



CALIFORNIA STATE
PUBLIC WORKS BOARD

EDMUND G. BROWN JR. • GOVERNOR

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INFORMATION REGARDING THE STATE PUBLIC WORKS BOARD AND THE ACQUISITION PROCESS FOR THE HIGH SPEED RAIL PROJECT

Overview of State Public Works Board

The California State Public Works Board (Board), created by the Legislature in 1946, oversees the fiscal matters associated with construction of projects for state agencies, and selects and acquires real property for most state facilities. The Board is also the issuer of lease-revenue bonds, which is a form of long term financing that is used to pay for capital projects.

The Legislature appropriates funds for capital outlay projects, and the Board oversees the projects to ensure they are within the legislatively authorized project scope, cost, and schedule.

Voting members of the Board include the Director of Finance (Chair), the Director of Transportation, and the Director of General Services. When the Board addresses matters related to the issuance of lease revenue bonds, the State Controller and the State Treasurer are added as members. As a state governing board, the Board is required to comply with the open meeting laws of the Bagley-Keene Act (Government Code section 11120 et seq.).

The Department of Finance (Finance) Capital Outlay unit serves as the staff to the Board and provides any assistance the Board may require. The Department of General Services (DGS) provides staff support for real property acquisitions and sales.

Site Selection and Acquisition of Properties for the High Speed Rail Project

All of the properties for the High Speed Rail project (Project) are subject to the Property Acquisition Law, Government Code sections 15850 through 15866. This law authorizes the Board to select and acquire real property in the name of the State of California with the consent of the agency concerned, in this case, the High Speed Rail Authority (Authority). This law also authorizes the Board to acquire property by eminent domain in the manner provided for in Title 7 (commencing at section 1230.010) of Part 3 of the Code of Civil Procedure.

Site Selection and Acquisition:

The location of the Project's corridor, and the property needed for the Project, has been initially identified by the Authority. Once determined that one or more properties are needed for the Project, the Authority requests the Board to select the site(s) consistent with the Property Acquisition Law. However, site selection approval can only occur after an environmental review process has determined that any alternative alignment would include the selected parcels, or where a preferred alignment has already been approved by both the High Speed Rail Authority Board and the Federal Railroad Administration. In addition, the site or sites to be selected must be consistent with the requirements of the Budget Act or enabling statute. No negotiations with the property owner may commence until after Board approval of site selection for that property.

After the Board has approved the sites to be selected, the DGS sets a just compensation amount for each parcel based on the approved appraisals. Following the setting of just compensation, negotiations begin with each property owner by presenting the owner with a first written offer. The property owners may also choose to obtain an independent appraisal paid for by the Authority up to \$5,000. If a sales agreement is reached, an acquisition package is prepared by the Authority and reviewed by the DGS. The final package is ultimately approved by the Board.

In the event that a negotiated sale cannot be reached, the Board has authority to acquire the property through eminent domain.

Eminent Domain:

As mentioned above, the Board has the statutory authority to acquire property by eminent domain, if necessary. However, before doing so, certain conditions must be met and considered by the Board at a public meeting. These conditions include the following:

The public interest and necessity required by the project (Code of Civil Procedure, Section 1240.030(a));

The project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury (Code of Civil Procedure, Section 1240.03(b));

The property sought to be acquired is necessary for the project; and,

An offer has been made to the owner or owners of record (Government Code section 7267.2).

Once it is determined that these conditions have been met, each property owner is mailed a Notice of Intent (NOI) letter informing the owner that the property will be acquired through the eminent domain process. The NOI provides the property owner with the date and location of the Board meeting where the matter will be taken under consideration. At that meeting, the Board will consider the adoption of a Resolution of Necessity (Resolution), which includes consideration of the above noted conditions, to acquire the property through eminent domain. The owner of the property being considered for eminent domain has the right to appear before the Board before the board votes on the Resolution (Code of Civil Procedure, Section 1245.235).

If adopted, the Resolution authorizes the Board, on behalf of the State of California, to acquire the property by eminent domain for the Project. A lawsuit is then filed in the superior court where the property is located to commence the eminent domain proceeding to acquire the property. All issues related to the compensation to be awarded for the acquisition of the property will be resolved in the court proceeding.

Please note that the mailing of an NOI or proposed adoption of the Resolution is part of the project delivery process and its proposal or passage is not intended to preclude continued negotiations. Such negotiations are encouraged in an attempt to reach a mutually agreeable acquisition of each property.

If you have any additional questions regarding the Board's roles and responsibilities related to the acquisition of properties for the High Speed Rail Project, please contact Sally Lukenbill at 916-445-9694.