



Board Report

File #: 2018-0677, **File Type:** Policy

Agenda Number: 44.

REVISED
REGULAR BOARD MEETING
OCTOBER 25, 2018

SUBJECT: ROSECRANS/MARQUARDT GRADE SEPARATION PROJECT

ACTION: ADOPT RESOLUTION OF NECESSITY

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 fee simple interest in the property identified as Parcel RM-10 (APN 8069-003-008).

(REQUIRES 2/3 VOTE OF THE BOARD)

ISSUE

Fee simple acquisition of the above-referenced parcel, referred to herein as the “Property”, is required for the construction and operation of the Rosecrans/Marquardt Grade Separation Project (“Project”). The acquisition is required in order to improve the safety and traffic flow of the Rosecrans Avenue and Marquardt Avenue intersection.

After all of the testimony and evidence has been received by LACMTA from all interested parties at the hearing, LACMTA must make a determination as to whether to adopt the proposed Resolution of Necessity (Attachment B) to acquire the Property by eminent domain. In order to adopt the resolution, LACMTA must, based on the evidence before it, 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 resolution that have been approved by counsel, and which sets forth the required findings (Attachment A).

BACKGROUND

A written offer to purchase was delivered to the Owner of Record (“Owner”) of the Property, as required by California 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 the parties have not reached negotiated settlement as of this date. Because the Property is necessary for construction of the Project, 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), 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.

DETERMINATION OF SAFETY IMPACT

This Board action will not have an impact on LACMTA’s safety standards.

FINANCIAL IMPACT

Funding for the final settlement of the acquisition is included in the adopted FY19 budget, under Measure R 20% Highway Capital for the Rosecrans/Marquardt Grade Separation Project, Number 460066 and Cost Center 2415.

Impact to Budget

The approved FY19 budget is designated for the Rosecrans/Marquardt Grade Separation Project and does not have an impact to operations funding sources. 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

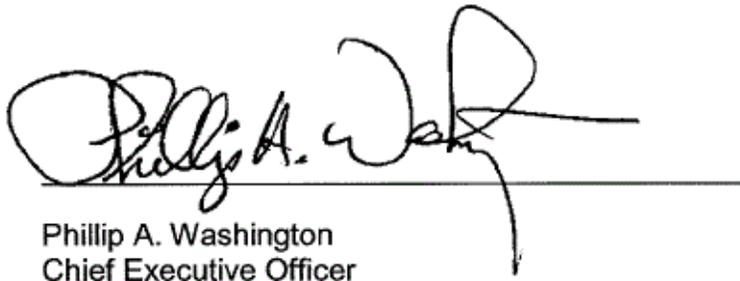
If this action is approved by the Board, LACMTA's condemnation counsel will be instructed to take all steps necessary to commence legal proceedings in a court of competent jurisdiction to acquire the Property by eminent domain. Counsel will also be directed to seek and obtain Orders of Prejudgment Possession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

ATTACHMENTS

Attachment A - Staff Report
Attachment B - Resolution of Necessity

Prepared by: Velma C. Marshall, Deputy Executive Officer - Real Estate, (213) 922-2415

Reviewed by: Therese McMillan, Chief Planning Officer (213) 922-7077



Phillip A. Washington
Chief Executive Officer