

AGENDA STAFF REPORT

DATE: August 18, 2015

TO: Mayor and City Council

APPROVED BY: Richard Warne, City Manager
Nick Servin, Public Works Director/City Engineer

PREPARED BY: Mark J. Austin, Interim City Attorney

SUBJECT: Resolution of the City Council of the City of Calexico Finding and Determining the Public Interest and Necessity for Acquiring and Authorizing the Condemnation of Portions of Property Located at 300 West 2nd Street, Calexico, California (APN 058-400-029) for the Purposes of the Cesar Chavez Boulevard Improvement Project.

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Recommendation:

Adopt Resolution No. 2015-43 finding that the public interest and necessity require the acquisition of various portions of real property located at 300 West 2nd Street, Calexico, California (APN 058-400-029) ("Property"), for the purposes of widening and improving Cesar Chavez Boulevard, pursuant to the proposed Cesar Chavez Boulevard Improvement Project ("Project").

Background:

In order to accommodate the Project as proposed, staff has undertaken preliminary investigations required to identify and attempt to acquire property to accommodate the Project. Pursuant to applicable requirements of law, the City had the property interests it proposes to acquire appraised. Those appraisals resulted in an offer letter being sent to the property owners pursuant to Government Code § 7267.2.

Staff has attempted to undertake negotiations with the property owners, but to date has not been able to secure a final agreement for transfer of the Property by way of negotiated agreement. Staff will continue to pursue discussions with the property owners, regardless of the City Council's action with respect to the proposed resolution of necessity this evening, in an attempt to reach mutually agreeable terms for such a negotiated transfer.

**AGENDA
ITEM**
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Discussion:

The resolution before City Council this evening is a resolution of necessity under California Code of Civil Procedure §§ 1245.210, *et seq.* Such a resolution must be considered, and approved, by the legislative body prior to any exercise of eminent domain to acquire property. The resolution must be passed by a two-thirds majority, or four affirmative votes of the members of the City Council.

The California Eminent Domain Law provides the findings that must be made in a resolution of necessity. These are:

1. That the public interest and necessity require the project for which the property is proposed to be acquired;
2. That the project is planned in a manner that will create the greatest public good and the least private injury;
3. That the property proposed to be acquired is necessary for the project; and
4. That the offer required by Government Code § 7267.2 has been made to the owner of record.

In addition, City Council is being asked to make the finding that the City has met all other procedural prerequisites to the exercise of eminent domain on the property, including a determination that the Project was reviewed under applicable environmental review procedures.

The amount of compensation due for the property interests involved is not a subject of the resolution of necessity, and therefore not before City Council as an issue to be considered as part of this resolution.

The property owners, and/or their representative, have a right to appear and be heard on the matters encompassed within the resolution affecting their property. As required by the California Eminent Domain Law, the property owners were given notice of the City's consideration of the resolution of necessity, and notified of their opportunity to appear and be heard on whether the City has undertaken all required steps and met all procedural prerequisites to the exercise of eminent domain to acquire the property interests proposed to be taken. As of the date of writing this report, the property owner has not contacted the City to inform it that he/she desires to be heard at the meeting.

The facts supporting the various findings included within the resolution of necessity are recited in more detail in the text of the resolution itself. Generally, the public interest and necessity require the Project, in that the Project is designed to relieve regional traffic congestion and improve the capacity of the street. The Project is located in a manner most compatible with the greatest public good and least private injury, in that

the design of the roadway widening must of necessity occupy land which is immediately adjacent to the existing roadway, in order to maintain the continuity of the alignment of the road for all users. The property to be taken for the project is necessitated and established by the street alignment in an effort to minimize any disproportionate burden or impact of the required property being taken from individual property owners. The project is designed in a manner compatible with the greatest public good, in that the project will involve road widening, along with the installation of a public sidewalk and drainage improvements. This will enhance the utility of the area and help improve traffic circulation.

On August 10, 2015, the Planning Commission of the City of Calexico determined that the City's purchasing of the Property is consistent with the City's General Plan pursuant to Government Code section 65402.

City Council has the option of either passing, or refusing to pass, the proposed resolution. If the resolution is passed, City Staff and Special Counsel will proceed to initiate eminent domain proceedings, which ultimately would lead to a determination of the fair market value of the property interests proposed to be taken through court proceedings. If City Council does not pass the resolution, the City can either (i) commit to acquiring the identified right of way from the property owners only by negotiated acquisition, (ii) decide not to implement the Project, or (iii) provide alternative direction to Staff.

Based on all the foregoing, and on the matters recited in more detail in the resolution itself, City staff requests that the City Council adopt Resolution No. 2015-43.

Fiscal Impact:

The eminent domain proceedings will ultimately lead to a determination of the fair market value of the property interests proposed to be taken. Notably, however, the City had the property appraised for purposes of its Government Code § 7267.2 offer. The City's independent appraisal valued the property interests at \$39,000.00 as of February 18, 2015. Additional costs will be incurred in legal fees, appraisal fees and court costs relating to the initiation of eminent domain proceedings if the Resolution is approved and the matter proceeds to court.

Environmental Analysis:

The environmental impacts of the Project were reviewed in connection with the Mitigated Negative Declaration for the Cesar Chavez Boulevard Improvement Project, approved June 2, 2013.

Coordinated With:

None.

Attachments:

1. Resolution of the City Council of the City of Calexico Finding and Determining the Public Interest and Necessity for Acquiring and Authorizing the Condemnation of Portions of Property Located at 300 West 2nd Street, Calexico, California (APN 058-400-029) for the Purposes of the Cesar Chavez Boulevard Improvement Project.
2. Letter to Dollarmont Holdings Re: Notice of Hearing Re: Adoption of Resolution of Necessity to Acquire Property by Eminent Domain (California Code of Civil Procedure Section 1245.235).
3. Letters to Fred Kim, Dollarmont Holdings, LLC Re: Offers for Acquisition by City of Calexico (Government Code Section 7267.2 offer letters).

EXHIBIT 1

RESOLUTION NO. 2015- 43

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CALEXICO FINDING AND DETERMINING THE PUBLIC INTEREST AND NECESSITY FOR ACQUIRING AND AUTHORIZING THE CONDEMNATION OF PORTIONS OF PROPERTY LOCATED AT 300 WEST 2ND STREET, CALEXICO, CALIFORNIA (APN 058-400-029) FOR THE PURPOSES OF THE CESAR CHAVEZ BOULEVARD IMPROVEMENT PROJECT.

WHEREAS, The City of Calexico ("City") has been investigating the potential acquisition of various portions of real property located at 300 West 2nd Street, Calexico, California (APN 058-400-029) ("Property"), for the purpose of accommodating public roadway improvements consistent with the circulation element of the General Plan of the City.

WHEREAS, after no less than fifteen (15) days written notice to the owners of the Property referenced above, and more specifically described and depicted in Exhibits "A" and "B", which legal descriptions and depictions are incorporated herein by reference, the City Council of the City of Calexico, on August 18, 2015, held a hearing for the purposes of allowing the record owners of such property reasonable opportunity to appear and be heard regarding the City's identification of the "Project", and on the following matters:

- A. Whether the public interest and necessity require the Project;
- B. Whether the Project is planned or located in a manner which is most compatible with the greatest public good and the least private injury;
- C. Whether the Property proposed to be acquired is necessary for the Project; and
- D. Whether the offer required by Government Code § 7267.2 had been given to the owners of record;

and whether the City had properly exercised all of its statutory responsibilities and duties antecedent to the exercise of eminent domain against the Property, including review under CEQA; and

WHEREAS, the City Council, as a result of such hearing, has determined that the public health, safety and welfare require that the City acquire the Property, for the purposes of widening and improving Cesar Chavez Boulevard, pursuant to the Cesar Chavez Boulevard Improvement Project ("Project"); and

WHEREAS, the Project for which the Property to be acquired was reviewed under applicable environmental review procedures, including Mitigated Negative Declaration for the Cesar Chavez Boulevard Improvement Project, approved June 2, 2013; and

WHEREAS, the City is hereby authorized and empowered to acquire fee title in and to the Property by eminent domain for the proposed Project in accordance with Code of Civil Procedure section 1230.010 *et seq.*, Government Code sections 37350.5 and 40404, the Constitution of California, and California Eminent Domain Law.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Calexico, California, that the City Council does hereby find, determine and declare upon evidence presented to the City Council as follows:

SECTION 1. The Project for which the property is being acquired is the Cesar Chavez Boulevard Improvement Project, which consists of widening and improving Cesar Chavez Boulevard, including the instillation of a public sidewalk, curb, and gutter.

SECTION 2. The Property to be acquired is located on West 2nd Street, Calexico, California (APN 058-400-029). The portions of Property the City seeks to acquire, and the Property interests sought, consist of the following:

A fee simple title to approximately 7,808 square feet of the Property, as more specifically described in Exhibit "A" and depicted in Exhibit "B" hereto.

SECTION 3. The public interest and necessity require the Project, in that Project is designed to relieve regional traffic congestion and improve the capacity of the street.

SECTION 4. The Project is located in a manner most compatible with the greatest public good and least private injury, in that the design of the roadway widening must of necessity occupy land which is immediately adjacent to the existing roadway, in order to maintain the continuity of the alignment of the road for all users. The property to be taken for the project is necessitated and established by the street alignment in an effort to minimize any disproportionate burden or impact of the required property being taken from individual property owners. The project is designed in a manner compatible with the greatest public good, in that the project will involve road widening, along with the installation of a public sidewalk and drainage improvements. This will enhance the utility of the area and help improve traffic circulation.

SECTION 5. The Property is necessary for the proposed Project, in that the roadway widening must occur on property immediately adjacent to the existing roadway.

SECTION 6. The offer required by Government Code section 7267.2(a), together with the accompanying statement of, and summary of the basis for, the amount established as just compensation, has attempted to be made to the record owners, by way of letter dated April 7, 2015. Staff has attempted to negotiate with the record owners subsequent to this offer, but such negotiations have not proved successful in securing the necessary property interests outside of more formal proceedings.

SECTION 7. If and to the extent any portion of the Property is already devoted to a public use, the proposed Project is a more necessary public use pursuant to California Code of Civil Procedure §§ 1240.610 *et seq.*

SECTION 8. The environmental impacts of the Project were reviewed in connection with the Mitigated Negative Declaration for the Cesar Chavez Boulevard Improvement Project, approved June 2, 2013.

SECTION 9. On August 10, 2015, the Planning Commission of the City of Calexico determined that the City's purchasing of the Property is consistent with the City's General Plan pursuant to Government Code section 65402. Alternatively, the City Council determines that the provisions of Government Code section 65402 shall not apply to the purchasing of the Property for purposes of the street widening Project pursuant to subdivision (a) of that section.

SECTION 10. The law firm of Rutan & Tucker LLP is hereby authorized to prepare and prosecute in the name of the City such proceeding or proceedings in the court having jurisdiction thereof as are necessary for such acquisition; and to prepare and file such pleadings, documents, and other instruments and to make such arguments and generally to take such action as may be necessary in the opinion of said attorneys to acquire for the City the Subject Property, including the improvements thereon. Said attorneys are specifically authorized to take whatever steps and/or procedures are available to them under the eminent domain law of the State of California.

THE FOREGOING RESOLUTION WAS CONSIDERED, PASSED, AND APPROVED this 18th day of August, 2015, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

CITY OF CALEXICO

MAYOR, CITY OF CALEXICO

ATTEST:

CITY CLERK
CITY OF CALEXICO

EXHIBIT A

EXHIBIT "A"
FEE ACQUISITION
APN 058-400-029

THAT PORTION OF PARCEL 4 OF PARCEL MAP ON FILE IN BOOK 4 PAGE 85 OF PARCEL MAPS IN THE CITY OF CALEXICO, COUNTY OF IMPERIAL, STATE OF CALIFORNIA, RECORDED JUNE 6, 1979 IN THE OFFICE OF THE COUNTY RECORDER OF IMPERIAL COUNTY, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE BEGINNING OF A CURVE ON THE CENTERLINE OF SECOND STREET AS SHOWN ON SAID PARCEL MAP CONCAVE SOUTHEASTERLY; THENCE RADIAL TO SAID CURVE NORTH 00°25'46" WEST 45.00 FEET TO A POINT ON THE SOUTHERLY LINE OF SAID PARCEL 4; THENCE ALONG SAID SOUTHERLY LINE NORTH 89°34'14" EAST 9.69 FEET TO THE **TRUE POINT OF BEGINNING**;

1. THENCE CONTINUING ALONG SAID SOUTHERLY LINE NORTH 89°34'14" EAST 71.22 FEET TO THE BEGINNING OF A TANGENT 22.00-FOOT RADIUS CURVE CONCAVE WESTERLY;
2. THENCE EASTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 131°56'50" A DISTANCE OF 50.66 FEET TO THE NORTHEASTERLY LINE OF SAID PARCEL 4;
3. THENCE ALONG SAID NORTHEASTERLY LINE NORTH 42°22'36" WEST 201.20 FEET TO AN ANGLE POINT THEREIN;
4. THENCE CONTINUING ALONG SAID NORTHEASTERLY LINE NORTH 60°48'36" WEST 59.21 FEET;
5. THENCE LEAVING SAID NORTHEASTERLY LINE SOUTH 38°59'32" EAST 78.36 FEET TO THE BEGINNING OF A TANGENT 1007.00-FOOT RADIUS CURVE CONCAVE NORTHEASTERLY;
6. THENCE SOUTHEASTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 2°27'37" A DISTANCE OF 43.24 FEET;
7. THENCE SOUTH 41°27'09" EAST 77.17 FEET TO THE BEGINNING OF A TANGENT 38.00-FOOT RADIUS CURVE CONCAVE WESTERLY;
8. THENCE SOUTHEASTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 38°46'08" A DISTANCE OF 25.71 FEET;
9. THENCE SOUTH 23°52'09" WEST 33.49 FEET TO THE BEGINNING OF A NON-TANGENT 36.50-FOOT RADIUS CURVE CONCAVE NORTHWESTERLY, A RADIAL LINE TO SAID POINT BEARS SOUTH 41°22'31" EAST;
10. THENCE SOUTHWESTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 41°33'40" A DISTANCE OF 26.48 FEET TO THE **TRUE POINT OF BEGINNING**.

AREA = 7,808 SQUARE FEET, MORE OR LESS

SEE EXHIBIT "B" ATTACHED AND BY THIS REFERENCE MADE A PART HEREOF.

EXHIBIT "A"
FEE ACQUISITION
APN 058-400-029

THE BEARINGS AND DISTANCES USED IN THE ABOVE DESCRIPTION ARE
BASED ON THE CALIFORNIA COORDINATE SYSTEM OF 1983, ZONE 6. MULTIPLY
DISTANCES SHOWN BY 0.99997580 TO OBTAIN GROUND DISTANCES.

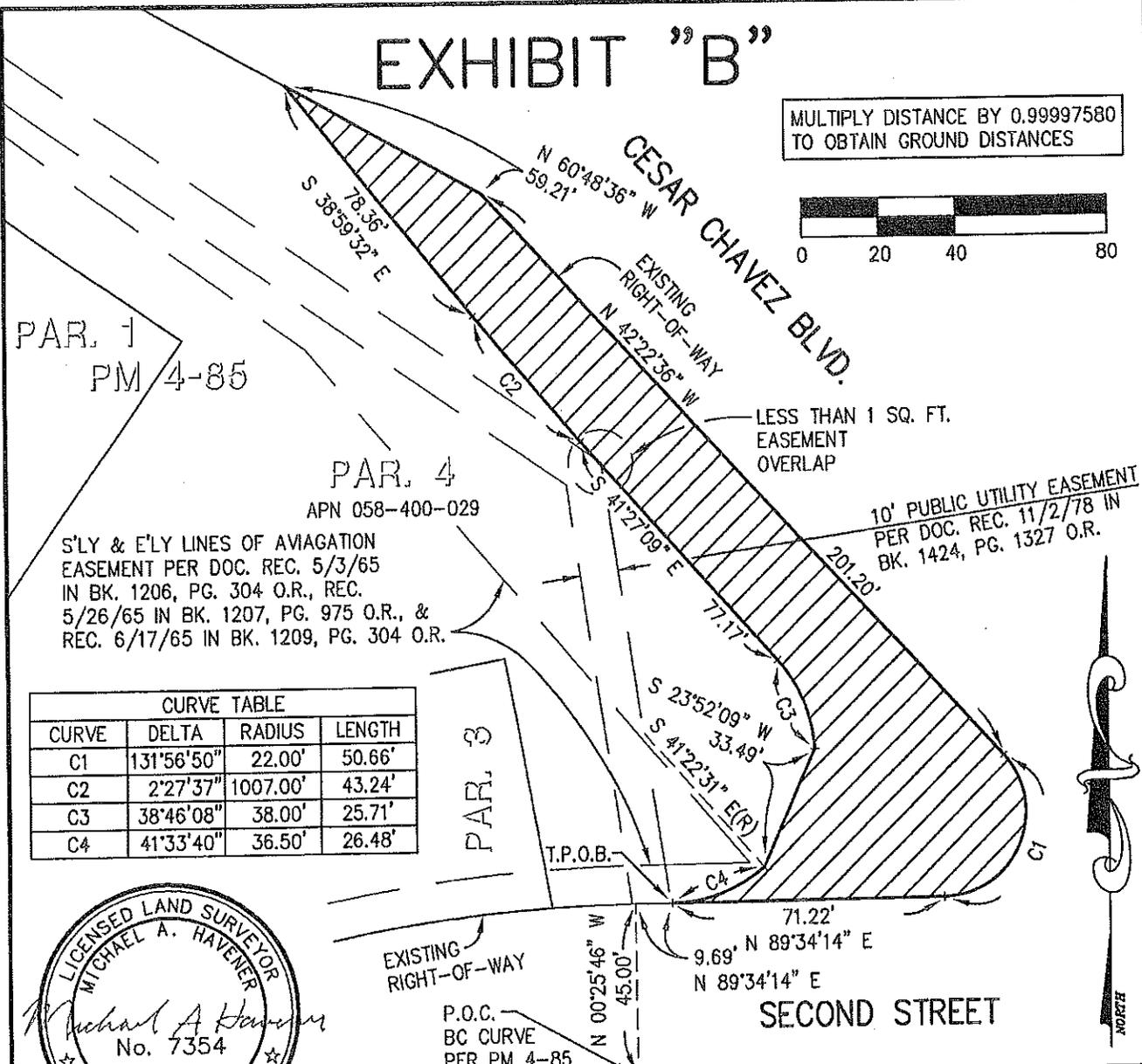
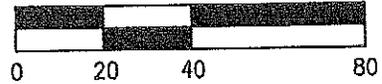
SIGNATURE Michael A. Havener 4-02-2015
MICHAEL A. HAVENER DATE
PLS 7354



EXHIBIT B

EXHIBIT "B"

MULTIPLY DISTANCE BY 0.99997580
TO OBTAIN GROUND DISTANCES



CURVE TABLE			
CURVE	DELTA	RADIUS	LENGTH
C1	131°56'50"	22.00'	50.66'
C2	2°27'37"	1007.00'	43.24'
C3	38°46'08"	38.00'	25.71'
C4	41°33'40"	36.50'	26.48'



LEGEND

- FEE ACQUISITION AREA = 7,808 SQ. FT., MORE OR LESS
- P.O.C. POINT OF COMMENCEMENT
- T.P.O.B. TRUE POINT OF BEGINNING

- APN 058-400-029 EXCEPTION NOTES:
- RIGHTS OR CLAIMS OF EASEMENTS FOR CANALS, DRAINS, LATERALS, IRRIGATION PIPELINES AND GATES NOT INCLUDED IN THE PUBLIC RECORD. (NO SPECIFIC LOCATION)
 - DOC. REC. 5/24/1949 IN BK. 747 PG. 398 O.R. RESERVES VARIOUS EASEMENTS AND RIGHT OF WAYS OF RECORD USED BY IMPERIAL IRRIGATION DISTRICT. (NO SPECIFIC LOCATION)
 - ALL OF PARCEL 4 IS A NON-EXCLUSIVE EASEMENT FOR ROADWAYS, WALKWAYS, INGRESS, EGRESS AND PARKING PER DOC. REC. 9/14/76 IN BK. 1391, PG. 1506 O.R. & AS SHOWN ON PM 4-85
- SHEET 1 OF 1 SHEET

REVISED BY:	DATE:	CITY OF CALEXICO	SCALE 1" = 40'	
DRAWN BY: KA	DATE: 1-15-15		CESAR CHAVEZ BOULEVARD IMPROVEMENT PROJECT	DOC. NO.
CHECKED BY: MH	DATE: 4-02-15		APN 058-400-029	DWG. NO.
APPROVED BY:	DATE:		DOLLARMONT HOLDINGS, LLC	

EXHIBIT 2

July 31, 2015

**VIA CERTIFIED MAIL, RETURN RECEIPT
REQUESTED AND FIRST CLASS MAIL**

Dollarmont Holdings
7879 Paseo Tulipero
Carlsbad, CA 92009-9351

Re: Notice of Hearing Re: Adoption of Resolution of Necessity to Acquire Property by
Eminent Domain (California Code of Civil Procedure Section 1245.235)

Dear Property Owner:

As you are aware, the City of Calexico ("City") has made an offer to purchase a portion of the property located at 300 W 2nd Street in the City of Calexico, Imperial County, California (APN 058-400-029) ("Site"), as part of its planning efforts in connection with the proposed road widening at Cesar Chavez Boulevard (the "Proposed Project").

You are hereby notified that at 6:30 p.m. on August 18, 2015, or as soon thereafter as the matter can be heard, in the City Council chambers located at 608 Heber Avenue, Calexico, California, the City Council will consider the adoption of a Resolution of Necessity authorizing the City to acquire said property which is more particularly described and depicted in Exhibits A and B, each attached hereto and referred to herein as the "Subject Property," through eminent domain proceedings.

You have the right to appear and be heard before the City Council at the above-scheduled hearing on the following matters and issues, and to have the City Council give consideration to any testimony and other information and evidence that may be offered by you with respect to the following issues prior to deciding whether or not to adopt the proposed Resolution of Necessity:

- a. Whether the public interest and necessity require the Proposed Project;
- b. 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;
- c. Whether the property sought to be acquired by eminent domain is necessary for the Proposed Project;

Dollarmont Holdings
July 31, 2015
Page 2

d. Whether the precondemnation offer required by Government Code § 7267.2, together with the accompanying statement and summary of the basis for the amount established as just compensation, was made to the owner or owners of record;

e. Whether the City has statutory authority to acquire the subject property by eminent domain; and

f. Whether the City has observed all required procedures, and taken all legally required actions, to acquire the subject property by eminent domain.

City Council will also be asked to make a finding that the environmental impacts associated with the Proposed Project, have been adequately reviewed under applicable environmental review procedures, including a Mitigated Negative Declaration for the Cesar Chavez Improvement Project.

If you wish to appear at the hearing and be heard on the matters referred to above, you must file a written request with the City Clerk, 608 Heber Avenue, Calexico CA, 92231, within fifteen (15) days after this notice was mailed. The date of the mailing of this notice is set forth above.

PLEASE NOTE: Failure to file a written request to appear and be heard will result in a waiver of the right to appear and be heard. The City is not obligated to give an opportunity to appear and be heard to any person who fails to file a written request.

If the Resolution of Necessity is adopted and you intend to challenge in court any of the issues or matters or determinations listed above, including in any subsequent eminent domain proceeding, you may be limited to raising only those issues and relying only upon such testimony and other information and evidence that is presented to the City Council prior to or at the hearing. Notwithstanding the foregoing, your election to not appear at the Resolution of Necessity hearing will not be deemed to waive your right to claim greater compensation in a court of law than the amount of the City's precondemnation purchase offer.

If the City Council elects to adopt the Resolution of Necessity, then within six months of adoption of the Resolution of Necessity, the City will commence eminent domain proceedings in

DollarMont Holdings
July 31, 2015
Page 2

Superior Court. If you and the City do not agree on the amount of just compensation to be paid, you have the legal right to have the compensation amount determined by the Court or a jury.

Sincerely,

RUTAN & TUCKER, LLP



Joseph Larsen

Attachments

cc: Mark Austin

EXHIBIT "A"
FEE ACQUISITION
APN 058-400-029

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APN 058-400-029

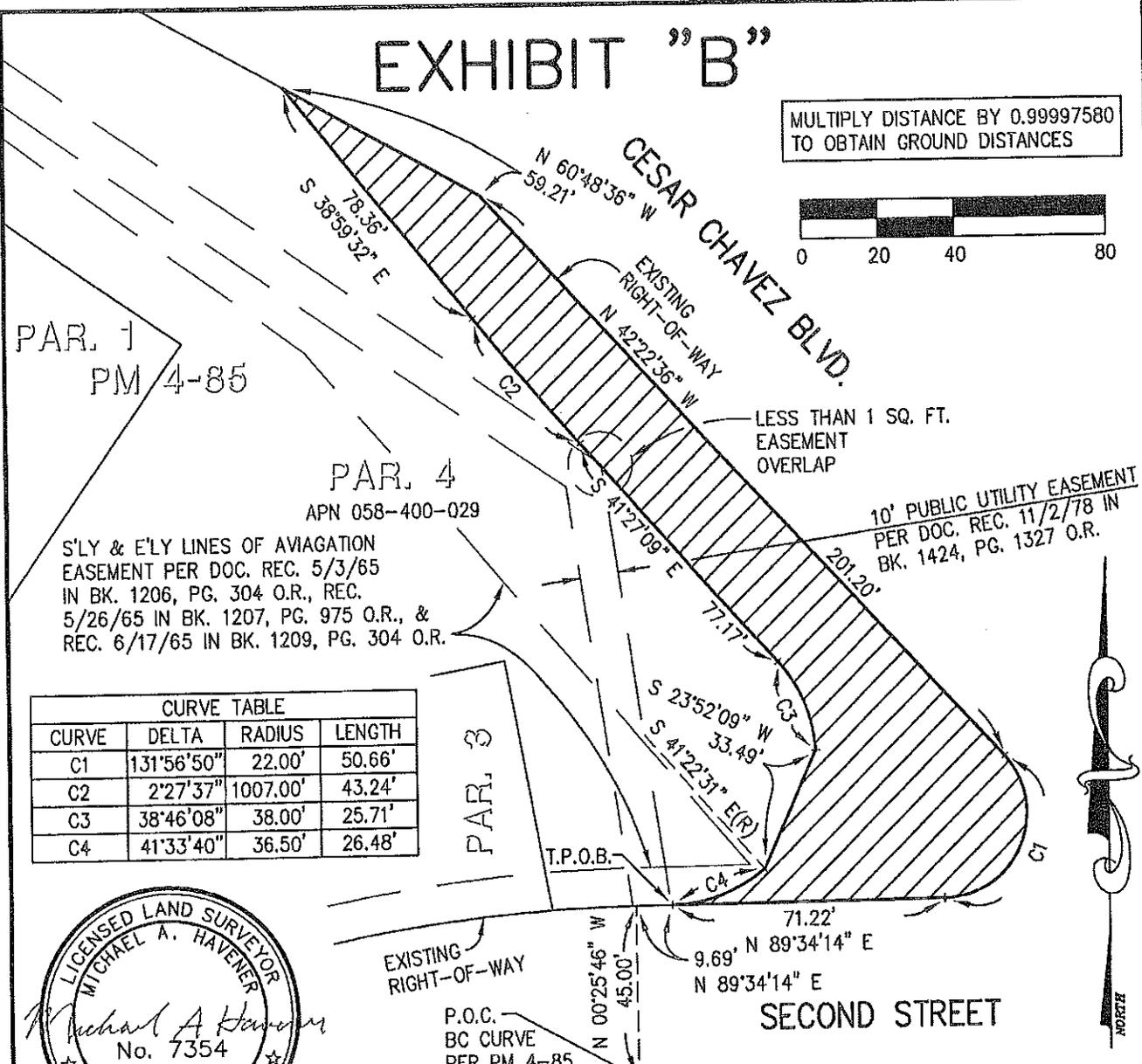
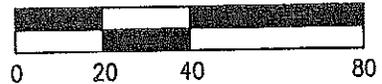
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SIGNATURE Michael A. Havener 4-02-2015
MICHAEL A. HAVENER DATE
PLS 7354



EXHIBIT "B"

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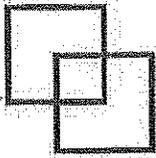
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- SHEET 1 OF 1 SHEET

REVISED BY:	DATE:	CITY OF CALEXICO	SCALE 1" = 40'
DRAWN BY: KA	DATE: 1-15-15		DOC. NO.
CHECKED BY: MH	DATE: 4-02-15		DWG. NO.
APPROVED BY:	DATE:		
		CESAR CHAVEZ BOULEVARD IMPROVEMENT PROJECT APN 058-400-029 DOLLARMONT HOLDINGS, LLC	

EXHIBIT 3



**BENDER
ROSENTHAL, Inc.**

COMMERCIAL VALUATION AND RIGHT OF WAY SERVICES

4400 Auburn Boulevard, Suite 102
Sacramento, CA 95841
main: 916.978.4900 • fax: 916.978.4904
www.benderrosenthal.com

April 7, 2015

Mr. Fred Kim
Dollarmont Holdings, LLC
7879 Paseo Tulipero
Carlsbad, CA 92009

Subject: Cesar Chavez Blvd. Improvement Project — City of Calexico — Offer to Purchase
Assessor's Parcel No: 058-400-029 — located at 300 & 303-333 West 2nd Street, Calexico,
CA

Dear Mr. Kim:

The City of Calexico is planning the Cesar Chavez Project located along Cesar Chavez Blvd, between State Route 98 and West 2nd Street, Calexico, CA. Construction of this project will require the purchase of a portion of your property located in the project area. The proposed acquisition consists of 0.18 ± acres (7,808± SF), and is comprised of a Fee Interest, as shown on the attached map.

The City of Calexico has retained Bender Rosenthal Inc. to value and acquire the real property interests. Accordingly, the City has established just compensation, and hereby makes an offer of \$39,000.00 to acquire the necessary interests required for the Project. The following documents are attached regarding the proposed acquisition:

1. Summary Statement Relating to Purchase of Real Property or an Interest Therein
2. Appraisal
3. Signing Instructions for Owner
4. Grant Deed
5. Purchase Agreement
6. Federal W-9 Form
7. Preliminary Title Report
8. Acquisition Brochure
9. Title VI Information Pamphlet

I am happy to answer any questions you may have regarding this matter. If you find the offer acceptable, **please sign and return** the documents in accordance with the Signing Instructions. I have included a self-addressed stamped envelope for your convenience. Copies of the documents are enclosed for your files.

When you receive this letter, please contact me at (916) 978-4900 or (916) 212-1203 or deryl.neal@sbcglobal.net. I look forward to working with you.

Sincerely,

Deryl L. Neal
Right of Way Consultant

CITY OF CALEXICO (CITY)

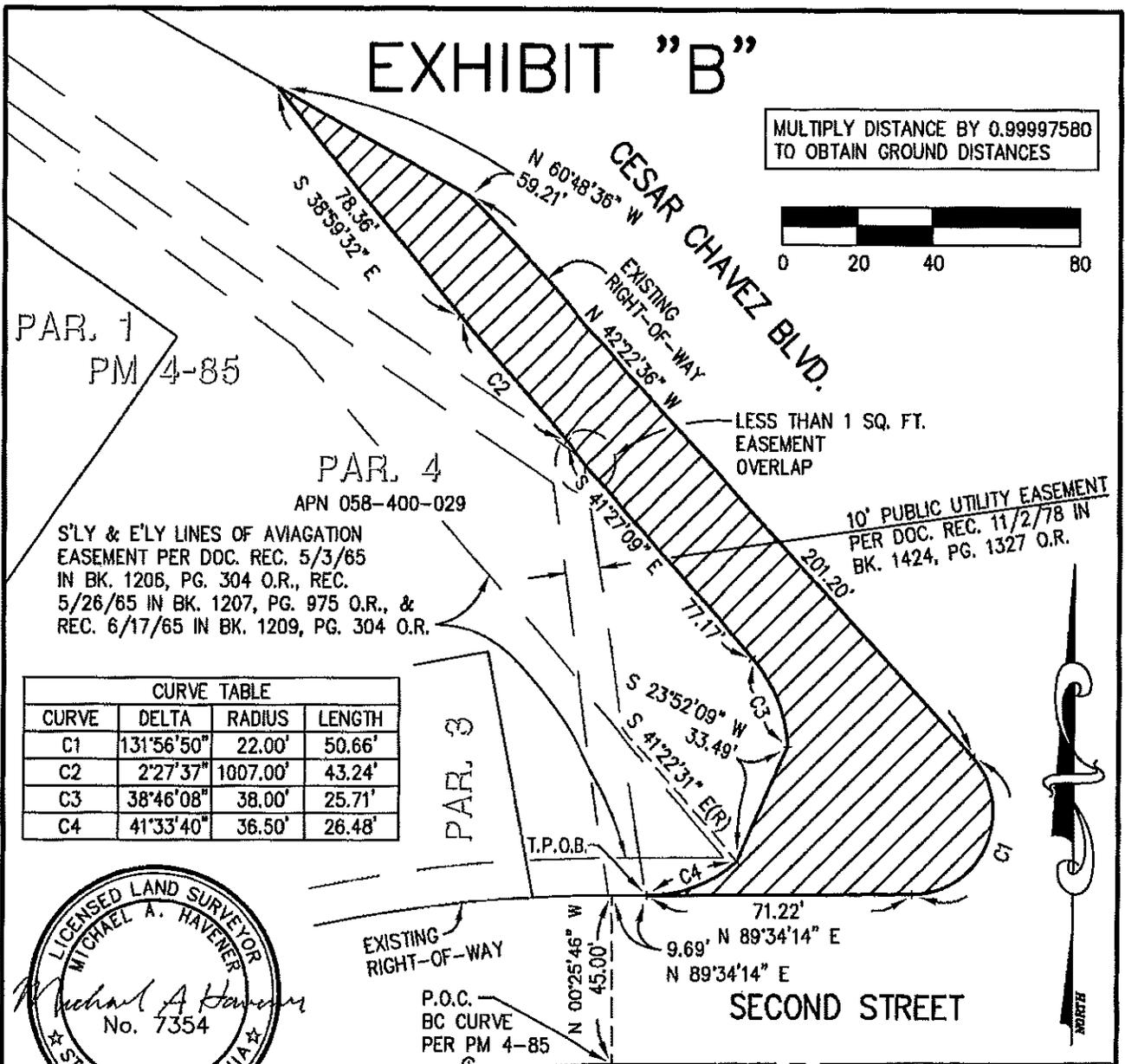
SUMMARY STATEMENT RELATING TO THE PURCHASE OF REAL PROPERTY OR AN INTEREST THEREIN

Title III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 and the California Relocation Assistance and Real Property Acquisition Guidelines require that each owner from whom the City of Calexico purchases real property or an interest therein or each tenant owning improvements on said property be provided with a summary of the appraisal of the real property or interest therein, as well as the following information:

1. You are entitled to receive full payment prior to vacating the real property being purchased, unless either you have heretofore waived such entitlement, or CITY has obtained a pre-judgment order for possession from the court in an eminent domain action. Prior to receiving an order for possession, CITY must deposit with the State Treasurer the full amount of anticipated just compensation for the property, as reflected in the enclosed Statement and Summary of Basis for Appraisal. You will be entitled to withdraw the deposited amount prior to possession of the property by CITY, subject to the claims of other parties that may have an interest in the property. You are not required to pay recording fees, transfer taxes, or the pro rata portion of real property taxes which are allocable to any period subsequent to the passage of title or possession.
2. CITY will offer to purchase any remnants considered by CITY to be uneconomic units which are owned by you or, if applicable, occupied by you as a tenant and which are contiguous to the land being conveyed.
3. All buildings, structures, and other improvements affixed to the land described in the referenced documents covering this transaction and owned by the grantor herein or, if applicable, owned by you as a tenant are being conveyed unless other disposition of these improvements has been made. The interest to be acquired is a fee interest comprised of 0.18± acres, and is depicted on the attached map.
4. The fair market value of the property being purchased is based upon an appraisal which is enclosed; and
 - a. Represents the full amount of the appraisal of just compensation for the real property interest to be purchased.
 - b. Is not less than the approved appraisal of the fair market value of the property;
 - c. Disregards any decrease or increase in the fair market value of the real property to be acquired prior to the date of valuation caused by the public improvement for which the property is to be acquired or by the likelihood that the property would be acquired for such public improvement, other than that due to physical deterioration within the reasonable control of the owner or occupant; and
 - d. Does not reflect any consideration of or allowance for any relocation assistance and payments or other benefits which the owner may be entitled to receive under agreement with the CITY.
5. Pursuant to California Code of Civil Procedure Section 1263.025 should you elect to obtain an independent appraisal, CITY will pay for the actual reasonable costs up to \$5,000 for an owner obtained appraisal.
 - a. You, not the CITY, must order the appraisal. Should you enter into a contract with the selected appraiser, CITY will not be a party to the contract.
 - b. The selected appraiser must be licensed with the Office of Real Estate Appraisers (OREA).
 - c. Appraisal cost reimbursement requests must be made in writing, and submitted to Bender Rosenthal, Inc., 4400 Auburn Blvd, Suite #102, Sacramento, CA 95841. A copy of the appraiser's invoice for the completed work must be provided to CITY concurrent with the submission of the appraisal cost reimbursement request. The costs must be reasonable and justifiable.
6. The owner of a business conducted on a property to be acquired, or conducted on the remaining property which will be affected by the purchase of the required property, may be entitled to compensation for the loss of goodwill. Entitlement is contingent upon the business owner's ability to prove such loss in accordance with the provisions of Sections 1263.510 and 1263.520 of the Code of Civil Procedure.
7. If you ultimately elect to reject the offer, you are entitled to have the amount of compensation determined by a court of law in accordance with the laws of the State of California.

EXHIBIT "B"

MULTIPLY DISTANCE BY 0.99997580 TO OBTAIN GROUND DISTANCES



CURVE TABLE			
CURVE	DELTA	RADIUS	LENGTH
C1	131°56'50"	22.00'	50.66'
C2	2°27'37"	1807.00'	43.24'
C3	38°46'08"	38.00'	25.71'
C4	41°33'40"	36.50'	26.48'



LEGEND

- FEE ACQUISITION AREA = 7,808 SQ. FT., MORE OR LESS
- P.O.C. POINT OF COMMENCEMENT
- T.P.O.B. TRUE POINT OF BEGINNING

- APN 058-400-029 EXCEPTION NOTES:**
- RIGHTS OR CLAIMS OF EASEMENTS FOR CANALS, DRAINS, LATERALS, IRRIGATION PIPELINES AND GATES NOT INCLUDED IN THE PUBLIC RECORD. (NO SPECIFIC LOCATION)
 - DOC. REC. 5/24/1949 IN BK. 747 PG. 398 O.R. RESERVES VARIOUS EASEMENTS AND RIGHT OF WAYS OF RECORD USED BY IMPERIAL IRRIGATION DISTRICT. (NO SPECIFIC LOCATION)
 - ALL OF PARCEL 4 IS A NON-EXCLUSIVE EASEMENT FOR ROADWAYS, WALKWAYS, INGRESS, EGRESS AND PARKING PER DOC. REC. 9/14/76 IN BK. 1391, PG. 1506 O.R. & AS SHOWN ON PM 4-85
- SHEET 1 OF 1 SHEET

REVISED BY:	DATE:	CITY OF CALEXICO	SCALE 1" = 40'
DRAWN BY: KA	DATE: 1-15-15		DOC. NO.
CHECKED BY: MH	DATE: 4-02-15		DWG. NO.
APPROVED BY:	DATE:		
		CESAR CHAVEZ BOULEVARD IMPROVEMENT PROJECT APN 058-400-029 DOLLARMONT HOLDINGS, LLC	

STATEMENT AND SUMMARY OF BASIS FOR APPRAISAL

The following is a summary of the amount established as compensation by an appraisal prepared in compliance with section 1255.010 Code of Civil Procedures and section 7267.2 of the Government Code. The appraisal was made in accordance with accepted valuation principles, consistent with California valuation law. Every effort has been made to conform to the Standards of Professional Practice of the Appraisal Institute, which fully incorporate the Uniform Standards of Professional Practice (USPAP) of the Appraisal Foundation¹.

BASIC PROPERTY DATA

OWNER OF RECORD:	Dollarmont Holdings, LLC (According to the Stewart Title Company's Preliminary Title Report, dated November 26, 2014)
ASSESSOR PARCEL NUMBERS:	058-400-027, -028, -029 & -030
PROPERTY LOCATION:	300, 303-333 West 2 nd Street Calexico, California 92231
PROJECT:	Cesar Chavez Boulevard Improvement Project
DATE PROPERTY ACQUIRED BY OWNER:	Based on review of public records and speaking to the owner, this parcel has not transacted in the past five years, and is not currently listed for sale.
HIGHEST AND BEST USE:	<i>As Vacant:</i> Hold for future commercial development <i>As Improved:</i> Continue to be for retail strip uses
APPLICABLE ZONING:	CN: Commercial Neighborhood
GENERAL PLAN DESIGNATION:	I: Industrial
PROPERTY RIGHTS PROPOSED TO BE ACQUIRED:	Fee Acquisition

¹The Appraisal Institute is a national organization of appraisers that self-regulates its members, and Stephen M. Parent is a designated Member of the Appraisal Institute (MAI). A Member must adhere to the Institute's ethics code and standards. The U.S. congress has tasked the Appraisal Foundation to set standards and procedures with which state-certified appraisers must comply when appraising property interests involved in federally-regulated transactions.

*Cesar Chavez Boulevard Improvement Project
Imperial County, California
Dollarmont Holdings, LLC Property
APNs: 058-400-027, -028, -029, -030*

SIZE OF PROPOSED ACQUISITION

Item	Total
Larger Parcel	
058-400-027	0.35± Acres (15,246± SF)
058-400-028	0.59± Acres (25,700± SF)
058-400-029	2.49± Acres (108,464± SF)
<u>058-400-030</u>	<u>0.13± Acres (5,663± SF)</u>
Total	3.56± Acres (155,073± SF)
Fee Acquisition Area	0.18± Acres (7,808± SF)
Remainder Parcel	3.38± Acres (147,265 ± SF)

DATE OF THIS VALUATION: February 18, 2015

DATE OF REPORT: February 24, 2015

VALUATION PROCESS SUPPORTING ESTIMATED COMPENSATION

As part of the proposed project, a fee acquisition is required from the subject property in order for the reconfiguration of Cesar Chavez Boulevard. This includes partial fee acquisition of land. There are no structural improvements within the proposed fee acquisition area. This area is irregular in shape and is located in the eastern portion of the site, where a majority of the area is a steep slope from the Cesar Chavez Boulevard frontage (subject is below this street grade).

The subject property is improved with a retail strip center; however the improvements are not adversely impacted by the proposed acquisition. Therefore, we are valuing the land only, which is zoned for commercial uses. The highest and best use, as vacant, has been determined to be hold for future commercial development and the subject will be appraised as such.

There are typically three approaches to value that may be used in the real property valuation process. They are the Sales Comparison Approach, Income Approach, and Cost Approach. Each approach provides an indicated value that is reconciled into a final estimate of value for the subject based on the interests appraised, the defined objective of the valuation, and the stated definition of value. An appraisal may include one, two or all three approaches to value based on the data available, the type of property and appraisal valuation problem. These approaches are used to develop an opinion of value for the "undivided fee" interest in the larger parcel.

The Sales Comparison Approach is generally used in providing an indication of land value. When adequate data is available, this approach is generally considered the best indication of market value. The Income and Cost Approaches are not applicable to this appraisal problem.

The value of the larger parcel will be estimated and allocated between land and improvements if necessary. The contributory value of land and improvements is estimated for the area to be acquired and for the remainder parcel. Then the remainder parcel is appraised alone and compared to the contributory value

previously estimated to deter if any loss has occurred which is the measure of severance damages. The major property improvements including the commercial building and parking lot are not located within the fee acquisition area and will be not be adversely affected by the acquisition or construction in the manner proposed. Therefore, the improvements were not valued. Restoration costs for the remainder, if any, are estimated and can also be a measure of severance damages.

First an overall site value was determined for the subject property, land only, using comparable sales data that ranged from \$1.59 per square foot to \$10.35 per square foot. Based on the comparable data presented and the characteristics of the subject property, we have concluded that the subject property is approximately \$5.00 per square foot.

SUMMARY OF VALUE CONCLUSIONS AND ESTIMATE OF COMPENSATION

Fair Market Value Estimate of Larger Parcel (Land Only)

155,073± SF X \$5.00 per SF = \$ 775,365
Rounded \$ 775,000

The subject owner received an offer for \$13 per square foot for 30,000± square feet of land at the northwest corner of W. 2nd Street and Cesar Chavez Boulevard. This 30,000± square foot area is significantly smaller than the size of the subject's larger parcel (155,073 SF). Also, this area in question is the most valuable real estate of the property at the corner of a lighted intersection. Therefore, it is logical the offer for the most valuable portion of the site is above the unit value of the entire larger parcel.

Value of Proposed Fee Acquisition

The property being acquired is valued based on its contributory value as part of the larger parcel. The project requires a fee acquisition. The fee acquisition area was previously described and totals 7,808± square feet.

The unit value of the larger parcel was determined to be \$5.00 per square foot. The value of the fee acquisition is presented next.

Land:

Fee:
7,808± SF X \$5.00/SF = \$ 39,040

Value of the Remainder Parcel as Part of Larger Parcel (Land Only)

The value of the remainder as part of the larger parcel is its contributory value to the larger parcel.

\$775,365 – \$39,040 = \$ 736,325

Value of the Remainder Parcel after Acquisition before Considering Benefits (Land Only)

The subject remainder site area is decreased 5%± by the proposed acquisition. Access will continue to be available from W. 2nd Street. The shape of the remainder property does not reduce its utility. The property's shape, access, and other physical characteristics are adequate to support the legally permissible uses. Given these considerations, the highest and best use of the remainder is unchanged. No severance damages are indicated.

The value of the remainder after acquisition is as follows:

$$147,265\pm \text{ SF X } \$5.00 \text{ per SF} = \$ 736,325$$

SEVERANCE DAMAGES

Based upon the preceding analysis, the proposed acquisition does not adversely affect the utility, desirability or marketability of the remainder property. The remainder as valued above is compared to the remainder as part of the larger parcel.

Loss in Market Value

$$\$ 736,325 - \$ 736,325 = \$ -0-$$

Severance damages are not concluded.

Value of Remainder Parcel after Acquisition Considering Benefits (Land Only)

The appraisal process requires the valuation of the remainder as a separate and distinct parcel considering all the market forces that indicate any increase in value to the remainder property. The proposed fee acquisition as estimated above, was determined not to enhance the utility, desirability and marketability of the remainder parcel.

$$\text{The value of the remainder after acquisition considering benefits is as follows:} \quad \$ 736,325$$

BENEFITS

Under California eminent domain law, any potential benefits to the remainder can only be used to offset damages to the remainder. The proposed project will benefit the general market area with improved access and curb, gutter, and sidewalk along both sides of Cesar Chavez Boulevard. Under California law, benefits can only offset severance damages. Since the appraisers found no damages to the remainder, no benefits have been quantified here.

Gain in Market Value

$$\$ 736,325 - \$ 736,325 = \$ -0-$$

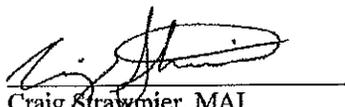
*Cesar Chavez Boulevard Improvement Project
Imperial County, California
Dollarmont Holdings, LLC Property
APNs: 058-400-027, -028, -029, -030*

FAIR MARKET VALUE CONCLUSION

Market Value of Acquisition	\$ 39,040
Net Severance Damages	\$ <u>-0-</u>
Total	\$ 39,040
Rounded	\$ 39,000

The above is a summary valuation prepared, to be used to comply with Code of Civil Procedures section 1255.010. The appraisal that is the basis for this summary was made in accordance with accepted appraisal principles, consistent with California Valuation Law.

SIGNATURE OF APPRAISERS:



Craig Strawmier, MAI
California Certified General
Real Estate Appraiser
Certificate No. AG044596



Stephen M. Parent, MAI, SRA, AI-GRS, SR/WA, PMP
California Certified General
Real Estate Appraiser
Certificate No. AG042853

**Cesar Chavez Boulevard Improvement Project
Imperial County, California
Dollarmont Holdings, LLC Property
APNs: 058-400-027, -028, -029, -030**

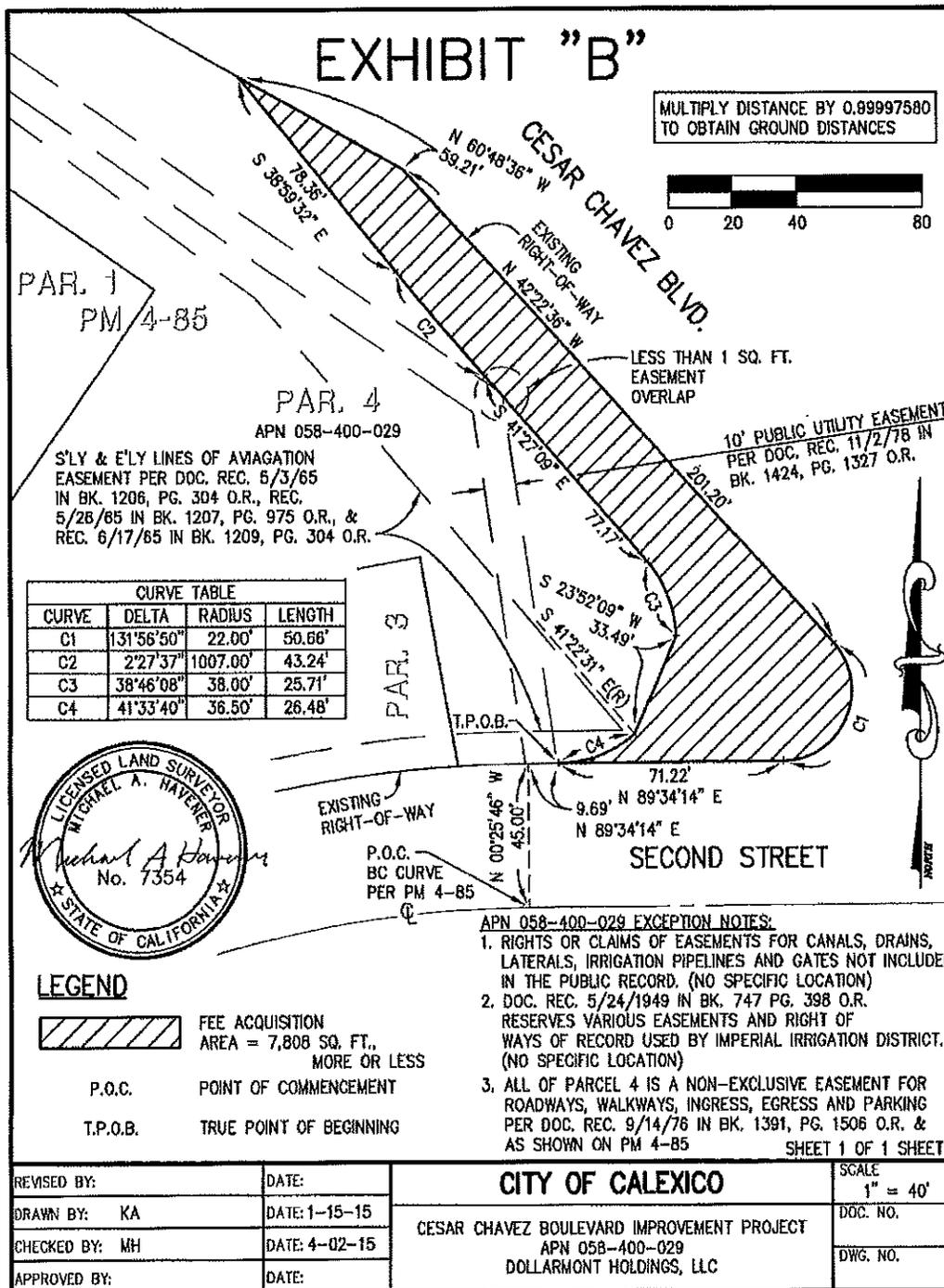
A summary of the comparable sales used are shown below.

COMPARABLE LAND SALES TABLE

<u>Sale#</u> <u>DC#</u>	<u>Location</u> <u>APN</u>	<u>Seller</u> <u>Buyer</u>	<u>Sale Date</u> <u>Doc. No.</u>	<u>Sale</u> <u>Price</u>	<u>Zoning</u>	<u>Size</u> <u>(Acres)</u>	<u>Price</u> <u>/SF</u>
<u>S-1</u> 315	200 N. 4 th Street El Centro, CA APN: 053-047-007	Tesoro Sierra Properties, LLC Wesley Quan	<u>10/01/14</u> 19327	\$80,000	CD	0.32±	\$5.71±
<u>S-2</u> 303	523 E. Cole Road Calexico, CA APN: 058-834-083	Victoria Place, LLC Jaime & Elma Estrada	<u>1/23/14</u> 1270	\$126,000	CH	1.82±	\$1.59±
<u>S-3</u> 304	N/S of Bradshaw Road W/O Waterman Avenue El Centro, CA APN: 064-590-010 (new APN: 064-590-004 & - 005)	Walmart Stores, Inc. Hix Snedeker El Centro, LLC	<u>1/16/14</u> 824	\$575,455	CG	3.17±	\$4.17±
<u>S-4</u> 305	250 Wildcat Drive Brawley, CA APN: 048-430-002	Walmart Stores, Inc. Marquee-Brawley, LLC	<u>4/1/13</u> 7051	\$505,000	C-2	1.12±	\$10.35±
Subject	300-333 W. 2 nd Street Calexico, CA 058-400-027, -028, -029, & -030	Appraisal	---	---	CN	3.56±	---

Cesar Chavez Boulevard Improvement Project
Imperial County, California
Dollarmont Holdings, LLC Property
APNs: 058-400-027, -028, -029, -030

APPRAISAL MAPPING



APN: 058-400-029
Cesar Chavez Blvd. Improvement Project
City of Calexico

SIGNING INSTRUCTIONS FOR OWNER

If you find the offer acceptable, **please sign and return** the following documents:

- 1) Grant Deed
- 2) Right of Way Contract, 2 originals
- 3) Please complete and sign W-9

Pages that require signatures are marked with "Sign Here" tags.

Please note that all signatures on the Grant Deed must be acknowledged by a notary public. Bender Rosenthal, Inc., will provide a notary at your request that will meet with you at your convenience.

Please return the signed documents to me at Bender Rosenthal, Inc., 4400 Auburn Boulevard, Suite 102, Sacramento, CA 95841, in the enclosed self-addressed envelope.



Deryl L. Neal
Right of Way Consultant
Telephone: (916) 978-4900 or (916) 212-1203

Recorded at the request of
City of Calexico

When Recorded Mail to:
Public Works Director
City of Calexico
608 Heber Avenue
Calexico, CA 92231

Space above this line for Recorder's Use

This document is recorded for the benefit of the City of Calexico and is therefore exempt from the payment of a recording fee pursuant to Government Code Section 27383 or filing fee pursuant to Government Code Section 6103, and from the payment of the documentary transfer tax pursuant to Revenue and Taxation Code Section 11922.

PROJECT SECTION	COUNTY CODE	PARCEL #	APN
		9	058-400-029

GRANT DEED

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, DOLLARMONT HOLDINGS, LLC ("GRANTOR") hereby grants to City of Calexico ("GRANTEE"), its successors and assigns, all that real property, or interest therein, situated in the City of Calexico, County of Imperial, State of California, more particularly described and shown as follows:

FOR LEGAL DESCRIPTION, SEE EXHIBITS "A" AND "B" ATTACHED HERETO AND MADE A PART HEREOF.

(As used above, the term "grantor" shall include the plural as well as the singular number.)

Dated this _____ day of _____, 2015

GRANTOR: DOLLARMONT HOLDINGS, LLC.

By: _____

Print Name: _____

Title: _____

CALIFORNIA ALL-PURPOSE ACKNOWLEDGEMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California

County of _____

On _____ before me, _____
Name and Title of Officer

personally appeared _____,
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (Seal)
Signature of Notary Public

EXHIBIT "A"
FEE ACQUISITION
APN 058-400-029

THAT PORTION OF PARCEL 4 OF PARCEL MAP ON FILE IN BOOK 4 PAGE 85 OF PARCEL MAPS IN THE CITY OF CALEXICO, COUNTY OF IMPERIAL, STATE OF CALIFORNIA, RECORDED JUNE 6, 1979 IN THE OFFICE OF THE COUNTY RECORDER OF IMPERIAL COUNTY, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE BEGINNING OF A CURVE ON THE CENTERLINE OF SECOND STREET AS SHOWN ON SAID PARCEL MAP CONCAVE SOUTHEASTERLY; THENCE RADIAL TO SAID CURVE NORTH 00°25'46" WEST 45.00 FEET TO A POINT ON THE SOUTHERLY LINE OF SAID PARCEL 4; THENCE ALONG SAID SOUTHERLY LINE NORTH 89°34'14" EAST 9.69 FEET TO THE **TRUE POINT OF BEGINNING**;

1. THENCE CONTINUING ALONG SAID SOUTHERLY LINE NORTH 89°34'14" EAST 71.22 FEET TO THE BEGINNING OF A TANGENT 22.00-FOOT RADIUS CURVE CONCAVE WESTERLY;
2. THENCE EASTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 131°56'50" A DISTANCE OF 50.66 FEET TO THE NORTHEASTERLY LINE OF SAID PARCEL 4;
3. THENCE ALONG SAID NORTHEASTERLY LINE NORTH 42°22'36" WEST 201.20 FEET TO AN ANGLE POINT THEREIN;
4. THENCE CONTINUING ALONG SAID NORTHEASTERLY LINE NORTH 60°48'36" WEST 59.21 FEET;
5. THENCE LEAVING SAID NORTHEASTERLY LINE SOUTH 38°59'32" EAST 78.36 FEET TO THE BEGINNING OF A TANGENT 1007.00-FOOT RADIUS CURVE CONCAVE NORTHEASTERLY;
6. THENCE SOUTHEASTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 2°27'37" A DISTANCE OF 43.24 FEET;
7. THENCE SOUTH 41°27'09" EAST 77.17 FEET TO THE BEGINNING OF A TANGENT 38.00-FOOT RADIUS CURVE CONCAVE WESTERLY;
8. THENCE SOUTHEASTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 38°48'08" A DISTANCE OF 25.71 FEET;
9. THENCE SOUTH 23°52'09" WEST 33.49 FEET TO THE BEGINNING OF A NON-TANGENT 36.50-FOOT RADIUS CURVE CONCAVE NORTHWESTERLY, A RADIAL LINE TO SAID POINT BEARS SOUTH 41°22'31" EAST;
10. THENCE SOUTHWESTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 41°33'40" A DISTANCE OF 26.48 FEET TO THE **TRUE POINT OF BEGINNING**.

AREA = 7,808 SQUARE FEET, MORE OR LESS

SEE EXHIBIT "B" ATTACHED AND BY THIS REFERENCE MADE A PART HEREOF.

EXHIBIT "A"
FEE ACQUISITION
APN 058-400-029

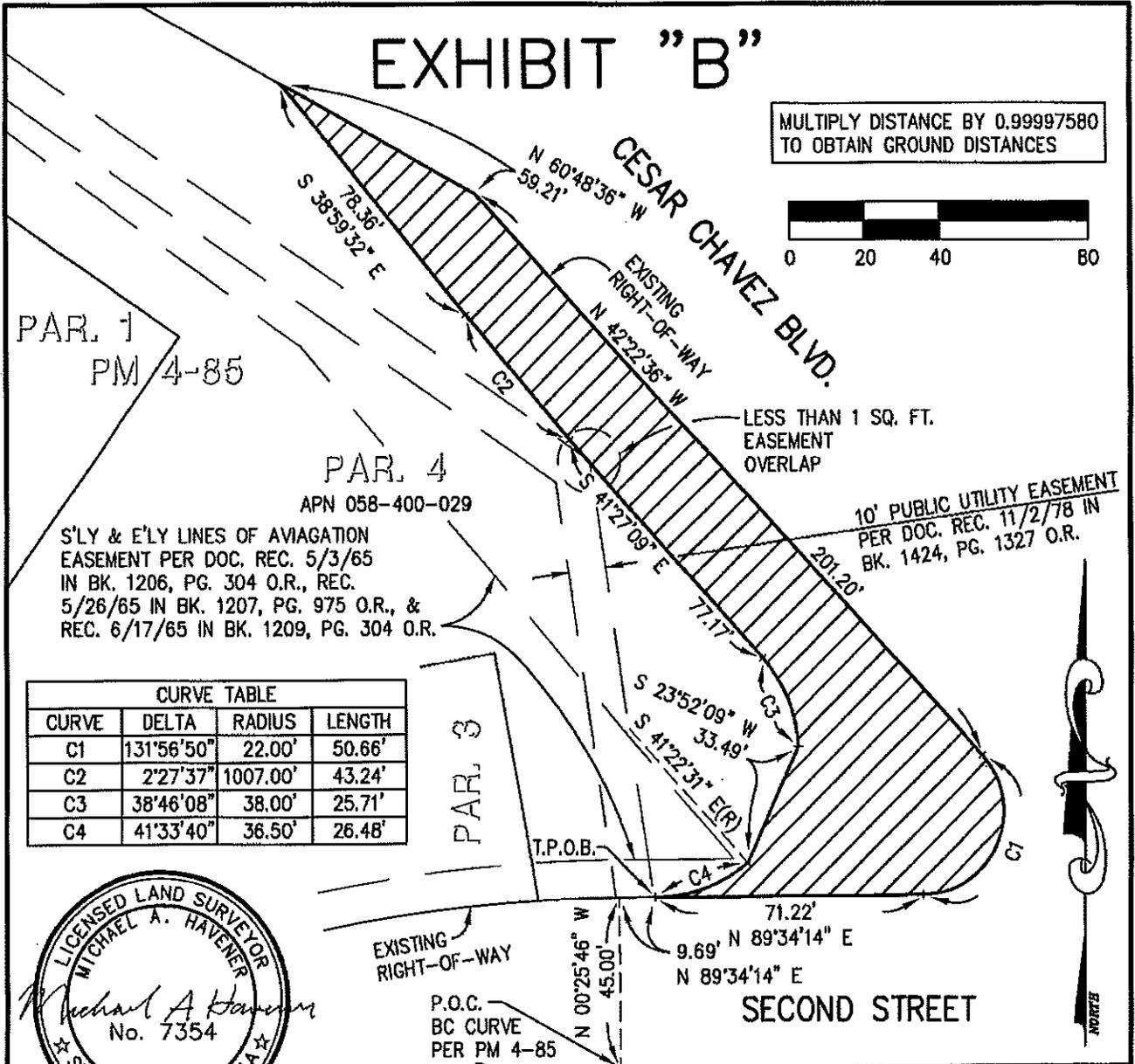
THE BEARINGS AND DISTANCES USED IN THE ABOVE DESCRIPTION ARE
BASED ON THE CALIFORNIA COORDINATE SYSTEM OF 1983, ZONE 6. MULTIPLY
DISTANCES SHOWN BY 0.99997580 TO OBTAIN GROUND DISTANCES.

SIGNATURE Michael A. Havener 4-02-2015
MICHAEL A. HAVENER DATE
PLS 7354



EXHIBIT "B"

MULTIPLY DISTANCE BY 0.99997580
TO OBTAIN GROUND DISTANCES



CURVE TABLE			
CURVE	DELTA	RADIUS	LENGTH
C1	131°56'50"	22.00'	50.66'
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LEGEND

- FEE ACQUISITION AREA = 7,808 SQ. FT., MORE OR LESS
- P.O.C. POINT OF COMMENCEMENT
- T.P.O.B. TRUE POINT OF BEGINNING

- APN 058-400-029 EXCEPTION NOTES:**
- RIGHTS OR CLAIMS OF EASEMENTS FOR CANALS, DRAINS, LATERALS, IRRIGATION PIPELINES AND GATES NOT INCLUDED IN THE PUBLIC RECORD. (NO SPECIFIC LOCATION)
 - DOC. REC. 5/24/1949 IN BK. 747 PG. 398 O.R. RESERVES VARIOUS EASEMENTS AND RIGHT OF WAYS OF RECORD USED BY IMPERIAL IRRIGATION DISTRICT. (NO SPECIFIC LOCATION)
 - ALL OF PARCEL 4 IS A NON-EXCLUSIVE EASEMENT FOR ROADWAYS, WALKWAYS, INGRESS, EGRESS AND PARKING PER DOC. REC. 9/14/76 IN BK. 1391, PG. 1506 O.R. & AS SHOWN ON PM 4-85

SHEET 1 OF 1 SHEET

REVISED BY:	DATE:	CITY OF CALEXICO	SCALE 1" = 40'	
DRAWN BY: KA	DATE: 1-15-15		CESAR CHAVEZ BOULEVARD IMPROVEMENT PROJECT	DOC. NO.
CHECKED BY: MH	DATE: 4-02-15		APN 058-400-029	DWG. NO.
APPROVED BY:	DATE:		DOLLARMONT HOLDINGS, LLC	

RIGHT OF WAY CONTRACT

APN: 058-400-029

District	County	Route	P.M. (KP)	E. A.	Program	Fed. Ref.	Name	Parcel
	Imperial						Dollarmont Holdings, LLC	9

Calexico, California

_____, 2015

DOLLARMONT HOLDINGS, LLC
Grantor

RIGHT OF WAY CONTRACT

Document No. _____ in the form of a Grant Deed to the City of Calexico covering the property as described in Exhibit "A" and depicted in Exhibit "B", attached hereto and made a part hereof, has been executed and delivered to Deryl L. Neal, Right of Way Agent.

In consideration of which, and the other considerations hereinafter set forth, it is mutually agreed as follows:

1. (A) The parties have herein set forth the whole of their agreement. The performance of this agreement constitutes the entire consideration for said document and shall relieve the City of Calexico of all further obligation or claims on this account, or on account of the location, grade or construction of the proposed public improvement.
- (B) City of Calexico requires said property described in Exhibit "A" for roadway purposes, a public use for which City of Calexico has the authority to exercise the power of eminent domain. Grantor is compelled to sell, and City of Calexico is compelled to acquire the property.
- (C) Both Grantor and City of Calexico recognize the expense, time, effort, and risk to both parties in determining the compensation for the property by eminent domain litigation. The compensation set forth herein for the property is in compromise and settlement, in lieu of such litigation.
2. City of Calexico shall:
 - (A) Pay the undersigned Grantor the sum of THIRTY NINE THOUSAND and NO/100--DOLLARS (\$39,000.00) for the property or interest conveyed by above document when title to said property vests in the City of Calexico free and clear of all liens, encumbrances, assessments, easements and leases (recorded and/or unrecorded) and taxes, except:
 - a. Taxes for the tax year in which this escrow closes shall be cleared and paid in the manner required by Section 5086 of the Revenue and Taxation Code, if unpaid at the close of escrow.
 - b. Covenants, conditions, restrictions and reservations of record, or contained in the above-referenced document.
 - c. Easements or rights of way over said land for public or quasi-public utility or public street purposes, if any.

RIGHT OF WAY CONTRACT

- (B) Pay all escrow and recording fees incurred in this transaction, and if title insurance is desired by the City of Calexico, the premium charged therefore. Said escrow and recording charges shall not, however, include documentary transfer tax. This transaction will be handled through an escrow with Stewart Title Company of California, Escrow No. 01180-137286, located at 8950 Cal Center Drive, Bldg. 3, Suite 100, Sacramento, CA 95928.
- (C) Have the authority to deduct and pay from the amount shown on Clause 2(A) above, any amount necessary to satisfy any bond demands and delinquent taxes due in any year except the year in which this escrow closes, together with penalties and interest thereon, and/or delinquent and unpaid non-delinquent assessments which have become a lien at the close of escrow.
3. Any monies payable under this contract up to and including the total amount of unpaid principal and interest on note(s) secured by mortgage(s) or deed(s) of trust, if any, and all other amounts due and payable in accordance with the terms and conditions of said trust deed(s) or mortgage(s), shall upon demand(s) be made payable to the mortgagee(s) or beneficiary(ies) entitled thereunder; said mortgagee(s) or beneficiary(ies) to furnish grantor with good and sufficient receipt showing said monies credited against the indebtedness secured by said mortgage(s) or deed(s) of trust.
4. It is agreed and confirmed by the parties hereto that notwithstanding other provisions in this contract, the right of possession and use of the subject property by the City of Calexico, including the right to remove and dispose of improvements, shall commence upon execution of this contract by the City of Calexico, and that the amount shown in Clause 2(A) herein includes, but is not limited to, full payment for such possession and use, including damages, if any, from said date.
5. Grantor warrants that there are no oral or written leases on all or any portion of the property exceeding a period of one month, and the grantor agrees to hold the City of Calexico harmless and reimburse the City of Calexico for any and all of its losses and expenses occasioned by reason of any lease of said property held by any tenant of grantor for a period exceeding one month. Grantor acknowledges that a quitclaim deed will be required from any lessee that has a lease term exceeding one month. Said quitclaim deeds are to be provided to Title by Grantor, prior to the close of escrow.
6. It is understood and agreed by and between the parties hereto that payment as provided in clause 2(A) includes, but is not limited to, payment for any and all damages, and any and all damages which may accrue to the Grantor's remaining property by reason of its severance from the property conveyed herein and the construction and use of the proposed roadway project, including, but not limited to, any expense which Grantor may incur in restoring the utility of their remaining property.
7. The City of Calexico agrees to indemnify and hold harmless the undersigned Grantor from any liability arising out of the City of Calexico's operations under this agreement. The City of Calexico further agrees to assume responsibility for any damages proximately caused by reason of the City of Calexico's operations under this agreement and the City of Calexico will, at its option, either repair or pay for such damage.
8. It is understood and agreed by and between the parties hereto that this Agreement inures to the benefit of, and is binding on, the parties, their respective heirs, personal representatives, successors, and or assignees.

No Obligation Other Than Those Set Forth Herein Will Be Recognized

EXHIBIT "A"
FEE ACQUISITION
APN 058-400-029

THAT PORTION OF PARCEL 4 OF PARCEL MAP ON FILE IN BOOK 4 PAGE 85 OF PARCEL MAPS IN THE CITY OF CALEXICO, COUNTY OF IMPERIAL, STATE OF CALIFORNIA, RECORDED JUNE 6, 1979 IN THE OFFICE OF THE COUNTY RECORDER OF IMPERIAL COUNTY, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE BEGINNING OF A CURVE ON THE CENTERLINE OF SECOND STREET AS SHOWN ON SAID PARCEL MAP CONCAVE SOUTHEASTERLY; THENCE RADIAL TO SAID CURVE NORTH 00°25'46" WEST 45.00 FEET TO A POINT ON THE SOUTHERLY LINE OF SAID PARCEL 4; THENCE ALONG SAID SOUTHERLY LINE NORTH 89°34'14" EAST 9.69 FEET TO THE **TRUE POINT OF BEGINNING**;

1. THENCE CONTINUING ALONG SAID SOUTHERLY LINE NORTH 89°34'14" EAST 71.22 FEET TO THE BEGINNING OF A TANGENT 22.00-FOOT RADIUS CURVE CONCAVE WESTERLY;
2. THENCE EASTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 131°56'50" A DISTANCE OF 50.66 FEET TO THE NORTHEASTERLY LINE OF SAID PARCEL 4;
3. THENCE ALONG SAID NORTHEASTERLY LINE NORTH 42°22'36" WEST 201.20 FEET TO AN ANGLE POINT THEREIN;
4. THENCE CONTINUING ALONG SAID NORTHEASTERLY LINE NORTH 60°48'36" WEST 59.21 FEET;
5. THENCE LEAVING SAID NORTHEASTERLY LINE SOUTH 38°59'32" EAST 78.36 FEET TO THE BEGINNING OF A TANGENT 1007.00-FOOT RADIUS CURVE CONCAVE NORTHEASTERLY;
6. THENCE SOUTHEASTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 2°27'37" A DISTANCE OF 43.24 FEET;
7. THENCE SOUTH 41°27'09" EAST 77.17 FEET TO THE BEGINNING OF A TANGENT 38.00-FOOT RADIUS CURVE CONCAVE WESTERLY;
8. THENCE SOUTHEASTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 38°46'08" A DISTANCE OF 25.71 FEET;
9. THENCE SOUTH 23°52'09" WEST 33.49 FEET TO THE BEGINNING OF A NON-TANGENT 36.50-FOOT RADIUS CURVE CONCAVE NORTHWESTERLY, A RADIAL LINE TO SAID POINT BEARS SOUTH 41°22'31" EAST;
10. THENCE SOUTHWESTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 41°33'40" A DISTANCE OF 26.48 FEET TO THE **TRUE POINT OF BEGINNING**.

AREA = 7,808 SQUARE FEET, MORE OR LESS

SEE EXHIBIT "B" ATTACHED AND BY THIS REFERENCE MADE A PART HEREOF.

EXHIBIT "A"
FEE ACQUISITION
APN 058-400-029

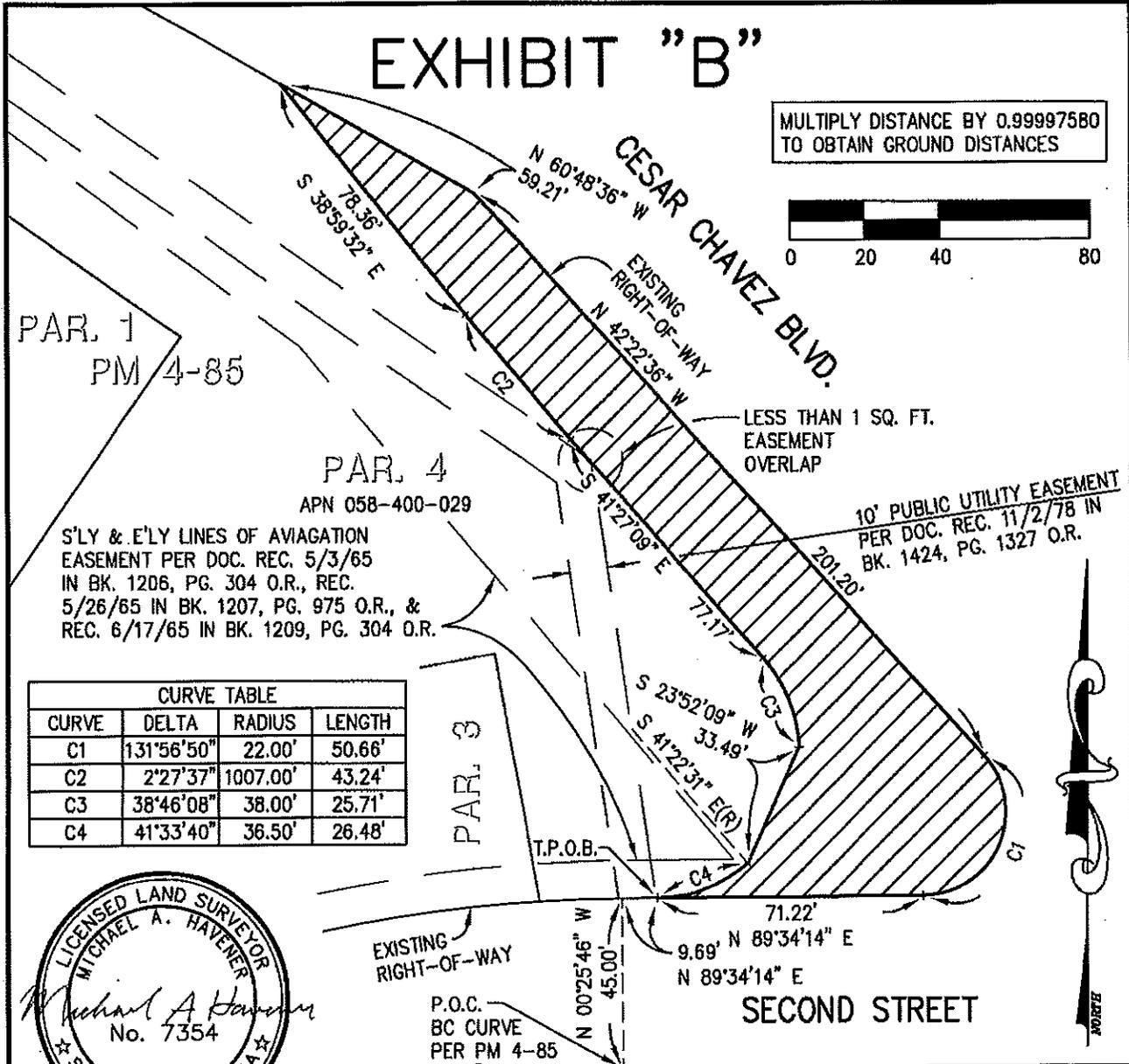
THE BEARINGS AND DISTANCES USED IN THE ABOVE DESCRIPTION ARE
BASED ON THE CALIFORNIA COORDINATE SYSTEM OF 1983, ZONE 6. MULTIPLY
DISTANCES SHOWN BY 0.99997580 TO OBTAIN GROUND DISTANCES.

SIGNATURE Michael A. Havener 4-02-2015
MICHAEL A. HAVENER DATE
PLS 7354



EXHIBIT "B"

MULTIPLY DISTANCE BY 0.99997580
TO OBTAIN GROUND DISTANCES



CURVE TABLE			
CURVE	DELTA	RADIUS	LENGTH
C1	131°56'50"	22.00'	50.66'
C2	2°27'37"	1007.00'	43.24'
C3	38°46'08"	38.00'	25.71'
C4	41°33'40"	36.50'	26.48'



LEGEND

- FEE ACQUISITION
AREA = 7,808 SQ. FT.,
MORE OR LESS
- P.O.C. POINT OF COMMENCEMENT
- T.P.O.B. TRUE POINT OF BEGINNING

- APN 058-400-029 EXCEPTION NOTES:**
- RIGHTS OR CLAIMS OF EASEMENTS FOR CANALS, DRAINS, LATERALS, IRRIGATION PIPELINES AND GATES NOT INCLUDED IN THE PUBLIC RECORD. (NO SPECIFIC LOCATION)
 - DOC. REC. 5/24/1949 IN BK. 747 PG. 398 O.R. RESERVES VARIOUS EASEMENTS AND RIGHT OF WAYS OF RECORD USED BY IMPERIAL IRRIGATION DISTRICT. (NO SPECIFIC LOCATION)
 - ALL OF PARCEL 4 IS A NON-EXCLUSIVE EASEMENT FOR ROADWAYS, WALKWAYS, INGRESS, EGRESS AND PARKING PER DOC. REC. 9/14/76 IN BK. 1391, PG. 1506 O.R. & AS SHOWN ON PM 4-85
- SHEET 1 OF 1 SHEET

REVISED BY:	DATE:	CITY OF CALEXICO CESAR CHAVEZ BOULEVARD IMPROVEMENT PROJECT APN 058-400-029 DOLLARMONT HOLDINGS, LLC	SCALE 1" = 40'
DRAWN BY: KA	DATE: 1-15-15		DOC. NO.
CHECKED BY: MH	DATE: 4-02-15		DWG. NO.
APPROVED BY:	DATE:		



Kaz Bernath
Title Officer

Stewart Title of California, Inc.
7065 Indiana Ave., Suite 100
Riverside, CA 92506
Phone (951) 276-2700
Fax
KBernath@stewart.com

PRELIMINARY REPORT

Order No. : 01180-137286
Title Unit No. : 7434
Your File No. :
Buyer/Borrower Name :
Seller Name : Dollarmont Holdings LLC

Property Address: River Road & W 2nd Avenue, Calexico, CA

In response to the above referenced application for a Policy of Title Insurance, Stewart Title of California, Inc. hereby reports that it is prepared to issue, or cause to be issued, as of the date hereof, a Stewart Title Guaranty Company Policy or Policies of Title Insurance describing the land and the estate or interest therein hereinafter set forth, insuring against loss which may be sustained by reason of any defect, lien or encumbrance not shown or referenced to as an Exception on Schedule B or not excluded from coverage pursuant to the printed Schedules, Conditions, and Stipulations of said Policy forms.

The printed Exceptions and Exclusions from the coverage and Limitations on covered Risks of said policy or policies are set forth in Exhibit A attached. The policy to be issued may contain an arbitration clause. When the Amount of Insurance is less than that set forth in the arbitration clause, all arbitrable matters shall be arbitrated at the option of either the Company or the Insured as the exclusive remedy of the parties. Limitations on Covered Risks applicable to the CLTA and ALTA Homeowner's Policies of Title Insurance which establish a Deductible Amount and a Maximum Dollar Limits of Liability for certain coverages are also set forth in Exhibit A. Copies of the policy forms should be read. They are available from the office which issued this report.

Please read the exceptions shown or referred to below and the exceptions and exclusions set forth in Exhibit A of this report carefully. The exceptions and exclusions are meant to provide you with notice of matters, which are not covered under the terms of the title insurance policy and should be carefully considered.

It is important to note that this preliminary report is not a written representation as to the condition of title and may not list all liens, defects, and encumbrances affecting title to the land.

This report, (and any supplements or amendments thereto) is issued solely for the purpose of facilitating the issuance of a policy of title insurance and no liability is assumed hereby. If it is desired that liability be assumed prior to the issuance of a policy of title insurance a binder or commitment should be requested.

Dated as of November 26, 2014 at 7:30 a.m.

Kaz Bernath, Title Officer

When replying, please contact: Kaz Bernath, Title Officer

PRELIMINARY REPORT

The form of Policy of Title Insurance contemplated by this report is:

- CLTA Standard Coverage Policy
- CLTA/ALTA Homeowners Policy
- 2006 ALTA Owner's Policy
- 2006 ALTA Loan Policy
- ALTA Short Form Residential Loan Policy
-

SCHEDULE A

The estate or interest in the land hereinafter described or referred to covered by this report is:

Fee

Title to said estate or interest at the date hereof is vested in:

Dollarmont Holdings, LLC

LEGAL DESCRIPTION

The land referred to herein is situated in the State of California, County of Imperial and described as follows:

Lot 3 of Calexico Shopping Center, in the City of Calexico, County of Imperial, State of California, as shown by map on file in Book 12 page 71 of Final Maps, on file in the Office of the County Recorder of Imperial County, and as corrected by Certificate of Correction recorded February 28, 1977 in Book 1398 page 311 of Official Records, also shown as Parcel 4 of Parcel Map recorded in Book 4 page 85 of Parcel Maps, of said Imperial County.

APN: 058-400-029
(End of Legal Description)

SCHEDULE B

At the date hereof, exceptions to coverage in addition to the printed exceptions and exclusions contained in said policy or policies would be as follows:

Taxes:

- A. None

Exceptions:

1. Water rights, claims or title to water in or under said land, whether or not shown by the public records.
2. The lien of supplemental taxes, if any, assessed pursuant to the provisions of Chapter 3.5 (commencing with Section 75) of the revenue and taxation code of the State of California.
3. Assessments, if any, for community facility districts affecting said land which may exist by virtue of assessment maps or notices filed by said districts. Said assessments are collected with the County Taxes.
4. Said land is located within the boundary of the Imperial Irrigation District.
5. Rights or claims of easements for canals, drains, laterals, irrigation pipelines and gates not recorded in the public records.
6. Title to, and easements in, any portion of the land lying within any highways, roads, streets, or other ways.
7. Minerals of whatsoever kind, subsurface and surface substances, including but not limited to coal, lignite, oil, gas, uranium, clay, rock, sand and gravel in, on, under and that may be produced from the Land, together with all rights, privileges, and immunities relating thereto, whether or not appearing in the Public Records or listed in Schedule B. The Company makes no representation as to the present ownership of any such interests. There may be leases, grants, exceptions or reservations of interests that are not listed.
8. An easement and rights incidental thereto in favor of San Diego County as set forth in a document recorded May 6, 1905 in Book 20 page 75 of Deeds, affects as shown therein. Reference is made to said document for full particulars.
9. An easement for all easements used by the Imperial Irrigation District for irrigation, waste or drainage canals or power or telephone lines and rights incidental thereto as reserved in a document recorded February 24, 1949 in Book 747 page 398 of Official Records.
10. An easement for the passage of aircraft in and through the air space conforming to the clear zone area prescribed for the Federal Aviation Agency for the development of the Calexico Airport and rights incidental thereto in favor of the City of Calexico as set forth in a document recorded May 3, 1965 in Book 1206 page 304, May 26, 1965 in Book 1207 page 975 and June 17, 1965 in Book 1209 page 304, all of Official Records, affects as shown therein.
11. An easement or other provisions for the purpose of water line and sewer line and rights incidental thereto as shown on the recorded map of Calexico Shopping Center, which affects as shown on said map.
12. Covenants, Conditions, and Restrictions as set forth in an instrument, but omitting, except to the extent permitted by any applicable federal or state law, covenants or restrictions, if any, based on

race, color, religion, sex, familial status, national origin, handicap, sexual orientation, marital status, ancestry, source of income, disability, medical condition, or other unlawful basis.
Recorded : September 14, 1976 in Book 1391 page 1500 of Official Records

Note: Section 12956.1 of the Government Code provides the following: If this document contains any restrictions based on race, color, religion, sex, sexual orientation, familial status, marital status, disability, national origin, source of income as defined in subdivision (p) of Section 12955, or ancestry, that restriction violates state and federal fair housing laws and is void, and may be removed pursuant to Section 12956.2 of the Government Code. Lawful restrictions under state and federal law on the age of occupants in senior housing or housing for older persons shall not be construed as restrictions based on familial status.

13. The matters contained in an instrument entitled "Easements with Covenants & Restrictions Affecting Land", by and between Safeway Incorporated, Longs Drug Stores, Inc., and Border Terminal, Inc., upon the terms therein provided recorded September 14, 1976 in Book 1391 page 1506 of Official Records.

Said Covenants, Conditions and Restrictions have been modified by an instrument, recorded October 4, 1978 in Book 1423 page 204 of Official Records.

14. The matters contained in an instrument entitled "Development Agreement" dated September 2, 1976, by and between Safeway Stores Incorporated, Longs Drug Stores Inc., and Border Terminal, Inc., upon the terms therein provided recorded September 14, 1978 in Book 1391 page 1522 of Official Records.

15. An easement for underground electric lines and rights incidental thereto in favor of Imperial Irrigation District as set forth in a document recorded November 2, 1978 in Book 1424 page 1327 of Official Records, affects as shown therein.

16. The fact that said land is included within a project area of the Merged Central Business District and Residential Project Redevelopment Agency, and that proceedings for the redevelopment of said project have been instituted under the Redevelopment Law (such redevelopment to proceed only after the adoption of the redevelopment plan) as disclosed by a document recorded December 29, 1993 as Instrument No. 93.31595 of Official Records.

17. The effect of a Record of Survey on file in Book 10 page 72 of Records of Survey, which purports to show the herein described property.

18. Deed of Trust to secure an indebtedness in the amount shown below, and any other obligations secured thereby:

Amount	: \$808,800.00
Dated	: December 12, 1990
Trustor	: Thomas V. McCrossan and Marjorie C. McCrossan
Trustee	: T.D. Service Company, a California corporation
Beneficiary	: The Fidelity Mutual Life Insurance Company, a corporation
Recorded	: December 14, 1990 as Instrument No. <u>90.22617</u> of Official Records

19. An assignment of rents and leases, executed by Thomas V. McCrossan, to The Fidelity Mutual Life Insurance Company, recorded December 14, 1990 as Instrument No. 90.22618 of Official Records.

20. Any defect in or invalidity of the title to the estate or interest of the vestee herein, arising out of or occasioned by that certain Grant Deed, Kyun Tae Kim and Cris Wonmee Kim, who took title as Won Mee Kim, husband and wife as joint tenants, as grantor and Kristle Kim, as to undivided 50% interest, and Kenneth Kim, as to undivided 50% interest, as grantee, recorded February 28, 2013 as Instrument No. 13.4641 of Official Records. This Company will require proof of the validity of said document prior to the issuance of any policy of title insurance.

21. Any defect in or invalidity of the title to the estate or interest of the vestee herein, arising out of or

occasioned by that certain Grant Deed, Kristle Kim, as to undivided 50% interest, and Kenneth Kim, as to undivided 50% interest, as grantor and Dollarmont Holdings, LLC, as grantee, recorded June 17, 2013 as Instrument No. 13.13076 of Official Records. This Company will require proof of the validity of said document prior to the issuance of any policy of title insurance.

22. This Company will require the following documents in order to insure a conveyance or encumbrance by the limited liability company named below:

Limited liability company: Dollarmont Holdings, LLC

- a. A certified copy of the articles of organization (LLC-1), and any amendment (LLC-2) or restatement (LLC-10) to be recorded in the appropriate county.
 - b. A copy of the operating agreement and any amendment.
 - c. Other requirements that the Company may set forth following its review of said documents.
23. Rights or claims of parties in possession and easements or claims of easements not shown by the public records, boundary line disputes overlaps, encroachments, and any matters not of record, which would be disclosed by an accurate survey, and inspection of the land.
24. Rights of tenants in possession as tenants only under unrecorded leases.
25. This Company will require that a full copy of any unrecorded leases together with all supplements and amendments or a certified rent roll be furnished to the Company, before issuing any policy of title insurance. Additional exceptions may be added to this report following the review of these requested materials.

(End of Exceptions)

NOTES AND REQUIREMENTS

A. Property taxes for the fiscal year 2014 - 2015 shown below are paid. For proration purposes the amounts are:

1st Installment	:	\$2,118.77
2nd Installment	:	\$2,118.77
Parcel No.	:	<u>058-400-029</u>
Code Area	:	002020

CALIFORNIA "GOOD FUNDS" LAW

California Insurance Code Section 12413.1 regulates the disbursement of escrow and sub-escrow funds by title companies. The law requires that funds be deposited in the title company escrow account and available for withdrawal prior to disbursement. Funds received by Stewart Title of California, Inc. via wire transfer may be disbursed upon receipt. Funds received via cashier's checks or teller checks drawn on a California Bank may be disbursed on the next business day after the day of deposit. If funds are received by any other means, recording and/or disbursement may be delayed, and you should contact your title or escrow officer. All escrow and sub-escrow funds received will be deposited with other escrow funds in one or more non-interest bearing escrow accounts in a financial institution selected by Stewart Title of California, Inc.. Stewart Title of California, Inc. may receive certain direct or indirect benefits from the financial institution by reason of the deposit of such funds or the maintenance of such accounts with the financial institution, and Stewart Title of California, Inc. shall have no obligation to account to the depositing party in any manner for the value of, or to pay to such party, any benefit received by Stewart Title of California, Inc.. Such benefits shall be deemed additional compensation to Stewart Title of California, Inc. for its services in connection with the escrow or sub-escrow.

If any check submitted is dishonored upon presentation for payment, you are authorized to notify all principals and/or their respective agents of such nonpayment.

WIRE INSTRUCTIONS

We hereby request that our funds are wire transferred directly to our account. If you have any questions, regarding this matter, please call the number as referenced above.

We do not accept ACH Transfers, these funds will be returned and may cause a delay in closing.

Bank Name: **Union Bank**

Bank Address: **1980 Saturn Street, Monterey Park, CA 91755**

ABA#: **122000496**

Account Name: **Stewart Title of California, Inc.**

Account Number: **0010426464**

REFERENCE OUR FILE NUMBER: **01180-137286**

REFERENCE OUR BUYER/BORROWER NAME:

REFERENCE OUR SELLER NAME: **Dollarmont Holdings LLC**

EXHIBIT "A"
LEGAL DESCRIPTION

Order No.: 01180-137286
Escrow No.: 01180-137286

The land referred to herein is situated in the State of California, County of Imperial, and described as follows:

Lot 3 of Calexico Shopping Center, in the City of Calexico, County of Imperial, State of California, as shown by map on file in Book 12 page 71 of Final Maps, on file in the Office of the County Recorder of Imperial County, and as corrected by Certificate of Correction recorded February 28, 1977 in Book 1398 page 311 of Official Records, also shown as Parcel 4 of Parcel Map recorded in Book 4 page 85 of Parcel Maps, of said Imperial County.

APN: 058-400-029

(End of Legal Description)

Acquiring Real Property For:



CITY OF CALEXICO, CA. CESAR CHAVES BLVD. IMPROVEMENT PROJECT



**BENDER
ROSENTHAL, INC.**

COMMERCIAL VALUATION AND RIGHT OF WAY SERVICES

4400 Auburn Boulevard, Suite 102
Sacramento, CA 95841
main: 916.978.4900 • fax: 916.978.4904
www.benderrosenthal.com

INTRODUCTION

Government projects designed to benefit the public as a whole often result in the acquisition of private property. California law provides landowners whose property is acquired for a public project certain rights and protections. An owner is to be compensated for the property being acquired, severance damages, if any, to the owner's remaining property if the entire property is not taken, and for loss of business goodwill if a business is being conducted on the property being acquired. Additionally, an owner or tenant who has to relocate because of a property acquisition is entitled to certain relocation assistance and monetary compensation in connection with the relocation.

IMPORTANT TERMS USED IN THIS BROCHURE

Acquisition

Acquisition is the process of acquiring real property (real estate) or some interest therein.

Agency

An agency can be a government organization (Federal, State, or local), a non-government organization (such as a utility company). In this brochure, the word "agency" is the City of Calexico, California, which is a local government entity.

Appraisal

An appraisal is a written statement independently and impartially prepared by a qualified appraiser setting forth an opinion of defined value of an adequately described property as of a specific date, supported by the presentation and analysis of relevant market information.

Condemnation

Condemnation is the legal process of acquiring private property for public use or purpose through the agency's power of eminent domain. Condemnation is usually not used until all attempts to reach a mutually satisfactory agreement through negotiations have failed. An agency then goes to court to acquire the needed property.

Easement

In general, an easement is the right of one person to use all or part of the property of another person for some specific purpose. Easements can be permanent or temporary (i.e., limited to a stated period of time). The term may be used to describe either the right itself or the document conferring the right. Examples are: permanent easement for utilities, permanent easement for perpetual maintenance of drainage structures, and temporary easement to allow reconstruction of a driveway during construction.

Eminent Domain

Eminent domain is the right of government to take private property for public use, subject to the owner of the property taken being paid just compensation.

Fair Market Value

Fair market value is market value that has been adjusted to reflect constitutional and other legal requirements for public acquisition.

Interest

An interest is a right, title, or legal share in something. People who share in the ownership of real property have an interest in the property.

Just Compensation

Just compensation is the price an agency must pay to acquire real property. That amount may not be less than the amount established in the approved appraisal report as the fair market value for your property. If you and the agency cannot agree on the amount of just compensation to be paid for the property needed, and it becomes necessary for the agency to use the condemnation process, the amount determined by the court will be the just compensation for your property.

Lien

A lien is a charge against a property in which the property is the security for payment of a debt. A mortgage is a lien. So are taxes. Customarily, liens must be paid in full when the property is acquired for a public project. Where not all of the property subject to a mortgage is taken, the mortgage need not be paid off unless the lender can demonstrate that its security interest is being impaired.

Negotiation

Negotiation is the process used by an agency to reach an amicable agreement with a property owner for the acquisition of needed property. An offer is made for the purchase of property in person, or by mail, and the offer is discussed with the owner.

Personal Property

In general, personal property is property that can be moved. It is not permanently attached to, or a part of, the real property. Personal property is not to be included and valued in the appraisal of real property.

Program or Project

A program or project is any activity or series of activities undertaken by an agency in order to build and maintain public works or public facilities.

Public Use

A "public use" is a use that confers public benefits, like the provision of public services or the promotion of public health, safety, and welfare. Public uses include a wide variety of projects such as street improvements, construction of water storage facilities, construction of civic buildings, redevelopment of blighted areas, and levee improvements to increase flood protection. Some public uses are for private entities, such as universities, hospitals and public utilities, which serve the public.

PROPERTY APPRAISAL

An agency determines what specific property needs to be acquired for a public use after a project has been planned and government requirements have been met.

If property needs to be acquired, the property owner will be notified of: (1) the agency's interest in acquiring the property; (2) the agency's obligation to secure any necessary appraisals; and (3) any other useful information.

The agency will hire an independent, accredited appraiser familiar with local property values to appraise the property and determine its fair market value. The appraiser will contact the property owner to make an appointment to inspect the property, and invite the property owner to accompany him/her during an inspection of the property. The property owner should give the appraiser any information about improvements and any special features that he/she believes may affect the value of the property, such as:

- There are other persons who have ownership or interest in the property
- There are tenants on the property
- Items of real or personal property that belong to someone else are located on your property

- The presence of hazardous material, underground storage or utilities

It is in the property owner's best interest to provide the appraiser with as much information as possible in order to ensure that nothing of value will be overlooked. If the property owner is unable to meet with the appraiser, he/she may wish to have a person who is familiar with the property meet with the appraiser instead.

The appraiser will inspect the property and note its physical characteristics. He/she will review sales of similar properties in order to compare the facts of those sales with the facts about the property. The appraiser will analyze all elements that affect value. The appraiser must consider normal depreciation and physical deterioration that has taken place. By law, the appraiser must disregard the influence of the future public project on the value of the property.

After the inspection, the appraiser will complete an appraisal report that will include the appraiser's determination of the property's fair market value and the information upon which the fair market value is based. It is important to note that each parcel of real property is different and, therefore, no single formula can be used to appraise all properties. Among the factors an appraiser typically considers in estimating fair market value:

- The location of the property
- The age and condition of improvements on the property
- How the property has been used
- Whether there are any lease agreements relating to the property
- Whether there are any environmental issues, such as contaminated soil
- Applicable current and potential future zoning and land use requirements
- How the property compares with similar properties in the area that have been sold recently
- How much it would cost to reproduce the buildings and other structures, less any depreciation
- How much rental income the property produces, or could produce if put to its highest and best use

The appraisal report will describe the property and the agency will determine a value based on the condition of the property on the day that the appraiser last inspected it, as compared with other similar properties that have sold.

NOTE: California law makes property owners eligible to receive reimbursement of up to \$5,000 for the reasonable costs associated with retaining the services of a qualified real estate appraiser, licensed by the State Office of Real Estate Appraisers, to prepare an appraisal report for those same property rights for which an offer is being made.

JUST COMPENSATION

Once the appraisal of fair market value is complete, the appraisal report will be given to the agency to establish just compensation. This amount will never be less than the fair market value established by the appraisal.

If the agency is only acquiring a part of your property, there may be damages or benefits to your remaining property. Any allowable damages or benefits will be reflected in the just compensation amount. The agency will prepare a written offer of just compensation for you when negotiations begin.

Buildings, Structures and Improvements

The value of any buildings, structures, or other improvements on the property to be acquired will be taken into consideration in determining just compensation. An improvement will be valued as real property regardless of who owns it.

Tenant-Owned Buildings, Structures and Improvements

Sometimes tenants lease real property and build or add improvements for their use. Frequently, they have the right or obligation to remove the improvements at the expiration of the lease term. The agency must make an offer to the tenants to acquire these improvements as real property.

In order to be paid for these improvements, the tenant-owner must assign, transfer, and release to the agency all right, title, and interest in the improvements. Also, the owner of the real property on which the improvements are located must disclaim all interest in the improvements.

For an improvement, just compensation is the amount that the improvement contributes to the fair market value of the whole property, or its value for removal from the property (salvage value), whichever amount is greater.

Some improvements may be considered personal property under California law and, the tenant-owner may be reimbursed for moving them under the relocation assistance provision.

The agency will personally contact the tenant-owners of improvements to explain the procedures to be followed.

THE WRITTEN OFFER

After the agency establishes just compensation, it will begin negotiations with the property owner by delivering the written offer of just compensation for the purchase of the real property. If practical, this offer will be delivered in person by a representative of the agency. Otherwise, the offer will be made by mail and followed up with a contact in person or by telephone. All owners of the property with known addresses will be contacted unless they collectively have designated one person to represent their interests.

An agency representative will explain agency acquisition policies and procedures in writing, either by use of an informational brochure, or in person.

The agency's written offer will consist of a written summary statement that includes all of the following information:

- a general statement of the agency's proposed use for the property;
- an accurate description of the property to be acquired;
- a list of the improvements covered by the offer;
- the amount of the offer; and
- the amount considered to be just compensation for each improvement which is owned by a tenant and the basis for determining that amount.

In some cases, the offer will list items of real property that you wish to keep. If you decide to keep any or all of these items, the offer will be reduced by the value of the items retained. You will be responsible for removing the items from the property in a timely manner. The agency may elect to withhold a portion of the remaining offer until the retained items are removed from the property.

Any separately held ownership interests in the property, such as tenant-owned improvements, will be identified by the agency.

The agency may negotiate with each person who holds a separate ownership interest, or, may negotiate with the primary owner and prepare a check payable jointly to all owners.

The agency will give you a reasonable amount of time to consider the written offer and ask questions or seek clarification of anything that is not understood.

If you believe that all relevant material was not considered during the appraisal, you may present such information at this time. Modifications in the proposed terms and conditions of the purchase may be requested. The agency will consider any reasonable requests that are made during negotiations.

Partial Acquisition

Often an agency does not need all the property you own. The agency will usually purchase only what it needs.

If the agency intends to acquire only a portion of the property, the agency must state the amount to be paid for the part to be acquired.

In addition, an amount will be stated separately for damages, if any, to the portion of the property you will keep.

If the agency determines that the remainder property will have little or no value or use to you, the agency will consider this remainder to be an uneconomic remnant and will offer to purchase it. You have the option of accepting the offer for purchase of the uneconomic remnant or keeping the property.

AGREEMENT

When you reach agreement with the agency on the offer, you will be asked to sign a purchase agreement which will state the amount you are to be paid. Your signature will affirm that you and the agency are in agreement concerning the acquisition of the property, including terms and conditions. If a settlement cannot be reached, the agency will initiate condemnation proceedings.

The agency may not take any action to force you into accepting its offer. Prohibited actions include:

- Advancing the condemnation process
- Deferring negotiations
- Deferring condemnation
- Delaying the deposit of funds with the court for your use when condemnation is initiated
- Any other coercive action designed to force an agreement regarding the price to be paid for your property

PAYMENT

The next step in the acquisition process is payment for your property. When all the necessary paperwork is completed for transferring title of the property, the agency will pay any liens that exist against the property and pay your equity to you. Your incidental expenses will also be paid or reimbursed.

Incidental expenses are reasonable expenses incurred as a result of transferring title to the agency, such as:

- Recording fees and transfer taxes
- Documentary stamps
- Evidence of title, however, the agency is not required to pay costs required solely to perfect your title or to assure that the title to the real property is entirely without defect
- Surveys and legal descriptions of the real property, and other similar expenses necessary to convey the property to the agency

Penalty costs and other charges will be reimbursed for prepaying any pre-existing recorded mortgage entered into in good faith encumbering the real property.

The pro rata share of any prepaid real property taxes that can be allocated to the period after the agency obtains title to the property or takes possession of it will be reimbursed.

If possible, the agency will pay these costs directly so that you will not need to pay the costs and then claim reimbursement.

Any person, business, or farm operation displaced as a result of the property acquisition is entitled to relocation advisory and financial assistance for eligible relocation expenses, such as moving expenses. The amount of relocation compensation is determined on a case-by-case basis in accordance with prescribed law. Relocation benefits are handled separate and apart from the determination of the property's fair market value.

POSSESSION

The agency may not take possession of your property unless:

- you have been paid the agreed purchase price, or
- in the case of condemnation, the agency has deposited with the court an amount for your benefit and use that is at least the amount of the agency's approved appraisal of the fair market value of your property, or
- the agency has paid the amount of the court award of compensation in the condemnation proceeding.

If the agency takes possession while persons who still occupy the property, those persons:

- must receive a written notice to move in advance of the required date to move. In this context, the term person includes residential occupants, homeowners, tenants, businesses, non-profit organizations, and farms.
- are entitled to relocation assistance and certain monetary benefits provided by California law.

SETTLEMENT

The agency will make every effort to reach an agreement with you during negotiations. You may provide additional information and make reasonable counter-offers and proposals for the agency to consider.

A real estate transaction with CITY is typically handled in the same way as the sale of private property. However, there may be a financial advantage to selling to CITY.

- You will not be required to pay for real estate commissions, title costs, preparation of documents, title policy or recording fees required in closing the sale. CITY will pay all these costs.
- Although CITY cannot give you tax advice or direction, you may also be eligible for certain property and income tax advantages. Please check with the Internal Revenue Service (IRS) for details, or consult your personal tax advisor.

CONDEMNATION

If an agreement cannot be reached, the agency can acquire the property by exercising its power of eminent domain. It will do this by instituting formal condemnation proceedings in State court.

See the Eminent Domain section for additional information.

EMINENT DOMAIN – Information Pamphlet

INTRODUCTION

The City of Calexico, CA. (City) is a local government entity that is vested by law with the authority to exercise the power of eminent domain. Eminent domain is the power to purchase private property for a "public use" so long as the property owner is paid "just compensation." Whenever possible, City tries to avoid using eminent domain and only exercises this power when it is necessary for a public project. The decision to acquire private property for a public project is made by CITY only after a thorough review of the project, which often includes public hearings.

This pamphlet provides general information about the eminent domain process and the rights of the property owner in that process.

EMINENT DOMAIN AND THE PROPERTY OWNER'S RIGHTS

The eminent domain process begins if the agency and the property owner cannot reach agreement on the sale of the property.

CITY, to the greatest extent practicable, will make every reasonable effort to acquire your property by negotiated purchase. If, however, the negotiations are unsuccessful, CITY may file an eminent domain action in a court located within the same county where your property is located.

The main purpose of an eminent domain trial is to determine the fair market value of your property, including compensable interests such as lost business goodwill caused by the taking. The trial is usually conducted before a judge and jury. You (and any others with interests in the property) and CITY will have the opportunity to present evidence of value, and the jury will determine the property's fair market value. In cases where the parties choose not to have a jury, the judge will decide the property's fair market value. Generally, each party to the litigation must disclose its respective appraisals to the other parties prior to trial.

If you challenge CITY's right to acquire the property, the eminent domain trial will also determine whether or not CITY has the legal right to acquire the property. In such cases, the judge (not the jury) will make this determination before any evidence is presented concerning the property's fair market value.

In an eminent domain action, you are entitled to be reimbursed by the condemning agency for your court costs such as court filing fees. In some circumstances, you may also be entitled to be reimbursed by the condemning agency for your litigation expenses (attorneys' fees and expert witness fees) in the lawsuit. Whether you will be entitled to receive reimbursement for your litigation expenses will depend on the particular facts and circumstances of the case and the offers and demand for compensation made in the action.

RESOLUTION OF NECESSITY

The first step is for CITY staff to request authority from CITY's Board of Directors ("Board") to file a condemnation action. The approval from the Board is called a "Resolution of Necessity." In considering whether condemnation is necessary, the Board must determine whether the public interest and necessity require the project, whether the project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury, and whether your property is necessary for the project. You will be given notice and an opportunity to appear before the Board when it considers whether to adopt the Resolution of Necessity. You may want to call an attorney or

contact an attorney referral service. You or your representatives can raise any objections to the Resolution of Necessity and the condemnation either orally before the Board or in writing to the Board.

If CITY's Board of Directors adopts the Resolution of Necessity, CITY can file a complaint in court to acquire title to the property upon payment of just compensation. CITY is the plaintiff. Anyone with a legal interest in the property, generally determined from a title report on the property (including tenants or mortgage holders), are named as defendants. Often, CITY will also deposit the amount CITY believes is the probable amount of just compensation with the State Treasurer when the complaint is filed. A deposit must be made if CITY is seeking to acquire possession of the property before agreement is reached as to the amount of just compensation.

ACQUISITION OF PROPERTY PRIOR TO SETTLEMENT

In some cases, CITY may decide it needs possession of the property before the property's fair market value is finally determined. In such a case, CITY must apply to the court for an "order for possession" to allow it to take possession and control of the property prior to resolution of the property's fair market value. CITY is required to schedule a hearing with the court on the proposed order for possession and to give you notice of the hearing. Notice must generally be sent 90 days before the hearing date if the property is occupied and 60 days before the hearing date if the property is unoccupied. A judge will decide whether the order for possession should be granted. As noted above, CITY must deposit with the State Treasurer the probable amount of just compensation in order to obtain possession of the property.

You may oppose the motion in writing by serving CITY and the court with your written opposition within the period of time set forth in the notice from CITY.

WITHDRAWAL OF FUNDS DEPOSITED DURING EMINENT DOMAIN

Subject to the rights of any other persons having a property interest (such as a lender, tenant, or co-owner), you may withdraw the amount deposited with the State Treasurer before the eminent domain action is completed. If you withdraw the amount on deposit, you may still seek a higher amount of just compensation during the eminent domain proceedings, but you may not contest the right of CITY to acquire the property, meaning you cannot contest that the acquisition of your property is for a public purpose or is otherwise improper.

You also have the right to ask the court to require CITY to increase the amount deposited with the State Treasurer if you believe the amount CITY has deposited less than the probable amount of just compensation.

Anyone receiving compensation in an eminent domain action is generally entitled to interest on that compensation from the date the condemning agency takes possession of the property until the person receiving the compensation has been fully paid. The rate and calculation of the interest is determined under formulas in State law.

TITLE VI – YOUR RIGHTS UNDER TITLE VI AND RELATED STATUTES

In conducting its right-of-way activities, the City of Calexico, CA. (CITY) will comply with the requirements of Title VI, a provision of the federal Civil Rights Act of 1964. This document provides more information about your rights under Title VI.

WHAT IS TITLE VI?

Title VI is a statutory provision of the Civil Rights Act of 1964.

Title VI (Section 601) of the Civil Rights Act of 1964 provides:

"No person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied of benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance." (42.U.S.C. Sec 2000d).

Additionally, Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, 1994 provides:

"Each Federal agency shall make achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations."

Related statutes provide protection against discrimination on the basis of sex, age, or disability by programs receiving federal financial assistance.

WHAT DOES THIS MEAN?

That CITY strives to ensure that access to and use of all programs, services, or benefits derived from any CITY activity will be administered without regard to race, color, national origin, sex, age or socioeconomic status.

CITY will not tolerate discrimination by its employees, contractors, subcontractors, consultants, or suppliers. CITY prohibits all discriminatory practices, which may result in:

- Denial to any individual of any service financial aid or benefit provided under the program to which he or she may be otherwise entitled;
- Different standards or requirements for participation;
- Segregation or separate treatment in any part of the program;
- Distinctions in quality, quantity or manner in which the benefit is provided;
- Discrimination in any activities conducted in a facility built in whole or part with federal funds.

To ensure compliance with Title VI, related statutes and the Presidential Executive Order on Environmental Justice, CITY will:

- Avoid or reduce harmful human health and environmental effects on minority and low-income populations;

- Ensure the full and fair participation by all communities impacted by CITY's work, including low-income and minority populations, in the right-of-way decision making process;
- Prevent the denial of, reduction in or significant delay in the receipt of benefits by minority and low-income populations.

Any recipient that receives federal financial aid bears a responsibility to administer its program and activities without regard to race, or socioeconomic status.

BENEFITS AND SERVICES

CITY is planning to improve, reconstruct and realign the Cesar Chavez Boulevard between State Route 98 and West 2nd Street. CITY's goal is to improve traffic operations, accommodate cross-border vehicular access and improve safety along Cesar Chavez Boulevard.

ARE YOUR RIGHTS BEING VIOLATED?

If you believe that you have been discriminated against because of your race, color, national origin, sex, age, disability or socioeconomic status, you may file a written complaint with CITY. The address and telephone number is as follows:

City of Calxico
c/o Bender Rosenthal, Inc.
4400 Auburn Boulevard, Suite 102
Sacramento, CA 95841
(916) 978-4900

WHO BEARS THE RESPONSIBILITY TO TITLE VI?

All employees of CITY and their contractors, consultants, and suppliers as well as subcontractors. The Title VI program will provide continuous leadership, guidance and assistance to ensure ongoing compliance with Title VI and the Executive Order on Environmental Justice.

**Request for Taxpayer
Identification Number and Certification**

Give form to the requester. Do not send to the IRS.

Print or type
See Specific Instructions on page 2.

Name (as shown on your income tax return)	
Business name, if different from above	
Check appropriate box: <input type="checkbox"/> Individual/Sole proprietor <input type="checkbox"/> Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Limited liability company. Enter the tax classification (D=disregarded entity, C=corporation, P=partnership) ▶ <input type="checkbox"/> Exempt payee <input type="checkbox"/> Other (see instructions) ▶	
Address (number, street, and apt. or suite no.)	Requester's name and address (optional)
City, state, and ZIP code	
List account number(s) here (optional)	

Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on Line 1 to avoid backup withholding. For individuals, this is your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the Part I instructions on page 3. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN* on page 3.

Social security number
OR
Employer identification number

Note. If the account is in more than one name, see the chart on page 4 for guidelines on whose number to enter.

Part II Certification

Under penalties of perjury, I certify that:

- The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me), and
- I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding, and
- I am a U.S. citizen or other U.S. person (defined below).

Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, Item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the Certification, but you must provide your correct TIN. See the instructions on page 4.

Sign Here	Signature of U.S. person ▶	Date ▶
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General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

Purpose of Form

A person who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) to report, for example, income paid to you, real estate transactions, mortgage interest you paid, acquisition or abandonment of secured property, cancellation of debt, or contributions you made to an IRA.

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN to the person requesting it (the requester) and, when applicable, to:

- Certify that the TIN you are giving is correct (or you are waiting for a number to be issued),
- Certify that you are not subject to backup withholding, or
- Claim exemption from backup withholding if you are a U.S. exempt payee. If applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the withholding tax on foreign partners' share of effectively connected income.

Note. If a requester gives you a form other than Form W-9 to request your TIN, you must use the requester's form if it is substantially similar to this Form W-9.

Definition of a U.S. person. For federal tax purposes, you are considered a U.S. person if you are:

- An individual who is a U.S. citizen or U.S. resident alien,
- A partnership, corporation, company, or association created or organized in the United States or under the laws of the United States,
- An estate (other than a foreign estate), or
- A domestic trust (as defined in Regulations section 301.7701-7).

Special rules for partnerships. Partnerships that conduct a trade or business in the United States are generally required to pay a withholding tax on any foreign partners' share of income from such business. Further, in certain cases where a Form W-9 has not been received, a partnership is required to presume that a partner is a foreign person, and pay the withholding tax. Therefore, if you are a U.S. person that is a partner in a partnership conducting a trade or business in the United States, provide Form W-9 to the partnership to establish your U.S. status and avoid withholding on your share of partnership income.

The person who gives Form W-9 to the partnership for purposes of establishing its U.S. status and avoiding withholding on its allocable share of net income from the partnership conducting a trade or business in the United States is in the following cases:

- The U.S. owner of a disregarded entity and not the entity,

- The U.S. grantor or other owner of a grantor trust and not the trust, and
- The U.S. trust (other than a grantor trust) and not the beneficiaries of the trust.

Foreign person. If you are a foreign person, do not use Form W-9. Instead, use the appropriate Form W-8 (see Publication 515, Withholding of Tax on Nonresident Aliens and Foreign Entities).

Nonresident alien who becomes a resident alien. Generally, only a nonresident alien individual may use the terms of a tax treaty to reduce or eliminate U.S. tax on certain types of income. However, most tax treaties contain a provision known as a "saving clause." Exceptions specified in the saving clause may permit an exemption from tax to continue for certain types of income even after the payee has otherwise become a U.S. resident alien for tax purposes.

If you are a U.S. resident alien who is relying on an exception contained in the saving clause of a tax treaty to claim an exemption from U.S. tax on certain types of income, you must attach a statement to Form W-9 that specifies the following five items:

1. The treaty country. Generally, this must be the same treaty under which you claimed exemption from tax as a nonresident alien.
2. The treaty article addressing the income.
3. The article number (or location) in the tax treaty that contains the saving clause and its exceptions.
4. The type and amount of income that qualifies for the exemption from tax.
5. Sufficient facts to justify the exemption from tax under the terms of the treaty article.

Example. Article 20 of the U.S.-China income tax treaty allows an exemption from tax for scholarship income received by a Chinese student temporarily present in the United States. Under U.S. law, this student will become a resident alien for tax purposes if his or her stay in the United States exceeds 5 calendar years. However, paragraph 2 of the first Protocol to the U.S.-China treaty (dated April 30, 1984) allows the provisions of Article 20 to continue to apply even after the Chinese student becomes a resident alien of the United States. A Chinese student who qualifies for this exception (under paragraph 2 of the first protocol) and is relying on this exception to claim an exemption from tax on his or her scholarship or fellowship income would attach to Form W-9 a statement that includes the information described above to support that exemption.

If you are a nonresident alien or a foreign entity not subject to backup withholding, give the requester the appropriate completed Form W-8.

What is backup withholding? Persons making certain payments to you must under certain conditions withhold and pay to the IRS 28% of such payments. This is called "backup withholding." Payments that may be subject to backup withholding include interest, tax-exempt interest, dividends, broker and barter exchange transactions, rents, royalties, nonemployee pay, and certain payments from fishing boat operators. Real estate transactions are not subject to backup withholding.

You will not be subject to backup withholding on payments you receive if you give the requester your correct TIN, make the proper certifications, and report all your taxable interest and dividends on your tax return.

Payments you receive will be subject to backup withholding if:

1. You do not furnish your TIN to the requester,
2. You do not certify your TIN when required (see the Part II instructions on page 3 for details),
3. The IRS tells the requester that you furnished an incorrect TIN,

4. The IRS tells you that you are subject to backup withholding because you did not report all your interest and dividends on your tax return (for reportable interest and dividends only), or

5. You do not certify to the requester that you are not subject to backup withholding under 4 above (for reportable interest and dividend accounts opened after 1983 only).

Certain payees and payments are exempt from backup withholding. See the instructions below and the separate Instructions for the Requester of Form W-9.

Also see *Special rules for partnerships* on page 1.

Penalties

Failure to furnish TIN. If you fail to furnish your correct TIN to a requester, you are subject to a penalty of \$50 for each such failure unless your failure is due to reasonable cause and not to willful neglect.

Civil penalty for false information with respect to withholding. If you make a false statement with no reasonable basis that results in no backup withholding, you are subject to a \$500 penalty.

Criminal penalty for falsifying information. Willfully falsifying certifications or affirmations may subject you to criminal penalties including fines and/or imprisonment.

Misuse of TINs. If the requester discloses or uses TINs in violation of federal law, the requester may be subject to civil and criminal penalties.

Specific Instructions

Name

If you are an individual, you must generally enter the name shown on your income tax return. However, if you have changed your last name, for instance, due to marriage without informing the Social Security Administration of the name change, enter your first name, the last name shown on your social security card, and your new last name.

If the account is in joint names, list first, and then circle, the name of the person or entity whose number you entered in Part I of the form.

Sole proprietor. Enter your individual name as shown on your income tax return on the "Name" line. You may enter your business, trade, or "doing business as (DBA)" name on the "Business name" line.

Limited liability company (LLC). Check the "Limited liability company" box only and enter the appropriate code for the tax classification ("D" for disregarded entity, "C" for corporation, "P" for partnership) in the space provided.

For a single-member LLC (including a foreign LLC with a domestic owner) that is disregarded as an entity separate from its owner under Regulations section 301.7701-3, enter the owner's name on the "Name" line. Enter the LLC's name on the "Business name" line.

For an LLC classified as a partnership or a corporation, enter the LLC's name on the "Name" line and any business, trade, or DBA name on the "Business name" line.

Other entities. Enter your business name as shown on required federal tax documents on the "Name" line. This name should match the name shown on the charter or other legal document creating the entity. You may enter any business, trade, or DBA name on the "Business name" line.

Note. You are requested to check the appropriate box for your status (individual/sole proprietor, corporation, etc.).

Exempt Payee

If you are exempt from backup withholding, enter your name as described above and check the appropriate box for your status, then check the "Exempt payee" box in the line following the business name, sign and date the form.

Generally, individuals (including sole proprietors) are not exempt from backup withholding. Corporations are exempt from backup withholding for certain payments, such as interest and dividends.

Note. If you are exempt from backup withholding, you should still complete this form to avoid possible erroneous backup withholding.

The following payees are exempt from backup withholding:

1. An organization exempt from tax under section 501(a), any IRA, or a custodial account under section 403(b)(7) if the account satisfies the requirements of section 401(f)(2).
2. The United States or any of its agencies or instrumentalities,
3. A state, the District of Columbia, a possession of the United States, or any of their political subdivisions or instrumentalities,
4. A foreign government or any of its political subdivisions, agencies, or instrumentalities, or
5. An international organization or any of its agencies or instrumentalities.

Other payees that may be exempt from backup withholding include:

6. A corporation,
7. A foreign central bank of issue,
8. A dealer in securities or commodities required to register in the United States, the District of Columbia, or a possession of the United States,
9. A futures commission merchant registered with the Commodity Futures Trading Commission,
10. A real estate investment trust,
11. An entity registered at all times during the tax year under the Investment Company Act of 1940,
12. A common trust fund operated by a bank under section 584(a),
13. A financial institution,
14. A middleman known in the investment community as a nominee or custodian, or
15. A trust exempt from tax under section 664 or described in section 4947.

The chart below shows types of payments that may be exempt from backup withholding. The chart applies to the exempt payees listed above, 1 through 15.

IF the payment is for . . .	THEN the payment is exempt for . . .
Interest and dividend payments	All exempt payees except for 9
Broker transactions	Exempt payees 1 through 13. Also, a person registered under the Investment Advisers Act of 1940 who regularly acts as a broker
Barter exchange transactions and patronage dividends	Exempt payees 1 through 5
Payments over \$600 required to be reported and direct sales over \$5,000 ¹	Generally, exempt payees 1 through 7 ²

¹See Form 1099-MISC, Miscellaneous Income, and its instructions.

²However, the following payments made to a corporation (including gross proceeds paid to an attorney under section 6045(f), even if the attorney is a corporation) and reportable on Form 1099-MISC are not exempt from backup withholding: medical and health care payments, attorneys' fees, and payments for services paid by a federal executive agency.

Part I. Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. If you are a resident alien and you do not have and are not eligible to get an SSN, your TIN is your IRS individual taxpayer identification number (ITIN). Enter it in the social security number box. If you do not have an ITIN, see *How to get a TIN* below.

If you are a sole proprietor and you have an EIN, you may enter either your SSN or EIN. However, the IRS prefers that you use your SSN.

If you are a single-member LLC that is disregarded as an entity separate from its owner (see *Limited liability company (LLC)* on page 2), enter the owner's SSN (or EIN, if the owner has one). Do not enter the disregarded entity's EIN. If the LLC is classified as a corporation or partnership, enter the entity's EIN.

Note. See the chart on page 4 for further clarification of name and TIN combinations.

How to get a TIN. If you do not have a TIN, apply for one immediately. To apply for an SSN, get Form SS-5, Application for a Social Security Card, from your local Social Security Administration office or get this form online at www.ssa.gov. You may also get this form by calling 1-800-772-1213. Use Form W-7, Application for IRS Individual Taxpayer Identification Number, to apply for an ITIN, or Form SS-4, Application for Employer Identification Number, to apply for an EIN. You can apply for an EIN online by accessing the IRS website at www.irs.gov/businesses and clicking on Employer Identification Number (EIN) under Starting a Business. You can get Forms W-7 and SS-4 from the IRS by visiting www.irs.gov or by calling 1-800-TAX-FORM (1-800-829-3676).

If you are asked to complete Form W-9 but do not have a TIN, write "Applied For" in the space for the TIN, sign and date the form, and give it to the requester. For interest and dividend payments, and certain payments made with respect to readily tradable instruments, generally you will have 60 days to get a TIN and give it to the requester before you are subject to backup withholding on payments. The 60-day rule does not apply to other types of payments. You will be subject to backup withholding on all such payments until you provide your TIN to the requester.

Note. Entering "Applied For" means that you have already applied for a TIN or that you intend to apply for one soon.

Caution: A disregarded domestic entity that has a foreign owner must use the appropriate Form W-8.

Part II. Certification

To establish to the withholding agent that you are a U.S. person, or resident alien, sign Form W-9. You may be requested to sign by the withholding agent even if items 1, 4, and 5 below indicate otherwise.

For a joint account, only the person whose TIN is shown in Part I should sign (when required). Exempt payees, see *Exempt Payee* on page 2.

Signature requirements. Complete the certification as indicated in 1 through 5 below.

1. Interest, dividend, and barter exchange accounts opened before 1984 and broker accounts considered active during 1983. You must give your correct TIN, but you do not have to sign the certification.

2. Interest, dividend, broker, and barter exchange accounts opened after 1983 and broker accounts considered inactive during 1983. You must sign the certification or backup withholding will apply. If you are subject to backup withholding and you are merely providing your correct TIN to the requester, you must cross out item 2 in the certification before signing the form.

3. Real estate transactions. You must sign the certification. You may cross out item 2 of the certification.

4. Other payments. You must give your correct TIN, but you do not have to sign the certification unless you have been notified that you have previously given an incorrect TIN. "Other payments" include payments made in the course of the requester's trade or business for rents, royalties, goods (other than bills for merchandise), medical and health care services (including payments to corporations), payments to a nonemployee for services, payments to certain fishing boat crew members and fishermen, and gross proceeds paid to attorneys (including payments to corporations).

5. Mortgage interest paid by you, acquisition or abandonment of secured property, cancellation of debt, qualified tuition program payments (under section 529), IRA, Coverdell ESA, Archer MSA or HSA contributions or distributions, and pension distributions. You must give your correct TIN, but you do not have to sign the certification.

What Name and Number to Give the Requester

For this type of account:	Give name and SSN of:
1. Individual	The individual
2. Two or more individuals (joint account)	The actual owner of the account or, if combined funds, the first individual on the account ¹
3. Custodian account of a minor (Uniform Gift to Minors Act)	The minor ²
4. a. The usual revocable savings trust (grantor is also trustee)	The grantor-trustee ³
b. So-called trust account that is not a legal or valid trust under state law	The actual owner ¹
5. Sole proprietorship or disregarded entity owned by an individual	The owner ³
For this type of account:	Give name and EIN of:
6. Disregarded entity not owned by an individual	The owner
7. A valid trust, estate, or pension trust	Legal entity ³
8. Corporate or LLC electing corporate status on Form 8832	The corporation
9. Association, club, religious, charitable, educational, or other tax-exempt organization	The organization
10. Partnership or multi-member LLC	The partnership
11. A broker or registered nominee	The broker or nominee
12. Account with the Department of Agriculture in the name of a public entity (such as a state or local government, school district, or prison) that receives agricultural program payments	The public entity

¹ List first and circle the name of the person whose number you furnish. If only one person on a joint account has an SSN, that person's number must be furnished.

² Circle the minor's name and furnish the minor's SSN.

³ You must show your individual name and you may also enter your business or "DBA" name on the second name line. You may use either your SSN or EIN (if you have one), but the IRS encourages you to use your SSN.

⁴ List first and circle the name of the trust, estate, or pension trust. (Do not furnish the TIN of the personal representative or trustee unless the legal entity itself is not designated in the account title.) Also see *Special rules for partnerships* on page 1.

Note. If no name is circled when more than one name is listed, the number will be considered to be that of the first name listed.

Secure Your Tax Records from Identity Theft

Identity theft occurs when someone uses your personal information such as your name, social security number (SSN), or other identifying information, without your permission, to commit fraud or other crimes. An identity thief may use your SSN to get a job or may file a tax return using your SSN to receive a refund.

To reduce your risk:

- Protect your SSN,
- Ensure your employer is protecting your SSN, and
- Be careful when choosing a tax preparer.

Call the IRS at 1-800-829-1040 if you think your identity has been used inappropriately for tax purposes.

Victims of identity theft who are experiencing economic harm or a system problem, or are seeking help in resolving tax problems that have not been resolved through normal channels, may be eligible for Taxpayer Advocate Service (TAS) assistance. You can reach TAS by calling the TAS toll-free case intake line at 1-877-777-4778 or TTY/TDD 1-800-829-4059.

Protect yourself from suspicious emails or phishing schemes. Phishing is the creation and use of email and websites designed to mimic legitimate business emails and websites. The most common act is sending an email to a user falsely claiming to be an established legitimate enterprise in an attempt to scam the user into surrendering private information that will be used for identity theft.

The IRS does not initiate contacts with taxpayers via emails. Also, the IRS does not request personal detailed information through email or ask taxpayers for the PIN numbers, passwords, or similar secret access information for their credit card, bank, or other financial accounts.

If you receive an unsolicited email claiming to be from the IRS, forward this message to phishing@irs.gov. You may also report misuse of the IRS name, logo, or other IRS personal property to the Treasury Inspector General for Tax Administration at 1-800-366-4484. You can forward suspicious emails to the Federal Trade Commission at: spam@uce.gov or contact them at www.consumer.gov/idtheft or 1-877-IDTHEFT(438-4338).

Visit the IRS website at www.irs.gov to learn more about identity theft and how to reduce your risk.

Privacy Act Notice

Section 6109 of the Internal Revenue Code requires you to provide your correct TIN to persons who must file information returns with the IRS to report interest, dividends, and certain other income paid to you, mortgage interest you paid, the acquisition or abandonment of secured property, cancellation of debt, or contributions you made to an IRA, or Archer MSA or HSA. The IRS uses the numbers for identification purposes and to help verify the accuracy of your tax return. The IRS may also provide this information to the Department of Justice for civil and criminal litigation, and to cities, states, the District of Columbia, and U.S. possessions to carry out their tax laws. We may also disclose this information to other countries under a tax treaty, to federal and state agencies to enforce federal nontax criminal laws, or to federal law enforcement and intelligence agencies to combat terrorism.

You must provide your TIN whether or not you are required to file a tax return. Payers must generally withhold 28% of taxable interest, dividend, and certain other payments to a payee who does not give a TIN to a payer. Certain penalties may also apply.