

**REGULAR BOARD MEETING
JANUARY 24, 2013****SUBJECT: CRENSHAW LAX TRANSIT CORRIDOR PROJECT****ACTION: ADOPT RESOLUTION OF NECESSITY – PARCEL HS-2104****RECOMMENDATION**

- A. Hold a public hearing on the proposed Resolution of Necessity.
- B. Adopt the Resolution of Necessity authorizing the commencement of an eminent domain action to acquire a full take on Parcel HS-2104 (APN 4015-019-005).

RATIONALE

Acquisition of Parcel No. HS-2104 (See Attachment A) is required for the construction of a station and kiss and ride facility for the Crenshaw LAX Transit Corridor Project ("Project"). A written offer was presented to the Owner of Record, as required by California Government Code Section 7267.2. To date, the property owner's attorney has refused to discuss the amount offered as just compensation and, therefore, the parties have been unable to reach a negotiated agreement. Because this parcel is necessary for construction of the Project, staff recommends the acquisition of this parcel through eminent domain.

In accordance with the provisions of the California Eminent Domain law and Sections 30503, 130220.5 and 132610 of the California Public Utilities Code (which authorize the public acquisition of private property by eminent domain), the Los Angeles County Metropolitan Transportation Authority ("LACMTA") has prepared and mailed notice of this hearing to the property owners of record 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 public good and the least private injury; (3) whether the subject parcel is necessary for the Project; and (4) whether either the offer required by Section 7267.2 of the Government Code has been made to the Owner or Owners of Record, or the offer has not been made because the owner cannot be located with reasonable diligence.

After all of the testimony and other evidence has been received by the LACMTA from all interested parties, the LACMTA must make a determination as to whether to adopt the proposed Resolution of Necessity (Attachment C) to acquire the subject parcel by eminent domain. In order to adopt the resolution, the LACMTA must, based upon all 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 above exist. 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 safety standards for Metro.

FINANCIAL IMPACT

Funding for the acquisition of Parcel HS-2104 is included in the approved fiscal year 2013 project budget, under Measure R project 865512 (Crenshaw/LAX Transit Corridor Project), in cost center 8510, and account number 53103 (Acquisition of Land). Since this is a multi-year project, the project manager will be responsible for budgeting in future year's costs.

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 required 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

- A. Site Plan
- B. Staff Report
- C. Resolution of Necessity

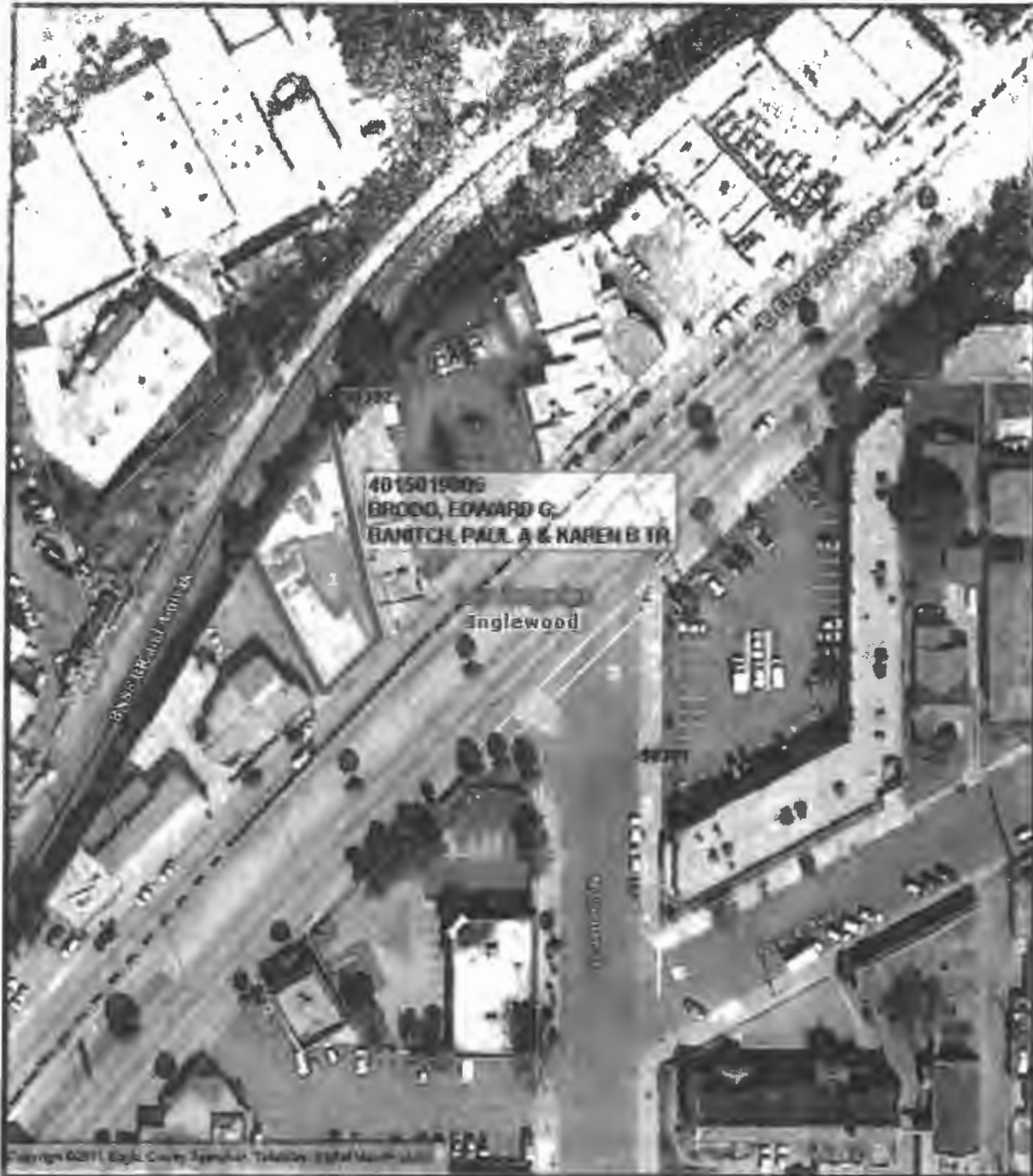
Prepared By: Velma Marshall
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Roger S. Moliere
Chief, Real Property Management and Development



Arthur T. Leahy
Chief Executive Officer



HS-2104



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**STAFF REPORT
REGARDING THE NECESSITY FOR THE ACQUISITION OF PARCEL NO. HS-2104
(PROPERTY) FOR THE CRENSHAW/LAX LIGHT RAIL TRANSIT PROJECT.**

BACKGROUND

The Property is required for the construction and operation of the Crenshaw/LAX Light Rail Transit Project (“Project”). The address, record owners (as indicated by a title report prepared by Old Republic Title Company), physical description, and nature of the property interest sought to be acquired (based upon the Final Environmental Impact Statement/Final Environmental Impact Report (FEIS/FEIR) certified August 31, 2011) for the Property are as follows:

Assessor’s Parcel Number(s)	Parcel Addresses	Owner	Purpose of Acquisition	Property Interest(s) Sought
4015-019-005 (HS-2104)	333 E. Florence Avenue, Inglewood, CA 90301	Edward G. Brodo, Paul & Karen Banitch, Trustees of Banitch Family Trust	Station and Kiss & Ride Facilities	Fee Simple Interest in the Property

A written offer for the Property was personally made to the property owner on August 15, 2012. Staff has attempted to engage in negotiations with the property owners and their attorneys. However, the attorneys have refused to negotiate and no progress has been made toward reaching a mutually acceptable agreement.

A. The public interest and necessity require the Project.

The public interest and necessity require the Project for the following reasons:

1. The existing population and employment density in the Crenshaw/LAX Transit Corridor is extremely high and very transit dependent. The Corridor population and employment densities are four times higher than Los Angeles County as a whole. The Corridor has a high concentration of low-income, minority, transit-dependent residents. More than 49 percent of all Corridor households are designated as low income. In addition, 16 percent of all households in the Corridor do not have access to an automobile, compared to 8 percent in the County’s urbanized area. Forecasts show a growing transit-dependent population, with a projected 55 percent increase in Corridor residents that rely on, or will rely on the area’s transit system. The Project will provide significant improvements in transportation and attendant access to economic (employment) opportunities for low-income, elderly, transit-dependent persons living in the Crenshaw/LAX Transit Corridor area.

2. Implementation of the Project will result in a reduction of vehicle miles per day and reduction of auto air pollutants.
3. The Project will relieve congestion on the already over capacity I-405 San Diego and the I-10 Santa Monica Freeways and surrounding major thoroughfares. In addition, it will reduce the parking demands in the Westside area by providing an alternative means of transportation, competitive in rush-hour travel times with the automobile.
4. The Project will be a major link in the existing county-wide rail transit system, and will thereby provide alternative means of transportation during fuel crises and increased future traffic congestion.
5. The Project will meet the need for improved transit service of the significant transit-dependent population within the Project area.

It is recommended that based on the above evidence, the Board find and determine that the public interest and necessity require the Project.

B. The Project is planned or located in the manner that will be most compatible with the greatest public good and least private injury.

On September 11, 2009, a Draft Environmental Impact Statement/ Draft Environmental Impact Report (DEIS/DEIR) was circulated and reviewed by interested and concerned parties, including private citizens, community groups, the business community, elected officials and public agencies. Public hearings were held to solicit citizen and agency comments. A total of four alternatives, including two build alternatives, were presented in the September 2009 DEIS/DEIR. On December 20, 2009 the Board adopted the Light Rail Transit (LRT) Alternative as the Locally Preferred Alternative (LPA), after review and consideration of the comments received from circulation of the 2009 DEIS/DEIR. The Board certified the FEIR on September 22, 2011. A Record of Decision was received from the Federal Transit Administration on December 30, 2011.

The Project is a LRT dual-track alignment, which will extend from the existing Metro Exposition Line at Crenshaw and Exposition Boulevards. The LRT line will travel 8.5 miles to the Metro Green Line Aviation/LAX Station and will serve the cities of Los Angeles, Inglewood, Hawthorne, and El Segundo, and portions of unincorporated Los Angeles County. The project includes six stations and two optional stations:

- Crenshaw/ Exposition
- Crenshaw/ Martin Luther King Jr.
- Leimert Park (optional)
- Crenshaw/Slauson
- Florence/ West
- Hindry (optional), and
- Aviation/ Century

The Crenshaw/LAX Transit Corridor (“Corridor”) has some of the highest population and employment density in the Southern California region, as well as the highest proportion of transit ridership. No significant expansion of existing freeway and street networks is planned to accommodate this growth. During various community meetings, the residents of the Corridor area expressed their need for improved transit service because many are transit-dependent and need better access to the region’s educational, employment, and cultural opportunities. The Locally Preferred Alternative (LPA) addresses those needs and moves more people in a way that is energy efficient and with the least environmental impact.

The project will cause private injury, including the displacement or relocation of certain owners and users of private property. However, no other alternative locations for the Project provide greater public good with less private injury. Therefore, the Project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury.

Due to its bulk, the FEIS/FEIR is not physically included in the Board’s agenda packet for this public hearing. However, the FEIS/FEIR documents should be considered in connection with this matter. It is recommended that, based upon the foregoing, the Board find and determine that the Project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury.

C. The subject property is necessary for the Project.

Parcel No. HS-2104 consists of a fee acquisition of the entire parcel, which consists of 6,821 square feet as described in Exhibit A attached hereto, and depicted on the Plat Map attached hereto as Exhibit B. The property interest is needed for the construction and operation of a light rail project and related appurtenances. The Property was chosen based upon the FEIS/FEIR for the Project.

D. Offers were made in compliance with Government Code Section 7267.2.

California Code of Civil Procedures Section 1245.230 requires that a Resolution of Necessity contain a declaration that the governing body has found and determined that either the offer required by Section 7267.2 of the California Government Code has been made to the owner(s) of record, or the offer has not been made because the owner(s) cannot be located with reasonable diligence.

California Government Code Section 7267.2 requires that an offer be made to the owner or to the owners of record and in an amount which the agency believes to be just compensation. The amount must not be less than the agency’s approved appraisal of the fair market value of the property. In addition, the agency is required to provide the owner(s) with a written statement of, and summary of the basis for, the amount it established as just compensation.

Staff has taken the following actions as required by California law for the acquisition of the subject property interests:

1. Obtained appraisals to determine the fair market value of the property interest;
2. Reviewed and approved the appraisals, and established just compensation;
3. Determined the owners of the subject property interest by examining the county assessor's record and the title report; and
4. Made written offers to the property owner for the full amount of just compensation - which was not less than the approved appraised amounts.

Staff recommends that the Board find that the acquisition of the Property interest is necessary.

EXHIBITS

- 1 – Exhibit "A" Legal Description
- 2 - Exhibit "B" Plat Map

EXHIBIT "A"

LEGAL DESCRIPTION FOR FEE PURPOSES
PARCEL NUMBER HS-2104

A PORTION OF LOT 2 OF TRACT NO. 2039, IN THE CITY OF INGLEWOOD, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 21 PAGE 108 OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEASTERLY CORNER OF SAID LOT 2, SAID POINT BEING IN THE NORTHERLY PROLONGATION OF THE CENTERLINE OF LOCUST STREET, AS SHOWN IN SAID TRACT; THENCE ALONG THE SOUTHEASTERLY LINE OF SAID LOT 2 AND THE NORTHWESTERLY LINE OF FLORENCE AVENUE (FORMERLY LOS ANGELES STREET), S45°25'04"W 56.82 FEET; AND S44°24'39"W 137.51 FEET TO THE **TRUE POINT OF BEGINNING**; THENCE LEAVING SAID SOUTHEASTERLY LINE AND SAID NORTHWESTERLY LINE N18°53'24"W 23.68 FEET; THENCE N13°25'44"W 111.08 FEET TO THE NORTHWESTERLY LINE OF SAID LOT 2 AND THE BEGINNING OF A NON-TANGENT CURVE CONCAVE SOUTHEASTERLY AND HAVING A RADIUS OF 930.35 FEET, A RADIAL LINE THROUGH SAID POINT BEARS N55°56'55"W; THENCE ALONG SAID NORTHWESTERLY LINE AND SAID CURVE AN ARC LENGTH OF 13.44 FEET THROUGH A CENTRAL ANGLE OF 00°49'39" TO THE BEGINNING OF A COMPOUND CURVE CONCAVE SOUTHEASTERLY AND HAVING A RADIUS OF 1,407.67 FEET, THENCE CONTINUING ALONG SAID NORTHWESTERLY LINE AND SAID CURVE AN ARC LENGTH OF 79.36 FEET THROUGH A CENTRAL ANGLE OF 03°13'48"; THENCE LEAVING SAID NORTHWESTERLY LINE S28°28'42"E 99.51 FEET TO THE AFOREMENTIONED SOUTHEASTERLY LINE OF SAID LOT 2 AND THE NORTHWESTERLY LINE OF FLORENCE AVENUE; THENCE ALONG SAID SOUTHEASTERLY LINE AND SAID NORTHWESTERLY LINE N44°24'39"E 50.08 FEET TO THE **TRUE POINT OF BEGINNING**.

CONTAINS: 6,821 SQUARE FEET.

NOTE:

THIS LEGAL DESCRIPTION WAS NOT PREPARED FOR ANY PURPOSE THAT WOULD BE IN VIOLATION OF THE STATE OF CALIFORNIA SUBDIVISION MAP ACT OR LOCAL ORDINANCES OF THE GOVERNING BODY HAVING JURISDICTION.

PREPARED BY:

Stephanie A. Wagner
STEPHANIE A. WAGNER, P.L.S. 5752

July 27, 2011
DATE:



EXHIBIT "B"

Grantor: EDWARD G. BRODO (UNDIVIDED ONE-HALF INTEREST) AND PAUL ANDREW BANITCH AND KAREN BRENDA BANITCH (UNDIVIDED ONE-HALF INTEREST)

PORTION OF LOT 2 OF TRACT NO. 2039, IN CITY OF INGLEWOOD,
 COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, BK. 21 PG. 108 OF MAPS

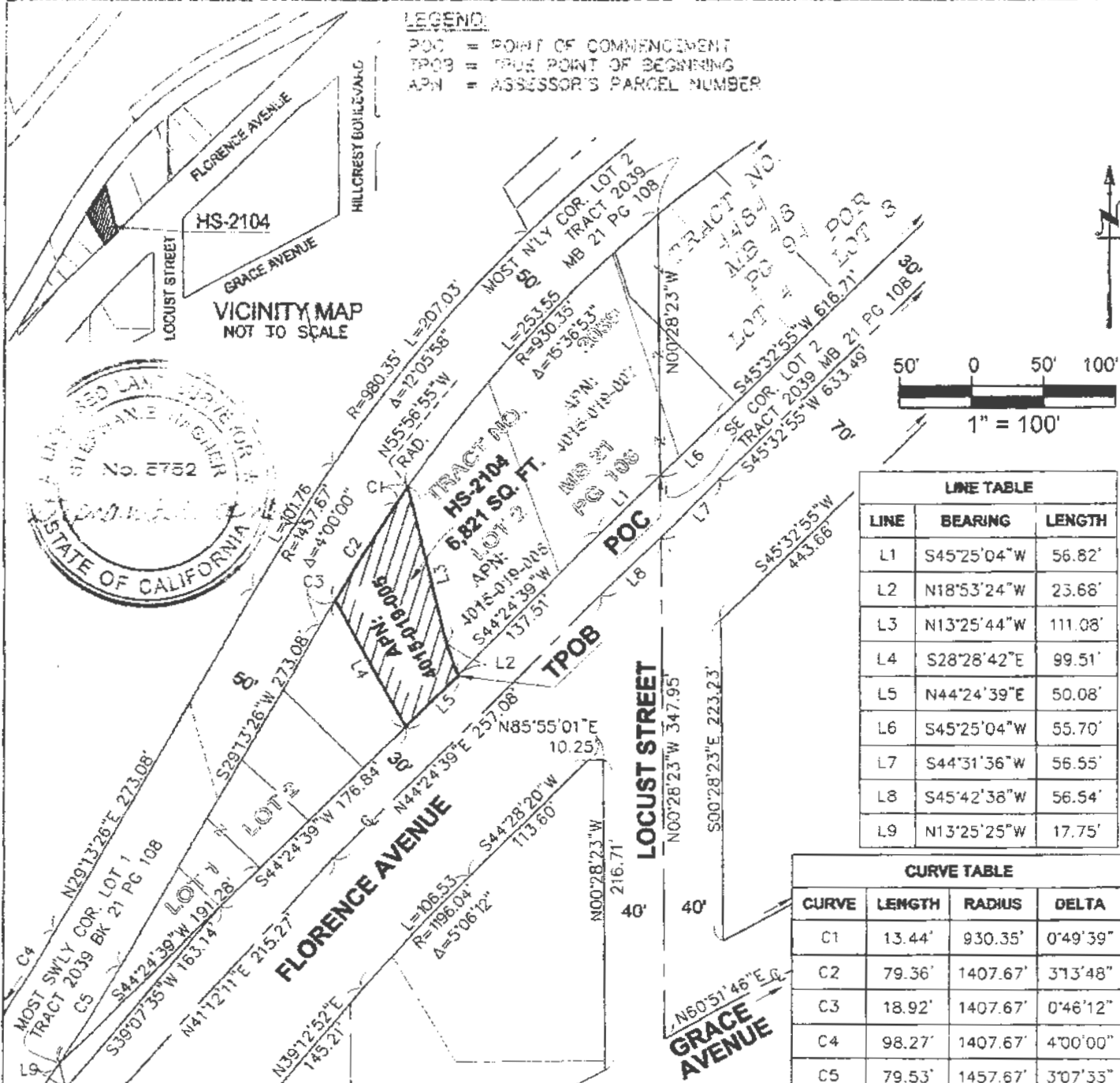
Title Record: OLD REPUBLIC TITLE COMPANY NO. 2475015604-52

Assessor's Parcel: 4015-018-005 ROW Ref: R-121 & R-122 No. Date Revision Description

The data shown on plot are based on field survey prepared by Wagner Engineering & Survey, Inc. dated June 2011 - June 2012. Bearing and distances are based on California Coordinate System NAD 83 Zone 5 coordinates obtained from California H.P.G.N.

LEGEND:

POC = POINT OF COMMENCEMENT
 TPOB = TRUE POINT OF BEGINNING
 APN = ASSESSOR'S PARCEL NUMBER



TOTAL AREA OR PROPERTY	HS-2104	REMAINDER PARCEL AREA	ESTATE
6,821 SQ. FT.	6,821 SQ. FT.	0 SQ. FT.	FEE

M Metro APPROVED BY: *[Signature]* DATE: 1-9-12
 PROJECT MANAGER

PREPARED BY: *[Signature]* DATE: _____
 CHECKED BY: _____ DATE: LS: 5752

CRENSHAW/LAX
 TRANSIT CORRIDOR
 PROJECT
 CITY OF INGLEWOOD

DATE: 07/27/11
 SCALE: 1"=100'
 REV. No. DATE:
 REV. No. DATE:
 PARCEL No. HS-2104

**RESOLUTION OF THE
LOS ANGELES COUNTY METROPOLITAN TRANSPORTATION AUTHORITY
DECLARING CERTAIN REAL PROPERTY INTERESTS NECESSARY FOR PUBLIC
PURPOSES AND AUTHORIZING THE ACQUISITION THEREOF
(CRENSHAW/LAX PARCEL NO. HS-2104)**

THE LOS ANGELES COUNTY METROPOLITAN TRANSPORTATION AUTHORITY HEREBY FINDS, DETERMINES, AND RESOLVES AS FOLLOWS:

Section 1.

The LOS ANGELES COUNTY METROPOLITAN TRANSPORTATION AUTHORITY ("LACMTA") is a public entity organized and existing pursuant to Chapter 2 of Division 12 of the California Public Utilities Code (commencing with Section 130050).

Section 2.

The property interest described hereinafter is to be taken for public use, namely, for public transportation purposes and all uses necessary, incidental or convenient thereto, and for all public purposes pursuant to the authority conferred upon the Board to acquire property by eminent domain by California Public Utilities Code Sections 30000-33027, inclusive, and particularly Section 30503, Sections 130000-132650, inclusive, and particularly Sections 130220.5 and 132610, Code of Civil Procedure Sections 1230.010-1273.050, inclusive, and particularly Sections 1240.510 and 1240.610, and Article I, Section 19 of the California Constitution.

Section 3.

The property interest consists of the acquisition of a fee interest as described more specifically in Exhibit "A" attached hereto and depicted on the Plat Map in Exhibit "B" attached hereto (the "Property"), all of which are incorporated herein by this reference.

Section 4

(a) The acquisition of the above-described Property is necessary for the development, construction, operation, and maintenance of the Crenshaw/LAX Light Rail Transit Project ("Project");

(b) The environmental impacts of the Project were evaluated in the Final Environmental Impact Statement/Final Environmental Impact Report (FEIS/FEIR)

for this Project which was certified by the Board on August 31, 2011. The Board found that in accordance with the California Environmental Quality Act Guidelines, Section 15162, no subsequent or supplemental Environmental Impact Report is required for the Project; and

(c) The Board has reviewed and considered the FEIS/FEIR, before and as part of the process of determining whether to acquire the above-referenced property interest.

Section 5.

The Board hereby declares that it has found and determined each of the following:

(a) The public interest and necessity require the proposed Project;

(b) The proposed Project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury;

(c) The property interest sought to be acquired, which has been described herein, is necessary for the proposed Project; and

(d) The offer required by Section 7267.2 of the Government Code has been made to the owner of record.

Section 6.

That notice of intention to adopt this resolution was given by first class mail to each person whose property is to be acquired by eminent domain in accordance with Section 1245.235 of the Code of Civil Procedure and a hearing was conducted by the Board on the matters contained herein.

Section 7.

Legal Counsel is hereby authorized and directed to take all steps necessary to commence legal proceedings, in a court of competent jurisdiction, to acquire the property interest described above by eminent domain. Counsel is also authorized and directed to seek and obtain an Order for Prejudgment Possession of said property interest in accordance with the provisions of the eminent domain law and is directed that the total sum of probable just compensation be deposited with the Clerk of said Superior Court.

Counsel is further authorized to compromise and settle such eminent domain proceedings, if such settlement can be reached, and in that event, to take all necessary action to complete the acquisition, including stipulations as to judgment and other matters, and causing all payments to be made. Counsel is further authorized to

associate with, at its election, a private law firm for the preparation and prosecution of said proceedings.

I, MICHELLE JACKSON, Secretary of the Los Angeles County Metropolitan Transportation Authority, do hereby certify that the foregoing Rescission was duly and regularly adopted by a vote of two-thirds of all the members of the Board of the Metropolitan Transportation Authority at a meeting held on the 24th of January 2013.

MICHELLE JACKSON
LACMTA Secretary

Date: _____

EXHIBITS

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PREPARED BY:

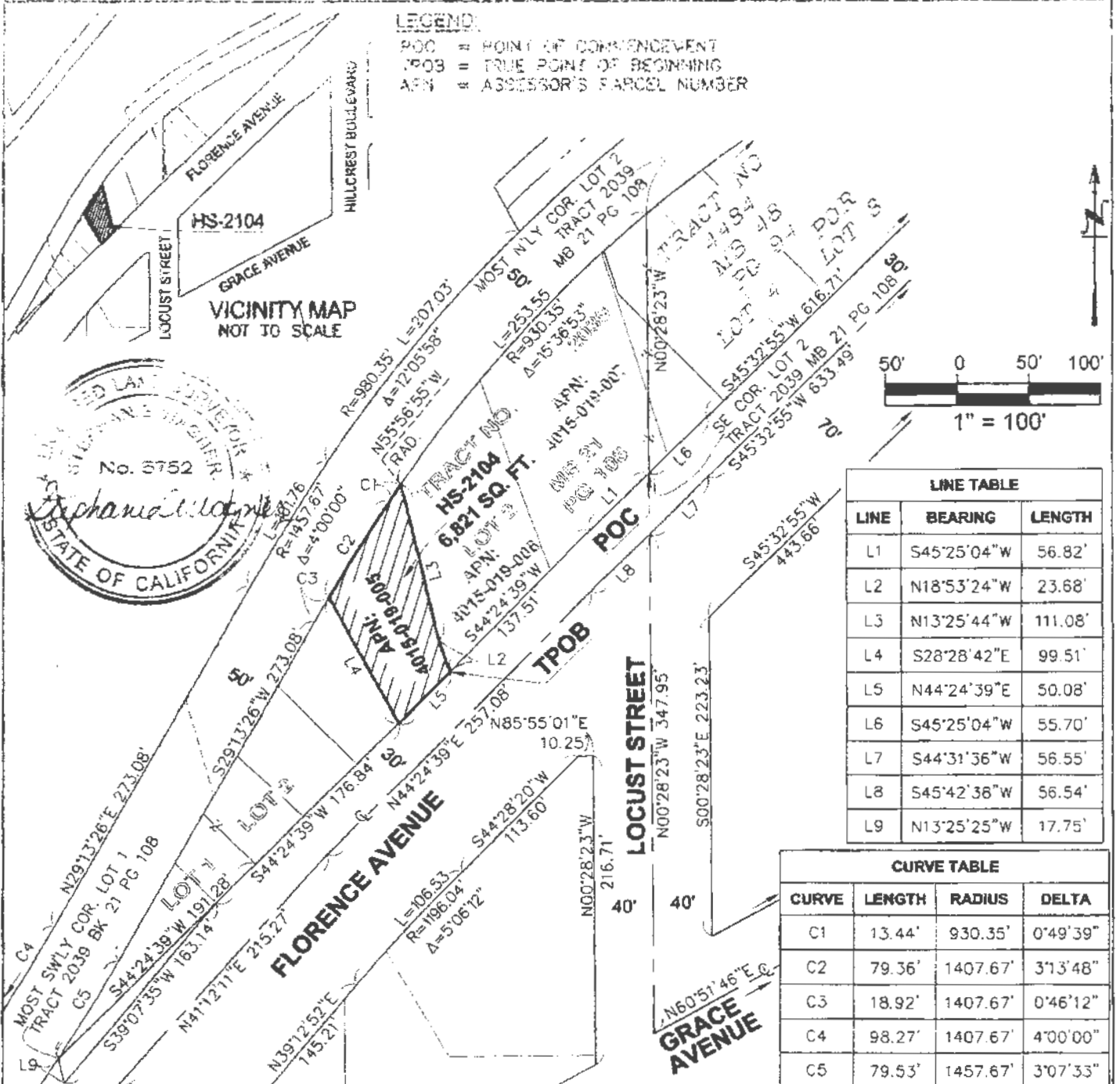
Stephanie A. Wagner
STEPHANIE A. WAGNER, P.L.S. 5752

July 27, 2011
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Assessor's Ref: 4016-079-005	ROW Ref: R-121 & R-122	
	No. Date	Revision Description



TOTAL AREA OR PROPERTY 6,821 SQ. FT.	HS-2104 6,821 SQ. FT.	REMAINDER PARCEL AREA 0 SQ. FT.	ESTATE FEE
APPROVED BY: Metro PROJECT MANAGER <i>[Signature]</i> 1-9-12 DATE		CRENSHAW/LAX TRANSIT CORRIDOR PROJECT CITY OF INGLEWOOD	
PREPARED BY: Hatch Mott MacDonald		WAGNER ENGINEERING & SURVEY, INC. CHECKED BY: <i>[Signature]</i> LS: 5752	
DATE: 07/27/11 SCALE: 1"=100' REV. No. DATE: REV. No. DATE:		PARCEL No. HS-2104	