

RESOLUTION NO. 39-2018

**A RESOLUTION OF NECESSITY BY THE CITY COUNCIL OF THE CITY OF PACIFICA,
CALIFORNIA, AUTHORIZING THE ACQUISITION OF PROPERTY BY EMINENT DOMAIN
FOR THE 310-330 ESPLANADE INFRASTRUCTURE PRESERVATION PROJECT**

WHEREAS, the City of Pacifica (“City”) proposes to acquire approximately 74,670 square feet of property (the “Property”), commonly known as 310 and 320 Esplanade Avenue, Pacifica, CA 94044, and as more fully described and depicted in **Exhibits A and B** attached hereto and incorporated herein by this reference for the 310-330 Esplanade Infrastructure Preservation Project (“the Project”); and

WHEREAS, pursuant to section 1245.235 of the Code of Civil Procedure, the City scheduled a hearing for 7:00 p.m. on September 10, 2018 at City Council Chambers, 2212 Beach Blvd., Pacifica, CA 94044, and gave to each person whose property is to be acquired and whose name and address appeared on the last equalized county assessment roll, notice and a reasonable opportunity to appear at said hearing and be heard on the matters set forth herein; and

WHEREAS, said hearing has been held by the City and each affected property owner was afforded an opportunity to be heard on said matters.

NOW, THEREFORE BE IT RESOLVED, the City Council hereby finds, based upon the substantial evidence contained in the record, including the written and oral staff reports presented to the City Council with respect to the proposed acquisition of the Property for the Project, as well as all other written and oral testimony submitted at the September 10, 2018 hearing, as follows:

- A. That the interests to be acquired by the City consist of approximately 74,670 square feet of property (the “Property”) as more fully described and depicted in **Exhibits A and B** attached hereto and incorporated herein by this reference.
- B. That the public interest, convenience and necessity require the Project and all public uses and purposes appurtenant thereto. These public uses and purposes are further described in the City of Pacifica’s Staff Report, attached as **Exhibit C** and incorporated herein by this reference.
- C. That the Project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury.
- D. The Property is necessary for the Project and such taking is authorized by Section 19, of Article I of the California Constitution, Sections 37350.5 and 40401 *et seq.* and 40404 of the California Government Code, Sections 1230.010 *et seq.* of the California Code of Civil Procedure, and other applicable law.

- E. That all conditions and statutory requirements to exercise the power of eminent domain to acquire the Property described herein have been complied with by the City.
- F. That the offer required by section 7267.2 of the Government Code was made to the owner or owners of record.
- G. That the City of Pacifica has complied with Code of Civil Procedure section 1245.235 regarding the provision of necessary notice of the hearing on this Resolution.

BE IT FURTHER RESOLVED that, based upon the forgoing facts, findings and conclusions, the City Council hereby declares its intention to acquire the Property in accordance with all applicable laws of the State of California governing proceedings in eminent domain with actual acquisition and use of the Property conditioned on compliance with the California Environmental Quality Act.

BE IT FURTHER RESOLVED that the law firm of Burke, Williams & Sorensen, LLP, is authorized and directed to bring an action in the Superior Court of the State of California, County of San Mateo, against all owners and claimants of the Property described herein for the purpose of acquiring the Property for the public use of the Project and to do all things necessary to prosecute such an action to its final determination in accordance with applicable law. The authorized attorneys are instructed to make an application to the court for an order fixing the amount of security by way of money deposits as the court may direct and for an order permitting the City to take possession and use of the Property for the use and purposes herein described.

BE IT FURTHER RESOLVED that the City Manager is authorized to engage the services of any consultant deemed necessary to complete the acquisition of the Property and to sign and verify any and all complaints or other instruments necessary to maintain and complete an action in eminent domain.

BE IT FURTHER RESOLVED that this Resolution shall take effect immediately upon its adoption.

BE IT FURTHER RESOLVED that the City Clerk shall certify to the adoption of this Resolution.

List of Exhibits:

- A. Legal Description of the Property
- B. Legal Description of the Property
- C. Staff Report
- D. Notice

* * * * *

Passed and adopted at a regular meeting of the City Council of the City of Pacifica, California, held on the 10th day of September 2018.

AYES, Councilmembers: Keener, Vaterlaus, Digre, O'Neill, Martin

NOES, Councilmembers: None

ABSENT, Councilmembers: None


ABSTAIN, Councilmembers: None



John Keener, Mayor

ATTEST:

APPROVED AS TO FORM:



Sarah Coffey, City Clerk

For Michelle Marchetta-Kenyon, City Attorney

EXHIBIT A

EXHIBIT "A"

310 Esplanade Avenue

PARCEL ONE:

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

PARCEL TWO:

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

APN: 009-413-010

EXHIBIT B

EXHIBIT "B"

320 Esplanade Avenue

PARCEL ONE:

Lot 5 in Block 2, as shown on that certain map entitled "SURF SIDE MANOR NO. 1, PACIFICA, CALIFORNIA", filed in the office of the County Recorder of San Mateo County, State of California on April 28, 1961 in Book 54 of Maps at Page 40.

Excepting any portion of the land below the ordinary high water where it was located prior to any artificial or avulsive changes in the location of the shoreline.

PARCEL TWO:

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Said privileges are appurtenant to and for the benefit of Parcel 1 above and were created by that certain Deed recorded October 4, 1971 in Volume 6024 of Official Record at Page 185 (File No. 51402-AE), Records of San Mateo County, California.

APN: 009-413-020

EXHIBIT C



**CITY OF PACIFICA
COUNCIL AGENDA SUMMARY REPORT**

9/10/18

SUBJECT:

Consideration of Resolution No. _____, Adopting Resolution Of Necessity Authorizing The Acquisition Of 310 and 320 Esplanade (APNs 009-413-010 and 009-413-020) By Eminent Domain For The 310-330 Esplanade Infrastructure Preservation Project (the "Resolution").

RECOMMENDED ACTION:

Staff recommends the City Council open the hearing on the Resolution, take testimony, close the hearing, and adopt Resolution No. _____.

STAFF CONTACT:

Van Ocampo, Public Works Director (650) 738-3760
ocampov@ci.pacifica.ca.us

Ryan Marquez, Assistant Civil Engineer (650) 738-3760
marquezz@ci.pacifica.ca.us

BACKGROUND/DISCUSSION:

I. Summary

Coastal storms and bluff erosion threaten public infrastructure located in and around the section of Esplanade Avenue between Beaumont Avenue and Monterey Road, including the roadway and underground utilities.

The adoption of the "Resolution will allow the City to:

- (1) Initiate condemnation of 310 and 320 Esplanade Avenue, (collectively, the "Property") for the 310-330 Esplanade Infrastructure Preservation Project (the "Project");
- (2) Authorize commencement of litigation to acquire property by eminent domain with actual acquisition and use of the Property conditioned on compliance with the California Environmental Quality Act ("CEQA");
- (3) Consent to a consolidated coastal development permit application under Public Resources Code section 30601.3 which grants sole authority to the California Coastal Commission (the "Commission") to process and act upon a consolidated coastal development permit application for the Project; and
- (4) Deposit the probable amount of just compensation (\$76,500) with the State Treasurer and seek an order of possession of the Property.

The purpose of the Project is to design and, after the Commission completes CEQA review and approves the consolidated coastal development permit, build a shoreline protection device in order to protect Esplanade Avenue and public infrastructure.

If adopted, this Resolution will allow the City to initiate eminent domain proceedings so Staff and its engineering and geotechnical consultant, Cotton Shires & Associates (“CSA”), can finalize the design and secure funding for the Project and prepare/submit a consolidated coastal development permit application to the Commission. This Resolution will not influence or control the final design, which must be approved by the Commission in its sole authority.

Staff recommends that the City Council adopt the Resolution to allow the City to initiate eminent domain proceedings to acquire the Property with any use conditioned on CEQA compliance. A copy of the Resolution is attached hereto as **Attachment 1**.

II. Background

A. Bluff Conditions

Esplanade Avenue is located on top of a 70- to 90-foot high coastal bluff.

CSA has periodically monitored local bluff conditions since 1997. CSA compiled an extensive collection of earth material properties and research data regarding the bluff. It maintains a large photographic archive of local bluff conditions from 1997 to the present. CSA prepared formal assessments of bluff instability conditions in 2010, the summer of 2015, and in February 2016. CSA also completed observations of the bluff under the Property in July 2015, August 2016, and October 2016.

Based on its research and observations, CSA made the following findings:

- The bluff is composed of marine terrace deposits that are poorly to moderately cemented and highly susceptible to erosion from wave attack.
- Beginning in 2015, the bluff experienced extremely rapid eastward retreat as a result of wave-induced and seepage-induced landslides.
- On average, the bluff retreats at a rate of 2.5 feet per year. However, because bluff retreat is episodic, it is not unusual to lose 10 feet or more during a single severe storm season. For example, in February 2016, the bluff top retreated approximately 7 feet.
- The bluff is critically over-steepened and the bluff face displays large cavities and failures.
- If the toe is stabilized, the bluff will eventually recline to a 50 to 70 degree inclination over the next few years.
- Accelerated failure and retreat at the bluff top should be anticipated when the unprotected bluff toe is struck by high winter waves or when seasonal rainfall causes elevated moisture contents within the bluff.

CSA estimates that at the recent rate of retreat, if left unprotected, only 15 feet of the bluff top will remain after 4 years. If this occurs, Esplanade Avenue will likely be undermined and unstable and present a threat to public health and safety. In addition, underground utilities risk significant damage.

CSA’s assumed bluff retreats are based on recent static conditions. An earthquake or severe storm season(s) will likely accelerate the rate of retreat at the bluff top, and/or trigger a

catastrophic collapse of the bluff face.

B. Past Unsuccessful Efforts to Protect Against Bluff Erosion

The Property's current owners previously installed two ineffective shore protection devices, including:

(1) Rip Rap

In 2009, approximately 6,000 tons of rock rip rap were placed at the bluff toe. Most of the rip rap has since been washed away by wave erosion and less than 1,000 tons presently remain.

(2) Soil-Nail and Shotcrete Wall

In 2011, a soil-nail and shotcrete wall was constructed on the bluff face. The wall consisted of reinforced shotcrete secured with 30- to 50-foot long soil nails embedded in the bluff. Most of the wall has since fallen off of the bluff.

III. Proposed Project

A. Project Purpose

The purpose of the Project is to design and, after the Commission completes CEQA review and approves the consolidated coastal development permit, build a shoreline protection structure that will prevent further coastal erosion and damage to Esplanade Avenue and public infrastructure. We understand a seawall is preferred by the Commission from a coastal resources protection standpoint because it leaves a greater area of beach open for recreational use and may be designed to mimic the color and texture of native bluffs thus reducing visual impacts.

Staff and CSA will work with the Commission to ensure that the Project complies with its design criteria, including mitigating adverse impact on visual resources, public access, and shoreline supply as required by Public Resources Code section 30235.

B. Project Location

The shoreline protection device will be located at the base of the bluff at the Property.

Because the Project is located in both the Commission and the City's coastal development permit jurisdictions, Staff seeks authority to consent to a consolidated permit action under Public Resources Code section 30601.3. This section grants sole authority to the Commission to process and act upon a consolidated coastal development permit application.

IV. Discussion

The City is authorized to acquire the Property and to exercise the power of eminent domain for public use in accordance with Article 1, Section 19 of the Constitution of the State of California, Sections 37350.5, 40401, 40404 of the Government Code, Section 10102 of the Streets and Highway Code, and Sections 1240.140 and 1230.010 et seq. of the Code of Civil Procedure.

A hearing on a resolution of necessity must be held and the resolution approved by a two-thirds (2/3) vote of all the members of the City Council prior to the City moving forward with the eminent domain process. Since there are five City Council members, a two-thirds (2/3) vote requires four out of five members (4/5) to vote to adopt the Resolution. Adoption of the

Resolution authorizes the City to deposit the probable amount of just compensation with the State Treasurer, file a Complaint in Eminent Domain, and seek an order for prejudgment possession of the Property. The purpose of the hearing on the Resolution is to provide the property owners with an opportunity to address the City Council on this matter. However, the amount of compensation owed for the acquisitions will be decided by a court of law or through negotiations, and is not a proper matter to be discussed at the public hearing.

A. Findings for Adoption of Resolution of Necessity

State law requires that the City Council make certain findings with respect to the adoption of the Resolution. Below is a list of findings necessary for the adoption of the Resolution at the hearing of the City.

(1) The Public Interest and Necessity Require the Project

As discussed above, Esplanade Avenue and public infrastructure will likely be undermined and damaged by ongoing wave attack and erosion unless the shoreline is protected. Esplanade Avenue will become structurally unstable and present a threat to public health and safety. The underground utilities will also be damaged as a result.

(2) The Property Sought to be Acquired is Necessary for the Project

Acquisition of the Property is necessary because it is located where the shoreline protection structure needs to be installed to be effective. It cannot be installed without the Property interests sought to be acquired by eminent domain. After the shoreline protection structure is constructed (most likely a seawall), it is estimated that only 15 feet of level bluff top will remain west of the sidewalk.

(3) Greatest Public Good and Least Private Injury

As discussed below under Alternative Actions, Staff considered four alternatives to the proposed shoreline protection structure, none of which would be feasible or satisfactorily stabilize Esplanade Avenue and buried utilities. Moreover, the Property is currently undeveloped, so no residents or business will be displaced as a result of the acquisition of the Project. As such, the Project will achieve an important public good with very little private injury.

(4) Government Code Offer

On September 27, 2017, the City obtained a final appraisal of the Property, placing the value at \$76,500.

On October 5, 2017, the City extended a purchase offer in conformance with Government Code section 7267.2(a) to the Property owner of record. A copy of the Government Code Offer is attached hereto as **Attachment 2**. Subsequent negotiations did not result in an agreement as to the fair market value for the Property.

Accordingly, on August 20, 2018 the owner was provided with a Notice of Intention to Adopt a Resolution of Necessity to Acquire Property by Eminent Domain ("Notice") at its regular meeting of September 10, 2018. A copy of the Notice is attached hereto as **Attachment 3**.

B. CEQA Compliance

The City Council is not required to make any formal CEQA findings in connection with the Resolution as adoption of the Resolution is not approval of a project subject to CEQA and/or is

exempt from CEQA. Nonetheless, Staff provides this CEQA compliance discussion to inform the public and make clear that adoption of the Resolution will not result in any changes to the physical environment and that the Commission will ensure all potential impacts of the underlying Project are avoided or mitigated as part of its review and before approving the consolidated coastal development permit application for the Project. Both CEQA itself and case law permit a public agency to initiate land acquisition agreements and/or condemnation proceedings before CEQA compliance so long as the acquisition and/or future use of the site is conditioned on CEQA compliance. The Resolution complies with this authority for the following reasons:

- Adoption of the Resolution only starts the condemnation proceedings of 310 and 320 Esplanade Avenue and the actual acquisition and use of the Property will be expressly conditioned on CEQA compliance;
- Adoption of the Resolution does not influence or control the final design of the Project, which is subject to the Commission's approval authority pursuant to the consolidated coastal development permit application process under Public Resources Code section 30601.3;
- Adoption of the Resolution will not have a significant effect on the environment because the Project cannot proceed until the Commission has performed its environmental review of the consolidated coastal development permit application as a certified regulatory agency under CEQA, and issued a coastal development permit;
- The Resolution will not limit the Coastal Commission's consideration of shoreline protection structures or other feasible mitigation measures and/or alternatives; and
- It is premature at this stage of the design process to engage in environmental analysis because there is no meaningful information concerning project design for environmental assessment at this time.

V. Public Contact

The City Council agenda was posted as required by statute. Notice of the Resolution of Necessity hearing was sent to the record owners of the Property in accordance with Code of Civil Procedure section 1245.235. The notice of hearing was posted and mailed in accordance with the law.

ALTERNATIVE ACTION:

Staff has evaluated the following four alternative concept approaches:

(1) Grading of Bluff

If the faces of local bluffs were graded at 45 to 50 degree inclinations, then relatively stable slopes would be created under static conditions. However, given the highly erodible nature of the bluff materials, both the face and toe of the bluff would erode due to direct rainfall and wave run-up. Face and toe erosion would cause retreat of the bluff crest and undermine the street and utilities. Furthermore, a 45 degree slope would place the top of the graded slope within 0 to 10 feet laterally from the edge of the street.

This approach would reduce failure of blocks/slabs of bluff material onto the beach below but would not provide needed protection of Esplanade Avenue and utilities.

(2) Sand Replenishment

The potential for sand replenishment to build up to the beach and prevent continued wave erosion of the toe of bluff was explored. However, sand is rapidly removed from the beach under winter storm conditions and maintenance of an adequate beach to prevent wave run-up from reaching the toe of bluff under high tide and high swell conditions (combined with future sea level rise) is not deemed sustainable. Sand replenishment will also not provide similar lateral support to the bluff that would be provided from by a shoreline protection structure. Furthermore, sufficient understanding about the local sand transport direction and rates are not currently available to estimate the annual volume of sand required to protect the bluff. The probable long term economic commitment required to continuously (or seasonally) support sand replenishment does not appear feasible for the City.

(3) Rock Revetment

Local weakly cemented terrace deposits are underlain, at depth, by competent bedrock materials of the Franciscan Complex. However, previous borings advanced immediately north of the site did not encounter Franciscan bedrock to the maximum depth explored (40 feet). A rock revetment founded in the weak terrace materials would be much more susceptible to rip rap evacuation and erosional damage than one founded on competent bedrock. Rock revetments also require a relatively wide footprint and have been deemed to adversely impact beach width and recreational uses. Rock revetments are also considered to detract from the aesthetic qualities of the coastline and do not blend with natural land forms. We understand that installation of rock revetments are not favored by the Commission along the shoreline of the City.

(4) No Project

The no project alternative would allow continued unimpeded retreat of the coastal bluff towards Esplanade Avenue. The time frame for eventual undermining of Esplanade Avenue would be highly dependent on winter swells (duration, heights and direction) and rainfall intensities and amounts. We estimate that current critically over-steepened slopes will lay themselves back to more stable inclinations forming a top of bluff (approximately 70 feet in height) located 20 to 30 feet from the edge of roadway. This 20 to 30-foot "buffer" of ground left to the west of Esplanade Avenue would be vulnerable to loss from one significant storm season (up to 30 feet of bluff retreat was documented adjacent to 320 Esplanade Avenue from December 2009 to May 2010 by RJR Engineering Group).

At this point in time, a shoreline protection structure, like a seawall, could be constructed to mitigate the rapid retreat of the coastal bluff. If measures to protect the roadway were implemented several years in the future, then much higher retaining structures with greater overall coastal impacts would be required.

FISCAL IMPACT:

The amount to be deposited as probable compensation is \$76,500. The budget will come from excess ERAF funding.

The current estimate for the Project, outside of the acquisition costs, is \$5.2 million. The City has already received \$3 million in Hazard Mitigation Grant Program monies and had \$2 million excess ERAF money earmarked in early 2016 for this project. Additionally, staff will continue to pursue additional possible funding opportunities.

ORIGINATED BY:

Public Works

ATTACHMENT LIST:

Attachment No. 1 – Resolution No. _____.

Attachment No. 2 – Government Code Offer

Attachment No. 3 – Notice of Intention to Consider Adoption of Resolution of Necessity

ATTACHMENT 1

RESOLUTION NO. _____

A RESOLUTION OF NECESSITY BY THE CITY COUNCIL OF THE CITY OF PACIFICA, CALIFORNIA, AUTHORIZING THE ACQUISITION OF PROPERTY BY EMINENT DOMAIN FOR THE 310-330 ESPLANADE INFRASTRUCTURE PRESERVATION PROJECT

WHEREAS, the City of Pacifica (“City”) proposes to acquire approximately 74,670 square feet of property (the “Property”), commonly known as 310 and 320 Esplanade Avenue, Pacifica, CA 94044, and as more fully described and depicted in **Exhibits A and B** attached hereto and incorporated herein by this reference for the 310-330 Esplanade Infrastructure Preservation Project (“the Project”); and

WHEREAS, pursuant to section 1245.235 of the Code of Civil Procedure, the City scheduled a hearing for 7:00 p.m. on September 10, 2018 at City Council Chambers, 2212 Beach Blvd., Pacifica, CA 94044, and gave to each person whose property is to be acquired and whose name and address appeared on the last equalized county assessment roll, notice and a reasonable opportunity to appear at said hearing and be heard on the matters set forth herein; and

WHEREAS, said hearing has been held by the City and each affected property owner was afforded an opportunity to be heard on said matters.

NOW, THEREFORE BE IT RESOLVED, the City Council hereby finds, based upon the substantial evidence contained in the record, including the written and oral staff reports presented to the City Council with respect to the proposed acquisition of the Property for the Project, as well as all other written and oral testimony submitted at the September 10, 2018 hearing, as follows:

A. That the interests to be acquired by the City consist of approximately 74,670 square feet of property (the “Property”) as more fully described and depicted in **Exhibits A and B** attached hereto and incorporated herein by this reference.

B. That the public interest, convenience and necessity require the Project and all public uses and purposes appurtenant thereto. These public uses and purposes are further described in the City of Pacifica’s Staff Report, attached as **Exhibit C** and incorporated herein by this reference.

C. That the Project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury.

D. The Property is necessary for the Project and such taking is authorized by Section 19, of Article I of the California Constitution, Sections 37350.5 and 40401 *et seq.* and 40404 of the California Government Code, Sections 1230.010 *et. seq.* of the California Code of Civil Procedure, and other applicable law.

E. That all conditions and statutory requirements to exercise the power of eminent domain to acquire the Property described herein have been complied with by the City.

G. That the offer required by section 7267.2 of the Government Code was made to the owner or owners of record.

F. That the City of Pacifica has complied with Code of Civil Procedure section 1245.235 regarding the provision of necessary notice of the hearing on this Resolution.

BE IT FURTHER RESOLVED that, based upon the forgoing facts, findings and conclusions, the City Council hereby declares its intention to acquire the Property in accordance with all applicable laws of the State of California governing proceedings in eminent domain with actual acquisition and use of the Property conditioned on compliance with the California Environmental Quality Act.

BE IT FURTHER RESOLVED that the law firm of Burke, Williams & Sorensen, LLP, is authorized and directed to bring an action in the Superior Court of the State of California, County of San Mateo, against all owners and claimants of the Property described herein for the purpose of acquiring the Property for the public use of the Project and to do all things necessary to prosecute such an action to its final determination in accordance with applicable law. The authorized attorneys are instructed to make an application to the court for an order fixing the amount of security by way of money deposits as the court may direct and for an order permitting the City to take possession and use of the Property for the use and purposes herein described.

BE IT FURTHER RESOLVED that the City Manager is authorized to engage the services of any consultant deemed necessary to complete the acquisition of the Property and to sign and verify any and all complaints or other instruments necessary to maintain and complete an action in eminent domain.

BE IT FURTHER RESOLVED that this Resolution shall take effect immediately upon its adoption.

BE IT FURTHER RESOLVED that the City Clerk shall certify to the adoption of this Resolution.

List of Exhibits:

- A. Legal Description of the Property
- B. Legal Description of the Property
- C. Staff Report
- D. Notice

* * * * *

Passed and adopted at a regular meeting of the City Council of the City of Pacifica, California, held on the 10th day of September 2018.

AYES, Councilmembers:

NOES, Councilmembers:

ABSENT, Councilmembers:

ABSTAIN, Councilmembers:

John Keener, Mayor

ATTEST:

APPROVED AS TO FORM:

Sarah Coffey, City Clerk

Michelle Marchetta-Kenyon, City Attorney

ATTACHMENT 2

October 5, 2017

VIA CERTIFIED & U.S. MAIL RETURN RECEIPT REQUESTED

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

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

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

Dear Mr. and Mrs. Tong:

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

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

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

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

Millard W. Tong and Alicia W. Tong
October 5, 2017
Page 2

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

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

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

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

Sincerely,


Albert Tong

AT:AT

Attachments:

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

cc: Client

**EXHIBIT A
LEGAL DESCRIPTIONS AND PLAT MAP**

310 Esplanade Avenue

PARCEL 1:

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

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

320 Esplanade Avenue

PARCEL 1:

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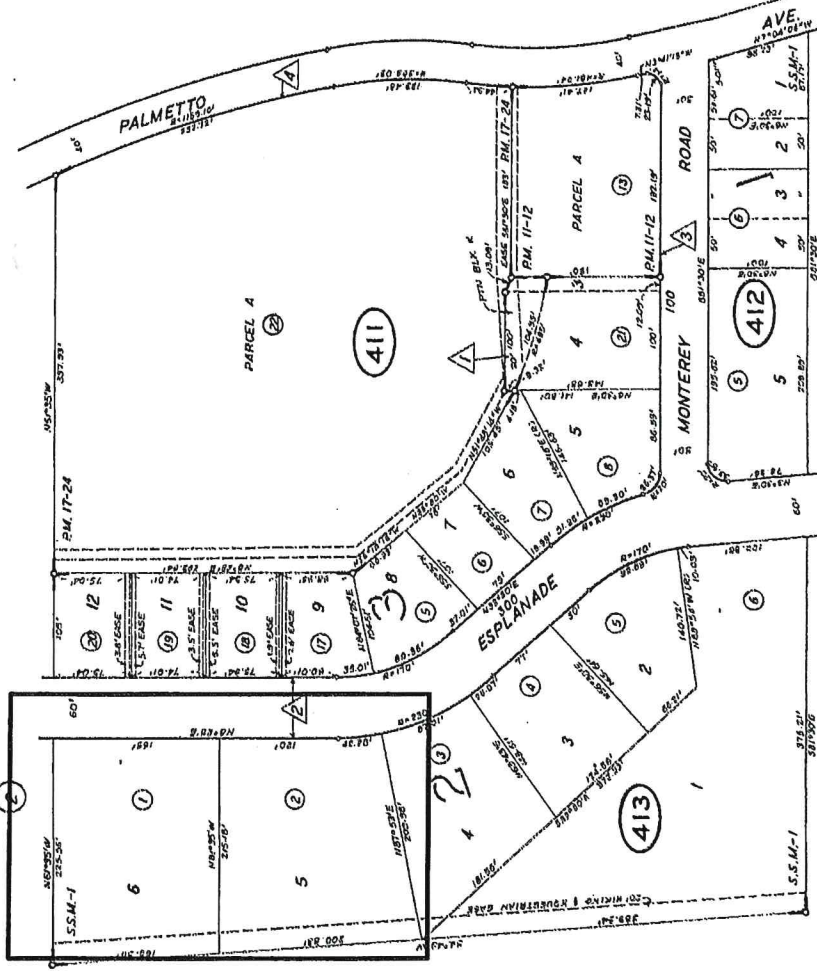
A.P. No.: 009-413-020

9-41

TAX CODE AREA



COAST HIGHWAY



NO. 11

PACIFIC MANOR

- △ EDGEMAR SUB. I RSM 5/28
- △ SURF-SIDE MANOR NO. 1 RSM 54/40
- △ PARCEL MAP VOL. 11/12
- △ PARCEL MAP VOL. 17/24

PACIFIC OCEAN

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

BASIC PROPERTY DATA

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

BASIS OF VALUATION

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

¹ Highest and Best Use Analysis

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

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

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

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

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

APPRAISAL SUMMARY

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

Value of the Remainder as part of the whole

² Improvements Pertaining to the Realty (if any)

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

Before the proposed acquisition: Not applicable

Value of the Remainder as a separate parcel after the proposed acquisition: Not applicable

E. Severance Damages³: \$ N/A

F. Cost to Cure Damages: \$ N/A

Total Damages: \$ 0
(Sum of items E & F)

Value of the Remainder as a separate parcel after the proposed acquisition (cured): \$ Not applicable

Benefits⁴: \$ N/A

JUST COMPENSATION FOR ACQUISITION: \$ 76,500

CONSTRUCTION CONTRACT WORK (No cost to owner)

None

³ Severance Damages (Applies to Proposed Partial Acquisitions)

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

⁴ Benefits (Applies to Proposed Partial Acquisitions)

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

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

Land Sales Summary

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

COMPARABLE SALES MAP

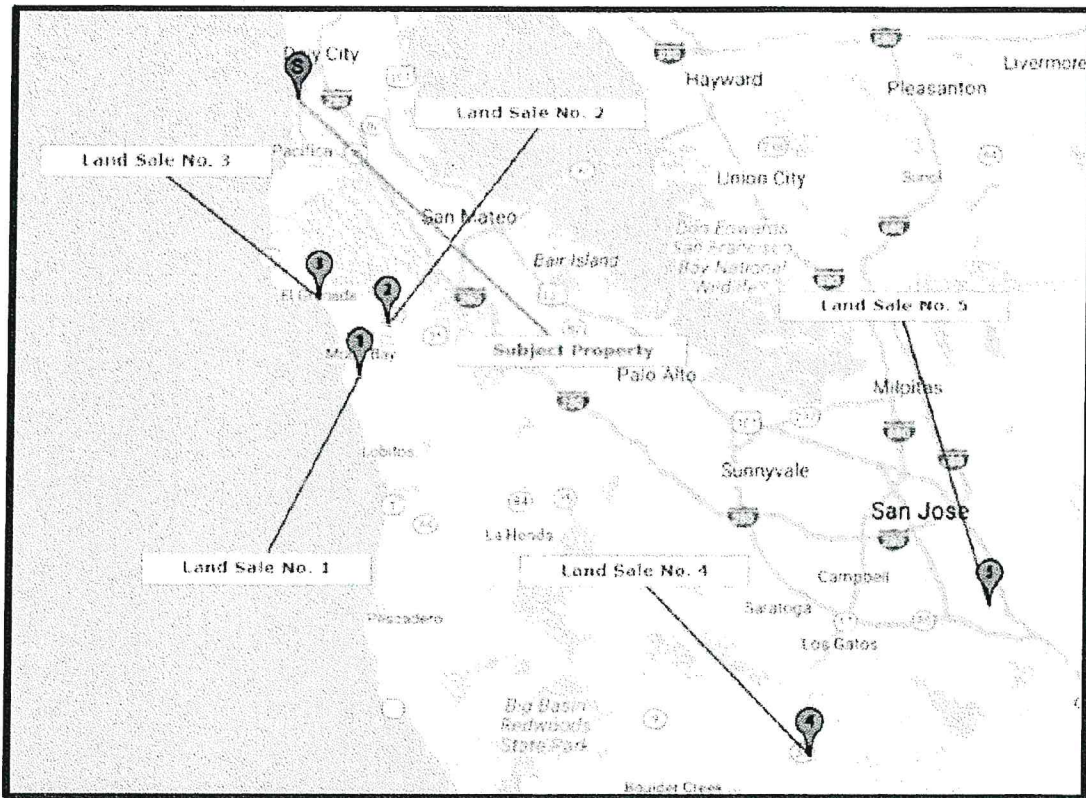


EXHIBIT C EMINENT DOMAIN INFORMATIONAL PAMPHLET

Introduction

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

Overview of The Eminent Domain Process

What is eminent domain?

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

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

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

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

Appraisal Process

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

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

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

Appraisal

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

What is fair market value?

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

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

Offer

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

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

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

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

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

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

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

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

Negotiations

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

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

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

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

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

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

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

Negotiated Acquisition

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

Resolution of Necessity

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

Notice of Hearing on Resolution of Necessity

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

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

That the public interest and necessity require the project;

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

That the subject property is necessary for the project; and

That either the offer required by Section 7267.2 of the Government Code has been made to the owner or owners of record, or the offer has not been made because the owner cannot be located with reasonable diligence.

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

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

Eminent Domain Proceeding

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

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

Orders for Prejudgment Possession and Deposit of Probable Compensation

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

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

Deposit of Probable Compensation

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

Objection to Motion for an Order for Possession

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

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

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

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

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

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

Withdrawal of Deposit of Probable Compensation

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

Exchange of Valuation Data

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

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

Trial

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

Vacating the Property

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

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

Relocation Assistance

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

Loss of Business Goodwill

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

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

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

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

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

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

ATTACHMENT 3



Scenic Pacifica
Incorporated Nov. 22, 1957

CITY OF PACIFICA

170 Santa Maria Avenue • Pacifica, California 94044-2506
www.cityofpacifica.org

MAYOR
John Keener

MAYOR PRO TEM
Sue Vaterlaus

COUNCIL
Sue Digre
Mike O'Neill
Deirdre Martin

Millard W. Tong & Alicia W. Tong, Trustees
1 Picardo Ranch Road
Pacifica, CA 94044

**NOTICE OF INTENTION
TO ADOPT A RESOLUTION OF NECESSITY
TO ACQUIRE PROPERTY BY EMINENT DOMAIN
CITY OF PACIFICA
310-330 ESPLANADE INFRASTRUCTURE PRESERVATION PROJECT**

Re: Notice of Hearing Regarding Adoption of a Resolution of Necessity to Acquire Property by Eminent Domain [California Code of Civil Procedure section 1245.235]

1. Notice of the Intent of the City of Pacifica to Adopt a Resolution of Necessity and Hearing. The City Council of the City of Pacifica intends to hold a hearing to consider whether a Resolution of Necessity should be adopted which, if adopted, will authorize the City of Pacifica ("City") to acquire the real property described herein by eminent domain for the 310-330 Esplanade Infrastructure Preservation Project ("Project").

Attached hereto as Exhibit "A" is a legal description and plat map depicting the property which is required for the Project. You are being sent this notice as your name appears on the last equalized San Mateo County assessment roll.

DATE OF HEARING: September 10, 2018
TIME OF HEARING: 7:00 p.m., or as soon thereafter as the matter may be heard.
PLACE OF HEARING: The regular meeting place of the City Council of the City of Pacifica, City Council Chambers, 2212 Beach Blvd., Pacifica, CA 94044

2. Notice of Your Right to Appear and Be Heard. You have a right to appear and be heard before the City Council at the above scheduled hearing on the following matters and issues, and to have the City Council give consideration to your testimony prior to deciding whether or not to adopt the proposed Resolution of Necessity:

- a. Whether the public interest and necessity require the Project;
- b. 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;
- c. Whether the property sought to be acquired by eminent domain is necessary for the Project; and
- d. Whether the offer required by Government Code section 7267.2 was made to the owner of record;

The statutes which authorize the City to acquire the property by eminent domain for the Project include, but are not limited to, Article 1, Section 19 of the Constitution of the State of California, Sections 37350.5, 40401, 40404 of the Government Code and Section 1230.010 et seq. of the Code of Civil Procedure.

3. Failure to File a Written Request to Be Heard within Fifteen (15) Days After the Notice Was Mailed Will Result in Waiver of the Right to Appear and Be Heard. If you desire to be heard, please be advised that you must file a written request with the City Clerk within fifteen (15) days after this notice was mailed. You must file your request to be heard at: City Clerk, City of Pacifica City Hall, 170 Santa Maria Avenue, Pacifica, California 94044. Should you elect to mail your request to the City Clerk, it must be actually received by the clerk for filing within fifteen (15) days after this notice was mailed. The date of mailing appears at the end of this notice.

California Code of Civil Procedure section 1245.235(b)(3) provides that "[f]ailure to file a written request to appear and be heard within 15 days after the notice was mailed will result in waiver of the right to appear and be heard" on the above matters and issues which are the subject of the hearing.

4. You Will Not Waive the Right to Claim Greater Compensation if You Do Not Appear at the Hearing. The amount of the compensation to be paid for the interest, if any, that you may have in the property related to the City's proposed property acquisition is not a matter or issue being heard by the City Council at this time. Your nonappearance at this noticed hearing will not prevent you from claiming greater compensation, as determined by a court of law in accordance with the laws of the State of California. This notice is not intended to foreclose future negotiations between you and the representatives of the City on the amount of compensation to be paid for your property.

However, if you elect not to appear and be heard, you will be foreclosed from raising in a court of law the issues which are the subject of this noticed hearing and which are concerned with the right to take the property by eminent domain.

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

proceedings in Superior Court. In that proceeding, the Court will determine the amount of compensation to which you are entitled.

CITY OF PACIFICA

By: *Sarah Coffey*
Sarah Coffey, City Clerk

Dated and mailed on: August 20, 2018

EXHIBIT "A"

LEGAL DESCRIPTIONS

310 Esplanade Avenue

PARCEL 1:

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

PARCEL 2:

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

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

320 Esplanade Avenue

PARCEL 1:

Lot 5 in Block 2, as shown on that certain map entitled "SURF SIDE MANOR NO. 1 PACIFICA, CALIFORNIA", filed in the office of the County Recorder of San Mateo County, State of California on April 28, 1961 in Book 54 of Maps at page 40.

Excepting any portion of the land below the ordinary high water mark where it was located prior to any artificial or avulsive changes in the location of the shoreline.

PARCEL 2:

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

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

EXHIBIT "A"
TAX/PLAT MAP

9-41



ASSISOR'S MAP COUNTY OF SAN MATEO, CALIF.

EXHIBIT D



Scenic Pacifica
Incorporated Nov. 22, 1957

CITY OF PACIFICA

170 Santa Maria Avenue • Pacifica, California 94044-2506
www.cityofpacifica.org

MAYOR
John Keener

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**NOTICE OF INTENTION
TO ADOPT A RESOLUTION OF NECESSITY
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TIME OF HEARING: 7:00 p.m., or as soon thereafter as the matter may be heard.
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- a. Whether the public interest and necessity require the Project;
- b. 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;
- c. Whether the property sought to be acquired by eminent domain is necessary for the Project; and
- d. Whether the offer required by Government Code section 7267.2 was made to the owner of record;

The statutes which authorize the City to acquire the property by eminent domain for the Project include, but are not limited to, Article 1, Section 19 of the Constitution of the State of California, Sections 37350.5, 40401, 40404 of the Government Code and Section 1230.010 et seq. of the Code of Civil Procedure.

3. Failure to File a Written Request to Be Heard within Fifteen (15) Days After the Notice Was Mailed Will Result in Waiver of the Right to Appear and Be Heard. If you desire to be heard, please be advised that you must file a written request with the City Clerk within fifteen (15) days after this notice was mailed. You must file your request to be heard at: City Clerk, City of Pacifica City Hall, 170 Santa Maria Avenue, Pacifica, California 94044. Should you elect to mail your request to the City Clerk, it must be actually received by the clerk for filing within fifteen (15) days after this notice was mailed. The date of mailing appears at the end of this notice.

California Code of Civil Procedure section 1245.235(b)(3) provides that "[f]ailure to file a written request to appear and be heard within 15 days after the notice was mailed will result in waiver of the right to appear and be heard" on the above matters and issues which are the subject of the hearing.

4. You Will Not Waive the Right to Claim Greater Compensation if You Do Not Appear at the Hearing. The amount of the compensation to be paid for the interest, if any, that you may have in the property related to the City's proposed property acquisition is not a matter or issue being heard by the City Council at this time. Your nonappearance at this noticed hearing will not prevent you from claiming greater compensation, as determined by a court of law in accordance with the laws of the State of California. This notice is not intended to foreclose future negotiations between you and the representatives of the City on the amount of compensation to be paid for your property.

However, if you elect not to appear and be heard, you will be foreclosed from raising in a court of law the issues which are the subject of this noticed hearing and which are concerned with the right to take the property by eminent domain.

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

proceedings in Superior Court. In that proceeding, the Court will determine the amount of compensation to which you are entitled.

CITY OF PACIFICA

By: *Sarah Coffey*
Sarah Coffey, City Clerk

Dated and mailed on: August 20, 2018

EXHIBIT "A"

LEGAL DESCRIPTIONS

310 Esplanade Avenue

PARCEL 1:

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

PARCEL 2:

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

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

320 Esplanade Avenue

PARCEL 1:

Lot 5 in Block 2, as shown on that certain map entitled "SURF SIDE MANOR NO. 1 PACIFICA, CALIFORNIA", filed in the office of the County Recorder of San Mateo County, State of California on April 28, 1961 in Book 54 of Maps at page 40.

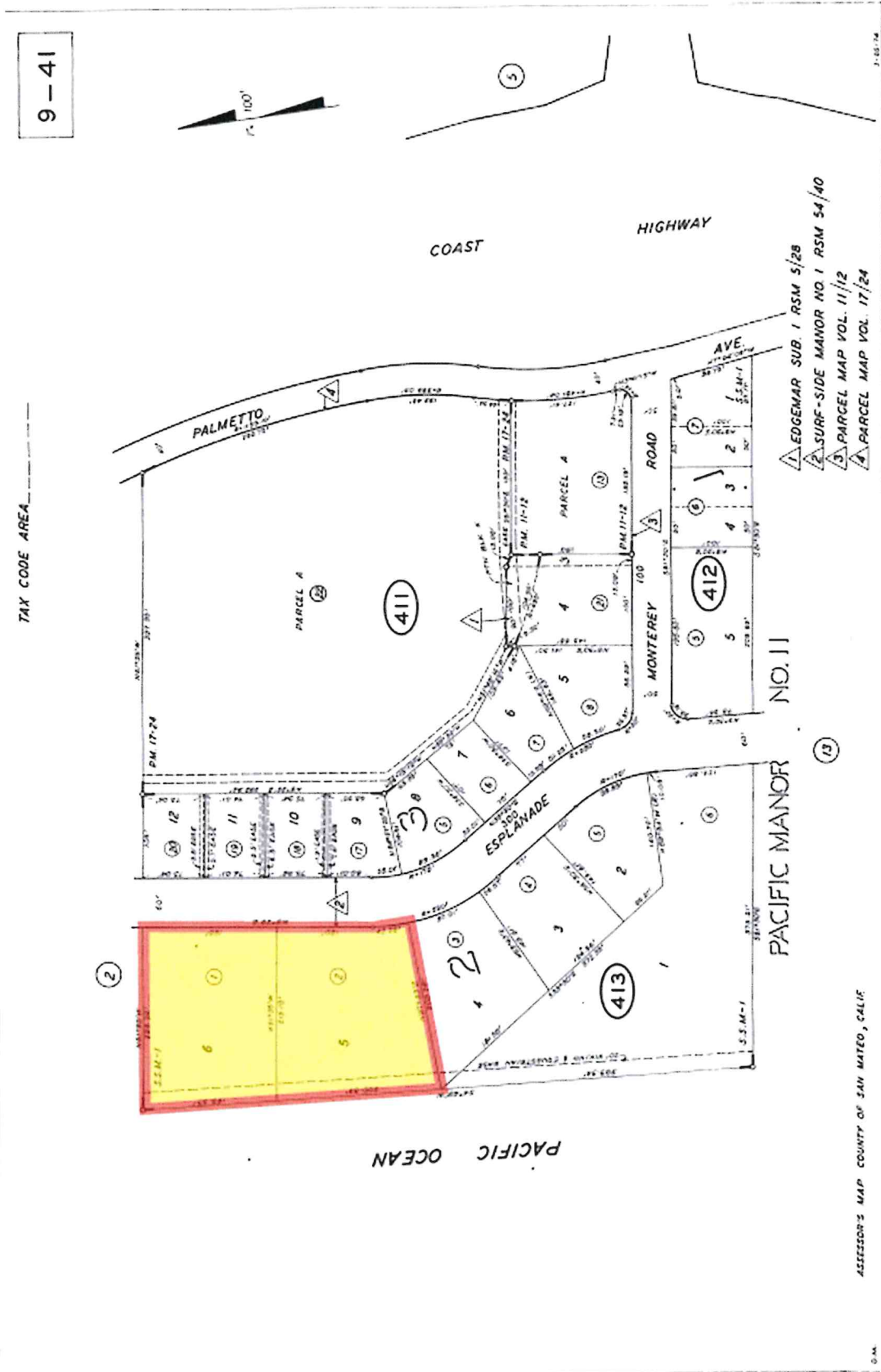
Excepting any portion of the land below the ordinary high water mark where it was located prior to any artificial or avulsive changes in the location of the shoreline.

PARCEL 2:

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

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

EXHIBIT "A"
TAX/PLAT MAP



9-41

TAX CODE AREA

ASSASSOR'S MAP COUNTY OF SAN MATEO, CALIF.