



**Metro**

Los Angeles County  
Metropolitan Transportation Authority

One Gateway Plaza  
Los Angeles, CA 90012-2952

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metro.net

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**REGULAR BOARD MEETING  
NOVEMBER 13, 2014**

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

**ACTION: ADOPT RESOLUTION OF NECESSITY TO ACQUIRE A 10-YEAR  
TEMPORARY CONSTRUCTION EASEMENT, ALL IMPROVEMENTS  
AND DESIGNATED PROPERTY ON PROJECT PARCEL W-0103**

**RECOMMENDATION**

- A. Hold a public hearing on the proposed Resolution of Necessity.
- B. Adopt a Resolution of Necessity authorizing the commencement of an eminent domain action to acquire an exclusive ten (10) year temporary construction easement on the real property, in addition to all Improvements Pertaining to the Realty for Project Parcel W-0103 (Assessor Parcel No. 5503-031-018), Owners: Young Kee Yang and Sun Duk Yang Family Trust, located at 3839 Wilshire Blvd, Los Angeles, CA (hereinafter the "Property").

**BACKGROUND**

Acquisition of the Property (Attachment A) is required for the construction and operation of the westward subway extension to the Purple Line for the Westside Transit Project ("Project"). Offers were presented to the Owners of Record ("Owners"), as required by California Government Code Section 7267.2. The Owners have not accepted the offers made by the Los Angeles County Metropolitan Transportation Authority ("METRO") or presented counter offers; and consequently, negotiated agreements have not been reached.

The Property is necessary for construction of the Project; therefore, staff recommends the acquisition of the Property through eminent domain in order to maintain the Project schedule. In accordance with the provisions of the California Eminent Domain law and Sections 30503, 30600, 130051.13, 130220.5 and 132610 of the California Public Utilities Code (which authorize the public acquisition of private property by eminent domain), METRO has prepared and mailed notice of this hearing to the Owners informing them of their right to appear at this hearing and be heard on the following issues: (1) whether the public interest and necessity require the Project; (2) whether the Project is planned or located in the manner that will be most compatible with the greatest good and the least private injury; (3) whether the Property is necessary for the Project; and (4) whether either the offer required by Section 7267.2 of the Government Code has been made to the Owners, or the offer has not been made because the Owners cannot be located with reasonable diligence.

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

### **DETERMINATION OF SAFETY IMPACT**

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

### **FINANCIAL IMPACT**

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

### **NEXT STEPS**

If this action is approved by the Board, the METRO's condemnation counsel will be instructed to take all steps necessary to commence legal proceedings in a court of competent jurisdiction to acquire the Property interests by eminent domain. Counsel will also be directed to seek and obtain an Order of Prejudgment Possession in accordance with the provisions of the eminent domain law.

### **ATTACHMENTS**

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

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

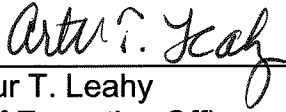
Dave Means, Executive Officer- Countywide Planning and Development  
(213) 922-2225

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



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Martha Welborne, FAIA  
Chief Planning Officer



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Arthur T. Leahy  
Chief Executive Officer

ATTACHMENT A



Young Kee and Sun Duk Yang, Trustees of the  
Young Kee Yang and Sun Duk Yang Family Trust

3839 Wilshire Blvd., Angeles, CA

APN: 5503-031-018

**STAFF REPORT REGARDING THE NECESSITY FOR THE ACQUISITION OF THE DESCRIBED PROPERTY INTERESTS IN PROJECT PARCEL NO. W-0103 (THE "PROPERTY") FOR THE PURPLE LINE WESTSIDE EXTENSION PROJECT**

**BACKGROUND**

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

<b>Assessor's Parcel Number</b>	<b>Parcel Address</b>	<b>Property Owners</b>	<b>Purpose of Acquisition</b>	<b>Property Interest(s) Sought</b>	<b>METRO Project Parcel #</b>
5503-031-018	3839 Wilshire Blvd., Los Angeles, CA	Young Kee Yang and Sun Duk Yang Family Trust	Construction Laydown and TBM Removal	Ten (10) Year Temporary Construction Easement and all improvements	W-0103

A written offer for the Property comprising Project Parcel W-0103 was presented to the Owners on December 11, 2013 for the fee simple interest in the entire property. A second offer was made on August 26, 2014 that rescinded the original offer based on the Owners' stated preference that METRO acquire an exclusive ten (10) year temporary construction easement on the real property, as well as all improvements. To date, this offer has not been accepted, and negotiations have not resulted in a settlement agreement.

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

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

1. The population and employment densities in the Project area are among the highest in the metropolitan region. Approximately five (5) percent of the Los Angeles County population and ten (10) percent of the jobs are concentrated in the Project area.
2. Implementation of the Project will result in a reduction of vehicle miles per day and

reduction of auto air pollutants.

3. The Project will relieve congestion on the already over capacity I-405 San Diego and the I-10 Santa Monica Freeways and surrounding major thoroughfares. In addition, it will reduce the parking demands in the Westside area by providing an alternative means of transportation, competitive in rush-hour travel times with the automobile.
4. The Project will be a major link in the existing county-wide rail transit system, and will thereby provide alternative means of transportation during fuel crises and increased future traffic congestion.
5. The Project will improve transportation equity by meeting the need for improved transit service of the significant transit-dependent population within the Project area.
6. The Project will help meet Regional Transit Objectives through the Southern California Association of Governments' (SCAG's) Performance Indicators of mobility, accessibility, reliability, and safety.

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

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

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

In January 2009, the Metro Board approved the AA Study and authorized preparation of a Draft Environmental Impact Statement/Draft Environmental Impact Report (DEIS/DEIR). A total of seven alternatives, including five heavy rail subway (HRT) Build Alternatives, a No Build Alternative, and a relatively low-cost Transportation System Management (TSM) Alternative, were presented in the DEIS/DEIR. The DEIS/DEIR was circulated and reviewed by interested and concerned parties, including private citizens, community groups, the business community, elected officials and public agencies. Public hearings were held to solicit citizen and agency comments.

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

## Quality Act Guidelines.

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

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

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

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

### **C. The Property is necessary for the Project**

The Property consists of the acquisition of an exclusive ten (10) year temporary construction easement on the real property, as well as all improvements for Project Parcel W-0103. The Property contains 22,457 gross square feet improved with a one-story multi-tenant commercial building containing a total area of 7,043 square feet (per Assessor), as described in the legal description Exhibit "A" attached hereto, and as depicted on the Plat Map attached hereto as Exhibit "B". The Property is required for Construction Laydown and TBM Removal in support of the Project. The Property was chosen based upon the FEIS/FEIR for the Project.

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

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

California Code of Civil Procedure Section 1245.230 requires that a Resolution of Necessity contain a declaration that the governing body has found and determined that either the offer required by Section 7267.2 of the California Government Code has been made to the Owners, or the offer has not been made because the Owners cannot be



located with reasonable diligence.

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

Staff has taken the following actions as required by California law for the acquisition of the Property:

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

It is recommended that based on the above Evidence, the Board find and determine that the offer required by Section 7267.2 of the California Government Code has been made to the Owners.

## **CONCLUSION**

Staff recommends that the Board approve the Resolution of Necessity.

## **ATTACHMENTS**

- 1 - Exhibit "A" Legal Description (W-0103)
- 2 - Exhibit "B" Plat Map (W-0103)

LEGAL DESCRIPTION

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EXHIBIT "A"

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

LOTS 15 AND 16, BLOCK "H" OF WESTMINSTER PLACE, IN THE CITY OF LOS ANGELES, AS PER MAP RECORDED IN BOOK 9 OF MAPS, PAGE 61, IN THE OFFICE OF THE COUNTY RECORDER OF LOS ANGELES COUNTY, CALIFORNIA.

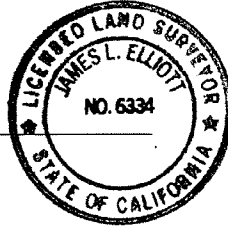
APN: 5503-031-018

NOTE:

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

PREPARED BY:

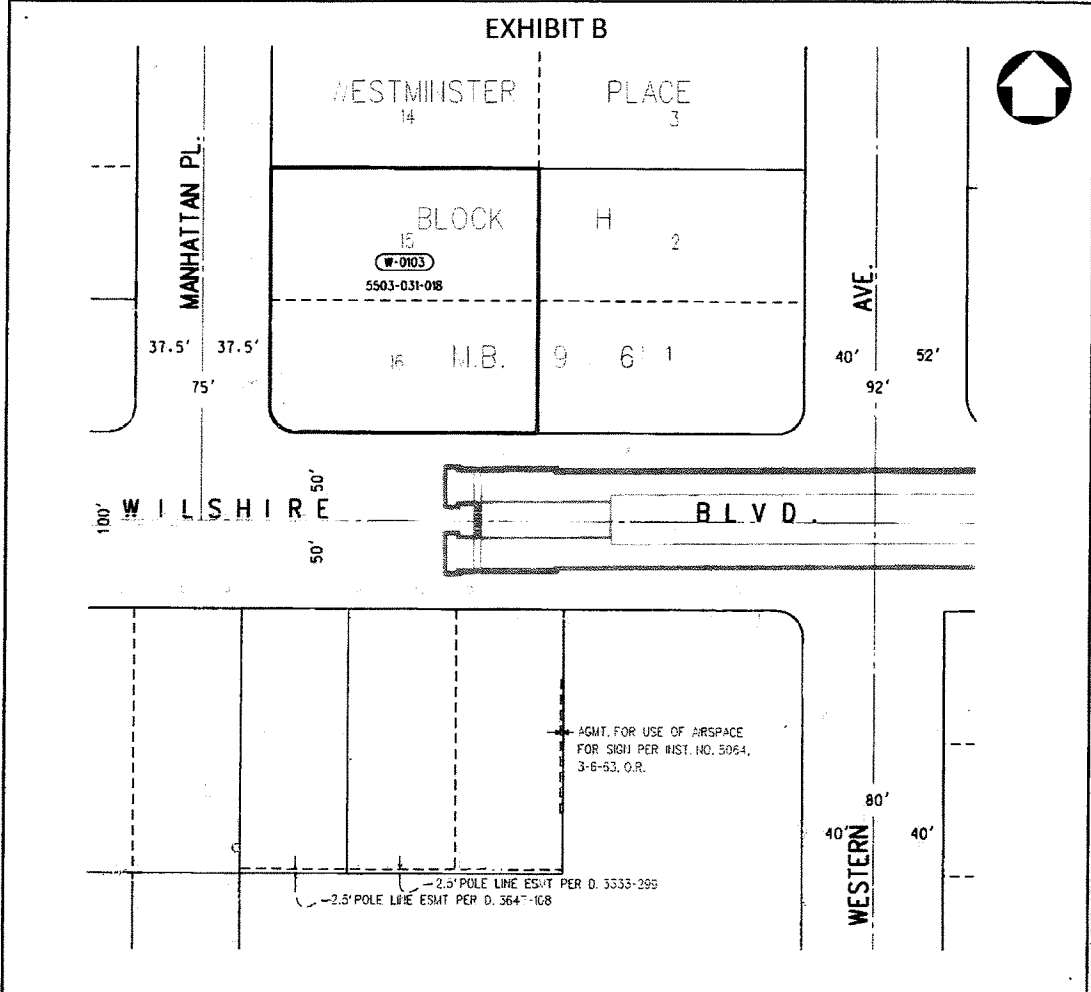
  
JAMES L. ELLIOTT, P.L.S. 6334



9-6-12  
DATE

**EXHIBIT B**

GRANTOR : Y. K. YANG AND S. D. YANG, AS TRUSTEES OF THE Y. K. YANG AND S. D. YANG FAMILY TRUST UNDER DECLARATION DATED OCTOBER 12, 2001		The data shown on this map and/or plat are compiled from public sources and are subject to field verification.	
DESCRIPTION : LOTS 15 & 16, BLOCK H, WESTMINSTER PLACE, M.B. 9/61			
BENCH MARK : N/A			
TITLE REPORT : FIDELITY NATIONAL TITLE NO. 11-725139028-RH	ADDRESS : 3839 WILSHIRE BLVD. LOS ANGELES 90010		
ASSESSOR'S REF. : 5503-031-018	R.O.W. REFERENCE : R-001: W-0103	NO.	DATE
		REVISION DESCRIPTION	



PARCEL	W-0103		
AREA - SQUARE FEET	22,457		

<p>LOS ANGELES COUNTY METROPOLITAN TRANSPORTATION AUTHORITY</p>	<p>APPROVED BY:</p> <p>SUBMITTED BY: Paul O. Wise L.S. 4249</p>	<p>PARCEL PLAT</p> <p>W-0103</p> <p>SHEET 1 OF 1</p>	CONTRACT NO./DESIGN UNIT
			SCALE 1"=80'
			GATE 10/19/2011
			DRAWN BY R. NACION
			CHECKED BY P. WISE
			REV. DATE      REV. NO.

**RESOLUTION OF THE  
LOS ANGELES COUNTY METROPOLITAN TRANSPORTATION AUTHORITY  
DECLARING CERTAIN REAL PROPERTY NECESSARY FOR PUBLIC PURPOSES  
AND AUTHORIZING THE ACQUISITION THEREOF  
PURPLE LINE WESTSIDE EXTENSION  
PROJECT PARCEL NO. W-0103**

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

Section 1.

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

Section 2.

The property interests described hereinafter are to be taken for public use, namely, for public transportation purposes and all uses necessary, incidental or convenient thereto, and for all public purposes pursuant to the authority conferred upon the Board to acquire property by eminent domain by California Public Utilities Code Sections 30000-33027, inclusive, and particularly Section 30503 and 30600, Sections 130000-132650, inclusive, and particularly Sections 130051.13 and 130220.5, Code of Civil Procedure Sections 1230.010-1273.050, inclusive, and particularly Sections 1240.510 and 1240.610, and Article I, Section 19 of the California Constitution.

Section 3.

The property interests sought consists of the acquisition of a ten (10) year temporary construction easement ("TCE") on the real property described more specifically in the legal description (Exhibit "A"), depicted on the Plat Map (Exhibit "B") and all Improvements Pertaining to Realty, attached hereto (hereinafter, the "Property"), all of which are incorporated herein by this reference, for the purpose of all necessary and convenient activities associated with the construction of the Project. The TCE shall be valid for a period of not more than ten (10) years. The TCE shall commence upon the METRO's taking possession of the Property, and it shall terminate on the earliest of (a) the date upon which METRO notifies the applicable Owners that it no longer needs the TCE or (b) ten (10) years from the commencement date of the TCE.

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

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

#### Section 4.

(a.) The acquisition of the above-described Property is necessary for the development, construction, operation, and maintenance of the Purple Line Westside Extension Project ("Project");

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

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

#### Section 5.

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

- (a.) The public interest and necessity require the proposed Project;
- (b.) The proposed Project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury;
- (c.) The Property sought to be acquired, which has been described herein, is necessary for the proposed Project; and
- (d.) The offer required by Section 7267.2 of the Government Code has been made to the Owners.

#### Section 6.

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

unreasonably interfere with or impair the continuance of the public use to which the Property is already devoted.

Section 7.

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

Section 8.

Legal Counsel is hereby authorized and directed to take all steps necessary to commence legal proceedings, in a court of competent jurisdiction, to acquire the Property described above by eminent domain. Counsel is also authorized and directed to seek and obtain an Order for Prejudgment Possession of said Property in accordance with the provisions of the eminent domain law and is directed that the total sum of probable just compensation be deposited with the State Treasurer or the Clerk of the Superior Court. Counsel may enter into stipulated Orders for Prejudgment Possession and/or Possession and Use Agreements, where such agreements constitute the functional equivalent of an Order for Prejudgment Possession. Counsel is further authorized to correct any errors or to make or agree to any non-material changes to the legal description of the real property that are deemed necessary for the conduct of the condemnation action or other proceedings or transactions required to acquire the Property.

Counsel is further authorized to compromise and settle such eminent domain proceedings, if such settlement can be reached, and in that event, to take all necessary action to complete the acquisition, including stipulations as to judgment and other matters, and causing all payments to be made. Counsel is further authorized to associate with, at its election, a private law firm for the preparation and prosecution of said proceedings.

I, MICHELLE JACKSON, Secretary of the Los Angeles County Metropolitan Transportation Authority, do hereby certify that the foregoing Resolution was duly and regularly adopted by a vote of two-thirds of all the members of the Board of the Metropolitan Transportation Authority at a meeting held on the 13th day of November, 2014.

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

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

## **ATTACHMENTS**

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- 2 - Exhibit "B" Plat Map (W-0103)

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PREPARED BY:

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

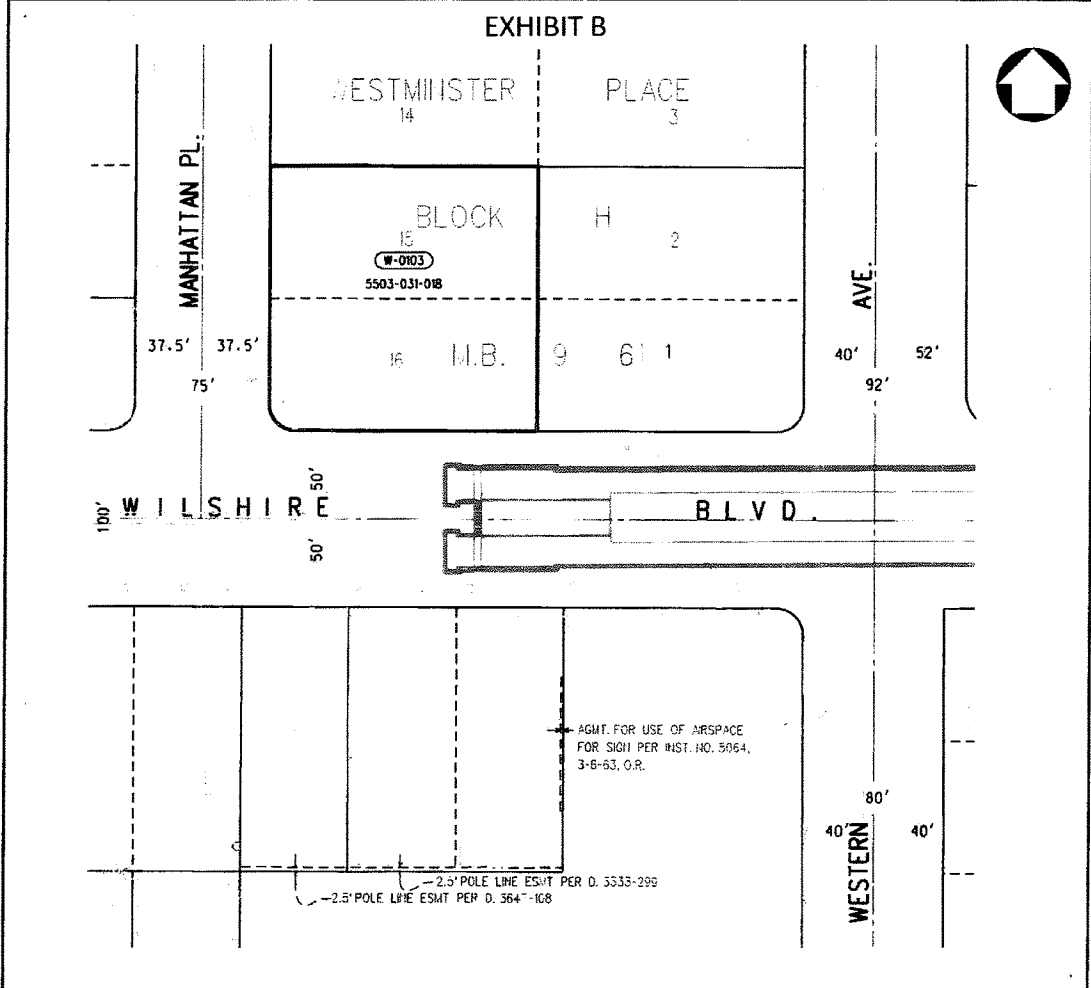


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AREA - SQUARE FEET	22,457		
LOS ANGELES COUNTY METROPOLITAN TRANSPORTATION AUTHORITY		<b>PARCEL PLAT</b> W-0103 SHEET 1 OF 1	
SUBMITTED BY: Paul O. Wise L.S. 4249		APPROVED BY:  PROJECT MANAGER	
		CONTRACT NO./DESIGN UNIT	
		SCALE	1"=80'
		DATE	10/19/2011
		DRAWN BY	R. NACION
		CHECKED BY	P. WISE
		REV. DATE	REV. NO.