



Board Report

File #: 2020-0107, **File Type:** Policy

Agenda Number: 33.

**REGULAR BOARD MEETING
FEBRUARY 27, 2020**

SUBJECT: ROSECRANS/MARQUARDT GRADE SEPARATION PROJECT

**ACTION: ADOPT RESOLUTION OF NECESSITY TO ACQUIRE
PROPERTY RM-02**

RECOMMENDATION

CONSIDER:

- A. Holding a hearing on the proposed Resolution of Necessity; and
- B. Adopting a Resolution of Necessity authorizing the commencement of an eminent domain action to acquire a Utility Overhang and a 54-month Temporary Construction Easement from the property identified as Parcel RM-02 (APN: 8059-029-010). The property listed above is herein referred to as the "Property".

REQUIRES 2/3 VOTE

BACKGROUND

The acquisition of the Property is required for the construction and operation of the Rosecrans/Marquardt Grade Separation Project ("Project"). The Project will improve the safety and traffic flow of the Rosecrans Avenue and Marquardt Avenue intersection.

A written offer to purchase the Property was delivered to the Owners 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. Since 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 timely prepared and mailed notice of this hearing to the Owner 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 their respective 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's Board from all interested parties at the hearing, LACMTA's Board must make a determination as to whether to adopt the proposed Resolution of Necessity to acquire the Property by eminent domain. In order to adopt the Resolution, LACMTA's Board must, based on the evidence before it, and by a vote of two-thirds of all of its members, 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 has been approved by counsel, 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 temporary construction easements, overhead easements, and the roadway easement are included in the Fiscal Year 2020 Budget for the Rosecrans Marquardt Grade Separation Project in Cost Center 2415 under Project Number 460066. Since this is a multi-year project, the Cost Center Manager, Project Manager and Chief of Program Management will be responsible for future fiscal year budgeting.

Impact to Budget

The FY2020 budget is designated for the Rosecrans Marquardt Grade Separation Project and is funded with Measure R 20% Highway Capital Funds. The FY20 funds were planned and designated for this project. Design and construction of this project does not have an impact to operations funding sources.

IMPLEMENTATION OF STRATEGIC PLAN GOALS

Equity Platform Framework Consistency

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 recommended Board action is consistent with LACMTA Vision 2028, Goal #1: Provide high quality mobility options that enable people to spend less time traveling. Acquisition of property is a

required step for the ultimate construction and operation of the Rosecrans Marquardt Grade Separation Project which will provide additional mobility.

NEXT STEPS

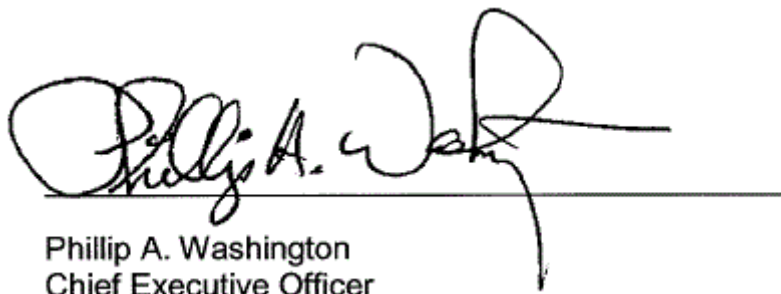
If this action is approved by the Board, LACMTA's condemnation counsel will be instructed to take all steps necessary to commence legal proceedings in a court of competent jurisdiction to acquire the property interest by eminent domain. Counsel will also be directed to seek and obtain an Order of Prejudgment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

ATTACHMENTS

Attachment A - Staff Report
Attachment B - Resolution of Necessity

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