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Potential Property Acquisitions and Displacements

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Acronyms/Abbreviations

EDPL.....	Eminent Domain Procedures Law
NFTA	Niagara Frontier Transportation Authority
Uniform Act	Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970

4 Potential Property Acquisitions and Displacements

This chapter describes the potential property acquisitions and displacements that could result from the need for right-of-way and other real property to construct and operate the Proposed Action, once the project receives the necessary federal, state, and possibly other sources in the future following applicable SEQRA and NEPA public review procedures. This chapter also describes avoidance and minimization strategies Metro has taken to eliminate or reduce the need for acquisition and displacements, as well as mitigation measures Metro would undertake to offset adverse effects related to property acquisitions. Potential socioeconomic effects of the Proposed Action are further discussed in Chapter 3, “Socioeconomic Conditions,” and the economic effects of the Proposed Action’s construction are described in Chapter 19, “Construction Effects.”

4.1 REGULATORY CONTEXT

Transportation projects often require property acquisition and relocation. All activities related to acquisitions and displacements would be conducted in conformance with the New York State Eminent Domain Procedure Law. The New York State Eminent Domain Procedures Law (EDPL) seeks to establish the exclusive procedure by which property is acquired in New York state, to ensure a fair and equitable process and the payment of just compensation is paid, and to establish opportunities for public participation in the planning of projects necessitating the exercise of eminent domain.

After the Proposed Action receives the necessary funding in the future following compliance with SEQRA, NEPA and other applicable legal requirements, certain potential property acquisitions and displacements as identified in this chapter may be necessary to implement the Proposed Action. Those acquisitions and displacements will be subject to additional approval requirements. All potential acquisitions and displacements required for the Proposed Action will be subject to applicable condemnation procedures detailed in the EDPL.

In addition, to meet a future federal action, acquisitions and displacements would comply with the Uniform Relocation and Real Property Acquisitions Policies Act of 1970 (42 United States Code [USC] 4601), as amended (the Uniform Act) and Public Law 105-117. These statutes mandate that certain relocation services and payments be made available to eligible residents, businesses, and nonprofit organizations displaced as a direct result of projects undertaken by a federal agency or with federal financial assistance. The Uniform Act provides for uniform and equitable treatment for persons displaced from their homes and businesses, and it establishes uniform and equitable land acquisition policies.

4.2 METHODOLOGY

The identification of affected properties is based on the current level of the conceptual engineering plans for the Proposed Action. Properties that could be fully or partially acquired, or would be subject to an easement, were identified based on the Proposed Action limits of disturbance boundary. The limits of disturbance is the boundary within which construction, materials storage, grading, landscaping, and related activities would occur. In many locations, the limits of disturbance also includes a buffer to provide a conservative approach in identifying potential right-of-way needs. Property acquisitions will be further refined during preliminary and final design. Further refinement and discussions with property owners could result in less acquisition than identified in this DEIS. Geographic Information System databases obtained from Erie County were used to graphically depict parcel-level data and identify potential affected properties. For partial acquisitions, a determination was made whether acquisition would affect the use of the property as currently designed and/or whether modifications to the property would be required to maintain use.

The following types of real estate transactions and impacts are discussed in this chapter:

- **Partial or Full Acquisition** occurs where a portion of or an entire tax parcel is transferred to the Metro Rail right-of-way, pursuant to applicable state and federal regulations, thereby dissolving the tax parcel's private ownership and potentially requiring relocation of the existing land use. A full acquisition includes a purchase of all fee-simple¹ land ownership rights of a property. A partial acquisition includes fee-simple or easement acquisitions. See below for a description of easement property rights.
- **Displacement** results from full acquisitions and the conversion of the existing land use to a transportation use. Displacements are measured by housing unit or business, not tax parcel. For example, the acquisition of an apartment building on a single tax parcel with six units would result in six residential displacements.
- **Easement** provides for the temporary (during construction) or permanent use of a property for a particular purpose. A temporary easement may be purchased from a property for the purpose of storage of materials and equipment, access to construction areas, site grading, or other construction-related activities. Properties affected by easements are restored to an acceptable pre-construction condition, depending upon the individual easement need and agreement. A permanent easement may be purchased from a property to permanently locate infrastructure without completely diminishing property owner use of the land. Examples of permanent easements include storm water management, drainage channels or storm drains, utilities, slope/grading and subsurface/tunnels.

¹ A permanent and absolute tenure of an estate in land with freedom to dispose of it at will, especially in full fee simple absolute a freehold tenure, which is the main type of land ownership.

4.3 FUTURE WITHOUT THE PROPOSED ACTION

In the future without the Proposed Action (or the No Action condition), no land would be acquired and no impacts would result from displacing property owners, residents, or businesses.

4.4 FUTURE WITH THE PROPOSED ACTION

The Proposed Action would be constructed primarily within existing transportation right-of-way. However, portions of the Proposed Action would be constructed in areas where there is insufficient right-of-way width. As such, implementing the Proposed Action could require acquiring property and, in some cases, could displace commercial and residential uses. Property acquisitions and displacements in this chapter have been determined based on the conceptual engineering performed to date. Further refinement will occur as the Proposed Action moves into preliminary and final design.

4.4.1 Potential Acquisitions

Implementation of the Proposed Action could require the full and partial acquisition of parcels along the proposed corridor and could potentially result in the displacement of businesses on parcels with commercial, industrial and office uses. All property acquisitions that could result from the Proposed Action are listed and shown graphically in Appendix D, “Potential Property Acquisitions”. Portions of residential properties may be required for partial acquisition and/or easements and could potentially result in the displacement of two residential homes. The total estimate of property acquisitions that could be necessary for the Proposed Action is included in Table 4-1.

Table 4-1. Proposed Action Potential Property Acquisitions

Type	Total Number of Parcels	Total Proposed Acquisition	Number of Displacements	Property Use
Full	15	275,875 square feet (6.3 acres)	12	2 Residential 10 Commercial Transportation/utility 2 Vacant
Partial	148	443,398 square feet (10.2 acres) <i>Average acquisition is 2.7% of total property</i>	0	69 Residential 68 Commercial 3 Mixed-Use 2 Institutional 2 Transportation/utility 4 Vacant

4.4.1.1 Potential Full Acquisitions

Potential full property acquisitions for the Proposed Action are listed in Table 4-2 and include entire parcels that could be needed for development of the Proposed Action, or portions of parcels in which impacting that portion could impede its functional capabilities and future use. Such impacts could include, but are not limited to, removing or limiting access to a property or the removal of parking spaces such that its continued use is no longer viable. Based on conceptual engineering, full property acquisition could affect 15 properties with a combined area of 275,875 square feet (6.3 acres). As preliminary and final design continues, the Niagara Frontier Transportation Authority (NFTA) will coordinate with these property owners to refine property needs.

Table 4-2. Proposed Action: Full Acquisitions

Address	Parcel ID	Land Use	Parcel Size (Square Feet)	Square Feet of Acquisition
159 Niagara Falls Boulevard	79.31-3-23	Vacant	8,611	8,611
143 Kenmore Avenue	79.31-3-22.1	Vacant	15,448	15,448
546 Niagara Falls Boulevard	67.71-3-1	Restaurant	3,861	3,861
861 Niagara Falls Boulevard	67.47-7-2.1	One family	7,387	7,387
865 Niagara Falls Boulevard	67.47-7-19	Two family	4,008	4,008
869 Niagara Falls Boulevard	67.39-5-5	Retail	18,676	18,676
899 Niagara Falls Boulevard	67.39-5-2.11	Office	43,231	43,231
925 Niagara Falls Boulevard	67.39-5-1	Retail	29,831	29,831
874 Niagara Falls Boulevard	67.39-2-8	Auto body	23,999	23,999
910 Niagara Falls Boulevard	67.39-2-6	Retail	10,799	10,799
920 Niagara Falls Boulevard	67.39-2-5	Retail	8,754	8,754
926 Niagara Falls Boulevard	67.39-2-4.1	Retail	4,335	4,335
1167 Niagara Falls Boulevard	67.06-1-39	Auto body	16,368	16,368
1269 Niagara Falls Boulevard	54.03-1-24.4	Parking lot	22,918	22,918
3893 Maple Road	54.03-1-13	Auto body	57,649	57,649

Source: Erie County; WSP, 2019

4.4.1.2 Potential Partial Acquisitions

Potential partial property acquisitions for the Proposed Action are listed in Appendix D, “Potential Property Acquisitions” and include parcels where portions or strips of property could be needed for development of the Proposed Action. Based on estimates from conceptual engineering, portions of 148 parcels could require partial acquisitions, mainly involving a strip of frontage to widen a right-of-way, particularly along Niagara Falls Boulevard and Maple Road. In total, partial acquisitions could account for 433,398 square feet (10.2 acres). In many cases, the partial acquisitions that could be required would generally consist of less than 14 percent of the total parcel area. These partial property acquisitions could result in the removal of the following:

- Parking spaces
- Fixtures, such as business signage, lights, mailboxes and fences
- Landscaping elements, including vegetation and hardscapes
- Other miscellaneous personal property

This initial assessment of property acquisition will be further refined as engineering plans and specifications are finalized. The Proposed Action could also require the relocation of signage, fences, and other personal property on some properties that are within existing right-of-way but do not need to be acquired.

4.4.2 Potential Easements

The Proposed Action would need to acquire easement property rights from additional properties within the study area. The details on potential easements would be determined during preliminary and final design, and could be related to drainage, stormwater management, utilities, slope easements, storage of materials and equipment, access to construction areas, or other project related needs. Easement would also be needed for parcels on UB North campus. Temporary easements are anticipated during construction for staging areas and construction access, and utility relocation. Temporary construction easements could result in short-term change of access or closures of certain areas of the properties in the easement, or to adjacent properties; where this is the case, alternative access would be provided.

4.4.3 Potential Displacements

Of the 16 acres of land acquired, including both full and partial acquisitions, 6 acres could require displacements. There could be 12 displacements resulting from the Proposed Action, including 2 residential properties and 10 commercial facilities:

- Two residential displacements could occur on Niagara Falls Boulevard, where roadway widening could displace 1 one-family home and 1 two-family home. The one-and two-family status is based on Erie County parcel data. The number of households living in the two-family home will be confirmed as preliminary and final design continues.
- The following 10 commercial facilities that could be displaced provide goods and services typical of the businesses in the Proposed Action corridor:
 - 4 retail businesses
 - 3 auto care businesses
 - 1 funeral administration office
 - 1 restaurant
 - 1 commercial office

4.5 MITIGATION

Mitigation measures were identified during the conceptual design to limit the required right-of-way needs and impacts to commercial, residential, and institutional land uses, to the extent practicable. One of the mitigation measures to reduce property impacts was to eliminate one travel lane in each direction along Niagara Falls Boulevard and Maple Road, which reduced the Proposed Action's footprint. Travel lanes were also reduced to 11 feet (a common and acceptable lane width) along certain segments of the corridor. In addition, placing the Proposed Action under the intersection of Maple Road and Sweet Home Road, mitigated the transportation impacts to the properties surrounding the intersection.

Refer to Chapter 13, “Transportation” for a description of all roadway modifications associated with the Proposed Action. Additional mitigation measures may be identified in connection with the public review of this DEIS and as project development progresses.

Property acquisition activities, including relocations, would be performed in accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Uniform Act) as amended and Federal Transit Administration Circular 5010.1D, Grants Management Requirements and all applicable New York State laws that establish the process through which NFTA may acquire real property through a negotiated purchase or through condemnation.