

REGIONAL TRANSIT ISSUE PAPER

Agenda Item No.	Board Meeting Date	Open/Closed Session	Information/Action Item	Issue Date
10	08/12/13	Open	Action	07/23/13

Subject: Resolution of Necessity to Acquire Certain Property or Interest in Real Property by Eminent Domain for the Sacramento Regional Transit District's South Sacramento Corridor Phase 2 (SSCP2) Light Rail Extension Project – SKG Property

ISSUE

Whether to adopt a Resolution of Necessity for the acquisition of certain real property for the Sacramento Regional Transit District's South Sacramento Corridor Phase 2 Light Rail Extension Project ("Project"). (See Attachment A)

Adoption of a Resolution of Necessity is a prerequisite to the acquisition of property by eminent domain. State law requires RT to hold a public hearing regarding the intent to adopt a Resolution of Necessity. The purpose of the public hearing is to hear testimony on the proposed Resolution of Necessity, to consider any relevant evidence, and to make findings about the following four issues set forth in the Eminent Domain Law:

1. The public interest and necessity to require the Project;
2. The Project is planned or located in a manner that would be most compatible with the greatest public good and the least private injury;
3. The property to be acquired is necessary for the Project, and;
4. The owner of record has received an offer for the fair market value of the property Pursuant to Government Code Section 7267.2.

RECOMMENDED ACTION

Adopt Resolution No. 13-08-_____, Resolution of Necessity to Acquire Certain Real Property Interests by Eminent Domain for the South Sacramento Corridor Phase 2 Light Rail Extension Project – SKG Property.

FISCAL IMPACT

Budgeted:	Yes	This FY:	\$	\$6,117
Budget Source:	Capital	Next FY:	\$	
Funding Source:	Measure A, New Starts, Proposition 1B, Revenue Bonds	Annualized:	\$	
Cost Cntr/GL Acct(s) or Capital Project #:	410.05.08.01.02.24	Total Amount:	\$	\$6,117
Total Budget:	\$ 6,117			

Approved:

Presented:

General Manager/CEO

Director, Project Management

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DISCUSSION

The Project for which this property is necessary will extend service on RT's light rail system 4.3 miles from Meadowview Road to Cosumnes River College. Four new stations will be built as part of this extension. Additional improvements necessary for the Project include two aerial structures, four Traction Power Substations and a 2000-space parking structure at Cosumnes River College.

1. The Public Interest And Necessity Require The Project.

The Board has endorsed and approved the development of the Project as a part of the region's overall transportation network through numerous Board actions, including the certification of relevant environmental documents identifying the need for the Project, as well as approval of the acquisition of various property interests along the planned alignment. In addition, other local, regional, and federal agencies (including SACOG, STA, and FTA) have taken action regarding the Project, which further substantiate the public interest and necessity for its construction.

The Project goals are aligned with the public interest in accommodating the growing need for public transit and improved mobility in the region. The Project will improve and expand public transit service in the southern region of the City and County of Sacramento, enhance regional connectivity, and accommodate future travel demands through increased, interconnected rapid transit options. The Project will alleviate traffic congestion on area highways and roads; improve regional air quality by reducing auto emissions; improve mobility for corridor residents, in particular low income, youth, elderly, disabled and ethnic minority populations, to employment, education, and medical centers; and support local economic, land use, and transportation plans and goals for the Region.

2. The Project As Planned Is Most Compatible With The Greatest Public Good And The Least Private Injury.

The proposed alignment for the Project requires RT to acquire existing rail corridor property, three full residential properties, portions of several residential properties, unimproved property, buffer lands, and other public lands. The current alignment was designed and approved because it provides for the most direct connection from the current light rail terminus to the desired terminus at Cosumnes River College with the least disruption to the surrounding areas. Further, there is a substantial concentration of potential riders in the vicinity, whose use of the Project should relieve congestion on nearby highways and arterial surface streets. As set forth in related environmental analyses and reports, the environmental impacts of the Project's current alignment may be mitigated. The Project will also provide a cost-effective means to provide light rail service such that it provides the greatest public benefit as compared to various other options initially considered

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by RT. Similarly, by positioning the Project's current alignment along an existing rail corridor and by limiting residential property takes as much as possible, the Project minimizes private injury.

3. The Specific Property To Be Acquired Is Necessary For The Project.

The real property that the District must acquire for the project is a 1,523 square foot portion of the tract of land ---- The property is located at 7741 Laurie Way, Sacramento, California and is further identified by Assessor Parcel Number 053-0074-003 ("Property") (See Attachment B.) The Property is owned by SKG Real Estate Holdings.

The northernmost section of the Project is relevant to this Resolution of Necessity. That section will begin at Meadowview Road at the Union Pacific Railroad grade crossing, extend southward along the existing UPRR right of way to Morrison Creek, then turn west and follow along the Creek's westerly bank to Union House Creek.

The Property is parallel to the Union Pacific Railroad. As such, the Property is necessary in order to provide the 50' track separation required by Union Pacific Railroad and to provide access to this portion of the rail corridor for operation and maintenance.

4. The Owner of Record Has Received An Offer For The Fair Market Value Of The Property Pursuant To Government Code Section 7267.2.

On March 26, 2013, an offer to purchase the required property rights was presented to the owner, via certified mail, pursuant to Government Code Section 7267.2 (See Attachment C). Negotiations with the owner continue to be unsuccessful. Owner indicated he is unwilling to accept RT's offer because he believes the offer amount is too low. However, the offer was based on the Appraised Fair Market value of the Property. To ensure RT acquires the property rights necessary for the Project on a timely basis, RT must initiate Eminent Domain proceedings at this time by adopting a Resolution of Necessity.

If the Board makes these findings and adopts the Resolution of Necessity, RT has six months within which to commence court action in eminent domain. Staff recommends that the Board adopt the accompanying Resolution of Necessity, which must be adopted with a two-thirds affirmative vote.

Attachments:

- A. Map depicting project location
- B. Photo showing real property proposed for acquisition
- C. March 26, 2013 Purchase Offer and Approved Purchase and Sale Agreement
- D. Notice of Hearing and Right to Appear and Notice of Intent to Adopt Resolution

RESOLUTION NO. 13-08-_____

Adopted by the Board of Directors of the Sacramento Regional Transit District on this date:

August 12, 2013

**APPROVING A RESOLUTION OF NECESSITY TO ACQUIRE CERTAIN REAL
PROPERTY INTERESTS BY EMINENT DOMAIN FOR THE SOUTH
SACRAMENTO CORRIDOR PHASE 2
LIGHT RAIL EXTENSION PROJECT –
SKG PROPERTY**

BE IT HEREBY RESOLVED BY THE BOARD OF DIRECTORS OF THE SACRAMENTO REGIONAL TRANSIT DISTRICT AS FOLLOWS:

1. As part of the South Sacramento Corridor Phase 2 Light Rail Extension Project, the Sacramento Regional Transit District (RT) is extending service from its Meadowview Light Rail Station to Cosumnes River College, which will add approximately 4.3 miles of track from Meadowview Road to Cosumnes River College, four new stations beyond Meadowview, including Morrison Creek, Franklin Boulevard, Center Parkway, and Cosumnes River College, two flyovers structures, four Traction Power Substation sites, tail tracks, and a parking structure.
2. The Project requires the acquisition of the real property identified as Assessors Parcel Number 053-0074-003, and more fully described in Exhibit A and depicted in Exhibit B, which are incorporated herein by reference (the "Property").
3. RT has complied with all the requirements of the California Environmental Quality Act and the National Environmental Policy Act for the Project.
4. The Property is to be acquired for public use, to wit the construction of light rail tracks and related improvements, as part of the Project. Under Public Utilities Code Sections 102240 through 102243, inclusive, Article I, Section 19 of the California Constitution, and Code of Civil Procedure Sections 1230.010 et seq., RT is authorized to acquire the property by eminent domain.
5. RT will acquire a fee simple interest in the Property as described in Exhibit A.
6. To the extent the Property is being put to public use, the Property is being acquired for a compatible public use under Code of Civil Procedure Section 1240.510 in that RT's use of the Property will not interfere with or impair the continued public use as it now exists or may reasonably be expected to exist in the future or in the alternative, for a more necessary public use under Code of Civil Procedure Section 1240.610 in that RT's use of the Property is a more necessary public use than the use to which the Property is appropriated.
7. Written notice of intent to adopt this Resolution of Necessity was duly given to the Property owner of record.
8. RT has calendared this item on the Agenda and invited public comment prior to the meeting when this Resolution was considered for adoption.

9. After giving due consideration to all oral and documentary evidence presented, the Board has found and determined each of the following to be true:
 - a. The public interest and necessity require the construction of light rail service from the Meadowview Station to Cosumnes River College as outlined in the South Sacramento Corridor Phase 2 Light Rail Extension Project; and
 - b. The proposed Project is planned and located in the manner that will be the most compatible with the greatest public good and the least private injury; and
 - c. The Property is necessary for the Project; and
 - d. The offer required by Government Code Section 7267.2 has been made to the owners of record of the Property.
10. The Chief Counsel or his designee is hereby authorized to commence and prosecute an eminent domain action in the appropriate court on behalf of RT to acquire the Property, to deposit the amount of probable compensation pursuant to Code of Civil Procedure Section 1255.010, and to obtain an order for immediate possession as may be necessary for the Project.

The foregoing Resolution was introduced at a regular meeting of the Board of Directors of the Sacramento Regional Transit District held on August 12, 2013 by Director _____, who moved its adoption. The motion was seconded by Director _____, and a poll was taken, recorded as follows:

AYES:

NOES:

ABSTAIN:

ABSENT:

The motion, having passed by at least a two-thirds majority of votes, the Resolution was declared to have been adopted and it was so-ordered.

PATRICK HUME, Chair

A T T E S T:

MICHAEL R. WILEY, Secretary

By: _____
Cindy Brooks, Assistant Secretary