



CITY OF  
**HAYWARD**  
HEART OF THE BAY

8

**DATE:** June 30, 2009

**TO:** Mayor and City Council

**FROM:** Director of Public Works

**SUBJECT:** Adoption of a Resolution of Necessity to Initiate Eminent Domain Proceedings to Acquire Real Property – a Portion of APN 445-0200-013, owned by Pacific Gas and Electric Company

### **RECOMMENDATION**

That Council adopts the attached Resolution of Necessity to Initiate Eminent Domain Proceedings to Acquire Real Property for the Route 238 Corridor Improvement Project from a portion of a vacant parcel at Mission Boulevard, south of Carlos Bee Boulevard (Assessor's Parcel No. 445-0200-013) owned by Pacific Gas and Electric Company (PG&E).

### **BACKGROUND**

On November 27, 2007, Council approved the Route 238 Corridor Improvement Project and certified the Final Environmental Impact Report (FEIR). The project approved by Council is located along Foothill Boulevard and Mission Boulevard between the City limits to the north and Industrial Parkway to the south. It includes a downtown one-way loop street system; peak hour travel lanes on Foothill Boulevard north of A Street and on Mission Boulevard from Foothill to Palisade Street; other roadway improvements in the downtown and along Foothill Boulevard and Mission Boulevard; and improvements at major intersections such as Foothill-Mission-Jackson and Mission Boulevard-Carlos Bee Boulevard. In addition, the project includes pedestrian and bicycle improvements, and landscaping enhancements along the entire Route 238 Corridor. The project as approved requires the acquisition of 30 parcels, including full acquisition of 19 parcels and partial acquisition of 11 parcels. These 30 parcels are owned by 26 property owners.

### **DISCUSSION**

This sliver of property, consisting of 724 square feet of APN 045-0200-013, is located on the northeasterly side of Mission Boulevard, south of Carlos Bee Boulevard under the Pacific Gas and Electric Company (PG&E) transmission line. This 724 square feet portion is required to construct the proposed roadway improvements at the Mission Boulevard / Carlos Bee Boulevard intersection.

Without this additional right-of-way, the City will not be able to retain the desired level of service at the Mission Boulevard / Carlos Bee Boulevard intersection.

The City has obtained an appraisal of this property by Dean Chapman and Associates and has offered, in writing, to purchase this property from PG&E for its appraised value (refer to Exhibit A). PG&E staff has reviewed the appraised value and has verbally acknowledged the acceptability of that valuation if the City also provides a driveway into the site with the project. The City has provided this driveway in the preliminary plans.

Because PG&E is a public utility regulated by the California Public Utilities Commission (CPUC), it cannot voluntarily sell this property to the City (refer to Exhibit B). Instead, PG&E can sell this property to the City only if it applies for permission from the CPUC, or if the City initiates a condemnation action to acquire the property. By adopting the attached Resolution of Necessity, the City Council will authorize the City to initiate a condemnation action so that it may acquire this necessary property from PG&E for the property's fair market value.

A two-thirds vote of the Council is required to approve this action, pursuant to the Code of Civil Procedure. While public testimony is not restricted at the hearing, only the following items are required to be considered:

- 1) Whether or not the public interest and necessity require the Route 238 Corridor Improvement Project;
- 2) Whether or not the proposed project is planned or located in a manner that will be most compatible with the greatest public good and the least private injury;
- 3) Whether or not the property in question is necessary for the project; and
- 4) Whether or not a purchase offer complying with GC 7267.2 has been made but not accepted (refer to Exhibits A and B).

As noted above, the City completed the environmental review for this action in November 2007, by approving the FEIR for the Route 238 Corridor Improvement Project. The Code of Civil Procedure requires written notice to the property's owner of the City's hearing on the proposed Resolution of Necessity. The City sent this notice to PG&E by first-class mail on June 8, 2009 (refer to Exhibit C).

## **FISCAL AND ECONOMIC IMPACT**

The cost estimate developed for the Final Environmental Impact Report for the Route 238 Corridor Improvement Project was \$111 million. ACTA has allocated \$38.4 million for the Final Design and Right-of-Way Acquisition Phase of this Project. The updated cost estimate continues to show the project to be within budget.

To date, the City has expended nearly \$16 million for this phase of the project. ACTA has reimbursed approximately \$15.1 million of those expenditures. Because all of this acquisition phase of the work will be funded by Measure B, there will be no impact to the City's General Fund from adopting the Resolution of Necessity as proposed.

## PUBLIC CONTACT

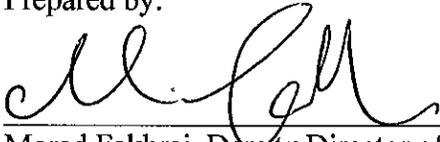
Staff presented a report on the overall progress of the project at a Council Work Session on January 20, 2009.

## SCHEDULE

Design and right-of-way acquisition are proceeding on time. The project's estimated schedule is as follows:

Final Design and Right-of-Way Acquisition Complete	January 2010
Approve Plans and Advertise for Bid	February 2010
Award Construction Contract	April 2010
Begin Construction	May 2010
Construction Complete	December 2012

Prepared by:



Morad Fakhrai, Deputy Director of Public Works

Recommended by:



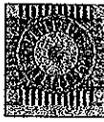
Robert A. Bauman, Director of Public Works

Approved by:



Gregory T. Jones, City Manager

Attachments: Exhibit A: Letter to Purchase Property (includes location map)  
Exhibit B: Letter from PG&E re: inability to voluntarily sell property  
Exhibit C: Written Notice to PG&E of Hearing on Proposed Resolution of Necessity  
Draft Resolution



CITY OF  
**HAYWARD**  
HEART OF THE BAY

May 11, 2009

**HAND DELIVERY**

Pacific Gas & Electric Company  
245 Market Street  
San Francisco, CA 94105  
Attention: Ken Richerson, Real Estate Transactions Supervisor  
CC:

Pacific Gas & Electric Company  
77 Beale Street, B30A, Law Department  
San Francisco, CA 94105  
Attention: Cesar Alegria, Attorney

RE: City of Hayward – Route 238 Corridor Improvement Project  
PG&E Property at Mission Boulevard south of Carlos Bee Boulevard (APN 445-0200-013)

First Written Offer to Purchase

Dear Mr. Richerson:

The City of Hayward is proceeding with a project to improve traffic conditions along Foothill Boulevard, the downtown loop, and Mission Boulevard between Interstate 580 (I-580) and Industrial Parkway. The project, known as the Route 238 Corridor Improvement Project, was approved by the City Council on November 27, 2007. Partial acquisition of your property would be required to construct the improvements as presently planned. Enclosed with this offer is a copy of the project's Right of Way Take Exhibits A & B for the referenced parcel. These exhibits illustrate the property acquisition needed from the parcel on Mission Boulevard south of Carlos Bee Boulevard (APN 445-0200-013) in order to complete the public improvements. In addition to the Right of Way Take Exhibits, we have included with this offer, Exhibit C, showing a 30 foot wide driveway as part of the proposed project's frontage improvements along Mission Boulevard. This frontage improvement plan was developed by working with Alan Spacker in PG&E's real property department to satisfy PG&E's needs as they relate to the property.

The City of Hayward has established the Just Compensation to be paid for property required to construct the project. The basis for the amount established as Just Compensation for your property is set forth on the enclosed "Summary of Basis for Amount Established as Just Compensation," which outlines the property valuation data. City staff has worked with a Property Agent, Owen Poole, from Real Estate Services and an Appraiser, Dean Chapman, from Dean Chapman & Associates, Inc., to establish the Just Compensation amount. You may seek an independent appraisal of the property; and if you do so, the City offers in accordance with section 1263.025 of the Code of Civil Procedure to reimburse you for the reasonable cost, not to exceed \$5,000, of that independent appraisal if it is performed by a California licensed real estate appraiser.

In consideration of the foregoing and pursuant to the requirements of Section 7267.2 of the Government Code of the State of California, the City of Hayward hereby offers to purchase the designated property in fee for public improvement purposes for the sum of \$14,480.00, under the terms and conditions set forth in the attached Real Property Purchase Contract.

**Please review all documents enclosed: Real Property Purchase Contract (the original and two copies), the Summary of Basis for Amount Established as Just Compensation, Attachment A (The**

DEPARTMENT OF PUBLIC WORKS  
ENGINEERING & TRANSPORTATION DIVISION  
777 B STREET, HAYWARD, CA 94541-5007  
TEL: 510/583-4730 • FAX: 510/583-3620 • TDD: 510/247-3340

**EXHIBIT A**

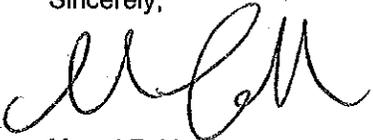
**property appraisal report completed by Dean Chapman & Associates dated October 15, 2008), a Summary Statement Relating to Purchase of Real Property of an Interest Therein and a Brochure explaining certain rights that you have related to this acquisition process.**

When you receive this offer, please call Owen Poole at 925-980-6444. If the offer is acceptable, please so indicate by signing the enclosed Real Property Purchase Contract. North American Title Company will process the remaining documents, including the Grant Deed, necessary to complete the transfer of title through escrow. All closing costs will be paid by the City.

If you do not accept this offer, Mr. Poole will be happy to discuss the proposed acquisition further with you, and to consider and present to the City any alternative proposals you wish to make. If you and the City cannot reach agreement, the City may institute proceedings to acquire this property through exercise of the power of eminent domain, or instead may elect to abandon its present efforts to acquire the property. The City will inform you in writing of its choice.

Your early consideration of the above offer will be appreciated, and I thank you for your cooperation in this matter. Should you have questions or concerns please do not hesitate to contact me at 510-583-4740.

Sincerely,



Morad Fakhrai  
Deputy Director of Public Works

Enclosures

cc: Robert Bauman  
Yaw Owusu  
Norman Payne  
Kevin Briggs

Hayward, California

Grantor(s): Pacific Gas and Electric Company

Date: May 11, 2009

REAL PROPERTY PURCHASE CONTRACT – CITY OF HAYWARD  
Route 238 Corridor Improvement Project

Mission Boulevard, Hayward, CA  
Parcel Number: 445-0200-013

**Whereas**, the CITY requires a portion of the Parcel, a property not now appropriated to a public use, for the construction of a public improvement described as the "Route 238 Corridor Improvement Project," ("PROJECT") a public use;

**Whereas**, the CITY has the power of eminent domain, which it may elect to exercise to acquire the Parcel if the City Council of the CITY deems such acquisition necessary; and

**Whereas**, both the CITY and Grantor recognize the expense, time, effort, and risk to both Grantor and the CITY, and risk to both in resolving a dispute over compensation for the Parcel by eminent domain litigation; and the compensation set forth herein is in compromise and settlement in lieu of such litigation; therefore,

In consideration of the delivery to Norman Payne, City Surveyor acting on behalf of the City of Hayward, of a document in the form of a Grant Deed covering the property particularly described therein, and the other considerations hereinafter set forth, it is mutually agreed as follows:

1. The parties have herein set forth the whole of their agreement. The performance of this agreement constitutes the entire consideration for said documents and shall relieve the CITY of all further obligation or claims on this account. **No obligation other than those set forth herein will be recognized.**
2. The CITY shall:
  - A) Pay the undersigned Grantor(s) the sum of \$14,480.00 for the property or interest conveyed by above document upon the close of escrow when title to said property vests in the CITY, free and clear of all liens, encumbrances, assessments, easements and leases (recorded and/or unrecorded), and taxes, except:
    - a. Taxes for the fiscal year in which escrow closes which shall be cleared and paid in the manner required by Section 5086 of the Revenue and Taxation Code, if unpaid at the close of escrow.
    - b. Covenants, conditions, restrictions and reservations of record, or contained in the above-referenced document.
    - c. Easements or rights of way in, over, under or across said land for public quasi-public utility or public street purposes, if any.
  - B) Pay all escrows and recording fees incurred in this transaction and, if title insurance is desired by the CITY the premium charge therefore.

- C) Have the authority to deduct and pay from the amount shown in Clause 2(A) above, any amount necessary to satisfy any delinquent taxes due in any fiscal year except the fiscal year in which this escrow closes, together with penalties and interest thereon, and/or delinquent assessments or bonds except those which title is to be taken "subject to" in accordance with the terms of this contract.
3. Any and all monies payable under this contract, up to and including the total amount of unpaid principal and interest on note(s) secured by mortgage(s) or deed(s) of trust, if any, and all other amounts due and payable in accordance with the terms and conditions of said trust deed(s) or mortgage(s) shall upon demand(s) be made payable to the mortgagee(s) or beneficiary(ies) entitled thereunder; said mortgagee(s) or beneficiary(ies) to furnish grantor with good and sufficient receipt showing said monies credited against the indebtedness secured by said mortgage(s) or deed(s) of trust.
  4. Complete the roadway improvements in a manner consistent with the improvements as illustrated in the attached Exhibit C.
  5. It is agreed and confirmed by the parties hereto that notwithstanding other provisions in this contract, the right of possession and use of the subject property by the CITY, shall commence on December 31, 2009 or after the close of escrow controlling this transaction, whichever occurs first, and that the amount shown in Clause 2(A) herein includes, but is not limited to, full payment for such possession and use, including damages, if any, from said date of close of escrow. **The target date for the close of escrow is on or before December 24, 2009.**
  6. Grantor agrees to keep the premises in a neat and clean condition and the grantor agrees that no improvements other than those already on said property shall be placed thereon; and the planting of any trees or shrubs, or alterations, repairs, or additions to existing improvements which may hereafter be placed thereon are at grantors risk without expectation of damages in the event of removal by the CITY.
  7. The undersigned grantor hereby agrees and consents to the dismissal of any eminent domain action in the Superior Court wherein the herein described land is included and also waives any and all claims to any money that may now be on deposit in said action.
  8. This transaction will be handled through an escrow opened with North American Title Company, 4255 Hopyard Road, Suite 1, Pleasanton CA 94588, telephone number 925-399-3000. North American Title will prepare the Grant Deed and provide the Grantor with documentation and an Exchange Account should Grantor choose to enter into a tax deferred real estate exchange.
  9. Grantor agrees that the amount established as Just Compensation includes consideration for damages, loss of goodwill and all necessary relocation assistance.
-

IN WITNESS WHEREOF, Grantor has caused these presents to be executed, and the City of Hayward by and through its City Manager, duly authorized so to act, has caused these presents to be executed the day and year first above written.

APPROVED:

\_\_\_\_\_  
Robert A. Bauman  
Director of Public Works

\_\_\_\_\_  
Pacific Gas & Electric Co, Grantor

CITY OF HAYWARD, a municipal corporation

By: \_\_\_\_\_  
Gregory T. Jones, City Manager

Attest: \_\_\_\_\_  
Miriam Lens, City Clerk

Approved as to form:

\_\_\_\_\_  
City Attorney

\_\_\_\_\_

## EXHIBIT "A"

### FEE RIGHT-OF-WAY (APN-445-0200-013)

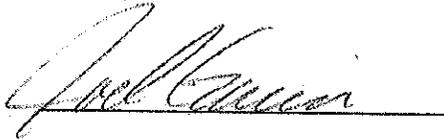
All that property situate in the City of Hayward, County of Alameda, State of California described as follows: Being a portion of that certain parcel of land originally granted to Great Western Power Co. of California from H. W. Meek Estate Inc. by deed recorded May 3, 1930 in Book 2360 of Official Records at Page 235, Alameda County Records, and subsequently granted to Pacific Gas and Electric Company, a California Corporation, by Great Western Power Co. of California, as part of document recorded June 5, 1936, in Book 3335 of Official Records at Page 107, Alameda County Records, more particularly described as follows:

**Commencing** at the most westerly corner of said parcel of land (2360 OR 235); thence along the northwesterly line of said parcel, North 59°02'11" East, 24.10 feet to the northeasterly corner of that certain parcel of land granted to the State of California by deed, dated March 12, 1930, recorded June 9, 1930, in Book 2368 of Official Records, Page 339, as Instrument No. AA/36056, said point also being a point on the northeasterly line of Mission Boulevard (100' wide) and the **TRUE POINT OF BEGINNING**; thence, from said **Point of Beginning**, and continuing along said northwesterly line of said parcel (3335 OR 107), North 59°02'11" East, (the bearing of North 59°02'11" East being used for purposes of making this description) a distance of 11.33 feet; thence, leaving said northwesterly line, South 25°04'26" East 33.22 feet; thence, along the arc of a tangent, 1499.90 foot radius curve to the left, through a central angle of 5°53'22" distance of 154.18 feet; to a point on the southeasterly line of said parcel(3335 OR 107); said point also being a point on said northeasterly line of Mission Boulevard; thence, along said northeasterly line, North 30°57'49" West, distance of 186.96 feet to said **Point of Beginning**.

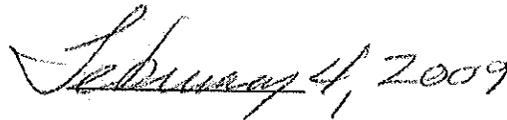
Containing 724 square feet or 0.02 acres, more or less.

Bearings used in the above description are based upon the California Coordinate System of 1983, epoch 1991.30, Zone 3. Multiply grid distances shown above by 1.00007 to obtain ground distances.

This real property description has been prepared at Mark Thomas & Company, Inc., by me, or under my direction, in conformance with the Professional Land Surveyors Act.



Joel Garcia, LS 5285



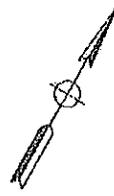
Date

License expires 12-31-09



LINE TABLE		
No.	BEARING	DISTANCE
L1	N59°02'11"E	11.33
L2	S25°04'26"E	33.22

CURVE TABLE			
No.	RADIUS	DELTA	LENGTH
C1	1499.90	5°53'22"	154.18



SCALE: 1"=60'



MISSION B L V D.

State of California  
2360 OR 339  
187.94'  
186.96'  
N30°57'49"W  
N30°57'49"W

State of California

Point of Beginning

Point of Commencement

N59°02'11"E 350.00' (TOTAL)

314.57'

Lands of PG&E  
APN 445-0150-052, PCL1  
3335 OR 107

N30°57'49"W 200.17'

N56°42'17"E 326.17' (TOTAL)

24.12'

17

1

14

16

2

17

15

BELMONT

AVENUE

(18 M 56)



Mork  
Thomas &  
Company,  
Inc.

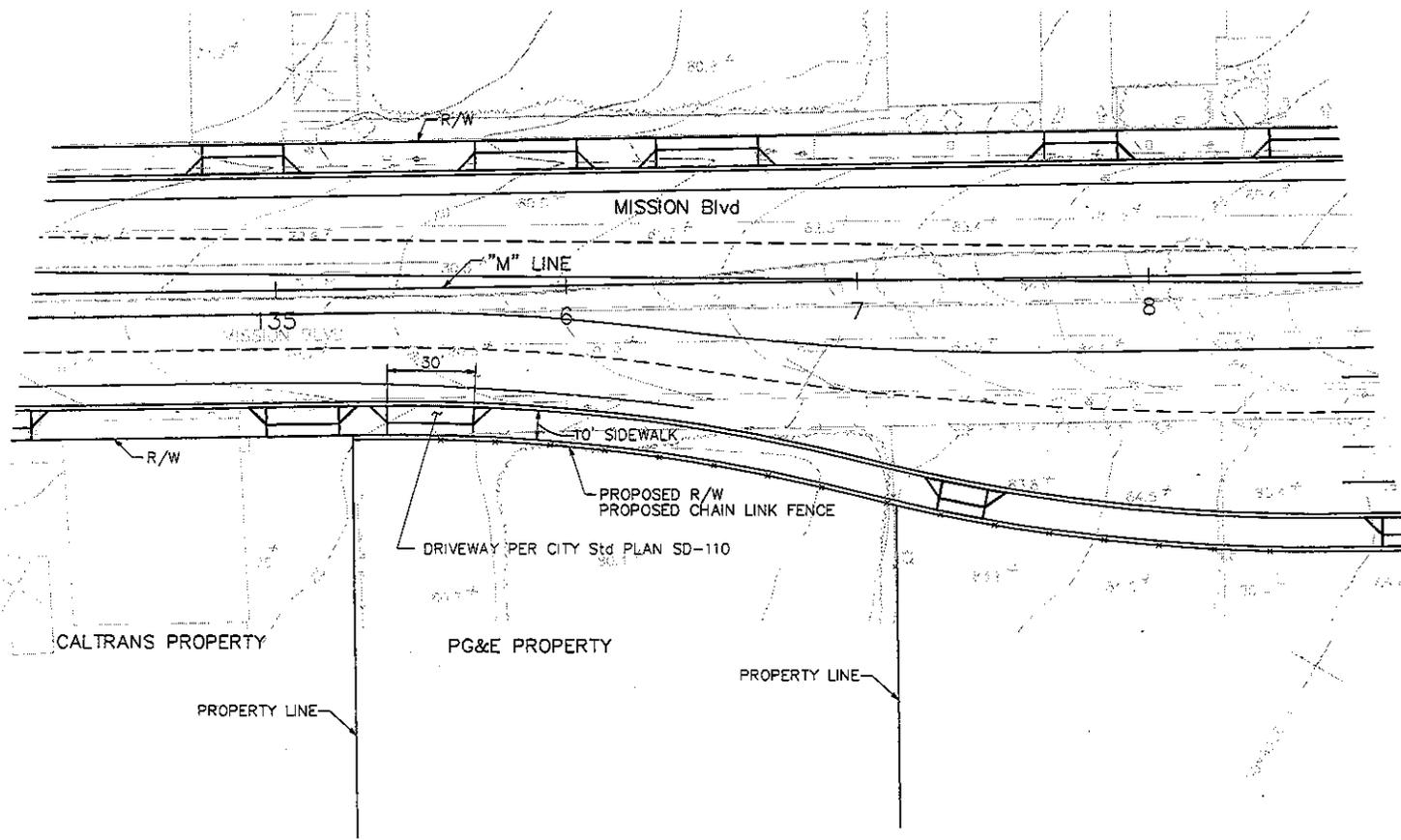
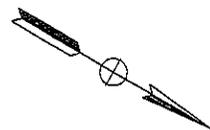
FEE RIGHT-OF-WAY  
LANDS OF PACIFIC GAS & ELECTRIC  
APN 445-0200-013

In Alameda County  
California

Scale: 1"=60'  
Date 07/09/08  
Drawn By  
Checked By JG

EXHIBIT "B"  
Plat to Accompany Legal Description

12/17/2008  
Sht. 1 of 1



REV	BY	DATE	DESCRIPTION	ENGINEER	DATE

DRAWN BY: SCALE: 1"=40'  
 DATE: Nov 2008

Proposed driveway for PG&E Property

**mt** **MARK THOMAS & COMPANY, INC.**  
 Providing Engineering, Surveying, and Planning Services  
 5000 Hayward Road, Suite 315  
 Pleasanton, CA 94588 925/417-8000

SHEET  
 OF SHEETS  
 JOB NO.

**SUMMARY OF BASIS FOR AMOUNT ESTABLISHED AS JUST COMPENSATION**  
(Government Code Section 7267.2)

**OWNER(s): Pacific Gas and Electric Company**  
**PROJECT: Route 238 Corridor Improvement Project**

**PROPERTY TO BE ACQUIRED: Partial**  
**INCLUDE ACCESS RIGHT: Temporary for Construction Purposes**

**ADDRESS/ LOCATION: Mission Boulevard, south of Carlos Bee Boulevard, Hayward**  
**PARCEL NUMBER: 445-0200-013**                      **MAP: Right of Way plat**  
**PRESENT USE: Vacant Parcel**                      **BEST USE: Commercial Development**  
**ZONING: Planned Development**                      **VALUATION DATE: September 1, 2008**

**BASIS FOR AMOUNT OF JUST COMPENSATION**

The Just Compensation for the real property proposed to be acquired by the City of Hayward is based on an appraisal of property employing the Direct Sales Comparison Approach using comparable sales data in the market area. The Income and Cost Approaches to valuation were not used since the parcel is unimproved and vacant. The amount of Just Compensation is based on the appraised market value of \$14,480.00. Allowances for relocation of tenants and businesses is not required therefore the just compensation is set at \$14,480.00.

Any increase or decrease in the fair market value before the date of valuation caused by the public improvement or project for which the property is to be acquired or by the likelihood that the property would be acquired for such improvement or project, other than due to physical deterioration within the reasonable control of the owner, has been disregarded in making the determination of just compensation.

For an in-depth analysis of the just compensation shown below, please refer to the enclosed, Attachment A.

**JUST COMPENSATION**

<b>LAND and STRUCTURES:</b>	<b>\$14,480.00</b>
<b>Tenant Improvements:</b>	<b>0.00</b>
<b>Business Interruption:</b>	<b>0.00</b>

<b>TOTAL VALUE OF REQUIRED PROPERTY:</b>	<b>14,480.00</b>
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<b>CITY OF HAYWARD</b>	<b>ROUNDED TO:</b>	<b>\$14,480.00</b>
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**BY:** \_\_\_\_\_  
Norman Payne  
Survey Engineer

**DATE: May 11, 2009**

**City of Hayward  
Route 238 Corridor Improvement Project**

**SUMMARY STATEMENT RELATING TO PURCHASE OF  
REAL PROPERTY OR AN INTEREST THEREIN  
CITY OF HAYWARD**

The City of Hayward approved a project to improve traffic conditions along Foothill Boulevard, a downtown loop and Mission Boulevard between Interstate 580 (I-580) and Industrial Parkway. This project requires a partial acquisition of your property, which is within the project area and is located on Mission Boulevard, south of Carlos Bee Boulevard in Hayward, and is also identified by your County Assessor as Parcel Number 445-0200-013.

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

1. You are entitled to receive full payment prior to vacating the real property being purchased unless you have heretofore waived such entitlement. You are not required to pay recording fees, transfer taxes, or the pro rata portion of real property taxes which are allocable to any period subsequent to the passage of title or possession.
2. The City of Hayward will offer to purchase any remnant(s) considered by the City to be an uneconomic unit(s) which is/are owned by you or, if applicable, occupied by you as a tenant and which is/are contiguous to the land being conveyed.
3. All building structures and other improvements affixed to the land described in the referenced document(s) covering this transaction and owned by the grantor(s) herein or, if applicable, owned by you as a tenant are being conveyed unless other disposition of these improvements has been made. The interest acquired is in fee. The property being purchased comprises 724 square feet (+/-) of land and is described in the attached legal description and outlined on the attached map.
4. The market value of the property being purchased is based upon a market value appraisal which is summarized on the attached Appraisal Summary Statement and such amount:
  - a. Represents the full amount of the appraisal of just compensation for the property to be purchased;
  - b. Is not less than the approved appraisal of the fair market value of the property as improved.
  - c. Disregards any decrease or increase in the fair market value of the real property to be acquired prior to the date of valuation caused by the public improvement for which the property is to be acquired or by the likelihood that the property would be acquired for such public improvement, other than that due to physical deterioration within the reasonable control of the owner or occupant; and

- d. Reflects consideration or allowance for relocation assistance and payments or other benefits that the owner is entitled to receive under an agreement with the City.



**Pacific Gas and  
Electric Company™**

*Kevin*

Cesar V. Alegria, Jr.

*Mailing Address*  
P.O. Box 7442  
San Francisco, CA 94120

*Street/Courier Address*  
Law Department  
77 Beale Street  
San Francisco, CA 94105

(415) 973-0360  
Fax: (415) 973-5520  
Internet: CVA3@pge.com

**RECEIVED**

MAY 22 2009

DEPT. OF PUBLIC WORKS  
ENGINEERING AND  
TRANSPORTATION DIVISION

May 20, 2009

***By Facsimile and U.S. Mail***

Morad Fakhrai  
Deputy Director of Public Works  
City of Hayward  
777 B Street  
Hayward, CA 94541-5007

Re: City of Hayward – Route 238 Corridor Improvement Project  
PG&E Property at Mission Boulevard South of Carlos Bee Boulevard

Dear Mr. Fakhrai:

This is in response to your May 11, 2009 letter.

Pacific Gas and Electric Company (PG&E) cannot voluntarily grant to the City of Hayward the property demanded in your letter. The city can pursue acquisition of the property either through an eminent domain action or by filing an application with the California Public Utilities Commission (CPUC) under Public Utilities Code Section 851.

Please let me know if you have any questions.

Sincerely,

Cesar V. Alegria, Jr.

cc: Owen Poole, Real Estate Services  
Ken Richerson, PG&E Real Estate  
Alan Spatcher, PG&E Land



CITY OF  
**HAYWARD**  
HEART OF THE BAY

June 8, 2009

Pacific Gas and Electric Company  
245 Market Street  
San Francisco, CA 94105  
Attention: Ken Richerson, Real Estate Transactions Supervisor

Cc: Pacific Gas and Electric Company  
77 Beale Street, B30A, Law Department  
San Francisco, CA 94105  
Attention: Cesar V. Alegria, Attorney

**Subject: Notice of Hearing on June 30, 2009 at 8:00 p.m. on Resolution of Necessity to Initiate Eminent Domain Proceeding to Acquire a Portion of Real Property located in the City of Hayward on Mission Blvd., south of Carlos Bee Blvd.**

Dear Mr. Richerson:

The City of Hayward will consider at a public hearing whether or not to adopt a proposed Resolution of Necessity to acquire a portion of the subject real property located on Mission Boulevard, south of Carlos Bee Boulevard in the City of Hayward through the process of eminent domain. Acquisition of this real property (the "Property") by eminent domain may be necessary for the Route 238 Corridor Improvement Project, which will consist of roadway improvements to improve traffic conditions along Foothill Boulevard, the downtown loop and Mission Boulevard between Interstate 580 and Industrial Parkway. The City will consider acquiring these necessary areas of the Property in fee simple. The attached map shows the location of the Property and of the Route 238 Corridor Improvement Project.

The Property is a portion of the larger parcel identified by the Alameda County assessor as Assessor's Parcel Number 445-0200-013. You have received this notice because you are the owner of record of the real property of which the Property is a portion, or because the City understands that you are a tenant on that property. If you are no longer the owner or tenant of the Property, or if you know of other persons who may claim interests in the Property but whose names do not appear in public records, please share this notice with those interested persons.

DEPARTMENT OF PUBLIC WORKS  
ENGINEERING & TRANSPORTATION DIVISION

777 B STREET, HAYWARD, CA 94541-5007  
TEL: 510/583-4730 • FAX: 510/583-3620 • TDD: 510/247-3340

EXHIBIT C

In accordance with the provisions of the Government Code Section 1245.235, the City will conduct a hearing on the proposed Resolution. **The hearing will occur on June 30, 2009, beginning at 8:00 p.m., or as soon thereafter as it can be heard, in the Council Chambers at the Hayward City Hall, located at 777 B Street.** The purpose of the hearing is to receive information pertaining to the proposed Resolution, and to consider whether or not to adopt that Resolution.

You and/or your representatives have the right to appear at the City's June 30 2009 meeting and to be heard on the matters specified in section 1240.030 of the Code of Civil Procedure and on any other matter material to the City's decision on the proposed Resolution. These matters include:

- whether the public interest and necessity require the proposed project;
- whether the proposed project is planned or located in the matter that will be most compatible with the greatest public good and the least private injury;
- whether the Property is necessary for the proposed project; and
- whether the purchase offer required by section 7267.2 of the Government Code has been made.

If you wish to speak at the City's hearing, please file a written request within fifteen (15) days from the date of this Notice. Failure to notify the City in writing of your desire to be heard at the City's June 30, 2009 meeting may result in a waiver of your right to be heard at the meeting concerning the Resolution. You may submit your written request to:

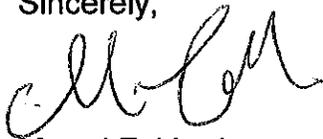
City Clerk's Office  
City of Hayward  
777 B Street  
Hayward, CA 64541-5007

With a copy to: Nancy Hart, Assistant City Attorney  
City Attorney's Office  
City of Hayward  
777 B Street  
Hayward, CA 64541-5007

If the City approves the proposed Resolution of Necessity, the timeline for commencement of eminent domain proceedings will begin. The City will take prompt steps to commence an eminent domain action and to obtain possession of the Property. Property negotiations will continue, however, in hopes of resolving any disputes over the terms of the City's acquisition as quickly and fairly as possible.

If you have any questions or concerns about this notice, please call me at:  
(510) 583-4740.

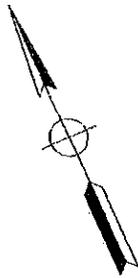
Sincerely,

A handwritten signature in black ink, appearing to read 'Morad Fakhrai', written in a cursive style.

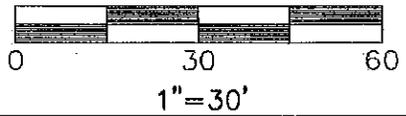
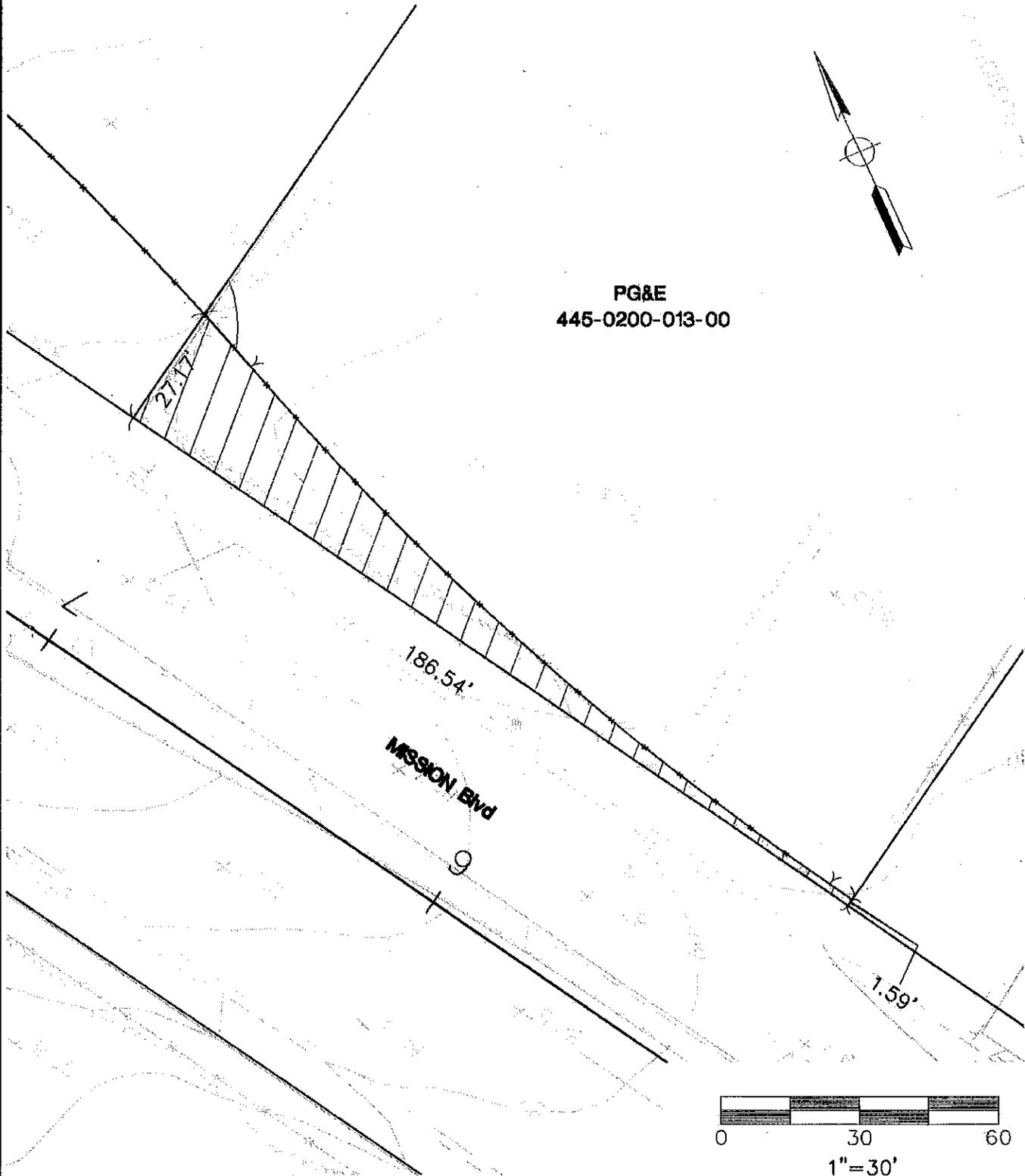
Morad Fakhrai  
Deputy Director of Public Works

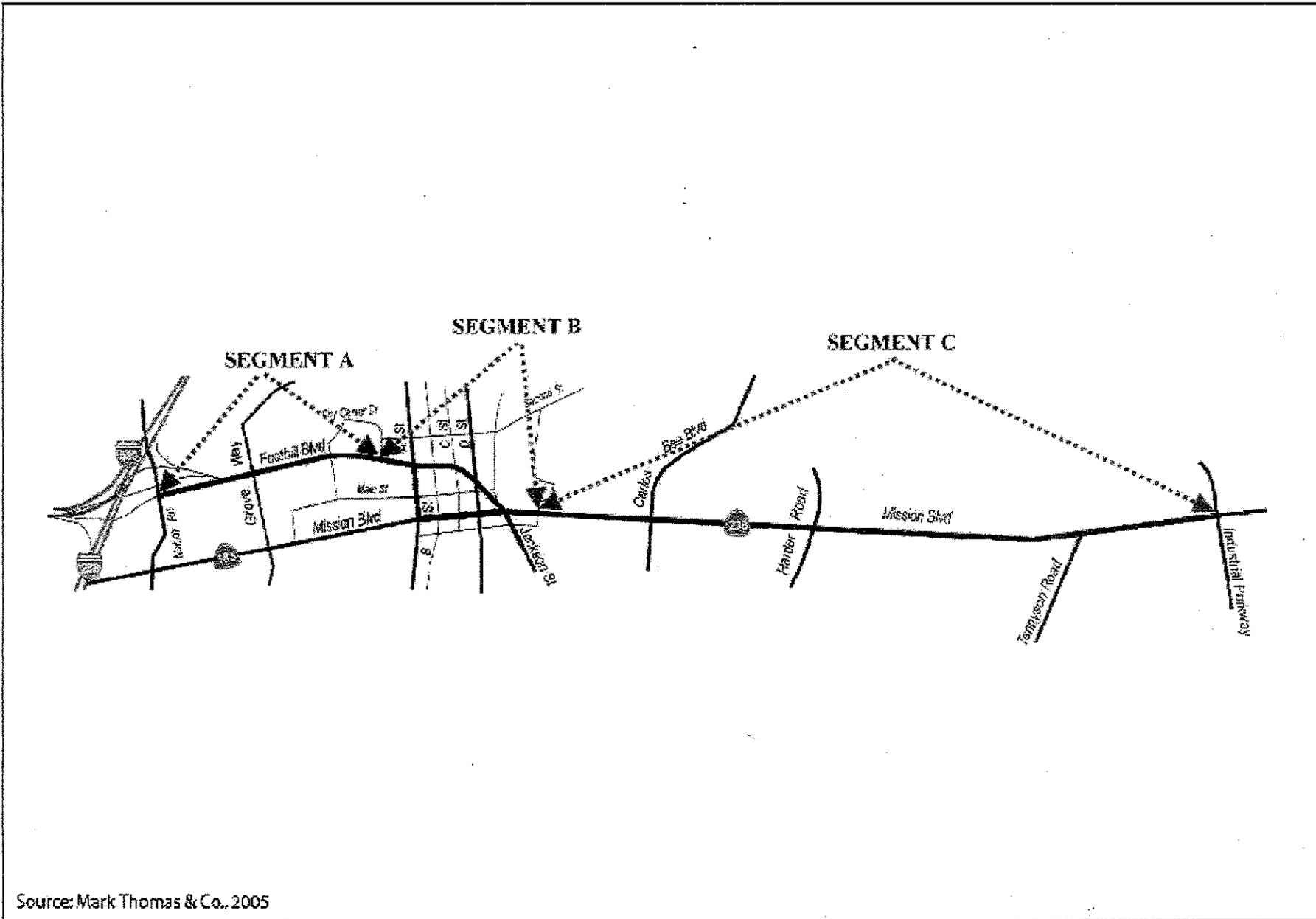
Enclosures

Cc: Robert Bauman  
Yaw Owusu  
Norman Payne  
Kevin Briggs



PG&E  
445-0200-013-00





Source: Mark Thomas & Co., 2005

SOURCE: EPCOR (2005)

**Figure 2-3**  
**Project Segments**

**DRAFT**  
6/24/09

HAYWARD CITY COUNCIL

RESOLUTION NO. 09-\_\_\_\_\_

Introduced by Council Member \_\_\_\_\_

*Muel*  
*6/25/09*

RESOLUTION OF NECESSITY DECLARING A PUBLIC NEED FOR AND AUTHORIZING THE ACQUISITION AND IMMEDIATE POSSESSION BY EMINENT DOMAIN PROCEEDINGS OR OTHERWISE OF REAL PROPERTY FOR THE ROUTE 238 CORRIDOR IMPROVEMENT PROJECT ON MISSION BOULEVARD, SOUTH OF CARLOS BEE BOULEVARD (A PORTION OF APN 445-0200-013) OWNED BY PACIFIC GAS AND ELECTRIC COMPANY

WHEREAS, the City of Hayward is pursuing acquisition of a portion of the parcel located on Mission Boulevard, south of Carlos Bee Boulevard (a portion of Assessor's Parcel Number 445-0200-013; hereinafter the "Property"), owned by Pacific Gas and Electric Company (hereafter, "PG&E", for purposes of constructing the roadway improvements at the Mission Boulevard / Carlos Bee Boulevard intersection, proposed by the Route 238 Corridor Improvement Project; and

WHEREAS, the Property consists of 724 square feet under the PG&E transmission line; and

WHEREAS, the Property is described more specifically on Exhibit A to this Resolution and is depicted generally on Exhibit B to this Resolution; and

WHEREAS, on November 27, 2007, the City Council of the City of Hayward considered the environmental impacts of the Route 238 Corridor Improvement Project and certified the Final Environmental Impact Report (FEIR), which included the proposed acquisition of the Property which is required for the construction of the roadway improvements at the Mission Boulevard / Carlos Bee Boulevard intersection proposed by the Route 238 Corridor Improvement Project; and

WHEREAS, staff commissioned an appraisal of the property on September 1, 2008, and made an offer to the owner to purchase the parcels for \$14,480.00 on May 11, 2009, which the owner can accept only upon approval by the California Public Utilities Commission or upon the City's initiation of a condemnation action to acquire the property; and

WHEREAS, after providing notice in the manner specified in Code of Civil Procedure Section 1245.235, the City held a public hearing at which the persons whose property interests are to be acquired pursuant to this resolution, and whose names and addresses appear on

the last equalized county assessment roll for the Property, as well as tenants of the Property, had an opportunity to appear and be heard on the following matters referred to in Code of Civil Procedure Section 1240.030:

- a) Whether the public interest and necessity require the project;
- b) Whether the proposed project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury;
- c) Whether acquisition of the Property is necessary for the Project; and
- d) Whether the offer required by Section 7267.2 of the Government Code has been made to PG&E; and

WHEREAS, the Property's owners and tenants had an opportunity to appear at the hearing during which the adoption of this resolution was considered; and

WHEREAS, the City of Hayward is authorized by the Constitution and statutes of the State of California, including, but not limited to, Government Code Sections 37350.5 and 40404, to acquire real property by eminent domain for the Route 238 Corridor Improvement Project.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Hayward that it hereby finds, determines, and declares as follows, on the basis of the evidence presented orally and in writing at the hearing at which the adoption of this resolution was considered:

1. That the public interest and necessity require the Route 238 Corridor Improvement Project;
2. That the Route 238 Corridor Improvement Project is planned and located in the manner which will be most compatible with the greatest public good and the least private injury;
3. That the acquisition by the City of Hayward of the property described in Exhibit "A" attached to this Resolution, for the construction of the roadway improvements at the Mission Boulevard / Carlos Bee Boulevard intersection is necessary for the Project;
4. That staff has made the offer required by Section 7267.2 of the Government Code of the State of California to PG&E, owner of the subject Property, prior to the public hearing held on June 30, 2009, regarding the adoption of this resolution of necessity.

BE IT FURTHER RESOLVED that the City of Hayward shall acquire the Property for the construction of the roadway improvements at the Mission Boulevard / Carlos Bee Boulevard intersection as proposed by the Route 238 Corridor Improvement Project.

BE IT FINALLY RESOLVED that the City Attorney for the City of Hayward is authorized and directed to take any and all lawful actions which are convenient or necessary to acquire immediate possession of and title to the Property by eminent domain proceedings or otherwise.

IN COUNCIL, HAYWARD, CALIFORNIA \_\_\_\_\_, 2009

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ATTEST: \_\_\_\_\_  
City Clerk of the City of Hayward

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney