



**Metro**

Los Angeles County  
Metropolitan Transportation Authority

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Los Angeles, CA 90012-2952

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**REGULAR BOARD MEETING  
NOVEMBER 13, 2014**

**SUBJECT: PURPLE LINE/WESTSIDE SUBWAY EXTENSION PROJECT**

**ACTION: ADOPT RESOLUTION OF NECESSITY TO ACQUIRE AN EIGHT (8)  
YEAR TEMPORARY CONSTRUCTION EASEMENT AND ALL  
IMPROVEMENTS ON PARCEL W-2309**

**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 Project Parcel W-2309 (APN 4334-022-063), owned by Twinwood, Inc., consisting of an exclusive eight (8) year Temporary Construction Easement and all improvements on the real property located at 111 North Gale Drive, Beverly Hills, CA (hereinafter the "Property").

**BACKGROUND**

Acquisition of the Property (Attachment "A") is required for the construction of the Purple Line/Westside Subway Extension Project ("Project"). A written offer was presented to the Owner of Record ("Owner"), as required by California Government Code Section 7267.2. The Owner has not accepted the offer made by the Los Angeles County Metropolitan Transportation Authority ("METRO") or presented a counter offer; and consequently, a negotiated agreement has not been reached. The Property is necessary for construction of the Project; therefore, staff recommends the acquisition of the Property through eminent domain in order 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), METRO has prepared and mailed notice of this hearing to the Owner informing the Owner of its 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 Property 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.

Attached is evidence from staff and legal counsel setting forth the required findings for acquiring the Property through the use of eminent domain (Attachment "B"). After METRO receives all of the testimony and other evidence from all interested parties, the METRO Board must make a determination as to whether to adopt the proposed Resolution of Necessity (Attachment "C") to acquire the Property by eminent domain. In order to adopt the Resolution of Necessity, the METRO Board must find and determine, based upon all the evidence before it and by a two-thirds vote of all the members of its governing body, that the conditions stated above exist.

### **DETERMINATION OF SAFETY IMPACT**

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

### **FINANCIAL IMPACT**

This project is funded by Measure R 35%, TIFIA Loan and Federal New Starts Funding. The funding for the acquisition of the Property is included in the approved fiscal year 2015 Project budget under Measure R project 865518 (Purple Line/Westside Subway Extension Project), in cost center number 8510, and account number 53103 (Acquisition of Land).

### **NEXT STEPS**

If this action is approved by the Board, the METRO'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**

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

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

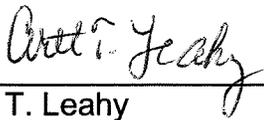
Dave Means, Executive Officer- Countywide Planning and Development  
(213) 922-2225

Calvin E. Hollis, Managing Executive Officer – Countywide Planning  
and Development  
(213) 922-7319



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Martha Welborne, FAIA  
Chief Planning Officer



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Arthur T. Leahy  
Chief Executive Officer

ATTACHMENT A



Twinwood, Inc.  
111 North Gale Drive, Beverly Hills, CA, APN: 4334-022-063

**ATTACHMENT B**

**STAFF REPORT REGARDING THE NECESSITY FOR THE ACQUISITION OF PARCEL NO. W-2309 (THE "PROPERTY") FOR THE PURPLE LINE/WESTSIDE SUBWAY EXTENSION PROJECT**

**BACKGROUND**

The Property is required for the construction of the Purple Line/Westside Subway Extension Project ("Project"). The address, record owner, physical description, and nature of the property interest sought to be acquired for the Project are summarized as follows:

<b>Assessor's Parcel Number</b>	<b>Parcel Address</b>	<b>Property Owner</b>	<b>Purpose of Acquisition</b>	<b>Property Interest(s) Sought</b>	<b>METRO Parcel #</b>
4334-022-063	111 North Gale Drive Beverly Hills, CA 90211	Twinwood, Inc.	Construction of the Project	Eight (8) year Temporary Construction Easement and all improvements	W-2309

A written offer for the Property was presented to the Owner on July 14, 2014. Staff has attempted to negotiate with the Owner. The Owner has not agreed to the terms of the purchase agreement, therefore, a negotiated agreement has not been reached. Consequently, METRO is seeking a Resolution of Necessity in order to insure that it has the necessary property rights to construct the Project on schedule.

**A. The public interest and necessity require the Project.**

The need for the Project is based on population and employment growth, the high number of major activity centers served by the Project, high existing transit usage, and severe traffic congestion. The Project area bisects 12 large population and employment centers, all of which are served by extremely congested road networks that will deteriorate further with the projected increase in population and jobs. This anticipated growth will further affect transit travel speeds and reliability, even with a dedicated lane for express bus service on Wilshire Boulevard. The public interest and necessity require the Project for the following specific reasons:

1. The population and employment densities in the Project area are among the highest in the metropolitan region. Approximately five percent of the Los Angeles County population and 10 percent of the jobs are concentrated in the Project 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 improve transportation equity by meeting the need for improved transit service of the significant transit-dependent population within the Project area.
6. The Project will help meet Regional Transit Objectives through the Southern California Association of Governments' (SCAG's) Performance Indicators of mobility, accessibility, reliability, and safety.

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.**

An Alternatives Analysis (AA) Study was initiated in 2007 to identify all reasonable, fixed-guide way, alternative alignments and transit technologies within the proposed Project Area. The fixed-guide way alternative alignments studied and analyzed during the AA process were heavy rail transit (HRT), light rail transit (LRT), bus rapid transit (BRT), and monorail (MR). Due to its capacity to meet the anticipated ridership demand and limit the number of transfers, HRT was identified as the preferred technology for further study.

In January 2009, the Metro Board approved the AA Study and authorized preparation of a Draft Environmental Impact Statement/Draft Environmental Impact Report (DEIS/DEIR). A total of seven alternatives, including five heavy rail subway (HRT) Build Alternatives, a No Build Alternative, and a relatively low-cost Transportation System Management (TSM) Alternative, were presented in the DEIS/DEIR. The 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.

In October 2010, the Board approved the DEIS/DEIR and the Wilshire Boulevard to Santa Monica HRT option was selected as the Locally Preferred Alternative (LPA) for further analysis in the FEIS/FEIR. The FEIS/FEIR was released in March 2012 for public review. On April 26, 2012, the Board certified the FEIS/FEIR, and on May 24, 2012, it approved the route and station locations for the Project. A Record of Decision

was received from the Federal Transit Administration in August of 2012. The FEIS/FEIR documents were consistent with the California Environmental Quality Act Guidelines.

The approved LPA will extend HRT (as subway) approximately nine (9) miles from the existing Metro Purple Line terminus at the Wilshire/ Western Station to a new western terminus at the West Los Angeles Veterans Affairs (VA) Hospital (Westwood/ VA Hospital Station). The LPA will include seven new stations spaced in approximately one-mile intervals, as follows:

- Wilshire/La Brea
- Wilshire/Fairfax
- Wilshire/La Cienega
- Wilshire/Rodeo
- Century City
- Westwood/UCLA
- Westwood/VA Hospital

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 Property is necessary for the Project.**

The Property consists of an exclusive eight (8) year temporary construction easement over the entire Project Parcel W-2309, and all improvements located thereon. The Property contains approximately 6,508 square feet with a two-story multi-family residential building containing a total area of 4,576 square feet (per Assessor), as described in the legal description Exhibit A attached hereto, and as depicted on the Plat Map attached hereto as Exhibit B. The Property is required for the construction of the Project. The Property was chosen based upon the FEIS/FEIR for the Project.

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

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

California Code of Civil Procedure 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 owner(s) 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 Property:

1. Obtained appraisals to determine the fair market value of the Property, which included consideration of any immovable fixtures and equipment;
2. Reviewed and approved the appraisals, and established the amount it believes to be just compensation;
3. Determined the owner(s) of the Property by examining the county assessor's record and the title report;
4. Made a written offer to the Owner for the full amount of just compensation - which was not less than the approved appraised value; and
5. Provided the Owner with a written statement of, and summary of the basis for, the amount established as just compensation with respect to the foregoing offer.

It is recommended that the based on the above evidence, the Board find and determine that the offer required by Section 7267.2 of the California Government Code has been made to the owner(s) of record.

## **CONCLUSION**

Staff recommends that the Board approve the Resolution of Necessity.

## **EXHIBITS**

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

LEGAL DESCRIPTION

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EXHIBIT "A"

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF BEVERLY HILLS, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

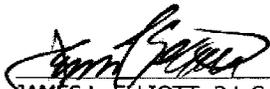
LOT 438 OF TRACT NO. 4988, IN THE CITY OF BEVERLY HILLS, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 54, PAGES 98 AND 99 OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

APN: 4334-022-063

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:

  
JAMES L. ELLIOTT, P.L.S. 6334



9-6-12  
DATE

**EXHIBIT B**

GRANTOR : TWINWOOD INC.		The data shown on this map and/or plat are compiled from public sources and are subject to field verification.	
DESCRIPTION : LOT 438 OF TRACT NO 4986, M.B. 54/98-99			
BENCH MARK : N/A			
TITLE REPORT : FIDELITY NATIONAL TITLE NO. 11-259928465-RH		ADDRESS : 111 N. GALE DR. BEVERLY HILLS 90211	
ASSESSOR'S REF. : 4334-022-063		R.O.W. REFERENCE : R-023; W-2309	
		NO.	DATE
		REVISION DESCRIPTION	

PARCEL	#-2309			
AREA - SQUARE FEET	6.508			

<p>LOS ANGELES COUNTY METROPOLITAN TRANSPORTATION AUTHORITY</p>	<p style="font-size: 24px; font-weight: bold;">PARCEL PLAT</p> <p style="font-size: 24px; font-weight: bold;">W-2309</p> <p style="font-size: 24px; font-weight: bold;">SHEET 1 OF 1</p>	<p>CONTRACT NO./DESIGN UNIT</p> <p>SCALE 1"=80'</p> <p>DATE 10/10/2011</p> <p>DRAWN BY R. NACION</p> <p>CHECKED BY P. WISE</p> <p>REV. DATE      REV. NO.</p>
<p>APPROVED BY:</p> <p style="font-size: 18px;"><i>Geniv M. Glantz</i></p> <p>DATE</p>	<p>SUBMITTED BY:</p> <p style="font-size: 18px;"><i>Paul D. Wise</i></p> <p>L.S. 4249</p>	<p>NTA PROJECT MANAGER</p>

**RESOLUTION OF THE  
LOS ANGELES COUNTY METROPOLITAN TRANSPORTATION AUTHORITY  
DECLARING CERTAIN REAL PROPERTY NECESSARY FOR PUBLIC PURPOSES  
AND AUTHORIZING THE ACQUISITION THEREOF  
(PURPLE LINE/WESTSIDE SUBWAY EXTENSION PROJECT PARCEL NO. W-2309)**

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

Section 1.

THE LOS ANGELES COUNTY METROPOLITAN TRANSPORTATION AUTHORITY ("METRO") 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 interests 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 and 30600, Sections 130000-132650, inclusive, and particularly Sections 130051.13, 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 sought consists of the acquisition of an exclusive temporary construction easement ("TCE"), along with all improvements located thereon, of the property described more specifically in the legal description (Exhibit "A") and depicted on the Plat Map (Exhibit "B"), attached hereto (hereinafter, the "Property"), all of which are incorporated herein by this reference, for the purpose of all necessary and convenient activities associated with the construction of the Project. The TCE shall be valid for a period of not more than eight (8) years. The TCE shall commence upon the METRO's taking possession of the Property, and it shall terminate on the earliest of (a) the date upon which METRO notifies the applicable owner that it no longer needs the TCE or (b) eight (8) years from the commencement date of the TCE.

Upon the expiration of the TCE, the Property shall be returned to the Owner subject to the following conditions:

1. All existing buildings and structures on the property will be demolished and not returned to the owner;
2. Any existing underground water, gas, sewer, telephone or electrical lines shall be abandoned in place and only interfering portions shall be removed;
3. Any below ground obstructions not removed as part of construction work, such as old foundations, will be left in place;
4. The Property will be backfilled and compacted to existing grade;

#### Section 4.

(a) The acquisition of the above-described Property is necessary for the construction of the Purple Line/Westside Subway Extension Project ("Project");

(b) The environmental impacts of the Project were evaluated in the Final Environmental Impact Statement/Final Environmental Impact Report (FEIS/FEIR), which was certified by the Board on April 26, 2012 and May 24, 2012. The Board found that in accordance with the California Environmental Quality Act (CEQA) Guidelines, Section 15162, no subsequent or supplemental Environmental Impact Report is required for the Project, and the FEIS/FEIR documents are consistent with CEQA; 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.

#### 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 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(s) of record.

#### Section 6.

Pursuant to Sections 1240.510 and 1240.610 of the Code of Civil Procedure, to the extent that the Property is already devoted to a public use, the use to which the Property is to be put is a more necessary public use than the use to which the Property is already devoted, or, in the alternative, is a compatible public use which will not unreasonably interfere with or impair the continuance of the public use to which the Property is already devoted.

Section 7.

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 8.

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 described above by eminent domain. Counsel is also authorized and directed to seek and obtain an Order for Prejudgment Possession of said Property 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 State Treasurer or the Clerk of the Superior Court. Counsel may enter into stipulated Orders for Prejudgment Possession and/or Possession and Use Agreements, where such agreements constitute the functional equivalent of an Order for Prejudgment Possession. Counsel is further authorized to correct any errors or to make or agree to any non-material changes to the legal description of the real property that are deemed necessary for the conduct of the condemnation action or other proceedings or transactions required to acquire the Property.

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 Resolution 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 2nd day of September 2014.

Date: \_\_\_\_\_

\_\_\_\_\_  
MICHELLE JACKSON  
METRO Secretary

**EXHIBITS**

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

LEGAL DESCRIPTION

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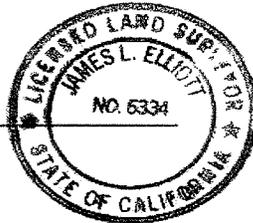
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PREPARED BY:

  
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9-6-12  
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