



San Gabriel Valley Council of Governments Capital Projects and Construction Committee

Meeting Agenda

Monday, September 24, 2018 12:00PM

West Covina Community Center, 2nd Floor

1444 West Garvey Avenue South, West Covina, CA 91791

Members of the public may comment on any item on the agenda at the time it is taken up by the Committee. We ask that members of the public come forward to be recognized by the Chair and keep their remarks brief. If several persons wish to address the Committee on a single item, the Chair may impose a three-minute time limit on individual remarks at the beginning of the discussion.

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|-------|--|--------------|-------------|
| I. | Pledge of Allegiance | | |
| II. | Roll Call and Introductions | | |
| III. | Public Comment | | |
| IV. | Approval of the Capital Projects and Construction Committee Meeting Minutes of August 27, 2018 | Pages 1 – 4 | Action |
| V. | Chairman's Remarks | | |
| VI. | Member Comments | | |
| VII. | Chief Engineers Monthly Report | Pages 5 – 6 | Information |
| VIII. | Project Construction Progress Reports | | Information |
| IX. | Hearing on Amended Resolution of Necessity No. 13-11 for the Fairway Drive Grade Separation Project. Property Address: 19777 East Walnut Drive North, City | Pages 7 – 33 | Action |

of
 Industry. Property Owner: Majestic Realty Co. et al.

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|-------|--|---------------|--------------------|
| X. | Hearing on Amended Resolution of Necessity No. 13-14 for the Fairway Drive Grade Separation Project. Property Address: 19515-19605 East Walnut Drive North, City of Industry, CA. Property Owner: Majestic Realty Co. et al. | Pages 34 – 43 | Action |
| XI. | Hearing on Amended Resolution of Necessity No. 13-15 for the Fairway Drive Grade Separation Project. Property Address: 19445-19485 East Walnut Drive North, City of Industry, CA. Property Owner: Majestic Realty Co. et al | Pages 44 – 53 | Action |
| XII. | Hearing on Amended Resolution of Necessity No. 13-16 for the Fairway Drive Grade Separation Project. Property Address: 19285-19395 East Walnut Drive North, City of Industry, CA. Property Owner: Majestic Realty Co. et al. | Pages 54 – 63 | Action |
| XIII. | Approval of Contract Amendment with CH2MHill for Design Support Services During Construction for the Fairway Drive Grade Separation Project | Pages 64 – 65 | Action |
| XIV. | Approval of Contract award to CWE for Preliminary Engineering and Final Design Services for the Load Reduction Strategy Projects for the Rio Hondo River and Tributaries | Pages 66 – 67 | Action |
| XV. | Closed Session: El Adobe eminent domain -The Committee will adjourn to closed session in accordance with Government Code Section | | Possible
Action |
| XVI. | Adjournment | | Action |



SGVCOG Capital Projects & Construction Committee August 27, 2018 Meeting Minutes

Chairperson Costanzo called the meeting of the San Gabriel Valley Capital Projects and Construction Committee to order at 12:02PM at the City of West Covina Community Center.

1. **Pledge of Allegiance** – Committee member Sternquist lead the pledge of allegiance.

2. **Roll Call:**

In attendance was:

Juli Costanzo, Chair, City of San Gabriel
Victoria Martinez, Vice Chair, El Monte
Cynthia Sternquist, SGVCOG President
Barbara Messina, City of Alhambra
Becky Shevlin, City of Monrovia
Hilda Solis, LA County Board of Supervisor
Jack Hadjinian, City of Montebello
Nancy Lyons, City of Diamond Bar
Sam Pedroza, City of Claremont

Staff:

Mark Christoffels, Chief Engineer
Gregory Murphy, Burke Williams & Sorensen, legal counsel
Deanna Stanley
Amy Hanson
Charles Tsang
Katie Ward, SGVCOG
Marisa Creter, SGVCOG Executive Director
Nathan Bocanegra
Paul Hubler
Phil Balmeo
Rachel Korkos
Ricky Choi
Mark Mendoza, Paragon Partners

Guests:

Vic Bapne, CWE
Art Correa, LA County Department of Public Works
Cynthia Marian, OSM
Margaret Finlay, City of Duarte
John Burton, LA County Department of Public Works
Fadi Rasaam, Citadel CPM
Regina Talamantes, RTEA
Eliza Barrientos, RTEA

3. **Public Comments** – There were no public comments.
4. **Approval of the Capital Projects and Construction Committee Meeting Minutes of July 23, 2018** – A motion was made by member Lyons to approved revised minutes. Ms. Lyons requested the July 23, 2018 minutes be revised to show her abstention for the approval of the June minutes. The motion was seconded by Vice Chair Martinez.
M/S/C/Lyons/Martinez/Unanimous
5. **Chairman's Remarks** – Chairperson Costanzo invited the members to the celebration of the completion of the San Gabriel Trench on September 10, 2018.
6. **Member Comments** – There were no member comments.
7. **Chief Engineers Monthly Report** – Mark Christoffels reported that the Governing Board approved the assignment of the 57/60 confluence chokehold project to the Capital Projects and Construction Committee. Mr. Christoffels also referenced his memo reflecting monthly contracting changes that are within his approval authority. He also referred to monthly community outreach activities.

Member Solis indicated the 57/60 project was a much needed improvement and important that transportation issues are addressed to prepare for the upcoming Olympics.
8. **Project Construction Progress Reports** – Charles Tsang reviewed progress photos for the Fairway Drive grade separation projects that depicted jack and bore operations, sidewalk construction and excavation. He also showed around the clock paving work for the Lemon on/off ramp project.

Mr. Christoffels reviewed progress photos for the Fullerton Road grade separation project that showed street widening.

Phil Balmeo reviewed the elements of the San Gabriel Trench project. He reviewed details of the project that included: the project cost of \$293.7 million included 4 roadway bridges, 2 railroad bridges, 1.4 miles of trench, one full property take and 55 permanent and temporary construction easements. He reviewed the elements of construction and ended with a time-lapse video of the project's construction. The Committee expressed appreciation for the presentation and suggested the video be placed on YouTube.
9. **Hearing on Amended Resolution of Necessity No. 13-11** – Mr. Christoffels indicated all four hearings for the amended Resolutions of Necessity Nos. 13-11, 13-14, 13-15 and 13-16 would be pulled and expected to be held at the September meeting. Mr. Christoffels indicated staff was awaiting a signed Stipulation Agreement from Majestic Realty.
10. **Hearing on Amended Resolution of Necessity No. 13-14** – This item was pulled.
11. **Hearing on Amended Resolution of Necessity No. 13-15** – This item was pulled.
12. **Hearing on Amended Resolution of Necessity No. 13-16** – This item was pulled.

13. **Approval of Contract Amendment for Design Support Services for the Durfee Avenue Grade Separation Project with URS Corporation** – Mr. Christoffels indicated it was practice for staff to maintain the services of the designer of record to assist through the construction procurement process as well as construction. He indicated the designer would support staff with responding to questions, perform field reviews, review contractor submittals and prepare as-built drawings at the end of project. He indicated the support for these efforts were \$1,061,536.

A motion was made to authorize the Chief Engineer to amend the contract with URS Corporation for a not to exceed amount of \$1,061,536 for design support services for a new contract value of \$7,212,153.

M/S/C/Martinez/Solis/Unanimous

14. **Approval of an Amendment to a Betterment Agreement with the Cities of Industry and Diamond Bar for Construction of On/Off Ramps at Lemon Avenue to State Route 60 to be done in conjunction with the Fairway Drive Grade Separation Project** – Mr. Christoffels explained the Cities of Diamond Bar and Industry have requested a change in the way the payments would be made for the betterment project. He indicated the City of Diamond Bar has agreed to send its grant money to the City of Industry and the City of Industry would make payments for both entities. He indicated there was no financial implication to the agency with for the change in payment arrangement.

A motion was made for the Chief Engineer to execute an amended Betterment Agreement with the Cities of Industry and Diamond Bar for construction of on/off ramps at Lemon Avenue to State Route 60.

M/S/C/Solis/Lyons/Unanimous

15. **Approval of Selection of CWE for Preliminary Engineering and Final Design Services for the Loan Reduction Strategy Projects for the Rio Hondo River and Tributaries** – Mr. Christoffels reviewed the procurement process for these services. He indicated there were two statement of qualifications received and staff has selected CWE. He indicated, if approved, staff would begin negotiations with an anticipated contract award at the September Committee meeting.

A motion was made to authorize the Chief Engineer to negotiate a design and engineering services contract with California Watershed Engineering Corporation for the Loan Reduction Strategy Projects for the Rio Hondo River and Tributaries.

M/S/C/Solis/Sternquist/Unanimous

16. **Approval to Receive and File Quarterly Financial, Audit, and Investment Reports** – Mr. Christoffels reviewed the quarterly reports and there were no questions.


A motion was made to receive and file the quarterly financial audit and investment reports.

M/S/C/Shevlin/Messina/Unanimous

17. **Closed Session** – Greg Murphy announced the Committee would adjourn to closed session in accordance with Government Code Section 54956.9 to discuss existing litigation, ACE v Rowland Ranch Properties LLC LA Superior Court Case No. BC629038.

The Board returned to open session and legal counsel indicated that the Committee was briefed on the matter and all members participated and unanimously gave direction to staff settle on defined terms. Further, if settlement were agreed, and approved by the court the final documents would be available at the ACE office.

18. **Adjournment** – The meeting was adjourned at 12:52pm. The next meeting will be held on September 24, 2018.

X 

Deanna Stanley
Clerk



Memo to: Capital Projects and Construction Committee Members & Alternates

From: Mark Christoffels
Chief Engineer

Date: September 24, 2018

SUBJECT: Chief Engineer's Monthly Report

The following are items of note since the last meeting:

San Gabriel Trench Dedication – Nearly 200 guests and dignitaries attended the dedication ceremony for the San Gabriel Trench project on September 10, including our special guests, former ACE Board Chairs and San Gabriel Councilmembers Harry Baldwin and David Gutierrez. We were also pleased that the event garnered numerous reports from English- and Chinese-language print and electronic media outlets. Copies of the reports are included in your Information Packets.

Contracting – The SGVCOG has delegated the Chief Engineer the authority to approve new contracts or change orders for previously approved contracts within certain limits, with a requirement that staff formally report such contract action. The following has been approved since the last Committee meeting:

Consultant/Vendor	Reason for Change	Change Amount	Total Contract Value
Walsh Construction Co.	San Gabriel Trench Project - CCO #46 – CN #160 – Mobilization Costs due to AT&T relocation at Mission OH	\$72,882	\$170,180,363
Walsh Construction Co.	San Gabriel Trench Project - CCO #47 – CN #146 – UPRR Signal Line Relocation and Modifications	\$105,753	\$170,286,116
Moffatt & Nichol	Extend Task Order No. 2 term through September 30, 2018 for Montebello grade separation project	\$0.00	\$13,763,568
Railpros	Special Work Assignment No. 5 under Task Order No. 3: Drainage Study and Analysis for At-Grade Crossing Safety Improvements project	\$0.00	\$3,236,047
Berg & Associates	Revision to Task Order No. 2 to add a subconsultant for Fullerton Road grade separation project	\$0.00	\$12,109,017

Community Outreach Update – Staff conducted the following project outreach activities:

- Provided staff support for the dedication ceremony for the San Gabriel Trench grade separation project;
- Distributed construction alert notices regarding an 8-week closure of the Fairway Drive and Walnut Drive North intersection and Fairway Drive on-and off-ramps on State Route 60 for the Fairway Drive project;
- Distributed construction alert notices regarding lane reductions on Turnbull Canyon Road for utility investigations for the Turnbull Canyon Road project; and
- Conducted ongoing community outreach and support activities for the San Gabriel Trench, Fairway Drive and Fullerton Road grade separation projects



MEMO TO: Capital Projects and Construction Committee Members and Alternates

FROM: Mark Christoffels
Chief Engineer

DATE: September 24, 2018

SUBJECT: Amended Resolution of Necessity for Property Acquisition - No. 13-11
Fairway Drive Grade Separation Project
Property Owner: Majestic Realty Co. et al.
19777 East Walnut Drive North, City of Industry, CA
APN: 8760-008-002
ACE Parcel No.: 204C

RECOMMENDATION: Staff recommends the SGVCOG Capital Projects and Construction Committee:

1. Conduct a hearing on Amended Resolution 13-11 (an Amendment to Resolution of Necessity 13-11 of the ACE Construction Authority) finding and determining that the public interest, convenience and necessity require amendment to the acquisition of certain property for public purposes; and
2. Review the evidence presented, including this staff report and public comments and close the hearing; and
3. Adopt the attached Amended Resolution 13-11 authorizing the amendment of eminent domain proceedings, and/or other means, so as to acquire one modified permanent roadway easement 3,481 s.f, one (1) modified permanent retaining wall easement 453 s.f, one (1) modified permanent footing easement 1,584 s.f, and one (1) 12-month temporary construction easement 3,418 s.f, that contains modified boundaries (in lieu of, rather than in addition to, the easements originally identified in Resolution of Necessity 13-11 as 204C-PE-1, 204C-RW, 204C-FTG, and 204C-TCE1), as well as the originally identified, and now unaltered one (1) permanent roadway easement (204C-PE-2) 2,716 s.f, two (2) utility easements (204C-UE1 and 204C-UE-2) 320 and 2,708 s.f, respectively, and two (2) temporary construction easements (204C-TCE-2 and 204C-TCE-3) 7,304 and 15,391 s.f, respectively, for which the ACE Board adopted Resolution of Necessity No. 13-11 from that certain parcel bearing Los Angeles Assessor Parcel Number 8760-008-002. The durations of the TCEs referenced above shall commence no sooner than 30 days after the ACE Construction Authority mails a written Notice of

Commencement of TCE. (Note: This requires an affirmative TWO-THIRDS (2/3) vote of the SGVCOG Capital Projects and Construction Committee).

BACKGROUND: The SGVCOG Capital Projects and Construction Committee and the formerly constituted Alameda Corridor East Construction Authority was formed pursuant to the California Joint Powers law (Govt. Code section 6500 et seq.) for purposes of implementing the Alameda Corridor East ("ACE Project"). The ACE Project is a multi-phase project that will improve the safety and efficiency of railroad crossings from Los Angeles, east to San Bernardino County to mitigate some of the impacts created by increased rail traffic from the Ports of Long Beach and Los Angeles.

Included in the ACE Project is a grade separation of Fairway Drive/E. Walnut Drive N. ("Fairway Drive Grade Separation Project") in the City of Industry, County of Los Angeles from the Union Pacific Railroad right-of-way, which will eliminate current and future long delays of traffic at the crossing. The Fairway Drive Grade Separation Project is statutorily exempt from CEQA pursuant to Public Resources Code section 21080.13. In order to accommodate the grade separation at Fairway Drive/E. Walnut Drive N., two (2) permanent roadway easements, one (1) permanent railroad easement, two (2) permanent utility easements, one (1) permanent retaining wall easement, one (1) permanent wall footing easement, and three (3) 12-month temporary construction easements, were originally required from that certain parcel bearing Los Angeles Assessor Parcel Number 8760-008-002.

The property identified in the original ACE Resolution 13-11 was owned by Majestic Realty Co. and Industrial Park EI-A, LLC, and Industrial Park E Sub A. ("The Majestic Owners"). The Larger Parcel is 442,356 s.f in size, and is improved with a single tenant industrial building built in 1978, with a gross square footage of approximately 199,284s.f. The site includes asphalt paved parking areas, exterior lighting, cement paved loading areas, chain link fencing, a rail spur and rail car loading, and miscellaneous landscaping.

Pursuant to California Government Code sections 6500 et seq., 7267.2, 37350.5, and 40401 et seq. and 40404, and California Code of Civil Procedure Section 1230.010 et seq., 1240.410 and 1240.020, and Section 19, Article I of the California Constitution, and other authorities, the ACE Construction Authority is authorized to acquire the subject property in part or whole by eminent domain, provided certain procedural steps are followed.

ACE staff tendered an offer to purchase to the Majestic Owners in the amount of \$759,800 on September 25, 2013 for the originally identified easements. But, with an agreement not having been reached, the Board adopted a Resolution of Necessity for acquisition of the originally identified easements, on October 28, 2013, and Eminent Domain

proceedings were commenced on November 12, 2013, ACE having made all necessary findings and having met all statutory prerequisites thereto. (The property interests in Resolution 13-11 were combined with those in ACE Resolutions 13-14, 13-15 and 13-16 for Eminent Domain filing purposes due to proximity and common ownership of the parcels.)

During construction of the Project, the Majestic Owners requested if it would be possible to revise the permanent easements along Fairway to preserve more of the loading dock and parking at the eastern limit of the Property facing Fairway. ACE engineers were able to modify the design and relocate the retaining wall. Accordingly, with the project redesign the right-of-way requirements were reduced. Therefore, SGVCOG, the Majestic Owners, their successor owners (the larger parcel was sold by Majestic Realty Co. in 2017), and the sole tenant on the property, Furniture of America ("FoAC") have entered into a Stipulation (attached hereto as Exhibit 1) whereby they agree that: a request would be made to SGVCOG's governing board at its first available public meeting to consider adoption of an Amended Resolution of Necessity ("Amended RON") that one modified permanent roadway easement, one modified permanent retaining wall easement, one modified permanent footing easement, and one 12-month temporary construction easement that contains modified boundaries (in lieu of, rather than in addition to, the easements originally identified in Resolution of Necessity 13-11 as 204C-PE-1, 204C-RW, 204C-FTG, and 204C-TCE1), as well as the originally identified, and now unaltered permanent roadway easement (204C-PE-2), two utility easements (204C-UE1 and 204C-UE-2), and two temporary construction easements (204C-TCE-2 and 204C-TCE-3) for which the ACE Board adopted Resolution of Necessity No. 13-11 for the above-stated public use.

By way of the stipulation attached hereto as Exhibit 1, Majestic Owners and FoAC waive further notice of the hearing on the proposed Amended RON and stipulate that all requirements necessary for consideration of adoption of the Amended RON have been satisfied, including those matters in Article 2 of the Eminent Domain Law and those matters related to a statutory offer as set forth in Government Code section 7267.2. The Majestic Owners, Successor Owners, and FoAC further stipulate that if SGVCOG's governing board approves the request and adopts an Amended RON for the taking of the revised easements affecting Assessor Parcel No. 8760-008-002 ("Subject Property"), that said modified taking is necessary for the Project, that the public interest and necessity require the Project, and 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.

The parties agree that if SGVCOG's governing board approves the request and adopts an Amended RON to modify the taking of portions of the property, a First Amended Complaint in Eminent Domain, supported by the Amended RON shall be filed.

After conducting the public hearing, if the SGVCOG Capital Projects and Construction Committee finds that the public necessity so requires, the SGVCOG Capital Projects and Construction Committee should adopt the attached Amended Resolution of Necessity 13-11, authorizing amendment of condemnation proceedings for the purpose of acquiring the modified property which interest are described in Resolution 13-11.

The findings, which need to be made, are as set forth in the Resolution of Necessity. Specifically, the SGVCOG Capital Projects and Construction Committee must find:

1. That the public interest, convenience and necessity require the acquisition of the proposed project. As proposed, the Fairway Drive Grade Separation Project will serve public purposes, as discussed above; and
2. That the Fairway Drive Grade Separation Project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury. As set forth above, the Property is being acquired to improve the safety and efficiency of the rail crossing by constructing a grade separation at Fairway Drive/E. Walnut Drive N. The original 1997 San Gabriel Valley Council of Governments study looked at alternatives to an underpass and different grade separation configurations to identify any overall project cost and real estate impact reductions. Subsequently, as the design of the project began, ACE staff evaluated alternative configurations in greater detail. Additionally, ACE conducted an Engineering Value Analysis workshop that engaged stakeholders and technical experts to analyze and vet the various design scenarios. The no build alternative was examined through the project ranking process described in the 1997 report. Fairway Drive is a primary arterial street, serving multiple residential and commercial areas. The Fairway Drive Grade Separation project constructed as an underpass will eliminate the possibility of train—vehicle collisions at this location and the effect of stopped and moving trains on vehicular traffic capacity; and in order to build such an underpass with the least private injury modified several easements should now be modified; and
3. That the amended property interests sought to be acquired are necessary for the Fairway Drive Grade Separation Project. From the subject property it is necessary to acquire: two (2) permanent roadway easements, one (1) permanent railroad easement, two (2) permanent utility easements, one (1) permanent retaining wall

easement, one (1) permanent wall footing easement, and three (3) 12-month temporary construction easements. Without the acquisition of the various amended permanent easements, and amended temporary construction easements and unaltered easements as included in Exhibit 2 attached hereto, the proposed Fairway Drive Grade Separation Project cannot be completed; and

4. That SGVCOG has complied with CEQA. The Fairway Drive Grade Separation Project is statutorily exempt pursuant to Public Resources Code section 21080.13. The Legislature created an absolute exemption for railroad grade separations via Public Resources Code § 21080.13, which provides that CEQA “does not apply to any railroad grade separation project which eliminates an existing grade crossing, or which reconstructs an existing grade separation.” Cal. Pub. Res. Code § 21080.13. The Fairway Drive Grade Separation Project eliminates an existing grade crossing. Based upon § 21080.13, the Fairway Drive Grade Separation Project is therefore exempt from CEQA review. Since the Fairway Drive Grade Separation is exempt from CEQA, no environmental review is necessary, and it may be implemented without any CEQA compliance whatsoever.

Questions relating to value are not relevant to this proceeding. However, that does not mean that negotiations for the acquisition of the property interests are at an end. If the SGVCOG Capital Improvements and Construction Committee adopts the Amended Resolution of Necessity, after the hearing, negotiations for the acquisition of the property interests may continue to take place.

BUDGET IMPACT: Funds for the acquisition of this property are available from MTA Measure R and Proposition C funds and are included in the Agency’s FY 2019 budget.

ATTACHMENTS

Exhibit 1- Stipulation re: Scope of Take and Transfer of Possession
Exhibit 2- Amended Resolution of Necessity No. 13-11 with Exhibits

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2 CYNTHIA C. MARIAN, State Bar No. 185206
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8 Attorneys for Plaintiff

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10
11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
12 **FOR THE COUNTY OF LOS ANGELES**

13 ALAMEDA CORRIDOR-EAST
14 CONSTRUCTION AUTHORITY,

15 Plaintiff

16 vs.

17 MAJESTIC REALTY CO., a California
18 Corporation, as to 50% Interest;
19 INDUSTRIAL PARK E SUB B, LLC, a
20 Delaware Limited Liability Company, as to an
21 Undivided 47.5%; INDUSTRIAL PARK E I-
22 B, LLC, a Delaware Limited Liability
23 Company, as to an Undivided 2.5%;
24 SOUTHERN CALIFORNIA EDISON
25 COMPANY; THE CITY OF INDUSTRY, a
26 municipal corporation; GENERAL
27 TELEPHONE COMPANY OF
28 CALIFORNIA; a Corporation, its Successors
and Assigns; SOUTHERN CALIFORNIA
EDISON COMPANY, a Corporation, its
Successors and Assigns; THE PRUDENTIAL
INSURANCE COMPANY OF AMERICA, a
New Jersey Corporation; SOUTHERN
COUNTIES GAS COMPANY; DOE 1
through DOE100; and ALL PERSONS
UNKNOWN CLAIMING AN INTEREST IN
THE PROPERTY TO BE CONDEMNED
HEREIN,

Defendants.

NO. BC 527309

**STIPULATION RE SCOPE OF TAKE AND
AMENDMENT TO RIGHT OF WAY**

[ACE Parcel No. 204W-TCE1, 204W-TCE2 and,
204W-TCE3, 204W-UE1 and 204W-UE2, 204S&
T-RRE, 204S&T-TCE2A and 204S&T-TCE2B,
204S&T-UE-1 and 204S&T-UE-2, 204S-TCE1,
204U&V-RRE, 204U&V-TCE-1, 204U&V-
TCE2, 204U&V-TCE-3, 204U&V-UE, 204C-
FTG, 204C-PE-1 and 204C-PE-2, 204C-RRE,
204C-RW, 204C-TCE-1, 204C-TCE-2, 204C-
TCE-3, 204C-UE1, 204C-UE-2]

[APN 8760-002-014, 8760-008-002, 8760-008-
003, 8760-008-004, 8760-008-005 and 8760-008-
006]

[Exempt from filing fees - Government Code
§6103]

Complaint filed November 12, 2013

Assigned for all purposes to:
Judge Yvette M. Palazuelos
Department 28

1 TO ALL PARTIES AND THEIR COUNSEL OF RECORD:

2 Plaintiff the San Gabriel Valley Council of Governments in furtherance of the Alameda
3 Corridor-East Construction Authority ("SGVCOG") and defendants MAJESTIC REALTY CO., a
4 California Corporation ("Majestic Realty Co."), and Industrial Park E I-A, LLC, a Delaware
5 limited liability company, Industrial Park E Sub A, LLC, a Delaware limited liability company,
6 Industrial Park E I-B, LLC, a Delaware limited liability company, and Industrial Park E Sub B,
7 LLC, a Delaware limited liability company, Industrial Park E Sub A Exchange, LLC, a Delaware
8 limited liability company, and Industrial Park E Sub B Exchange, LLC, a Delaware limited
9 liability company (collectively, the "Principal Entities") and FURNITURE OF AMERICA
10 CALIFORNIA dba IMPORT DIRECT ("FoAC") stipulate as follows:

11 1. On November 12, 2013, ACE filed its Complaint in Eminent Domain to take
12 easements over a portion of the Majestic Realty Co and Principal Entities' property identified as
13 APNs 8760-002-014, 8760-008-002, 8760-008-003, 8760-008-004, 8760-008-005 and 8760-008-
14 006, generally located at Fairway Drive and E. Walnut Drive North, in the City of Industry for the
15 Alameda Corridor-East Construction Project ("Project").

16 2. After commencement of this action and during construction of the Project, Majestic
17 Realty Co. approached Plaintiff's representatives and requested whether the easements along the
18 Fairway-adjacent edge of APN 8760-008-002 could be shrunk in any way to leave more usable
19 surface area to access the truck bays on the eastern edge of the building located on that parcel.
20 SGVCOG revised its construction plans to reduce the size of the right-hand turn lane from
21 Fairway to Walnut and relocate the retaining wall and footing easement further to the East.
22 Accordingly, SGVCOG (formerly known as ACE), commissioned revised maps and legal
23 descriptions for the easements identified in the Complaint in Eminent Domain as 204C-PE1,
24 204C-RW, 204C-FTG and 204C-TCE1. Therefore, the parties agree that a request will be made to
25 SGVCOG Capital Projects and Construction Committee (successor to the ACE's governing
26 board) at its first available public meeting to consider adoption of an Amended Resolution of
27 Necessity incorporating 1) the revised easements listed above, and 2) leaving unaltered the
28 easements identified in the original complaint as 204C-PE2, 204C-RRE, 204C-UE1, 204C-UE2

1 204C-TCE2, and 204C-TCE3. (The maps and legal descriptions of the proposed easements
2 affecting Assessor Parcel 8760-008-002 are attached hereto as Exhibit "1").

3 3. During construction, it was discovered Majestic Realty Co. and the Principal
4 Entities had intentions of reconnecting an existing but disconnected rail spur track located on
5 parcels 8760-008-005 and 8760-008-006 which would require redesign of the Project to
6 accommodate potential future reconnection. Therefore, the parties have agreed that:

7 a) a request will be made to SGVCOG's Capital Projects and Construction Committee
8 at its first available public meeting to consider adoption of an Amended Resolution of Necessity
9 that SGVCOG acquire from Assessor Parcel Nos. 8760-008-003 and 8760-008-004 (ACE Parcels
10 204S&T): one modified permanent utility easement (in lieu of 204S&T-UE1 as adopted in ACE
11 Resolution of Necessity 13-14), and two new 12-month temporary construction easements (204S-
12 TCE1A and 204S-TCE1B) as well one new 6-month temporary construction easement (204S&T-
13 TCE2) in addition to the TCEs originally identified in Resolution of Necessity 13-14, as well as
14 the originally identified, and now unaltered permanent railroad easement (204S&T-RRE), one
15 utility easement (204S&T-UE-2), and three temporary construction easements (204S-TCE1 (for
16 12 months) and 204S&T-TCE2A and 204S&T-TCE2B (for 6 months each) for which the ACE
17 Board adopted Resolution of Necessity No. 13-14. (The maps and legal descriptions of the
18 proposed easements affecting Assessor Parcel Nos. 8760-008-003 and 8760-008-004 are attached
19 hereto as Exhibit "2"),

20 b) a request will be made to SGVCOG's Capital Projects and Construction Committee
21 at its first available public meeting to consider adoption of an Amended Resolution of Necessity
22 that SGVCOG acquire from Assessor Parcel Nos. 8760-008-005 and 8760-008-006 (ACE Parcels
23 204U&V): one modified permanent railroad easement, one modified permanent utility easement,
24 (in lieu of, rather than in addition to, the easements originally identified in Resolution of Necessity
25 13-15 as 204U&V-RRE and 204U&V-UE, respectively), as well as the three originally identified,
26 and now unaltered, 24-month temporary construction easements (204U&V-TCE1, 204U&V-
27 TCE2 and 204V&V-TCE3) for which the ACE Board adopted Resolution of Necessity No. 13-15.
28 (The maps and legal descriptions of the proposed easements affecting Assessor Parcel Nos. 8760-

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1 008-005 and 8760-008-006 are attached hereto as Exhibit "3"),

2 c) a request will be made to SGVCOG's Capital Projects and Construction Committee
3 at its first available public meeting to consider adoption of an Amended Resolution of Necessity
4 that SGVCOG acquire from Assessor Parcel No. 8760-002-014 (ACE Parcel 204W): two new
5 permanent railroad easements (204W-RRE-1A and 204W-RRE-1B), one new 12-month
6 temporary construction easement (204W-TCE1 (dated 2018)), one modified permanent utility
7 easement, (in lieu of, rather than in addition to, the easements originally identified in Resolution of
8 Necessity 13-16 as 204W-UE-1, and 204W-UE-2, respectively), as well as the three originally
9 identified, and now unaltered, and temporary construction easements (204W-TCE1, 204W-TCE2
10 and 204W-TCE3) for which the ACE Board adopted Resolution of Necessity No. 13-16. (The
11 maps and legal descriptions of the proposed easements affecting Assessor Parcel No. 8760-002-
12 014 are attached hereto as Exhibit "4"),

13 4. The Majestic Owners, the Principal Entities and FoAC waive notice of the hearing
14 on the proposed Amended Resolutions of Necessity and stipulate that all requirements necessary
15 for consideration of adoption of the Amended Resolutions of Necessity have been satisfied,
16 including those matters in Article 2 of the Eminent Domain Law and those matters related to a
17 statutory offer as set forth in Government Code section 7267.2. The Majestic Owners, Principal
18 Entities and FoAC further stipulate if SGVCOG's Capital Projects and Construction Committee
19 approves the request and adopts the Amended Resolutions of Necessity for the taking of the
20 revised easement affecting Assessor Parcel Nos. APNs 8760-002-014, 8760-008-002, 8760-008-
21 003, 8760-008-004, 8760-008-005 and 8760-008-006, that said takings are necessary for the
22 Project, that the public interest and necessity require the Project, and that the Project is planned or
23 located in the manner that will be most compatible with the greatest public good and the least
24 private injury.


25 5. The parties agree that if SGVCOG's Capital Projects and Construction Committee
26 approves the request and adopts the Amended Resolutions of Necessity to modify the taking of
27 portions of the property, a First Amended Complaint in Eminent Domain ("FAC"), supported by
28 the Amended Resolutions of Necessity will be filed.

OLIVER, SANDIFER & MURPHY
A PROFESSIONAL CORPORATION
1230 ROSECRANS AVENUE, SUITE 300
MANHATTAN BEACH, CALIFORNIA 90266-2494
TELEPHONE: (310) 621-2000; (424) 456-3194
FACSIMILE: (424) 456-3094

6. The Majestic Owners, Principal Entities and FoAC waive any costs and litigation expenses, including attorneys' fees, related to the proposed Amended Resolutions of Necessity and FAC, which may otherwise be recoverable under Code of Civil Procedure section 1250.340 or 1268.610.

7. If SGVCOG's Capital Projects and Construction Committee approves the request and adopts the Amended Resolutions of Necessity to take the revised easements, the parties also agree to the following:

a. SGVCOG will file a FAC pursuant to Code of Civil Procedure section 1250.340, and the sum deposited with the State Treasurer on or about November 15, 2013, shall be deemed to be the amount of probable compensation pursuant to Code of Civil Procedure Section 1255.010 for the interests identified in the FAC.

b. The Majestic Owners, Principal Entities and FoAC will waive any and all objections to SGVCOG's right to take the property described in the FAC,  for the real property and the improvements pertaining to the realty

c. The date of valuation to be used in this action will be November 15, 2013.

d. The parties agree that SGVCOG shall be authorized to take possession, of the revised permanent easements immediately as if they were part of the original Complaint in Eminent Domain and therefore subject to the Order for Prejudgment Possession(s) which became effective in this matter on or about March 24, 2014.

8. The parties agree to execute such other documents, and to take such other action, as may be necessary to finalize this Stipulation, perform in accordance with its terms, and request continuance of the trial currently scheduled for November 5, 2018.

DATED: Sept 5, 2018

ALAMEDA CORRIDOR-EAST CONSTRUCTION
AUTHORITY

By: 

Its: Chief Engineer

Additional signatures on next page

///

OLIVER, SANDIFER & MURPHY
A PROFESSIONAL CORPORATION
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DATED: 8/29/18, 2018

MAJESTIC REALTY CO., California Corporation

By:

Edward P. Roski, Jr.

Its: President and Chairman of the Board

DATED: , 2018

INDUSTRIAL PARK E I-A, LLC, a Delaware
Limited Liability Company

By: Principal Real Estate Investors, LLC, a Delaware
limited liability company, its authorized signatory

By:

Its:

By:

Its:

DATED: , 2018

INDUSTRIAL PARK E SUB A, LLC, a Delaware
limited liability company

By: Principal Real Estate Investors, LLC, a Delaware
limited liability company, its authorized signatory

By:

Its:

By:

Its:

Additional signatures on next page

///

///

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///

OLIVER, SANDIFER & MURPHY
A PROFESSIONAL CORPORATION
1230 ROSEDALE AVENUE, SUITE 300
MANHATTAN BEACH, CALIFORNIA 90266-2894
TELEPHONE: (310) 621-2000; (424) 456-3194
FACSIMILE: (424) 456-3094

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DATED: _____, 2018

MAJESTIC REALTY CO., California Corporation

By: _____

Its: _____

DATED: 8/23/18, 2018

INDUSTRIAL PARK E I-A, LLC, a Delaware
Limited Liability Company

By: Principal Real Estate Investors, LLC, a Delaware
limited liability company, its authorized signatory

By: Joel L. Woehler

Its: Joel L. Woehler
Investment Director
Asset Management

By: Andrew Miller

Its: ANDREW MILLER, Counsel

DATED: 8/23/18, 2018

INDUSTRIAL PARK E SUB A, LLC, a Delaware
limited liability company

By: Principal Real Estate Investors, LLC, a Delaware
limited liability company, its authorized signatory

By: Joel L. Woehler

Its: Joel L. Woehler
Investment Director
Asset Management

By: Andrew Miller

Its: ANDREW MILLER, Counsel

Additional signatures on next page

///

///

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///

OLIVER, SANDIFER & MURPHY
A PROFESSIONAL CORPORATION
1230 RIVERSIDE AVENUE, SUITE 300
MANHATTAN BEACH, CALIFORNIA 90266-2394
TELEPHONE: (310) 621-2000; (424) 456-3194
FACSIMILE: (424) 456-3094

1 DATED: 8/23/18, 2018

INDUSTRIAL PARK E 1-B, LLC, a Delaware
Limited Liability Company

By: Principal Real Estate Investors, LLC, a Delaware
limited liability company, its authorized signatory

By: Joel L. Woehler
Joel L. Woehler
Investment Director
Asset Management

Its: Andrew Miller
By: Andrew Miller
Its: **ANDREW MILLER, Counsel**

10 DATED: 8/23/18, 2018

INDUSTRIAL PARK E SUB B, LLC, a Delaware
limited liability company

By: Principal Real Estate Investors, LLC, a Delaware
limited liability company, its authorized signatory

By: Joel L. Woehler
Joel L. Woehler
Investment Director
Asset Management

Its: Andrew Miller
By: Andrew Miller
Its: **ANDREW MILLER, Counsel**

19 DATED: 8/23/18, 2018

INDUSTRIAL PARK E SUB A EXCHANGE, LLC,
a Delaware limited liability company

By: Principal Real Estate Investors, LLC, a Delaware
limited liability company, its authorized signatory

By: Joel L. Woehler
Joel L. Woehler
Investment Director
Asset Management

Its: Andrew Miller
By: Andrew Miller
Its: **ANDREW MILLER, Counsel**

28 Additional signatures on next page

OLIVER, SANDIFER & MURPHY
A PROFESSIONAL CORPORATION
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MANHATTAN BEACH, CALIFORNIA 90266-2494
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FACSIMILE: (424) 456-3094

1 DATED: 8/23/18, 2018

INDUSTRIAL PARK E SUB B EXCHANGE, LLC,
a Delaware limited liability company

By: Principal Real Estate Investors, LLC, a Delaware
limited liability company, its authorized signatory

By: Joel L. Woehler
Joel L. Woehler
Investment Director
Asset Management

By: Andrew Miller
Its: **ANDREW MILLER, Counsel**

11 DATED: _____, 2018

FURNITURE OF AMERICA CALIFORNIA dba
IMPORT DIRECT

By: _____
Its: _____

17 Approved as to Form:

18 DATED: _____, 2018

OLIVER, SANDIFER & MURPHY,
Eminent Domain Counsel

By: _____
Cynthia C. Marian

Attorneys for Plaintiff
THE SAN GABRIEL VALLEY COUNCIL OF
GOVERNMENTS in Furtherance of the ALAMEDA
CORRIDOR-EAST CONSTRUCTION PROJECT,
previously known as ALAMEDA CORRIDOR-EAST
CONSTRUCTION AUTHORITY, on behalf of the
SAN GABRIEL VALLEY COUNCIL OF
GOVERNMENTS

28 Additional signatures on next page

OLIVER, SANDIFER & MURPHY
A PROFESSIONAL CORPORATION
1230 ROBERTS AVENUE, SUITE 300
MANTUA, CA 94556-2494
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DATED: _____, 2018

INDUSTRIAL PARK E SUB B EXCHANGE, LLC,
a Delaware limited liability company

By: Principal Real Estate Investors, LLC, a Delaware
limited liability company, its authorized signatory

By: _____

Its: _____

By: _____

Its: _____

DATED: 8/24, 2018

FURNITURE OF AMERICA CALIFORNIA dba
IMPORT DIRECT

By: [Signature]

Its: President

Approved as to Form:

DATED: _____, 2018

OLIVER, SANDIFER & MURPHY,
Eminent Domain Counsel

By: _____

Cynthia C. Marian

Attorneys for Plaintiff

THE SAN GABRIEL VALLEY COUNCIL OF
GOVERNMENTS in Furtherance of the ALAMEDA
CORRIDOR-EAST CONSTRUCTION PROJECT,
previously known as ALAMEDA CORRIDOR-EAST
CONSTRUCTION AUTHORITY, on behalf of the
SAN GABRIEL VALLEY COUNCIL OF
GOVERNMENTS

Additional signatures on next page

OLIVER, SANDIFER & MURPHY
A PROFESSIONAL CORPORATION
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FACSIMILE: (424) 456-3094

1 DATED: _____, 2018

INDUSTRIAL PARK E SUB B EXCHANGE, LLC,
a Delaware limited liability company

By: Principal Real Estate Investors, LLC, a Delaware
limited liability company, its authorized signatory

By: _____

Its: _____

By: _____

Its: _____

11 DATED: _____, 2018

FURNITURE OF AMERICA CALIFORNIA dba
IMPORT DIRECT

By: _____

Its: _____

17 Approved as to Form:

18 DATED: September 4, 2018

OLIVER, SANDIFER & MURPHY,
Eminent Domain Counsel

By


Cynthia C. Marian

Attorneys for Plaintiff

THE SAN GABRIEL VALLEY COUNCIL OF
GOVERNMENTS in Furtherance of the ALAMEDA
CORRIDOR-EAST CONSTRUCTION PROJECT,
previously known as ALAMEDA CORRIDOR-EAST
CONSTRUCTION AUTHORITY, on behalf of the
SAN GABRIEL VALLEY COUNCIL OF
GOVERNMENTS

28 Additional signatures on next page

OLIVER, SANDIFER & MURPHY
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DATED: 8/31/18, 2018

PALMIERI, TYLER, WIENER
WILHELM & WALDRON LLP

By


Michael D. Angelo

Attorneys for Defendant

MAJESTIC REALTY CO., A CALIFORNIA
CORPORATION, INDUSTRIAL PARK E SUB B,
LLC, a Delaware limited liability company;
INDUSTRIAL PARK E I-B, LLC, a Delaware limited
liability company

DATED: _____, 2018

SULLIVAN, WORKMAN & DEE, LLP

By

Charles D. Cummings

Attorneys for Defendant

FURNITURE OF AMERICA CALIFORNIA, INC.,
DBA IMPORT DIRECT

OLIVER, SANDIER & MURPHY
A PROFESSIONAL CORPORATION
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DATED: _____, 2018

PALMIERI, TYLER, WIENER,
WILHELM & WALDRON LLP

By _____

Michael D'Angelo

Attorneys for Defendant

MAJESTIC REALTY CO., A CALIFORNIA
CORPORATION, INDUSTRIAL PARK E SUB B,
LLC, a Delaware limited liability company;
INDUSTRIAL PARK E I-B, LLC, a Delaware limited
liability company

DATED: 8-24, 2018

SULLIVAN, WORKMAN & DEE, LLP

By _____

Charles D. Cummings

Attorneys for Defendant

FURNITURE OF AMERICA CALIFORNIA, INC.,
DBA IMPORT DIRECT

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OLIVER, SANDIFER & MURPHY
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MANHATTAN BEACH, CALIFORNIA 90266-2494
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FACSIMILE: (424) 456-3094

Exhibit 1
(re: Parcel 204C)

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OLIVER, SANDIFER & MURPHY
A PROFESSIONAL CORPORATION
1220 ROSECLARK AVENUE, SUITE 300
MANHATTAN BEACH, CALIFORNIA 90266-2494
TELEPHONE: (310) 671-2000; (424) 456-3194
FACSIMILE: (424) 456-3094

Exhibit 2
(re Parcel 204S&T)

OLIVER, SANDIFER & MURPHY
A PROFESSIONAL CORPORATION
1230 ROSECRANS AVENUE, SUITE 300
MANHATTAN BEACH, CALIFORNIA 90266-2494
TELEPHONE: (213) 621-2000; (424) 456-3194
FACSIMILE: (424) 456-3094

Exhibit 3

(re Parcel 204U&V)

OLIVER, SANDIFER & MURPHY
A PROFESSIONAL CORPORATION
1220 ROSECRANS AVENUE, SUITE 300
MANHATTAN BEACH, CALIFORNIA 90266-2494
TELEPHONE: (310) 621-2000; (424) 456-3194
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Exhibit 4
(re Parcel 204W)

AMENDED RESOLUTION NO. 13-11

**A RESOLUTION OF THE SAN GABRIEL
VALLEY COUNCIL OF GOVERNMENTS IN
FURTHERANCE OF THE ALAMEDA
CORRIDOR-EAST CONSTRUCTION PROJECT
FINDING AND DETERMINING THAT THE
PUBLIC INTEREST, CONVENIENCE AND
NECESSITY REQUIRE AN AMENDMENT TO
THE ACQUISITION OF CERTAIN PROPERTY
FOR PUBLIC PURPOSES**

**THE ALAMEDA CORRIDOR EAST – GATEWAY TO AMERICA CONSTRUCTION
AUTHORITY DOES HEREBY RESOLVE AS FOLLOWS:**

SECTION 1. The San Gabriel Valley Council of Governments, in furtherance of the Alameda Corridor East Construction Project (hereafter "SGVCOG"), formerly known as the Alameda Corridor East -- Gateway to America Construction Authority on behalf of the San Gabriel Valley Council of Governments (known as "ACE"), after consideration of the staff report, staff presentation, discussion, oral testimony and evidence presented at SGVCOG's Capital Projects and Construction Committee Meeting on Monday, September 24, 2018, at 12 p.m. hereby finds, determines and declares as follows:

- (a) The San Gabriel Valley Council of Governments, in furtherance of the Alameda Corridor East Construction Project is authorized by statute and pursuant to that certain Joint Powers Agreement dated September 17, 1998, as amended, to acquire property by eminent domain within the City of Industry, County of Los Angeles, State of California for the Alameda Corridor-East Project ("ACE Project"); and
- (b) The public interest, convenience and necessity require the proposed Fairway Drive Grade Separation Project in the City of Industry, County of Los Angeles, State of California as part of said Fairway Drive Grade Separation Project, which includes railroad crossing safety and efficiency improvements, and all uses appurtenant thereto intended to partially mitigate the impacts of increased rail traffic from the completed Alameda Corridor on motor vehicle traffic; and
- (c) The interests in real property to be acquired from that certain parcel bearing Los Angeles County Assessor Parcel No. 8760-008-002 are: one modified permanent roadway easement, one modified permanent retaining wall easement, one modified permanent footing easement, and one 12-month temporary construction easement that contains modified boundaries (in lieu of, rather than in addition to, the easements originally identified in Resolution of Necessity 13-11 as 204C-PE-1, 204C-RW, 204C-FTG, and 204C-TCE1), as well as the originally identified, and now unaltered permanent roadway easement (204C-PE-2), two utility easements (204C-UE1 and 204C-UE-2), and two temporary construction easements (204C-

TCE-2 and 204C-TCE-3) for which the ACE Board adopted Resolution of Necessity No. 13-11. Said interests are legally described on Exhibits A-1, A-2, A-3, A-4, A-5, A-6, A-7, A-8, and A-9, attached hereto and incorporated herein by this reference ("Property"). The Property is located within the City of Industry, County of Los Angeles, State of California. Maps showing the general location of the Property are attached hereto, marked Exhibits B-1, B-2, B-3, B-4, B-5, B-6, B-7, B-8, and B-9 and are incorporated herein by reference and made a part hereof. The duration of the TCEs sought to be acquired are set forth in Exhibit C, attached hereto and incorporated herein by this reference;

- (d) The Fairway Drive Grade Separation Project is planned and located in a manner that will be most compatible with the greatest public good and least private injury in that it is specifically designed to improve traffic safety and efficiency at the intersection of Fairway Drive/ E. Walnut Drive N. and the Union Pacific Railroad in the City of Industry, County of Los Angeles, State of California.
- (e) The taking of the Property is necessary for the Fairway Drive Grade Separation Project and such taking is authorized by Section 19, Article I of the California Constitution, Sections 6500 et seq., 37350.5, 40401 et seq. and 40404 of the California Government Code, Section 1230.010 et seq., 1240.020 and 1240.410, of the California Code of Civil Procedure, and other applicable law; and
- (f) The offer to purchase required by California Government Code Section 7267.2 has been made to the owner of the Property.
- (g) The necessary notice of hearing on this Resolution has been given, as required by Code of Civil Procedure section 1245.235.
- (h) SGVCOG has fully complied with the California Environmental Quality Act ("CEQA") as the Fairway Drive Grade Separation Project is statutorily exempt pursuant to Public Resources Code section 21080.13.

SECTION 2. SGVCOG Capital Projects and Construction Committee hereby declares that it is its intention to acquire said Property in accordance with the provision of the laws of the State of California governing condemnation procedures.

SECTION 3. SGVCOG Capital Projects and Construction Committee further finds that if any portion of the area of the Property has been appropriated to some public use, the public uses to which it is to be applied by ACE Construction Authority, as described above, are more necessary and paramount public uses, pursuant to Code of Civil Procedure section 1240.610, or alternatively, are compatible with those other uses pursuant to Code of Civil Procedure section 1240.510.

SECTION 4. SGVCOG Capital Projects and Construction Committee Legal Counsel is authorized and directed to prepare, institute and prosecute such amended proceedings in the proper Court having jurisdiction thereof as may be necessary for the acquisition of said Property, including the filing of an application for an Order for Possession prior to judgment.

SECTION 5. This Resolution shall be effective immediately upon its adoption.

SECTION 6. The Clerk of the SGVCOG Capital Projects and Construction Committee shall certify the adoption of this Resolution and certify this record to be a full true, correct copy of the action taken.

PASSED, APPROVED AND ADOPTED this 24th day of September, 2018.

ATTEST:

Deanna Stanley, Clerk

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES)
CITY OF WEST COVINA)

I HEREBY CERTIFY that the foregoing Amended Resolution 13-11 was duly adopted by the San Gabriel Valley Council of Governments, Capital Projects and Construction Committee Meeting at a regular meeting thereof, held on the 24th day of September, 2018, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Deanna Stanley, Clerk

Placeholder

Plat Maps

&

Legal Descriptions

&

Amended Exhibit C

MEMO TO: Capital Projects and Construction Committee Members and Alternates

FROM: Mark Christoffels
Chief Engineer

DATE: September 24, 2018

SUBJECT: Amended Resolution of Necessity for Property Acquisition - No.13-14
Fairway Drive Grade Separation Project
Property Owner: Majestic Realty Co.et al.
19515-19605 East Walnut Drive North, City of Industry, CA
APN: 8760-008-003 and 8760-008-004
ACE Parcel No.: 204S&T

RECOMMENDATION: Staff recommends the SGVCOG Capital Projects and Construction Committee:

1. Conduct a hearing on Amended Resolution 13-14 (an Amendment to Resolution of Necessity 13-14 of the ACE Construction Authority) finding and determining that the public interest, convenience and necessity require amendment to the acquisition of certain property for public purposes; and
2. Review the evidence presented, including this staff report and public comments and close the hearing; and
3. Adopt the attached Amended Resolution 13-14 authorizing the amendment of eminent domain proceedings, and/or other means, so as to acquire: one (1) modified permanent utility easement 25,518 s.f (in lieu of, rather than in addition to, the easements originally identified in Resolution of Necessity 13-14 as 204S&T-UE1 and 204S&T-UE2, respectively), two (2) new 12-month temporary construction easements (204S-TCE1A and 204S-TCE 1B) totaling 11,040 s.f, one (1) new 6-month temporary construction easement (204S&T-TCE2) 43,498 s.f, as well as the originally identified, and now unaltered, one (1) permanent railroad easement (204S&T-RRE) 11,927 s.f, one (1) 12-month temporary construction easement (204S-TCE1) 11,426 s.f, and two (2) 6-month temporary construction easements (204S&T-TCE2A and 204S&T-TCE2B) totaling 41,993 s.f for which the ACE Board adopted Resolution of Necessity No. 13-14. Said interests are legally described on Exhibits A-1, A-2, A-3, A-4, A-5, and A-6, attached hereto and incorporated herein by this reference ("Property") from those certain parcels bearing Los Angeles Assessor Parcel Numbers 8760-008-003 and 8760-008-

004. The durations of the TCEs referenced above shall commence no sooner than 30 days after the SGVCOG Capital Projects and Construction Committee, formerly known as the ACE Construction Authority mails a written Notice of Commencement of TCE. (Note: This requires an affirmative TWO-THIRDS (2/3) vote of the SGVCOG Capital Projects and Construction Committee).

BACKGROUND: The SGVCOG Capital Projects and Construction Committee and the formerly constituted Alameda Corridor East Construction Authority was formed pursuant to the California Joint Powers law (Govt. Code section 6500 et seq.) for purposes of implementing the Alameda Corridor East ("ACE Project"). The ACE Project is a multi-phase project that will improve the safety and efficiency of railroad crossings from Los Angeles, east to San Bernardino County to mitigate some of the impacts created by increased rail traffic from the Ports of Long Beach and Los Angeles.

Included in the ACE Project is a grade separation of Fairway Drive/E. Walnut Drive N. ("Fairway Drive Grade Separation Project") in the City of Industry, County of Los Angeles from the Union Pacific Railroad right-of-way, which will eliminate current and future long delays of traffic at the crossing. The Fairway Drive Grade Separation Project is statutorily exempt from CEQA pursuant to Public Resources Code section 21080.13. In order to accommodate the grade separation at Fairway Drive/E. Walnut Drive N., one (1) permanent railroad easement, two (2) permanent utility easements, and one (1) 12-month temporary construction easement and two (2) 6-month temporary construction easements, were originally required from those certain parcels bearing Los Angeles Assessor Parcel Numbers 8760-008-003 and 8760-008-004.

The property identified in the original ACE Resolution 13-14 was owned by Majestic Realty Co. and Industrial Park E Sub B and Industrial Park E I-B, LLC. ("The Majestic Owners"). The Larger Parcel is 522,450 s.f, and is improved with single-tenant industrial building built in 1979, with a gross square footage of approximately 361,670 s.f. The site includes asphalt paved loading areas, chain link fencing, a rail spur and rail car loading, freeway visible sign and miscellaneous landscaping.

Pursuant to California Government Code sections 6500 et seq., 7267.2, 37350.5, and 40401 et seq. and 40404, and California Code of Civil Procedure Section 1230.010 et seq., 1240.410 and 1240.020, and Section 19, Article I of the California Constitution, and other authorities, the ACE Construction Authority is authorized to acquire the subject property in part or whole by eminent domain, provided certain procedural steps are followed.

ACE staff tendered an offer to purchase to the Majestic Owners in the amount of \$592,800 on September 25, 2013 for the originally identified easements. But, with an

agreement not having been reached, the Board adopted a Resolution of Necessity for acquisition of the originally identified easements, on October 28, 2013, and Eminent Domain proceedings were commenced on November 12, 2013, ACE having made all necessary findings and having met all statutory prerequisites thereto. (The property interests in Resolution 13-14 were combined with those in ACE Resolutions 13-11, 13-15, and 13-16 for Eminent Domain filing purposes due to proximity and common ownership of the parcels.)

During construction of the Project, the Majestic Owners discovered that the Project design assumed a disconnected rail spur on the parcel was abandoned and requested that ACE revise the Project design to allow for future reconnection of the rail spur in question. ACE engineers were able to modify the design and obtain approval from UPRR to accommodate reconnection of the spur track. Accordingly, with the project redesign, modified and additional right-of-way requirements are necessary. Therefore, SGVCOG, the Majestic Owners, their successor owners (the Larger Parcel was sold by Majestic Realty Co. in 2017), and the sole tenant on the property, Furniture of American Corporation ("FoAC") have entered into a Stipulation (attached hereto as Exhibit 1) whereby they agree that: a request would be made to SGVCOG's Governing Board at its first available public meeting to consider adoption of an Amended Resolution of Necessity ("Amended RON") for: one (1) modified permanent utility easement (in lieu of, rather than in addition to, the easements originally identified in Resolution of Necessity 13-14 as 204S&T-UE1 and 204S&T-UE2, respectively), two (2) new 12-month temporary construction easements (204S-TCE1A and 204S-TCE 1B), one (1) new 6-month temporary construction easement (204S&T-TCE2), as well as the originally identified, and now unaltered, one (1) permanent railroad easement (204S&T-RRE), one (1) 12-month temporary construction easement (204S-TCE1), and two (2) 6-month temporary construction easements (204S&T-TCE2A and 204S&T-TCE2B) for which the ACE Board adopted Resolution of Necessity No. 13-14. Said interests are legally described on Exhibits A-1, A-2, A-3, A-4, A-5, and A-6 attached hereto and incorporated herein by this reference ("Property") from those certain parcels bearing Los Angeles Assessor Parcel Numbers 8760-008-003 and 8760-008-004 for the above-stated public use.

By way of the stipulation attached hereto as Exhibit 1, Majestic Owners, the Successor Owners and FoAC waive further notice of the hearing on the proposed Amended RON and stipulate that all requirements necessary for consideration of adoption of the Amended RON had been satisfied, including those matters in Article 2 of the Eminent Domain Law and those matters related to a statutory offer as set forth in Government Code section 7267.2. The Majestic Owners, the Successor Owners, and FoAC further stipulated that if SGVCOG's Governing Board approves the request and adopts an Amended RON for the taking of the revised easements affecting Assessor Parcel Nos.

8760-008-003 and 8760-008-004 ("Subject Property"), that said modified taking is necessary for the Project, that the public interest and necessity require the Project, and 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.

The parties agree that if SGVCOG's Governing Board approves the request and adopts an Amended RON to modify the taking of portions of the property, a First Amended Complaint in Eminent Domain, supported by the Amended RON shall be filed.

After conducting the public hearing, if the SGVCOG Capital Projects and Construction Committee finds that the public necessity so requires, the SGVCOG Capital Projects and Construction Committee should adopt the attached Amended Resolution of Necessity 13-14, authorizing amendment of condemnation proceedings for the purpose of acquiring the modified property which interest are described in Resolution 13-14.

The findings, which need to be made, are as set forth in the Resolution of Necessity. Specifically, the SGVCOG Capital Projects and Construction Committee must find:

1. That the public interest, convenience and necessity require the acquisition of the proposed project. As proposed, the Fairway Drive Grade Separation Project will serve public purposes, as discussed above; and
2. That the Fairway Drive Grade Separation Project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury. As set forth above, the Property is being acquired to improve the safety and efficiency of the rail crossing by constructing a grade separation at Fairway Drive/E. Walnut Drive N. The original 1997 San Gabriel Valley Council of Governments study looked at alternatives to an underpass and different grade separation configurations to identify any overall project cost and real estate impact reductions. Subsequently, as the design of the project began, ACE staff evaluated alternative configurations in greater detail. Additionally, ACE conducted an Engineering Value Analysis workshop that engaged stakeholders and technical experts to analyze and vet the various design scenarios. The no build alternative was examined through the project ranking process described in the 1997 report. Fairway Drive is a primary arterial street, serving multiple residential and commercial areas. The Fairway Drive Grade Separation project constructed as an underpass will eliminate the possibility of train—vehicle collisions at this location and the effect of stopped and moving trains on vehicular traffic capacity; and in order to build such an underpass with the least private injury, several easements should now be modified and added to complete the Project; and

3. That the amended property interests sought to be acquired are necessary for the Fairway Drive Grade Separation Project. From the subject property it is necessary to acquire: one (1) permanent railroad easement, one (1) permanent utility easement, one (1) 12-month temporary construction easement, two (2) 6-month temporary construction easements, as well as two (2) new 12-month temporary construction easements and one (1) new 6-month temporary construction easement. Without the acquisition of the various amended permanent easements, new temporary construction easements and original temporary construction easements as included in Exhibit 2 attached hereto, the proposed Fairway Drive Grade Separation Project cannot be completed; and
4. That SGVCOG has complied with CEQA. The Fairway Drive Grade Separation Project is statutorily exempt pursuant to Public Resources Code section 21080.13. The Legislature created an absolute exemption for railroad grade separations via Public Resources Code § 21080.13, which provides that CEQA “does not apply to any railroad grade separation project which eliminates an existing grade crossing, or which reconstructs an existing grade separation.” Cal. Pub. Res. Code § 21080.13. The Fairway Drive Grade Separation Project eliminates an existing grade crossing. Based upon § 21080.13, the Fairway Drive Grade Separation Project is therefore exempt from CEQA review. Since the Fairway Drive Grade Separation is exempt from CEQA, no environmental review is necessary, and it may be implemented without any CEQA compliance whatsoever.

Questions relating to value are not relevant to this proceeding. However, that does not mean that negotiations for the acquisition of the property interests are at an end. If the SCVCOG Capital Improvements and Construction Committee adopts the Amended Resolution of Necessity, after the hearing, negotiations for the acquisition of the property interests may continue to take place.

BUDGET IMPACT: Funds for the acquisition of this property are available from MTA Measure R and Proposition C funds and are included in the Authority’s FY 2019 budget.

ATTACHMENTS

Exhibit 1- Stipulation re: Scope of Take and Transfer of Possession (*See page 12 of this agenda*)

Exhibit 2- Amended Resolution of Necessity No. 13-14 with Exhibits

AMENDED RESOLUTION NO. 13-14

**A RESOLUTION OF THE SAN GABRIEL
VALLEY COUNCIL OF GOVERNMENTS IN
FURTHERANCE OF THE ALAMEDA
CORRIDOR-EAST CONSTRUCTION PROJECT
FINDING AND DETERMINING THAT THE
PUBLIC INTEREST, CONVENIENCE AND
NECESSITY REQUIRE AN AMENDMENT TO
THE ACQUISITION OF CERTAIN PROPERTY
FOR PUBLIC PURPOSES**

**THE ALAMEDA CORRIDOR EAST – GATEWAY TO AMERICA CONSTRUCTION
AUTHORITY DOES HEREBY RESOLVE AS FOLLOWS:**

SECTION 1. The San Gabriel Valley Council of Governments, in furtherance of the Alameda Corridor East Construction Project (hereafter "SGVCOG"), formerly known as the Alameda Corridor East -- Gateway to America Construction Authority on behalf of the San Gabriel Valley Council of Governments (known as "ACE"), after consideration of the staff report, staff presentation, discussion, oral testimony and evidence presented at SGVCOG's Capital Projects and Construction Committee Meeting on Monday, September 24, 2018, at 12 p.m. hereby finds, determines and declares as follows:

- (a) The San Gabriel Valley Council of Governments, in furtherance of the Alameda Corridor East Construction Project is authorized by statute and pursuant to that certain Joint Powers Agreement dated September 17, 1998, as amended, to acquire property by eminent domain within the City of Industry, County of Los Angeles, State of California for the Alameda Corridor-East Project ("ACE Project"); and
- (b) The public interest, convenience and necessity require the proposed Fairway Drive Grade Separation Project in the City of Industry, County of Los Angeles, State of California as part of said Fairway Drive Grade Separation Project, which includes railroad crossing safety and efficiency improvements, and all uses appurtenant thereto intended to partially mitigate the impacts of increased rail traffic from the completed Alameda Corridor on motor vehicle traffic; and
- (c) The interests in real property to be acquired from those certain parcels bearing Los Angeles County Assessor Parcel Nos. 8760-008-003 and 8760-008-004 are: one modified permanent utility easement (in lieu of 204S&T-UE1 as adopted in ACE Resolution of Necessity 13-14), and two new 12-month temporary construction easements (204S-TCE1A and 204S-TCE1B) as well one new 6-month temporary construction easement (204S&T-TCE2) in addition to the TCEs originally identified in Resolution of Necessity 13-14, as well as the originally identified, and now unaltered permanent railroad easement (204S&T-RRE), one utility easement (204S&T-UE-2), and three temporary construction easements (204S-TCE1 (for 12

months) and 204S&T-TCE2A and 204S&T-TCE2B (for 6 months each) for which the ACE Board adopted Resolution of Necessity No. 13-14. Said interests are legally described on Exhibits A-1, A-2, A-3, A-4, A-5, A-6, and A-7 attached hereto and incorporated herein by this reference ("Property"). The Property is located within the City of Industry, County of Los Angeles, State of California. Maps showing the general location of the Property are attached hereto, marked Exhibits B-1, B-2, B-3, B-4, B-5, B-6, and B-7 and are incorporated herein by reference and made a part hereof. The duration of the TCEs sought to be acquired are set forth in Exhibit C, attached hereto and incorporated herein by this reference;

- (d) The Fairway Drive Grade Separation Project is planned and located in a manner that will be most compatible with the greatest public good and least private injury in that it is specifically designed to improve traffic safety and efficiency at the intersection of Fairway Drive/E. Walnut Drive N. and the Union Pacific Railroad in the City of Industry, County of Los Angeles, State of California.
- (e) The taking of the Property is necessary for the Fairway Drive Grade Separation Project and such taking is authorized by Section 19, Article I of the California Constitution, Sections 6500 et seq., 37350.5, 40401 et seq. and 40404 of the California Government Code, Section 1230.010 et seq., 1240.020 and 1240.410, of the California Code of Civil Procedure, and other applicable law; and
- (f) The offer to purchase required by California Government Code Section 7267.2 has been made to the owner of the Property.
- (g) The necessary notice of hearing on this Resolution has been given, as required by Code of Civil Procedure section 1245.235.
- (h) SGVCOG has fully complied with the California Environmental Quality Act ("CEQA") as the Fairway Drive Grade Separation Project is statutorily exempt pursuant to Public Resources Code section 21080.13.

SECTION 2. SGVCOG Capital Projects and Construction Committee hereby declares that it is its intention to acquire said Property in accordance with the provision of the laws of the State of California governing condemnation procedures.

SECTION 3. SGVCOG Capital Projects and Construction Committee further finds that if any portion of the area of the Property has been appropriated to some public use, the public uses to which it is to be applied by ACE Construction Authority, as described above, are more necessary and paramount public uses, pursuant to Code of Civil Procedure section 1240.610, or alternatively, are compatible with those other uses pursuant to Code of Civil Procedure section 1240.510.

SECTION 4. SGVCOG Capital Projects and Construction Committee Legal Counsel is authorized and directed to prepare, institute and prosecute such amended proceedings in the proper Court having jurisdiction thereof as may be necessary for the acquisition of said Property, including the filing of an application for an Order for Possession prior to judgment.

SECTION 5. This Resolution shall be effective immediately upon its adoption.

SECTION 6. The Clerk of the SGVCOG Capital Projects and Construction Committee shall certify the adoption of this Resolution and certify this record to be a full true, correct copy of the action taken.

PASSED, APPROVED AND ADOPTED this 24th day of September, 2018.

ATTEST:

Deanna Stanley, Clerk

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES)
CITY OF WEST COVINA)

I HEREBY CERTIFY that the foregoing Amended Resolution 13-14 was duly adopted by the San Gabriel Valley Council of Governments, Capital Projects and Construction Committee Meeting at a regular meeting thereof, held on the 24th day of September, 2018, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Deanna Stanley, Clerk

Placeholder

Plat Maps

&

Legal Descriptions

&

Amended Exhibit C

MEMO TO: Capital Projects and Construction Committee Members and Alternates

FROM: Mark Christoffels
Chief Engineer

DATE: September 24, 2018

SUBJECT: Amended Resolution of Necessity for Property Acquisition - No.13-15
Fairway Drive Grade Separation Project
Property Owner: Majestic Realty Co.et al.
19445-19485 East Walnut Drive North, City of Industry, CA
APN: 8760-008-005 and 8760-008-006
ACE Parcel No.: 204U&V

RECOMMENDATION: Staff recommends the SGVCOG Capital Projects and Construction Committee:

1. Conduct a hearing on Amended Resolution 13-15 (an Amendment to Resolution of Necessity 13-15 of the ACE Construction Authority) finding and determining that the public interest, convenience and necessity require amendment to the acquisition of certain property for public purposes; and
2. Review the evidence presented, including this staff report and public comments and close the hearing; and
3. Adopt the attached Amended Resolution 13-15 authorizing the amendment of eminent domain proceedings, and/or other means, so as to acquire: one (1) modified permanent railroad easement 17,513 s.f, one (1) modified permanent utility easement 25,375 s.f (in lieu of, rather than in addition to, the easements originally identified in Resolution of Necessity 13-15 as 204U&V-RRE and 204U&V-UE, respectively), as well as the three (3) originally identified, and now unaltered, 24-month temporary construction easements (204U&V-TCE1, 204U&V-TCE2 and 204U&V-TCE3) totaling 11,477 s.f for which the ACE Board adopted Resolution of Necessity No. 13-15. Said interests are legally described on Exhibits A-1, A-2, and A-3, attached hereto and incorporated herein by this reference ("Property") from those certain parcels bearing Los Angeles Assessor Parcel Numbers 8760-008-005 and 8760-008-006. The durations of the TCEs referenced above shall commence no sooner than 30 days after the ACE Construction Authority mails a written Notice of Commencement of TCE. (Note: This requires an affirmative TWO-THIRDS (2/3) vote of the SGVCOG Capital Projects and Construction Committee).

BACKGROUND: The SGVCOG Capital Projects and Construction Committee and the formerly constituted Alameda Corridor East Construction Authority was formed pursuant to the California Joint Powers law (Govt. Code section 6500 et seq.) for purposes of implementing the Alameda Corridor East ("ACE Project"). The ACE Project is a multi-phase project that will improve the safety and efficiency of railroad crossings from Los Angeles, east to San Bernardino County to mitigate some of the impacts created by increased rail traffic from the Ports of Long Beach and Los Angeles.

Included in the ACE Project is a grade separation of Fairway Drive/E. Walnut Drive N. ("Fairway Drive Grade Separation Project") in the City of Industry, County of Los Angeles from the Union Pacific Railroad right-of-way, which will eliminate current and future long delays of traffic at the crossing. The Fairway Drive Grade Separation Project is statutorily exempt from CEQA pursuant to Public Resources Code section 21080.13. In order to accommodate the grade separation at Fairway Drive/E. Walnut Drive N., one (1) permanent railway easement, one (1) permanent utility easement, and three (3) 24-month temporary construction easements, were originally required from those certain parcels bearing Los Angeles Assessor Parcel Numbers 8760-008-005 and 8760-008-006.

The property identified in the original ACE Resolution 13-15 was owned by Majestic Realty Co. and Industrial Park E Sub B and Industrial Park E I-B, LLC. ("The Majestic Owners"). The Larger Parcel is 609,798 s.f, and is improved with two dual-tenant industrial buildings built in 1979, with a gross square footage of approximately 376,560s.f. The site includes asphalt paved loading areas, chain link fencing, a rail spur and rail car loading, freeway visible sign and miscellaneous landscaping.

Pursuant to California Government Code sections 6500 et seq., 7267.2, 37350.5, and 40401 et seq. and 40404, and California Code of Civil Procedure Section 1230.010 et seq., 1240.410 and 1240.020, and Section 19, Article I of the California Constitution, and other authorities, the ACE Construction Authority is authorized to acquire the subject property in part or whole by eminent domain, provided certain procedural steps are followed.

ACE staff tendered an offer to purchase to the Majestic Owners in the amount of \$449,650 on September 25, 2013 for the originally identified easements. But, with an agreement not having been reached, the Board adopted a Resolution of Necessity for acquisition of the originally identified easements, on October 28, 2013, and Eminent Domain proceedings were commenced on November 12, 2013, ACE having made all necessary findings and having met all statutory prerequisites thereto. (The property interests in Resolution 13-15 were combined with those in ACE Resolutions 13-11, 13-14, and 13-16

for Eminent Domain filing purposes due to proximity and common ownership of the parcels.)

During construction of the Project, the Majestic Owners discovered that the Project design assumed a disconnected rail spur on the parcel was abandoned, and requested that ACE revise the Project design to allow for future reconnection of the rail spur in question. ACE engineers were able to modify the design and obtain approval from UPRR to accommodate reconnection of the spur track. Accordingly, with the project redesign modified right-of-way requirements are necessary. Therefore, SGVCOG, the Majestic Owners, their successor owners (the larger parcel was sold by Majestic Realty Co. in 2017), and the sole tenant on the property, Furniture of American Corporation ("FoAC") have entered into a Stipulation (attached hereto as Exhibit 1) whereby they agree that: a request would be made to SGVCOG's Governing Board at its first available public meeting to consider adoption of an Amended Resolution of Necessity ("Amended RON") for: one (1) modified permanent railroad easement, one (1) modified permanent utility easement, (in lieu of, rather than in addition to, the easements originally identified in Resolution of Necessity 13-15 as 204U&V-RRE and 204U&V-UE, respectively), as well as the three (3) originally identified, and now unaltered, 24-month temporary construction easements (204U&V-TCE1, 204U&V-TCE2 and 204V&V-TCE3) for which the ACE Board adopted Resolution of Necessity No. 13-15. Said interests are legally described on Exhibits A-1, A-2, and A-3, attached hereto and incorporated herein by this reference ("Property") from those certain parcels bearing Los Angeles Assessor Parcel Numbers 8760-008-005 and 8760-008-006 for the above-stated public use.

By way of the stipulation attached hereto as Exhibit 1, Majestic Owners, the Successor Owners and FoAC waive further notice of the hearing on the proposed Amended RON and stipulate that all requirements necessary for consideration of adoption of the Amended RON had been satisfied, including those matters in Article 2 of the Eminent Domain Law and those matters related to a statutory offer as set forth in Government Code section 7267.2. The Majestic Owners, the Successor Owners, and FoAC further stipulate that if SGVCOG's Governing Board approves the request and adopts an Amended RON for the taking of the revised easements affecting Assessor Parcel Nos. 8760-008-005 and 8760-008-006 ("Subject Property"), that said modified taking is necessary for the Project, that the public interest and necessity require the Project, and 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.

The parties agreed that if SGVCOG's Governing Board approves the request and adopts an Amended RON to modify the taking of portions of the property, a First Amended Complaint in Eminent Domain, supported by the Amended RON shall be filed.

After conducting the public hearing, if the SGVCOG Capital Projects and Construction Committee finds that the public necessity so requires, the SGVCOG Capital Projects and Construction Committee should adopt the attached Amended Resolution of Necessity 13-15, authorizing amendment of condemnation proceedings for the purpose of acquiring the modified property which interest are described in Resolution 13-15.

The findings, which need to be made, are as set forth in the Resolution of Necessity. Specifically, the SGVCOG Capital Projects and Construction Committee must find:

1. That the public interest, convenience and necessity require the acquisition of the proposed project. As proposed, the Fairway Drive Grade Separation Project will serve public purposes, as discussed above; and
2. That the Fairway Drive Grade Separation Project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury. As set forth above, the Property is being acquired to improve the safety and efficiency of the rail crossing by constructing a grade separation at Fairway Drive/E. Walnut Drive N. The original 1997 San Gabriel Valley Council of Governments study looked at alternatives to an underpass and different grade separation configurations to identify any overall project cost and real estate impact reductions. Subsequently, as the design of the project began, ACE staff evaluated alternative configurations in greater detail. Additionally, ACE conducted an Engineering Value Analysis workshop that engaged stakeholders and technical experts to analyze and vet the various design scenarios. The no build alternative was examined through the project ranking process described in the 1997 report. Fairway Drive is a primary arterial street, serving multiple residential and commercial areas. The Fairway Drive Grade Separation project constructed as an underpass will eliminate the possibility of train—vehicle collisions at this location and the effect of stopped and moving trains on vehicular traffic capacity; and in order to build such an underpass with the least private injury several easements should now be modified; and
3. That the amended property interests sought to be acquired are necessary for the Fairway Drive Grade Separation Project. From the subject property it is necessary to acquire: one (1) permanent railroad easement, one (1) permanent utility easement, and three (3) 24-month temporary construction easements. Without the acquisition of the various amended permanent easements, and original temporary construction easements as included in Exhibit 2 attached hereto, the proposed Fairway Drive Grade Separation Project cannot be completed; and

4. That SGVCOG has complied with CEQA. The Fairway Drive Grade Separation Project is statutorily exempt pursuant to Public Resources Code section 21080.13. The Legislature created an absolute exemption for railroad grade separations via Public Resources Code § 21080.13, which provides that CEQA “does not apply to any railroad grade separation project which eliminates an existing grade crossing, or which reconstructs an existing grade separation.” Cal. Pub. Res. Code § 21080.13. The Fairway Drive Grade Separation Project eliminates an existing grade crossing. Based upon § 21080.13, the Fairway Drive Grade Separation Project is therefore exempt from CEQA review. Since the Fairway Drive Grade Separation is exempt from CEQA, no environmental review is necessary, and it may be implemented without any CEQA compliance whatsoever.

Questions relating to value are not relevant to this proceeding. However, that does not mean that negotiations for the acquisition of the property interests are at an end. If the SGVCOG Capital Projects and Construction Committee adopts the Amended Resolution of Necessity, after the hearing, negotiations for the acquisition of the property interests may continue to take place.

BUDGET IMPACT: Funds for the acquisition of this property are available from MTA Measure R and Proposition C funds and are included in the Agency’s FY 2019 budget.

ATTACHMENTS

Exhibit 1- Stipulation re: Scope of Take and Transfer of Possession (*See page 12 of this agenda*)

Exhibit 2- Amended Resolution of Necessity No. 13-15with Exhibits

AMENDED RESOLUTION NO. 13-15

**A RESOLUTION OF THE SAN GABRIEL
VALLEY COUNCIL OF GOVERNMENTS IN
FURTHERANCE OF THE ALAMEDA
CORRIDOR-EAST CONSTRUCTION PROJECT
FINDING AND DETERMINING THAT THE
PUBLIC INTEREST, CONVENIENCE AND
NECESSITY REQUIRE AN AMENDMENT TO
THE ACQUISITION OF CERTAIN PROPERTY
FOR PUBLIC PURPOSES**

**THE ALAMEDA CORRIDOR EAST – GATEWAY TO AMERICA CONSTRUCTION
AUTHORITY DOES HEREBY RESOLVE AS FOLLOWS:**

SECTION 1. The San Gabriel Valley Council of Governments, in furtherance of the Alameda Corridor East Construction Project (hereafter "SGVCOG"), formerly known as the Alameda Corridor East -- Gateway to America Construction Authority on behalf of the San Gabriel Valley Council of Governments (known as "ACE"), after consideration of the staff report, staff presentation, discussion, oral testimony and evidence presented at SGVCOG's Capital Projects and Construction Committee Meeting on Monday, September 24, 2018, at 12 p.m. hereby finds, determines and declares as follows:

- (a) The San Gabriel Valley Council of Governments, in furtherance of the Alameda Corridor East Construction Project is authorized by statute and pursuant to that certain Joint Powers Agreement dated September 17, 1998, as amended, to acquire property by eminent domain within the City of Industry, County of Los Angeles, State of California for the Alameda Corridor-East Project ("ACE Project"); and
- (b) The public interest, convenience and necessity require the proposed Fairway Drive Grade Separation Project in the City of Industry, County of Los Angeles, State of California as part of said Fairway Drive Grade Separation Project, which includes railroad crossing safety and efficiency improvements, and all uses appurtenant thereto intended to partially mitigate the impacts of increased rail traffic from the completed Alameda Corridor on motor vehicle traffic; and
- (c) The interests in real property to be acquired from that certain parcel bearing Los Angeles County Assessor Parcel Nos. 8760-008-005 and 8760-008-006 are: one modified permanent railroad easement, one modified permanent utility easement, (in lieu of, rather than in addition to, the easements originally identified in Resolution of Necessity 13-15 as 204U&V-RRE and 204U&V-UE, respectively), as well as the three originally identified, and now unaltered, 24-month temporary construction easements (204U&V-TCE1, 204U&V-TCE2 and 204V&V-TCE3) for which the ACE Board adopted Resolution of Necessity No. 13-15. Said interests

are legally described on Exhibits A-1, A-2, and A-3, attached hereto and incorporated herein by this reference ("Property"). The Property is located within the City of Industry, County of Los Angeles, State of California. Maps showing the general location of the Property are attached hereto, marked Exhibits B-1, B-2, and B-3 and are incorporated herein by reference and made a part hereof. The duration of the TCEs sought to be acquired are set forth in Exhibit C, attached hereto and incorporated herein by this reference;

- (d) The Fairway Drive Grade Separation Project is planned and located in a manner that will be most compatible with the greatest public good and least private injury in that it is specifically designed to improve traffic safety and efficiency at the intersection of Fairway Drive/ E. Walnut Drive N. and the Union Pacific Railroad in the City of Industry, County of Los Angeles, State of California.
- (e) The taking of the Property is necessary for the Fairway Drive Grade Separation Project and such taking is authorized by Section 19, Article I of the California Constitution, Sections 6500 et seq., 37350.5, 40401 et seq. and 40404 of the California Government Code, Section 1230.010 et seq., 1240.020 and 1240.410, of the California Code of Civil Procedure, and other applicable law; and
- (f) The offer to purchase required by California Government Code Section 7267.2 has been made to the owner of the Property.
- (g) The necessary notice of hearing on this Resolution has been given, as required by Code of Civil Procedure section 1245.235.
- (h) SGVCOG has fully complied with the California Environmental Quality Act ("CEQA") as the Fairway Drive Grade Separation Project is statutorily exempt pursuant to Public Resources Code section 21080.13.

SECTION 2. SGVCOG Capital Projects and Construction Committee hereby declares that it is its intention to acquire said Property in accordance with the provision of the laws of the State of California governing condemnation procedures.

SECTION 3. SGVCOG Capital Projects and Construction Committee further finds that if any portion of the area of the Property has been appropriated to some public use, the public uses to which it is to be applied by ACE Construction Authority, as described above, are more necessary and paramount public uses, pursuant to Code of Civil Procedure section 1240.610, or alternatively, are compatible with those other uses pursuant to Code of Civil Procedure section 1240.510.

SECTION 4. SGVCOG Capital Projects and Construction Committee Legal Counsel is authorized and directed to prepare, institute and prosecute such amended proceedings in the proper Court having jurisdiction thereof as may be necessary for the acquisition of said Property, including the filing of an application for an Order for Possession prior to judgment.

SECTION 5. This Resolution shall be effective immediately upon its adoption.

SECTION 6. The Clerk of the ACE Construction Authority shall certify the adoption of this Resolution and certify this record to be a full true, correct copy of the action taken.

PASSED, APPROVED AND ADOPTED this 24th day of September, 2018.

ATTEST:

Deanna Stanley, Clerk

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES)
CITY OF WEST COVINA)

I HEREBY CERTIFY that the foregoing Amended Resolution 13-15 was duly adopted by the San Gabriel Valley Council of Governments, Capital Projects and Construction Committee Meeting at a regular meeting thereof, held on the 24th day of September, 2018, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Deanna Stanley, Clerk

Placeholder

Plat Maps

&

Legal Descriptions

&

Exhibit C from RON 13-15



MEMO TO: Capital Projects and Construction Committee Members and Alternates

FROM: Mark Christoffels
Chief Engineer

DATE: September 24, 2018

SUBJECT: Amended Resolution of Necessity for Property Acquisition - No.13-16
Fairway Drive Grade Separation Project
Property Owner: Majestic Realty Co.et al.
19285-19395 East Walnut Drive North, City of Industry, CA
APN: 8760-002-014
ACE Parcel No.: 204W

RECOMMENDATION: Staff recommends the SGVCOG Capital Projects and Construction Committee:

1. Conduct a hearing on Amended Resolution 13-16 (an Amendment to Resolution of Necessity 13-16 of the ACE Construction Authority) finding and determining that the public interest, convenience and necessity require amendment to the acquisition of certain property for public purposes; and
2. Review the evidence presented, including this staff report and public comments and close the hearing; and
3. Adopt the attached Amended Resolution 13-16 authorizing the amendment of eminent domain proceedings, and/or other means, so as to acquire: two (2) new permanent railroad easements (204W-RRE-1A and 204W-RRE-1B) 1,907 s.f and 3,012 s.f, respectively, one (1) new 24-month temporary construction easement (204W-TCE1 (dated 2018)) 285 s.f, one (1) modified permanent utility easement 7,255 s.f, (in lieu of, rather than in addition to, the easements originally identified in Resolution of Necessity 13-16 as 204W-UE-1, and 204W-UE-2, respectively), as well as the three (3) originally identified, and now unaltered, 12-month temporary construction easements (204W-TCE1, 204W-TCE2 and 204W-TCE3) totaling 6,424 s.f for which the ACE Board adopted Resolution of Necessity No. 13-16. The durations of the TCEs referenced above shall commence no sooner than 30 days after the ACE Construction Authority mails a written Notice of Commencement of TCE. (Note: This requires an affirmative TWO-THIRDS (2/3) vote of the SGVCOG Capital Projects and Construction Committee).

BACKGROUND: The SGVCOG Capital Projects and Construction Committee and the formerly constituted Alameda Corridor East Construction Authority was formed pursuant to the California Joint Powers law (Govt. Code section 6500 et seq.) for purposes of implementing the Alameda Corridor East ("ACE Project"). The ACE Project is a multi-phase project that will improve the safety and efficiency of railroad crossings from Los Angeles, east to San Bernardino County to mitigate some of the impacts created by increased rail traffic from the Ports of Long Beach and Los Angeles.

Included in the ACE Project is a grade separation of Fairway Drive/E. Walnut Drive N. ("Fairway Drive Grade Separation Project") in the City of Industry, County of Los Angeles from the Union Pacific Railroad right-of-way, which will eliminate current and future long delays of traffic at the crossing. The Fairway Drive Grade Separation Project is statutorily exempt from CEQA pursuant to Public Resources Code section 21080.13. In order to accommodate the grade separation at Fairway Drive/E. Walnut Drive N., one (1) permanent utility easement and three (3) 24-month temporary construction easements were originally required from that certain parcel bearing Los Angeles Assessor Parcel Number 8760-002-014.

The property identified in the original ACE Resolution 13-16 was owned by Majestic Realty Co. and Industrial Park E Sub B, LLC and Industrial Park E I-B, LLC, et al. ("The Majestic Owners"). The larger parcel is 936,634 s.f, and is improved with three industrial buildings built in 1981, with a gross square footage of approximately 453,497 s.f. The site includes asphalt paved parking areas, exterior lighting, cement paved loading areas, chain link fencing, a rail spur and rail car loading, freeway visible sign and miscellaneous landscaping.

Pursuant to California Government Code sections 6500 et seq., 7267.2, 37350.5, and 40401 et seq. and 40404, and California Code of Civil Procedure Section 1230.010 et seq., 1240.410 and 1240.020, and Section 19, Article I of the California Constitution, and other authorities, the ACE Construction Authority is authorized to acquire the subject property in part or whole by eminent domain, provided certain procedural steps are followed.

ACE staff tendered an offer to purchase to the Majestic Owners in the amount of \$36,650 on September 25, 2013 for the originally identified easements. But, with an agreement not having been reached, the Board adopted a Resolution of Necessity for acquisition of the originally identified easements, on October 28, 2013, and Eminent Domain proceedings were commenced on November 12, 2013, ACE having made all necessary findings and having met all statutory prerequisites thereto. (The property interests in Resolution 13-16 were combined with those in ACE Resolutions 13-11, 13-14,

and 13-15 for Eminent Domain filing purposes due to proximity and common ownership of the parcels.)

During construction of the Project, the Majestic Owners discovered that the Project design assumed a disconnected rail spur on the parcel was abandoned, and requested that ACE revise the Project design to allow for future reconnection of the rail spur in question. ACE engineers were able to modify the design and obtain approval from UPRR to accommodate reconnection of the spur track. Accordingly, with the project redesign, the right-of-way requirements were modified. Therefore, SGVCOG, the Majestic Owners, and their successor owners (the Larger Parcel was sold by Majestic Realty Co. in 2017), have entered into a Stipulation (attached hereto as Exhibit 1) whereby they agree that: a request would be made to SGVCOG's Governing Board at its first available public meeting to consider adoption of an Amended Resolution of Necessity ("Amended RON") for: two (2) new permanent railroad easements (204W-RRE-1A and 204W-RRE-1B), one (1) new 12-month temporary construction easement (204W-TCE1 (dated 2018)), one (1) modified permanent utility easement, (in lieu of, rather than in addition to, the easements originally identified in Resolution of Necessity 13-16 as 204W-UE-1, and 204W-UE-2, respectively), as well as the three (3) originally identified, and now unaltered, and 24-month temporary construction easements (204W-TCE1, 204W-TCE2 and 204W-TCE3) for which the ACE Board adopted Resolution of Necessity No. 13-16. Said interests are legally described on Exhibits A-1, A-2, A-3 and, A-4 attached hereto and incorporated herein by this reference ("Property") from those certain parcels bearing Los Angeles Assessor Parcel Number 8760-002-014 for the above-stated public use.

By way of the stipulation attached hereto as Exhibit 1, Majestic Owners, and the Successor Owners waive further notice of the hearing on the proposed Amended RON and stipulate that all requirements necessary for consideration of adoption of the Amended RON had been satisfied, including those matters in Article 2 of the Eminent Domain Law and those matters related to a statutory offer as set forth in Government Code section 7267.2. The Majestic Owners and the Successor Owners further stipulate that if SGVCOG's Governing Board approves the request and adopts an Amended RON for the taking of the revised easements affecting Assessor Parcel No. 8760-002-014 ("Subject Property"), that said modified taking is necessary for the Project, that the public interest and necessity require the Project, and 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.

The parties agree that if SGVCOG's Governing Board approves the request and adopts an Amended RON to modify the taking of portions of the property, a First Amended Complaint in Eminent Domain, supported by the Amended RON shall be filed.

After conducting the public hearing, if the SGVCOG Capital Projects and Construction Committee finds that the public necessity so requires, the SGVCOG Capital Projects and Construction Committee should adopt the attached Amended Resolution of Necessity 13-16, authorizing amendment of condemnation proceedings for the purpose of acquiring the modified property which interest are described in Resolution 13-16.

The findings, which need to be made, are as set forth in the Resolution of Necessity. Specifically, the SGVCOG Capital Projects and Construction Committee must find:

1. That the public interest, convenience and necessity require the acquisition of the proposed project. As proposed, the Fairway Drive Grade Separation Project will serve public purposes, as discussed above; and
2. That the Fairway Drive Grade Separation Project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury. As set forth above, the Property is being acquired to improve the safety and efficiency of the rail crossing by constructing a grade separation at Fairway Drive/E. Walnut Drive N. The original 1997 San Gabriel Valley Council of Governments study looked at alternatives to an underpass and different grade separation configurations to identify any overall project cost and real estate impact reductions. Subsequently, as the design of the project began, ACE staff evaluated alternative configurations in greater detail. Additionally, ACE conducted an Engineering Value Analysis workshop that engaged stakeholders and technical experts to analyze and vet the various design scenarios. The no build alternative was examined through the project ranking process described in the 1997 report. Fairway Drive is a primary arterial street, serving multiple residential and commercial areas. The Fairway Drive Grade Separation project constructed as an underpass will eliminate the possibility of train—vehicle collisions at this location and the effect of stopped and moving trains on vehicular traffic capacity; and in order to build such an underpass with the least private injury several easements should now be modified and added to complete the Project; and
3. That the amended property interests sought to be acquired are necessary for the Fairway Drive Grade Separation Project. From the subject property it is necessary to acquire: two (2) permanent railroad easements, one (1) new 12-month temporary construction easement, one (1) permanent utility easement, as well as the three (3) originally identified temporary construction easements. Without the acquisition of the various new and amended permanent easements, and new temporary construction easement and unaltered easements included in Exhibit 2

attached hereto, the proposed Fairway Drive Grade Separation Project cannot be completed; and

4. That SGVCOG has complied with CEQA. The Fairway Drive Grade Separation Project is statutorily exempt pursuant to Public Resources Code section 21080.13. The Legislature created an absolute exemption for railroad grade separations via Public Resources Code § 21080.13, which provides that CEQA “does not apply to any railroad grade separation project which eliminates an existing grade crossing, or which reconstructs an existing grade separation.” Cal. Pub. Res. Code § 21080.13. The Fairway Drive Grade Separation Project eliminates an existing grade crossing. Based upon § 21080.13, the Fairway Drive Grade Separation Project is therefore exempt from CEQA review. Since the Fairway Drive Grade Separation is exempt from CEQA, no environmental review is necessary, and it may be implemented without any CEQA compliance whatsoever.

Questions relating to value are not relevant to this proceeding. However, that does not mean that negotiations for the acquisition of the property interests are at an end. If the SGVCOG Capital Projects and Construction Committee adopts the Amended Resolution of Necessity, after the hearing, negotiations for the acquisition of the property interests may continue to take place.

BUDGET IMPACT: Funds for the acquisition of this property are available from MTA Measure R and Proposition C funds and are included in the Agency’s FY 2019 budget.

ATTACHMENTS

Exhibit 1- Stipulation re: Scope of Take and Transfer of Possession (*See page 12 of this agenda*)

Exhibit 2- Amended Resolution of Necessity No. 13-16 with Exhibits

AMENDED RESOLUTION NO. 13-16

**A RESOLUTION OF THE SAN GABRIEL
VALLEY COUNCIL OF GOVERNMENTS IN
FURTHERANCE OF THE ALAMEDA
CORRIDOR-EAST CONSTRUCTION PROJECT
FINDING AND DETERMINING THAT THE
PUBLIC INTEREST, CONVENIENCE AND
NECESSITY REQUIRE AN AMENDMENT TO
THE ACQUISITION OF CERTAIN PROPERTY
FOR PUBLIC PURPOSES**

**THE ALAMEDA CORRIDOR EAST – GATEWAY TO AMERICA CONSTRUCTION
AUTHORITY DOES HEREBY RESOLVE AS FOLLOWS:**

SECTION 1. The San Gabriel Valley Council of Governments, in furtherance of the Alameda Corridor East Construction Project (hereafter "SGVCOG"), formerly known as the Alameda Corridor East -- Gateway to America Construction Authority on behalf of the San Gabriel Valley Council of Governments (known as "ACE"), after consideration of the staff report, staff presentation, discussion, oral testimony and evidence presented at SGVCOG's Capital Projects and Construction Committee Meeting on Monday, September 24, 2018, at 12 p.m. hereby finds, determines and declares as follows:

- (a) The San Gabriel Valley Council of Governments, in furtherance of the Alameda Corridor East Construction Project is authorized by statute and pursuant to that certain Joint Powers Agreement dated September 17, 1998, as amended, to acquire property by eminent domain within the City of Industry, County of Los Angeles, State of California for the Alameda Corridor-East Project ("ACE Project"); and
- (b) The public interest, convenience and necessity require the proposed Fairway Drive Grade Separation Project in the City of Industry, County of Los Angeles, State of California as part of said Fairway Drive Grade Separation Project, which includes railroad crossing safety and efficiency improvements, and all uses appurtenant thereto intended to partially mitigate the impacts of increased rail traffic from the completed Alameda Corridor on motor vehicle traffic; and
- (c) The interests in real property to be acquired from that certain parcel bearing Los Angeles County Assessor Parcel Nos. 8760-002-014 are: two new permanent railroad easements (204W-RRE-1A and 204W-RRE-1B), one new 12-month temporary construction easement (204W-TCE1 (dated 2018)), one modified permanent utility easement, (in lieu of, rather than in addition to, the easements originally identified in Resolution of Necessity 13-16 as 204W-UE-1, and 204W-UE-2, respectively), as well as the three originally identified, and now unaltered, and temporary construction easements (204W-TCE1, 204W-TCE2 and 204W-

TCE3) for which the ACE Board adopted Resolution of Necessity No. 13-16. Said interests are legally described on Exhibits A-1, A-2, A-3, and A-4 attached hereto and incorporated herein by this reference ("Property"). The Property is located within the City of Industry, County of Los Angeles, State of California. Maps showing the general location of the Property are attached hereto, marked Exhibits B-1, B-2, B-3, and B-4 and are incorporated herein by reference and made a part hereof. The duration of the TCEs sought to be acquired are set forth in Exhibit C, attached hereto and incorporated herein by this reference;

- (d) The Fairway Drive Grade Separation Project is planned and located in a manner that will be most compatible with the greatest public good and least private injury in that it is specifically designed to improve traffic safety and efficiency at the intersection of Fairway Drive/E. Walnut Drive N. and the Union Pacific Railroad in the City of Industry, County of Los Angeles, State of California.
- (e) The taking of the Property is necessary for the Fairway Drive Grade Separation Project and such taking is authorized by Section 19, Article I of the California Constitution, Sections 6500 et seq., 37350.5, 40401 et seq. and 40404 of the California Government Code, Section 1230.010 et seq., 1240.020 and 1240.410, of the California Code of Civil Procedure, and other applicable law; and
- (f) The offer to purchase required by California Government Code Section 7267.2 has been made to the owner of the Property.
- (g) The necessary notice of hearing on this Resolution has been given, as required by Code of Civil Procedure section 1245.235.
- (h) SGVCOG has fully complied with the California Environmental Quality Act ("CEQA") as the Fairway Drive Grade Separation Project is statutorily exempt pursuant to Public Resources Code section 21080.13.

SECTION 2. SGVCOG Capital Projects and Construction Committee hereby declares that it is its intention to acquire said Property in accordance with the provision of the laws of the State of California governing condemnation procedures.

SECTION 3. SGVCOG Capital Projects and Construction Committee further finds that if any portion of the area of the Property has been appropriated to some public use, the public uses to which it is to be applied by ACE Construction Authority, as described above, are more necessary and paramount public uses, pursuant to Code of Civil Procedure section 1240.610, or alternatively, are compatible with those other uses pursuant to Code of Civil Procedure section 1240.510.

SECTION 4. SGVCOG Capital Projects and Construction Committee Legal Counsel is authorized and directed to prepare, institute and prosecute such amended proceedings in the proper Court having jurisdiction thereof as may be necessary for the acquisition of said Property, including the filing of an application for an Order for Possession prior to judgment.

SECTION 5. This Resolution shall be effective immediately upon its adoption.

SECTION 6. The Clerk of the SGVCOG Capital Projects and Construction Committee shall certify the adoption of this Resolution and certify this record to be a full true, correct copy of the action taken.

PASSED, APPROVED AND ADOPTED this 24th day of September, 2018.

ATTEST:

Deanna Stanley, Clerk

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES)
CITY OF WEST COVINA)

I HEREBY CERTIFY that the foregoing Amended Resolution 13-16 was duly adopted by the San Gabriel Valley Council of Governments, Capital Projects and Construction Committee Meeting at a regular meeting thereof, held on the 24th day of September 2018 by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Deanna Stanley, Clerk

Placeholder

Plat Maps

&

Legal Descriptions

&

Amended Exhibit C

MEMO TO: Capital Projects & Construction Committee Members and Alternates

FROM: Mark Christoffels
Chief Engineer

DATE: September 24, 2018

SUBJECT: Approval of Contract Amendment with CH2MHill for Design Support Services During Construction for the Fairway Drive Grade Separation Project

RECOMMENDATION: Staff recommends that the Committee authorize the Chief Engineer to amend the contract with CH2MHill to add \$492,307 for additional design support during construction and design revisions for the Fairway Drive grade separation project, for a new total contract value of \$8,321,611.

BACKGROUND: To date, the former ACE Board has authorized \$1,806,822 for design support during construction for the Fairway Drive grade separation project with CH2MHill, the designer of record. The project has been in construction since April of 2015 and is approximately 50% complete. Staff will be the first to acknowledge that construction of this project has been a challenge. Issues of final track alignments, utility modifications, groundwater, and soil stabilization have arisen that could not have been foreseen at the time the project was designed. Specifically the following matters have arisen:

- Additional analysis and review of the ground improvement construction options;
- Additional design revisions of the shoofly track plans to address UPRR's additional requests;
- Anticipate additional design modifications to the north retaining structures along the UPRR right of way to account for the modified ground improvement construction options;
- Revise the plans for storm drain and sewer crossings within UPRR ROW to account for track alignment changes;
- Revise the landscape and irrigation design to meet the latest WWWD reclaim water usage policy;
- Revise and update the plat maps and legal descriptions as a result of the industrial spurs and lead tracks modifications.

These issues are being addressed by the agency with assistance from CH2MHill and the contractor as construction proceeds, requiring the designer of record to attend field meetings, produce alternative solution studies, document design decisions, and make

modifications to the construction plans. All of this additional work gets paid for under their current authorized contract task order for design support during construction.

Based on these unforeseen task items, the remaining balance of CH2MHill's contract for design support services during construction is insufficient to complete the balance of the originally anticipated work items included in the contract amendment approved by the ACE Board in 2014. These work tasks included attending construction meetings as needed, performing field reviews, responding to contractor requests for information, reviewing contractor submittals for conformance, reviewing any non-conformance issues and providing final as-built drawings. All these services will extend through the life of the construction project now anticipated to be completed by January 2021. Staff has received a proposal from CH2MHill on what they anticipate the remaining design support services will require in labor hours and costs. Staff made an independent estimate of the remaining work and have concluded that the requested contract increase is warranted.

To date, CH2MHill's design work has been authorized as follows:

Phase/Task Order	Executed/Requested Amount
1: Preliminary Engineering	\$1,650,631.00
2: Final Design	\$4,255,247.00
3: City of Industry Betterment	\$116,604.00
4: Design Support during construction	\$ 739,204.00
Design Support (Amendment 1)	\$443,675.00
Design Support (Amendment 2)	\$623,943.00
Design Support (this Amendment)	\$492,307.00
TOTAL	\$8,321,611.00

It should be noted that the contract authorized amount including this recommended amendment is not a guaranteed payment amount to the consultant, but rather an estimate of the maximum anticipated expenditures. The design support task order is structured as a time and material type of compensation. The Consultant will only be compensated for the services requested by staff. Invoices will be reviewed to ensure that only the services authorized by staff will be paid for under this contract.

BUDGET IMPACT: This requested contract amendment with CH2MHill to add \$492,307 for additional design support during construction contract can be funded from existing budgeted contingencies for the project from State and Measure R funds allocated to the project.

MEMO TO: Capital Projects & Construction Committee Members and Alternates

FROM: Mark Christoffels
Chief Engineer

DATE: September 24, 2018

SUBJECT: Approval of Contract Award to CWE for Preliminary Engineering and Final Design Services for the Load Reduction Strategy Projects for the Rio Hondo River and Tributaries

RECOMMENDATION: Staff recommends that the Committee authorize the Chief Engineer to execute a design services contract with California Watershed Engineering Corporation (CWE) and issue Task Order No. 1 for preliminary design services (Phase 1) for \$249,394 for the Load Reduction Strategy (LRS) Projects for the Rio Hondo River and Tributaries.

BACKGROUND: At the August meeting, the Committee approved the selection of CWE for design and engineering services for the LRS projects.

In preparing for negotiations, staff prepared its own design cost estimate. This estimate took into account specific scope of work and project complexity.

Staff initiated negotiations with a scope of work for Phase 1 (preliminary engineering) activities included in the Request for Qualifications. The work scope includes the following major tasks:

- Project management, including coordination and preparation of project schedule.
- Coordination with the Los Angeles Sanitation Districts.
- Develop environmental documentation.
- Perform field investigation and topographic survey.
- Conduct utility search to identify existing and planned future utility conflicts.
- Perform geotechnical evaluation.
- Identify necessary permits and agreements and anticipated Operations and Maintenance requirements.
- Perform feasibility assessment.
- Prepare preliminary design plans (35%) for each project site determined to be feasible.

Proposed costs for the above Phase 1 tasks were compared with the estimates prepared by staff and any discrepancies were resolved. Staff recently concluded design contract negotiations and is recommending approval of a not-to-exceed contract amount of \$249,394.

This authorization would also allow a 10% contingency allowance in accordance with normal agency procedures. Any contract amount changes from the above figure due to contract change orders during the preliminary design phase that exceed the Chief Engineer's authorization will be brought back to the Committee for further consideration and approval.

The preliminary engineering scope is estimated to be completed within 11 months.

It should be noted that the above contract will be subject to future amendment for final design services depending on comments received from partnering agencies, the cities of Alhambra, Monterey Park, Pasadena, Rosemead, San Gabriel, San Marino, South Pasadena, Temple City and Unincorporated Los Angeles County. Because the services will not be needed until a final design concept is chosen and the needed services can be best defined at that time, these services will be requested at a later date as a contract amendment.

BUDGET IMPACT: Funding for this contract will be provided from the participating agencies identified in this report under a separate agreement previously approved by the SGVCOG Governing Board.