

ATTACHMENT 2

October 5, 2017

VIA CERTIFIED & U.S. MAIL RETURN RECEIPT REQUESTED

Millard W. Tong and Alicia W. Tong
1499A Terra Nova Blvd.
Pacifica, CA 94044

Millard W. Tong and Alicia W. Tong
1 Picardo Ranch Rd
Pacifica, CA 94044

Re: Offer Pursuant to California Government Code § 7267.2 to acquire
Appraisal Parcel Nos. 009-413- 010 and 009-413-020

Dear Mr. and Mrs. Tong:

As discussed further herein, the purpose of this letter is to transmit an offer to purchase your property for the 310-330 Esplanade Infrastructure Preservation Project (the "Project")

With this offer, the City of Pacifica (the "City") proposes to acquire Assessor Parcel Nos. 009-413-010 and 009-413-020, commonly known as 310 and 320 Esplanade Avenue, in their entirety ("Subject Property"). Enclosed as Exhibit A are the legal description and plat map of the Subject Property. Public records indicate that you are the trustees of the owner of the Subject Property needed for the Project.

The City would prefer to resolve this matter by negotiated purchase. Section 7267.2 of the Government Code requires the City to make you an offer which represents the appraised fair market value of the property necessary for the Project. The City offers the sum of \$76,500 (Seventy Six Thousand And Five Hundred Dollars) for the Subject Property. Enclosed as Exhibit B is the Statement and Summary of the Basis for the Appraisal and the Amount Established as Just Compensation, which demonstrates the value of the Subject Property. As provided in Government Code section 7267.2, the offer is conditioned upon the City Council's ratification of the offer by either execution of a contract of acquisition or adoption of a Resolution of Necessity, or both.

Please note the offer is a gross figure from which deductions may be necessary to satisfy property taxes and assessment liens. Other interest claimants such as lessees and beneficiaries of trust deeds may also receive some of the proceeds. In the event that you decide to accept the offer, it is recommended that you contact directly the

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persons, if any, to whom you may be making payments under trust deeds or other liens, and reach an agreement with them as to the amount of money they will demand, if any, in escrow to clear the property being acquired of these liens and encumbrances.

Furthermore, pursuant to Code of Civil Procedure section 1263.025(a), the City will pay the reasonable costs, not to exceed Five Thousand Dollars (\$5,000), of an independent appraisal of the Subject Property, ordered by you. To be eligible for reimbursement, the independent appraisal must be conducted by an appraiser licensed by the State Office of Real Estate Appraisers. In addition, pursuant to Code of Civil Procedure section 1263.615, the City is unable to offer to lease to you the Subject Property for your continued use after the City acquires the Subject Property, because the City will begin the Project within two years of the acquisition. Finally, enclosed as Exhibit C is an informational pamphlet describing the eminent domain process and your rights under the Eminent Domain Law.

Please respond to this offer in writing within thirty (30) days from the date of this letter. As indicated, the City would like to resolve this matter with you by agreement, as we believe a negotiated purchase best serves everyone's interests. If you do not accept the offer, you will shortly receive the City's notice of intent to consider the adoption of a Resolution of Necessity. However, this is merely a procedural step in the process, and the City would not be foreclosed from continuing negotiations by sending such a notice.

If you have any questions, please contact me at (510) 903-8802.

Sincerely,


Albert Tong

AT:AT

Attachments:

- Exhibit A: Legal Description and Plat Map
- Exhibit B: Statement and Summary of the Basis for the Appraisal
- Exhibit C: Informational Pamphlet on Eminent Domain Law

cc: Client

**EXHIBIT A
LEGAL DESCRIPTIONS AND PLAT MAP**

310 Esplanade Avenue

PARCEL 1:

Lot 6 in Block 2, as shown on that certain map entitled "SURF SIDE MANOR NO. 1 PACIFICA, CALIFORNIA", filed in the office of the County Recorder of San Mateo County, State of California on April 28, 1961 in Book 54 of Maps at page 40.

PARCEL 2:

Those certain parking privileges provided for in the Declaration of Parking Covenants recorded October 4, 1971 in Book 6024, page 102, Official, Records (File No. 51401-AE), Records of San Mateo County, California. Said privileges are appurtenant to and for the benefit of Parcel 1 above and were created by that certain Deed recorded October 4, 1971 in Volume 6024 of Official, Records at page 191 (File No. 51428-AE), Records of San Mateo County, California.

A.P. No.: 009-413-010

320 Esplanade Avenue

PARCEL 1:

Lot 5 in Block 2, as shown on that certain map entitled "SURF SIDE MANOR NO. 1 PACIFICA, CALIFORNIA", filed in the office of the County Recorder of San Mateo County, State of California on April 28, 1961 in Book 54 of Maps at page 40. Excepting any portion of the land below the ordinary high water mark where it was located prior to any artificial or avulsive changes in the location of the shoreline.

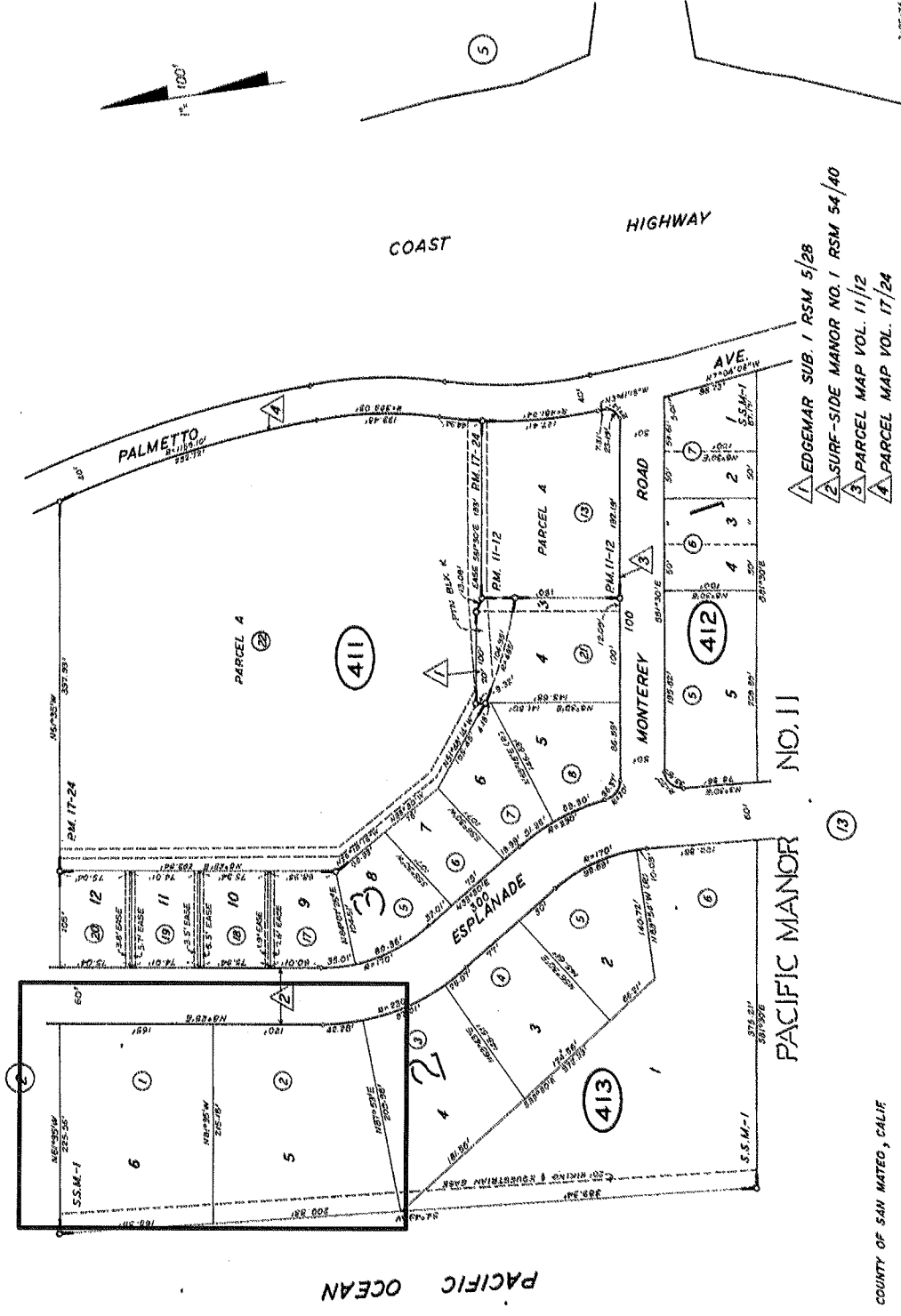
PARCEL 2:

Those certain parking privileges provided for in the Declaration of Parking Covenants recorded October 4, 1971 in Book 6024, page 110, Official Records (File No. 51402-AE), Records of San Mateo County, California. Said privileges are appurtenant to and for the benefit of Parcel 1 above and were created by that certain Deed recorded October 4, 1971 in Volume 6024 of Official Records at page 185 (File No. 51425-AE), Records of San Mateo County, California.

A.P. No.: 009-413-020

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TAX CODE AREA



**EXHIBIT B
STATEMENT AND SUMMARY OF THE BASIS FOR JUST COMPENSATION**

BASIC PROPERTY DATA

OWNERS:	Millard W. Tong and Alicia W. Tong, Trustees, U.D.T. April 30, 1990
PROJECT:	310-330 Esplanade Infrastructure Preservation Project
PROPERTY ADDRESS:	310 and 320 Esplanade Avenue, Pacifica, California
DATE PROPERTY ACQUIRED BY OWNER:	N/A
ZONING:	Multi-Family Residential (R-3)
GENERAL PLAN:	High Density Residential
PRESENT USE:	Vacant
HIGHEST AND BEST USE ¹ :	Land banking
TOTAL SITE AREA:	74,670 SF
TOTAL BUILDING AREA	None
PROPERTY RIGHTS PROPOSED TO BE ACQUIRED:	Fee Simple
DATE OF INSPECTION:	June 15, 2017
DATE OF VALUATION:	June 15, 2017
DATE OF REPORT:	September 27, 2017

BASIS OF VALUATION

The just compensation being offered by the City of Pacifica is not less than the approved appraisal of the fair market value of the property. The fair market value of the property proposed for acquisition is based on a fair market value appraisal prepared according to accepted appraisal procedures. Where appropriate, sales of comparable properties and income data are utilized. Principal transactions of comparable properties, where evaluated, are included herein.

¹ Highest and Best Use Analysis

Highest and best use is defined as the reasonably probable use of land which is legally permissible, physically possible, and financially feasible that results in the highest value. Highest and best use analysis is used in the appraisal process to identify comparable properties and, where applicable, to determine whether the existing improvements should be retained, renovated, or demolished.

The appraiser has given full and careful consideration to the highest and best use for development of the property and to all features inherent in the property, including, but not limited to, existing improvements, zoning, development potential and the income the property is capable of producing.

California Code of Civil Procedure Section 1263.320 defines fair market value as follows:

a) Fair market value is defined as the highest price that would be agreed to by a seller, being willing to sell but under no particular or urgent necessity for doing so, nor obliged to sell, and a buyer, being ready, willing and able to buy but under no particular necessity for doing so, each dealing with the other with full knowledge of all the uses and purposes for which the property is reasonably adaptable and available.

b) The fair market value of property taken for which there is no relevant market is its value on the date of valuation as determined by any method of valuation that is just and equitable.

APPRAISAL SUMMARY

Value of the Entire Property:	\$ 76,500
Value of the property being acquired:	
A. Fee Simple Land and included Improvements:	\$ 76,500
B. Improvements Pertaining to the Realty ² :	\$ 0
C. Permanent Easement:	\$ 0
D. Temporary Construction Easements:	\$ 0
	\$76,500
	<i>(Sum of items A - D)</i>

Value of the Remainder as part of the whole

² Improvements Pertaining to the Realty (if any)

Machinery, Fixtures and Equipment identified here were separately valued as improvements pertaining to the realty. Prior to escrow close, owner and lessee must agree (and confirm in writing) as to ownership of said improvements pertaining to the realty, a list of which is attached to the Purchase Agreement as Exhibit "___" and delivered contemporaneously with this valuation summary statement.

Before the proposed acquisition:	Not applicable
Value of the Remainder as a separate parcel after the proposed acquisition:	Not applicable
E. Severance Damages ³ :	\$ N/A
F. Cost to Cure Damages:	\$ N/A
Total Damages:	\$ 0 <i>(Sum of items E & F)</i>
Value of the Remainder as a separate parcel after the proposed acquisition (cured):	\$ Not applicable
Benefits ⁴ :	\$ N/A
JUST COMPENSATION FOR ACQUISITION:	\$ 76,500
CONSTRUCTION CONTRACT WORK (No cost to owner)	
None	

³ Severance Damages (Applies to Proposed Partial Acquisitions)

The appraisal also determines whether or not the proposed acquisition results in damages to the remaining property. The basis for this determination is whether or not the value of the remainder is diminished by reason of the anticipated acquisition of the property interest being acquired and the construction of the improvement in the manner proposed. (Cost to Cure) Severance Damages may be mitigated or entirely eliminated by estimating the cost to cure the damages.

⁴ Benefits (Applies to Proposed Partial Acquisitions)

Benefit to the remainder is the benefit, if any, caused by the construction and use of the project for which the property is acquired in the manner proposed.

* These definitions are general and provided to assist in the discussion related to the proposed acquisition. They are not intended to be legal definitions.

Land Sales Summary

Comp. No.	COE Date	Acres	Sq. Ft.	Location	Zoning	Sales Price	Per Sq. Ft.
1	April-16	0.918	40,000	510 Delores Avenue	Half Moon Bay	R-1-B-2	\$17,000 \$0.43
2	September-16	2.300	100,188	San Mateo Road (Hwy 92)	Half Moon Bay	PAD/CD	\$150,000 \$1.50
3	April-10	5.390	234,788	Obispo Road	El Granada	COSC/DR	\$850,000 \$3.62
4	August-14	0.550	23,958	Santa Ana Road	Los Gatos	HS	\$7,000 \$0.29
5	April-15	0.830	36,155	Saddlebrook Drive	San Jose	R-MH	\$80,445 \$2.23

COMPARABLE SALES MAP

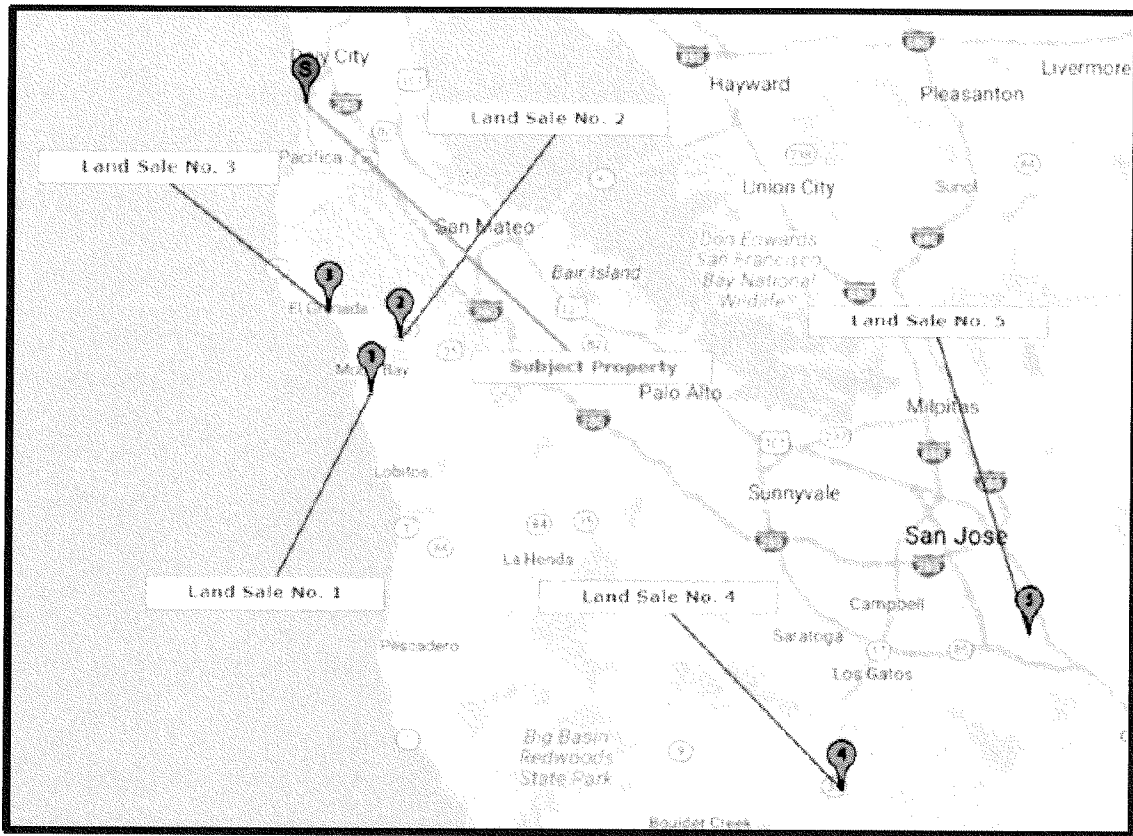


EXHIBIT C EMINENT DOMAIN INFORMATIONAL PAMPHLET

Introduction

California Government Code Section 7267.2 requires that a public entity provide property owners with an informational pamphlet describing the eminent domain process and the property owners' rights under the Eminent Domain Law at the time the public entity offers to purchase the owners' property or portions of their property. This informational pamphlet provides a general overview of the eminent domain process and answers questions commonly asked by property owners regarding their rights. This is an informational pamphlet only and is not intended to give a complete statement of all state or federal laws and regulations regarding eminent domain or to provide property owners with any form of legal advice.

Overview of The Eminent Domain Process

What is eminent domain?

Eminent domain is the acquisition of private property by a public entity for a public use. Public entities, such as the state and the federal government, counties, cities, redevelopment agencies, and school districts, may acquire real property for a public use if they meet all legal requirements, including the payment of just compensation to the property owners or into the court for the benefit of the owners. (CALIFORNIA CONSTITUTION, art. I, sec. 19). Public uses include, but are not limited to roads, sewer lines, parks, public facilities, police stations, fire stations, libraries, and schools. The acquisition of real property to remedy blight consistent with the Redevelopment Law is also a public use (Health and Safety Code Section 33000 *et seq.*).

A public entity may acquire any interest in real property such as a fee interest, permanent easement, slope easement, or temporary construction easement. A public entity may acquire only the real property interests that are needed for the public use. If a public entity acquires a portion of a parcel and this results in damage to the remainder parcel, the owner is entitled to be compensated for the loss of value, if any, to the remainder parcel. This is called severance damages. If the appraiser determines that the remainder parcel will be left in a size, shape or condition to be of little or no value to the owner, the public entity will offer to purchase the entire parcel. The property owners can decide whether they want the public entity to acquire such uneconomic remnants.

The law requires a public entity to make every reasonable effort to acquire property expeditiously by negotiated purchase. As discussed more fully below, there

are several steps that a public entity must take prior to acquiring property by eminent domain. These legal prerequisites are meant to protect property owners and to ensure that they have an opportunity to participate in the acquisition process. These preacquisition steps include the appraisal process, offers and negotiations.

Appraisal Process

The public entity is required to obtain a fair market value appraisal of the real property before it can acquire it by eminent domain.

Notice Informing Owners of Public Entity's Decision to Appraise Their Property

When a public entity identifies a real property or real property interest ("subject property") that it may need for a proposed project, it sends to the property owners a notice informing the owners that it intends to appraise the subject property. This notice informs the owners that the public entity has decided to appraise the subject property and notifies them that an appraiser will be contacting them. An appraiser licensed by the Office of Real Estate Appraisers will contact the owners and request permission to inspect the subject property. The appraiser will also invite the property owners to accompany the appraiser on the inspection of the subject property and to provide to the appraiser any information that the owners consider relevant to the value of the property. Permitting the inspection and accompanying the appraiser on the site inspection will allow the appraiser to fully assess the value of the subject property. If the owners do not allow the appraiser to inspect the subject property, the appraiser will inspect it from the public right of way.

Appraisal

After the appraiser inspects the property, the appraiser prepares an appraisal of the fair market value of the property.

What is fair market value?

The Eminent Domain Law defines fair market value as the highest price on the date of value that would be agreed to by a seller, being willing to sell but under no particular or urgent necessity for selling the property, and a buyer, ready, willing and able to buy but under no particular necessity for so doing, each dealing with the other with full knowledge of all the uses and purposes for which the property is reasonably adaptable and available. (Code of Civil Procedure Section 1263.320). The appraisal will take into consideration the highest and best use of the property. It can take several weeks or months for an appraisal to be completed, depending on the appraiser's workload.

After the appraisal is completed, staff will review the appraisal to see if it complies with the requirements of the Eminent Domain Law. Staff will then recommend that the governing body of the public entity approve the appraisal and set just compensation. Just compensation must be at least the fair market value of the property as set forth in the appraisal.

Offer

When will the property owners receive an offer to purchase the property?

The public entity will provide the owner with a written offer to purchase the property after it sets just compensation. The public entity generally sends the written offer within thirty (30) days from the date on which the public entity sets just compensation. The public entity cannot offer to purchase the property for less than the fair market value of the property as determined by the appraisal. (Government Code Section 7267.2).

What must the public entity include in the written offer to purchase the property?

Government Code Section 7267.2 requires that the offer include a written statement of, and summary of the basis for, the amount the public entity established as just compensation. The offer must also include the following:

The date of value, highest and best use, and applicable zoning of property;

The principal transactions, reproduction or replacement cost analysis, or capitalization analysis, supporting the determination of value; and

Where appropriate, a separate statement of the just compensation for the real property acquired and for damages to the remainder, including the calculations and narrative explanation supporting the compensation and any offsetting benefits.

If the property is owner-occupied residential property and contains no more than four residential units, the owners are entitled to review a copy of the appraisal.

Negotiations

The public entity will negotiate with the property owners for the sale of the property after it sends the offer letter

Do the property owners have the right to obtain their own appraisal of the property?

Yes. Property owners have always had the right to obtain their own appraisal of their real property. As of January 1, 2007, however, the public entity must offer to pay the property owners' reasonable costs, up to \$5,000.00, for an independent appraisal of their property. The law requires that an appraiser licensed by the Office of Real Estate Appraisers prepare the independent appraisal. The public entity will inform the owners of their rights to be reimbursed for these appraisal costs at the time it sends the offer letter.

Are the property owners required to accept the public entity's offer to purchase the property?

No. The property owners are encouraged to contact the public entity to negotiate the sale of the property. The owners can negotiate the amount they believe to be the fair market value of the property and the terms and conditions of the offer.

Are there any advantages to selling the property to a public entity?

Yes. The property owner will receive at least the fair market value of the property and will not be responsible for real estate commissions, title fees, title insurance, escrow fees, closing costs, and other fees and costs. Some acquisitions by public entities in lieu of condemnation may result in tax benefits to the property owners. The Internal Revenue Service will look at specific criteria to determine whether the acquisition by the public entity qualifies for tax benefits. Accordingly, property owners are encouraged to discuss any such tax benefits with their tax advisors.

Negotiated Acquisition

If a negotiated agreement for the sale of the property is reached, the public entity will prepare a purchase and sale agreement. In such cases, the conveyance of the property is handled through an escrow.

Resolution of Necessity

If the public entity and the property owners do not reach an agreement for the sale of the property, the public entity can hold a hearing to determine whether it will acquire the real property by eminent domain.

Notice of Hearing on Resolution of Necessity

If the public entity has determined that it is necessary to consider the acquisition of the real property by eminent domain, it will send a written notice to the property owners informing them of the date, time and location of the public entity's hearing at which it will consider the adoption of a resolution of necessity. (Code of Civil Procedure Section 1245.235). The notice informs the property owners of their right to be heard at this hearing and of their right to present evidence and to preserve their objections to the public entity's right to take the property.

The Eminent Domain Law requires that a public entity make all of the following findings pursuant to Code of Civil Procedure Section 1245.230 to adopt a resolution of necessity authorizing the public entity to acquire the property by eminent domain:

That the public interest and necessity require the project;

That the project is planned and located in the manner that will be most compatible with the greatest public good and the least private injury;

That the subject property is necessary for the project; and

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.

A public entity may adopt a resolution of necessity only after the governing body has given each person whose property is to be acquired by eminent domain and whose name and address appears on the last equalized assessment roll notice and a reasonable opportunity to appear and be heard on the above matters.

The governing body of the public entity will consider all written and oral evidence before it at the hearing, including any objections to the adoption of the resolution of necessity. The public entity can adopt a resolution of necessity authorizing the acquisition of property by eminent domain if at least two-thirds of the all of the members of the governing body vote to adopt the resolution. If the governing body consists of five members, the adoption of a resolution of necessity requires at least four out of five affirmative votes.

Eminent Domain Proceeding

The resolution of necessity is the document that authorizes the public entity's attorneys to commence an eminent domain proceeding. Accordingly, if the governing body of the public entity adopts a resolution of necessity, its attorneys will prepare a complaint in eminent domain and related pleadings to acquire the property by eminent

domain. Generally, the complaint in eminent domain will name as defendants any parties that have a recorded interest in the parcel, including the record owners, tenants, easement holders whose interests may be impacted by the acquisition of the property or beneficiaries under deeds of trust. The public entity will serve the property owners and other named defendants with a copy of the summons, complaint and related documents filed with the court. The defendants served with the summons and complaint have thirty (30) days from the date that they are served with the summons and complaint to file an answer or responsive pleading with the court. (Code of Civil Procedure Section 412.20). Property owners should consider retaining an attorney with experience in eminent domain proceedings to represent them in such proceedings. The parties can continue to negotiate after the eminent domain proceeding is filed.

Orders for Prejudgment Possession and Deposit of Probable Compensation

Can the public entity take possession of the property before trial?

A public entity may request an order from the court for early possession of the property. This is called an order for prejudgment possession.

Deposit of Probable Compensation

To obtain an order for prejudgment possession, the public entity must show that it is entitled to acquire the property by eminent domain and that it has deposited with the court for deposit into the county treasury or directly with the State Treasury the amount of probable compensation for the real property. The public entity must submit a summary of the basis for the appraisal when it applies to deposit the amount of probable compensation with the court. The date on which the public entity deposits the probable amount of compensation is generally the date of value in the proceeding. This means that the appraisers for the public entity and property owners will determine the fair market value of the real property in the eminent domain proceeding as of the date of value.

Objection to Motion for an Order for Possession

Property owners have the right to oppose a public entity's motion for an order for prejudgment possession. The public entity's motion for an order for prejudgment possession notifies property owners that they have the right to oppose the motion and that they must serve the public entity and file with the court the opposition to the motion within thirty (30) days from the date on which the property owner was served with the motion. If the property owners' opposition asserts a hardship, it has to be supported by a declaration signed under penalty of perjury stating facts supporting the hardship. The public entity can file a reply to the opposition not less than fifteen (15) days before the

hearing. At the hearing, if the motion is opposed, the court may enter an order for possession of the property after considering the relevant facts and any opposition if it finds each of the following:

The public entity is entitled to take the property by eminent domain;

The public entity has deposited the amount of probable compensation pursuant to Code of Civil Procedure Section 1255.010 *et seq.*;

There is an overriding need for the public entity to possess the property prior to the issuance of final judgment in the case and the public entity will suffer a substantial hardship if the application for possession is denied or limited; and

The hardship that the public entity will suffer if possession is denied or limited outweighs any hardship on the defendant or occupant that would be caused by the granting of the order for possession. (Code of Civil Procedure Section 1255.410).

Withdrawal of Deposit of Probable Compensation

Property owners can apply to withdraw the funds on deposit with the court. Property owners must serve a copy of their application to withdraw the funds on the public entity. The court cannot order the disbursement of the funds on deposit until twenty (20) days after the date on which the application for withdrawal was served on the public entity. The public entity may file an objection to the withdrawal if, for example, other parties to the proceeding are known or believed to have an interest in the just compensation. Property owners waive any challenges to the public entity's right to take if they withdraw the funds on deposit with the court. Property owners do not, however, waive their claims for greater compensation for the property if they withdraw the funds on deposit.

Exchange of Valuation Data

The parties can agree to exchange statements of valuation data containing the information required by Code of Civil Procedure Section 1258.260 or appraisal reports containing that information on a mutually-agreed to date. If the parties do not mutually agree to exchange valuation data on a specific date, the date of exchange is ninety (90) days before the commencement of trial on the issue of just compensation. This gives the parties the opportunity to analyze the fair market value opinions of the other party's expert and sales data or appraisal methodology relied on by the other party's expert. The parties will generally take the depositions of the other party's appraiser. After the

parties exchange valuation data, the parties often negotiate a settlement at a mediation, during informal settlement negotiations, or during a mandatory settlement conference.

Trial

In eminent domain proceedings, the judge decides legal issues, such as the right to take, the issue of what constitutes a larger parcel, and the issue of entitlement to certain damages. Property owners are entitled to have the jury determine the amount of just compensation. The parties resolve the majority of eminent domain proceedings prior to trial.

Vacating the Property

When will property owners and tenants be required to move from the property?

If the public entity and property owners reach a negotiated settlement, the public entity will attempt to determine a mutually agreeable date for owners to move. If the property is condemned, the public entity cannot require the owners to move without a court order. If the subject property is lawfully occupied, the public entity must serve the property owners with a motion for an order for prejudgment possession ninety (90) days before the court hearing. Orders for prejudgment possession are discussed more fully above. If the order for prejudgment possession is granted, the public entity must serve the property owners with the order thirty (30) days before it intends to take possession of the subject property. If the subject property is unoccupied, the public entity must serve the property owners with a motion for an order for possession sixty (60) days before the court hearing. If the order for prejudgment possession is granted, the public entity must serve the property owners with the order for prejudgment possession ten days before it intends to take possession of the subject property.

Relocation Assistance

Property owners and occupants of property (tenants) that are displaced as the result of a public project, may be entitled to relocation assistance and benefits under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 *et seq.*), if applicable, or under Title 1, Division 7, Chapter 1 of the Government Code of the State of California (Section 7260 *et seq.*) and the Relocation Assistance and Real Property Acquisition Guidelines (Chapter 6 of Title 25 of the California Code of Regulations). Benefits may include moving expenses, re-establishment costs, rent differential payments, or interest differential payments. A relocation consultant, hired by the public entity, will meet with the property owners and or tenants to determine their eligibility and potential benefits.

Loss of Business Goodwill

Goodwill is the benefit that accrues to a business as a result of its location, reputation, skill and other factors that contribute to a business maintaining and acquiring patrons. Public entities are required to compensate owners of a business conducted on the property, or on the remainder parcel, if the business owners prove all of the following:

The loss is caused by the taking of the property or the injury to the remainder;

The loss cannot reasonably be prevented by taking steps and adopting procedures that a reasonably prudent person would take and adopt in preserving the goodwill;

Compensation for the loss will not be included in payments under Section 7262 of the Government Code.

Compensation for the loss will not duplicated in the compensation otherwise awarded to the owner.

Business owners must raise their claim for loss of business goodwill in their answer to the public entity's complaint. The public entity will engage a business valuation expert to determine the value of the goodwill of the business in the eminent domain proceeding. Business owners also generally engage a business valuation expert in the eminent domain proceeding.