

RESOLUTION NO. 16-56

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LANCASTER, CALIFORNIA, AUTHORIZING AND DIRECTING THE CONDEMNATION OF CERTAIN REAL PROPERTY IN THE COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AND DECLARING THE PUBLIC NECESSITY THEREFOR

WHEREAS, the City of Lancaster (“City”), is a chartered municipal corporation organized and operating under its charter and the laws of the State of California; and

WHEREAS, the City is granted the power of eminent domain by Government Code Section 40404; and

WHEREAS, the City is authorized to exercise its power of eminent domain pursuant to the provisions of Section 1230.020, et seq. of the Code of Civil Procedure; and

WHEREAS, the City seeks to acquire by eminent domain a road easement interest in certain real property located at the northeast corner of 10th Street West and Columbia Way and further described in Exhibit “A” attached hereto (“Property”) for the construction, use, and maintenance of a bus stop turnout on 10th Street West (“Bus Stop Project”). The Bus Stop Project is part of the City’s overarching infrastructure project known as the “10th Street West Gap Closure” (“Transportation Project”); and

WHEREAS, the City duly provided the owner of record for the Property with a pre-condemnation offer to purchase the Property pursuant to Government Code Section 7267.2; and

WHEREAS, the City provided the owner of record for the Property with notice of the City’s intention to adopt a resolution of necessity to acquire the Property by eminent domain pursuant to Code of Civil Procedure Section 1245.235; and

WHEREAS, a hearing was held by the City on December 13, 2016 (“Hearing”), at which the matters set forth in Code of Civil Procedure section 1240.030 were discussed regarding the Bus Stop Project and the Property; and

WHEREAS, the City has provided all persons a reasonable opportunity to appear and be heard on those matters referred to in section 1240.030 of the Code of Civil Procedure regarding the Bus Stop Project and the Property; and

WHEREAS, at the Hearing, information on the Bus Stop Project and the matters set forth in this resolution were presented by City staff to the City Council of the City of Lancaster (“City Council”); and

WHEREAS, the City Council desires to make the required findings and determinations in connection with its proposed location of the Bus Stop Project on the Property.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LANCASTER, CALIFORNIA, DOES HEREBY RESOLVE, DECLARE, DETERMINE AND ORDER AS FOLLOWS:

Section 1. The public interest and necessity require the Bus Stop Project for City purposes, which purposes are public uses authorized by law and include, but are not limited to, the construction, use, and maintenance of a bus stop turnout on 10th Street West as part of the Transportation Project. The Transportation Project is required to provide capacity improvements on 10th St West from Avenue L to Avenue M. The capacity improvements will widen existing roadway to ROW extents and it will close any mixed flow lane gaps.

Section 2. The Bus Stop Project is planned and located in a manner most compatible with the greatest public good and the least private injury.

Section 3. The taking and acquiring by the City of a road easement interest in the Property is necessary for the Bus Stop Project. The Property is generally located at the Northeast corner of 10th Street West and Columbia Way, Lancaster, California and is further described in Exhibit "A" attached to this Resolution and hereby fully incorporated by this reference.

Section 4. Government Code Section 40404, among other provisions of the statutes of the State of California, permit and empower this acquisition of the road easement interest in the Property by the City through its exercise of the power of eminent domain for the stated public use.

Section 5. The City duly provided the owner of record for the Property with a pre-condemnation offer to purchase the Property pursuant to Government Code Section 7267.2.

Section 6. The City duly provided the owner of record for the Property with notice of the City's intention to adopt a resolution of necessity to acquire the Property by eminent domain pursuant to Code of Civil Procedure Section 1245.235.

Section 7. The City duly provided all persons a reasonable opportunity to appear and be heard on those matters referred to in section 1240.030 of the Code of Civil Procedure regarding the Bus Stop Project and the Property.

Section 8. To the extent that any portion of the Property is currently appropriated for a public use, the use for which the Property is sought to be taken is a more necessary public use and the City is empowered to take for a more necessary public use pursuant to Code of Civil Procedure section 1240.610.

Section 9. In accordance with the California Environmental Quality Act (Pub. Res. Code, § 21000 et seq.), the potential environmental impact of the proposed acquisition was evaluated in a Mitigated Negative Declaration adopted on A notice of determination was filed July 6, 2012, and posted on July 9, 2012, until August 7, 2012.

Section 10. The City Attorney of the City of Lancaster, the law firm Stradling Yocca Carlson & Rauth is authorized, empowered, and directed to prepare, commence, and prosecute an eminent domain action or actions in the Superior Court of the State of California in and for the County of Los Angeles in the name and on behalf of the City against all owners and persons and entities claiming or having interests in the Property for the purpose of performing and carrying out all proceedings and steps incident to the condemnation and the acquisition of the Property, including obtaining warrants for deposit of funds, orders for prejudgment possession, and other steps necessary to acquire an easement over the Property by and for the City.

PASSED, APPROVED and ADOPTED this 13th day of December, 2016, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

ATTEST:

APPROVED:

BRITT AVRIT, CMC
City Clerk
City of Lancaster

R. REX PARRIS
Mayor
City of Lancaster

STATE OF CALIFORNIA }
COUNTY OF LOS ANGELES }ss
CITY OF LANCASTER }

CERTIFICATION OF RESOLUTION
CITY COUNCIL

I, _____, _____ City of Lancaster, California, do hereby certify that this is a true and correct copy of the original Resolution No. 16-56, for which the original is on file in my office.

WITNESS MY HAND AND THE SEAL OF THE CITY OF LANCASTER, on this _____ day of _____, _____.

(seal)



R. Rex Parris Mayor
 Marvin E. Crist Vice Mayor
 Ken Mann Council Member
 Angela E. Underwood-Jacobs Council Member
 Raj Malhi Council Member
 Mark V. Bozigian City Manager

**NOTICE OF INTENT TO CONSIDER RESOLUTION OF NECESSITY TO ACQUIRE
 CERTAIN REAL PROPERTY BY EMINENT DOMAIN**

November 14, 2016

VIA REGULAR AND CERTIFIED MAIL

Southern California Edison Company Attn: Bryan Edmunds Land Services Agent Southern California Edison – Transmission and Distribution Land Management - Northern 10180 Telegraph Rd., Ventura, CA 93004 T 805.654.7252 Cell 805.767.4150 PAX 79252	Southern California Edison Company 42060 10 th Street West Lancaster, CA 93534
Southern California Edison Company c/o Cristina E. Limon, Agent for Service of Process 2244 Walnut Grove Avenue Rosemead, CA 91770	Southern California Edison Company P.O. Box 410 Long Beach, CA 90801

Re: Assessor's Parcel Nos.: 3128-011-802, 3128-011-803, 3128-011-805, and 3128-011-806 (Northeast corner of 10th Street West and Columbia Way, Lancaster, California)

Dear Southern California Edison Company:

As you are aware, the City of Lancaster ("City") seeks to acquire certain real property located at the Northeast corner of 10th Street West and Columbia Way, Lancaster, California and further described in **Exhibit "A"** attached hereto ("Property") for public purposes. The City proposes to acquire a road easement interest in the Property for a bus stop turnout on 10th Street West ("Project"). The City previously gave notice of offer to purchase property pursuant to Government Code Section 7267.2 ("Offer") by letter to you dated July 1, 2016. The Offer is attached hereto as **Exhibit "B."** The City did not receive a response from you as to the Offer.

California Code of Civil Procedure Section 1240.030 provides that the power of eminent domain may be exercised to acquire property for a proposed project only if the following conditions are established:

- a) The public interest and necessity require the project;
- b) The project is planned or located in the manner that would be most compatible with the greatest public good and the least private injury; and
- c) The property sought to be acquired is necessary for the project.

YOU ARE HEREBY NOTIFIED that it is the intent of the City, at a hearing to be held on **December 13, 2016 at 5:00p.m.** (or as soon thereafter as the matter may be heard) at the Council Chambers of the City of Lancaster located at **44933 Fern Avenue, Lancaster, CA 93534** to consider the adoption of a Resolution of Necessity to determine if the above listed conditions are met concerning the Project, and to vote on a Resolution of Necessity to acquire the Property by eminent domain. The Resolution will authorize the City to acquire the real property, any improvements pertaining to the realty, leasehold interests, and all interests therein, for public purposes by the exercise of the power of eminent domain.

If you wish to appear and be heard at this hearing regarding the taking of the Property and the matters in Code of Civil Procedure Section 1240.030 listed above, you must file a written request to appear and be heard with the City Clerk of the City of Lancaster **within 15 days of the date of this notice**. Failure to file a timely request to appear and be heard may result in waiver of the right to appear and be heard. The City Clerk is located at 44933 Fern Avenue, Lancaster, California 93534 and any request to appear should be addressed as follows:

Britt Avrit, City Clerk
City of Lancaster
44933 Fern Avenue,
Lancaster, CA 93534

Regular business hours are Monday through Thursday, 8:00 a.m. to 6:00 p.m. and 8:00 a.m. to 5:00 p.m. on Fridays. For further information, please contact John Felkins at (661) 723-6130.

Sincerely,



John Felkins

cc: Allison E. Burns, City Attorney

EXHIBIT A

EXHIBIT "A"

LEGAL DESCRIPTION

A PORTION OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 34, TOWNSHIP 7 NORTH, RANGE 12 WEST, SAN BERNARDINO MERIDIAN, IN THE CITY OF LANCASTER, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, ACCORDING TO THE OFFICIAL PLAT OF SAID LAND, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID SECTION 34, ALSO THE INTERSECTION OF CENTERLINES OF 10TH STREET WEST AND AVENUE M, THENCE NORTH 00° 11'56" WEST ALONG THE WESTERLY LINE OF SECTION 34 AND THE CENTERLINE OF 10TH STREET WEST, A DISTANCE OF 125.84 FEET; THENCE LEAVING SAID SECTION LINE AND CENTERLINE, NORTH 89 48'04" EAST, 50.00 FEET, TO THE EASTERLY RIGHT OF WAY LINE OF 10TH STREET WEST BEING A LINE 50 FEET EAST AND PARALLEL WITH SAID CENTERLINE AND THE TRUE POINT OF BEGINNING; SAID POINT ALSO BEING THE BEGINNING OF A CURVE CONCAVE SOUTHEASTERLY HAVING A RADIUS OF 42.00 FEET AND BEING TANGENT TO SAID RIGHT OF WAY LINE; THENCE NORTHEASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 25° 50'33" AN ARC DISTANCE OF 18.94 FEET TO THE BEGINNING OF A REVERSE CURVE, CONCAVE NORTHWESTERLY AND HAVING A RADIUS OF 58.00 FEET; THENCE NORHTEASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 25° 50'33" AN ARC DISTANCE OF 26.16 FEET TO A LINE BEING 60.00 FEET EAST AND PARALLEL WITH SAID CENTERLINE; THENCE ALONG LAST SAID PARALLEL LINE NORTH 00° 11'56" WEST 50.00 FEET TO A CURVE , CONCAVE SOUTHWESTERLY AND HAVING A RADIUS OF 58.00 FEET; THENCE NORTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 25° 50'30" AN ARC DISTANCE OF 26.16 FEET TO THE BEGINNING OF A REVERSE CURVE CONCAVE NORTHEASTERLY AND HAVING A RADIUS OF 42.00 FEET; THENCE NORTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 25° 50'30" AN ARC DISTANCE OF 18.94 FEET TO SAID EXISTING RIGHT OF WAY LINE; THENCE SOUTH 00° 11'56" EAST 137.18 FEET ALONG SAID RIGHT OF WAY LINE TO THE TRUE POINT OF BEGINNING.

CONTAINING 960.1 SQ FT MORE OR LESS TOTAL

(W 250' OF THE S 250' OF THE SW ¼ OF THE SW ¼ OF THE SW ¼ OF SEC 34; 955.7 SQ FT MORE OR LESS)

(THE SW ¼ OF THE SW ¼ OF THE SW ¼ OF SEC 34 EXCEPT W 250' OF THE S 250'; 4.4 SQ FT MORE OR LESS)

TO BE KNOWN AS 10th STREET WEST

SEE EXHIBIT "B" IS ATTACHED HEREON TO AND BY THE REFERENCE MADE A PART HEREON

Monte L. Bowers
MONTE L. BOWERS, RCE 26493

DATE 1-28-16


	CITY OF LANCASTER	
	10TH STREET WEST GAP CLOSURE	
	10 TH STREET WEST ROAD EASEMENT PWCP 13-2006	
	ASSESSOR'S PARCEL NO. 3128-011-805 & 806	SHEET No. 2 OF 3

EXHIBIT B



R. Rex Parris Mayor
 Marvin E. Crist Vice Mayor
 Ken Mann Council Member
 Angela E. Underwood-Jacobs Council Member
 Raj Malhi Council Member
 Mark V. Bozgian City Manager

July 1, 2016

VIA REGULAR AND CERTIFIED MAIL

Southern California Edison Company 2425 S. Blackstone St Tulare CA 93274 Phone: (559) 685-3210 Attn: Cindy Caleramo, Senior Right of Way Agent	Southern California Edison Company P.O. Box 410 Long Beach, CA 90801
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Re: NOTICE OF OFFER TO PURCHASE PROPERTY (Government Code § 7267.2)
 Assessor's Parcel Nos.: 3128-011-802, 3128-011-803, 3128-011-805, and 3128-011-806 (Northeast corner of 10th Street West and Columbia Way, Lancaster, California)

Dear Southern California Edison Company:

The City of Lancaster ("City") wishes to advise you of its decision to undertake the acquisition of certain real property located at the Northeast corner of 10th Street West and Columbia Way, Lancaster, California and further described in Exhibit "A" attached hereto ("Property") for public purposes. The City proposes to acquire a road easement interest in the Property for a bus stop turnout on 10th Street West ("Project").

To determine the fair market value of the Property, the City had the property appraised by a qualified and independent appraiser, who prepared a formal appraisal report in accordance with appraisal practices and standards recognized in the industry. The accompanying Written Statement and Summary of Just Compensation ("Appraisal Summary") has been derived from the formal appraisal, which includes supporting sales data and other documentation. The market value as expressed in the Appraisal Summary has also been derived from the formal appraisal. The appraiser retained by the City has given full and careful consideration to the highest and best use of your property and has considered all of the features of the property that might influence value on the marketplace. On this basis, the City offers the total amount of \$8,100 as the fair market value of the easement interest in the Property. This offer is the full amount that the City believes to be just compensation for the Property. It is not less than the approved appraisal of the fair market value of the Property.

Please be further advised of the following:

1. This offer is subject to and conditioned upon acceptable soils conditions and the absence from the Property of toxic or hazardous substances and any other kind of soil and water contamination, and to the grant of a right-of-entry for the purpose of conducting a soils, toxic and hazardous substances investigation of the Property at no expense to you. This offer is further subject to modification depending upon the results of any such investigation to the extent that the results of the investigation could have an impact on the value of the Property.
2. Pursuant to Code of Civil Procedure Section 1263.025, the City will pay the reasonable costs, not to exceed \$5,000, of an independent appraisal ordered by the owner of the Property,

WRITTEN STATEMENT AND SUMMARY OF JUST COMPENSATION

Owner (s):	Southern California Edison Company	Zoning:	Light Industrial
Location:	Northeast Corner of 10 th Street West and Columbia Way, Lancaster CA 93551	Highest and Best Use	As Improved
A.P. Nos.	3128-011-805, 802, 803, 806	Date of Valuation:	May 27, 2016
Land Area:	See Exhibit A	Project:	Bus Stop Turnout
Part Required:	See Exhibit A		

The Purpose of Acquisition: City of Lancaster intends to construct a bus stop turnout on 10th Street West ("Project"). The Project requires the acquisition of a road easement over a portion of approximately 960 square feet of the Property along the western lot line of the site as part of the 10th Street West Gap Closure. A legal description of the Property is attached hereto as **Exhibit "A"**. Maps showing the approximate location of the Property are attached hereto as **Exhibit "B"**.

Property Interest Appraised: Although the City only seeks an *easement* interest in the Property, the appraisal evaluated a fee simple interest in the Property. A list of principal transactions relied upon by the appraiser for the Sales Comparison Approach set forth below is attached hereto as **Exhibit "C"**. The improvements are considered to be real property and will become the property of the City upon payment by the City to the owner. All personal property, if any, may be retained by the person entitled thereto. The offer does not include any compensation for (i) loss of goodwill to any business conducted upon the Property or (ii) severance damages to the remainder of the larger parcel from which the Property is taken.

TOTAL OFFER OF JUST COMPENSATION FOR REAL PROPERTY \$8,100

Calculation Summary			
Item Valued	Calculation Method	Evaluation	Total
Land	Sales Comparison	\$3.25 psf x 960 sf	\$3,100
Improvements	Cost Summation	Large Tree (1) Small Shrub (1) Small Plants (33) Ground Cover (960 sf)	\$5,000
Total value of land and improvements acquired in fee simple:			\$8,100

The value of the property to be purchased is based upon a market value appraisal prepared in accordance with appraisal procedures. The value of the property:

1. Is the full amount believed by the City to be just compensation.
2. Is not less than the approved appraisal of the fair market value of the property.
3. Disregards any increase or decrease in the fair market value of the real property to be acquired prior to the date of valuation caused by the public purposes or improvements for which the property is acquired, other than that due to physical deterioration within reasonable control of the owner or occupant.
4. Does not reflect any consideration of or allowance for any relocation assistance, payments or other benefits the owner may be entitled to receive under California law.

EXHIBIT "A"

LEGAL DESCRIPTION

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Monte L. Bowers
MONTE L. BOWERS, RCE 26493

DATE 1-28-16


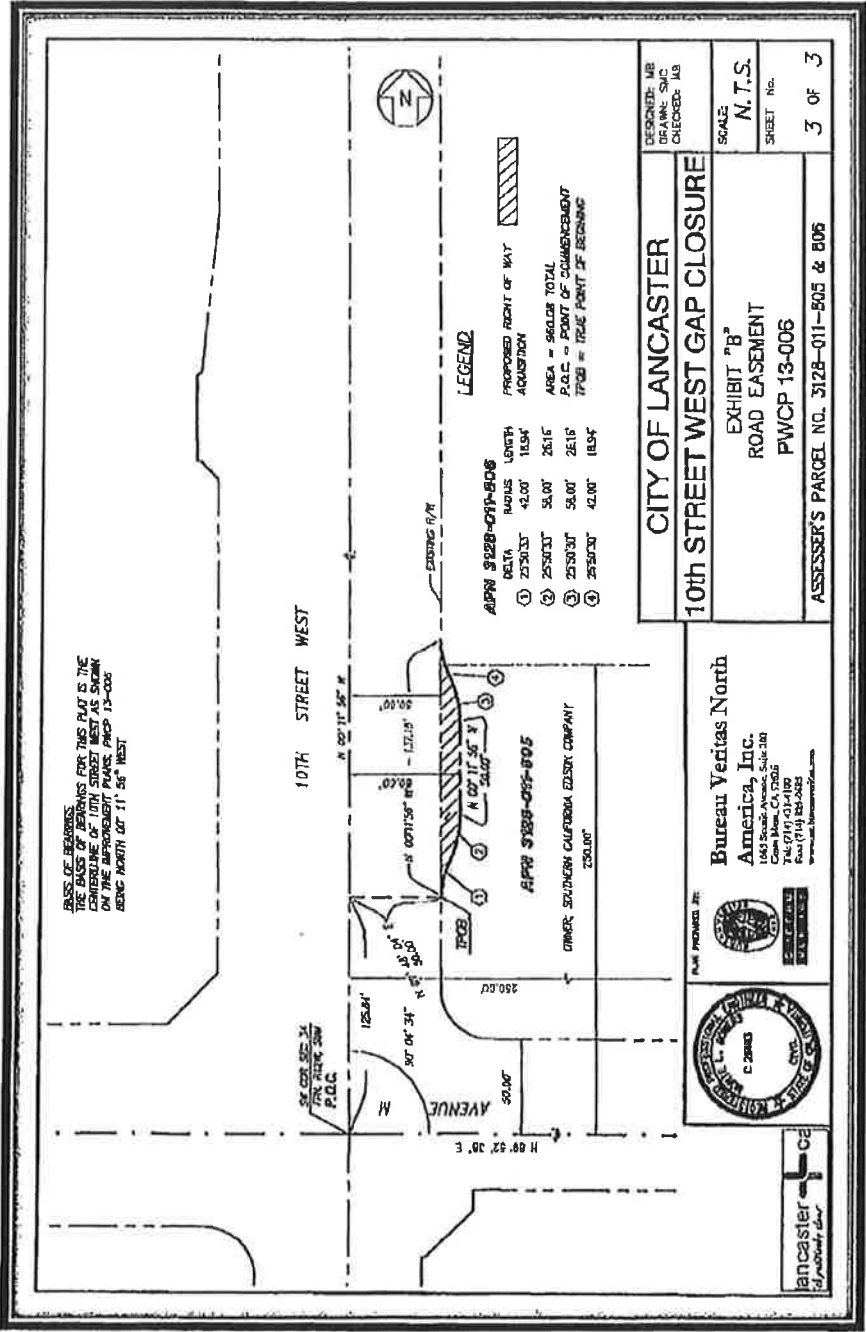
	CITY OF LANCASTER		
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	ASSESSOR'S PARCEL NO. 3128-011-805 & 806		SHEET No. 2 OF 3

EXHIBIT V- PART TAKEN MAP



PRINCIPAL TRANSACTIONS - EXHIBIT C

Sales Comparison

EMINENT DOMAIN – Information Pamphlet

I. Introduction

Eminent domain is the power of the government to purchase private property for a “public use” so long as the property owner is paid “just compensation.” Whenever possible, the City of Lancaster (the “City”) tries to avoid use of the eminent domain power, exercising it only when it is necessary for a public project. The decision to acquire private property for a public project is made by the 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.¹

- **What is a “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 that serve the public, such as universities, hospitals and public utilities.

- **What is “just compensation”?**

Just compensation is the **fair market value** of the property being acquired by the government. The state law definition of fair market value 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 purposes for which the property is reasonably adaptable and available.”

II. The Eminent Domain Process and the Property Owner’s Rights

The eminent domain process begins with a public use project. When selecting a project location, the goal is to render the greatest public good and the least private injury or inconvenience. If it is determined that all or a portion of your property may be necessary for a public use project, the City will begin the appraisal process to determine the property’s fair market value.

- **How is the fair market value of my property determined?**

The City will hire an independent, accredited appraiser familiar with local property values to appraise your property. The appraiser will invite you to accompany him or her during an inspection of your property. You may give the appraiser any information about improvements and any special features that you believe may affect

¹ *The information in this pamphlet is not, nor should it be construed as, legal advice. You should consult with qualified legal counsel regarding your specific situation rather than relying on this pamphlet as legal advice.*

- **Can I have my own appraisal done?**

Yes. You may decide to obtain your own appraisal of the property in negotiating the fair market value with the City. At the time of making its initial offer to you, the City must offer to reimburse you the reasonable costs, not to exceed \$5,000, of an independent appraisal of your property. To be eligible for reimbursement, the independent appraisal must be conducted by an appraiser licensed by the State Office of Real Estate Appraisers.

- **What advantages are there in selling my property to the City?**

A real estate transaction with the City is typically handled in the same way as the sale of private property. However, there may be a financial advantage to selling to the 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. The City will pay all these costs.
- Although the City cannot give you tax advice or direction, you might also be eligible for certain property and income tax advantages. You should check with the Internal Revenue Service (IRS) for details or consult your personal tax advisor.

- **If only a portion of my property is taken, will I be paid for the loss to my remaining property?**

In general, when only a part of your property is needed, every reasonable effort is made to ensure you do not suffer a financial loss to the "remainder" property. The City will pay you the fair market value of the property being taken as well as compensation for any loss in value to your remaining property that is not offset by the benefits conferred by the project. The compensation for the loss in value to your remaining property is often referred to as "severance damages."

- **Will I be compensated for loss of goodwill to my business?**

If you are the owner of a business that is conducted on the property being acquired, you may have a right to compensation for lost business goodwill if the loss is caused by the acquisition of the property. "Goodwill" consists of the benefits that accrue to a business as a result of its location, reputation for dependability, skill or quality, and any other circumstances resulting in probable retention of old or acquisition of new patronage.

- **What will happen to the loan on my property?**

Where the City is acquiring the entire property, generally the compensation payable to the owner is first used to satisfy outstanding loans or liens as in a typical real estate transaction. Where less than the entire property is being acquired, whether outstanding loans or liens are paid from the compensation will depend on the particular facts and circumstances.

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.

- **Can I oppose the motion for an order for possession?**

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

- **Can I withdraw the amount deposited with the State Treasurer before the eminent domain action is completed, even if I don't agree that the amount reflects the fair market value of my property?**

Yes. 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 fair market value during the eminent domain proceedings, but you may not contest the right of the 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 the City to increase the amount deposited with the State Treasurer if you believe the amount the City has deposited less than the "probable amount of compensation."

- **Can I contest the condemning City's acquisition of the property?**

Yes. Provided you have not withdrawn the amount deposited, you can challenge in court the City's right to acquire or condemn the property.

- **What happens in an eminent domain trial?**

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 the 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 the City's right to acquire the property, the eminent domain trial will also determine whether or not the 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.

- **Am I entitled to interest?**



R Rex Parris Mayor
 Marvin E Crist Vice Mayor
 Ken Mann Council Member
 Angela E Underwood-Jacobs Council Member
 Raj Malhi Council Member
 Mark V. Bozigian City Manager

July 1, 2016

VIA REGULAR AND CERTIFIED MAIL

Southern California Edison Company 2425 S. Blackstone St Tulare CA 93274 Phone: (559) 685-3210 Attn: Cindy Calemmo, Senior Right of Way Agent	Southern California Edison Company P.O. Box 410 Long Beach, CA 90801
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Please be further advised of the following:

1. This offer is subject to and conditioned upon acceptable soils conditions and the absence from the Property of toxic or hazardous substances and any other kind of soil and water contamination, and to the grant of a right-of-entry for the purpose of conducting a soils, toxic and hazardous substances investigation of the Property at no expense to you. This offer is further subject to modification depending upon the results of any such investigation to the extent that the results of the investigation could have an impact on the value of the Property.
2. Pursuant to Code of Civil Procedure Section 1263.025, the City will pay the reasonable costs, not to exceed \$5,000, of an independent appraisal ordered by the owner of the Property,



R Rex Parris Mayor
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 Ken Mann Council Member
 Angela E. Underwood-Jacobs Council Member
 Raj Malhi Council Member
 Mark V. Bozlgian City Manager

- which appraisal must be conducted by an appraiser licensed by the California Office of Real Estate Appraisers. Should you wish to retain such an appraiser, please contact John Felkins, Engineering Technician for the City, at (661) 723-6130 to discuss this matter further.
3. If the acquisition of any part of real property would leave you with an uneconomic remnant as defined in 25 California Code of Regulations section 6182(g), the City will offer to acquire the uneconomic remnant, if the owner so desires.
 4. The owner of a business conducted on a property to be acquired, or conducted on the remaining property which will be affected by the purchase of the required property, may be entitled to compensation for the loss of goodwill. Entitlement is contingent upon the property owner's ability to prove such loss in accordance with the provisions of Section 1263.510 and 1263.520 of the Code of Civil Procedure.
 5. If you ultimately elect to reject the City's offer for your property, you are entitled to have the amount of compensation determined by a court of law in accordance with the laws of the State of California.

The City is required to document presentation of this offer to you. In this regard, please sign below where indicated and return the enclosed copy of this letter indicating receipt of this offer letter and enclosed materials. **Please be assured that your signature below does NOT indicate acceptance of this offer to purchase. Please be advised that the completion of any property acquisition transaction is contingent upon the specific acceptance and approval of the City Council of the City of Lancaster.**

Should you choose to accept this offer, please contact John Felkins at (661) 723-6130. We will make every effort to cooperate with you in reaching a mutually satisfactory conclusion to these negotiations.

Sincerely,



Marissa Diaz, Capital Program Manager

Enclosures:
 Written Statement and Summary of Just Compensation
 Informational Pamphlet re Eminent Domain
 cc: Allison E. Burns, City Attorney

ACKNOWLEDGEMENT OF RECEIPT OF WRITTEN OFFER, WRITTEN STATEMENT AND SUMMARY OF JUST COMPENSATION, AND EMINENT DOMAIN INFORMATIONAL PAMPHLET

[Signature does not indicate acceptance of offer]

By: _____ Print Name: _____

Dated: _____

WRITTEN STATEMENT AND SUMMARY OF JUST COMPENSATION

Owner (s):	Southern California Edison Company	Zoning:	Light Industrial
Location:	Northeast Corner of 10 th Street West and Columbia Way, Lancaster CA 93551	Highest and Best Use	As Improved
A.P. Nos.	3128-011-805, 802, 803, 806	Date of Valuation:	May 27, 2016
Land Area:	See Exhibit A	Project:	Bus Stop Turnout
Part Required:	See Exhibit A		

The Purpose of Acquisition: City of Lancaster intends to construct a bus stop turnout on 10th Street West ("Project"). The Project requires the acquisition of a road easement over a portion of approximately 960 square feet of the Property along the western lot line of the site as part of the 10th Street West Gap Closure. A legal description of the Property is attached hereto as **Exhibit "A"**. Maps showing the approximate location of the Property are attached hereto as **Exhibit "B"**.

Property Interest Appraised: Although the City only seeks an *easement* interest in the Property, the appraisal evaluated a fee simple interest in the Property. A list of principal transactions relied upon by the appraiser for the Sales Comparison Approach set forth below is attached hereto as **Exhibit "C"**. The improvements are considered to be real property and will become the property of the City upon payment by the City to the owner. All personal property, if any, may be retained by the person entitled thereto. The offer does not include any compensation for (i) loss of goodwill to any business conducted upon the Property or (ii) severance damages to the remainder of the larger parcel from which the Property is taken.

TOTAL OFFER OF JUST COMPENSATION FOR REAL PROPERTY \$8,100

Calculation Summary			
Item Valued	Calculation Method	Evaluation	Total
Land	Sales Comparison	\$3.25 psf x 960 sf	\$3,100
Improvements	Cost Summation	Large Tree (1) Small Shrub (1) Small Plants (33) Ground Cover (960 sf)	\$5,000
Total value of land and improvements acquired in fee simple:			\$8,100

The value of the property to be purchased is based upon a market value appraisal prepared in accordance with appraisal procedures. The value of the property:

1. Is the full amount believed by the City to be just compensation.
2. Is not less than the approved appraisal of the fair market value of the property.
3. Disregards any increase or decrease in the fair market value of the real property to be acquired prior to the date of valuation caused by the public purposes or improvements for which the property is acquired, other than that due to physical deterioration within reasonable control of the owner or occupant.
4. Does not reflect any consideration of or allowance for any relocation assistance, payments or other benefits the owner may be entitled to receive under California law.

LEGAL DESCRIPTION – EXHIBIT A

EXHIBIT "A"

LEGAL DESCRIPTION

A PORTION OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 34, TOWNSHIP 7 NORTH, RANGE 12 WEST, SAN BERNARDINO MERIDIAN, IN THE CITY OF LANCASTER, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, ACCORDING TO THE OFFICIAL PLAT OF SAID LAND, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID SECTION 34, ALSO THE INTERSECTION OF CENTERLINES OF 10TH STREET WEST AND AVENUE M, THENCE NORTH 00° 11'56" WEST ALONG THE WESTERLY LINE OF SECTION 34 AND THE CENTERLINE OF 10TH STREET WEST, A DISTANCE OF 125.84 FEET; THENCE LEAVING SAID SECTION LINE AND CENTERLINE, NORTH 89 48'04" EAST, 50.00 FEET, TO THE EASTERLY RIGHT OF WAY LINE OF 10TH STREET WEST BEING A LINE 50 FEET EAST AND PARALLEL WITH SAID CENTERLINE AND THE **TRUE POINT OF BEGINNING**; SAID POINT ALSO BEING THE BEGINNING OF A CURVE CONCAVE SOUTHEASTERLY HAVING A RADIUS OF 42.00 FEET AND BEING TANGENT TO SAID RIGHT OF WAY LINE; THENCE NORTHEASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 25° 50'33" AN ARC DISTANCE OF 18.94 FEET TO THE BEGINNING OF A REVERSE CURVE, CONCAVE NORTHWESTERLY AND HAVING A RADIUS OF 58.00 FEET; THENCE NORHTEASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 25° 50'33" AN ARC DISTANCE OF 26.16 FEET TO A LINE BEING 60.00 FEET EAST AND PARALLEL WITH SAID CENTERLINE; THENCE ALONG LAST SAID PARALLEL LINE NORTH 00° 11'56" WEST 50.00 FEET TO A CURVE , CONCAVE SOUTHWESTERLY AND HAVING A RADIUS OF 58.00 FEET; THENCE NORTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 25° 50'30" AN ARC DISTANCE OF 26.16 FEET TO THE BEGINNING OF A REVERSE CURVE CONCAVE NORTHEASTERLY AND HAVING A RADIUS OF 42.00 FEET; THENCE NORTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 25° 50'30" AN ARC DISTANCE OF 18.94 FEET TO SAID EXISTING RIGHT OF WAY LINE; THENCE SOUTH 00° 11'56" EAST 137.18 FEET ALONG SAID RIGHT OF WAY LINE TO THE **TRUE POINT OF BEGINNING**.

CONTAINING 960.1 SQ FT MORE OR LESS TOTAL

(W 250' OF THE S 250' OF THE SW ¼ OF THE SW ¼ OF THE SW ¼ OF SEC 34; 955.7 SQ FT MORE OR LESS)


(THE SW ¼ OF THE SW ¼ OF THE SW ¼ OF SEC 34 EXCEPT W 250' OF THE S 250'; 4.4 SQ FT MORE OR LESS)

TO BE KNOWN AS 10th STREET WEST

SEE EXHIBIT "B" IS ATTACHED HEREON TO AND BY THE REFERENCE MADE A PART HEREON


MONTE L. BOWERS, RCE 26493

DATE 1-28-16

	CITY OF LANCASTER	
	10th STREET WEST GAP CLOSURE	
	10 TH STREET WEST ROAD EASEMENT PWCP 13-2006	
	ASSESSOR'S PARCEL NO. 3128-011-805 & 806	SHEET No. 2 OF 3

MAP OF THE PROPERTY – EXHIBIT B

EXHIBIT V- PART TAKEN MAP

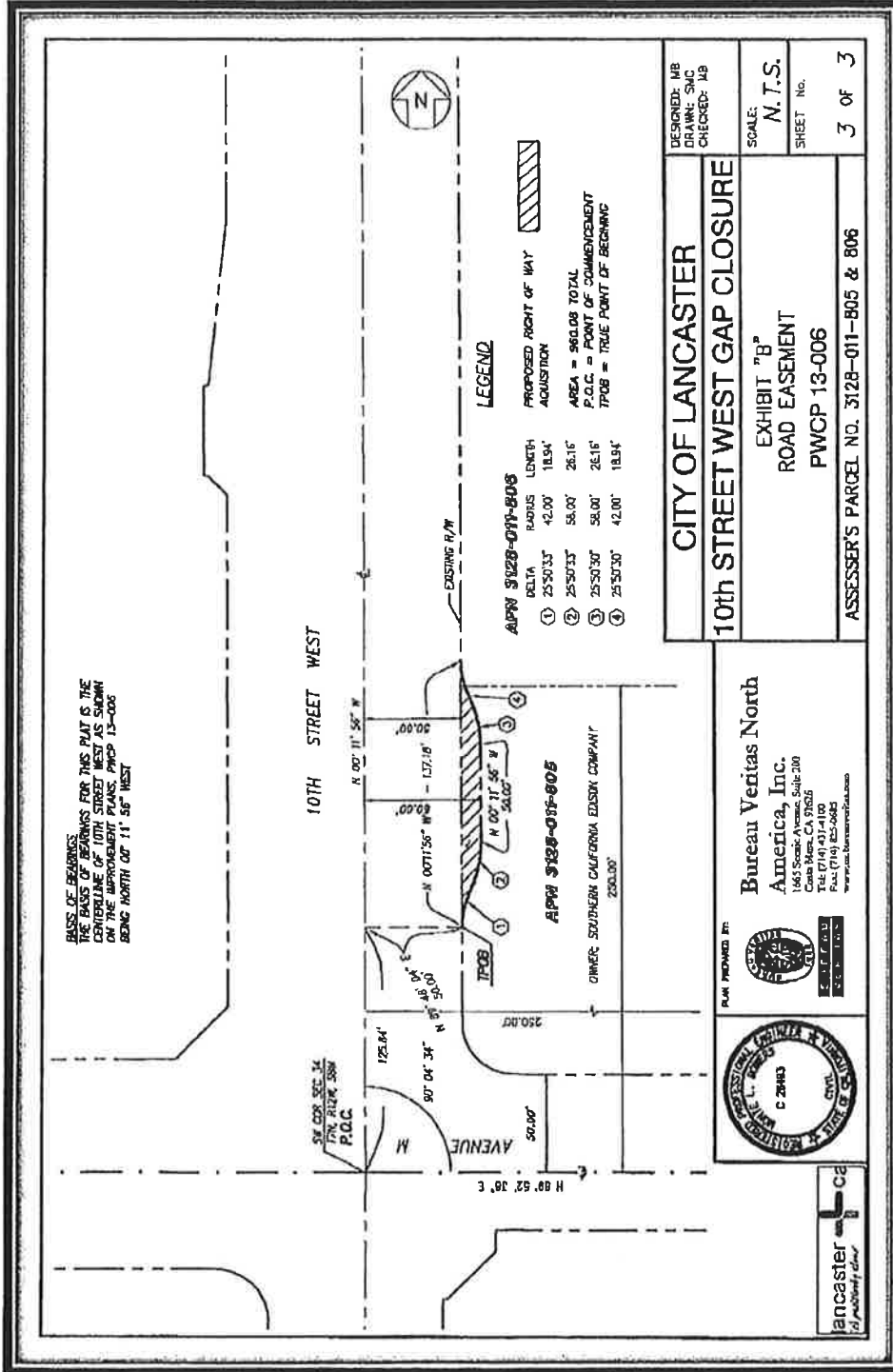
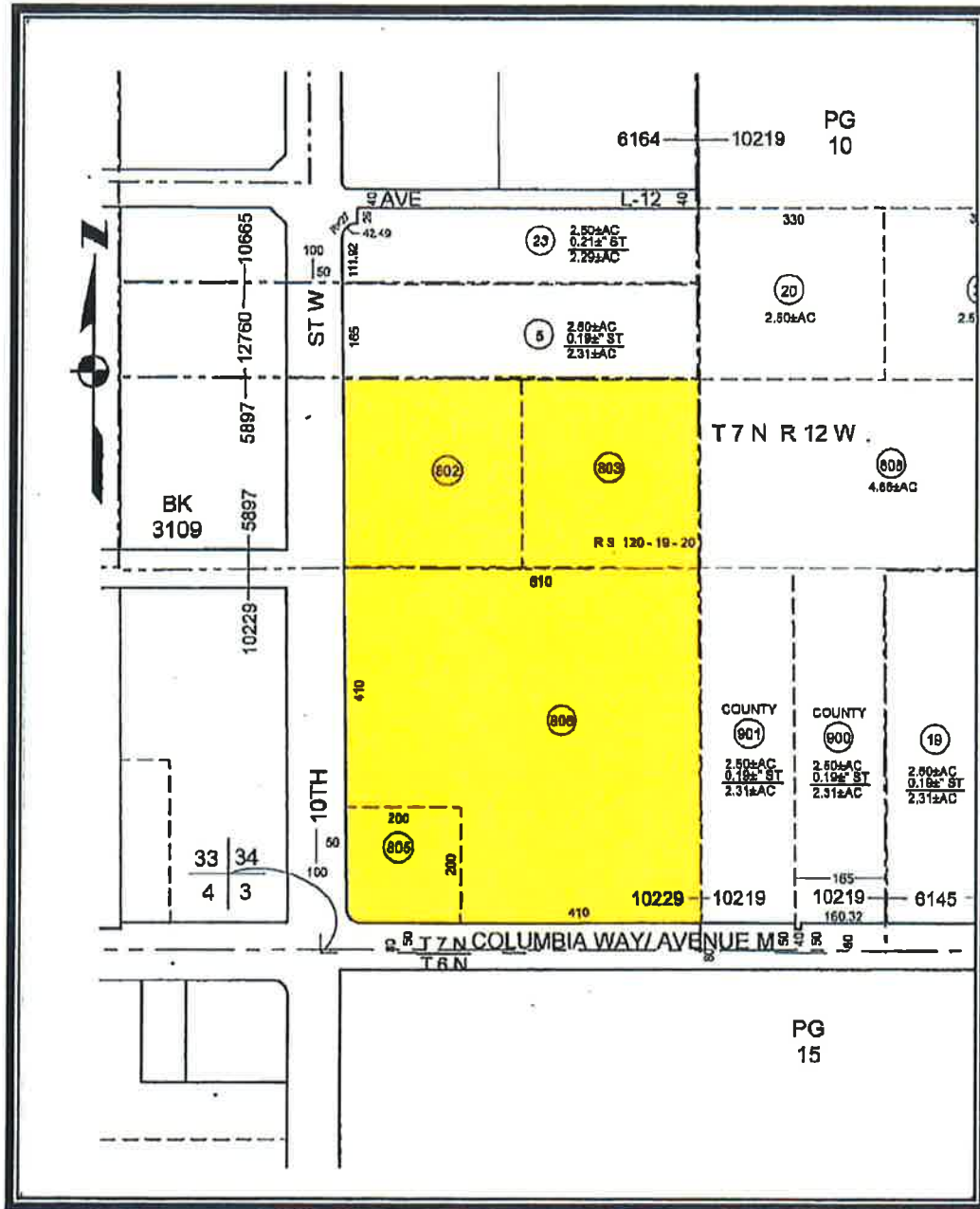


EXHIBIT III- PLOT PLAN



PRINCIPAL TRANSACTIONS – EXHIBIT C

Sales Comparison

TABLE I—LAND SALES
MARKET DATA SUMMARY
EFFECTIVELY VACANT INDUSTRIAL LAND SALES
LANCASTER

ITEM NO.	LOCATION / APN	SALE DATE	ZONE	SITE AREA (± SF/ACRES) ¹	PRICE			TIME ADJ. PER SF ²
					TOTAL	PER ACRE	PSF LAND	
1	NE of W Ave L-6 & 10th St. W Lancaster 3128-009-086, 054	Apr-14	LI	<u>486,618</u> 11.17	1,100,000	98,467	2.26	2.54
2	S side of Ave. K-6, 745± E of Ave. K-6 & Division St. Lancaster 3126-032-108, 109	Nov-15	SP80-02	<u>100,908</u> 2.32	\$227,500	\$98,207	\$2.25	2.32
3	SWC Ave. K-6 & GIngham Ave Lancaster 3126-032-085	Aug-15	SP80-02	<u>133,649</u> 3.07	\$450,000	\$146,668	\$3.37	3.52
4	SWC Ave. L-4 & 3rd St. 42555 3rd Street E Lancaster 3126-028-027	May-15	HI	<u>91,329</u> 2.10	\$160,000	\$76,313	\$1.75	1.86
5	300± ft. S of SEC Ave L4 & 4th St. E Lancaster 3126-020-026	Jun-15	HI	<u>47,084</u> 1.08	\$80,000	\$74,012	\$1.70	1.79
6	SWC Ave. L-8 & 5th St. E 42349 5th St. E Lancaster 3126-019-026	Oct-15	HI	<u>191,957</u> 4.41	\$600,000	\$136,155	\$3.13	3.24
Subject	NEC 10th St. W & Columbia Wy Lancaster 3128-011-805, 806	DOV	LI	<u>573,400</u> 13.16				

¹ Net of street dedications

² The sale items are time adjusted upward for market conditions by a factor of .5% per month from their respective dates of sale to the date of value of this report.

SOURCE: LEA ASSOCIATES, INC., SURVEY, MAY 2016

EMINENT DOMAIN – Information Pamphlet

I. Introduction

Eminent domain is the power of the government to purchase private property for a “public use” so long as the property owner is paid “just compensation.” Whenever possible, the City of Lancaster (the “City”) tries to avoid use of the eminent domain power, exercising it only when it is necessary for a public project. The decision to acquire private property for a public project is made by the 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.¹

- **What is a “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 that serve the public, such as universities, hospitals and public utilities.

- **What is “just compensation”?**

Just compensation is the **fair market value** of the property being acquired by the government. The state law definition of fair market value 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 purposes for which the property is reasonably adaptable and available.”

II. The Eminent Domain Process and the Property Owner’s Rights

The eminent domain process begins with a public use project. When selecting a project location, the goal is to render the greatest public good and the least private injury or inconvenience. If it is determined that all or a portion of your property may be necessary for a public use project, the City will begin the appraisal process to determine the property’s fair market value.

- **How is the fair market value of my property determined?**

The City will hire an independent, accredited appraiser familiar with local property values to appraise your property. The appraiser will invite you to accompany him or her during an inspection of your property. You may give the appraiser any information about improvements and any special features that you believe may affect

¹ *The information in this pamphlet is not, nor should it be construed as, legal advice. You should consult with qualified legal counsel regarding your specific situation rather than relying on this pamphlet as legal advice.*

the value of your property. It is in your best interest to provide the appraiser with all the useful information you can in order to ensure that nothing of value will be overlooked. If you are unable to meet with the appraiser, you may wish to have a person who is familiar with your property meet with the appraiser instead.

After the inspection, the appraiser will complete an appraisal that will include the appraiser's determination of your property's fair market value and the information upon which the fair market value is based. The appraiser will provide the City with the appraisal. The City will then make a written offer to purchase the property. The offer will also include a summary of the appraisal. The offer will be for no less than the amount of the appraisal.

• **What factors does the appraiser consider in determining fair market value?**

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 are:

- 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; and
- How much rental income the property produces, or could produce if put to its highest and best use.

• **Will I receive a copy of the appraisal?**

The City is required to provide you with its purchase offer, a summary of the appraiser's opinion, and the basis for the City's offer. Among other things, this summary must include:

- A general statement of the City'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.

However, the City is only required to show you a copy of the full appraisal if your property is an owner-occupied residential property with four or fewer residential units. Otherwise, the City may, but is not required, to disclose its full appraisal during negotiations (though different disclosure requirements apply during the litigation process if the issue of fair market value goes to court).

- **Can I have my own appraisal done?**

Yes. You may decide to obtain your own appraisal of the property in negotiating the fair market value with the City. At the time of making its initial offer to you, the City must offer to reimburse you the reasonable costs, not to exceed \$5,000, of an independent appraisal of your property. To be eligible for reimbursement, the independent appraisal must be conducted by an appraiser licensed by the State Office of Real Estate Appraisers.

- **What advantages are there in selling my property to the City?**

A real estate transaction with the City is typically handled in the same way as the sale of private property. However, there may be a financial advantage to selling to the 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. The City will pay all these costs.
- Although the City cannot give you tax advice or direction, you might also be eligible for certain property and income tax advantages. You should check with the Internal Revenue Service (IRS) for details or consult your personal tax advisor.

- **If only a portion of my property is taken, will I be paid for the loss to my remaining property?**

In general, when only a part of your property is needed, every reasonable effort is made to ensure you do not suffer a financial loss to the “remainder” property. The City will pay you the fair market value of the property being taken as well as compensation for any loss in value to your remaining property that is not offset by the benefits conferred by the project. The compensation for the loss in value to your remaining property is often referred to as “severance damages.”

- **Will I be compensated for loss of goodwill to my business?**

If you are the owner of a business that is conducted on the property being acquired, you may have a right to compensation for lost business goodwill if the loss is caused by the acquisition of the property. “Goodwill” consists of the benefits that accrue to a business as a result of its location, reputation for dependability, skill or quality, and any other circumstances resulting in probable retention of old or acquisition of new patronage.

- **What will happen to the loan on my property?**

Where the City is acquiring the entire property, generally the compensation payable to the owner is first used to satisfy outstanding loans or liens as in a typical real estate transaction. Where less than the entire property is being acquired, whether outstanding loans or liens are paid from the compensation will depend on the particular facts and circumstances.

- **Do I have to sell at the price offered?**

No. If you and the City are unable to reach an agreement on a mutually satisfactory price, you are not obligated to sign an offer to sell or enter into a purchase agreement.

- **If I agree to accept the City's offer, how soon will I be paid?**

If you reach a voluntary agreement to sell your property or an interest in the property to the City, payment will be made at a mutually acceptable time. Generally, this should be possible within 30 to 60 days after a purchase/sale contract is signed by all parties.

- **What happens if we are unable to reach an agreement on the property's fair market value?**

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

The first step is for the City staff to request authority from the City Council to file a condemnation action. The approval from the City Council is called a "Resolution of Necessity." In considering whether condemnation is necessary, the City Council 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 City Council when it considers whether to adopt the Resolution of Necessity. You may want to call an attorney or contact an attorney referral service right away. You or your representatives can raise any objections to the Resolution of Necessity and the condemnation either orally before the City Council or in writing to the City Council.

If the City Council adopts the Resolution of Necessity, the City can file a complaint in court to acquire title to the property upon payment of the property's fair market value. The 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.

- **Can the City acquire possession of my property before an agreement is reached as to the property's fair market value?**

In some cases, the City may decide it needs possession of the property before the property's fair market value is finally determined. In such a case, the 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. The City is required to deposit the amount the City believes is the "probable amount of compensation" with the State Treasurer and 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.

- **Can I oppose the motion for an order for possession?**

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

- **Can I withdraw the amount deposited with the State Treasurer before the eminent domain action is completed, even if I don't agree that the amount reflects the fair market value of my property?**

Yes. 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 fair market value during the eminent domain proceedings, but you may not contest the right of the 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 the City to increase the amount deposited with the State Treasurer if you believe the amount the City has deposited less than the "probable amount of compensation."

- **Can I contest the condemning City's acquisition of the property?**

Yes. Provided you have not withdrawn the amount deposited, you can challenge in court the City's right to acquire or condemn the property.

- **What happens in an eminent domain trial?**

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 the 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 the City's right to acquire the property, the eminent domain trial will also determine whether or not the 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.

- **Am I entitled to interest?**

Anyone receiving compensation in an eminent domain action is generally entitled to interest on that compensation from the date the condemning city 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.

- **Will the City pay my attorneys' fees and costs?**

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

- **Will I receive assistance with relocation?**

Any person, business, or farm operation displaced as a result of the property acquisition may be 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 and are not part of the eminent domain process.