



Board Report

File #: 2021-0654, **File Type:** Policy

Agenda Number: 30.

**REGULAR BOARD MEETING
FEBRUARY 24, 2022**

**SUBJECT: METRO G LINE (ORANGE) BUS RAPID TRANSIT IMPROVEMENT PROJECT
RESOLUTION OF NECESSITY**

ACTION: APPROVE RECOMMENDATION

RECOMMENDATION

CONSIDER:

- A. HOLDING a public hearing on the proposed Resolution of Necessity.
- B. ADOPTING the Resolution of Necessity authorizing the commencement of an eminent domain action to acquire a Permanent Utility Easement (“PUE”) and Temporary Construction Easement (“TCE”) from the property located at 6110 Sepulveda Boulevard, Van Nuys, CA 91411 with APN of 2242-025-022 (the “Property Interests”) as identified in (Attachment A).

(REQUIRES 2/3 VOTE OF THE BOARD)

ISSUE

Acquisition of the Property Interests is required for the construction and operation of the Metro G Line (Orange) Bus Rapid Transit Improvements 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 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 Property Interests include a PUE and TCE. The PUE is required for installation of the Los Angeles Department of Water and Power (LADWP) and LACMTA equipment to provide service to the planned elevated station at Sepulveda Boulevard. Additionally, existing LADWP overhead wires conflict with the grade separation and elevated station and will be relocated underground. As part of the relocation, LADWP requires an above-ground vista switch be installed within the PUE. The area of the PUE is located within a portion of the parking lot along the Sepulveda Boulevard frontage. The TCE is required to facilitate installation of the LADWP infrastructure. The TCE surrounds the

perimeter of the PUE and grants temporary access to the subject area within the Property Interests. The TCE will remain in place during the Project construction period and shall have a duration of twenty-seven (27) months.

A written offer of Just Compensation to purchase the Property Interests was presented to the Owner of Record ("Owner") of the Property on April 29, 2021, 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 Interests are necessary for the construction and operation of the Project, staff recommends the acquisition of the Property Interests 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 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 (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 as a result of 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's Board receives testimony and evidence from all interested parties, the Board 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

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 2022 (FY22) budget under Project 871405 Metro G Line (Orange) Bus Rapid Transit Improvement Project, in Cost Center 8510, Account Number 53103 (Acquisition of Land) and Fund 6003.

Impact to Budget

The approved FY22 budget is designated for the Metro G Line (Orange) Bus Rapid Transit Improvement Project and does not have an impact to operations funding sources.

EQUITY PLATFORM

No other alternative locations for the Project provide greater public good with less private injury. There are no displacements resulting from the acquisition of these Property Interests. An offer for the Property was made in April 2021 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 Owners since April 2021, 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

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 Property Interests for the Metro G Line (Orange) Bus Rapid Transit Improvement 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, 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.

[staff intention upon approval]

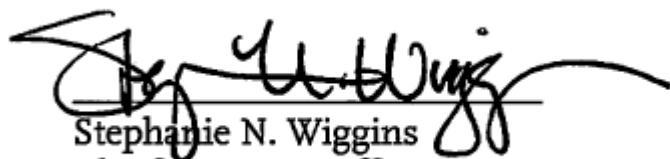
ATTACHMENTS

Attachment A - Staff Report

Attachment B - Resolution of Necessity

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