

Revised Agenda Item No. 4

Board of Directors Metro Valley Study Session

August 15, 2024

9:20 AM

Location

San Bernardino County Transportation Authority
First Floor Lobby Board Room
1170 W. 3rd Street, San Bernardino, CA 92410

DISCUSSION ITEMS

Project Delivery

4. Interstate 10 Corridor Freight and Express Lane Project Contract 2 - Preview of the Hearings to Consider Resolutions of Necessity for Property Interests

That the following be reviewed and recommended for final approval by the Board of Directors (Board), acting as the San Bernardino County Transportation Authority, at a regularly scheduled Board meeting:

A. Conduct public hearings to consider condemnation of real property required for the Interstate 10 Corridor Freight and Express Lanes Project - Contract 2 in the City of Ontario and unincorporated areas of San Bernardino County.

~~B. Upon completion of a public hearing, that the Board adopt Resolution of Necessity No. 25-001 authorizing and directing General Counsel, or her designee, to prepare, commence, and prosecute proceedings in eminent domain for the purpose of acquiring interests in real property from: Shea Center Ontario (Assessor's Parcel Numbers 0238-052-41, 0238-052-44 and 0238-052-46). The resolution must be approved by at least a two-thirds majority.~~

C. Upon completion of a public hearing, that the Board adopt Resolution of Necessity No. 25-002 authorizing and directing General Counsel, or her designee, to prepare, commence, and prosecute proceedings in eminent domain for the purpose of acquiring interests in real property from: VID Enterprises, LLC (Assessor's Parcel Number 0238-052-53). The resolution must be approved by at least a two-thirds majority.

D. Upon completion of a public hearing, that the Board adopt Resolution of Necessity No. 25-004 authorizing and directing General Counsel, or her designee, to prepare, commence, and prosecute proceedings in eminent domain for the purpose of acquiring interests in real property from: Erwin Weinhardt (Assessor's Parcel Numbers 0252-142-28 and 0252-142-29). The resolution must be approved by at least a two-thirds majority.

E. Upon completion of a public hearing, that the Board adopt Resolution of Necessity No. 25-005 authorizing and directing General Counsel, or her designee, to prepare, commence, and prosecute proceedings in eminent domain for the purpose of acquiring interests in real property from: Ruben Zepeda (Assessor's Parcel Number 0252-142-19). The resolution must be approved by at least a two-thirds majority.

The agenda item has been revised to remove Recommendation B and to include the dimensions for the listed properties in the PowerPoint.

Minute Action

REVISED AGENDA ITEM: 4

Date: August 15, 2024

Subject:

Interstate 10 Corridor Freight and Express Lane Project Contract 2 - Preview of the Hearings to Consider Resolutions of Necessity for Property Interests

Recommendation:

That the following be reviewed and recommended for final approval by the Board of Directors (Board), acting as the San Bernardino County Transportation Authority, at a regularly scheduled Board meeting:

A. Conduct public hearings to consider condemnation of real property required for the Interstate 10 Corridor Freight and Express Lanes Project - Contract 2 in the City of Ontario and unincorporated areas of San Bernardino County.

~~B. Upon completion of a public hearing, that the Board adopt Resolution of Necessity No. 25-001 authorizing and directing General Counsel, or her designee, to prepare, commence, and prosecute proceedings in eminent domain for the purpose of acquiring interests in real property from: Shea Center Ontario (Assessor's Parcel Numbers 0238-052-41, 0238-052-44 and 0238-052-46). The resolution must be approved by at least a two-thirds majority.~~

C. Upon completion of a public hearing, that the Board adopt Resolution of Necessity No. 25-002 authorizing and directing General Counsel, or her designee, to prepare, commence, and prosecute proceedings in eminent domain for the purpose of acquiring interests in real property from: VID Enterprises, LLC (Assessor's Parcel Number 0238-052-53). The resolution must be approved by at least a two-thirds majority.

D. Upon completion of a public hearing, that the Board adopt Resolution of Necessity No. 25-004 authorizing and directing General Counsel, or her designee, to prepare, commence, and prosecute proceedings in eminent domain for the purpose of acquiring interests in real property from: Erwin Weinhart (Assessor's Parcel Numbers 0252-142-28 and 0252-142-29). The resolution must be approved by at least a two-thirds majority.

E. Upon completion of a public hearing, that the Board adopt Resolution of Necessity No. 25-005 authorizing and directing General Counsel, or her designee, to prepare, commence, and prosecute proceedings in eminent domain for the purpose of acquiring interests in real property from: Ruben Zepeda (Assessor's Parcel Number 0252-142-19). The resolution must be approved by at least a two-thirds majority.

Background:

San Bernardino County Transportation Authority (SBCTA) is proceeding with the delivery of the Interstate 10 (I-10) Corridor Freight and Express Lanes Project - Contract 2 (Project). The acquisition of temporary construction easements (TCE), permanent easements, and partial fee areas from 39 properties is required to construct and operate the Project.

On March 1, 2023, the SBCTA Board of Directors (Board) approved Cooperative Agreement No. 23-1002935 with the California Department of Transportation (Caltrans) for Right-of-Way (ROW) phase of this Project, defining SBCTA's role as the lead agency for acquisition of ROW.

Entity: San Bernardino County Transportation Authority

Costs to acquire the necessary ROW on this Project will be funded with Measure I Funds. At the same meeting, the Board authorized staff to complete the appraisal of properties identified and to make offers of just compensation to the property owners for the acquisition of property necessary for the Project.

In an effort to maintain the Project schedule, it is necessary to comply with the statutorily-prescribed process for eminent domain and conduct hearings for a Resolution of Necessity for each property while negotiations continue. Therefore, the purpose of this agenda item is to present information regarding the public interest and necessity for the Project and the property rights required for Project implementation. Although the adoption of Resolutions of Necessity is recommended for the subject properties in order to maintain the Project schedule and avoid delay costs, SBCTA's acquisition agents will continue to negotiate with the property owners in an effort to acquire the property interests through a voluntary purchase and avoid litigation.

The owners of the subject properties are:

- ~~Shea Center Ontario~~
- VID Enterprises, LLC
- Erwin Weinhart
- Ruben Zepeda

Support for the Resolutions of Necessity

SBCTA is authorized to acquire property by eminent domain pursuant to the California Public Utilities Code Sections 130220.5 and 130809(b)(4). Eminent domain will allow SBCTA to obtain legal rights to the properties needed for the Project if a negotiated sale cannot be reached. A Resolution of Necessity is the first step in the eminent domain process. Since the process takes several months, it is necessary to start this process now to ensure that possession of the property is obtained in time to meet the scheduled delivery and to avoid costly ROW delays.

In order to adopt the Resolutions of Necessity, SBCTA must make the four findings discussed below for each of the properties. The issue of the amount of just compensation for these properties is not addressed by these Resolutions of Necessity and is not to be considered at the hearings. The four necessary findings are:

1. The public interest and necessity require the Project.

The Project is located in the Cities of Ontario, Fontana, Rialto, and Colton, as well as unincorporated areas of San Bernardino County. The Project will add a single express lane, in each direction, along the I-10 from the Interstate 15, in the City of Ontario, to Pepper Avenue, in the City of Colton, a length of approximately 11 miles, connecting to the I-10 Corridor Freight and Express Lanes Contract 1, currently under construction.

The purpose of the Project is to improve traffic operations on the I-10 corridor in San Bernardino County to:

- Reduce congestion
- Increase throughput

- Enhance trip reliability
- Accommodate long-term congestion management of the corridor

If no improvements are made to the freeway, the existing and future traffic congestion will likely become worse with a potential of increased traffic delays and related accidents.

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

During the environmental phase, various design alternatives were considered to minimize the properties required for the Project. Subsequently, an analysis of implementing a single express lane under this Project, rather than the dual express lanes approved in the environmental document, showed that constructing a single express lane would reduce the fee acquisitions from 85 properties and 13 full acquisitions to five properties and zero full acquisitions. However, the Project still requires partial acquisitions, temporary construction easements, and permanent easements.

SBCTA's acquisition agents have had numerous communications with each of the property owners and design staff about Project impacts in order to design the Project in a manner that causes the least private injury while accomplishing the greatest public good. Some examples include constructing retaining walls to minimize the additional area needed for the widening of the freeway, installation of soundwalls to mitigate noise impacts, and maintaining access to properties during construction of the Project.

3. Each property sought to be acquired is necessary for the Project.

While portions of the Project are being constructed within existing ROW, the Project requires acquisition of the property interests listed below:

- ~~Shea Center Ontario.: Two Fee Acquisitions and three TCEs are needed for the construction of the Project.~~
- **VID Enterprises, LLC:** A Drainage Easement is needed for the construction of the Project improvements.
- **Erwin Weinhart:** A TCE is needed for the construction of the Project improvements.
- **Ruben Zepeda:** A TCE is needed for the construction of the Project improvements.

4. Offers required by Section 7267.2 of the Government Code have been made to the property owners.

The properties listed below were appraised and offers for the full amount of the appraisals were made to the owner or owners of record in accordance with Section 7267.2 of the Government Code.

- ~~The offer for the Shea Center Ontario Property was presented on May 31, 2024.~~
- The offer for the VID Enterprises, LLC Property was presented on June 26, 2024.
- The offer for the Erwin Weinhart Property was presented May 14, 2024.
- The offer for the Ruben Zepeda Property was presented on May 31, 2024.

Financial Impact:

The I-10 Corridor Freight and Express Lanes Project Contract 2 is included in the adopted Budget for Fiscal Year 2024/2025 and funded with Measure I Funds in Program 40, Project Delivery.

Reviewed By:

This item is not scheduled for review by any other policy committee or technical advisory committee. SBCTA General Counsel has reviewed this item and the draft resolutions.

Responsible Staff:

Tracy Escobedo, Management Analyst II

	Approved Board of Directors Metro Valley Study Session Date: August 15, 2024 Witnessed By:
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I-10 Corridor Freight and Express Project Contract 2

RESOLUTION OF NECESSITY FOR PROJECT RIGHT-OF-WAY

**Presenter: Sal Chavez
Project Delivery Manager**



**Board of Directors
Metro Valley Study Session
August 15, 2024**

cta

San Bernardino County
Transportation Authority

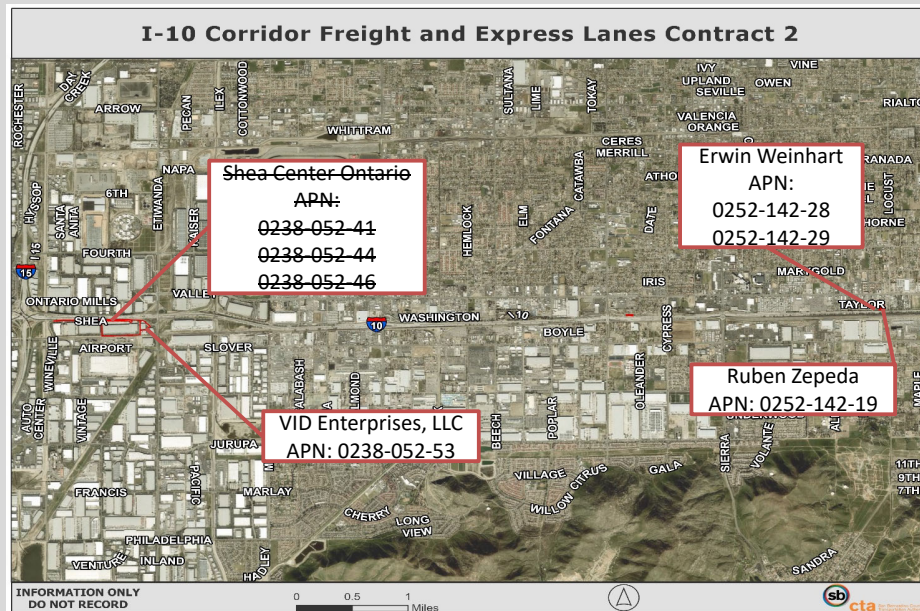
SBCTA IS REQUESTED TO MAKE THE FOLLOWING FINDINGS:

- 1. The public interest and necessity require the proposed project**
- 2. The project is planned or located in a manner that will be most compatible with the greatest public good and the least private injury**
- 3. The real property to be acquired is necessary for the project**
- 4. The offer of just compensation has been made to the property owner**



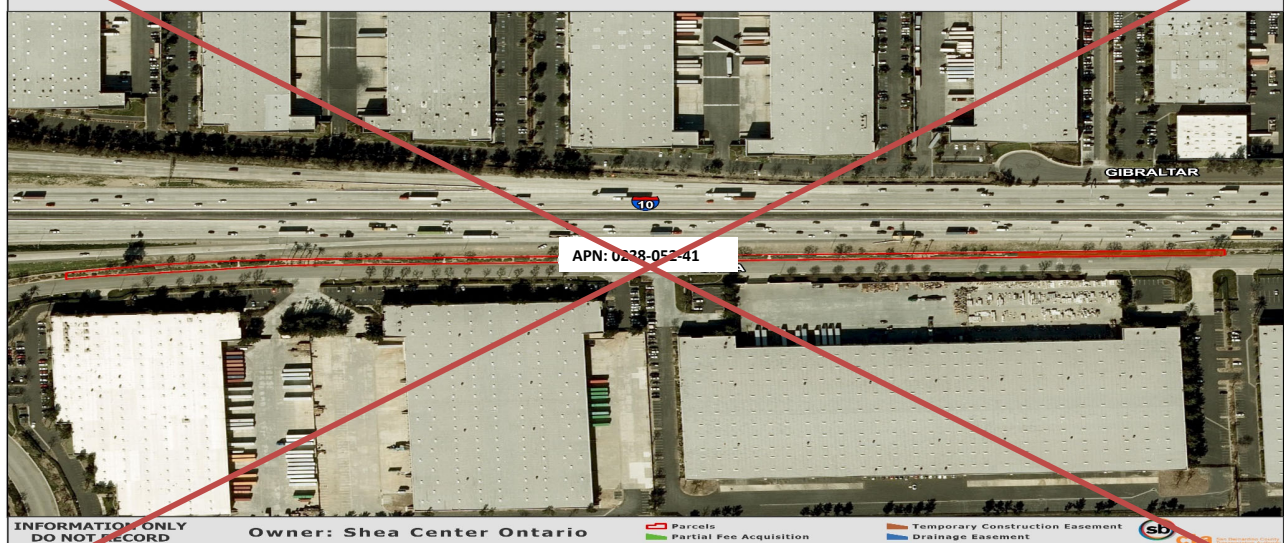
SBCTA Request

- This project provides a single express lane, in each direction, along the I-10 from the I-15, in the City of Ontario, to Pepper Avenue, in the City of Colton, a length of approximately 11 miles, connecting to the I-10 Corridor Contract 1 express lanes currently under construction.
- Project will improve eastbound acceleration lanes between Cherry Avenue to Citrus Avenue and Sierra Avenue to Cedar Avenue; and add auxiliary lanes in both directions from Riverside Avenue to Pepper Avenue.

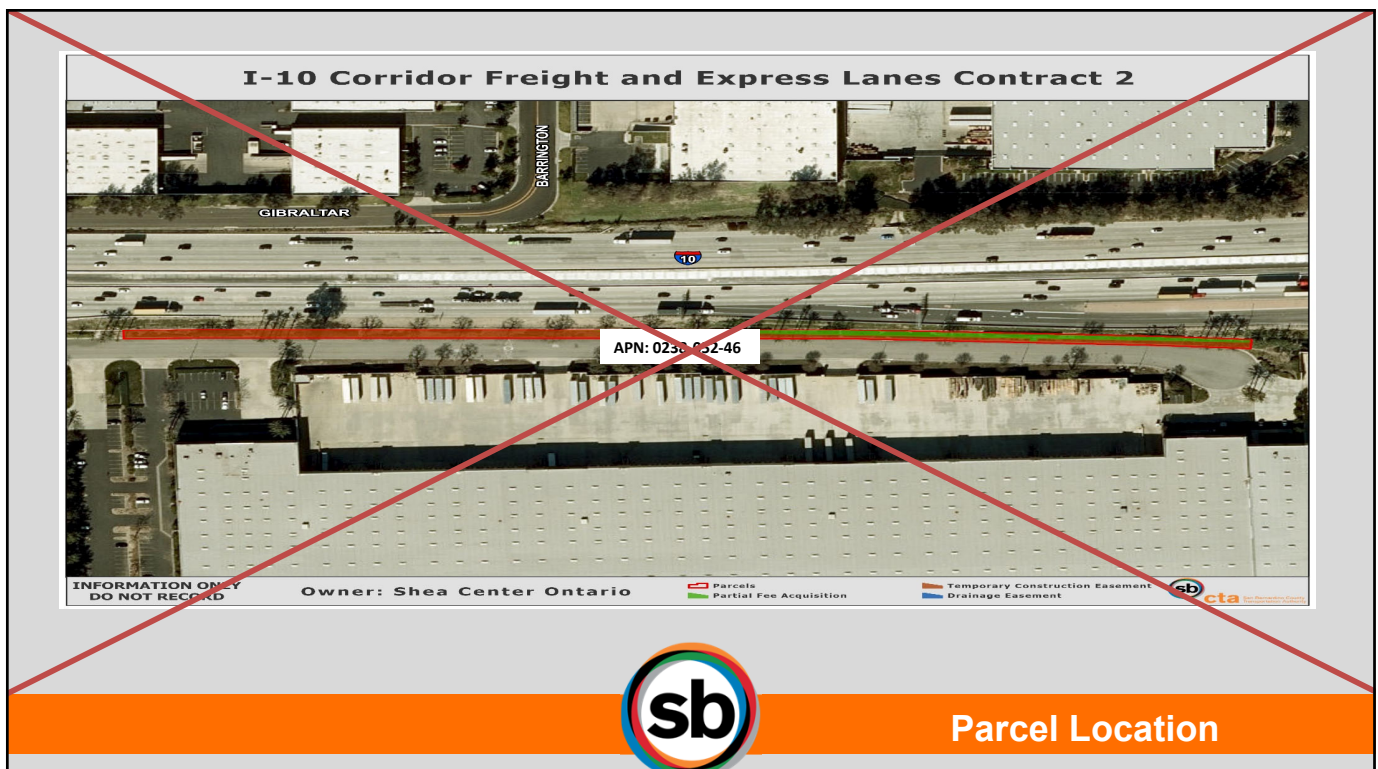
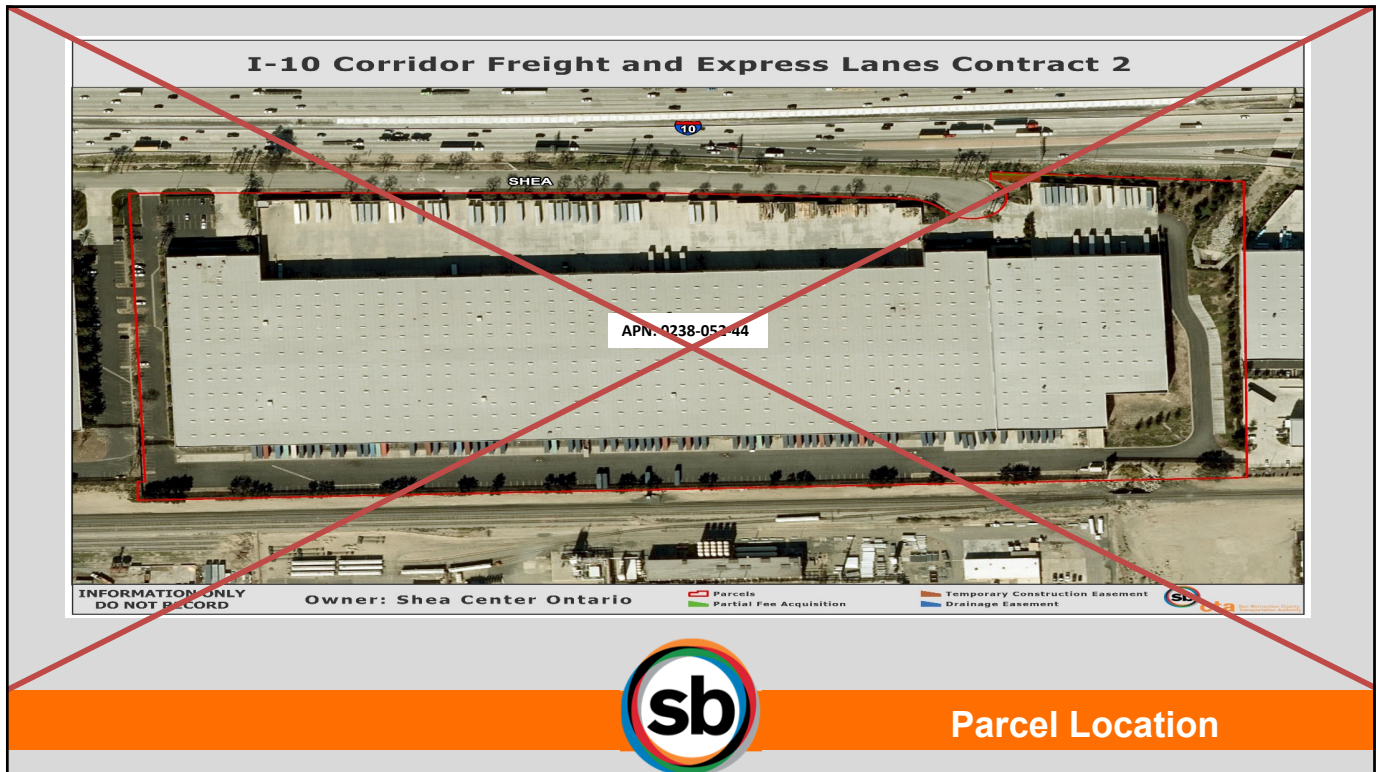


I-10 Corridor Freight and Express Lanes Contract 2

I-10 Corridor Freight and Express Lanes Contract 2



Parcel Location



I-10 Corridor Freight and Express Lanes Contract 2**Parcel Location****I-10 Corridor Freight and Express Lanes Contract 2****Parcel Location**

I-10 Corridor Freight and Express Lanes Contract 2**Parcel Location****I-10 Corridor Freight and Express Lanes Contract 2****Parcel Location**

No.	Ownership	Date of First Contact	Mailings	In Person Meetings	Phone Contacts	E-Mails	Attorney Contacts	Unsuccessful Contacts *	Total
B.	Shea Center Ontario	9/6/2023	2	1	4	20	0	0	27
C.	VID Enterprises, LLC	9/12/2023	2	1	4	27	34	0	34
D.	Erwin Weinhart	9/29/2023	3	2	9	0	0	13	27
E.	Ruben Zepeda	9/12/2023	2	4	6	6	0	5	23
* Property visit, phone call and/or email with no response									
Communications as of July 31, 2024									



Communication Summary

Item	Ownership	Offer Date
B.	Shea Center Ontario	6/17/2024
C.	VID Enterprises, LLC	6/26/2024
D.	Erwin Weinhart	5/14/2024
E.	Ruben Zepeda	5/31/2024



Offer of Just Compensation

**SBCTA ADOPT A RESOLUTION OF NECESSITY
BASED ON THE FOLLOWING FINDINGS:**

1. The public interest and necessity require the proposed project
2. The project is planned or located in a manner that will be most compatible with the greatest public good and the least private injury
3. The real property to be acquired is necessary for the project
4. The offer of just compensation has been made to the property owner



Staff Recommendation

THANK YOU

