



Board Report

File #: 2023-0305, File Type: Policy

Agenda Number:

REGULAR BOARD MEETING JULY 27, 2023

SUBJECT: WESTSIDE PURPLE LINE EXTENSION SECTION 1 PROJECT

ACTION: APPROVE RECOMMENDATIONS

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 a 33-month Temporary Construction Easement (“TCE”) from the property identified as Parcel W-2309, APN: 4334-022-063 (“Property”). The above listed requirement is herein referred to as the “Property Interest” in (Attachment A).

(REQUIRES TWO-THIRDS VOTE OF THE FULL BOARD)

ISSUE

Acquisition of the Property Interest is required for the construction of the Westside Purple Line Section 1 (“Project”). After testimony and evidence has been received from all interested parties at the hearings, 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 Interest by eminent domain. Attached is evidence submitted by staff that supports the adoption of the resolution and which sets forth the required findings (Attachment A).

BACKGROUND

Acquisition of the Property Interest is required for the construction of the Project. The Property contains 6,508 square feet and is located on the west side of North Gale Drive, two lots north of Wilshire Boulevard in the City of Beverly Hills. The Property is currently vacant and is being used as a construction laydown area for the Project. LACMTA previously acquired an eight-year TCE (W-2309) that encumbered the Property for construction staging. LACMTA is seeking to acquire a new 33-month TCE that would extend the use of the construction laydown area through January 1, 2026.

A written offer of Just Compensation to purchase the Property Interest was presented to the Owner of

Record ("Owner") of the Property on June 30, 2023, 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 Interest is necessary for the construction of the Project, staff recommends the acquisition of the Property Interest through eminent domain to obtain possession in order to maintain the Project's 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 Owner informing them of their right to appear at this hearing and be heard on the following items: (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 public good and the least private injury; (3) whether the Property Interest is necessary for the Project; (4) whether either the offer required by Section 7267.2 of the California 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 from all interested parties at the hearing, LACMTA must make a determination as to whether to adopt the proposed Resolution of Necessity to acquire the Property Interest by eminent domain. In order to adopt the resolutions, LACMTA must, based on the evidence before it, and by vote of two-thirds of all the members of its Board, find and determine that the items stated in the items 1 - 6 above exist in the affirmative.

Attached is evidence submitted by staff that supports adoption of the Resolution that has been approved by counsel, and which sets forth the required findings (Attachment B).

DETERMINATION OF SAFETY IMPACT

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

FINANCIAL IMPACT

The Measure R 35% funding for the acquisition of the Property Interest is included in the fiscal year 2024 budget under Project 865518 Westside Purple Line Extension Section 1, in Cost Center 8510 (Construction Project Management), and Account Number 53103 (Acquisition of Land) and Fund 6012. Measure R 35% is not eligible for transit operations.

Impact to Budget

The approved FY24 budget is designated for the Westside Purple Line Extension Section 1 and does not have an impact to operations funding sources. The funds were assumed in the Long-Range Transportation Plan for the Project. 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.

EQUITY PLATFORM

No other alternative locations for the Project provide greater operational safety, decreasing travel time, improving air quality, and enhancing access to the corridor. This public good will also support the fulfillment of LACMTA's LA County traffic Improvement Plan under measure M. There are no displacements of residents or local businesses resulting from the acquisition of this Property Interest. The offer for the Property Interest was made on June 30, 2023 based on the 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 Property Owner, but an 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

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 the Property Interest for the Westside Purple Line Extension - Section 1 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 result in significant delays and cost increases for the Project.

NEXT STEPS

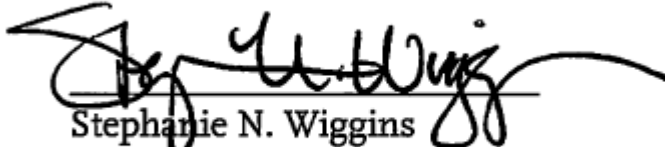
If this action is approved by the Board, LACMTA's condemnation counsel will be instructed to take all steps necessary to commence legal proceedings in a court of competent jurisdiction to acquire the Property Interest by eminent domain. Counsel will also be directed to seek and obtain an Order of Prejudgment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

ATTACHMENTS

Attachment A - Staff Report
Attachment B - Resolution of Necessity

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