



## Legislation Text

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**File #:** 09-1086, **Version:** 1

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Recommendation to conduct a public hearing on the Resolution of Necessity to determine the public interest and necessity for acquiring and authorizing the condemnation of a portion of real property at 6265 East Second Street, a portion of Assessor Parcel Numbers 7242-021-002 and 7242-021-003, including easements and improvements for the Pacific Coast Highway/Second Street Improvement Project;

Receive testimony from staff and property owner(s) with interest in the property (if required written requests to be heard have been received); and

Adopt Resolution of Necessity making the findings required by law, including determining the public interest and necessity for acquiring, and authorizing the condemnation of a portion of certain real property within the City of Long Beach for the Pacific Coast Highway/Second Street Improvement Project. (District 3)

The PCH/2nd Street Improvement Project (Project) is a result of areawide traffic improvement measures identified in the Marina Shores Environmental Impact Report (EIR) certified by the City of Long Beach in 1998. The Marina Shores project is located at Pacific Coast Highway and Studebaker Road, just south of the Project. As part of the EIR, it was determined that the intersection of PCH and 2nd Street was operating at a deficient level of service and that a widening project to provide additional southbound traffic lanes on PCH will not only mitigate the development's impact, but will provide significant traffic flow benefits. City Council approved funding for these improvements through the Traffic Mitigation Program and the Department of Public Works has been working with the California Department of Transportation to design and implement improvements to the intersection. On June 21, 2007, the Planning Commission certified Mitigated Negative Declaration No. ND-25-07 for the Project. City Council has been provided with a copy of the Mitigated Negative Declaration (Exhibit A) concurrent with this staff report.

In order to proceed with the Project, the acquisition of permanent and temporary easements at the northwest corner of 2nd and PCH (Subject Property) is necessary (Exhibit B). The Subject Property includes approximately 9,934 square feet of permanent easement and 19,389 square feet of temporary construction easement for the purposes of construction. An appraisal of the Subject Property was conducted by an independent appraiser, Donahue, Hawran and Maim, LLC, on January 16, 2009. Fair Market Value of the permanent easement, improvements and temporary construction easement was determined to be \$655,000. An offer to purchase the Subject Property at Fair Market Value pursuant to Government Code Section 7267.2(a) was presented to the owners of record. The offer was rejected and negotiations have continued without success. The acquisition of the Subject Property will not be possible without the use of the City's power of eminent domain.

A Notice of Hearing on the Resolution of Necessity was mailed on September 24, 2009, by certified mail, return receipt requested, and by first class mail to the owners of record of the Subject Property as shown on the latest equalized tax rolls. Said owners were notified that if he/she wishes to appear

at the hearing and be heard, he/she must file a written request to appear with the City Clerk within fifteen (15) days from the date the notice was mailed. The proposed Resolution of Necessity is attached.

The Code of Civil Procedure, Section 1245.230 requires that the Resolution of Necessity be adopted after a hearing at which time the governing body of the public entity must find and determine each of the following:

1. Whether the public interest and necessity require the proposed project;
2. Whether 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;
3. Whether the property sought to be acquired is necessary for the proposed project; and
4. Whether the offer required by Government Code Section 7267.2(a) has been made to the property owner or owners of record, or the offer has not been made because the owner(s) cannot be located with reasonable diligence.

Recommended findings of the City as they relate to the condemnation of the Subject Property at 6265 East 2nd Street, a portion of Assessor Parcel Numbers 7242-021-002 and 7242-021-003, including easements and improvements, are as follows:

1. Public interest and necessity require the proposed project.

The PCH/2nd Street Improvement Project is a result of areawide traffic improvement measures identified in the Marina Shores Environmental Impact Report (EIR) certified by the City of Long Beach in 1998. As part of the EIR, it was determined that the intersection of PCH and 2nd Street was operating at a deficient level of service and PCH should be widened to provide additional southbound traffic lanes. Acquisition of the Subject Property is necessary to construct the public street improvement.

2. Whether the proposed project is planned and located in a manner that will be most compatible with the greatest public good and least private injury.

The property to be acquired is a portion of the sidewalk and landscape improvements to the existing parcels. The acquisition of 9,934 square feet of permanent street easement and 19,389 square feet of temporary construction easement will have minimal impact on the current use of the property. Acquisition and construction of the street improvements affects a greater public good with minimal private injury.

3. The property sought to be acquired is necessary for the proposed project.

The current configuration of the intersection of PCH and 2nd Street is operating at a deficient level of service and areawide traffic improvement measures must be implemented to accommodate existing volumes. The planned street improvements include the widening of PCH to provide additional southbound traffic lanes. Acquisition of the property is necessary in order to make the requisite improvements to the intersection of 2nd Street and PCH.

4. The offer of just compensation has been made to the property owners.

The Subject Property was appraised by an independent appraiser, Donahue, Hawran and Maim, LLC, on January 16, 2009. Fair market value, as determined by the appraisal dated January 16, 2009, is \$655,000. An offer to purchase the Subject Property pursuant to Government Code Section 7267.2(a) was presented to the owners of record. The offer was rejected and negotiations have continued without success. Due to the refusal of the owner to accept the City's offer of just compensation based on the fair market value, the Subject Property cannot be acquired except by the City's exercise of its power of eminent domain.

This matter was reviewed by Assistant City Attorney Heather A. Mahood on October 2, 2009, and Budget and Performance Management Bureau Manager David Wodynski on September 30, 2009.

Acquisition of the Subject Property is required to proceed with the proposed improvements to the intersection of PCH and 2nd Street. The City must provide at least 15 days notice to the property owners of the date and time of the public hearing. A letter of notice was sent on September 24, 2009. Therefore, it is requested that the City Council act on this request on October 20, 2009.

The cost of the acquisition of the necessary right-of-way is \$655,000. Sufficient funds are budgeted in the Capital Improvement Fund (CP 201) in the Department of Public Works (PW). The funding source is traffic mitigation fees. There is no net impact to the General Fund.

Approve recommendation.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LONG BEACH, FINDING AND DETERMINING THE PUBLIC INTEREST AND NECESSITY FOR ACQUIRING AND AUTHORIZING THE CONDEMNATION OF CERTAIN REAL PROPERTY LOCATED WITHIN THE CITY OF LONG BEACH (6265 EAST 2ND STREET)

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