

E-FILED
12/16/2024 3:42 PM
Superior Court of California
County of Fresno
By: A. Hoffman, Deputy

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8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **COUNTY OF FRESNO, CENTRAL DIVISION**

10
11 CITY OF FRESNO,
12 Plaintiff,
13 v.
14 ART A. TERZIAN, and DOES 1 through 100,
inclusive,
15 Defendants.

Case No. 24CECG02985
[Assessor Parcel Number 451-071-35]
**DECLARATION OF AUSTIN BAIN IN
SUPPORT OF MOTION FOR PRE-
JUDGMENT POSSESSION**
*(Filed concurrently with the Notice of Motion
and Motion, Memorandum of Points and
Authorities, Declaration of Michael R. Linden,
and Declaration of J. Richard Donahue)*
Date: March 25, 2025
Time: 3:30 p.m.
Dept.: 502
The Hon. Kristi Culver Kapetan

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21 I, Austin Bain, declare as follows:
22 1. I am employed by the City of Fresno (“City” or “Plaintiff”) in the Capital Projects
23 Department as an Licensed Professional Engineer in the Transportation Management Division. The
24 instant declaration is being submitted in support of Plaintiff’s Motion for Pre-Judgment Possession.
25 I have personal knowledge of the facts contained in this Declaration, except those stated on
26 information and belief, and would so testify.

27 ///
28 ///

1 2. The City plans to construct the Blackstone McKinley BNSF (Burlington Northern-
2 Santa Fe) Grade Separation Project (the “Project”), which will eliminate two existing at-grade
3 railroad crossings of the BNSF mainline tracks at North Blackstone Avenue and East McKinley
4 Avenue by separating train traffic from pedestrians, cyclists, and moving vehicle traffic to an
5 underpass below the BNSF mainline track.

6 3. The Blackstone Avenue and McKinley Avenue corridors serve as primary routes for
7 the community, the City’s Bus Rapid Transit System, emergency vehicles, and is also part of the
8 Blackstone Smart Mobility Plan providing Class IV protected bicycle facilities along Blackstone
9 Avenue through the Project area. The City Council has approved the Measure C Cooperative Project
10 Agreement for the Project and subsequent amendments (collectively the “Agreement”), which
11 currently provides approximately \$58,500,000 of Project funding. Project ID PW00937, Fund
12 22517, Org 189901, was established to disburse the necessary funds for the acquisition of the
13 Subject Property and to pay for litigation expenses, including staff time. There will be no General
14 Fund dollars required to construct the Project.

15 4. For the Project, it is necessary and desirable that Plaintiff acquire, by the exercise of
16 the power of eminent domain, the real property located at 1780 East McKinley Avenue, Fresno,
17 California, more particularly described as Assessor’s Parcel Number (“APN”) 451-071-35,
18 hereinafter called the “Subject Property,” for construction of the Project and related purpose.
19 Plaintiff is informed and believes, and thereupon alleges, that the Subject Property is currently
20 owned by Art A. Terzian (hereinafter “Defendant”). A legal description of the Subject Property is
21 attached as Exhibit A to the Complaint. A vicinity map showing the area of the Project in relation
22 to the surrounding area is attached as Exhibit B to the Complaint. A location map showing the
23 Subject Property in relation to the area of the Project is attached as Exhibit C to the Complaint.

24 5. The design of the Project is such that the path of the Project for the widening and
25 lowering of East McKinley Avenue, including the excavation for the grade separation, cannot be
26 constructed without acquiring the Subject Property. The Project was designed and approved in a
27 manner that will be most compatible with the greatest public good and the least private injury.

28 ///

1 6. The City retained Universal Field Services (“UFS”) to acquire parcels on its behalf
2 for the Project. UFS retained CBRE Valuation and Advisory Services (“CBRE”) to prepare an
3 appraisal report of fair market value of the properties for the Project. On July 14, 2023, CBRE
4 prepared an appraisal report, determining the fair market value of the Subject Property to be
5 \$2,200,000 as defined by Section 1263.320 of the Code of Civil Procedure. The appraisal was
6 reviewed by David S. Mason, Inc., who concurred with the value given by CBRE. Pursuant to
7 Government Code section 7267.2, an offer of just compensation in the full amount of the appraisal
8 was presented to Defendant on October 11, 2023.

9 7. UFS retained Desmond, Marcello & Amster (“DM&A”) to provide an appraisal
10 report of the improvements pertaining to the realty (“IPRs”) of A&T Ceramic Tile, the business
11 located on the Subject Property. It is my understanding that Defendant is the owner of this business.
12 In the report, a true and correct copy of which is attached hereto as **Exhibit A**, DM&A determined
13 the total fair market value of the IPRs is \$59,460. On December 14, 2023, a subsequent
14 supplemental offer to purchase the IPRs on the Subject Property was made in the amount of \$59,500.
15 Therefore, the total combined purchase price for the Property and IPRs offered to Defendant was
16 \$2,259,500.

17 8. I am informed and believe that since the date of the initial offer, UFS acquisition
18 consultants contacted Defendant and his representatives on approximately sixteen occasions by
19 personal visits, email, mail, and telephone to discuss the offer to purchase and to move forward with
20 the acquisition process. However, Defendant has not engaged the City in negotiations and has not
21 provided a counteroffer.

22 9. Prior to commencement of this action, after notice and hearing in compliance with
23 Code of Civil Procedure section 1245.235, the City Council, on April 18, 2024, duly and regularly
24 adopted by vote of at least two-thirds of its members Resolution No. 2024-071 entitled: A
25 RESOLUTION OF THE COUNCIL OF THE CITY OF FRESNO, CALIFORNIA,
26 DETERMINING THAT PUBLIC INTEREST AND NECESSITY REQUIRE ACQUISITION OF
27 FEE INTEREST FOR RIGHTS OF WAY FOR PUBLIC STREET PURPOSES OF APN: 451-071-
28 35, OWNED BY ART A. TERZIAN FOR THE CONSTRUCTION OF THE BLACKSTONE

1 MCKINLEY BNSF GRADE SEPARATION PROJECT AND AUTHORIZING EMINENT
2 DOMAIN PROCEEDINGS FOR PUBLIC USE AND PURPOSE“(“Resolution”). A certified copy
3 of the Resolution is attached as Exhibit D to the Complaint.

4 10. The Resolution declared, among other things, that the public interest and necessity
5 require the Project, that the Project is planned and located in the manner most compatible with the
6 greatest public good and the least private injury, that the fee interest acquisition is necessary for the
7 Project, and that the offer required by Government Code section 7267.2 has been made to the Owner
8 of record of the Subject Property.

9 11. The Subject Property sought to be condemned in the above-entitled action, and more
10 particularly described in Plaintiff’s Complaint which is incorporated herein by this reference, is
11 necessary for the Project. The acquisition of the Subject Property is most compatible with the
12 greatest public good and the least private injury.

13 12. It is my understanding that the trial in the above-captioned action is set for March 9,
14 2026. In order for the City to complete the Project on schedule, pre-judgment possession of the
15 Subject Property is necessary. In order for the City funding obligation deadlines to be met, the
16 Project is scheduled to begin construction in spring of 2026. Prior to construction the City will need
17 to acquire all right-of-way needed for the Project and demolish conflicting improvements. For the
18 Subject Property, a portion of this property is in the planned right-of-way for East McKinley
19 Avenue, which will be widened in the area immediately east of this intersection and excavated to
20 separate (lower) the roadway grade from the railroad grade. The City anticipates a lead time of 6-
21 months after taking possession of the property may be required in order to fully vacate the property
22 and demolish the improvements. In order to not push out the currently scheduled construction start
23 date, the City will need possession of the properties by the summer of 2025.

24 I declare under penalty of perjury under the laws of the State of California that the foregoing
25 is true and correct to the best of my knowledge.

26 Executed this ^{12.00} ___ day of December, 2024 at Fresno, California.

27 By:  _____
28 Austin Bain

EXHIBIT A

APPRAISAL REPORT REGARDING THE
IMPROVEMENTS PERTAINING TO THE REALTY
AND MOVABLE EQUIPMENT
OF
A&T CERAMICS
LOCATED AT
1780 EAST MCKINLEY AVENUE
FRESNO, CALIFORNIA
APN: 451-171-35

PREPARED FOR
CITY OF FRESNO
Effective Date of Value
AUGUST 9, 2022

Prepared By
DESMOND, MARCELLO & AMSTER

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El Segundo, California 90245

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August 26, 2022

Leslie Finnigan, SR/WA
Vice President, Western Region
Universal Field Services, Inc.
1617 West Shaw Avenue, Suite C
Fresno, CA 93711

Re: *Appraisal Report of Improvements Pertaining to the Realty and Movable Equipment of
A&T Ceramics
Located at 1780 East McKinley Avenue, Fresno, California
Prepared for the City of Fresno
APN: 451-171-35*

Dear Ms. Finnigan:

As you requested, Desmond, Marcello & Amster (“DM&A”) has made an investigation and analysis of the improvements pertaining to the realty and movable equipment of a business known as A&T Ceramics, located at 1780 East McKinley Avenue, Fresno, California.

The effective date of value utilized herein is August 9, 2022.

The purpose of this appraisal is to provide an estimate of the replacement cost new, fair market value in place, and forced liquidation value of the items appraised.

The intended use or function of this appraisal is to assist the City of Fresno in determining compensation to the owner as a result of the potential acquisition of the subject property for the Blackstone and McKinley Grade Separation Project.

Definitions of and compensation for improvements pertaining to the realty are included under Article 3 of the California Code of Civil Procedure, §1263.205 and §1263.210, respectively. Compensation for losses in connection with tangible personal property is included under §6090 and §6092 of the California Administrative Code, Title 25, Chapter 6. A further discussion of these sections is included in the body of the report.



Ms. Leslie Finnigan
August 26, 2022
Page Two

Based upon our investigation and analysis, and in reliance upon the information provided, a summary of the appraised values of the property considered as of August 9, 2022, is as follows:

	<u>Replacement Cost New</u>	<u>Fair Market Value In Place</u>	<u>Forced Liquidation Value</u>
Improvements Pertaining to the Realty	\$86,350	\$59,460	\$2,145
Movable Equipment	\$202,300*	\$82,010	\$26,995

(*Does not include items valued "As is")

The opinions of value are presented in the Summary and Conclusions section and are contingent upon the analysis, facts and Appraiser Certification and Limiting Conditions set forth in the accompanying report.

Respectfully submitted,

Desmond, Marcello & Amster

DESMOND, MARCELLO & AMSTER

MP/

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TABLE OF CONTENTS

	<u>Page</u>
LETTER OF TRANSMITTAL	
APPRAISER CERTIFICATION	
PROPERTY APPRAISED	1
PURPOSE AND INTENDED USE	1
VALUE DATE/REPORT DATE	1
DEFINITION OF IMPROVEMENTS PERTAINING TO THE REALTY	1
COMPENSATION FOR IMPROVEMENTS PERTAINING TO THE REALTY	1
COMPENSATION FOR MOVABLE EQUIPMENT	2
APPRAISAL DEFINITIONS	2
DESCRIPTION OF THE BUSINESS	3
DESCRIPTION OF THE ASSETS APPRAISED	3
APPRAISAL PROCESS	4
SUMMARY AND CONCLUSIONS	7
ADDENDA	
IMPROVEMENTS PERTAINING TO THE REALTY	
MOVABLE EQUIPMENT	
SUBJECT PHOTOGRAPHS	
CONTINGENT AND LIMITING CONDITIONS	
CURRICULUM VITAE	

APPRAISER CERTIFICATION

I certify that, to the best of my knowledge and belief:

- the statements of fact contained in this report are true and correct.
- I performed no services, as an appraiser or in any other capacity, regarding the property that is the subject of this report within the three-year period immediately preceding acceptance of this assignment.
- the reported analyses, opinions and conclusions are limited only by the reported assumptions and limiting conditions, and are my personal, impartial, and unbiased professional analyses, opinions, and conclusions.
- I have no present or prospective interest in the property that is the subject of this report, and no personal interest with respect to the parties involved.
- my engagement in this assignment was not contingent upon developing or reporting predetermined results.
- I have no bias with respect to any property that is the subject of this report or to the parties involved with this assignment.
- my compensation for completing this assignment is not contingent upon the development or reporting of a predetermined value or direction in value that favors the cause of the client, the amount of the value opinion, the attainment of a stipulated result, or the occurrence of a subsequent event directly related to the intended use of the appraisal.
- my analyses, opinions and conclusions were developed, and this report has been prepared, in conformity with the Uniform Standards of Professional Appraisal Practice of The Appraisal Foundation and the Principles of Appraisal Practice and Code of Ethics of the American Society of Appraisers.
- Ryan Nutten, Raul Bermudez, and Enno Palm-Leis made a personal inspection of the property that is the subject of this report.
- Ryan Nutten, Raul Bermudez and Enno Palm-Leis have provided significant personal property appraisal assistance to the person signing this certificate.

Dated: August 26, 2022



Marcus Pigrom, ASA
Partner

APPRAISAL REPORT

PROPERTY APPRAISED

For the purposes of this report, we have prepared an inventory and valuation of certain improvements pertaining to the realty and major movable equipment located at the subject property.

The items appraised have been valued assuming a 100% ownership interest without consideration for any encumbrances against the property appraised.

PURPOSE AND INTENDED USE

The purpose of this appraisal is to set forth our opinion of the replacement cost new, fair market value in place, and forced liquidation value of certain improvements pertaining to the realty and movable equipment together with our rationale and reasoning in estimating the value of the subject assets appraised.

It is the intended use or function of this appraisal to provide the City of Fresno and its representatives with information to assist in the potential acquisition of the property for the Blackstone and McKinley Grade Separation Project.

VALUE DATE/REPORT DATE

The effective date of value utilized in this report, August 9, 2022, corresponds to the completion of our field investigation. The report date on the accompanying letter corresponds to the final date of report preparation.

DEFINITION OF IMPROVEMENTS PERTAINING TO THE REALTY

Article 3 of the California Code of Civil Procedure, §1263.205 reads as follows:

- (a) As used in this article, “improvements pertaining to the realty” include any machinery or equipment installed for use on property taken by eminent domain, or on the remainder if such property is part of a larger parcel, that cannot be removed without a substantial economic loss or without substantial damage to the property on which it is installed, regardless of the method of installation.
- (b) In determining whether a particular property can be removed “without a substantial economic loss” within the meaning of this section, the value of the property in place considered as part of the realty should be compared with its value if it were removed and sold.

COMPENSATION FOR IMPROVEMENTS PERTAINING TO THE REALTY

Article 3 of the California Code of Civil Procedure §1263.210 provides for compensation for improvements pertaining to the realty as follows:

- (a) Except as otherwise provided by statute, all improvements pertaining to the realty shall be taken into account in determining compensation.
- (b) Subdivision (a) applies notwithstanding the right or obligation of a tenant, as against the owner of any other interest in real property, to remove such improvements at the expiration of his term.

COMPENSATION FOR MOVABLE EQUIPMENT

Article 3 of the California Code of Regulations, Title 25, Chapter 6, provides for Relocation Payments to Displaced Persons. The following sections are pertinent.

§6090(b)(5) Actual Reasonable Moving Expenses – Displaced Business Concerns and Farm Operations: Where an item of personal property which is used in connection with any business or farm operation is not moved but is replaced with a comparable item, reimbursement in an amount not to exceed (1) the replacement cost, minus any net proceeds received from its sale, or (2) the estimated cost of moving, whichever is less.

§6092(b) Determining Actual Direct Loss of Property. Actual direct loss of property shall be determined on the basis of the lesser of the following:

- (1) The fair market value of the property for continued use at its location prior to displacement.
- (2) The estimated reasonable cost of relocating the property.

APPRAISAL DEFINITIONS

Replacement Cost New

The current cost of a similar new property having the nearest equivalent utility as the property being appraised, as of a specific date. [Source: American Society of Appraisers, *Principles of Valuation*]

Depreciation

A loss in value from all causes, including factors of deterioration and functional and/or economic obsolescence, as of a specific date. [Source: American Society of Appraisers, *Principles of Valuation*]

Fair Market Value in Place

In estimating the market value of improvements pertaining to the realty and movable equipment, we have relied upon the definition of fair market value found in Article 4, §1263.320 of the California Code of Civil Procedure, which reads as follows:

- (a) The fair market value of the property taken is the highest price on the date of valuation that would be agreed to by a seller, being willing to sell but under no particular or urgent necessity for so doing, nor obliged to sell, and a buyer, being ready, willing, and able to buy but under no particular necessity for so doing, each dealing with the other with full knowledge of all the uses and purposes for which the property is reasonably adaptable and available.
- (b) The fair market value of property taken for which there is no relevant, comparable market is its value on the date of valuation as determined by any method of valuation that is just and equitable.

In estimating the fair market value in place, additional costs may be incurred to place the asset in service including installation, freight, sales tax, design, and other acquisition costs.

Forced Liquidation Value

The estimated gross amount, expressed in terms of money, that could typically be realized from a properly advertised and conducted public auction, with the seller being compelled to sell with a sense of immediacy on an as-is, where-is basis, as of a specific date. [Source: American Society of Appraisers, *Valuing Machinery and Equipment*]

Effective Age

The apparent age of an asset in comparison with a new asset of like kind. It is often calculated by deducting the Remaining Useful Life of an asset from the Normal Useful Life. [Source: American Society of Appraisers, *Principles of Valuation*]

Estimated Remaining Life

The period over which an item, or groups of items are estimated to remain in use. [Source: American Society of Appraisers, *Principles of Valuation*]

As Is Value

As is consideration is given in lieu of Replacement Cost New on those items where a reasonable, accurate or comparable new cost is indeterminate or misleading.

DESCRIPTION OF THE BUSINESS

A&T Ceramics is a ceramic tile wholesale business located at 1780 East McKinley Avenue, Fresno, California. The business has been operating at the subject location since 1995. Both the business and the real property is owned by Art Terzian.

DESCRIPTION OF THE ASSETS APPRAISED

Major improvements pertaining to the realty consist of signage, tile display shelves, ceramic tile flooring, ceiling fans, laser reflectors, security window bars and an alarm system.

Major items of movable equipment consist of display shelves, drill press, pallet racks, tile saw, forklift, office furniture, and office equipment.

Highest and Best Use

It is our opinion that the equipment is currently being used in a capacity for which it was designed, and the highest and best use is the continuation of its present use.

Industry

Most of the equipment is the current state of the art and can usually be acquired in the secondary marketplace through used equipment dealers.

APPRAISAL PROCESS

Introduction

The appraisal process consists of three phases. These are: 1) identification, inspection and recording of data; 2) research; and 3) valuation analysis resulting in a conclusion of replacement cost new, fair market value in place, and forced liquidation value.

Identification, Inspection and Recording of Data

The assets valued were first identified by Tony Terzian, a salesman, and subsequently inspected and recorded by the appraiser. The recording included a full description of each asset including, when available, the manufacturer, model, serial number, size and condition of the asset, and any other information that would assist us in the subsequent valuation. The level of maintenance was observed as well as the method of installation.

A complete listing of the business assets appraised, together with the quantity, replacement cost new, fair market value in place, and forced liquidation value, is included in the Addenda of this report. Dimensions of assets are described in the Addenda in the following manner:

- Three-dimensional assets: width (or length) x height x depth
- Two-dimensional assets: width (or length) x depth (or height)

Research

DM&A has relied upon many sources of information, including, but not limited to, the following:

- An inspection of the subject site;
- A subsequent identification and inventory of the improvements and equipment;
- Conversations with real estate appraiser, Stephanie Kavanaugh, Senior Analyst of Integra Realty Resources;
- Review of cost and market data on file in the DM&A library;
- Supporting documentation retained in DM&A work files;

- Communications with and information on file from various individuals and/or companies knowledgeable of the type of assets appraised. They include, but are not limited to, the following:
 - YWD Contracting
 - ADT Security
 - McNamara Electric;

- Various publications and websites providing replacement cost new, including, but not limited to:
 - Marshall Valuation Service
 - allendisplay.com
 - homedepot.com
 - safety-devices.com
 - uline.com
 - officesupply.com
 - globalindustrial.com
 - standandmounts.com
 - toolfetch.com
 - lowes.com
 - schooloutfitters.com
 - harborfreight.com
 - acehardware.com
 - homedepot.com
 - walmart.com
 - amazon.com
 - digitalbuyer.com
 - mccolldisplay.com
 - target.com
 - nightowlsecurity.com
 - build.com
 - display2go.com
 - newegg.com
 - dell.com
 - staples.com
 - shop-thomasrecom-com.3dcartstores.com
 - tractorsupply.com
 - zoro.com
 - schoolspecialty.com
 - etsy.com
 - novica.com
 - northerntool.com
 - artsupply.com; and

- Various publications and websites providing secondary market data, including:
 - ebay.com
 - usedprice.com.

Valuation Analysis

Fair Market Value (in Place)

Fair market value in place represents the investment that would be required to replace existing assets in their present form and condition using valuation methodology, which considers the manner in which the equipment is acquired and put in use when a total business is being created or relocated. In other words, fair market value in place is the value of an asset, designed to fit the specific requirement of the business owner, in an amount which ownership would be justified, given alternative investment opportunities, by a prudent investor contemplating retention of the asset in its present economic employment.

There are three fundamental techniques applied in the valuation of assets. These techniques are based on the cost to acquire (Cost Approach), the cost at which an asset may change hands in the marketplace (Market Data or Direct Sales Comparison Approach) and the present worth of expected future cash flows (Income Approach). The principle of substitution is important to the development and application of the three approaches.¹ This principle provides that a prudent investor will pay no more for an asset, property, or business than he would be required to pay for a replacement serving as a reasonable substitute of equal utility.

This appraisal has relied upon the Cost Approach and Market Data Approach methodologies. The Cost Approach uses the concept of replacement based on the principle of substitution. Replacement cost new is used as a basis for the valuation of the assets. The Market Data Approach uses the concept of cost at which an asset may change hands between a willing buyer and willing seller. The Income Approach was considered; however, there is insufficient financial data available to determine the income attributable to each of the assets appraised.

Fair market value in place is developed in two phases. The first phase is development of the base acquisition value of an asset, and the second phase is estimating the cost/value associated with the assembly, installation, or construction of that asset. The total value developed in the two phases is considered fair market value in place.

The acquisition cost of an asset may be represented by the cost of purchasing the item from a used equipment dealer when the Market Data Approach is used, or the cost of purchasing from a vendor of new machinery when the Cost Approach is used. In both cases, additional costs incurred to place the asset in service as part of an integrated operation may be given consideration in estimating fair market value in place.

In utilizing the Cost Approach, the fair market value in place of the equipment was based on its estimated replacement cost new less depreciation. Depreciation is based on effective age, remaining economic life, observed physical condition and economic and functional obsolescence.

Current replacement cost for similar or equivalent units and installations were developed by contacting manufacturers' representatives and the utilization of the DM&A reference library. When necessary, these costs were adjusted through industry-accepted practices to reflect the costs of these assets as of August 9, 2022

In estimating the fair market value in place, we have not given consideration to the economic viability of the business and our conclusion assumes that the income supports the valuation.

¹ "The Principle of Substitution" *Real Estate Appraisal Terminology*, Byrl N. Boyce, Ph. D., Page 201

Forced Liquidation Value

Forced liquidation values are based on market data on file, including conversations with used equipment vendors and dealers, as well as observations of auction results for the same or similar equipment.

SUMMARY AND CONCLUSIONS

Improvements Pertaining to the Realty

The application of the Cost Approach provides an indication of value. Based upon the application of this approach to the various assets, our opinion of the replacement cost new, fair market value in place, and forced liquidation value as of August 9, 2022, is as follows:

Replacement Cost New	\$86,350
Fair Market Value in Place	\$59,460
Forced Liquidation Value	\$2,145

Movable Equipment

The application of the Cost and Market Data Approaches provides an indication of value. Based upon the application of these approaches to the various assets, our opinion of the replacement cost new, fair market value in place, and forced liquidation value as of August 9, 2022, is as follows:

Replacement Cost New	\$202,300*
Fair Market Value in Place	\$82,010
Forced Liquidation Value	\$26,995

(*Does not include items valued "As is")

ADDENDA

A&T CERAMICS
IMPROVEMENTS PERTAINING TO THE REALTY
EFFECTIVE DATE OF VALUE - AUGUST 9, 2022

Item No.	Qty.	Description	Replacement Cost New	Fair Market Value in Place	Forced Liquidation Value
1	3	Linear feet of wall shelving, 39" deep, wood, 9-tier	\$1,300	\$900	\$125
2	1	Bullhorn speaker, 12" diameter, electrical, wall-mounted	300	220	40
3	52	Linear feet of decorative fencing, 40" high, plastic traditional lattice, wall-mounted	600	420	60
4	1	Alarm system, consisting of: 1 Door contact 1 Motion sensor 1 Sensor, "Driveway Control" 1 Horn 1 Alarm box 4 Rolling door contacts	1,400	980	140
5	1	Signage letters, plastic, wall mounted, "A&T Ceramic", consisting of: 3 40" high 3 30" high 7 24" high 7 18" high	3,800	2,660	\$100
6	1	Thru-wall AC unit, manufacture and model not available	600	300	50
7	6	CCTV cameras, wall mounted, with cabling	1,800	1,100	120
8	42	Square feet of security window bars, steel, 88" x 69", wall mounted	1,300	780	50
9	86	Lineal feet of Christmas lights, canopy mounted	100	60	0
10	9	Wall lettering signage, painted, 3 color, 24" high, "A&T Ceramic"	500	340	0
11	2	Security steel bar gates, exterior, consisting of: 1 21' x 6' 1 10' x 6', hinged in middle	6,050	4,240	300
12	5	Laser reflectors, wall and post mounted, at yard	900	620	50
13	5	Ceiling fans, with lights	1,300	880	10

A&T CERAMICS
 IMPROVEMENTS PERTAINING TO THE REALTY
 EFFECTIVE DATE OF VALUE - AUGUST 9, 2022

Item No.	Qty.	Description	Replacement Cost New	Fair Market Value in Place	Forced Liquidation Value
14	2,000	Square feet of ceramic floor tile, in showroom, and: 60 Square feet of ceramic floor tile, in entryway	38,300	26,820	0
15	22	Tile display shelf units, laminate, 1 sided, 26 1/2" x 11" x 78", with 9 to 12 tilt shelves	8,300	5,780	300
16	16	Tile display shelf units, wood, 2 sided, 8' x 2' x 5', with 3 to 4 tilt shelves	13,000	9,100	800
17	1	Safe, steel front, 55" x 74", with double doors, combination lock, pre-exited business	5,000	3,000	0
18	13	Lineal feet of slant wall tile display, 2x6 framed and particle board sheeted, 10' high, with top valence	1,800	1,260	0
TOTAL IMPROVEMENTS PERTAINING TO THE REALTY			\$86,350	\$59,460	\$2,145

A&T CERAMICS
MOVABLE EQUIPMENT
EFFECTIVE DATE OF VALUE - AUGUST 9, 2022

Item No.	Qty.	Description	Replacement Cost New	Fair Market Value in Place	Forced Liquidation Value
19	95	Linear feet of pallet shelving, 90" high x 12" deep, metal frame, plywood decking, 5-tier, 58 uprights	\$9,150	\$3,200	\$915
20	25	Linear feet of gondola shelving, 55" high x 21" deep, metal, dual-sided, 3-tier	3,860	1,350	390
21	2	Shelves, 3' x 50" x 18", metal frame, metal decking, 4-tier	340	120	40
22	1	Stepladder, Gorilla Ladders, Model no.: GLS-3CS	40	20	10
23	1	Portable jump box, CAT, Model no.: CJ1000DCP	180	60	20
24	1	Shelf, 42" x 6' x 18", metal frame, metal decking, 7-tier	220	70	20
25	1	Bookcase, 4' x 6' x 18", laminate, 4-tier	160	50	20
26	1	Stepstool, manufacturer not available, metal, 3-step	80	30	10
27	4	Stepladders, manufacturer not available, metal frame, 3-step, plastic	280	100	30
28	2	Ladders, Louisville, 8', Fiberglass	580	200	60
29	1	Leaning ladder, 6', metal	160	50	20
30	1	Work table, 3' x 9" x 18", metal facia, metal folding legs	140	50	20
31	1	Leaning ladder, 12', metal	200	70	20
32	3	Ladders, Werner, 6', metal	500	180	50
33	1	Platform truck, 28" x 18", metal, casters	260	100	30
34	1	Pressure washer, Troy-Bilt, Model no.: 675 Series, 2,550 PSI	280	100	30
35	1	Chair, fabric seat and back, metal frame, stackable	80	20	0
36	1	Generator, Predator Generators, model no. not available, 4,000 max watts	500	280	80

A&T CERAMICS
MOVABLE EQUIPMENT
EFFECTIVE DATE OF VALUE - AUGUST 9, 2022

Item No.	Qty.	Description	Replacement Cost New	Fair Market Value in Place	Forced Liquidation Value
37	7	Bookcases, 3' x 88" x 2', metal, 7-tier	1,740	600	170
38	1	Shelf, 3' x 75" x 12", metal frame, metal deck, 10-tier	180	140	40
39	1	Compact vibrator plate, Central Machinery, model no. not available, 6.5 HP	780	270	80
40	1	Tile saw, DEP, Model no.: 700XT	120	40	10
41	1	Ladder, Werner, 6', Fiberglass	140	40	10
42	1	Pallet jack, Mitsubishi, model no. not available, 5,500 lb. capacity	520	180	50
43	1	Forklift, Nissan, model no. not available, Serial no.: 33850, 2 stage mass, not operable, not appraised	---	---	---
44	1	Air compressor, Fini Air Pioneer, Type no.: MK 105-0, 75M	200	90	30
45	1	Air compressor, Campbell Hausfeld, model no. not available, casters	380	130	40
46	2	Work lights, EP360, LED, 5.0V	80	30	10
47	1	Propane tank mounted heater, Mr. Heater, 9" diameter	140	50	20
48	290	Linear feet of pallet rack, 10' high x 42" deep, 3- to 4-tier, plywood decking, 92 uprights, 114 tiers (total)	33,500	11,730	3,350
49	62	Linear feet of pallet rack, 70" high x 42" deep, 2-tier, plywood decking, 22 uprights, 16 tiers (total)	5,620	1,970	560
50	40	Linear feet of pallet rack, 8' high x 42" deep, 3-tier, plywood decking, 12 uprights, 12 tiers (total)	4,420	1,550	440
51	57	Linear feet of gondola shelving, 5' high, 18" deep, dual-sided, 4-tier	6,280	2,200	630

A&T CERAMICS
MOVABLE EQUIPMENT
EFFECTIVE DATE OF VALUE - AUGUST 9, 2022

Item No.	Qty.	Description	Replacement Cost New	Fair Market Value in Place	Forced Liquidation Value
52	100	Linear feet of pallet rack, 81" high x 3' deep, plywood decking, 3-tier, 30 uprights, 30 tiers (total)	10,240	3,580	1,020
53	1	Desk chair, padded leather seat and back, plastic frame	120	60	20
54	1	Desk, 41" x 30" x 2', wood, 3-drawer	240	110	30
55	1	Desk, 57" x 31" x 41", granite top, metal base, 4 file cabinet drawers, letter size	960	340	100
56	1	Telephone, Vtech, model no. not available, including charging station	80	40	10
57	1	Paper shredder, Fellowes, model no. not available	260	90	30
58	1	Desk chair, fabric seat and back, plastic frame	120	50	20
59	1	Shop vacuum, Ridgid, model no. not available, 5 HP, 16 gallon	140	40	10
60	7	Tile display racks, 27" x 82" x 23", tubular metal frame, laminate sides and base, 5- to 14 hanging metal wire shelves	1,080	380	110
61	1	Tile display rack, 28" diameter, 82" high, laminate construction, pentagon-shaped, 16" wide each side, metal trim	160	60	20
62	1	Display rack, 59" high, tubular metal, 4 dual-sided display panels, 18" x 59"	200	70	20
63	1	Rotating display rack, 68" high, 2" pipe/ tube center, with 4 dual-sided display panels, 25" x 50", tubular metal	560	190	60
64	1	Display rack, 87" high, 3" diameter pipe/ tube center, with 4 rotating dual-sided display panels, 24" x 81", 3- 24" x 23" sections, tubular metal	620	220	60
65	1	Pivot display rack, 48" x 80" x 36", tubular metal, with 12 dual-sided display panels, 25" x 57", metal	500	180	50

A&T CERAMICS
MOVABLE EQUIPMENT
EFFECTIVE DATE OF VALUE - AUGUST 9, 2022

Item No.	Qty.	Description	Replacement Cost New	Fair Market Value in Place	Forced Liquidation Value
66	1	Pivot display rack, 45" x 90" x 30", tubular metal, with 4 dual-sided display panels, 25" x 75", metal	460	170	50
67	1	Pivot display rack, 40" x 87" x 24", tubular metal, with 8 dual-sided display panels, 26" x 79", metal	500	180	50
68	1	Floor lamp, 57" high, metal, single bulb	80	30	10
69	1	Mini-refrigerator, Kenmore, model no. not available, single door	180	70	20
70	1	Desk, 5' x 3' x 30", metal, 3-drawer, 1 door	520	180	50
71	1	Floor lamp, 67" high, metal, 3-bulb	100	40	10
72	1	Television, manufacturer and model no. not available, 32"	140	40	10
73	1	DVR, Night Owl, model no. not available, 4K Hybrid	360	120	40
74	1	Electric fireplace, 32" x 30" x 14", laminate	320	110	30
75	1	Bookcase, 44" x 37" x 25", laminate	220	60	20
76	1	Router, Arris, Model no.: TM804G/CT	80	50	20
77	1	Key box, 12" x 14" x 3", metal, wall-mounted	20	10	5
78	1	Cube organizer shelf, 62" x 60" x 14", laminate	140	50	20
79	1	Cube organizer shelf, 8' x 7' x 19", laminate, 48-compartment	180	60	20
80	1	Display shelf, 48" x 61" x 30", tubular metal frame, laminate trim and shelves, 3-tier	360	120	40
81	1	Tile display rack, 36" x 66" x 30", metal, 4 display panels, 14" x 66", metal, 11 tile holders	140	90	30

A&T CERAMICS
MOVABLE EQUIPMENT
EFFECTIVE DATE OF VALUE - AUGUST 9, 2022

Item No.	Qty.	Description	Replacement Cost New	Fair Market Value in Place	Forced Liquidation Value
82	1	Pivot display rack, 68" x 84" x 20", tubular metal frame, laminate sides and trim, with 15 dual-sided display panels, metal, 19" x 54", metal	500	180	50
83	1	Display rack, 87" high, tubular metal, with 4 display panels, 18" x 75", metal, dual-sided	440	160	50
84	1	Dolly, metal, inflatable tires	120	40	10
85	2	Fire extinguishers, First Alert, model no. not available, 10	240	80	20
86	2	Tile display racks, 10" x 12" x 20", wood, 10 individual tile holders	40	40	10
87	1	Tile display rack, 18" x 71" x 30", tubular metal, 16 individual tile holders	140	90	30
88	1	Tile display rack, 10" x 35" x 30", wood, with 20 individual tile holders	60	30	10
89	1	Table, 40" x 36" x 40", tubular metal frame, granite top, including 4 dining chairs, tubular metal, vinyl seats and backrests	1,000	350	100
90	2	Tile display racks, 12" x 48" x 30", wood, 16 individual tile holders	120	90	30
91	2	Tile display racks, 12" x 2" x 16", wood, 7 individual tile holders	60	70	20
92	1	Tile display, 19" x 62" x 30", tubular metal, 11 individual tile holders	180	60	20
93	2	Tile display racks, 86" high, tubular metal, with 4 dual-sided display panels	400	140	40
94	2	Tile display racks, 24" x 90" x 20", tubular metal, 6 individual tile holders	180	120	40
95	2	Desks, 5' x 30" x 30", metal, laminate top, 5-drawer	1,340	460	130

A&T CERAMICS
MOVABLE EQUIPMENT
EFFECTIVE DATE OF VALUE - AUGUST 9, 2022

Item No.	Qty.	Description	Replacement Cost New	Fair Market Value in Place	Forced Liquidation Value
96	1	Stackable chair, metal, fabric seat and backrest	80	20	0
97	1	Office chair, vinyl seat ad backrest	120	50	20
98	1	Credit card processor, First Data, Model no.: FD130	200	70	20
99	3	Calculators, manufacturer not available, Model no.: KK-837-12S	20	10	5
100	1	Printer, Canon, Model no.: MG3022	140	40	10
101	1	Fax machine, Canon, Model no.: Faxphone 8	220	80	20
102	3	A - frame tile display racks, 14" x 62" x 32", metal, 15 individual tile holders, dual-sided	660	260	80
103	5	Tile display racks, 22" x 10" x 32", wood, 10 individual tiles holders	200	310	90
106	1	Forklift, Caterpillar, model: GC-15, propane, 3,000 lb.	As is	4,000	1,500
107	1	Lot of minor equipment and tools, consisting of: 1 Push broom, 24" 1 Galvanized steel bucket 1 Flat nosed shovel, with fiberglass handle 1 Rock hammer 1 Channel Lock pliers, large 1 Plastic gas can, 5 gallon 1 Shovel 1 Push broom, 30" 1 Scissor jack, est. 3,000 lb. 1 Garbage can, 33 gallon	300	100	40
108	1	Lot of ladders, consisting of: 3 Step stools, 3 step, folding, Gorilla Ladders 1 Aluminum ladder, 8' 2 Aluminum ladders, 12' 1 Stepladder, 10', fiberglass 1 Stepladder, 10', aluminum	1,300	480	150

A&T CERAMICS
MOVABLE EQUIPMENT
EFFECTIVE DATE OF VALUE - AUGUST 9, 2022

Item No.	Qty.	Description	Replacement Cost New	Fair Market Value in Place	Forced Liquidation Value
109	1	Disassembled forklift parts, not valued, consisting of: 1 Two stage mast, 6' 6" high 1 Small engine 1 Forklift body, Caterpillar, model: F30, w/3 stage mast	---	---	---
110	1	Forklift, Nissan, model: CRGH02F36PV, propane, 7,000 lb. capacity, hard tire, with 3 stage mast, valued "as is"	As is	11,000	5,000
111	9	Steel bookshelf units, office type, 6 tier, 36" x 12" x 92"	4,900	1,700	400
112	1	Lot of equipment not related to the business, consisting of: 2 Soft service ice cream machines, on pallet 5 Lawn mowers, gas, disassembled 1 Edger, gas powered, junk 2 Hand trucks, disassembled 4 Small window air conditioners, junk 1 Squirrel cage fan, gas powered, junk 1 Highway sign stand 1 Highway sign, 3' x 3' 1 4" grinder, broken 1 Tile saw, with table, disassembled 1 Trailer drop hitch 1 Refrigerator, disassembled 14 Tubular steel stock, 8' long 1 Sign board, steel, 2' x 3', with stand 1 Kitchen sink, not installed 1 Box fan, broken 1 Lot of glass panels 2 Toilets, not installed 1 Drum of cut off steel tubes 1 Steel security door, 3' x 7', not installed 1 Sewing machine, Juki, model: DDL-5550, table mounted 1 Soft service yogurt machine, 3 nozzle, on pallet 1 Roof top air conditioner unit, Carrier, on pallet, disassembled 1 Trunk, Pelco, 30" x 30" x 48", contents unknown	---	---	---

A&T CERAMICS
MOVABLE EQUIPMENT
EFFECTIVE DATE OF VALUE - AUGUST 9, 2022

Item No.	Qty.	Description	Replacement Cost New	Fair Market Value in Place	Forced Liquidation Value
113	1	Steel cart, 36" x 16" x 38", 2 tier, pipe construction	400	140	40
114	1	Water hose reel, steel, 25" diameter, on cart, with: 1 Water hose, 100'	300	100	30
115	1	Tile saw, 9 1/2" diameter, with table, portable	1,100	380	130
116	1	Circular saw, 7 1/4", Craftsman	100	40	20
117	1	Variable speed reciprocating saw, Dewalt, model: DC385,	200	60	30
118	1	Pallet storage racks, steel, consisting of: 9 Uprights, 42" x 10' to 10' 9" high 43 Uprights, 42" x 12' high 24 Uprights, 42" x 15' high 26 Uprights, 36" x 10' high 4 Uprights, 36" x 12' high 150 Cross beams, 2 3/4" x 4" x 7' 6" wide 496 Cross beams, 2 3/4" x 4" x 8' wide 16 Cross beams, 2 1/2" x 4" x 8' 6" wide 6 Cross beams, 2 1/2" x 5 1/2" x 9' wide 323 Shelving material, wood, 40" x 7'6" to 8' wide 11 Shelving material, wood, 34" x 7'6" to 8' wide	91,500	27,440	9,000
119	1	Steel table, 30" x 60" x 30", office type	500	160	40
120	1	Drill press, floor type, 16 1/2", Dayton, model: 3Z918, 6	1,600	600	150
121	1	Postage scale, 1 lb., Kwomie, spring type	20	10	10
122	93	Lineal feet of faux ivy vine, on display wall	30	10	10
123	2	Wagon wheels, 34" diameter, display reproduction	100	40	10
124	3	Decorative vases, tile and shell mosaic, 30" high	200	60	20
125	1	Framed certificate, 18" x 24"	100	20	10
126	8	Extra propane tanks, for forklifts	2,900	1,000	400

A&T CERAMICS
 MOVABLE EQUIPMENT
 EFFECTIVE DATE OF VALUE - AUGUST 9, 2022

Item No.	Qty.	Description	Replacement Cost New	Fair Market Value in Place	Forced Liquidation Value
127	1	Rolling magnetic sweeper, 30"	100	60	10
TOTAL MOVABLE EQUIPMENT			<u>\$202,300</u> *	<u>\$82,010</u>	<u>\$26,995</u>

(* Does not include item valued "As is")

A&T CERAMICS



SUBJECT PROPERTY



SIGNAGE

A&T CERAMICS



PIVOT TILE DISPLAY RACKS



DISPLAY RACK AND DECORATIVE WALL

A&T CERAMICS



STORAGE AND SHELIVNG UNITS



STORAGE AND PALLET RACKS

A&T CERAMICS



OUTDOOR STORAGE AND PALLET RACKS



REAR WAREHOUSE OVERVIEW

CONTINGENT AND LIMITING CONDITIONS

- (1) No responsibility can be taken by the appraiser for the inability of the owner(s) of this business to sell the subject assets at the appraised value.
- (2) No responsibility can be taken for the accuracy of information on the ownership of the assets appraised. All information was provided by the business owner(s) or their representative and is assumed to be correct. No warranty is given as to the accuracy of such information.
- (3) Disclosure of the contents of this appraisal report is governed by the bylaws and regulations of the American Society of Appraisers and the Uniform Standards of Professional Appraisal Practice (USPAP).
- (4) No responsibility is assumed for matters legal in nature.
- (5) No liabilities were considered. Value conclusions are free and clear of liens, easements and encumbrances.
- (6) The fee for this appraisal report does not contemplate appearance in court or before other governmental agencies as an expert witness. However, Desmond, Marcello & Amster will appear if prior arrangements are made. Expert witness testimony will be compensated for at the appraisers' professional fee rates.
- (7) This appraisal and its conclusion are subject to review upon presentation of data which is undisclosed or not available at this writing.
- (8) Neither all nor any part of the contents of this report, particularly as to the conclusion, the identity of the appraiser, or reference to the American Society of Appraisers, shall be conveyed to the public through advertising, public relations, news or other media without the prior written consent and approval of the appraiser.
- (9) No responsibility is taken for changes in market conditions and no obligation is assumed to revise the final report to reflect events or conditions which occur subsequent to the date hereof.
- (10) Full compliance with all applicable federal, state, and local environmental, zoning and similar laws and regulations is assumed, unless otherwise stated.
- (11) The results of this appraisal including the opinion of value are made only for the stated effective date of value and the purpose stated, and shall not be used for any other purpose.

- (12) It is assumed that all required licenses, certificates of occupancy, consents, or other legislative or administrative authority from any federal, state or local government or private entity or organization have been or can be obtained or renewed for any use on which the value estimate contained in this report is based.
- (13) The existence of hazardous substances, including without limitation, asbestos, polychlorinated biphenyls, petroleum leakage, or agricultural chemicals, which may or may not be present on the property, or other environmental conditions, were not called to our attention nor were we aware of such during our inspection. We have no knowledge of the existence of such materials on or in the property unless otherwise stated. We are not qualified to test for such substances or conditions. If the presence of such substances, such as asbestos, urea formaldehyde foam insulation, or other hazardous substances or environmental conditions may affect the value of the property, the value estimate is predicated on the assumption that there is no such condition on or in the property or in such proximity thereto that it would cause a loss in value. No responsibility is assumed for any such conditions, nor for any expertise or engineering knowledge required to discover them.
- (14) You agree to indemnify and hold harmless Desmond, Marcello & Amster from and against any and all liabilities, damages, costs and expenses (including attorneys' fees) which may be incurred by Desmond, Marcello & Amster as a result of any action(s) brought against us in connection with our report.
- (15) Acceptance of and/or use of this appraisal report constitutes acceptance of the foregoing general assumptions and limiting conditions.

DESMOND, MARCELLO & AMSTER
TANGIBLE ASSET VALUATION SPECIALISTS

THE FIRM: GENERAL DESCRIPTION

Since 1968, Desmond, Marcello & Amster has provided clients in both the public and private sectors with expertise in the valuation of closely-held businesses, professional practices, and specific tangible and intangible assets, such as furniture, fixtures and equipment and goodwill. Since the enactment of the California Eminent Domain Law of 1976, DM&A has specialized in providing valuation services for eminent domain proceedings.

Desmond, Marcello & Amster has completed over one thousand appraisals under the California Eminent Domain Law, for both government agencies and private parties. The valuation analysts at DM&A work in conjunction with condemning agencies, business owners, attorneys, relocation agents, acquisition agents, developers, and real property appraisers to provide defensible value opinions.

DM&A is staffed to provide its eminent domain clients a full breadth of valuation services. This multi-disciplinary capability enables DM&A to address complex valuation issues involving furniture, fixtures and equipment.

Desmond, Marcello & Amster offers the following eminent domain valuation services:

- Exposure estimates of goodwill loss and fixtures and equipment value for budgeting purposes;
- Preliminary fixture and equipment and goodwill loss studies;
- Comprehensive appraisal reports of goodwill loss, and fixtures and equipment;
- Analysis of precondemnation damages and inverse condemnation claims;
- Assistance in negotiating settlements;
- Expert witness testimony; and
- Educational seminars on goodwill loss valuation issues.

Litigation support services include:

- Assistance in developing questions for depositions and interrogatories;
- Review of opposing appraisals;
- Assistance in coordinating other key witnesses;

- Outlining examination for direct testimony and cross examination; and
- Development of rebuttal testimony.

PROFESSIONAL AFFILIATIONS AND DESIGNATIONS

Individual staff members of Desmond, Marcello & Amster are associated with the following:

American Society of Appraisers (Members and Candidates)
CFA Institute (Member)
International Right of Way Association (Member)
American Institute of Certified Public Accountants (Member)
California Society of Certified Public Accountants (Member)
Institute of Management Accountants (Member)

PUBLICATIONS

DM&A publishes the *Compensable Business Loss Review*, a technical newsletter first released in 1988. The *Review* covers a wide array of eminent domain topics including valuation, acquisition, relocation and legal issues.

LECTURES AND SEMINARS

Firm members regularly conduct seminars for public agencies, professional appraisal organizations and law firms on how to appraise goodwill loss under §1263.510 of the California Eminent Domain Statute.

EDUCATION

Members of the firm hold graduate and undergraduate degrees from the academic institutions of Harvard, Wharton (University of Pennsylvania), University of Michigan, Claremont McKenna College, Loyola Marymount University, University of Southern California, and California State University, Long Beach. All firm members are regularly involved in continuing education courses in finance, accounting and valuation.

1 **PROOF OF SERVICE**

2 *City of Fresno v. Art A. Terzian, et al.*
3 **Fresno County Superior Court Case No. 24CECG02985**

4 **STATE OF CALIFORNIA, COUNTY OF FRESNO**

5 At the time of service, I was over 18 years of age and not a party to this action. I am
6 employed in the County of Fresno, State of California. My business address is 2440 Tulare Street,
7 Suite 410, Fresno, CA 93721.

8 On December 16, 2024, I served true copies of the following document(s) described as
9 **DECLARATION OF AUSTIN BAIN IN SUPPORT OF MOTION FOR PRE-JUDGMENT**
10 **POSSESSION** on the interested parties in this action as follows:

11 Gary Livaich, Esq. *Attorneys for Defendant*
12 Brian Manning, Esq.
13 Kristen Renfro, Esq.
14 Benjamin Tagert, Esq.
15 James Silverthorn, Esq.
16 **DESMOND, NOLAN, LIVAICH & CUNNINGHAM**
17 1830 15th Street
18 Sacramento, CA 95811
19 Telephone: (916) 443-2051
20 Facsimile: (916) 443-2651
21 E-mail: btagert@dnlc.net
22 bmanning@dnlc.net
23 mjohnson@dnlc.net

24 **BY E-MAIL OR ELECTRONIC TRANSMISSION:** I caused a copy of the document(s)
25 to be sent from e-mail address rramirez@awattorneys.com to the persons at the e-mail addresses
26 listed in the Service List. I did not receive, within a reasonable time after the transmission, any
27 electronic message or other indication that the transmission was unsuccessful.

28 I declare under penalty of perjury under the laws of the State of California that the foregoing
is true and correct.

Executed on December 16, 2024, at Fresno, California.

21 
22 _____
23 Shelly Ramirez