act (CEQA) has occurred.

Attached is the Staff Report prepared by staff and legal counsel setting forth the required findings for acquiring the Property through the use of eminent domain (Attachment B). After Metro Board receives testimony and evidence from all interested parties, the Metro must make a determination as to whether to acquire the Property by eminent domain and adopt the proposed Resolution of Necessity (Attachment C). 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 Metro's safety standards.

FINANCIAL IMPACT

The funding for the acquisition of the Property is included in the FY17 budget, in Cost Center 2210, and Project Number 210151 (Acquisition of Land).

Impact to Budget

The approved FY17 Budget is designated for the Willowbrook/Rosa Parks Station Improvement Project and does not have an impact to operation funding sources. The funding source for the land acquisition **Prop A 35% Bond, Federal Tiger Grant and State Cap & Trade Funds**. The funds were assumed in the Long Range Transportation Plan for the Project.

NEXT STEPS

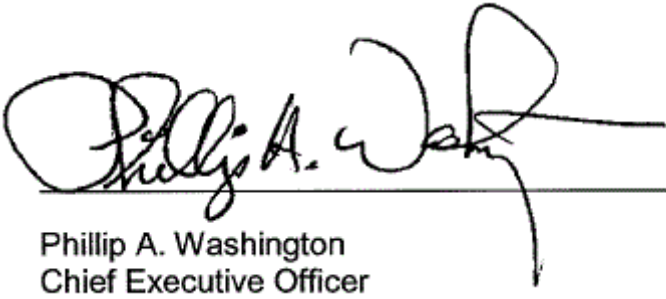
If this action is approved by the Board, the Metro's condemnation counsel will be instructed to take all steps necessary to commence legal proceedings in a court of competent jurisdiction to acquire the Property interest by eminent domain. Counsel will also be directed to seek and obtain an Order of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

ATTACHMENTS

Attachment A - Site Plan
Attachment B - Staff Report
Attachment C - Resolution of Necessity

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