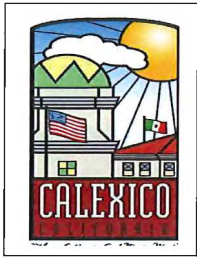


**AGENDA
ITEM**

13



AGENDA STAFF REPORT

DATE: October 5, 2022

TO: Mayor and City Council

APPROVED BY: Esperanza Colio Warren, City Manager

PREPARED BY: Carlos Campos, City Attorney

SUBJECT: Adopt Resolutions of the City Council of the City of Calexico Finding and Determining the Public Interest and Necessity for Acquiring and Authorizing the Condemnation of Right of Way Easements for Public Street and Utilities Purposes Relating to Assessor's Parcel Numbers 058-020-024; 058-020-013; 058-020-008; and 058-030-099, located on or about CA HWY 111, for the Weakley Street Improvement Project.

=====

Recommendation:

Adopt Resolutions finding that the public interest and necessity require the acquisition of Right of Way Easements for Public Street and Utilities Purposes ("Easements") Relating to Assessor's Parcel Numbers 058-020-024; 058-020-013; 058-020-008; and 058-030-099, located on or about CA HWY 111, for the Weakley Street Improvement Project ("Project").

Background:

In order to accommodate the Project as proposed, City Staff has undertaken preliminary investigations required to identify and attempt to acquire the Easements needed to accommodate the Project. Pursuant to applicable requirements of law, the City had the Easement interests it proposed to acquire appraised. The appraisal resulted in an offer letter being sent to the property owners pursuant to Government Code section 7267.2. Because the Easements will encumber 100% of the fee simple rights, the appraisal valued the proposed takings as if they were fee acquisitions.

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

**AGENDA
ITEM
13**

Discussion & Analysis:

The Resolutions before the City Council this evening are resolutions of necessity under California Code of Civil Procedure sections 1245.210, *et seq.* Such resolutions must be considered, and approved, by the legislative body prior to any exercise of eminent domain to acquire property, including easements. 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 section 7267.2 has been made to the owners of record.

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

The amount of compensation due for the Easements is not a subject of the Resolutions, and therefore not before the City Council as an issue to be considered as part of the Resolutions.

The property owners, and/or their representatives, have a right to appear and be heard on the matters encompassed within the Resolutions affecting their properties. As required by the California Eminent Domain Law, the property owners will be given notice of the City's consideration of the Resolutions, 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 Easements proposed to be taken. As of the date of writing this report, the property owners have not contacted the City to inform it that they desire to be heard at the meeting.

The facts supporting the various findings included with the Resolutions are recited in more detail in the Resolutions. 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 Easements to be taken for the Project are necessitated and established by the street alignment in an effort to minimize any disproportionate burden or impact of the required Easements being taken. 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.

The City Council has the option of either passing, or refusing to pass, the proposed Resolutions. If the Resolutions are 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 Easements proposed to be taken and any severance damages to be paid through court proceedings. If the City Council does not pass the Resolutions, the City can either (i) commit to acquiring the identified Easements from the 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 Resolutions, City Staff requests that the City Council adopt the Resolutions.

Fiscal Impact:

The eminent domain proceedings will ultimately lead to a determination of the fair market value of the Easements proposed to be taken and any severance damages to be paid. Notably, however, the City had the Easements appraised for purposes of its Government Code section 7267.2 offer. The City's independent appraiser valued the compensation to be paid for the acquisition of the Easements at \$8,200.00, \$18,600, \$43,400 and \$67,700, respectively, as of August 1, 2022. Additional costs will be incurred in legal fees, appraisal fees and court costs relating to the initiation of eminent domain proceedings if the Resolutions are approved and the matter proceeds to court.

Coordinated With:

City Manager's Office.
City Attorney's Office.
Public Works Department.

Attachment(s):

1. Proposed Resolutions of the City Council of the City of Calexico Finding and Determining that the public interest and necessity require the acquisition of Right of Way Easements for Public Street and Utilities Purposes ("Easements") Relating to Assessor's Parcel Numbers 058-020-024; 058-020-013; 058-020-008; and 058-030-099, located on or about CA HWY 111, for the Purposes of the Weakley Street Improvement Project.
2. Precondemnation Offers for the Acquisition of the Easements.

RESOLUTION NO. 2022-____

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 A RIGHT OF WAY EASEMENT FOR PUBLIC STREET AND UTILITIES PURPOSES RELATING TO ASSESSOR'S PARCEL NUMBER 058-020-024, LOCATED ON OR ABOUT CA HWY 111 IN THE CITY OF CALEXICO, IMPERIAL COUNTY, FOR THE WEAKLEY STREET IMPROVEMENT PROJECT

WHEREAS, the City of Calexico ("City") has been investigating the potential acquisition of a right of way easement for public street and utilities purposes ("Easement") relating to Assessor's Parcel Number ("APN") 058-020-024 ("Property"), located on or about CA HWY 111, in the City of Calexico, Imperial County, for the Weakley Street Improvement Project ("Project").

WHEREAS, after proper written notice, made pursuant to Code of Civil Procedure section 1245.235, was given to the record owners of the Property, and more specifically described and depicted in Exhibits "A" and "B" which are incorporated herein by reference, the City Council of the City of Calexico, on October 5, 2022, held a hearing for the purposes of allowing the record owners of the 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 Subject Property proposed to be acquired in necessary for the Project;
- D. Whether the offer required by Government Code section 7267.2 has been given to the owners of record; and
- E. Whether the City has properly exercised all of its statutory responsibilities and duties antecedent to the exercise of eminent domain against the Subject Property, including review under the California Environmental Quality Act.

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 Easement, for the purposes of paving and improving Weakley Street, pursuant to the Project.

WHEREAS, the City is hereby authorized and empowered to acquire the Easement 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 California Constitution, 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 Easement is being acquired is the Weakley Street Improvement Project, which consists of paving and improving Weakley Street, including the installation of a public sidewalk, curb, gutter and utilities.

SECTION 2. The Easement and the Property are located on or about Weakley Street, Calexico, California 92231 (APN 058-020-024). The Easement that the City seeks to acquire consists of the following:

A right of way easement for public street and public utilities purposes, including the installation of conventional asphalt concrete leveling course, installation of curb, gutter and sidewalk, traffic striping and traffic control for street widening, in, over, under, upon, and across all that real property situated in the City of Calexico, County of Imperial, State of California, more particularly described in the legal description attached hereto as Exhibit "A" and depicted or illustrated on the map attached hereto as Exhibit "B," both of which are attached hereto and incorporated herein by this reference.

SECTION 3. 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.

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 Easement 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 the 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 and utility improvements. This will enhance the utility of the area and help improve traffic circulation.

SECTION 5. The Easement 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, was made to the record owners by way of a letter dated August 25, 2022. City 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. There has been compliance by the City with the requirements of Section 1245.235 of the California Code of Civil Procedure and the California Environmental Quality Act.

SECTION 8. If and to the extent any portion of the Easement area is already devoted to a public use, the proposed Project is a more necessary public use pursuant to California Code of Civil Procedure sections 1240.610 et seq.

SECTION 9. The law firm of Best Best & Krieger 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 authorize to take whatever steps and/or procedures are available to them under the eminent domain law of the State of California.

PASSED, APPROVED AND ADOPTED this 5th day of October, 2022.

Javier Moreno, Mayor

Attest:

Gabriela Garcia, City Clerk

Approved as to Form:

Carlos Campos, City Attorney

State of California)
County of Imperial) ss.
City of Calexico)

I, Gabriela Garcia, Deputy City Clerk of the City of Calexico do hereby certify the above Resolution No. 2022-__ was approved at a regular City Council meeting held on the 5th day of October, 2022, by the following vote to-wit:

AYES:

NOES:

ABSTAIN:

Gabriela Garcia, City Clerk

EXHIBIT A

[LEGAL DESCRIPTION]

EXHIBIT "A"

RIGHT OF WAY

LEGAL DESCRIPTION

THE NORTH 22.50 FEET OF THE SOUTHERLY 35.00 FEET OF PARCEL 2 OF
PARCEL MAP NO. 2063, IN THE CITY OF CALEXICO, COUNTY OF IMPERIAL, STATE
OF CALIFORNIA, ON FILE IN BOOK 9, PAGE 77, IN THE RECORDERS OFFICE OF
SAID COUNTY.

THE ABOVE DESCRIBE PROPERTY CONTAINING 1,637 SQUARE FEET MORE OR
LESS.

EXHIBIT B

[PROPERTY MAP]



**BENDER
ROSENTHAL
INCORPORATED**

August 25, 2022

Armando and Sandra Real
P.O. Box 194
El Centro, CA 92244

Re: City of Calexico – Weakley Street Improvement Project
Site Address: 565 and 559 Highway 111 Calexico, CA 92231
Assessor's Parcel No.: 058-020-024 & -023
Offer to Purchase (Government Code § 7267.2)

Dear Mr. and Mrs. Real,

As you may be aware, the City of Calexico (City) is moving forward with the Weakley Street Improvement Project (Project). The Project will consist of the installation of conventional asphalt concrete leveling course, the installation of curb, gutter and sidewalk, traffic striping and traffic control for the street widening.

Your property, located at 565 and 559 Highway 111 Calexico, (APN(s): 058-020-024 & -023), may be affected by the Project. In accordance with Government Code section 7267.2, the City hereby makes an offer in the amount of **\$8,200** to acquire a roadway easement over 1,637± square feet your property. This is the full amount determined by a qualified, independent appraiser to be the fair market value of the interests being acquired.

The enclosed Appraisal Summary Statement, which is incorporated herein by this reference, provides the basis for the amount established by the City as just compensation. As shown in the Appraisal Summary Statement, the appraisal report takes into consideration the highest and best use of the Larger Parcel, the location, zoning, the condition and size of any improvements on the Larger Parcel and the Subject Property Interests, the date of value, severance damages, and other factors that affect fair market value.

If you wish to obtain an independent appraisal of the Subject Property Interests, in accordance with California Code of Civil Procedure section 1263.025(a), the City hereby offers to reimburse you for the reasonable costs, not to exceed \$5,000.00 of such an independent appraisal. Any independent appraisal must be conducted by an appraiser licensed by the California Bureau of Real Estate Appraisers. Please notify Todd Comer within 30 days of the date of this offer letter if you wish to obtain an independent appraisal of the Subject Property Interests.

If for any reason you reject the City's offer, please be advised that this offer letter and enclosures are made under the provisions of California Evidence Code sections 1152 and 1154 and shall not be admissible in any eminent domain proceeding, or any other action for any purpose prohibited under these sections.



Armando and Sandra Real
August 25, 2022
Page 2

If you have any questions regarding the Proposed Project, this offer, or the acquisition process, please feel free to contact Todd Comer at (909) 694-9990 or email t.comer@benderrosenthal.com.

Sincerely,

A handwritten signature in blue ink that reads 'Todd Comer'.

Todd Comer
Right of Way Agent

Enclosures: Appraisal Summary Statement
Acquisition Brochure

SUMMARY STATEMENT



Weakley Street Improvement Project

Armando Real and The Rosas Family Trust Property
565 and 559 Highway 111
Calexico, California 92231
APNs: 058-020-024 and -023

BRI 22-033

BRI BENDER
ROSENTHAL
INCORPORATED

2825 Watt Avenue, Suite 200 Sacramento, California 95821 | www.benderrosenthal.com | 916.978.4900

STATEMENT AND SUMMARY OF BASIS FOR APPRAISAL

The following is a summary of the amount established 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 Appraisal Practice (USPAP) of the Appraisal Foundation, Caltrans Appraisal Standards and Procedures as well as State and federal uniform acts (Federal URA).

BASIC PROPERTY DATA

Appraisal Assignment To develop an opinion of the fair market value of the property rights to be acquired for the proposed project as of the date of value.

Property Location 565 and 559 Highway 111
Calexico, California 92231

PROPERTY DATA

Legal Description The property is located on the north side of Weakley Street, west of Highway 111 (Imperial Avenue) in Calexico, CA.

Assessor's Parcel Numbers 058-020-024 and -023

Owner of Record Armando Real and The Rosas Family Trust

Large Parcel Area 2.97± acres

Site Description 2.97± acres of commercial land. The property is improved with a small office building to support the used car sales operation. However, the project impacts the land only. Therefore, we are evaluating the land only in the valuation of this report.

Zoning CH – Commercial Highway

General Plan Designation Commercial Highway

Special Planning Area	None.
Flood Information	The subject is located in the flood Zone X (unshaded), map 06025C2075C, dated 09/26/2008.
Seismic Information	Not located in a special seismic study area.
Toxic Hazards Information	We were not provided with a Phase I environment assessment for this appraisal. A search of the State Water Resources Control Board GeoTracker website resulted in no open sites of interest on the subject or in the areas immediately surrounding the subject. This appraisal therefore assumes that there is no toxic contamination on the subject property. Please refer to General Limiting Condition Number 16 regarding hazardous materials.
Property Rights Appraised	Fee Simple
Date of Inspection	May 16, 2022
Date of Value	May 16, 2022
Date of Report	August 1, 2022
Highest and Best Use, as if vacant	Hold for future commercial retail development, interim use as a service commercial
Highest and Best Use, of the remainder	Hold for future commercial retail development, interim use as a service commercial

PROPOSED ACQUISITION

The proposed acquisition is a fee acquisition for the purpose of widening and improving Weakley Street. The proposed acquisition is located at the southern boundary of the property, along Weakley Street, and will be approximately 20.55' in width along the southern parcel line. This excludes a 12.50'-wide road dedication that was previously made, as shown on the plat map on the following page. The total acquisition size is proposed for approximately 1,637 square feet. The proposed acquisition size is described on the table below.

Item	Size
Larger Parcel (APNs 058-020-024 and -023)	2.970± Acres (129,319± square feet)
Right of Way Acquisition	0.038± Acres (1,637± square feet)
Remainder	2.932± Acres (127,682± square feet)

Source: Imperial County Assessor's Tax Maps, Plat and legal and information provided by client

STATUTORY BASIS OF VALUATION

The Market Value was prepared in accordance with the following California Code of Civil Procedures definition.

Code of Civil Procedures Section 1263.320 defines Fair Market Value as follows:

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

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

Code of Civil Procedures Section 1263.330 further states:

The fair market value of the property acquired shall not include any increase or decrease in the value of the property that is attributable to any of the following:

- 1) The project for which the property is taken;
- 2) The eminent domain proceeding in which the property is taken; and
- 3) Any preliminary actions of the plaintiff relating to the taking of the property.

VALUATION PROCESS SUPPORTING ESTIMATED COMPENSATION

This analysis identifies the similarities and differences between the subject property and comparable properties. The primary elements of comparison include property rights, financing terms, conditions of sale (motivation), market conditions (sale date), and physical characteristics (e.g. zoning, utilities, site improvements, location, access, etc.).

SALES COMPARISON APPROACH

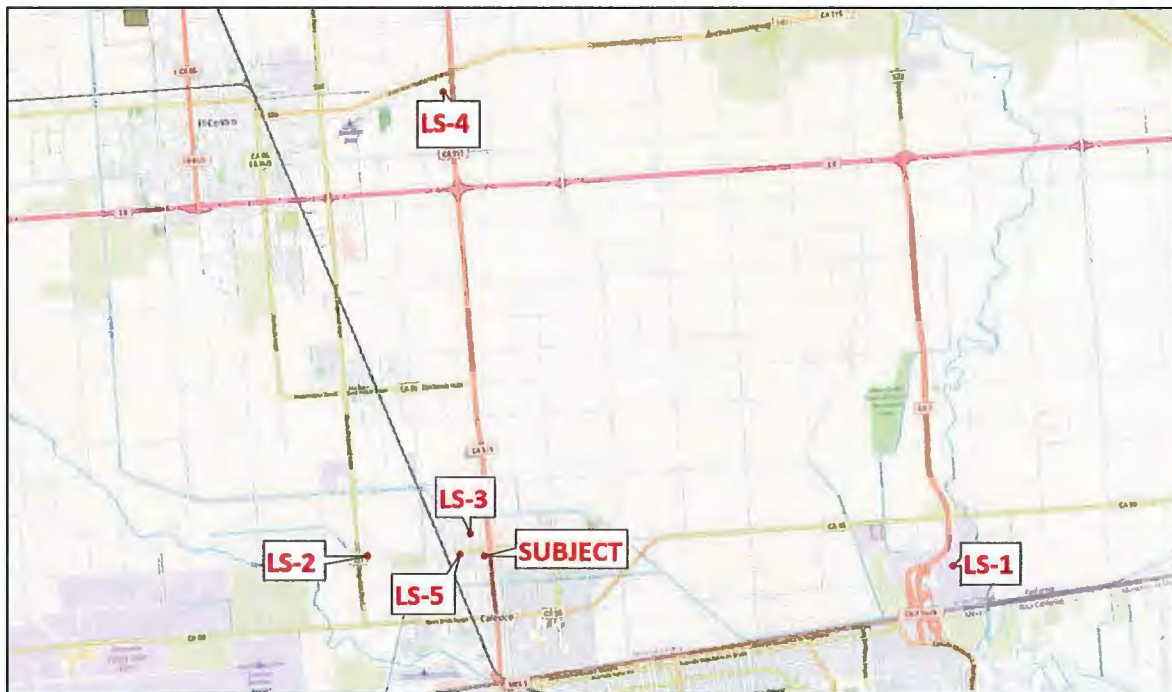
A value indication is derived by comparing similar properties that have sold recently in the market to the larger parcel and making qualitative comparisons to the larger parcel; then applying units of comparisons to indicate a value for the larger parcel. Sales, listings and current escrows of comparables were considered in this analysis. Primary reliance has been placed on closed sales transactions.

We focused our search for recent sales of similar commercial land sites in the area of the subject property. Due to the limited data available in the commercial market, the was expanded to both commercial and light industrial sales. Many surrounding properties are used for industrial purposes, despite the commercial zoning. Some of the uses allowed in the commercial zoning are also uses which would be permissible in an industrial zone. Additionally, the market for industrial product is slightly stronger than retail, with industrial sales comprising most of the sales activity in this area. As such, it is relevant to use industrial sales to support the fair market value of the subject property.

The comparable sales range in unit value from \$2.83 to \$7.26 per square foot, which is the accepted unit value for this type of property. The concluded market value for the subject property value is \$5.00 per square foot, supported by the table presented on the following page.

COMPARABLE LAND SALES SUMMARY TABLE AND MAP

Sale #	Location	Seller	Sale Date			Size Acres	Price /
DC #	APN No. (s)	Buyer	Doc #	Sale Price	Zoning	Size SF	SF
LS-1 6568	458 Rood Rd, Calexico, CA APNs: 059-383-001, 002, 003	Dollarmont Holdings, LLC. JEX Investments, LLC	3/9/2022 4933	\$1,300,000	GC	5.12± 223,027±	\$5.83
LS-2 6569	111 W Cole Road Calexico, CA APN: 059-342-033	Poiriez Properties, Inc Jose Leon	2/17/2022 3564	\$750,000	CH	2.37± 103,237±	\$7.26
LS-3 6567	301 Robinson Blvd Calexico, CA APN: 059-330-006	Irma T. Auyon Kiliwa Real Estate, LLC.	2/14/2022 3220	\$2,000,000	IND	7.21± 314,068±	\$6.37
LS-4 6563	1963 US Highway 111 El Centro, CA APN: 044-470-020	Celtic Bank Corporation Ares Transport Group	10/5/2021 25556	\$1,150,000	M-1-U (Industrial)	9.33± 406,415±	\$2.83
LS-5 6566	300 W Cole Blvd Calexico, CA APN: 058-020-015	HT Industries, LLC Wildwood River Properties, LLC	9/6/2019 16884	\$1,750,000	IR (Industrial- Rail Served)	10.00± 435,600±	\$4.02
SUBJECT	559 and 565 Highway 111 Calexico, CA APNs: 058-020-024 and -023	Appraisal	---	---	CH	2.97± 129,319±	---



LARGER PARCEL VALUE CONCLUSION

$$129,319 \text{ SF} \times \$5.00/\text{SF} = \$ 646,595$$

VALUE OF THE PROPOSED ACQUISITION

The property being acquired is valued based on its contributory value as part of the larger parcel. As previously discussed, the City of Calexico is proposing to acquire 1,637± square feet in fee for a roadway. The value of the acquisition is presented next.

LAND

Value of the Proposed Acquisition

$$1,637\pm \text{ SF} \times \$5.00/\text{SF} = \$ 8,185$$

SITE IMPROVEMENTS

There are no site improvements located on the subject.

TOTAL VALUE OF THE PROPOSED ACQUISITION

The total value of the proposed acquisition is presented below:

Value of the Proposed Acquisition

Land	=	\$	8,185
Site Improvements	=	\$	0
Total		\$	<u>8,185</u>

VALUE OF THE REMAINDER 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. Deducting the part acquired (land) from the value of the larger parcel, land only, yields:

$$\text{Land } (\$646,595 - \$8,185) = \$ 638,410$$

VALUE OF THE REMAINDER, AFTER ACQUISITION, BEFORE BENEFITS

Overall, the proposed acquisition does not negatively impact the utility, desirability, or marketability of the remainder. In the after condition the larger parcel will have the same highest and best use as in the before condition.

Value of the Remainder, After Acquisition, Before Benefits

$$127,682\pm \text{ SF} \times \$5.00/\text{SF} \times 0\% \text{ Rights Remaining} = \$ 638,410$$

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

Value of the Remainder as Part of the Larger Parcel		\$	638,410
Value of the Remainder, After Acquisition, Before Benefits	-	\$	638,410
Loss in Market Value		\$	0

VALUE OF THE REMAINDER, AFTER ACQUISITION, CONSIDERING BENEFITS

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 resulting from the construction in the manner proposed.

Value of the Remainder, After Acquisition, Considering Benefits			
127,682± SF x \$5.00/SF x 0% Rights Remaining	=	\$	638,410

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 may benefit the general traveling public but provides no quantifiable benefits to the larger parcel in the after condition; no benefits inure to the remainder due to the expansion of the transfer station.

GAIN IN MARKET VALUE

Value of the Remainder, After Acquisition, Considering Benefits		\$	638,410
Less: Value of the Remainder, After Acquisition, Before Benefits	-	\$	638,410
Gain in Market Value		\$	0

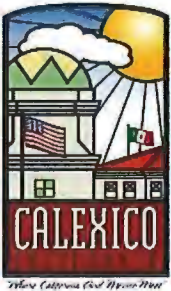
OPINION OF THE FAIR MARKET VALUE

Fee Acquisition		\$	8,185
Net Severance Damages		\$	0
Total		\$	8,185
Rounded		\$	8,200



**BENDER
ROSENTHAL
INCORPORATED**

**ACQUIRING REAL PROPERTY
FOR:**



**CITY OF CALEXICO
PUBLIC WORKS
DEPARTMENT**

WEAKLEY STREET IMPROVEMENTS

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 counteroffers 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

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 and 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

The City of Calexico is proposing to construct Weakley Street between Scaroni Road and West. Portico Blvd., which is currently an unpaved road, composed of dirt, gravel and grinding material to reduce PM- 10 emissions

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 are as follows:

City of Calexico
c/o Bender Rosenthal, Inc.
750 B Street, Suite 3130
San Diego, CA 92101
(619) 359-8389

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.

RESOLUTION NO. 2022-___

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 A RIGHT OF WAY EASEMENT FOR PUBLIC STREET AND UTILITIES PURPOSES RELATING TO ASSESSOR'S PARCEL NUMBER 058-020-013, LOCATED ON OR ABOUT CA HWY 111 IN THE CITY OF CALEXICO, IMPERIAL COUNTY, FOR THE WEAKLEY STREET IMPROVEMENT PROJECT

WHEREAS, the City of Calexico ("City") has been investigating the potential acquisition of a right of way easement for public street and utilities purposes ("Easement") relating to Assessor's Parcel Number ("APN") 058-020-013 ("Property"), located on or about CA HWY 111, in the City of Calexico, Imperial County, for the Weakley Street Improvement Project ("Project").

WHEREAS, after proper written notice, made pursuant to Code of Civil Procedure section 1245.235, was given to the record owners of the Property, and more specifically described and depicted in Exhibits "A" and "B" which are incorporated herein by reference, the City Council of the City of Calexico, on October 5, 2022, held a hearing for the purposes of allowing the record owners of the 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 Subject Property proposed to be acquired in necessary for the Project;
- D. Whether the offer required by Government Code section 7267.2 has been given to the owners of record; and
- E. Whether the City has properly exercised all of its statutory responsibilities and duties antecedent to the exercise of eminent domain against the Subject Property, including review under the California Environmental Quality Act.

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 Easement, for the purposes of paving and improving Weakley Street, pursuant to the Project.

WHEREAS, the City is hereby authorized and empowered to acquire the Easement 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 California Constitution, 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 Easement is being acquired is the Weakley Street Improvement Project, which consists of paving and improving Weakley Street, including the installation of a public sidewalk, curb, gutter and utilities.

SECTION 2. The Easement and the Property are located on or about Weakley Street, Calexico, California 92231 (APN 058-020-013). The Easement that the City seeks to acquire consists of the following:

A right of way easement for public street and public utilities purposes, including the installation of conventional asphalt concrete leveling course, installation of curb, gutter and sidewalk, traffic striping and traffic control for street widening, in, over, under, upon, and across all that real property situated in the City of Calexico, County of Imperial, State of California, more particularly described in the legal description attached hereto as Exhibit "A" and depicted or illustrated on the map attached hereto as Exhibit "B," both of which are attached hereto and incorporated herein by this reference.

SECTION 3. 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.

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 Easement 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 the 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 and utility improvements. This will enhance the utility of the area and help improve traffic circulation.

SECTION 5. The Easement 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, was made to the record owners by way of a letter dated August 25, 2022. City 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. There has been compliance by the City with the requirements of Section 1245.235 of the California Code of Civil Procedure and the California Environmental Quality Act.

SECTION 8. If and to the extent any portion of the Easement area is already devoted to a public use, the proposed Project is a more necessary public use pursuant to California Code of Civil Procedure sections 1240.610 et seq.

SECTION 9. The law firm of Best Best & Krieger 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 authorize to take whatever steps and/or procedures are available to them under the eminent domain law of the State of California.

PASSED, APPROVED AND ADOPTED this 5th day of October, 2022.

Javier Moreno, Mayor

Attest:

Gabriela Garcia, City Clerk

Approved as to Form:

Carlos Campos, City Attorney

State of California)
County of Imperial) ss.
City of Calexico)

I, Gabriela Garcia, Deputy City Clerk of the City of Calexico do hereby certify the above Resolution No. 2022-__ was approved at a regular City Council meeting held on the 5th day of October, 2022, by the following vote to-wit:

AYES:

NOES:

ABSTAIN:

Gabriela Garcia, City Clerk

EXHIBIT A

[LEGAL DESCRIPTION]

EXHIBIT "A"

RIGHT OF WAY

LEGAL DESCRIPTION

THE SOUTH 35.00 FEET OF PARCEL 1 OF PARCEL MAP M-666, IN THE CITY OF CALEXICO, COUNTY OF IMPERIAL, STATE OF CALIFORNIA, ON FILE IN BOOK 4, PAGE 28 OF PARCELS MAPS IN THE RECORDERS OFFICE OF SAID COUNTY.

THE ABOVE DESCRIBE PROPERTY CONTAINING 5,783 SQUARE FEET MORE OR LESS.

EXHIBIT B
[PROPERTY MAP]

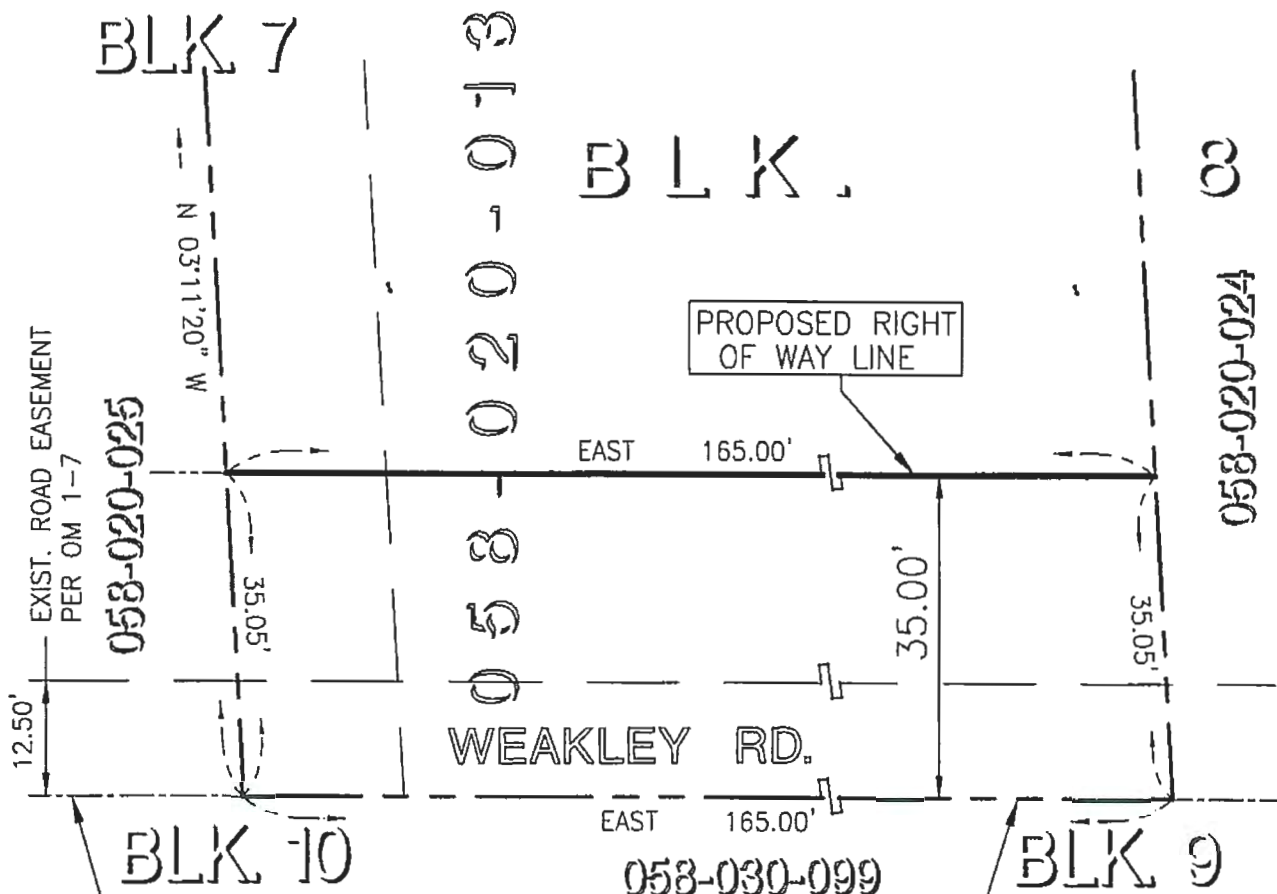
EXHIBIT "B"

PROPOSED RIGHT OF WAY



SCALE: 1"=20'

(PARCEL 1 OF PM 4-28)



SOUTH LINE OF BLK. 7 OF KLOKE TRACT (OM 1-7)

SOUTH LINE OF BLK. 8 OF KLOKE TRACT (OM 1-7)



VICTOR RODRIGUEZ-FERNANDEZ
LS 5335

DATE _____

NOTE:
RECORD DATA PER
PARCEL MAP M-666
(BK 4, PG. 28)



J.N. 22-060

August 25, 2022

Juan and Florence Lopez
50071 Paseo Madrid
Coachella, CA 92236

Re: City of Calexico – Weakley Street Improvement Project
Site Address: North of Weakley Street, west of Scaroni Avenue Calexico, CA 92231
Assessor's Parcel No.: 058-020-013
Offer to Purchase (Government Code § 7267.2)

Dear Mr. and Mrs. Lopez,

As you may be aware, the City of Calexico (City) is moving forward with the Weakley Street Improvement Project (Project). The Project will consist of the installation of conventional asphalt concrete leveling course, the installation of curb, gutter and sidewalk, traffic striping and traffic control for the street widening.

Your property, located at north of Weakley Street, west of Scaroni Avenue, Calexico, (APN: 058-020-013), may be affected by the Project. In accordance with Government Code section 7267.2, the City hereby makes an offer in the amount of **\$18,600** to acquire a roadway easement over 5,783± square feet your property in which 2,062± square feet are encumbered by a previously acquired roadway easement. This is the full amount determined by a qualified, independent appraiser to be the fair market value of the interests being acquired.

The enclosed Appraisal Summary Statement, which is incorporated herein by this reference, provides the basis for the amount established by the City as just compensation. As shown in the Appraisal Summary Statement, the appraisal report takes into consideration the highest and best use of the Larger Parcel, the location, zoning, the condition and size of any improvements on the Larger Parcel and the Subject Property Interests, the date of value, severance damages, and other factors that affect fair market value.

If you wish to obtain an independent appraisal of the Subject Property Interests, in accordance with California Code of Civil Procedure section 1263.025(a), the City hereby offers to reimburse you for the reasonable costs, not to exceed \$5,000.00 of such an independent appraisal. Any independent appraisal must be conducted by an appraiser licensed by the California Bureau of Real Estate Appraisers. Please notify Todd Comer within 30 days of the date of this offer letter if you wish to obtain an independent appraisal of the Subject Property Interests.

If for any reason you reject the City's offer, please be advised that this offer letter and enclosures are made under the provisions of California Evidence Code sections 1152 and 1154 and shall not be admissible in any eminent domain proceeding, or any other action for any purpose prohibited under these sections.



Juan and Florence Lopez
August 25, 2022
Page 2

If you have any questions regarding the Proposed Project, this offer, or the acquisition process, please feel free to contact Todd Comer at (909) 694-9990 or email t.comer@benderrosenthal.com.

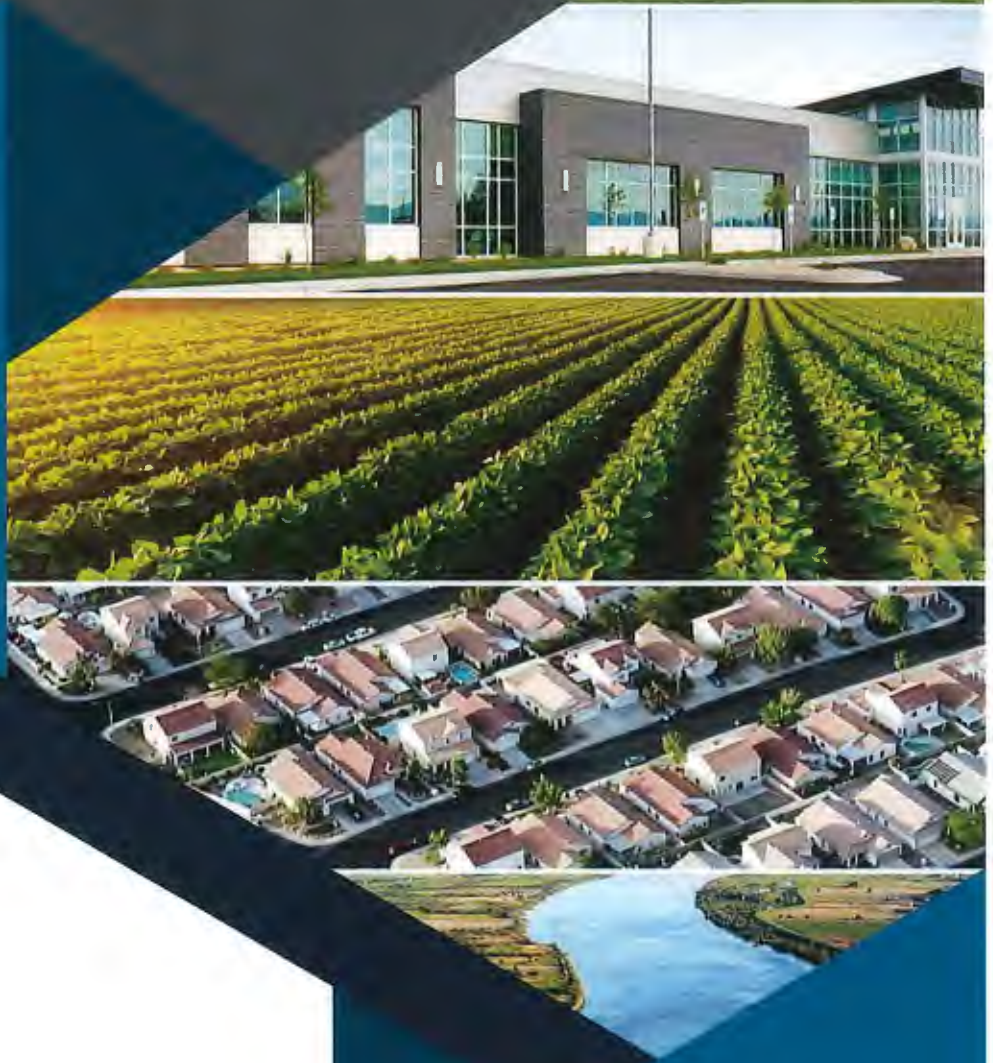
Sincerely,

A handwritten signature in blue ink that reads 'Todd Comer'.

Todd Comer
Right of Way Agent

Enclosures: Appraisal Summary Statement
Acquisition Brochure

SUMMARY STATEMENT



Weakley Street Improvement Project

The Lopez Property
South of Weakley Street, West of Scaroni Avenue
Calexico, California 92231
APN: 058-020-013

BRI 22-033

BRI BENDER
ROSENTHAL
INCORPORATED

2825 Watt Avenue, Suite 200 Sacramento, California 95821 | www.benderrosenthal.com | 916.978.4900

STATEMENT AND SUMMARY OF BASIS FOR APPRAISAL

The following is a summary of the amount established 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 Appraisal Practice (USPAP) of the Appraisal Foundation, Caltrans Appraisal Standards and Procedures as well as State and federal uniform acts (Federal URA).

BASIC PROPERTY DATA

Appraisal Assignment	To develop an opinion of the fair market value of the property rights to be acquired for the proposed project as of the date of value.
Property Location	North of Weakley Street, west of Scaroni Avenue Calexico, California 92231
PROPERTY DATA	
Legal Description	The property is located on the north side of Weakley Street, west of Highway 111 (Imperial Avenue) and Scaroni Avenue, in Calexico, CA.
Assessor's Parcel Numbers	058-020-013
Owner of Record	Juan M. Lopez and Florence Lopez
Large Parcel Area	1.82± acres
Site Description	1.82± acres of commercial land. The property is not improved with any structural improvements.
Zoning	CH – Commercial Highway
General Plan Designation	Commercial Highway
Special Planning Area	None.

Flood Information	The subject is located in the flood Zone X (unshaded), map 06025C2075C, dated 09/26/2008.
Seismic Information	Not located in a special seismic study area.
Toxic Hazards Information	We were not provided with a Phase I environment assessment for this appraisal. A search of the State Water Resources Control Board GeoTracker website resulted in no open sites of interest on the subject or in the areas immediately surrounding the subject. This appraisal therefore assumes that there is no toxic contamination on the subject property. Please refer to General Limiting Condition Number 16 regarding hazardous materials.
Property Rights Appraised	Fee Simple
Date of Inspection	May 16, 2022
Date of Value	May 16, 2022
Date of Report	August 1, 2022
Highest and Best Use, as if vacant	Hold for future commercial retail development, interim use as a service commercial
Highest and Best Use, of the remainder	Hold for future commercial retail development, interim use as a service commercial

PROPOSED ACQUISITION

The proposed acquisition is a fee acquisition for the purpose of widening and improving Weakley Street. The acquisition is located at the southern boundary of the property, along Weakley Street, and will be approximately 35' in width along the southern parcel line. The total fee acquisition size is proposed for approximately 5,783 square feet. However, a portion of the acquisition area (2,062 square feet) is encumbered by a previously acquired roadway easement. Due to the significantly limited rights remaining in this encumbered area, the easement is concluded to encumber 100% of the fee simple rights in that area, less \$1 for remaining reversionary rights. The acquisition size is described on the table below.

Item	Size
Larger Parcel (APNs 058-020-013)	
Unencumbered	1.77± Acres (77,217± square feet)
Encumbered by previous roadway easement	<u>0.05± Acres (2,062± square feet)</u>
Total	1.82± Acres (79,279± square feet)
Fee acquisition	
Unencumbered	0.08± Acres (3,721± square feet)
Encumbered by previous roadway easement	<u>0.05± Acres (2,062± square feet)</u>
Total	0.13± Acres (5,783± square feet)
Remainder	1.69± Acres (73,496± square feet)

Source: Imperial County Assessor's Tax Maps, Plat and legal and information provided by client

STATUTORY BASIS OF VALUATION

The Market Value was prepared in accordance with the following California Code of Civil Procedures definition.

Code of Civil Procedures Section 1263.320 defines Fair Market Value as follows:

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

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

Code of Civil Procedures Section 1263.330 further states:

The fair market value of the property acquired shall not include any increase or decrease in the value of the property that is attributable to any of the following:

- 1) The project for which the property is taken;
- 2) The eminent domain proceeding in which the property is taken; and
- 3) Any preliminary actions of the plaintiff relating to the taking of the property.

VALUATION PROCESS SUPPORTING ESTIMATED COMPENSATION

This analysis identifies the similarities and differences between the subject property and comparable properties. The primary elements of comparison include property rights, financing terms, conditions of sale (motivation), market conditions (sale date), and physical characteristics (e.g. zoning, utilities, site improvements, location, access, etc.).

SALES COMPARISON APPROACH

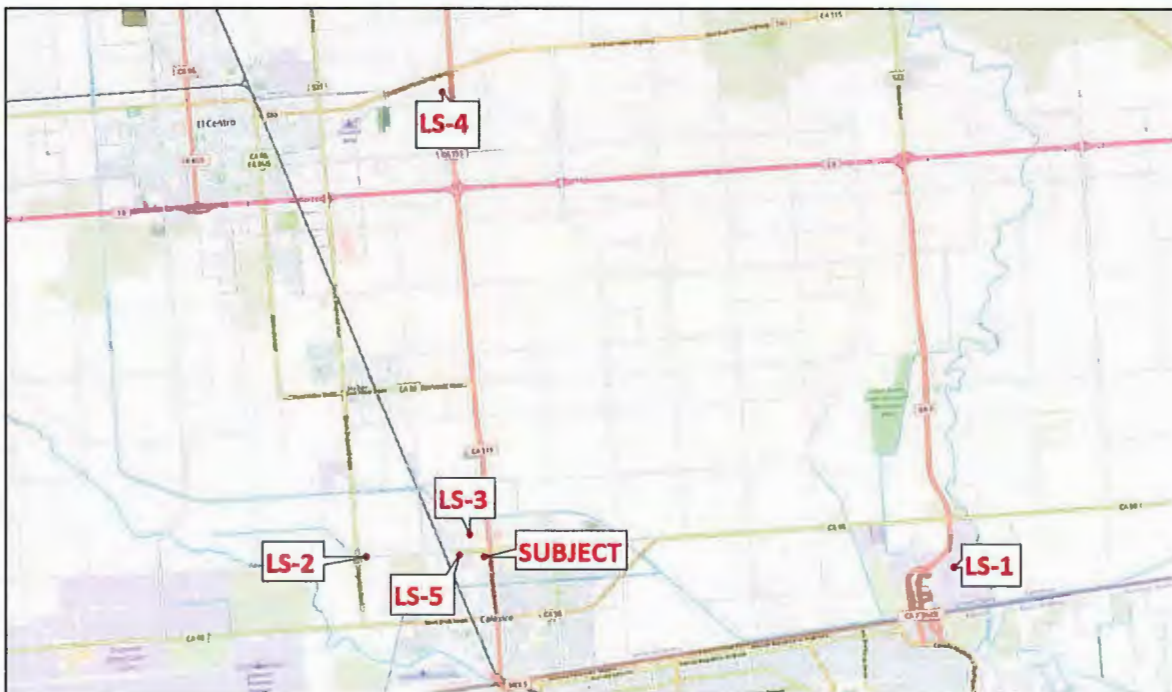
A value indication is derived by comparing similar properties that have sold recently in the market to the larger parcel and making qualitative comparisons to the larger parcel; then applying units of comparisons to indicate a value for the larger parcel. Sales, listings and current escrows of comparables were considered in this analysis. Primary reliance has been placed on closed sales transactions.

We focused our search for recent sales of similar commercial land sites in the area of the subject property. Due to the limited data available in the commercial market, the was expanded to both commercial and light industrial sales. Many surrounding properties are used for industrial purposes, despite the commercial zoning. Some of the uses allowed in the commercial zoning are also uses which would be permissible in an industrial zone. Additionally, the market for industrial product is slightly stronger than retail, with industrial sales comprising most of the sales activity in this area. As such, it is relevant to use industrial sales to support the fair market value of the subject property.

The comparable sales range in unit value from \$2.83 to \$7.26 per square foot, which is the accepted unit value for this type of property. The concluded market value for the subject property value is \$5.00 per square foot, supported by the table presented on the following page.

COMPARABLE LAND SALES SUMMARY TABLE AND MAP

Sale #	Location	Seller	Sale Date	Sale Price	Zoning	Size Acres	Price / SF
DC #	APN No. (s)	Buyer	Doc #			Size SF	
LS-1 6568	458 Rood Rd, Calexico, CA APNs: 059-383-001, 002, 003	Dollarmont Holdings, LLC. JEX Investments, LLC	3/9/2022 4933	\$1,300,000	GC	5.12± 223,027±	\$5.83
LS-2 6569	111 W Cole Road Calexico, CA APN: 059-342-033	Poiriez Properties, Inc Jose Leon	2/17/2022 3564	\$750,000	CH	2.37± 103,237±	\$7.26
LS-3 6567	301 Robinson Blvd Calexico, CA APN: 059-330-006	Irma T. Auyon Kiliwa Real Estate, LLC.	2/14/2022 3220	\$2,000,000	IND	7.21± 314,068±	\$6.37
LS-4 6563	1963 US Highway 111 El Centro, CA APN: 044-470-020	Celtic Bank Corporation Ares Transport Group	10/5/2021 25556	\$1,150,000	M-1-U (Industrial)	9.33± 406,415±	\$2.83
LS-5 6566	300 W Cole Blvd Calexico, CA APN: 058-020-015	HT Industries, LLC Wildwood River Properties, LLC	9/6/2019 16884	\$1,750,000	IR (Industrial- Rail Served)	10.00± 435,600±	\$4.02
SUBJECT	North of Weakley Street, west of Scaroni Avenue Calexico, CA APNs: 058-020-013	Appraisal	---	---	CH	1.82± 79,279±	---



LARGER PARCEL VALUE CONCLUSION

Unencumbered			
77,217± SF x \$5.00/SF	=	\$	386,085
Encumbered by Previously Acquired Roadway Easement			
2,062± SF @ \$1 Reversionary Rights Remaining	=	\$	1
Total			386,086

VALUE OF THE PROPOSED ACQUISITION

The property being acquired is valued based on its contributory value as part of the larger parcel. As previously discussed, the City of Calexico is proposing to acquire 5,783± square feet in fee for a roadway. However, a portion of the acquisition is encumbered by a previously acquired roadway easement. The roadway easement was previously concluded to impact the fee simple rights in the encumbered area by 100%, less \$1 for reversionary rights. The value of the proposed fee acquisition is presented next.

LAND

Value of the Proposed Acquisition

Unencumbered			
3,721± SF x \$5.00/SF x 100% Rights Acquired	=	\$	18,605
Encumbered by Previously Acquired Roadway Easement			
2,062± SF @ \$1 Reversionary Rights Remaining	-	\$	1
Total		\$	18,606

SITE IMPROVEMENTS

There are no site improvements located on the subject.

TOTAL VALUE OF THE PROPOSED ACQUISITION

The total value of the proposed acquisition is presented below:

Value of the Proposed Acquisition

Land	=	\$	18,606
Site Improvements	=	\$	0
Total		\$	18,606

VALUE OF THE REMAINDER 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. Deducting the part acquired (land) from the value of the larger parcel, land only, yields:

Land (\$386,086- \$18,606)	=	\$	367,480
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VALUE OF THE REMAINDER, AFTER ACQUISITION, BEFORE BENEFITS

Overall, the proposed acquisition does not negatively impact the utility, desirability, or marketability of the remainder. In the after condition the larger parcel will have the same highest and best use as in the before condition.

Value of the Remainder, After Acquisition, Before Benefits
73,496± SF x \$5.00/SF = \$ 367,480

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

Value of the Remainder as Part of the Larger Parcel		\$	367,480
Value of the Remainder, After Acquisition, Before Benefits	-	\$	367,480
Loss in Market Value		\$	0

VALUE OF THE REMAINDER, AFTER ACQUISITION, CONSIDERING BENEFITS

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 resulting from the construction in the manner proposed.

Value of the Remainder, After Acquisition, Considering Benefits
73,496± SF x \$5.00/SF = \$ 367,480

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 may benefit the general traveling public but provides no quantifiable benefits to the larger parcel in the after condition; no benefits inure to the remainder due to the expansion of the transfer station.

GAIN IN MARKET VALUE

Value of the Remainder, After Acquisition, Considering Benefits		\$	367,480
Less: Value of the Remainder, After Acquisition, Before Benefits	-	\$	367,480
Gain in Market Value		\$	0

OPINION OF THE FAIR MARKET VALUE

Fee Acquisition	\$	18,606
Net Severance Damages	\$	0
Total	\$	<u>18,606</u>
Rounded	\$	18,600



**BENDER
ROSENTHAL
INCORPORATED**

**ACQUIRING REAL PROPERTY
FOR:**



**CITY OF CALEXICO
PUBLIC WORKS
DEPARTMENT**

WEAKLEY STREET IMPROVEMENTS

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 counteroffers 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

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

The City of Calexico is proposing to construct Weakley Street between Scaroni Road and West. Portico Blvd., which is currently an unpaved road, composed of dirt, gravel and grinding material to reduce PM- 10 emissions

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 are as follows:

City of Calexico
c/o Bender Rosenthal, Inc.
750 B Street, Suite 3130
San Diego, CA 92101
(619) 359-8389

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.

RESOLUTION NO. 2022-___

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 A RIGHT OF WAY EASEMENT FOR PUBLIC STREET AND UTILITIES PURPOSES RELATING TO ASSESSOR'S PARCEL NUMBER 058-020-008, LOCATED ON OR ABOUT CA HWY 111 IN THE CITY OF CALEXICO, IMPERIAL COUNTY, FOR THE WEAKLEY STREET IMPROVEMENT PROJECT

WHEREAS, the City of Calexico ("City") has been investigating the potential acquisition of a right of way easement for public street and utilities purposes ("Easement") relating to Assessor's Parcel Number ("APN") 058-020-008 ("Property"), located on or about CA HWY 111, in the City of Calexico, Imperial County, for the Weakley Street Improvement Project ("Project").

WHEREAS, after proper written notice, made pursuant to Code of Civil Procedure section 1245.235, was given to the record owners of the Property, and more specifically described and depicted in Exhibits "A" and "B" which are incorporated herein by reference, the City Council of the City of Calexico, on October 5, 2022, held a hearing for the purposes of allowing the record owners of the 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 Subject Property proposed to be acquired in necessary for the Project;
- D. Whether the offer required by Government Code section 7267.2 has been given to the owners of record; and
- E. Whether the City has properly exercised all of its statutory responsibilities and duties antecedent to the exercise of eminent domain against the Subject Property, including review under the California Environmental Quality Act.

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 Easement, for the purposes of paving and improving Weakley Street, pursuant to the Project.

WHEREAS, the City is hereby authorized and empowered to acquire the Easement 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 California Constitution, 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 Easement is being acquired is the Weakley Street Improvement Project, which consists of paving and improving Weakley Street, including the installation of a public sidewalk, curb, gutter and utilities.

SECTION 2. The Easement and the Property are located on or about Weakley Street, Calexico, California 92231 (APN 058-020-008). The Easement that the City seeks to acquire consists of the following:

A right of way easement for public street and public utilities purposes, including the installation of conventional asphalt concrete leveling course, installation of curb, gutter and sidewalk, traffic striping and traffic control for street widening, in, over, under, upon, and across all that real property situated in the City of Calexico, County of Imperial, State of California, more particularly described in the legal description attached hereto as Exhibit "A" and depicted or illustrated on the map attached hereto as Exhibit "B," both of which are attached hereto and incorporated herein by this reference.

SECTION 3. 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.

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 Easement 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 the 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 and utility improvements. This will enhance the utility of the area and help improve traffic circulation.

SECTION 5. The Easement 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, was made to the record owners by way of a letter dated August 25, 2022. City 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. There has been compliance by the City with the requirements of Section 1245.235 of the California Code of Civil Procedure and the California Environmental Quality Act.

SECTION 8. If and to the extent any portion of the Easement area is already devoted to a public use, the proposed Project is a more necessary public use pursuant to California Code of Civil Procedure sections 1240.610 et seq.

SECTION 9. The law firm of Best Best & Krieger 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 authorize to take whatever steps and/or procedures are available to them under the eminent domain law of the State of California.

PASSED, APPROVED AND ADOPTED this 5th day of October, 2022.

Javier Moreno, Mayor

Attest:

Gabriela Garcia, City Clerk

Approved as to Form:

Carlos Campos, City Attorney

State of California)
County of Imperial) ss.
City of Calexico)

I, Gabriela Garcia, Deputy City Clerk of the City of Calexico do hereby certify the above Resolution No. 2022-__ was approved at a regular City Council meeting held on the 5th day of October, 2022, by the following vote to-wit:

AYES:

NOES:

ABSTAIN:

Gabriela Garcia, City Clerk

EXHIBIT A

[LEGAL DESCRIPTION]

EXHIBIT "A"

RIGHT OF WAY

LEGAL DESCRIPTION

BEING A PORTION OF BLOCK 8 OF KOLKE TRACT SUBDIVISION AS PER MAP NO. 51, IN THE CITY OF CALEXICO, COUNTY OF IMPERIAL, STATE OF CALIFORNIA ON FILE IN BOOK 1, PAGE 7 OF OFFICIAL MAPS DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE SOUTH LINE OF SAID BLOCK 8 WITH THE EAST LINE OF SECTION 11, TOWNSHIP 17 SOUTH, RANGE 14 EAST, S.B.M. OF SAID COUNTY;

THENCE ALONG SAID SOUTH LINE OF BLOCK 8, SOUTH 89° 56' 51" WEST, A DISTANCE OF 55.06 FEET TO A POINT ON THE WEST RIGHT OF WAY LINE OF STATE HIGHWAY 111, SAID POINT BEING THE **TRUE POINT OF BEGINNING**;

THENCE MAINTANING THE BEARING OF SOUTH 89° 56' 51" WEST, A DISTANCE OF 385.92 FEET TO A POINT;

THENCE DUE NORTH A DISTANCE OF 35.00 FEET TO A POINT;

THENCE NORTH 89° 56' 51" EAST, A DISTANCE OF 385.41 FEET TO A POINT ON SAID WEST RIGHT OF WAY LINE OF STATE HIGHWAY 111;

THENCE ALONG SAID RIGHT OF WAY LINE, SOUTH 00° 53' 09" EAST, A DISTANCE OF 35.00 FEET TO THE **TRUE POINT OF BEGINNING**

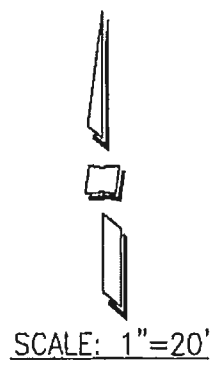
THE ABOVE DESCRIBED PROPERTY CONTAINS 13,497 SQUARE FEET MORE OR LESS.

EXHIBIT B

[PROPERTY MAP]

EXHIBIT "B"

PROPOSED RIGHT OF WAY



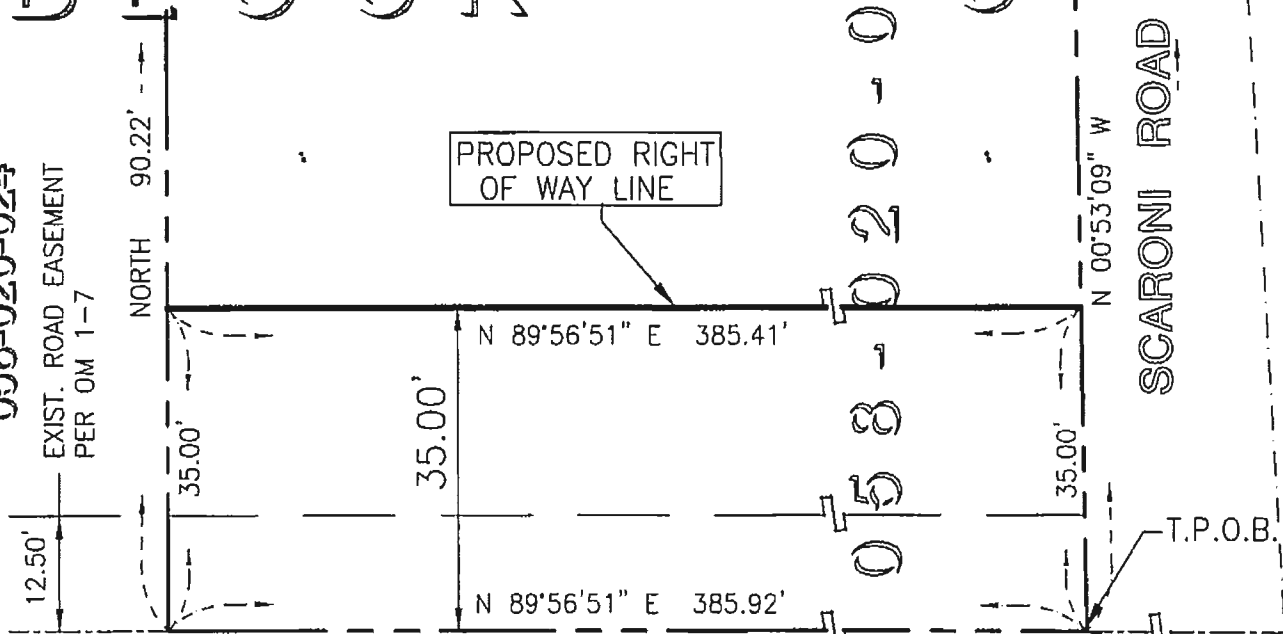
EAST LINE OF SECTION 11

WEST RIGHT OF WAY LINE
STATE HIGHWAY 111

BLK 8

PROPOSED RIGHT
OF WAY LINE

058-020-024
EXIST. ROAD EASEMENT
PER OM 1-7



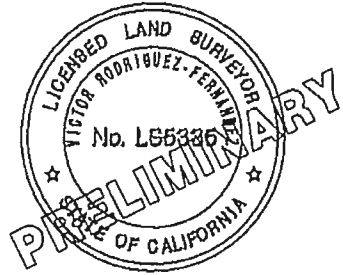
WEAKLEY RD.

SOUTH LINE OF BLOCK 8
OF KLOKE TRACT (OM 1-7)

058-030-099

N 89°56'51" E
55.06'

BLK 9



NOTE:
RECORD DATA PER
PARCEL MAP NO. 2063
(BK 9, PG. 77)

VICTOR RODRIGUEZ-FERNANDEZ
LS 5335

DATE _____



J.N. 22-060



**BENDER
ROSENTHAL
INCORPORATED**

August 25, 2022

Mario and Maritza Vela
1188 Jasmine Street
Calexico, CA 92231

Re: City of Calexico – Weakley Street Improvement Project
Site Address: 551 Highway 111, Calexico, CA 92231
Assessor's Parcel No.: 058-020-008
Offer to Purchase (Government Code § 7267.2)

Dear Mr. and Mrs. Vela,

As you may be aware, the City of Calexico (City) is moving forward with the Weakley Street Improvement Project (Project). The Project will consist of the installation of conventional asphalt concrete leveling course, the installation of curb, gutter and sidewalk, traffic striping and traffic control for the street widening.

Your property, located at 551 Highway 111, Calexico, (APN: 058-020-008), may be affected by the Project. In accordance with Government Code section 7267.2, the City hereby makes an offer in the amount of **\$43,400** to acquire a roadway easement over 13,497± square feet your property in which 4,824± square feet are encumbered by a previously acquired roadway easement. This is the full amount determined by a qualified, independent appraiser to be the fair market value of the interests being acquired.

The enclosed Appraisal Summary Statement, which is incorporated herein by this reference, provides the basis for the amount established by the City as just compensation. As shown in the Appraisal Summary Statement, the appraisal report takes into consideration the highest and best use of the Larger Parcel, the location, zoning, the condition and size of any improvements on the Larger Parcel and the Subject Property Interests, the date of value, severance damages, and other factors that affect fair market value.

If you wish to obtain an independent appraisal of the Subject Property Interests, in accordance with California Code of Civil Procedure section 1263.025(a), the City hereby offers to reimburse you for the reasonable costs, not to exceed \$5,000.00 of such an independent appraisal. Any independent appraisal must be conducted by an appraiser licensed by the California Bureau of Real Estate Appraisers. Please notify Todd Comer within 30 days of the date of this offer letter if you wish to obtain an independent appraisal of the Subject Property Interests.

If for any reason you reject the City's offer, please be advised that this offer letter and enclosures are made under the provisions of California Evidence Code sections 1152 and 1154 and shall not be admissible in any eminent domain proceeding, or any other action for any purpose prohibited under these sections.



Mario and Maritza Vela
August 25, 2022
Page 2

If you have any questions regarding the Proposed Project, this offer, or the acquisition process, please feel free to contact Todd Comer at (909) 694-9990 or email t.comer@benderrosenthal.com.

Sincerely,

A handwritten signature in blue ink that reads 'Todd Comer'.

Todd Comer
Right of Way Agent

Enclosures: Appraisal Summary Statement
Acquisition Brochure

SUMMARY STATEMENT



Weakley Street Improvement Project

The Vela 2000 Trust Property
551 Highway 111
Calexico, California 92231
APN: 058-020-008

BRI 22-033

BRI **BENDER
ROSENTHAL
INCORPORATED**

2825 Watt Avenue, Suite 200 Sacramento, California 95821 | www.benderrosenthal.com | 916.978.4900

STATEMENT AND SUMMARY OF BASIS FOR APPRAISAL

The following is a summary of the amount established 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 Appraisal Practice (USPAP) of the Appraisal Foundation, Caltrans Appraisal Standards and Procedures as well as State and federal uniform acts (Federal URA).

BASIC PROPERTY DATA

Appraisal Assignment	To develop an opinion of the fair market value of the property rights to be acquired for the proposed project as of the date of value.
Property Location	551 Highway 111 Calexico, California 92231
PROPERTY DATA	
Legal Description	The property is located on the north side of Weakley Street, west of Highway 111 (Imperial Avenue) in Calexico, CA.
Assessor's Parcel Numbers	058-020-008
Owner of Record	The Vela 2000 Trust
Large Parcel Area	1.30± acres
Site Description	1.30± acres of commercial land. The property is improved with a billboard. However, no structural or site improvements will be impacted by the project, and the site is analyzed as land only.
Zoning	CH – Commercial Highway
General Plan Designation	Commercial Highway
Special Planning Area	None.

Flood Information	The subject is located in the flood Zone X (unshaded), map 06025C2075C, dated 09/26/2008.
Seismic Information	Not located in a special seismic study area.
Toxic Hazards Information	We were not provided with a Phase I environment assessment for this appraisal. A search of the State Water Resources Control Board GeoTracker website resulted in no open sites of interest on the subject or in the areas immediately surrounding the subject. This appraisal therefore assumes that there is no toxic contamination on the subject property. Please refer to General Limiting Condition Number 16 regarding hazardous materials.
Property Rights Appraised	Fee Simple
Date of Inspection	May 16, 2022
Date of Value	May 16, 2022
Date of Report	August 2, 2022
Highest and Best Use, as if vacant	Hold for future commercial retail development, interim use as a service commercial
Highest and Best Use, of the remainder	Hold for future commercial retail development, interim use as a service commercial

PROPOSED ACQUISITION

The proposed acquisition is a fee acquisition for the purpose of widening and improving Weakley Street. The acquisition is located at the southern boundary of the property, along Weakley Street, and will be approximately 35' in width along the southern parcel line. The total fee acquisition size is proposed for approximately 13,497 square feet. However, a portion of the acquisition area is encumbered by a previously acquired roadway easement (4,824 square feet). Due to the significantly limited rights remaining in this encumbered area, the roadway easement is concluded to encumber 100% of the fee simple rights in that area, less \$1 for remaining reversionary rights. The acquisition size is described on the table below.

Item	Size
Larger Parcel (APNs 058-020-008)	
Unencumbered	1.19± Acres (51,804± square feet)
Encumbered by previous roadway easement	<u>0.11± Acres (4,824± square feet)</u>
Total	1.30± Acres (56,628± square feet)
Fee Acquisition	
Unencumbered	0.20± Acres (8,673± square feet)
Encumbered by previous roadway easement	<u>0.11± Acres (4,824± square feet)</u>
Total	0.31± Acres (13,497± square feet)
Remainder	0.99± Acres (43,131± square feet)

Source: Imperial County Assessor's Tax Maps, Plat and legal and information provided by client

STATUTORY BASIS OF VALUATION

The Market Value was prepared in accordance with the following California Code of Civil Procedures definition.

Code of Civil Procedures Section 1263.320 defines Fair Market Value as follows:

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

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

Code of Civil Procedures Section 1263.330 further states:

The fair market value of the property acquired shall not include any increase or decrease in the value of the property that is attributable to any of the following:

- 1) The project for which the property is taken;
- 2) The eminent domain proceeding in which the property is taken; and
- 3) Any preliminary actions of the plaintiff relating to the taking of the property.

VALUATION PROCESS SUPPORTING ESTIMATED COMPENSATION

This analysis identifies the similarities and differences between the subject property and comparable properties. The primary elements of comparison include property rights, financing terms, conditions of sale (motivation), market conditions (sale date), and physical characteristics (e.g. zoning, utilities, site improvements, location, access, etc.).

SALES COMPARISON APPROACH

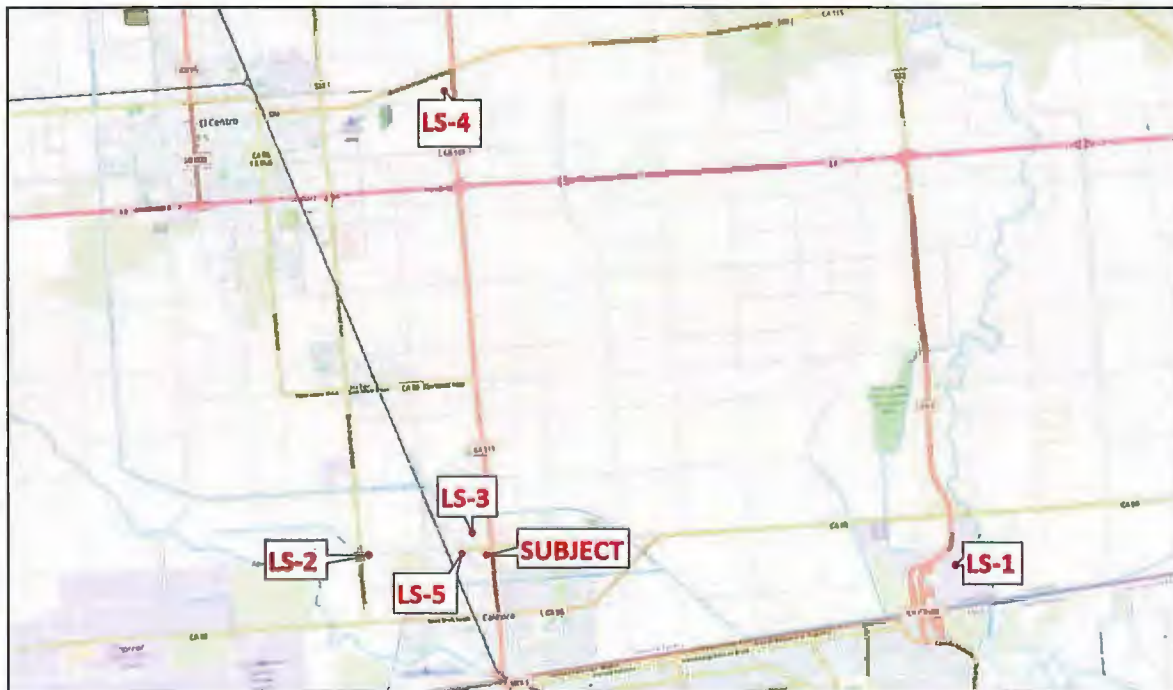
A value indication is derived by comparing similar properties that have sold recently in the market to the larger parcel and making qualitative comparisons to the larger parcel; then applying units of comparisons to indicate a value for the larger parcel. Sales, listings and current escrows of comparables were considered in this analysis. Primary reliance has been placed on closed sales transactions.

We focused our search for recent sales of similar commercial land sites in the area of the subject property. Due to the limited data available in the commercial market, the was expanded to both commercial and light industrial sales. Many surrounding properties are used for industrial purposes, despite the commercial zoning. Some of the uses allowed in the commercial zoning are also uses which would be permissible in an industrial zone. Additionally, the market for industrial product is slightly stronger than retail, with industrial sales comprising most of the sales activity in this area. As such, it is relevant to use industrial sales to support the fair market value of the subject property.

The comparable sales range in unit value from \$2.83 to \$7.26 per square foot, which is the accepted unit value for this type of property. The concluded market value for the subject property value is \$5.00 per square foot, supported by the table presented on the following page.

COMPARABLE LAND SALES SUMMARY TABLE AND MAP

Sale #	Location	Seller	Sale Date	Sale Price	Zoning	Size Acres	Price / SF
DC #	APN No. (s)	Buyer	Doc #			Size SF	
LS-1 6568	458 Rood Rd, Calexico, CA APNs: 059-383-001, 002, 003	Dollarmont Holdings, LLC. JEX Investments, LLC	3/9/2022 4933	\$1,300,000	GC	5.12± 223,027±	\$5.83
LS-2 6569	111 W Cole Road Calexico, CA APN: 059-342-033	Poiriez Properties, Inc Jose Leon	2/17/2022 3564	\$750,000	CH	2.37± 103,237±	\$7.26
LS-3 6567	301 Robinson Blvd Calexico, CA APN: 059-330-006	Irma T. Auyon Kiliwa Real Estate, LLC.	2/14/2022 3220	\$2,000,000	IND	7.21± 314,068±	\$6.37
LS-4 6563	1963 US Highway 111 El Centro, CA APN: 044-470-020	Celtic Bank Corporation Ares Transport Group	10/5/2021 25556	\$1,150,000	M-1-U (Industrial)	9.33± 406,415±	\$2.83
LS-5 6566	300 W Cole Blvd Calexico, CA APN: 058-020-015	HT Industries, LLC Wildwood River Properties, LLC	9/6/2019 16884	\$1,750,000	IR (Industrial- Rail Served)	10.00± 435,600±	\$4.02
SUBJECT	551 Highway 111 Calexico, CA APNs: 058-020-008	Appraisal	---	---	CH	1.30± 56,628±	---



LARGER PARCEL VALUE CONCLUSION

Unencumbered			
51,804± SF x \$5.00/SF	=	\$	259,020
Encumbered by Previously Acquired Roadway Easement			
4,824± SF @ \$1 Reversionary Rights Remaining	=	\$	1
Total			259,021

VALUE OF THE PROPOSED ACQUISITION

The property being acquired is valued based on its contributory value as part of the larger parcel. As previously discussed, the City of Calexico is proposing to acquire 13,497± square feet in fee for a roadway. However, a portion of the acquisition is encumbered by a previously acquired roadway easement. The roadway easement was previously concluded to impact the fee simple rights in the encumbered area by 100%, less \$1 for reversionary rights. The value of the acquisition is presented next.

LAND

Value of the Proposed Acquisition

Unencumbered			
8,673± SF x \$5.00/SF	=	\$	43,365
Encumbered by Previously Acquired Roadway Easement			
4,824± SF @ \$1 Reversionary Rights Remaining	-	\$	1
Total		\$	43,366

SITE IMPROVEMENTS

There are no site improvements located on the subject.

TOTAL VALUE OF THE PROPOSED ACQUISITION

The total value of the proposed acquisition is presented below:

Value of the Proposed Acquisition

Land	=	\$	43,366
Site Improvements	=	\$	0
Total		\$	43,366

VALUE OF THE REMAINDER 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. Deducting the part acquired (land) from the value of the larger parcel, land only, yields:

Land (\$259,021- \$43,366)	=	\$	215,655
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VALUE OF THE REMAINDER, AFTER ACQUISITION, BEFORE BENEFITS

Overall, the proposed acquisition does not negatively impact the utility, desirability, or marketability of the remainder. In the after condition the larger parcel will have the same highest and best use as in the before condition.

Value of the Remainder, After Acquisition, Before Benefits
43,131± SF x \$5.00/SF = \$ 215,655

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

Value of the Remainder as Part of the Larger Parcel		\$	215,655
Value of the Remainder, After Acquisition, Before Benefits	-	\$	215,655
Loss in Market Value		\$	0

VALUE OF THE REMAINDER, AFTER ACQUISITION, CONSIDERING BENEFITS

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 resulting from the construction in the manner proposed.

Value of the Remainder, After Acquisition, Considering Benefits
43,131± SF x \$5.00/SF = \$ 215,655

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 may benefit the general traveling public but provides no quantifiable benefits to the larger parcel in the after condition; no benefits inure to the remainder due to the expansion of the transfer station.

GAIN IN MARKET VALUE

Value of the Remainder, After Acquisition, Considering Benefits		\$	215,655
Less: Value of the Remainder, After Acquisition, Before Benefits	-	\$	215,655
Gain in Market Value		\$	0

OPINION OF THE FAIR MARKET VALUE

Fee Acquisition	\$	43,366
Net Severance Damages	\$	0
Total	\$	<u>43,366</u>
Rounded	\$	43,400



**BENDER
ROSENTHAL
INCORPORATED**

**ACQUIRING REAL PROPERTY
FOR:**



**CITY OF CALEXICO
PUBLIC WORKS
DEPARTMENT**

WEAKLEY STREET IMPROVEMENTS

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 Calxico, 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 counteroffers 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

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

The City of Calexico is proposing to construct Weakley Street between Scaroni Road and West. Portico Blvd., which is currently an unpaved road, composed of dirt, gravel and grinding material to reduce PM- 10 emissions

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 are as follows:

City of Calexico
c/o Bender Rosenthal, Inc.
750 B Street, Suite 3130
San Diego, CA 92101
(619) 359-8389

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.

RESOLUTION NO. 2022-____

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 A RIGHT OF WAY EASEMENT FOR PUBLIC STREET AND UTILITIES PURPOSES RELATING TO ASSESSOR'S PARCEL NUMBER 058-030-099, LOCATED ON OR ABOUT CA HWY 111 IN THE CITY OF CALEXICO, IMPERIAL COUNTY, FOR THE WEAKLEY STREET IMPROVEMENT PROJECT

WHEREAS, the City of Calexico ("City") has been investigating the potential acquisition of a right of way easement for public street and utilities purposes ("Easement") relating to Assessor's Parcel Number ("APN") 058-030-099 ("Property"), located on or about CA HWY 111, in the City of Calexico, Imperial County, for the Weakley Street Improvement Project ("Project").

WHEREAS, after proper written notice, made pursuant to Code of Civil Procedure section 1245.235, was given to the record owners of the Property, and more specifically described and depicted in Exhibits "A" and "B" which are incorporated herein by reference, the City Council of the City of Calexico, on October 5, 2022, held a hearing for the purposes of allowing the record owners of the 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 Subject Property proposed to be acquired in necessary for the Project;
- D. Whether the offer required by Government Code section 7267.2 has been given to the owners of record; and
- E. Whether the City has properly exercised all of its statutory responsibilities and duties antecedent to the exercise of eminent domain against the Subject Property, including review under the California Environmental Quality Act.

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 Easement, for the purposes of paving and improving Weakley Street, pursuant to the Project.

WHEREAS, the City is hereby authorized and empowered to acquire the Easement 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 California Constitution, 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 Easement is being acquired is the Weakley Street Improvement Project, which consists of paving and improving Weakley Street, including the installation of a public sidewalk, curb, gutter and utilities.

SECTION 2. The Easement and the Property are located on or about Weakley Street, Calexico, California 92231 (APN 058-030-099). The Easement that the City seeks to acquire consists of the following:

A right of way easement for public street and public utilities purposes, including the installation of conventional asphalt concrete leveling course, installation of curb, gutter and sidewalk, traffic striping and traffic control for street widening, in, over, under, upon, and across all that real property situated in the City of Calexico, County of Imperial, State of California, more particularly described in the legal description attached hereto as Exhibit "A" and depicted or illustrated on the map attached hereto as Exhibit "B," both of which are attached hereto and incorporated herein by this reference.

SECTION 3. 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.

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 Easement 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 the 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 and utility improvements. This will enhance the utility of the area and help improve traffic circulation.

SECTION 5. The Easement 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, was made to the record owners by way of a letter dated August 25, 2022. City 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. There has been compliance by the City with the requirements of Section 1245.235 of the California Code of Civil Procedure and the California Environmental Quality Act.

SECTION 8. If and to the extent any portion of the Easement area is already devoted to a public use, the proposed Project is a more necessary public use pursuant to California Code of Civil Procedure sections 1240.610 et seq.

SECTION 9. The law firm of Best Best & Krieger 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 authorize to take whatever steps and/or procedures are available to them under the eminent domain law of the State of California.

PASSED, APPROVED AND ADOPTED this 5th day of October, 2022.

Javier Moreno, Mayor

Attest:

Gabriela Garcia, City Clerk

Approved as to Form:

Carlos Campos, City Attorney

State of California)
County of Imperial) ss.
City of Calexico)

I, Gabriela Garcia, Deputy City Clerk of the City of Calexico do hereby certify the above Resolution No. 2022-__ was approved at a regular City Council meeting held on the 5th day of October, 2022, by the following vote to-wit:

AYES:
NOES:
ABSTAIN:

Gabriela Garcia, City Clerk

EXHIBIT A

[LEGAL DESCRIPTION]

EXHIBIT "A"

RIGHT OF WAY

LEGAL DESCRIPTION

THE NORTH 35.00 FEET OF PARCEL "A" OF THE CERTAIN CERTIFICATE OF COMPLIANCE FOR LOT LINE ADJUSTMENT UA 2019-20, RECORDED NOVEMBER 26, 2019 AS DOCUMENT NO. 2019-024236 OF OFFICIAL RECORDS.

THE ABOVE DESCRIBE PROPERTY CONTAINING 21,082 SQUARE FEET MORE OR LESS.

EXHIBIT B

[PROPERTY MAP]

EXHIBIT "B"

PROPOSED RIGHT OF WAY



SCALE: 1"=20'

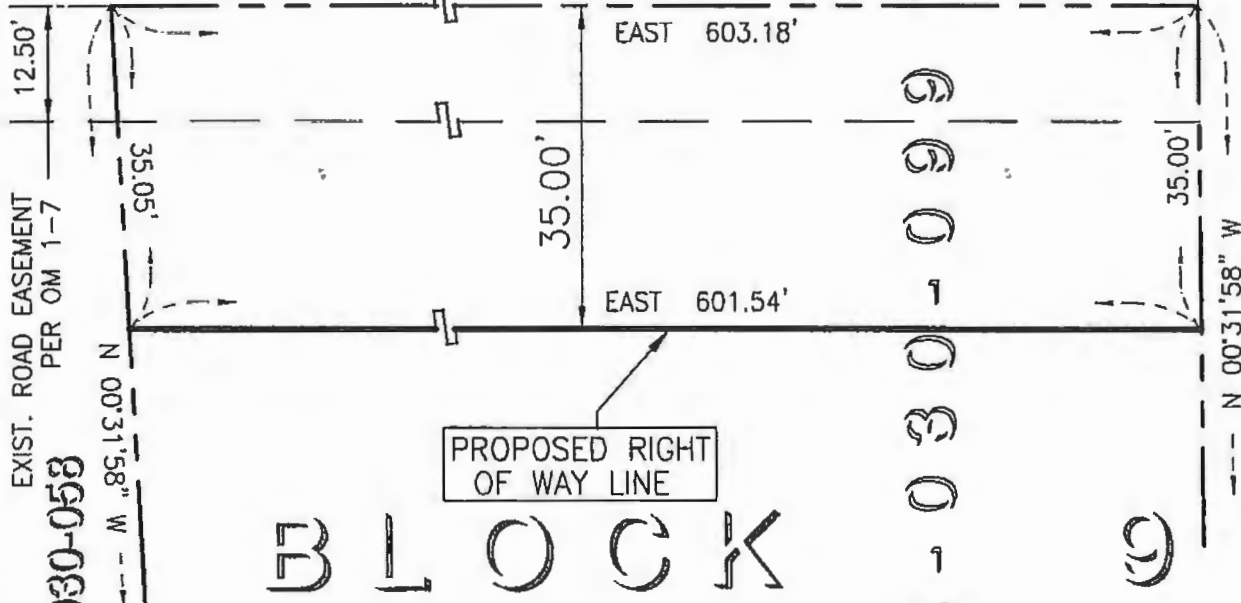
BLK 8

NORTH LINE OF BLOCK 9
OF KLOKE TRACT (OM 1-7)

058-020-013

058-020-008

WEAKLEY RD.



SCARONI ROAD

B L O C K

EXIST. ROAD EASEMENT
PER OM 1-7

058-030-058

N 00°31'58" W

PROPOSED RIGHT
OF WAY LINE

058-030-030



VICTOR RODRIGUEZ-FERNANDEZ
LS 5335

DATE



J.N. 22-060

NOTE:

LLA DOC. #2019024236



**BENDER
ROSENTHAL
INCORPORATED**

August 25, 2022

Cushman & Wakefield
Attn: Matt Davis
12830 El Camino Real, Suite 100
San Diego, CA 92130

Re: City of Calexico – Weakley Street Improvement Project
Site Address: South of Weakley Street, west of Scaroni Avenue Calexico, CA 92231
Owner: Grace W. Lai
Assessor's Parcel No.: 058-030-099
Offer to Purchase (Government Code § 7267.2)

Dear Mr. Davis,

As you may be aware, the City of Calexico (City) is moving forward with the Weakley Street Improvement Project (Project). The Project will consist of the installation of conventional asphalt concrete leveling course, the installation of curb, gutter and sidewalk, traffic striping and traffic control for the street widening.

Your property, located at south of Weakley Street, west of Scaroni Avenue, Calexico, (APN: 058-030-099), may be affected by the Project. In accordance with Government Code section 7267.2, the City hereby makes an offer in the amount of **\$67,700** to acquire a roadway easement over 21,082± square feet your property in which 7,536± square feet are encumbered by a previously acquired roadway easement. This is the full amount determined by a qualified, independent appraiser to be the fair market value of the interests being acquired.

The enclosed Appraisal Summary Statement, which is incorporated herein by this reference, provides the basis for the amount established by the City as just compensation. As shown in the Appraisal Summary Statement, the appraisal report takes into consideration the highest and best use of the Larger Parcel, the location, zoning, the condition and size of any improvements on the Larger Parcel and the Subject Property Interests, the date of value, severance damages, and other factors that affect fair market value.

If you wish to obtain an independent appraisal of the Subject Property Interests, in accordance with California Code of Civil Procedure section 1263.025(a), the City hereby offers to reimburse you for the reasonable costs, not to exceed \$5,000.00 of such an independent appraisal. Any independent appraisal must be conducted by an appraiser licensed by the California Bureau of Real Estate Appraisers. Please notify Todd Comer within 30 days of the date of this offer letter if you wish to obtain an independent appraisal of the Subject Property Interests.

If for any reason you reject the City's offer, please be advised that this offer letter and enclosures are made under the provisions of California Evidence Code sections 1152 and 1154 and shall not



Grace W. Lai
August 25, 2022
Page 2

be admissible in any eminent domain proceeding, or any other action for any purpose prohibited under these sections.

If you have any questions regarding the Proposed Project, this offer, or the acquisition process, please feel free to contact Todd Comer at (909) 694-9990 or email t.comer@benderrosenthal.com.

Sincerely,

A handwritten signature in blue ink that reads "Todd Comer".

Todd Comer
Right of Way Agent

Enclosures: Appraisal Summary Statement
Acquisition Brochure

SUMMARY STATEMENT



Weakley Street Improvement Project

The Grace W. Lai Family Trust Property
South of Weakley Street, West of Scaroni Avenue
Calexico, California 92231
APN: 058-030-099

BRI 22-033

BRI **BENDER
ROSENTHAL
INCORPORATED**

2825 Watt Avenue, Suite 200 Sacramento, California 95821 | www.benderrosenthal.com | 916.978.4900

STATEMENT AND SUMMARY OF BASIS FOR APPRAISAL

The following is a summary of the amount established 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 Appraisal Practice (USPAP) of the Appraisal Foundation, Caltrans Appraisal Standards and Procedures as well as State and federal uniform acts (Federal URA).

BASIC PROPERTY DATA

Appraisal Assignment	To develop an opinion of the fair market value of the property rights to be acquired for the proposed project as of the date of value.
Property Location	South of Weakley Street, West of Scaroni Avenue Calexico, California 92231
PROPERTY DATA	
Legal Description	The property is located on the south side of Weakley Street, west of Highway 111 (Imperial Avenue) and Scaroni Avenue, in Calexico, CA.
Assessor's Parcel Numbers	058-030-099
	According to the preliminary title report provided by Chicago Title Company, dated April 11, 2022, the property was recently subject to a lot line adjustment, which re-parceled the property to the current APN. The lot line adjustment (recorded November 26, 2019 as Document no. 2019024236 of Official Records) also changed the original parcel size to the current 3.90± acres.
Owner of Record	The Grace W. Lai Family Trust
Large Parcel Area	3.90± acres

Site Description	3.90± acres of commercial land. The property is unimproved.
Zoning	CH – Commercial Highway
General Plan Designation	Commercial Highway
Special Planning Area	None.
Flood Information	The subject is located in the flood Zone X (unshaded), map 06025C2075C, dated 09/26/2008.
Seismic Information	Not located in a special seismic study area.
Toxic Hazards Information	We were not provided with a Phase I environment assessment for this appraisal. A search of the State Water Resources Control Board GeoTracker website resulted in no open sites of interest on the subject or in the areas immediately surrounding the subject. This appraisal therefore assumes that there is no toxic contamination on the subject property. Please refer to General Limiting Condition Number 16 regarding hazardous materials.
Property Rights Appraised	Fee Simple
Date of Inspection	May 16, 2022
Date of Value	May 16, 2022
Date of Report	August 2, 2022
Highest and Best Use, as if vacant	Hold for future commercial retail development, interim use as a service commercial
Highest and Best Use, of the remainder	Hold for future commercial retail development, interim use as a service commercial

PROPOSED ACQUISITION

The proposed acquisition is a fee acquisition for the purpose of widening and improving Weakley Street. The acquisition is located at the northern boundary of the property, along Weakley Street, and will be approximately 35' in width along the southern parcel line. The total fee acquisition size is proposed for approximately 21,082 square feet. However, a portion of the proposed acquisition area (7,536 square feet) is encumbered by a roadway easement that was previously granted. Due to the significantly limited rights remaining, the roadway easement is concluded to encumber 100% of the fee simple rights in that area, less \$1 for remaining reversionary rights. The acquisition size is described on the table below.

Item	Size
Larger Parcel (APNs 058-030-099)	
Unencumbered	3.73± Acres (162,348± square feet)
Encumbered by previous roadway easement	<u>0.17± Acres (7,536± square feet)</u>
Total	3.90± Acres (169,884± square feet)
Fee Acquisition	
Unencumbered	0.31± Acres (13,546± square feet)
Encumbered by previous roadway easement	<u>0.17± Acres (7,536± square feet)</u>
Total	0.48± Acres (21,082± square feet)
Remainder	3.42± Acres (148,802± square feet)

Source: Imperial County Assessor's Tax Maps, Plat and legal and information provided by client

STATUTORY BASIS OF VALUATION

The Market Value was prepared in accordance with the following California Code of Civil Procedures definition.

Code of Civil Procedures Section 1263.320 defines Fair Market Value as follows:

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

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

Code of Civil Procedures Section 1263.330 further states:

The fair market value of the property acquired shall not include any increase or decrease in the value of the property that is attributable to any of the following:

- 1) The project for which the property is taken;
- 2) The eminent domain proceeding in which the property is taken; and
- 3) Any preliminary actions of the plaintiff relating to the taking of the property.

VALUATION PROCESS SUPPORTING ESTIMATED COMPENSATION

This analysis identifies the similarities and differences between the subject property and comparable properties. The primary elements of comparison include property rights, financing terms, conditions of sale (motivation), market conditions (sale date), and physical characteristics (e.g. zoning, utilities, site improvements, location, access, etc.).

SALES COMPARISON APPROACH

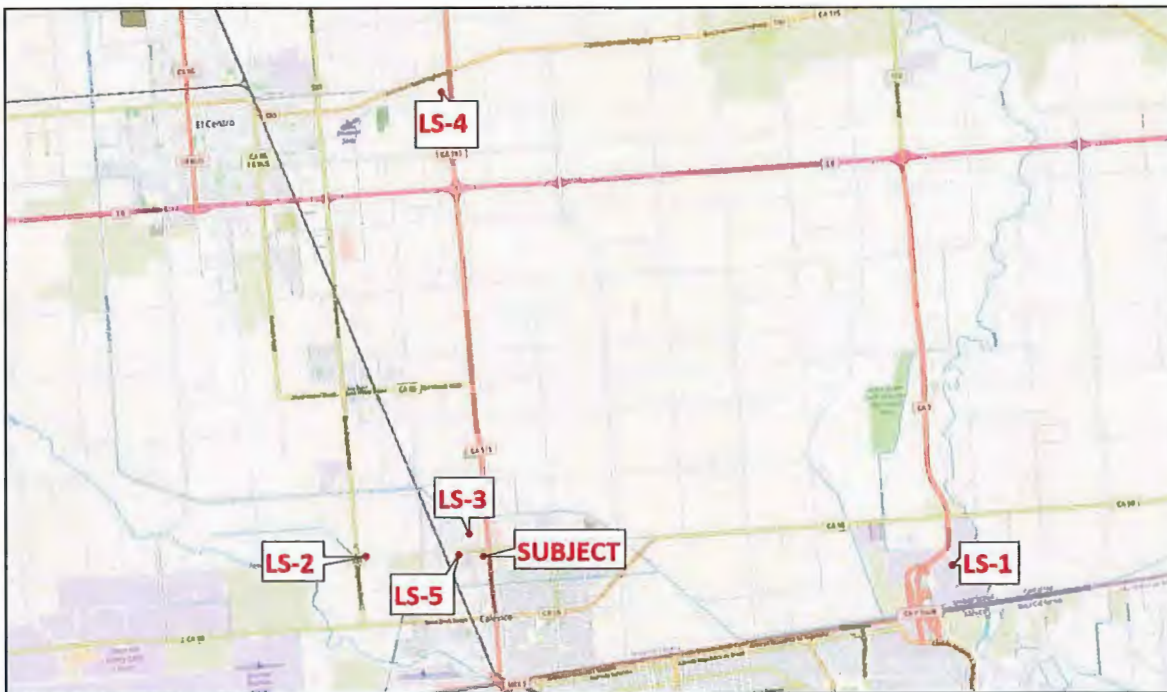
A value indication is derived by comparing similar properties that have sold recently in the market to the larger parcel and making qualitative comparisons to the larger parcel; then applying units of comparisons to indicate a value for the larger parcel. Sales, listings and current escrows of comparables were considered in this analysis. Primary reliance has been placed on closed sales transactions.

We focused our search for recent sales of similar commercial land sites in the area of the subject property. Due to the limited data available in the commercial market, the was expanded to both commercial and light industrial sales. Many surrounding properties are used for industrial purposes, despite the commercial zoning. Some of the uses allowed in the commercial zoning are also uses which would be permissible in an industrial zone. Additionally, the market for industrial product is slightly stronger than retail, with industrial sales comprising most of the sales activity in this area. As such, it is relevant to use industrial sales to support the fair market value of the subject property.

The comparable sales range in unit value from \$2.83 to \$7.26 per square foot, which is the accepted unit value for this type of property. The concluded market value for the subject property value is \$5.00 per square foot, supported by the table presented on the following page.

COMPARABLE LAND SALES SUMMARY TABLE AND MAP

Sale #	Location	Seller	Sale Date	Sale Price	Zoning	Size Acres	Price / SF
DC #	APN No. (s)	Buyer	Doc #			Size SF	
LS-1 6568	458 Rood Rd, Calexico, CA APNs: 059-383-001, 002, 003	Dollarmont Holdings, LLC. JEX Investments, LLC	3/9/2022 4933	\$1,300,000	GC	5.12± 223,027±	\$5.83
LS-2 6569	111 W Cole Road Calexico, CA APN: 059-342-033	Poiriez Properties, Inc Jose Leon	2/17/2022 3564	\$750,000	CH	2.37± 103,237±	\$7.26
LS-3 6567	301 Robinson Blvd Calexico, CA APN: 059-330-006	Irma T. Auyon Kiliwa Real Estate, LLC.	2/14/2022 3220	\$2,000,000	IND	7.21± 314,068±	\$6.37
LS-4 6563	1963 US Highway 111 El Centro, CA APN: 044-470-020	Celtic Bank Corporation Ares Transport Group	10/5/2021 25556	\$1,150,000	M-1-U (Industrial)	9.33± 406,415±	\$2.83
LS-5 6566	300 W Cole Blvd Calexico, CA APN: 058-020-015	HT Industries, LLC Wildwood River Properties, LLC	9/6/2019 16884	\$1,750,000	IR (Industrial- Rail Served)	10.00± 435,600±	\$4.02
SUBJECT	South of Weakley Street, West of Scaroni Avenue Calexico, CA APNs: 058-030-099	Appraisal	---	---	CH	3.90± 169,884±	---



LARGER PARCEL VALUE CONCLUSION

Unencumbered			
162,348± SF x \$5.00/SF	=	\$	811,740
Encumbered by Roadway Easement			
7,536± SF @ \$1 Reversionary Rights Remaining	=	\$	1
Total			811,741

VALUE OF THE PROPOSED ACQUISITION

The property being acquired is valued based on its contributory value as part of the larger parcel. As previously discussed, the City of Calexico is proposing to acquire 21,082± square feet in fee for a roadway. A portion of the acquisition is encumbered by a previously acquired roadway easement. The roadway easement was previously concluded to impact the fee simple rights by 100%, less \$1 for reversionary rights. The value of the proposed acquisition is presented next.

LAND

Value of the Proposed Acquisition			
Unencumbered			
13,546± SF x \$5.00/SF	=	\$	67,730
Encumbered by previous Roadway Easement			
7,536± SF @ \$1 Remaining Reversionary Rights	=	\$	1
Total		\$	67,731

SITE IMPROVEMENTS

There are no site improvements located on the subject.

TOTAL VALUE OF THE PROPOSED ACQUISITION

The total value of the proposed acquisition is presented below:

Value of the Proposed Acquisition			
Land	=	\$	67,731
Site Improvements	=	\$	0
Total		\$	67,731

VALUE OF THE REMAINDER 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. Deducting the part acquired (land) from the value of the larger parcel, land only, yields:

Land (\$811,741- \$67,731)	=	\$	744,010
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VALUE OF THE REMAINDER, AFTER ACQUISITION, BEFORE BENEFITS

Overall, the proposed acquisition does not negatively impact the utility, desirability, or marketability of the remainder. In the after condition the larger parcel will have the same highest and best use as in the before condition.

Value of the Remainder, After Acquisition, Before Benefits

$$148,802\pm \text{ SF} \times \$5.00/\text{SF} = \$ 744,010$$

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

Value of the Remainder as Part of the Larger Parcel		\$	744,010
Value of the Remainder, After Acquisition, Before Benefits	-	\$	744,010
Loss in Market Value		\$	0

VALUE OF THE REMAINDER, AFTER ACQUISITION, CONSIDERING BENEFITS

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 resulting from the construction in the manner proposed.

Value of the Remainder, After Acquisition, Considering Benefits

$$148,802\pm \text{ SF} \times \$5.00/\text{SF} = \$ 744,010$$

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 may benefit the general traveling public but provides no quantifiable benefits to the larger parcel in the after condition; no benefits inure to the remainder due to the expansion of the transfer station.

GAIN IN MARKET VALUE

Value of the Remainder, After Acquisition, Considering Benefits		\$	744,010
Less: Value of the Remainder, After Acquisition, Before Benefits	-	\$	744,010
Gain in Market Value		\$	0

OPINION OF THE FAIR MARKET VALUE

Fee Acquisition	\$	67,731
Net Severance Damages	\$	0
Total	\$	<u>67,731</u>
Rounded	\$	67,700



**BENDER
ROSENTHAL
INCORPORATED**

**ACQUIRING REAL PROPERTY
FOR:**



**CITY OF CALEXICO
PUBLIC WORKS
DEPARTMENT**

WEAKLEY STREET IMPROVEMENTS

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 counteroffers 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

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 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 and program or activity receiving Federal financial assistant.” (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

The City of Calexico is proposing to construct Weakley Street between Scaroni Road and West. Portico Blvd., which is currently an unpaved road, composed of dirt, gravel and grinding material to reduce PM- 10 emissions

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 are as follows:

City of Calexico
c/o Bender Rosenthal, Inc.
750 B Street, Suite 3130
San Diego, CA 92101
(619) 359-8389

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.