



Board Report

File #: 2019-0203, **File Type:** Policy

Agenda Number: 41.

**REGULAR BOARD MEETING
MAY 23, 2019**

SUBJECT: PURPLE LINE WESTSIDE SUBWAY EXTENSION TRANSIT PROJECT SECTION 2

ACTION: APPROVE RECOMMENDATIONS

RECOMMENDATION

CONSIDER:

- A. HOLDING a public hearing on the proposed Resolution of Necessity; and
- B. ADOPTING a Resolution of Necessity authorizing the commencement of an eminent domain action to acquire two permanent subsurface tunnel easements and two temporary subsurface grouting easements in the properties identified as Parcels: W-3601, W-3601D, W-3601E (APN: 4319-001-902; 4319-001-901); W-3605 (APN: 4319-001-900) (hereinafter the "Property").

(REQUIRES TWO-THIRDS VOTE OF THE BOARD)

BACKGROUND

Acquisition of the above-referenced permanent subsurface tunnel easements and temporary subsurface grouting easements ("Easements"), referred to herein as "Property" is required for the construction of and operation of the Westside Purple Line Westside Extension Project Section 2 ("Project"). The Easements are 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"), 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. 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 maintain the Project schedule.

In accordance with the provisions of the California Eminent Domain Law, Sections 30503, 30600, 130051.13, 130220.5 and 132610 of the California Public Utilities Code (which authorize the public acquisition of property by eminent domain), California Code of Civil Procedure Sections 1240.510-530 (which authorize the acquisition of property appropriated to public use for a compatible public

use), and California Code of Civil Procedure Sections 1240.610-700 (which authorize the acquisition of property appropriated to a public use for a more necessary public use), 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 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 to acquire the Property by eminent domain. In order to adopt the resolutions, LACMTA must, based on the evidence before, 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, Project budget under Measure R Project 865522 (Purple Line Westside Extension Project Section 2), in Cost Center 8510, and Account Number 53103 (Acquisition of Land).

Impact to Budget

The approved FY19 budget is designated for the Westside Purple Line Extension, Section 2 is Measure R 35% Transit Capital Expansion and does 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 Resolution of Necessity is a required step to acquire these properties for the Westside Purple Line Extension 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 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

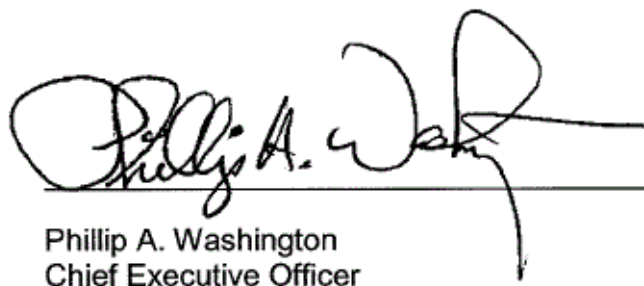
Attachment A - Staff Report

Attachment B1 - Resolution of Necessity- W-3601, W-3601D & W-3601E

Attachment B2 - Resolution of Necessity- W-3605

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