

CITY OF LOS ANGELES

CALIFORNIA



ERIC GARCETTI
MAYOR

HOLLY L. WOLCOTT
City Clerk

GREGORY R. ALLISON
Executive Office

When making inquiries relative to
this matter, please refer to the
Council File No.

Office of the
CITY CLERK

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SHANNON HOPPE
Division Manager

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November 26, 2014

To All Interested Parties:

The City Council adopted the action(s), as attached, under Council File No. 13-1562-S2, at its meeting held November 25, 2014.

City Clerk
wrq



Council Action

The City Council ADOPTED the following recommendation(s), contained in a COMMUNICATION FROM THE BOARD OF WATER AND POWER COMMISSIONERS which were WAIVED, pursuant to Council Rule 17, by the Chair of the Energy and Environment Committee:

1. CONCUR with the Board of Water and Power Commissioners' (Board) October 21, 2014 action (Resolution No. 15-063) authorizing the commencement of eminent domain proceedings to acquire 73 parcels of real property in the vicinity located in three sections: north of Mojave- State Route 58 Alternate; West of Mojave and Oak Creek Road; and west of the town of Rosamond in Kern County, California as described in the October 22, 2014 Board report, attached to the Council file.
2. ADOPT the accompanying RESOLUTION OF NECESSITY as incorporated in Resolution 15-063 and pursuant to Charter Section 373(d)(2), attached to the Council file, authorizing the Los Angeles Department of Water and Power to exercise eminent domain for the acquisition of land necessary for the Barren Ridge Renewable Transmission Project (BR RTP) located in Kern County, California.

Council File No. 13-1562-S2

ADOPTED

NOV 25 2014

LOS ANGELES CITY COUNCIL

FORTHWITH

WHEREAS, the Los Angeles Department of Water and Power (LADWP) is obligated to provide reliable electricity service to its customers in the City of Los Angeles and other service areas; and

WHEREAS, the California Renewable Energy Resources Act (SB 2[1X]) and its implementing regulations set Renewables Portfolio Standard (RPS) goals for procurement of electricity from renewable resources and require the LADWP to attain a minimum of 25 percent RPS by 2016 and 33 percent RPS by 2020; and

WHEREAS, the Board of Water and Power Commissioners (Board) adopted its revised RPS Policy and Enforcement Program in December 2013, to implement the RPS requirements; and

WHEREAS, the Barren Ridge Renewables Transmission Project (BRRTP) consists of the new construction of high voltage transmission lines from the Barren Ridge Switching Station (BRSS) (north of Mojave, CA) to the Rinaldi Substation and continuing from the Castaic Power Plant to the Haskell Switching Station, and will bring electricity generated by renewable energy resources into the Los Angeles Basin; and

WHEREAS, the BRRTP is intended to access renewable energy sources in the Tehachapi Mountains and Mojave Desert Areas of Southern California and will be crucial and necessary for meeting the City of Los Angeles' RPS Requirements; and

WHEREAS, the Board, on September 18, 2012, certified a joint Environmental Impact Statement/Environmental Impact Report (EIS/EIR) for the BRRTP and adopted a Statement of Overriding Considerations and a Mitigation Monitoring and Reporting Plan for the BRRTP in accordance with the California Environmental Quality Act (CEQA); and approved the BRRTP, Alternative 2; and

WHEREAS, Notices of this Public Hearing informing the owners of the Properties subject to acquisition described in Exhibit A and depicted in Exhibit B (both attached hereto and incorporated herein) of the Board's intent to adopt this Resolution and their right to be heard were mailed to the owners of the Properties not less than 15 days prior to the date of the hearing; and

WHEREAS, LADWP has commissioned separate appraisals of each of the Properties (Appraisals), has approved those appraisals and has determined that the full Fair Market Value (FMV) of each Property as established by said Appraisals constitutes "just compensation" for each respective Property; and

WHEREAS, representatives of LADWP have conveyed in writing to the owners of each of the Properties LADWP's offer to purchase the respective Properties for the full, FMV thereof as established by the corresponding Appraisals (the Offers); and

WHEREAS, the Board, at a public hearing on this Resolution of Necessity, considered the previously-adopted EIS/EIR for the BRRTP, documentation regarding the Project and its relation to the Properties and the necessary real property interests to be acquired, reviewed the Board Letter and took oral and written testimony presented on the BRRTP.

NOW, THEREFORE, BE IT RESOLVED that this Board makes the following findings and determinations with respect to the BRRTP:

1. The LADWP is a proprietary department of the City of Los Angeles, a charter city and municipal corporation.
2. The foregoing recitals are true and correct and incorporated into this Resolution by this reference.
3. The property interests to be acquired consist of the fee interests in the properties described in Exhibit A and depicted on Exhibit B, attached hereto and incorporated by reference, (Properties) and any immovable fixtures and equipment (if any).
4. The Properties upon which the BRRTP will be constructed are to be acquired for public use, namely, for electric supply purposes and all uses necessary, incidental or convenient thereto, and for all public purposes pursuant to the authority conferred upon the LADWP to acquire property by eminent domain by *Government Code* § 37350.5, *Code of Civil Procedure* §§ 1240.010 and 1240.125; *Public Utilities Code* §§ 10001 and 10004, and Los Angeles City Charter Section 675(d)(1).
5. The acquisition of the Properties, which are located in the Counties of Kern and Los Angeles are necessary for the development, construction, operation and maintenance of the BRRTP.
6. Pursuant to Sections 1240.510 and 1250.610 of the *Code of Civil Procedure*, to the extent that any of the Properties are already devoted to a public use, the use to which the Properties are to be put as part of the BRRTP is a more necessary public use than the use to which the Properties are 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 Properties are already devoted.
7. The notice of intention to adopt this Resolution of Necessity was given by first class mail to each person whose property is to be acquired by eminent domain in accordance with Section 1245.235 of the *Code of Civil Procedure* and a hearing was conducted by the Board on the matters contained herein.

BE IT FURTHER RESOLVED that the Board hereby declares that it has found and determined each of the following:

1. The environmental impacts of the BRRTP were evaluated in the previously-adopted EIS/EIR.
2. In accordance with CEQA Guidelines Section 15162, no subsequent or Supplemental EIR is required for the BRRTP and the Board has reviewed and considered the EIS/EIR before, and as part of the process of determining whether to acquire the Properties.

BE IT FURTHER RESOLVED that the Board hereby declares that it has found and determined each of the following:

1. The public interest and necessity require the BRRTP.
2. The BRRTP is planned or located in the manner that will be most compatible with the greatest public good and the least private injury.
3. The Properties described in the Resolution are necessary for the BRRTP.
4. That either the offer required by Section 7267.2 of the *Government Code* has been made to the owner or owners of record, or the offer has not been made because the owner cannot be located with reasonable diligence.
5. Remnants of some of the Properties being acquired may be left in such size, shape or condition to render them of little or no value and are, accordingly, acquired as uneconomic remnants as provided by *Code of Civil Procedure* § 1240.410.

BE IT FURTHER RESOLVED that the City Council is requested to approve this Resolution of Necessity and the exercise of eminent domain by LADWP in accordance with Charter Section 373(d)(2).

BE IT FURTHER RESOLVED that upon approval by City Council, the City Attorney is hereby authorized and directed to take all steps necessary to commence legal proceedings, in a court of competent jurisdiction, to acquire the Properties by eminent domain. Counsel is also authorized and directed to seek and obtain Orders for Prejudgment Possession of said Properties in accordance with the Eminent Domain law. 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 properties that are deemed necessary for the conduct of the condemnation action or other proceedings or transactions required to acquire the Properties. Counsel, with the concurrence and approval of LADWP Management, shall have the authority to make and agree to minor adjustments to the location of property to be acquired and to provide for physical improvements or alterations, such as access

roads, culverts and other facilities, so as to mitigate Project effects to remainder property while accommodating the elements and necessities of the BRRTP Project. Counsel is further authorized, subject to the approval of LADWP's Board when required, to compromise and settle such eminent domain proceedings, if such negotiated settlement can be reached, and in that event, to take all necessary action to complete the acquisition, including entering into stipulations as to judgment and other matters, and to cause all such payments to be made.

BE IT FURTHER RESOLVED that the Chief Accounting Employee of the LADWP, upon proper certification and instruction from the Manager of Real Estate and City Attorney, is authorized and directed to draw demands on the Power Revenue Fund, in the amounts necessary to make deposits of just compensation with the California State Treasurer's Office in connection with the eminent domain proceedings and/or to pay the purchase prices for the acquisition of the Properties through negotiated settlements or court judgments.

I HEREBY CERTIFY that the foregoing is a full, true, and correct copy of the resolution adopted by the Board of Water and Power Commissioners of the City of Los Angeles at its meeting held OCT 21 2014, and that the affirmative vote approving the Resolution exceeded two-thirds of all of the members of the Board.


Secretary

ATTACHMENTS:

- Exhibit A: Legal Descriptions
- Exhibit B: Plat Maps

I CERTIFY THAT THE FOREGOING
RESOLUTION WAS ADOPTED BY THE
COUNCIL OF THE CITY OF LOS ANGELES
AT ITS MEETING OF NOV 25 2014
BY A MAJORITY OF ALL ITS MEMBERS.



HOLLY L. WOLCOTT
CITY CLERK

BY 
DEPUTY

APPROVED AS TO FORM AND LEGALITY
MICHAEL N. FEUER, CITY ATTORNEY

OCT 2 2014

BY 
TIMOTHY J. CHUNG
DEPUTY CITY ATTORNEY