



Metro

**MTA BOARD
FEBRUARY 26, 2004**

43

SUBJECT: PUBLIC HEARING RE: RESOLUTION OF NECESSITY FOR THE ACQUISITION OF ASSESSOR PARCEL NOS 5147-035-004, 005, 006, 007 AND 008 FOR THE DIVISION 1 LAND ACQUISITION AND EXPANSION PROJECT

ACTION: ADOPT RESOLUTION OF NECESSITY

RECOMMENDATION

- A. Hold a public hearing on the proposed resolution of necessity.
- B. Adopt the attached Resolution of Necessity authorizing the commencement of an eminent domain action to acquire the subject real property.

RATIONALE

Acquisition of the parcels located on the West side of Alameda Street, between Industrial Street and 7th Street in Los Angeles (Assessor Parcel Nos. 5147-035-004, 005, 006, 007 and 008) are required for the construction and operation of the Division 1 Expansion Project (“Project”). A written offer has been presented to a representative of the owner of record, as required by California Government Code Section 7267.2. To date, the offer has not been accepted. Because this site is needed to proceed with construction of the Project, staff recommends the acquisition through eminent domain.

In accordance with the provisions of the California Eminent Domain law and Sections 30503, 30660 and 130220.5 of the California Public Utilities Code (which authorize the MTA to acquire property by eminent domain), the MTA has prepared and mailed notice of this hearing to the record owner and the City Clerk of the City of Los Angeles, 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 proposed Project; (2) Whether the proposed Project is planned and 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 proposed Project; and (4) Whether an offer was made in compliance with Government Code Section 7267.2. After all of the testimony and other evidence has been received by the MTA from all interested parties, the MTA must make a determination as to whether to adopt the proposed resolution of necessity to acquire the subject parcels by eminent domain. In order to adopt the resolution, the MTA must, based upon all the evidence before it, find and determine that the conditions stated above exist. Attached is evidence (Attachment 1) submitted by staff that supports adoption of the attached Resolution that has been approved by counsel, and which sets forth the required findings.

FINANCIAL IMPACT

The acquisition of the subject parcels is included in the approved Capital Project #2305072 Division 1 Expansion Project Budget, and funds are available to proceed with this acquisition.


ALTERNATIVE CONSIDERED

The subject property is required for the expansion of the existing Division 1 Bus Division to allow an increase of the division capacity by up to 100 buses with associated additional parking. The Board has the option to withhold adoption of the Resolution of Necessity. This would result in an additional delay in obtaining possession of the required property, and thereby potentially cause delays and increased costs to the Project. Completion of this project on schedule is a key component of MTA's compliance with recent orders of the Consent Decree that require the addition of new buses to the Metro fleet.

ATTACHMENTS

- Attachment 1 - Staff Report
- Attachment 2 - Resolution of Necessity

**Prepared by: Velma C. Marshall
Director of Real Estate**



Don Ott
Executive Officer
Administration



Roger Snoble
Chief Executive Officer

STAFFS REPORT REGARDING THE NECESSITY FOR THE ACQUISITION OF ASSESSOR PARCEL NOS. 5147-035-004, 005, 006, 007 AND 008 FOR THE DIVISION 1 LAND ACQUISITION AND EXPANSION PROJECT.

BACKGROUND

The subject parcels are required for the expansion of the existing Division 1 Bus Division to allow an increase of the current division capacity by up to 100 buses, including associated employee parking. The parcel number, address, record owner (as indicated by a title report issued by Orange Coast Title Company), purpose for taking, and nature of the property interest sought to be acquired are as follows:

Assessor Parcel Numbers	Parcel Address	Owner	Purpose for Acquisition	Interest Sought
5147-035-004, 005, 006, 007, and 008	645 Industrial Avenue and 1335 – 1339 East 7 th Street.	VCC ALAMEDA, LLC	Expansion of existing bus division to increase capacity up to 100 busses	Fee Simple

MTA originally made an offer to acquire the subject parcels from the previous owners in February 2001. The property was subsequently sold to the present owner in March 2001. At the request of the MTA Board, staff discussed various joint development scenarios with the current owners which would permit joint use of the subject parcels. After review of several financial proposals and alternatives, MTA determined that none of the proposals represented a reasonable allocation of costs and that they exceeded the approved funding available for the Division 1 Expansion Project.

The initial written offer to acquire the full fee interest of the parcels was made to VCC Alameda, LLC in care of Richard Meruelo on November 12, 2003. Mr. Meruelo, d/b/a Alameda North Parking, Inc is the Lessee on the property and indicated that he represented the owner of the property. Staff and Mr. Meruelo exchanged subsequent correspondence in an attempt to resolve several issues related to alternative sites for the proposed project and to reach a mutually acceptable agreement regarding the property's value. An acceptable settlement could not be reached.

The environmental effects associated with the acquisition and expansion of Division 1 were evaluated in the Division 1 Land Acquisition and Expansion Initial Study/Mitigated Negative Declaration, which was certified by the Board in February 2001. During that same meeting, the Board also approved the Division 1 Land Acquisition and Expansion Project, adopted the

Mitigation Monitoring and Reporting Program, and amended the proposed recommendation to perform additional noise analysis at the adjacent hotel. The noise analysis indicated that further mitigation was necessary and MTA will implement these measures at the adjacent hotel as part of the project. In addition, FTA approved a NEPA “Categorical Exclusion” for this project on October 15, 2003, contingent on the MTA’s complying with the additional noise mitigation to reduce noise levels at the adjacent hotel.

The present board action is solely based on adopting the resolution of necessity as related to Parcel Nos. 5147-035-004, 005, 006, 007 and 008 and not on any changes to the approved Division 1 Land Acquisition and Expansion Project. Hence, the previous environmental documentation taken by the Board in conjunction with the proposed action fully complies with NEPA, CEQA and the State CEQA Guidelines. Accordingly, no further NEPA or CEQA documentation is necessary for the Board to act on the proposed action.

The Division 1 Expansion Project is required to expand the Division operating and maintenance facility capacity in the Central Business District area. All of MTA’s operating and maintenance facilities in the Central Business District (“CBD”) are above the original designed capacity of the facilities. Furthermore, the impacts of the recent Consent Decree orders will require MTA to operate up to 145 additional buses by December 2004, many of which will be operated in the CBD.

The proposed Project involves the acquisition of approximately 115,000 square feet of vacant and underdeveloped contiguous parcels generally located at 1335 – 1339 East 7th Street in the City of Los Angeles adjacent to the existing Division 1. The identified parcel would allow for the expansion of this centrally located facility at reasonable costs.

The parcels included in this action are required to allow for an increase of the division capacity by up to 100 buses with associated additional employee parking. The subject property to be acquired would be used to store and park the increased bus fleet, while maintenance and service would continue to be provided within the current maintenance yard and buildings.

A. The public interest and necessity require the Project.

MTA’s operating and maintenance capacity in the CBD must be increased to reduce operating costs, enhance MTA’s ability to better manage the service provided, and comply with recent orders of the Consent Decree that could require the addition of up to 145 additional buses by December 2004. Divisions located in the CBD are currently above maximum capacity and added service or service restructuring would require the use of available capacity at outlying divisions that are not in the desired geographical areas.

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

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

The parcels to be acquired for the project are located in a predominantly industrial area directly south of the existing Division 1 and are separated by Industrial Street. Once the property is acquired, MTA will request the City of Los Angeles to vacate a portion of Industrial Street to create a contiguous yard. A wall will be built around the entire facility for security and sound mitigation purposes. The area added will permit the net addition of up to 100 buses to the facility thereby increasing existing capacity from its current 183 buses to 283 buses. Additions to the existing maintenance operation will be required, such as extensions of inspection pits and modifications to the fuel and vacuum island. The closure and vacation of Industrial Street will require some reconstruction of the yard and the drainage system to level the pavement and bring it to MTA standards. Up to 120-employee parking stalls will be added as part of this project.

It is recommended that, based upon the foregoing, the MTA find and determine that the project is planned in the manner that will be most compatible with the greatest public good and the least private injury.

C. The subject property interest is necessary for the proposed Project.

Fee Simple title to the subject parcels is required for the construction and operation of the Project. These parcels are the only vacant parcels located immediately adjacent to Division 1 facility.

D. An offer was 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 owner 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.

The MTA staff has taken the following actions as required by California law for the acquisition of the subject property interest:

1. Obtained an appraisal to determine the fair market value of the property interest.
2. Reviewed and approved the appraisal, and established just compensation,
3. Determined the owner of the subject property interest by examining the county assessor's records and title report, and
4. Made a written offer to the property owner for the full amount of just compensation, which was not less than the approved appraisal amount.

Staff recommends that the MTA Board find that the acquisition of the subject property interest is necessary.

ATTACHMENT

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

EXHIBIT "A"

Division 1 Expansion Parcel
Assessor's Parcel No. 5147-035-004, 005, 006, 007, 008
Address: Industrial Avenue and 1335 – 1339 East 7th Street
Los Angeles, CA

SEE ATTACHED LEGAL DESCRIPTIONS

THE LAND REFERRED TO IS SITUATED IN THE COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

PARCEL 1:

THE NORTHWEST 195 FEET OF THAT PORTION OF BLOCK 1 OF CORONEL TRACT, IN THE CITY OF LOS ANGELES, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 42 PAGE 32 OF MISCELLANEOUS RECORDS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, LYING SOUTHEAST OF A LINE DESCRIBED AS BEGINNING AT A POINT IN THE NORTHEAST LINE OF SEVENTH STREET, DISTANT SOUTHEASTERLY THEREON 422 FEET FROM THE SOUTHEAST LINE OF CENTRAL AVENUE, 80 FEET WIDE, AS DESCRIBED IN DEED RECORDED IN BOOK 701 PAGE 306 OF DEEDS; THENCE NORTHEASTERLY PARALLEL WITH SAID SOUTHEAST LINE OF CENTRAL AVENUE, 220 FEET, MORE OR LESS, TO THE SOUTHWEST LINE OF INDUSTRIAL STREET, 60 FEET WIDE.

PARCEL 2:

THAT PORTION OF BLOCK 1 OF CORONEL TRACT, IN THE CITY OF LOS ANGELES, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 42 PAGE 32 OF MISCELLANEOUS RECORDS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY; LYING SOUTHEAST OF A LINE DESCRIBED AS BEGINNING AT A POINT IN THE NORTHEAST LINE OF SEVENTH STREET, DISTANT SOUTHEASTERLY THEREON 617 FEET FROM THE SOUTHEAST LINE OF CENTRAL AVENUE, 80 FEET WIDE, AS DESCRIBED IN DEED RECORDED IN BOOK 701 PAGE 306 OF DEEDS; THENCE NORTHEASTERLY PARALLEL WITH SAID SOUTHEAST LINE OF CENTRAL AVENUE, 220 FEET, MORE OR LESS, TO THE SOUTHWEST LINE OF INDUSTRIAL STREET, 60 FEET WIDE.

PARCEL 3:

THAT PORTION OF BLOCK 1 OF CORONEL TRACT, IN THE CITY OF LOS ANGELES, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 42, PAGE(S) 32 OF MISCELLANEOUS RECORDS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT IN THE NORTHEAST LINE OF SEVENTH STREET, DISTANT THEREON SOUTH 49° 51' 30" EAST 335 FEET FROM THE SOUTHEAST LINE OF CENTRAL AVENUE, AS DESCRIBED IN DEED RECORDED IN BOOK 701 PAGE 306 OF DEEDS, RECORDS OF SAID COUNTY; THENCE NORTHERLY PARALLEL WITH THE SOUTHEAST LINE OF THE LAND DESCRIBED IN DEED TO TITLE INSURANCE AND TRUST COMPANY, RECORDED IN BOOK 1089, PAGE 141 OFFICIAL RECORDS, NORTH 40° 07' 30" EAST 110 FEET TO A POINT IN THE NORTHEAST LINE OF THE LAND DESCRIBED IN SAID DEED; THENCE ALONG THE NORTHEAST LINE OF SAID LAND NORTH 89° 51' 30" WEST 85 FEET TO THE SOUTHEASTERLY LINE OF GEORGE K. FRINK'S SUBDIVISION OF THE WESTERN PORTION OF BLOCK 1 OF CORONEL TRACT, AS PER MAP RECORDED IN BOOK 107, PAGE(S) 97 OF MISCELLANEOUS RECORDS OF SAID COUNTY; THENCE ALONG SAID SOUTHEAST LINE NORTH 40° 07' 30" EAST 110.12 FEET TO THE SOUTHEAST LINE OF INDUSTRIAL STREET; THENCE ALONG THE SOUTHERLY LINE OF SAID INDUSTRIAL STREET, SOUTH 49° 51' EAST 172.06 FEET; THENCE SOUTHERLY TO A POINT IN THE NORTHERLY LINE OF SEVENTH STREET, DISTANT EASTERLY 87 FEET FROM THE POINT OF BEGINNING; THENCE WESTERLY ALONG SAID NORTHERLY LINE OF SEVENTH STREET, 87 FEET TO THE POINT OF BEGINNING.

THE LAND REFERRED TO IS SITUATED IN THE COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

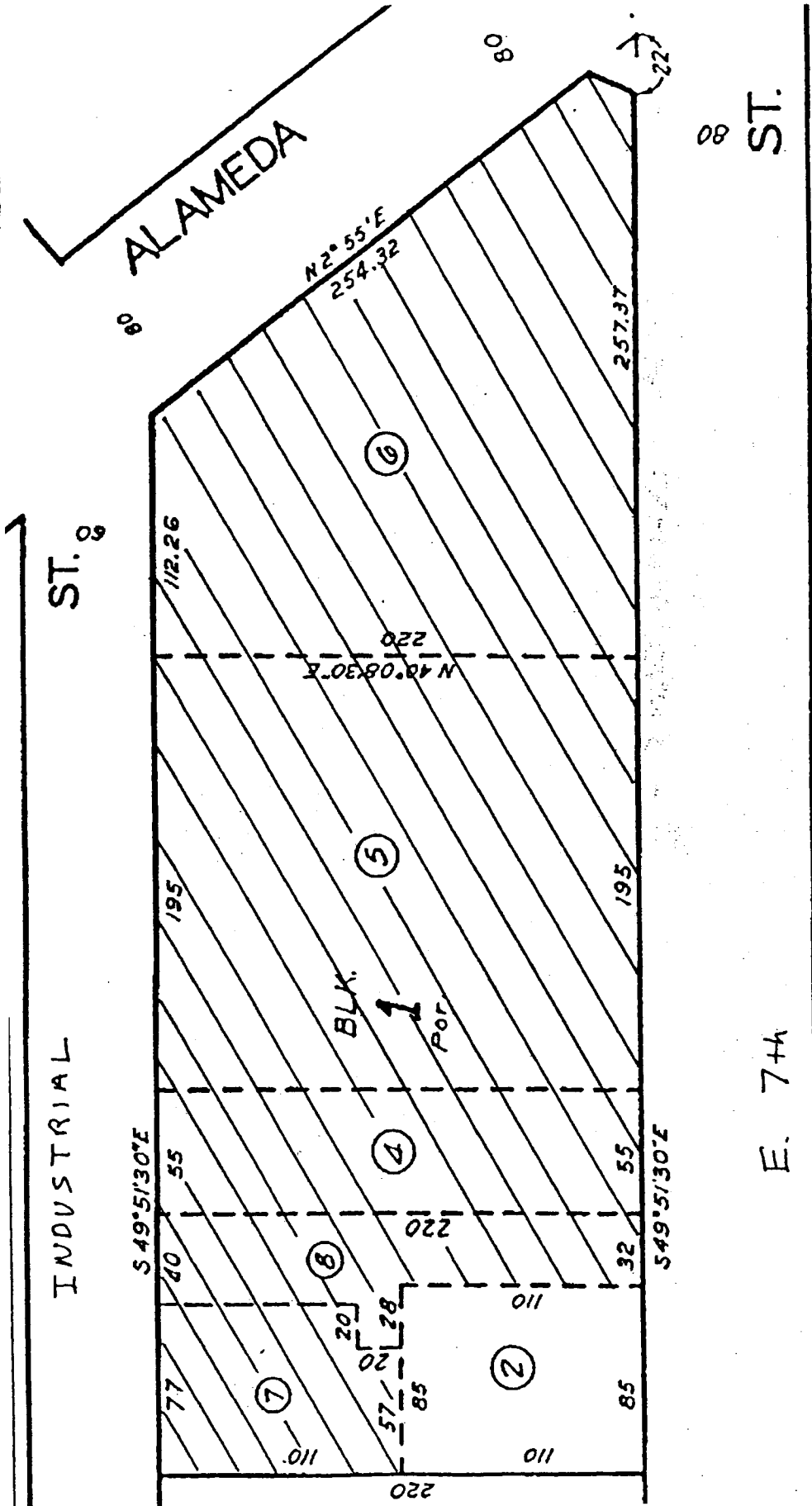
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PLAT MAP

EXHIBIT "B"



CORONEL TRACT

M.R. 42-32

**RESOLUTION OF THE
LOS ANGELES COUNTY METROPOLITAN TRANSPORTATION AUTHORITY
DECLARING CERTAIN REAL PROPERTY NECESSARY FOR THE DIVISION 1
EXPANSION PROJECT**

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

Section 1.

The Los Angeles County Metropolitan Transportation Authority ("MTA") 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 are to be taken for public use, namely, for public transportation purposes and all uses necessary, incidental or convenient thereto, in connection with the development, construction, operation and maintenance of the Division 1 Expansion Project ("Project");

Section 3.

The MTA is authorized to acquire the property interests described hereinafter pursuant to the following:

- a. Article I, Section 19 of the Constitution of the State of California;
- b. California Public Utilities Code, Division 10, Part 3 (Sections 30000-33020, inclusive), and Sections 30503 and 30600 in particular;
- c. California Public Utilities Code, Division 12 (Sections 130000-130730, inclusive), and Section 130220.5 in particular; and
- d. California Code of Civil Procedure Sections 1240.010-1273.050, inclusive.

Section 4.

The property to be acquired is located in the City of Los Angeles, and is more particularly identified as follows:

- a. The fee simple title in and to Assessor Parcel Numbers 5147-035-004, 005, 006, 007 and 008, containing approximately 115,000 square feet; consisting of a full property acquisition.

The subject parcels are described more specifically in Exhibit "A", attached hereto,

and is generally depicted in the Parcel Plat Map attached hereto as Exhibit "B", both of which are incorporated herein by this reference.

Section 5.

(a) The environmental impacts of the Project were evaluated in the Division 1 Land Acquisition and Expansion Initial Study/Mitigated Negative Declaration; and

(b) The Los Angeles County Metropolitan Transportation Authority has reviewed and considered the Division 1 Land Acquisition and Expansion Initial Study/Mitigated Negative Declaration, before and as part of the process of determining whether to acquire the above-referenced parcels.

Section 6.

The Los Angeles County Metropolitan Transportation Authority hereby declares that it has found and determined each of the following:

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

(b) The Project is planned or located in the manner which 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 Project; and

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

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 described above, by eminent domain. Counsel is also authorized to seek and obtain an Order of Immediate Possession of said property in accordance with the provisions of the eminent domain law and to deposit the total sum of probable just compensation fixed by the Superior Court in its order determining and establishing security for said immediate possession with the Clerk of said Superior Court in connection therewith.

Counsel is further authorized, pursuant to Section 30258 of the Public Utilities Code, to associate with, at its election, a private law firm for the preparation and prosecution of said proceedings.

I, MICHELLE JACKSON, Secretary of the Metropolitan Transportation Authority, do hereby certify that the foregoing Resolution was duly and regularly adopted by the Metropolitan Transportation Authority at a meeting held on the _____ day of ____, 2004.

MICHELLE JACKSON
MTA Secretary
Date: _____

APPROVED AS TO FORM:
Lloyd W. Pellman
County Counsel

BY: _____

EXHIBIT "A"

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