

PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE  
SAN FRANCISCO, CA 94102-3298



April 7, 2010

**Advice Letter 3552-E**

Jane K. Yura  
Vice President, Regulation and Rates  
Pacific Gas and Electric Company  
77 Beale Street, Mail Code B10B  
P.O. Box 770000  
San Francisco, CA 94177

**Subject: City of Bakersfield Buena Vista Road Widening Easement  
Near PG&E Tevis Substation – Request for Approval Under  
Section 851**

Dear Ms. Yura:

Advice Letter 3552-E is effective March 1, 2010.

Sincerely,

A handwritten signature in blue ink that reads "Julie A. Fitch".

Julie A. Fitch, Director  
Energy Division



**Brian K. Cherry**  
Vice President  
Regulatory Relations

77 Beale Street, Room 1087  
San Francisco, CA 94105

*Mailing Address*  
Mail Code B10C  
Pacific Gas and Electric Company  
P.O. Box 770000  
San Francisco, CA 94177

Fax: 415.973.7226

November 2, 2009

**Advice 3552-E**

(Pacific Gas and Electric Company ID U 39 E)

Public Utilities Commission of the State of California

**Subject: City of Bakersfield Buena Vista Road Widening Easement Near  
PG&E Tevis Substation – Request for Approval Under Section 851**

**Purpose**

Pacific Gas and Electric Company (“PG&E”) submits this advice letter seeking approval, under Public Utilities (P.U.) Code Section 851, of PG&E’s consent to grant the City of Bakersfield (“City”) an easement along the east boundary of PG&E’s Tevis Substation located on Buena Vista Road, Bakersfield, California. The City will use the proposed easement for public roadway purposes, allowing the City to construct the Buena Vista Road to full width arterial roadway standards, as well as for landscaping, a wall, and public utilities purposes. This easement will not interfere with PG&E’s ability to provide utility services and is not adverse to the public interest; rather, it will benefit the public through improved pedestrian and vehicular traffic flow and access to the Tevis Substation, as well as improving aesthetics in the area through landscaping.

**Background**

PG&E owns land, buildings and other facilities in connection with the provision of electricity services to its customers throughout northern and central California. In the provision of these services, PG&E relies on its wide system of substations to support its generation, transmission and distribution activities. One such substation is the Tevis Substation, located on Buena Vista Road, south of White Lane and north of Pacheco Road, in Bakersfield, California.

In 2002, the City re-designated Buena Vista Road as an “arterial” as part of its General Plan Update to Chapter II, Circulate Element in Resolution 222-02 (attached hereto as Attachment 2). That re-designation required Buena Vista Road to be widened to meet the City’s minimum capacity standards (see Attachment 2 regarding “arterials” and “standards”). Thereafter, the City and Castle & Cooke California Limited (“Developer”) entered into a Development Agreement to construct a residential

development (“Development”) on a parcel of land that lies northerly, westerly and southerly of PG&E’s Tevis Substation. Because Buena Vista Road is adjacent to the Development, the specific plan approved by the City included a condition requiring this Developer to construct the widened segment of the Road that is near PG&E’s Tevis Substation to the specifications of the General Plan Update’s Arterial Standards. (See Resolution 163-07 attached hereto as Attachment 4; see esp. Exhibit 4-7 requiring the expansion of Buena Vista Road, including bike lanes, as well as installation of landscaping, a wall, and various public utilities).

Currently, Buena Vista Road consists of one southbound lane along the frontage of the PG&E parcel. The Developers and Bolthouse Properties, L.L.C., own the remaining frontage along Buena Vista Road from White Lane south to Pacheco Road. They have completed plans to facilitate the expansion of Buena Vista Road on their parcel. This PG&E easement to the City relates to the contemporaneous expansion of the road and construction of improvements along the Buena Vista Road as a single project in accordance with requirements of the Resolution. The specific improvements will include a storm drain; sewer lines; water, gas, electric, telephone, cable and other applicable utility lines; street pavement, curb, gutter, and sidewalk; a masonry parkway wall; signage; and a landscape strip. The road expansion activities that will be performed, including in the area covered by the easement agreement, will not interfere with PG&E’s provision of utility services, but rather will augment access to PG&E’s Tevis Substation, allowing for greater cost-efficiencies in substation maintenance and the delivery of energy services. These benefits will be enjoyed by PG&E’s current and future ratepayers, including through rates that will be lower than they otherwise would have been.

The proposed easement satisfies Section 851 as it is “not adverse to the public interest.” The Commission has repeatedly held that the relevant inquiry in Section 851 proceedings is whether the transaction is “adverse to the public interest.” (See, e.g., Universal Marine Corp., 1984, Cal. PUC Lexis 962 \* 3; 14 CPUC 2d 644, 646; see also D.03-01-084, 2003 Cal. PUC LEXIS 72, \*10. Decision (D.) 89-07-016 and D.01-05-076.) Furthermore, in approving productive compatible uses of utility property such as this easement, the Commission has long recognized that the public interest is served when, as in this request, utility property is used for other productive purposes without interfering with the utility’s operations or affecting services to utility customers. (D.04-07-023, mimeo, p.13, *citing* D.02-01-058 [2002 Cal. PUC LEXIS 11, \*9-\*10], D.94-06-017 and D.92-07-007.) As stated above, the road widening will not interfere with PG&E’s operations or its ability to provide reliable service to its customers. On the contrary, granting this easement will *improve* existing levels of utility service by making it possible to augment access to PG&E’s Tevis Substation. At the same time, it will improve pedestrian and vehicular traffic flow as well as the aesthetics along Buena Vista Road for the benefit of the general public in the Bakersfield community.

In accordance with the format of Advice Letter directed in Resolution ALJ-202 (Appendix A, Section IV.), PG&E provides the following information related to the proposed transaction:

**(1) Identity and Addresses of All Parties to the Proposed Transaction:**

Pacific Gas and Electric Company	James D. Movius
Andrew L. Niven	City of Bakersfield
Gail L. Slocum	Planning Department
Law Department	1715 Chester Avenue
P.O. Box 7442	Bakersfield, CA 93301
San Francisco, CA 94120	Telephone: (661) 326-3733
Telephone: (415) 973-6583	E-mail: devpln@bakersfieldcity.us
Facsimile: (415) 973-0576	
Email: GLSG@pge.com	

Castle & Cooke California Inc.  
10000 Stockdale Hwy #300  
Bakersfield, CA 9311  
Telephone: (661) 664-6500  
Facsimile: (661) 664-6042  
Email: kmcwhorter@castlecooke.com

**(2) Complete Description of the Property Including Present Location, Condition and Use:**

PG&E owns and operates the Tevis Substation and the accompanying 6.13 acres of land on which the substation is located. The Tevis Substation is located on Buena Vista Road, south of White Lane and north of Pacheco Road, in Bakersfield, California. The 6.13 acre parcel was acquired by PG&E by grant deed recorded in Book 6453 at page 2071, Official Records of Kern County, as shown on the plan attached herein as Exhibit A to Attachment 1.

**(3) Intended Use of the Property:**

Per the terms of the easement agreement ("Agreement") included herein as Attachment 1, the City (through the Developer) will be allowed to:

- (1) Perform road improvements, grading and support. The area subject to public roadway expansion is approximately the easterly twenty-five feet (25') of PG&E's parcel and occupies an area of approximately 13,532 square feet ("sqft"), as legally defined in Exhibit B to Attachment 1. Activities to be performed on this parcel will include the excavation, installation, construction, reconstruction, repair, maintenance and use of the widened road.
- (2) Landscaping, wall and public utilities easement. The area subject to this easement activity is approximately westerly nine feet (9') of the easterly thirty-four feet (34') of PG&E's parcel and occupies an area of

approximately 4,611 sqft, as legally defined in Exhibit C to Attachment 1. Specific activities will include landscaping, construction of a masonry parkway wall, and the installation of various public utilities.

**(4) Complete Description of Financial Terms of the Proposed Transaction:**

PG&E will receive a one-time fee of Twenty-Seven Thousand Four Hundred Dollars (\$27,400) for granting this easement to the City.

**(5) Description of How Financial Proceeds of the Transaction Will Be Distributed:**

As consideration for granting the easement described in the Agreement, the Developer will pay PG&E a one-time fee. This compensation will be credited to Other Operating Revenue and used to reduce transmission revenue requirements in future transmission order cases, consistent with conventional cost-of-service ratemaking.

**(6) Statement on the Impact of the Transaction on Ratebase and Any Effect on the Ability of the Utility to Serve Customers and the Public:**

No PG&E property is being sold or disposed off as a result of this transaction. Therefore, no change in PG&E's rate base will result from approval of this Section 851 request. Granting this easement will neither interfere with the operations of the Tevis Substation nor affect PG&E's ability to provide reliable service to its customers and the public at large. On the contrary, this transaction will facilitate the provision of pooled urban services to the proposed Development area, improve pedestrian and vehicular traffic flow and access to the Tevis Substation, as well as improving the aesthetics in the area through landscaping. To ensure no impairment of PG&E's ability to deliver services to its customers, PG&E will reserve the right to make use of the property for such purposes as it may deem necessary or appropriate if, and whenever, in the interest of its service to its customers or the public at large. (See Agreement, Attachment 1, at Section 8(a).)

**(7) The Original Cost, Present Book Value, and Present Fair Market Value for Sales of Real Property and Depreciable Assets, and a Detailed Description of How the Fair Market Value Was Determined (e.g., Appraisal):**

Not Applicable.

**(8) The Fair Market Rental Value for Leases of Real Property, and a Detailed Description of How the Fair Market Rental Value Was Determined:**

Not Applicable.

**(9) For Fair Market Rental Value of the Easement or Right-of-Way and a Detailed Description of How the Fair Market Rental Value Was Determined:**

The City retained the appraisal services of Launer & Associates, Inc. ("Appraisers") for the purpose and part of the process of providing value estimates of PG&E property subject to the easement and relative to the proposed road widening project. On February 10, 2006, the Appraisers delivered a report that provided the City with an estimate of \$27,400 as just compensation for PG&E parcel subject to the easement. PG&E has reviewed the aforementioned appraisal and accepted its findings on estimated values. PG&E believes that the appraised value accurately reflects and falls within the reasonable range for a fair market easement valuation. An executive summary of the appraisal report is attached hereto as Attachment 5.

**(10) A Complete Description of any Recent Past (Within the Prior Two Years) or Anticipated Future Transactions that May Appear To Be Related to the Present Transaction<sup>1</sup>:**

Not Applicable.

**(11) Sufficient Information and Documentation (Including Environmental Review Information) to Indicate that All Criteria Set Forth in Section II(A) of Resolution ALJ-202 Are Satisfied:**

PG&E has provided information within this Advice Letter to meet the eligibility criteria under the Section 851 Advice Letter pilot program:

- No California Environmental Quality Act (CEQA) review is required for the grant of easement proposed in this transaction. First, in accordance with CPUC precedent, the easement transfer is not a "project" in that the only change is a pre-existing condition in a separate development approval, as explained in Section 13(b) below. Second, the work consists of minor, categorically exempt activities including minor grading, and landscaping and related minor improvements exempt from CEQA review, as explained in Section 13(a) below. In the alternative, the CPUC can find adequate for the CPUC's 851 purposes the City's prior CEQA review underlying the General Plan Re-designation of this Road as

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<sup>1</sup> During adoption of the Advice Letter pilot program in ALJ-186 (later followed by ALJ-202), this category of information was included to enable the CPUC to ensure that utilities were not seeking to circumvent the \$5 million Advice Letter threshold by dividing what is a single asset with a value of more than \$5 million into component parts each valued at less than \$5 million, which is clearly not the case here. (See CPUC Resolution ALJ-186, issued August 25, 2005, mimeo, p.5.)

an arterial and thus requiring the widening that requires this easement (see Section 13(b) below).

- The financial compensation received from granting the proposed easement is well below the \$5 million eligibility threshold set forth in ALJ-202.
- The activities described as part of the Agreement do not involve the transfer or change in ownership of property or facilities currently used in PG&E operations. PG&E will retain full access rights and ownership to its facilities in support of its utility operations.
- The proposed activities will not have an adverse effect on the public interest, rather they will allow productive secondary use of utility property. In addition, the proposed activities will not interfere in any way with the operations of PG&E's facilities, or with PG&E's provision of service to its customers. To the contrary, this transaction will improve accessibility to the Tevis Substation, augmenting PG&E's capabilities to better serve its customers. It will also benefit the public in general through these City-approved public works improvements, as discussed in greater detail above.

**(12) Additional Information to Assist in the Review of the Advice Letter:**

No information is readily available other than what has already been included within this filing.

**(13) Environmental Information**

Pursuant to ALJ-202, the Section 851 Advice Letter pilot program only applies to proposed transactions that will not require environmental review by the CPUC as a lead or responsible agency under CEQA either because (a) a statutory or categorical exemption applies or (b) because the transaction is not a "project" under CEQA.

a. Exemption

- i. Has the proposed transaction been found exempt from CEQA by a government agency?

- 1. If yes, please attach notice of exemption. Please provide name of agency, date of Notice of Exemption, and State Clearinghouse number.

Not Applicable.

2. If no, does the applicant contend that the project is exempt from CEQA? If yes, please identify the specific CEQA exemption or exemptions that apply to the transaction, citing to the applicable State CEQA Guideline(s) and/or Statute(s).

PG&E believes that the transfer of this easement to enable the required widening of Buena Vista Road is categorically exempt from CEQA under the following sections of the Guidelines for Implementation of the California Environmental Quality Act, Cal. Code Regs., tit. 14, §§ 15000 (“CEQA Guidelines”):

- Section 15303(d) (exempting water main, sewage, electrical gas and other utility extensions, including street improvements of reasonable length to serve such construction)
- Section 15303(e)(accessory structures – here the wall portion of the landscaping)
- Section 15304(a) and (b) (minor alterations to land for grading and landscaping; see e.g. CPUC D.04-07-023 in which the CPUC found that 9,320 square feet of paved parking and landscaping on PG&E land in an urban area in San Carlos would be categorically exempt under Section 15304)
- Section 15301(c) (exempting minor alterations to existing streets).

b. Not a “Project” Under CEQA

- i. If the transaction is not a “project” under CEQA, please explain why.

Consistent with the CPUC’s similar action in Resolution E-4211 (approving PG&E’s Advice Letter 3343-E granting an easement to the City and County of Fresno for a sidewalk extending onto PG&E’s land, for which public dedication was a required condition of a prior separate development permit), this proposed Easement Agreement conveyance is “not a project” under CEQA because the road-widening is a pre-existing requirement in a separate development permit under a Development Agreement consistent with the City’s General

Plan Update, as discussed in the background section above.<sup>2</sup> This 851 filing simply conveys an easement to the City for public right of way purposes, to meet the separate dedication requirement that was a condition of the City's approval of the adjacent Development. In other words, the approval of this easement does not authorize and is not the trigger for construction activities which have already been legally required here by the City.

### **Protests**

Anyone wishing to protest this filing may do so by letter sent via U.S. mail by facsimile or electronically, any of which must be received no later than **November 23, 2009**, which is 21 days after the date of this filing.<sup>3</sup> Protests should be mailed to:

CPUC Energy Division  
Attention: Tariff Unit, 4th Floor  
505 Van Ness Avenue  
San Francisco, CA 94102

Facsimile: (415) 703-2200  
E-mail: mas@cpuc.ca.gov and jnj@cpuc.ca.gov

Copies of protests also should be mailed to the attention of the Director, Energy Division, Room 4004, at the address shown above.

The protest also should be sent via U.S. mail (and by facsimile and electronically, if possible) to PG&E at the address shown below on the same date it is mailed or delivered to the Commission:

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<sup>2</sup> Although the City conducted the necessary environmental review under CEQA for its entire General Plan Update including the circulation element which required this Road to be widened (see Notice of Determination dated December 16, 2002, attached hereto as Attachment 3), as well as for the adjacent Development Agreement in which the widening plan was specified including a condition requiring public dedication of the entire street, that does not change the fact that the grant of this easement itself to the City for public dedication of this segment of road is a paper transaction that is not in and of itself a CEQA "project" or would be categorically exempt. Therefore, the CPUC need not review any further underlying documentation from the City. If the CPUC prefers to do so, though, it could alternatively find that the City's environmental review is adequate for purposes of the CPUC's Section 851 approval of this easement transfer for public dedication purposes (which, under AB 698, the may do by a resolution adopting this Advice Letter if the resolution is issued at the CPUC's first meeting after January 1, 2010 when the new law becomes effective.) However, the CPUC can and should act earlier by finding this easement transfer not to be a project or categorically exempt.

<sup>3</sup> The protest period ends on a weekend. PG&E hereby moves the protest period to the following business day.

Pacific Gas and Electric Company  
Attention: Brian Cherry  
Vice President, Regulatory Relations  
77 Beale Street, Mail Code B10C  
P.O. Box 770000  
San Francisco, CA 94177

Facsimile: (415) 973-7226  
E-mail: PGETariffs@pge.com

**Effective Date:**

Pursuant to the review process outlined in Resolution ALJ-202, PG&E requests that this advice filing become effective by Commission resolution at the **December 17, 2009**, meeting, or soon as possible. PG&E agrees in advance to a shortened review and comment period and waiving its right to reply comments on a draft resolution approving this request. **PG&E submits this filing as a Tier 3.**

**Notice:**

In accordance with General Order 96-B, Section IV, a copy of this advice letter is being served on the Energy Division and the Division of Ratepayer Advocates. In addition, in accordance with General Order 96-B, Section IV, a copy of this advice letter is being sent electronically and via U.S. mail to parties shown on the attached list. Address changes to the General Order 96-B service list and electronic approvals should be sent to e-mail PGETariffs@pge.com Advice letter filings can also be accessed electronically at <http://www.pge.com/tariffs>.



Vice President, Regulatory Relations

Attachments

cc: Service List - Advice Letter 3552-E

\*\*\*\*\***SERVICE LIST Advice 3552-E**\*\*\*\*\*  
**APPENDIX A**

Karen Clopton  
 Administrative Law Judge Division  
 505 Van Ness Avenue  
 San Francisco, CA 94102  
 (415) 703-2008  
 kvc@cpuc.ca.gov

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 San Francisco, CA 94102  
 (415) 703- 2187  
 bfs@cpuc.ca.gov

\*\*\*\*\* **AGENCIES** \*\*\*\*\*

James D. Movius  
 City of Bakersfield  
 Planning Department  
 1715 Chester Avenue  
 Bakersfield, CA 93301  
 (661) 326-3733  
 devpln@bakersfieldcity.us

Pamela A. McCarthy, CMC  
 City Clerk  
 1600 Truxtun Avenue  
 Bakersfield, CA 93301  
 Telephone: (661) 326-3767  
 FAX: (661) 323-3780  
 City\_Clerk@bakersfieldcity.us

\*\*\*\*\***3<sup>rd</sup> PARTY**\*\*\*\*\*

Castle &Cooke California Inc.  
 10000 Stockdale Highway #300  
 Bakersfield, California 93311  
 (661) 664-6500  
 kmcwhorter@castlecooke.com

# CALIFORNIA PUBLIC UTILITIES COMMISSION

## ADVICE LETTER FILING SUMMARY ENERGY UTILITY

MUST BE COMPLETED BY UTILITY (Attach additional pages as needed)

Company name/CPUC Utility No. **Pacific Gas and Electric Company (ID U39 M)**

Utility type:

ELC       GAS  
 PLC       HEAT       WATER

Contact Person: Linda Tom-Martinez

Phone #: (415) 973-4612

E-mail: lmt1@pge.com

EXPLANATION OF UTILITY TYPE

ELC = Electric      GAS = Gas  
PLC = Pipeline      HEAT = Heat      WATER = Water

(Date Filed/ Received Stamp by CPUC)

Advice Letter (AL) #: **3552-E**

**Tier: 3**

Subject of AL: **City of Bakersfield Buena Vista Road Widening Easement Near PG&E Tevis Substation Request for Approval Under Section 851 Transaction**

Keywords (choose from CPUC listing): Section 851

AL filing type:  Monthly  Quarterly  Annual  One-Time  Other \_\_\_\_\_

If AL filed in compliance with a Commission order, indicate relevant Decision/Resolution #:

Does AL replace a withdrawn or rejected AL? If so, identify the prior AL: No

Summarize differences between the AL and the prior withdrawn or rejected AL<sup>1</sup>: \_\_\_\_\_

Is AL requesting confidential treatment? If so, what information is the utility seeking confidential treatment for:

Confidential information will be made available to those who have executed a nondisclosure agreement:  Yes  No

Name(s) and contact information of the person(s) who will provide the nondisclosure agreement and access to the confidential information: \_\_\_\_\_

Resolution Required?  Yes  No

Requested effective date: **Upon Commission Approval on or before 12/17/2009**

No. of tariff sheets: N/A

Estimated system annual revenue effect (%): N/A

Estimated system average rate effect (%): N/A

When rates are affected by AL, include attachment in AL showing average rate effects on customer classes (residential, small commercial, large C/I, agricultural, lighting).

Tariff schedules affected: N/A

Service affected and changes proposed<sup>1</sup>: N/A

Pending advice letters that revise the same tariff sheets: N/A

Protests, dispositions, and all other correspondence regarding this AL are due no later than 20 days after the date of this filing, unless otherwise authorized by the Commission, and shall be sent to:

**CPUC, Energy Division**

**Tariff Files, Room 4005**

**DMS Branch**

**505 Van Ness Ave.,**

**San Francisco, CA 94102**

**jnj@cpuc.ca.gov and mas@cpuc.ca.gov**

**Pacific Gas and Electric Company**

**Attn: Brian K. Cherry**

**Vice President, Regulatory Relations**

**77 Beale Street, Mail Code B10C**

**P.O. Box 770000**

**San Francisco, CA 94177**

**E-mail: PGETariffs@pge.com**

# Advice 3552-E

## Attachment 1 Easement Agreement

**LD 2230-26-0257**

2008236 (22-08-091) 6 08 2

Tevis Substation

Easements to City of Bakersfield For  
Road, Landscaping, Wall and Public Utilities

RECORDING REQUESTED BY, AND  
WHEN RECORDED RETURN TO:

City Clerk's Office  
City Hall  
1501 Truxtun Avenue  
Bakersfield, CA 993301

Location: City/Uninc \_\_\_\_\_  
Recording Fee \$0.00 (Government Code Section 27383)  
Document Transfer Tax \$0.00 (Revenue and Taxation Code Section 11922)

\_\_\_\_\_  
Signature of declarant or agent determining tax

(A portion of APN 524-050-18)

**EASEMENT AGREEMENT**  
**(Road, Landscape and Public Utilities Easements to City of Bakersfield)**

This Easement Agreement ("**Agreement**") is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_ (the "**Effective Date**") by PACIFIC GAS AND ELECTRIC COMPANY, a California corporation, hereinafter called "**PG&E**", and the CITY OF BAKERSFIELD, a Municipal Corporation of the State of California, hereinafter called "**Grantee.**"

**RECITALS**

A. PG&E owns certain real property within the County of Kern, State of California, more particularly described in and shown on **EXHIBIT "B"** and **EXHIBIT "C"**, both of which are attached hereto and made a part hereof.

B. Castle & Cooke California, Inc., a California corporation, or its successor (the "**Developer**"), is currently developing and will be constructing a residential development on the real property lying northerly, westerly and southerly of the parcel of land PG&E acquired for substation purposes by deed dated July 23, 1990 and recorded in Book 6453 of Official Records at page 2071, Kern County Records (the "**Development**"). In connection with the Development and Grantee's approval of the Development, Grantee desires an easement for the purposes of widening Buena Vista Road within the parcel of land described in and shown on **EXHIBIT "B"**, and to

install landscaping, a wall and public utilities within the parcel of land described in and shown on EXHIBIT "C". Accordingly, the Developer and Grantee have requested that PG&E grant an easement for the excavation, installation, construction, reconstruction, repair, maintenance and use of such road, landscaping, wall and public utilities.

C. PG&E is willing to grant such easement on the terms and subject to the conditions set forth herein.

Now, therefore, in consideration of Developer's agreement to pay the sum of Twenty-Seven Thousand Four Hundred Dollars (\$27,400.00), and for other good and valuable consideration, PG&E and Grantee agree as follows:

1. Grant of Easement(s): PG&E hereby grants to Grantee, upon the terms and conditions set forth in this Agreement, the following easement:

(a) Road Improvements, Grading and Support. A non-exclusive easement to excavate, install, construct, reconstruct, repair, replace, maintain and use a road, together with a right of use for associated grading and support within the parcel of land described in and shown on EXHIBIT "B".

(b) Landscaping, Wall and Public Utilities Easement. A non-exclusive easement to landscape, construct a wall and to install public utilities within the parcel of land described in and shown on EXHIBIT "C".

Collectively, the parcel of land described in and shown on EXHIBIT "B" and the parcel of land described in and shown on EXHIBIT "C" are hereinafter referred to as the "**Easement Areas.**"

2. Limitations on Use.

(a) The Easement Areas and any facilities permitted to be constructed thereon are to be used by Grantee only for those uses permitted in Section 1 above, and for no other purpose.

(b) PG&E reserves the right to restrict access to the Easement Areas or any portion or portions thereof in the event of fire, earthquake, storm, riot, civil disturbance, or other casualty or emergency, or in connection with PG&E's response thereto, or if emergency repairs or maintenance are required to PG&E facilities within or in the vicinity of the Easement Areas, or otherwise when PG&E deems it advisable to do so, including in connection with events and emergencies occurring or affecting PG&E's business operations located elsewhere than in the immediate vicinity of the Easement Areas.

(c) Grantee shall not erect or construct any building or other structure other than the improvements specifically authorized by this Agreement, nor shall Grantee drill or operate any well, within five (5) feet of any of PG&E's electric or gas facilities.

3. Condition of Easement Areas. Grantee accepts the Easement Areas in their existing physical condition, without warranty by PG&E or any duty or obligation on the part of PG&E to

maintain the Easement Areas. Grantee acknowledges that one or more of the following (collectively, "**Potential Environmental Hazards**") may be located in, on or underlying the Easement Areas and/or PG&E's adjacent lands:

(a) electric fields, magnetic fields, electromagnetic fields, electromagnetic radiation, power frequency fields, and extremely low frequency fields, however designated, and whether emitted by electric transmission lines, other distribution equipment or otherwise ("**EMFs**");

(b) Hazardous Substances (as hereinafter defined). For purposes hereof, the term "**Hazardous Substances**" means any hazardous or toxic material or waste which is or becomes regulated by Legal Requirements (as hereinafter defined) relating to the protection of human health or safety, or regulating or relating to industrial hygiene or environmental conditions, or the protection of the environment, or pollution or contamination of the air, soil, surface water or groundwater, including, but not limited to, laws, requirements and regulations pertaining to reporting, licensing, permitting, investigating and remediating emissions, discharges, releases or threatened releases of such substances into the air, surface water, or land, or relating to the manufacture, processing, distribution, use, treatment, storage, disposal, transport or handling of such substances. Without limiting the generality of the foregoing, the term Hazardous Substances includes any material or substance:

(1) now or hereafter defined as a "hazardous substance," "hazardous waste," "hazardous material," "extremely hazardous waste," "restricted hazardous waste" or "toxic substance" or words of similar import under any applicable local, state or federal law or under the regulations adopted or promulgated pursuant thereto, including, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. §§9601 *et seq.* ("CERCLA"); the Resource Conservation and Recovery Act of 1976, 42 U.S.C. §§6901 *et seq.*; the Clean Air Act, 42 U.S.C. §§7401 *et seq.*; the Clean Water Act, 33 U.S.C. §§1251 *et seq.*; the Toxic Substance Control Act, 15 U.S.C. §§2601 *et seq.*; the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. §§136 *et seq.*; the Atomic Energy Act of 1954, 42 U.S.C. §§2014 *et seq.*; the Nuclear Waste Policy Act of 1982, 42 U.S.C. §§10101 *et seq.*; the California Hazardous Waste Control Law, Cal. Health and Safety Code §§25100 *et seq.*; the Porter-Cologne Water Quality Control Act, Cal. Water Code §§13000 *et seq.*; the Carpenter-Presley-Tanner Hazardous Substance Account Act (Health and Safety Code §§25300 *et seq.*); and the Medical Waste Management Act (Health and Safety Code §§25015 *et seq.*); or

(2) which is toxic, explosive, corrosive, flammable, infectious, radioactive, carcinogenic, mutagenic or otherwise hazardous, and is now or hereafter regulated as a Hazardous Substance by the United States, the State of California, any local governmental authority or any political subdivision thereof, or which cause, or are listed by the State of California as being known to the State of California to cause, cancer or reproductive toxicity; or

(3) the presence of which on the Easement Areas and/or PG&E's adjacent lands poses or threatens to pose a hazard to the health or safety of persons on or about the Easement Areas or to the environment; or

- (4) which contains gasoline, diesel fuel or other petroleum hydrocarbons; or
- (5) which contains lead-based paint or other lead contamination, polychlorinated biphenyls ("PCBs") or asbestos or asbestos-containing materials or urea formaldehyde foam insulation; or
- (6) which contains radon gas;
- (c) fuel or chemical storage tanks, energized electrical conductors or equipment, or natural gas transmission or distribution pipelines; and
- (d) other potentially hazardous substances, materials, products or conditions.

Grantee shall be solely responsible for the health and safety of, and shall take all necessary precautions to protect, its employees, contractors, consultants, agents and invitees, including, without limitation, the Developer and the general public ("**Grantee's Representatives**") from risks of harm from Potential Environmental Hazards. Grantee acknowledges that it has previously evaluated the condition of the Easement Areas and all matters affecting the suitability of the Easement Areas for the uses permitted by this Agreement, including, but not limited to, the Potential Environmental Hazards listed herein.

4. Grantee's Covenants. Grantee hereby covenants and agrees:

(a) Construction of Improvements. Grantee agrees to construct and install, or cause to be constructed and installed, at no cost to PG&E, such facilities and improvements ("**Improvements**") as may be necessary and appropriate for Grantee's permitted use, as specified in Section 1. All such construction shall be performed in accordance with detailed plans and specifications ("**Plans**") previously approved by PG&E, and shall comply with all Legal Requirements, as defined below in Section 4(b). Before commencing construction of any Improvements, Grantee shall obtain all permits, authorizations or other approvals, at Grantee's sole cost and expense as may be necessary for such construction. Without limiting the generality of the foregoing, Grantee shall be responsible for complying with any and all applicable requirements of the National Environmental Policy Act ("**NEPA**") and the California Environmental Quality Act ("**CEQA**") and satisfying, at Grantee's sole expense, any and all mitigation measures under CEQA that may apply to Grantee's proposed occupancy and use of the Easement Areas, and to the construction, maintenance and use of Grantee's proposed Improvements and facilities. Grantee shall promptly notify PG&E of any and all proposed mitigation measures that may affect PG&E, the Easement Areas or PG&E's adjacent lands. If PG&E determines in good faith that any such mitigation measures may adversely affect PG&E, the Easement Areas or PG&E's adjacent lands, or impose limitations on PG&E's ability to use the Easement Areas or PG&E's adjacent lands as specified in Section 8, then PG&E shall have the right, without liability to Grantee, to give notice of termination of this Agreement to Grantee, whereupon this Agreement and the rights granted to Grantee shall terminate and revert in PG&E, unless within ten (10) days following delivery of such notice, Grantee gives notice to PG&E by which Grantee agrees to modify its proposed Project (as that term is defined under CEQA) so as to eliminate the necessity for such mitigation measures. In the event of such termination, PG&E and Grantee shall each be released from all obligations under

this Agreement, except those which expressly survive termination. Grantee acknowledges and agrees that PG&E's review of Grantee's Plans is solely for the purpose of protecting PG&E's interests, and shall not be deemed to create any liability of any kind on the part of PG&E, or to constitute a representation on the part of PG&E or any person consulted by PG&E in connection with such review that the Plans or the Improvements contemplated by such Plans are adequate or appropriate for any purpose, or comply with applicable Legal Requirements. Grantee shall not commence construction or installation of any Improvements (i) without the prior written consent of PG&E, which consent shall not be unreasonably withheld, conditioned or delayed, (ii) without the prior consent, to the extent required by applicable law or regulation, of the California Public Utilities Commission (hereinafter, "CPUC"), (iii) unless and until PG&E has received payment from the Developer of the Easement Fee (as defined and set forth in Section 10 below), and (iv) unless and until Grantee provides PG&E with satisfactory evidence of the insurance in **EXHIBIT D** for itself and any construction contractor;

(b) Compliance with Laws. Grantee shall, at its sole cost and expense, promptly comply with (a) all laws, statutes, ordinances, rules, regulations, requirements or orders of municipal, state, and federal authorities now in force or that may later be in force, including, but not limited to, those relating to the generation, use, storage, handling, treatment, transportation or disposal of Hazardous Substances, as defined herein, or to health, safety, noise, environmental protection, air quality or water quality; (b) the conditions of any permit, occupancy certificate, license or other approval issued by public officers relating to Grantee's use or occupancy of the Easement Areas; and (c) with any liens, encumbrances, easements, covenants, conditions, restrictions and servitudes (if any) of record, or of which Grantee has notice, which may be applicable to the Easement Areas (collectively, "**Legal Requirements**"), regardless of when they become effective, insofar as they relate to the use or occupancy of the Easement Areas by Grantee. Grantee shall furnish satisfactory evidence of such compliance upon request by PG&E. The judgment of any court of competent jurisdiction, or the admission of Grantee in any action or proceeding against Grantee, whether or not PG&E is a party in such action or proceeding, that Grantee has violated any Legal Requirement relating to the use or occupancy of the Easement Areas, shall be conclusive of that fact as between PG&E and Grantee;

(c) Notice of Enforcement Proceedings. Grantee agrees to notify PG&E in writing within three (3) business days of any investigation, order or enforcement proceeding which in any way relates to the Easement Areas or PG&E's adjacent lands, or to any contamination or suspected contamination on, within or underlying the Easement Areas or PG&E's adjacent lands. Such notice shall include a complete copy of any order, complaint, agreement, or other document which may have been issued, executed or proposed, whether draft or final;

(d) Non-Interference. Grantee agrees not to interfere in any way or permit any interference with the use of the Easement Areas or PG&E's adjacent lands by PG&E and other entitled persons. Interference shall include, but not be limited to, any activity by Grantee that places any of PG&E's gas or electric facilities in violation of any of the provisions of General Order Nos. 95 (Overhead Electric), 112E (Gas), and 128 (Underground Electric) of the CPUC or to any other Legal Requirements under which the operations of utility facilities are controlled or regulated. Grantee shall not erect, handle, or operate any tools, machinery, apparatus, equipment, or materials closer to any of PG&E's high-voltage electric conductors than the minimum clearances set forth in the High-Voltage Electrical Safety Orders of the California Division of

Industrial Safety; which minimum clearances are incorporated herein by reference; but in no event closer than ten (10) feet to any energized electric conductors or appliances. Grantee shall not drill, bore, or excavate within thirty (30) feet of any of PG&E's underground facilities, including, but not limited to, gas pipelines, valves, regulators, electric conduits, tower footings or foundations. Grantee shall provide notice to Underground Service Alert at 1-800-227-2600 at least two (2) business days prior to commencing any drilling, boring or excavating permitted hereunder within said Easement Areas to assist Grantee with locating any and all underground facilities, including, but not limited to, gas pipelines, valves, regulators or electric conduits;

(e) Avoiding Dangerous Activities. Grantee agrees to conduct its activities and operations within and on the Easement Areas in such a manner so as not to endanger the Easement Areas or PG&E's adjacent lands, PG&E's utility facilities, the environment and human health and safety. Grantee shall not cause or permit any Hazardous Substances, as defined herein, to be brought upon, produced, stored, used, discharged or disposed of on, or in the vicinity of the Easement Areas or PG&E's adjacent lands, except in compliance with all applicable Legal Requirements. Grantee shall be responsible for the cost of remediating any discharge or release of Hazardous Substances resulting from or arising in connection with Grantee's use of the Easement Areas, and shall immediately notify PG&E and the appropriate regulatory authorities where required by law, of any such release. If PG&E determines that Grantee's activities in any way endanger the Easement Areas or PG&E's adjacent lands, PG&E's utility facilities, the environment, or human health and safety, PG&E may, in PG&E's sole and absolute discretion, require that Grantee halt such activities until appropriate protective measures are taken to PG&E's satisfaction. Grantee shall hold PG&E harmless from any claims resulting from any delay under this paragraph. PG&E's right to halt activities under this paragraph shall not in any way affect or alter Grantee's insurance or indemnity obligations under this Agreement, nor shall it relieve Grantee from any of its obligations hereunder that pertain to health, safety, or the protection of the environment;

(f) Maintenance. Grantee agrees to maintain its facilities and Improvements in good condition and repair, and be responsible for the security of, the facilities installed hereunder;

(g) Repairing Damage. Grantee agrees to repair any damage it may cause to PG&E's facilities and improvements in said Easement Areas or within PG&E's adjacent lands;

(h) Coordination. Grantee agrees to coordinate all activities regarding the easements granted herein to reasonably minimize any interference and inconvenience with the use by PG&E of the Easement Areas and PG&E's adjacent lands, and;

(i) PG&E Right to Cure. Grantee agrees that if Grantee fails to perform any act or other obligation on its part to be performed hereunder, and such failure is not remedied within fifteen (15) days following notice from PG&E (or in the case of an emergency, following such notice, if any, as may be reasonably practicable under the existing circumstances), PG&E may (but without obligation to do so, and without waiving or releasing Grantee from any of its obligations) perform any such act or satisfy such obligation, or otherwise remedy such emergency or such failure on the part of Grantee. All costs incurred by PG&E in responding to or remedying such failure by Grantee shall be payable by Grantee to PG&E on demand.

5. Indemnification; Release.

(a) Grantee shall, to the maximum extent permitted by law, indemnify, protect, defend and hold harmless PG&E, its parent corporation, subsidiaries and affiliates, and their respective officers, managers, directors, representatives, agents, employees, transferees, successors and assigns (each, an "Indemnitee" and collectively, "Indemnitees") from and against all claims, losses (including, but not limited to, diminution in value), actions, demands, damages, costs, expenses (including, but not limited to, experts fees and reasonable attorneys' fees and costs) and liabilities of whatever kind or nature (collectively, "Claims"), which arise from or are in any way connected with the occupancy or use of the Easement Areas by Grantee or Grantee's Representatives, or the exercise by Grantee of its rights hereunder, or the performance of, or failure to perform, Grantee's duties under this Agreement, including, but not limited to, Claims arising out of: (1) injury to or death of persons, including but not limited to employees of PG&E or Grantee (and including, but not limited to, injury due to exposure to EMFs and other Potential Environmental Hazards in, on or about the Easement Areas or PG&E's adjacent lands); (2) injury to property or other interest of PG&E, Grantee or any third party; (3) violation of any applicable federal, state, or local laws, statutes, regulations, or ordinances, including all Legal Requirements relating to human health or the environment, and including any liability which may be imposed by law or regulation without regard to fault; excepting only with respect to any Indemnitee, to the extent of any Claim arising from the sole negligence or willful misconduct of such Indemnitee. Without limiting the generality of the foregoing, Grantee shall, to the maximum extent permitted by law, indemnify, protect, defend and hold Indemnitees harmless from and against Claims arising out of or in connection with any work of improvement constructed or installed at or on, labor performed on, or materials delivered to, or incorporated in any improvements constructed on, the Easement Areas by, or at the request or for the benefit of, Grantee. In the event any action or proceeding is brought against any Indemnitee for any Claim against which Grantee is obligated to indemnify or provide a defense hereunder, Grantee upon written notice from PG&E shall defend such action or proceeding at Grantee's sole expense by counsel approved by PG&E, which approval shall not be unreasonably withheld, conditioned or delayed.

(b) Grantee acknowledges that all Claims arising out of or in any way connected with releases or discharges of any Hazardous Substance, or the exacerbation of a Potential Environmental Hazard, occurring as a result of or in connection with Grantee's use or occupancy of the Easement Areas or PG&E's adjacent lands, or any of the activities of Grantee and Grantee's Representatives, and all costs, expenses and liabilities for environmental investigations, monitoring, containment, abatement, removal, repair, cleanup, restoration, remediation and other response costs, including reasonable attorneys' fees and disbursements and any fines and penalties imposed for the violation of Legal Requirements relating to the environment or human health, are expressly within the scope of the indemnity set forth above.

(c) Grantee's use of the Easement Areas shall be at its sole risk and expense. Grantee accepts all risk relating to its occupancy and use of the Easement Areas. PG&E shall not be liable to Grantee for, and Grantee hereby waives and releases PG&E and the other Indemnitees from, any and all liability, whether in contract, tort or on any other basis, for any injury, damage, or loss resulting from or attributable to any occurrence on or about the Easement Areas, the condition of Easement Areas, or the use or occupancy of the Easement Areas.

(d) Grantee shall, to the maximum extent permitted by law, indemnify, protect, defend and hold Indemnitees harmless against claims, losses, costs (including, but not limited to, attorneys' fees and costs), liabilities and damages resulting from the failure of Grantee, or any of its contractors or subcontractors, to comply with the insurance requirements set forth in **EXHIBIT D**, attached hereto and made a part hereof. If Grantee fails to so indemnify, protect, defend or hold harmless any Indemnitee, then at PG&E's option, this Agreement shall terminate, and the estate and interest herein granted to Grantee shall revert to and revest in PG&E, if such failure continues for five (5) days following the giving of written notice of termination to Grantee, unless within such time such failure is cured to the reasonable satisfaction of PG&E.

(e) The provisions of this Section 5 shall survive the termination of this Agreement.

6. Additional Facilities. Grantee shall not install any additional facilities or improvements in, on, under or over the Easement Areas without the prior written consent of PG&E, which consent may be granted or withheld in PG&E's sole and absolute discretion, and the prior consent, to the extent required by applicable law or regulation, of the CPUC. Grantee shall submit plans for installation of any proposed additional facilities within the Easement Areas to PG&E for its written approval at the address specified in Section 13.

7. Abandonment; Termination. In the event Grantee abandons the facilities installed hereunder, this Agreement shall terminate and all of the easements and other rights of Grantee hereunder shall revert to PG&E. The non-use of such facilities for a continuous period of two (2) years, unless such nonuse is due to factors outside Grantee's reasonable control, in which case such period is extended to four (4) years, shall be conclusive evidence of such abandonment. Upon any termination of this Agreement, Grantee shall remove, at no cost to PG&E, such of Grantee's facilities and equipment installed pursuant to this Agreement as PG&E may specify. Upon any termination of this Agreement, Grantee shall execute, acknowledge and deliver to PG&E a quitclaim deed or such other documents or instruments, in a form reasonably acceptable to PG&E, as may be reasonably necessary to eliminate this Agreement as an encumbrance on the title to the Easement Areas or PG&E's adjacent lands.

8. Reserved Rights. PG&E reserves the right to use the Easement Areas for any and all purposes which will not unreasonably interfere with Grantee's facilities. Without limiting the generality of the foregoing:

(a) PG&E reserves the right to make use the Easement Areas for such purposes as it may deem necessary or appropriate if, and whenever, in the interest of its service to its patrons or consumers or the public, it shall appear necessary or desirable to do so.

(b) Grantee acknowledges that PG&E may have previously granted, and may in the future grant, certain rights in and across the Easement Areas to others, and the use of the word "grant" in this Agreement shall not be construed as a warranty or covenant by PG&E that there are no such other rights.

(c) Grantee shall not make use of the Easement Areas in any way which will endanger human health or the environment, create a nuisance or otherwise be incompatible with

the use of the Easement Areas or PG&E's adjacent lands, by PG&E or others entitled to use such lands.

(d) This grant is made subject to all applicable provisions of General Order No. 95 (Overhead Electric), General Order 112E (Gas) and General Order No. 128 (Underground Electric) of the CPUC, in like manner as though said provisions were set forth herein.

9. Governmental Approvals. This Agreement shall not become effective, notwithstanding that it may have been executed and delivered by the parties, and Grantee shall not commence construction or other activities hereunder, unless and until the CPUC approves this Agreement and the easements granted and other transactions contemplated hereby (including the adequacy of the compensation to be paid by Grantee), by an order which is final, unconditional and unappealable (including exhaustion of all administrative appeals or remedies before the CPUC). Grantee further acknowledges and agrees that PG&E makes no representation or warranty regarding the prospects for CPUC approval, and Grantee hereby waives all Claims against PG&E which may arise out of the need for such CPUC approval or the failure of the CPUC to grant such approval. This Agreement is made subject to all the provisions of such approval, as more particularly set forth in CPUC Decision D-\_\_\_\_\_ (Application No. \_\_\_\_\_), in like manner as though said provisions were set forth in full herein.

10. Easement Fee. Grantee acknowledges that the Developer has agreed to pay PG&E the sum of Twenty Seven Thousand Four Hundred Dollars (\$27,400.00) as part of the consideration for PG&E entering into this Agreement with Grantee (the "Easement Fee"). Consequently, in addition to the condition set forth in Section 9 above and as otherwise set forth in this Agreement, this Agreement shall not become effective or be recorded, notwithstanding that it may have been executed and delivered by the parties, and Grantee shall not commence construction or other activities hereunder, unless and until PG&E receives payment in full of the Easement Fee from the Developer.

11. Compliance; Insurance. PG&E shall have a right to access and inspect the Easement Areas at any time to confirm Grantee's compliance with Legal Requirements and the provisions of this Agreement. Prior to the Effective Date of this Agreement, Grantee shall procure, and thereafter Grantee shall carry and maintain in effect at all times during the term of the Agreement, with respect to the Easement Areas and the use, occupancy and activities of Grantee and Grantee's Representatives on or about the Easement Areas, the insurance specified in **EXHIBIT D**, attached hereto and made a part hereof by this reference, provided that PG&E reserves the right to review and modify from time to time the coverages and limits of coverage required hereunder, as well as the deductibles and/or self-insurance retentions in effect from time to time (but PG&E agrees that it will not increase required coverage limits more often than once in any five-year period). All insurance required under this Agreement shall be effected under valid, enforceable policies issued by insurers of recognized responsibility, as reasonably determined by PG&E, and shall be written on forms and with insurance carriers acceptable to PG&E. For so long as Grantee is an agency or instrumentality of the United States of America, the State of California or any political subdivision thereof, then Grantee may elect to self-insure for any or all of the required coverage. If Grantee is permitted to self-insure hereunder and elects to do so, Grantee shall be liable to PG&E for the full equivalent of insurance coverage which would have been available to PG&E if all required insurance policies had been obtained by Grantee from a third

party insurer, in the form required by this Agreement, and shall pay on behalf of or indemnify PG&E for all amounts which would have been payable by the third party insurer. In addition, Grantee shall act with the same promptness and subject to the same standards of good faith as would apply to a third party insurance company. Grantee is also responsible for causing its agents, contractors and subcontractors to comply with the insurance requirements of this Agreement at all relevant times (provided, however, that Grantee, in the exercise of its reasonable judgment, may permit contractors and subcontractors to maintain coverages and limits lower than those required of Grantee, provided the coverages and limits required by Grantee are commercially reasonable in light of applicable circumstances). Any policy of liability insurance required to be maintained hereunder by Grantee may be maintained under a so-called "blanket policy" insuring other locations and/or other persons, so long as PG&E is specifically named as an additional insured under such policy and the coverages and amounts of insurance required to be provided hereunder are not thereby impaired or diminished. In addition, liability insurance coverages may be provided under single policies for the full limits, or by a combination of underlying policies with the balance provided by excess or umbrella liability insurance policies.

12. Mechanics' Liens. Grantee shall keep the Easement Areas and PG&E's adjacent lands free and clear of all mechanics', material suppliers' or similar liens, or claims thereof, arising or alleged to arise in connection with any work performed, labor or materials supplied or delivered, or similar activities performed by Grantee or at its request or for its benefit. If any mechanics' liens are placed on the Easement Areas or PG&E's adjacent lands in connection with the activities or facilities set forth in this Agreement, Grantee shall promptly cause such liens to be released and removed from title, either by payment or by recording a lien release bond in the manner specified in California Civil Code Section 3143 or any successor statute.

13. Notice. Any notices or communications hereunder shall be in writing and shall be personally delivered or sent by first class mail, certified or registered, postage prepaid, or sent by national overnight courier, with charges prepaid for next business day delivery, addressed to the addressee party at its address or addresses listed below, or to such other address or addresses for a party as such party may from time to time designate by notice given to the other party. Notices shall be deemed received upon actual receipt by the party being sent the notice, or on the following business day if sent by overnight courier, or on the expiration of three (3) business days after the date of mailing.

If to PG&E:

Pacific Gas and Electric Company  
Attention: Land Agent  
650 O Street, Bag 23  
Fresno, CA 93760-0001

With a copy to:

Pacific Gas and Electric Company  
P.O. Box 7442, Mail Code B30A  
San Francisco, California 94120  
Attention: Wendy T. Coleman

If to Grantee:

City of Bakersfield  
Attention: Raul Rojas, Public Works Director  
Public Works Department  
1501 Truxton Avenue  
Bakersfield, CA 93301  
Telephone: (661) 326-3724  
Email: rrojas@bakersfieldcity.us

With a copy to:

City of Bakersfield  
City Attorney  
1501 Truxton Avenue  
Bakersfield, CA 93301

14. Governing Law. This Agreement shall in all respects be interpreted, enforced, and governed by and under the laws of the State of California.

15. Entire Agreement. This Agreement supersedes all previous oral and written agreements between and representations by or on behalf of the parties and constitutes the entire agreement of the parties with respect to the subject matter hereof. This Agreement may not be amended except by a written agreement executed by both parties.

16. Binding Effect. This Agreement and the covenants and agreements contained herein shall be binding upon, and shall inure to the benefit of, the parties hereto and their respective heirs, successors and assigns (subject to the provisions of Section 17). No assignment or delegation by Grantee, whether by operation of law or otherwise, shall relieve Grantee of any of its duties, obligations or liabilities hereunder, in whole or in part. The covenants hereunder shall run with the land.

17. Assignment. Grantee shall not assign, convey, encumber (other than as may be specifically permitted by the terms of this Agreement), or otherwise transfer the easements and other rights herein conveyed, or any portion thereof or interest herein, without the prior written consent of PG&E. Such consent may be given or withheld by PG&E for any reason or for no reason, provided, however, that notwithstanding the foregoing, PG&E agrees that its consent will not be unreasonably withheld, delayed or conditioned in the case of a proposed transfer or dedication to a governmental agency. Grantee acknowledges and agrees that in any instance where PG&E is required not to unreasonably withhold its consent, it shall be reasonable for PG&E to withhold its consent if any regulatory agency having or asserting jurisdiction over PG&E or the Easement Areas, or having or claiming a right to review and/or approve the proposed transfer, fails to grant approval thereof (or imposes conditions on such approval which are not acceptable to PG&E, in its reasonable discretion). Grantee further acknowledges and agrees that in any instance where PG&E is required not to unreasonably delay giving or withholding its consent, it shall be reasonable for PG&E to make application for approval to any regulatory agency having or

asserting jurisdiction, and to defer the giving or withholding of consent, without liability hereunder for delay, during the pendency and for a reasonable time following the conclusion of any such regulatory proceedings.

18. Attorneys' Fees. Should either party bring an action against the other party, by reason of or alleging the failure of the other party with respect to any or all of its obligations hereunder, whether for declaratory or other relief, then the party which prevails in such action shall be entitled to its reasonable attorneys' fees (of both in-house and outside counsel) and expenses related to such action, in addition to all other recovery or relief. A party shall be deemed to have prevailed in any such action (without limiting the generality of the foregoing) if such action is dismissed upon the payment by the other party of the sums allegedly due or the performance of obligations allegedly not complied with, or if such party obtains substantially the relief sought by it in the action, irrespective of whether such action is prosecuted to judgment. Attorneys' fees shall include, without limitation, fees incurred in discovery, contempt proceedings and bankruptcy litigation, and in any appellate proceeding. The non-prevailing party shall also pay the attorney's fees and costs incurred by the prevailing party in any post-judgment proceedings to collect and enforce the judgment. The covenant in the preceding sentence is separate and several and shall survive the merger of this provision into any judgment on this Agreement. For purposes hereof, the reasonable fees of PG&E's in-house attorneys who perform services in connection with any such action shall be recoverable, and shall be based on the fees regularly charged by private attorneys with the equivalent number of years of experience in the relevant subject matter area of the law, in law firms in the City of San Francisco with approximately the same number of attorneys as are employed by PG&E's Law Department.

19. No Waiver. No waiver with respect to any provision of this Agreement shall be effective unless in writing and signed by the party against whom it is asserted. No waiver of any provision of this Agreement by a party shall be construed as a waiver of any subsequent breach or failure of the same term or condition, or as a waiver of any other provision of this Agreement.

20. No Offsets. Grantee acknowledges that PG&E is executing this Agreement in its capacity as the owner of the Easement Areas, and not in its capacity as a public utility company or provider of electricity and natural gas. Notwithstanding anything to the contrary contained herein, no act or omission of Pacific Gas and Electric Company or its employees, agents or contractors as a provider of electricity and natural gas shall abrogate, diminish, or otherwise affect the respective rights, obligations and liabilities of PG&E and Grantee under this Agreement. Further, Grantee covenants not to raise as a defense to its obligations under this Agreement, or assert as a counterclaim or cross-claim in any litigation or arbitration between PG&E and Grantee relating to this Agreement, any claim, loss, damage, cause of action, liability, cost or expense (including, but not limited to, attorneys' fees) arising from or in connection with Pacific Gas and Electric Company's provision of (or failure to provide) electricity and natural gas.

21. No Dedication. Nothing contained in this Agreement shall be deemed to be a gift or dedication of land or rights to the general public. The right of the public or any person, including Grantee, to make any use whatsoever of the Easement Areas or any portion thereof, other than as expressly permitted herein or as expressly allowed by a recorded map, agreement, deed or dedication, is by permission and is subject to the control of PG&E in its sole discretion.

22. No Third Party Beneficiary. This Agreement is solely for the benefit of the parties hereto and their respective successors and permitted assigns, and, except as expressly provided herein, does not confer any rights or remedies on any other person or entity.

23. Captions. The captions in this Agreement are for reference only and shall in no way define or interpret any provision hereof.

24. Time. Except as otherwise expressly provided herein, the parties agree that as to any obligation or action to be performed hereunder, time is of the essence.

25. Severability. If any provision of this Agreement shall be invalid or unenforceable, the remainder of this Agreement shall not be affected thereby, and each provision of this Agreement shall be valid and enforced to the full extent permitted by law, provided the material provisions of this Agreement can be determined and effectuated.

26. Counterparts. This Agreement may be executed in identical counterpart copies, each of which shall be an original, but all of which taken together shall constitute one and the same agreement.

27. Other Documents. Each party agrees to sign any additional documents or permit applications which may be reasonably required to effectuate the purpose of this Agreement. Provided, however, that PG&E will not be required to take any action or execute any document that would result in any cost, expense or liability to PG&E.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first set forth above.

PACIFIC GAS AND ELECTRIC COMPANY,  
a California corporation

CITY OF BAKERSFIELD,  
a Municipal Corporation of the State of  
California

By: \_\_\_\_\_  
Loren Loo  
Its: Manager, Land Asset Management  
Technical & Land Services

By: \_\_\_\_\_  
Raul M. Rojas  
Its: Public Works Director

Exhibits B, C and D attached

**DO NOT RECORD THIS PAGE**

Attach to LD 2230-26-0257

Area 4, San Joaquin Valley Region, Kern Division

Land Service Office: San Francisco

Operating Department:

T30S, R26E, MDM

Sec 13, SE4ofNE4

FERC License Number(s): NA

PG&E Drawing Number(s): 356824

PLAT NO.: 30264a

LD of any affected documents: 2230-26-0168

LD of any Cross-referenced documents: NA

TYPE OF INTEREST: 11c

SBE Parcel Number: 135-15-54, Pcl 1

(For Quitclaims, % being quitclaimed): NA

Order # or PM #: 8087082

JCN: 22-08-091

County: Kern

Utility Notice Numbers: NA

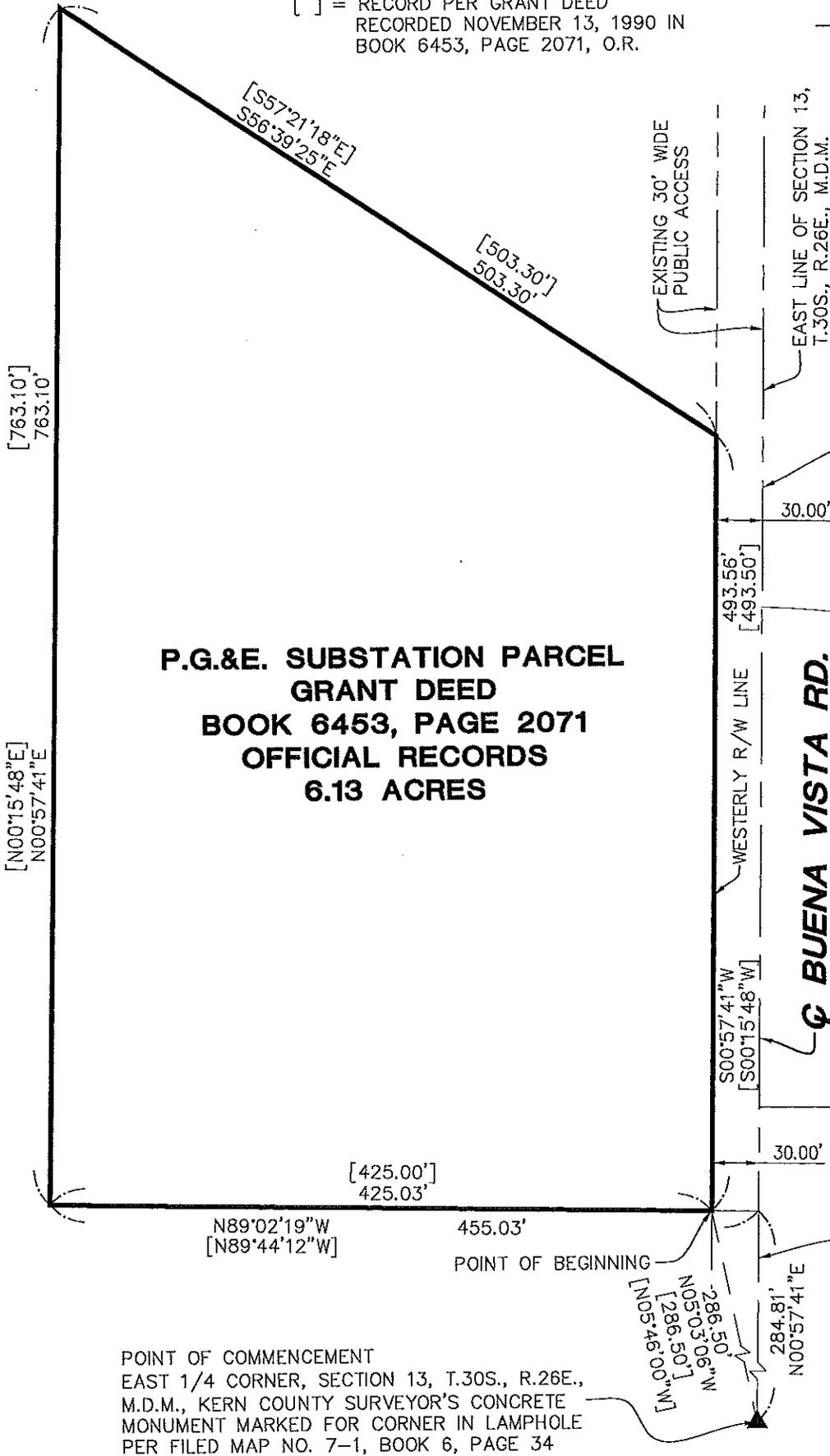
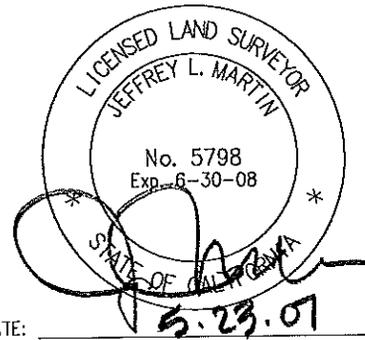
851 Approval Application No. \_\_\_\_\_ Decision \_\_\_\_\_

Prepared By: TEP

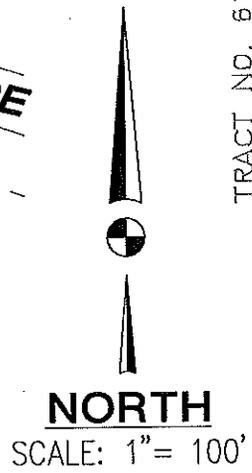
Revised By: TEP (8-13-08) -- KAP (3-12-09)

# EXHIBIT "A"

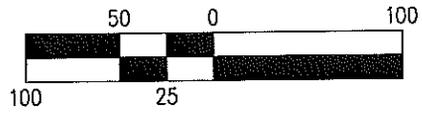
[ ] = RECORD PER GRANT DEED  
 RECORDED NOVEMBER 13, 1990 IN  
 BOOK 6453, PAGE 2071, O.R.



TRACT NO. 6116  
 MAP BOOK 49, PAGE 102-105



TRACT NO. 5135-B  
 MAP BOOK 38, PAGE 148-151



SCALE: 1" = 100'



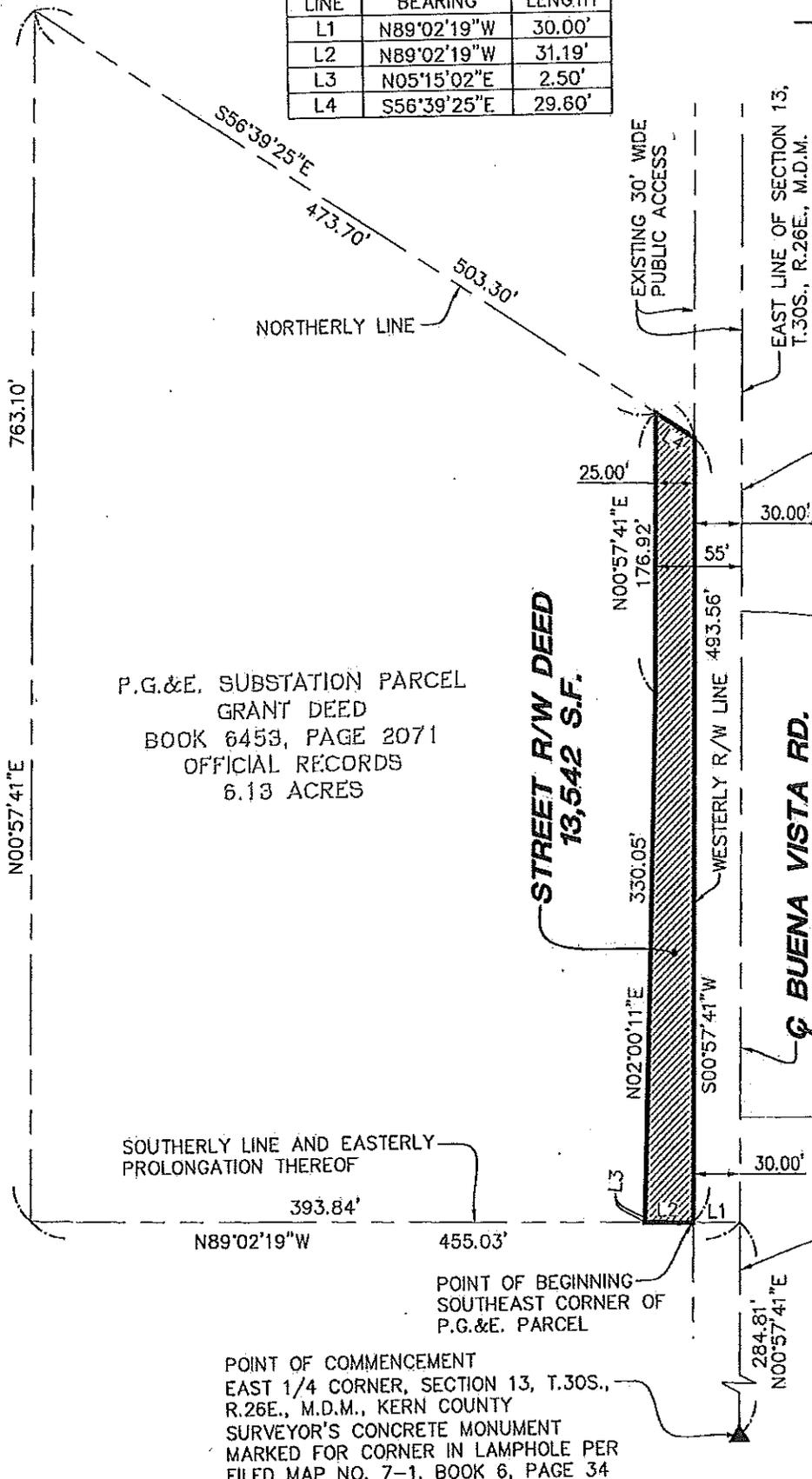
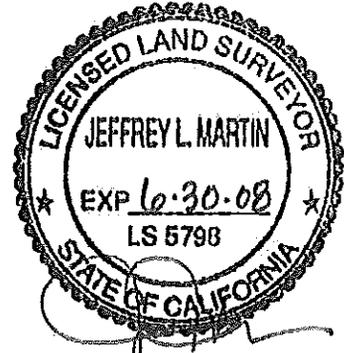
CASTLE & COOKE CALIFORNIA, INC.  
**P.G.&E. SUBSTATION PARCEL**

JOB NO. 681111  
 DATE: 5/7/07  
 FILE NO. 1111EM40  
 DONE BY: GC  
 AREA: 6.13 ACRES

NORTHEAST 1/4 OF SECTION 13, T.30S., R.26E., M.D.M.

# EXHIBIT "B"

LINE TABLE		
LINE	BEARING	LENGTH
L1	N89°02'19"W	30.00'
L2	N89°02'19"W	31.19'
L3	N05°15'02"E	2.50'
L4	S56°39'25"E	29.60'



P.G.&E. SUBSTATION PARCEL  
GRANT DEED  
BOOK 6453, PAGE 2071  
OFFICIAL RECORDS  
6.13 ACRES

**STREET R/W DEED  
13,542 S.F.**

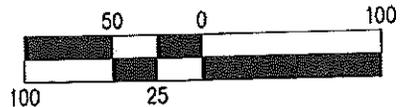
**MIRAGE  
DRIVE**

**BUENA VISTA RD.**

**ILLUSION  
WAY**

**NORTH**  
SCALE: 1" = 100'

STREET R/W DEDICATION  
PER BOOK 4896, PAGE  
927, O.R. AND TRACT  
NO. 5135-B



TRACT NO. 6116  
MAP BOOK 49, PAGE 102-105

TRACT NO. 5135-B  
MAP BOOK 38, PAGE 148-151

POINT OF COMMENCEMENT  
EAST 1/4 CORNER, SECTION 13, T.30S.,  
R.26E., M.D.M., KERN COUNTY  
SURVEYOR'S CONCRETE MONUMENT  
MARKED FOR CORNER IN LAMPHOLE PER  
FILED MAP NO. 7-1, BOOK 6, PAGE 34

**CASTLE & COOKE CALIFORNIA, INC.**  
**STREET RIGHT-OF-WAY DEED**  
**BUENA VISTA ROAD**

JOB NO. 681111  
DATE: 5/7/07  
FILE NO. 1111EM40  
DONE BY: GC  
AREA: 13,542 S.F.

**EXHIBIT "B"**  
**STREET RIGHT-OF-WAY DEED**  
**LEGAL DESCRIPTION**

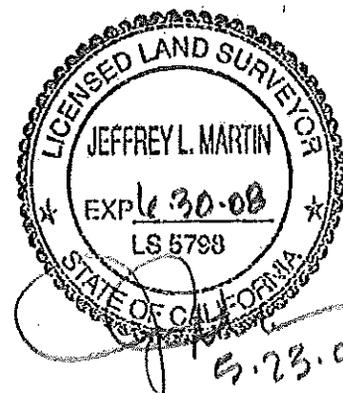
BEING A PORTION OF THAT CERTAIN PARCEL OF LAND CONVEYED TO PACIFIC GAS AND ELECTRIC COMPANY BY DEED RECORDED NOVEMBER 13, 1990 IN BOOK 6453 AT PAGE 2071 OF OFFICIAL RECORDS IN THE OFFICE OF THE KERN COUNTY RECORDER; ALSO BEING A PORTION OF THE NORTHEAST QUARTER OF SECTION 13, TOWNSHIP 30 SOUTH, RANGE 26 EAST, M.D.M., CITY OF BAKERSFIELD, COUNTY OF KERN, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

COMMENCING AT THE EAST QUARTER CORNER OF SAID SECTION, MARKED BY A KERN COUNTY SURVEYOR'S CONCRETE MONUMENT STAMPED FOR CORNER IN A LAMPHOLE PER FILED MAP NO. 7-1, FIELD IN BOOK 6 AT PAGE 34 IN THE OFFICE OF THE KERN COUNTY SURVEYOR, SAID POINT ALSO BEING ON THE CENTERLINE OF BUENA VISTA ROAD (COUNTY ROAD NO. 188); THENCE NORTH 00°57'41" EAST, ALONG THE EAST LINE OF SAID SECTION AND THE CENTERLINE OF BUENA VISTA ROAD, A DISTANCE OF 284.81 FEET TO THE EASTERLY PROLONGATION OF THE SOUTHERLY LINE OF SAID PARCEL OF LAND CONVEYED TO PACIFIC GAS AND ELECTRIC COMPANY; THENCE DEPARTING SAID EAST LINE AND SAID CENTERLINE, NORTH 89°02'19" WEST, ALONG SAID EASTERLY PROLONGATION, A DISTANCE OF 30.00 FEET TO THE POINT OF BEGINNING, SAID POINT ALSO BEING THE SOUTHEAST CORNER OF SAID PARCEL OF LAND CONVEYED TO PACIFIC GAS AND ELECTRIC COMPANY, SAID POINT ALSO BEING ON THE WESTERLY RIGHT-OF-WAY LINE OF BUENA VISTA ROAD; THENCE ALONG THE FOLLOWING SIX (6) COURSES:

- 1) CONTINUING NORTH 89°02'19" WEST, ALONG SAID SOUTHERLY LINE, A DISTANCE OF 31.19 FEET; THENCE
- 2) DEPARTING SAID SOUTHERLY LINE, NORTH 05°15'02" EAST, A DISTANCE OF 2.50 FEET; THENCE
- 3) NORTH 02°00'11" EAST, A DISTANCE OF 330.05 FEET TO A POINT 55.00 FEET WESTERLY, AS MEASURED AT RIGHT ANGLES TO THE EAST LINE OF SAID SECTION AND THE CENTERLINE OF BUENA VISTA ROAD; THENCE
- 4) PARALLEL WITH SAID EAST LINE AND SAID CENTERLINE, NORTH 00°57'41" EAST, A DISTANCE OF 176.92 FEET TO THE NORTHERLY LINE OF SAID PARCEL OF LAND CONVEYED TO PACIFIC GAS AND ELECTRIC COMPANY; THENCE
- 5) SOUTH 56°39'25" EAST, ALONG SAID NORTHERLY LINE, A DISTANCE OF 29.60 FEET TO THE WESTERLY RIGHT-OF-WAY LINE OF BUENA VISTA ROAD, SAID POINT BEING 30.00 FEET WESTERLY, AS MEASURED AT RIGHT ANGLES TO THE EAST LINE OF SAID SECTION AND THE CENTERLINE OF BUENA VISTA ROAD; THENCE
- 6) SOUTH 00°57'41" WEST, ALONG SAID WESTERLY RIGHT-OF-WAY LINE, A DISTANCE OF 493.56 FEET TO THE POINT OF BEGINNING.

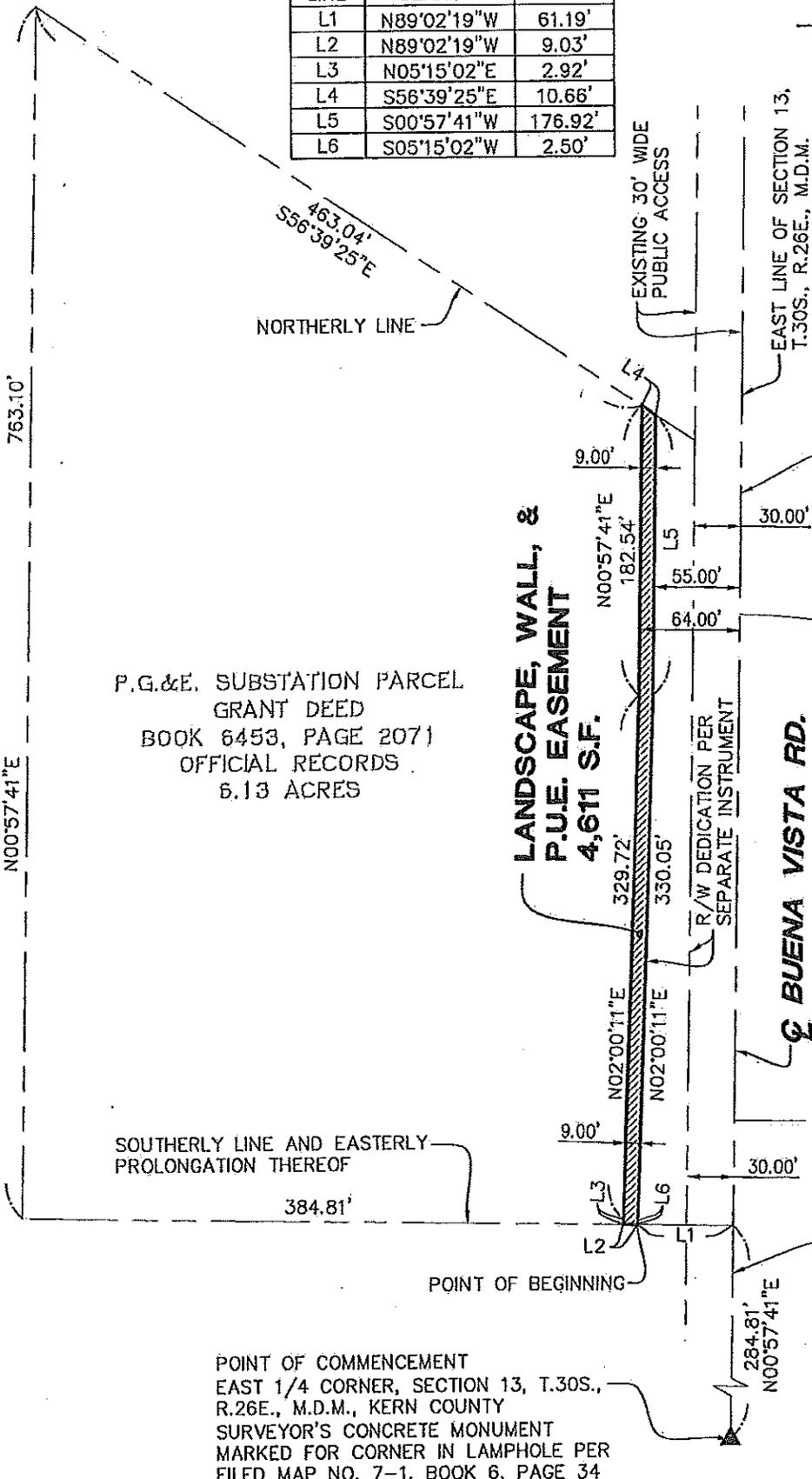
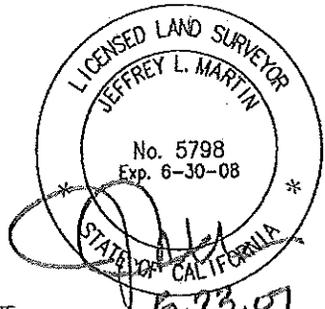
CONTAINING 13,542 SQUARE FEET, MORE OR LESS.

McINTOSH & ASSOCIATES  
2001 Wheelan Court  
Bakersfield, CA 93309  
(661) 834-4814



# EXHIBIT "C"

LINE TABLE		
LINE	BEARING	LENGTH
L1	N89°02'19"W	61.19'
L2	N89°02'19"W	9.03'
L3	N05°15'02"E	2.92'
L4	S56°39'25"E	10.66'
L5	S00°57'41"W	176.92'
L6	S05°15'02"W	2.50'



P.G.&E. SUBSTATION PARCEL  
GRANT DEED  
BOOK 6453, PAGE 207  
OFFICIAL RECORDS  
6.13 ACRES

**LANDSCAPE, WALL, &  
P.U.E. EASEMENT  
4,611 S.F.**

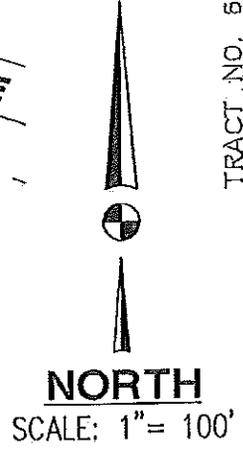
STREET R/W DEDICATION  
PER BOOK 4896, PAGE  
927, O.R. AND TRACT  
NO. 6116

**MIRAGE  
DRIVE**

**BUENA VISTA RD.**

**ILLUSION  
WAY**

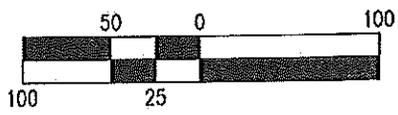
STREET R/W DEDICATION  
PER BOOK 4896, PAGE  
927, O.R. AND TRACT  
NO. 5135-B



TRACT NO. 6116  
MAP BOOK 49, PAGE 102-105

TRACT NO. 5135-B  
MAP BOOK 38, PAGE 148-151

POINT OF COMMENCEMENT  
EAST 1/4 CORNER, SECTION 13, T.30S.,  
R.26E., M.D.M., KERN COUNTY  
SURVEYOR'S CONCRETE MONUMENT  
MARKED FOR CORNER IN LAMPHOLE PER  
FILED MAP NO. 7-1, BOOK 6, PAGE 34



SCALE: 1" = 100'

**EXHIBIT "C"**  
**LANDSCAPE, WALL, AND PUBLIC UTILITIES EASEMENT**  
**LEGAL DESCRIPTION**

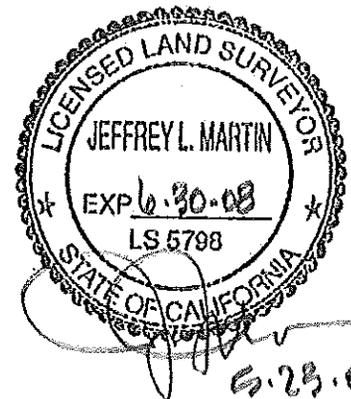
BEING A PORTION OF THAT CERTAIN PARCEL OF LAND CONVEYED TO PACIFIC GAS AND ELECTRIC COMPANY BY DEED RECORDED NOVEMBER 13, 1990 IN BOOK 6453 AT PAGE 2071 OF OFFICIAL RECORDS IN THE OFFICE OF THE KERN COUNTY RECORDER; ALSO BEING A PORTION OF THE NORTHEAST QUARTER OF SECTION 13, TOWNSHIP 30 SOUTH, RANGE 26 EAST, M.D.M., CITY OF BAKERSFIELD, COUNTY OF KERN, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

COMMENCING AT THE EAST QUARTER CORNER OF SAID SECTION, MARKED BY A KERN COUNTY SURVEYOR'S CONCRETE MONUMENT STAMPED FOR CORNER IN A LAMPHOLE PER FILED MAP NO. 7-1, FIELD IN BOOK 6 AT PAGE 34 IN THE OFFICE OF THE KERN COUNTY SURVEYOR, SAID POINT ALSO BEING ON THE CENTERLINE OF BUENA VISTA ROAD (COUNTY ROAD NO. 188); THENCE NORTH 00°57'41" EAST, ALONG THE EAST LINE OF SAID SECTION AND THE CENTERLINE OF BUENA VISTA ROAD, A DISTANCE OF 284.81 FEET TO THE EASTERLY PROLONGATION OF THE SOUTHERLY LINE OF SAID PARCEL OF LAND CONVEYED TO PACIFIC GAS AND ELECTRIC COMPANY; THENCE DEPARTING SAID EAST LINE AND SAID CENTERLINE, NORTH 89°02'19" WEST, ALONG SAID SOUTHERLY LINE AND THE EASTERLY PROLONGATION THEREOF, A DISTANCE OF 61.19 FEET TO THE POINT OF BEGINNING; THENCE ALONG THE FOLLOWING EIGHT (8) COURSES:

- 1) CONTINUING NORTH 89°02'19" WEST, ALONG SAID SOUTHERLY LINE, A DISTANCE OF 9.03 FEET; THENCE
- 2) NORTH 05°15'02" EAST, A DISTANCE OF 2.92 FEET; THENCE
- 3) NORTH 02°00'11" EAST, A DISTANCE OF 329.72 FEET TO A POINT 64.00 FEET WESTERLY, AS MEASURED AT RIGHT ANGLES TO THE EAST LINE OF SAID SECTION AND THE CENTERLINE OF BUENA VISTA ROAD; THENCE
- 4) NORTH 00°57'41" EAST, PARALLEL WITH SAID EAST LINE AND SAID CENTERLINE, A DISTANCE OF 182.54 FEET TO THE NORTHERLY LINE OF SAID PARCEL OF LAND CONVEYED TO PACIFIC GAS AND ELECTRIC COMPANY; THENCE
- 5) SOUTH 56°39'25" EAST, ALONG SAID NORTHERLY LINE, A DISTANCE OF 10.66 FEET TO A POINT 55.00 FEET WESTERLY, AS MEASURED AT RIGHT ANGLES TO THE EAST LINE OF SAID SECTION AND THE CENTERLINE OF BUENA VISTA ROAD; THENCE
- 6) SOUTH 00°57'41" WEST, PARALLEL WITH SAID EAST LINE AND SAID CENTERLINE, A DISTANCE OF 176.92 FEET; THENCE
- 7) SOUTH 02°00'11" WEST, A DISTANCE OF 330.05 FEET; THENCE
- 8) SOUTH 05°15'02" WEST, A DISTANCE OF 2.50 FEET TO THE POINT OF BEGINNING.

CONTAINING 4,611 SQUARE FEET, MORE OR LESS.

McINTOSH & ASSOCIATES  
2001 Wheelan Court  
Bakersfield, CA 93309  
(661) 834-4814



## EXHIBIT D

### INSURANCE REQUIREMENTS

Grantee shall procure, carry and maintain in effect throughout the term of this Agreement the following insurance coverage. Grantee is also responsible for its subcontractors maintaining sufficient limits of the appropriate insurance coverages.

#### A. Workers' Compensation and Employers' Liability

1. Workers' Compensation insurance indicating compliance with any and all applicable labor codes, acts, laws or statutes, state or federal.
2. Employer's Liability insurance shall not be less than One Million Dollars (\$1,000,000) for injury or death, each accident.

#### B. Commercial General Liability

1. Coverage shall be at least as broad as the Insurance Services Office (ISO) Commercial General Liability insurance "occurrence" form with no additional coverage alterations.
2. The limits shall not be less than Five Million Dollars (\$5,000,000) per occurrence for bodily injury, property damage and products and completed operations. Defense costs are to be provided outside the policy limits.
3. Coverage shall include: a) an "Additional Insured" endorsement (ISO Additional Insured form CG 2010 or equivalent coverage) adding as additional insureds PG&E, its affiliates, subsidiaries, and parent company, and PG&E's directors, officers, agents and employees with respect to liability arising out of work performed by or for Grantee. If the policy includes "blanket endorsement by contract," the following language added to the certificate of insurance will satisfy PG&E's requirement: "by blanket endorsement, PG&E, its affiliates, subsidiaries, and parent company, and PG&E's directors, officers, agents and employees with respect to liability arising out of the work performed by or for the Grantee are included as additional insured"; and b) an endorsement or policy provision specifying that the Grantee's insurance is primary and that any insurance or self-insurance maintained by PG&E shall be excess and non-contributing.

#### C. Business Auto

1. Coverage shall be at least as broad as the Insurance Services Office (ISO) Business Auto Coverage form covering Automobile Liability, code 1 "any auto."
2. The limit shall not be less than One Million Dollars (\$1,000,000) each accident for bodily injury and property damage.

D. Additional Insurance Provisions

1. Upon the Effective Date of the Easement Agreement Grantee shall furnish PG&E with two (2) sets of certificates of insurance including required endorsements.
2. Documentation shall state that coverage shall not be canceled except after thirty (30) days prior written notice has been given to PG&E.
3. The documents must be signed by a person authorized by that insurer to bind coverage on its behalf and submitted to:  

Pacific Gas and Electric Company Insurance Department -- Suite 2400 One Market, Spear Tower San Francisco, California 94105	Pacific Gas and Electric Company 650 O Street, Bag 23 Fresno, CA 93760-0001 Attention: Land Agent
--	--
4. Upon request, Grantee shall furnish PG&E evidence of insurance for its agents or contractors.
5. PG&E may inspect the original policies or require complete certified copies at any time.

# Advice 3552-E

Attachment 2  
Resolution 222.02

RESOLUTION NO. 222-02

**RESOLUTION MAKING FINDINGS AND ADOPTING  
GENERAL PLAN AMENDMENT GPA P01-0973,  
UPDATE TO THE METROPOLITAN BAKERSFIELD  
GENERAL PLAN.**

**WHEREAS**, the Planning Commission of the City of Bakersfield is accordance with the provisions of Section 65353 of the Government Code, held a public hearing on MONDAY, OCTOBER 28, 2002, on the proposed update to the Metropolitan Bakersfield General Plan (GPA No. 01-0973), notice of the time and place of hearing having been given at least ten (10) calendar days before said hearing by publication in the Bakersfield Californian, a local newspaper of general circulation; and

**WHEREAS**, the update to the Metropolitan Bakersfield General Plan (GPA P01-0973) is as follows:

The "Metropolitan Bakersfield General Plan Update" proposes to amend the text and land use, circulation, and bikeways maps of the current Metropolitan Bakersfield 2010 General Plan. Proposed revisions address current and future development as well as acknowledge programs that conserve responses and address quality of life issues including the incorporation of concepts from the Greater Bakersfield Vision 2020 program. It is the intent of this update program to reflect the community development issues and policy changes that have occurred since adoption of the plan in 1990; and

**WHEREAS**, for the above-described proposal, the City of Bakersfield, in association with the County of Kern determined that an Environmental Impact Report (EIR) would be required for the proposed update to the Metropolitan Bakersfield General Plan, and, therefore, a Notice of Preparation (NOP) was prepared for the project in accordance with the California Environmental Quality Act (CEQA) to study the following environmental resources: aesthetics, agriculture, air quality, biological, cultural, geology/soils, hazards and hazardous materials, hydrology/water quality, land use/planning, mineral resources, noise, public services, recreation, transportation/traffic, and utilities/service systems; and

**WHEREAS**, a Notice of Preparation (NOP) for GPA P01-0973 was sent to all agencies having any involvement in this project per Section 15082 of the CEQA Guidelines; and

**WHEREAS**, the Draft Environmental Impact Report was subjected to a forty-five (45) day review period in accordance with Section 15087 of the CEQA Guidelines which began on July 17, 2002, and ended on August 30, 2002; and

**WHEREAS**, a public hearing on the Draft Environmental Impact Report was held on Monday, August 12, 2002, during the public review period as required by the City of Bakersfield's California Environmental Quality Act (CEQA) Implementation Procedures; and

**WHEREAS**, the law and regulations relating to the preparation and adoption of Environmental Impact Reports set forth in CEQA and City of Bakersfield's CEQA Implementation Procedures, have been duly followed by the city staff and the Planning Commission; and

**WHEREAS**, by Resolution No. 145-02, the Planning Commission recommended certification of the Final EIR for Case No. 01-0973, the Metropolitan Bakersfield General Plan Update, and this Council has fully considered the findings made by the Planning Commission as set forth in that Resolution; and

**WHEREAS**, by Resolution No. 135-02, the Planning Commission recommended approval and adoption of Case No. 01-0973, the Metropolitan Bakersfield General Plan Update, and this Council has fully considered the findings made by the Planning Commission as set forth in that Resolution; and

**WHEREAS**, the Council of the City of Bakersfield, in accordance with the provisions of Section 65355 of the Government Code, conducted and held a public hearing on WEDNESDAY, December 11, 2002, on the above described Case No. GPA 01-0973 of the proposed amendment to the Metropolitan Bakersfield 2010 General Plan, notice of time and place of the hearing having been given at least ten (10) calendar days before the hearing by publication in the Bakersfield Californian, a local newspaper of general circulation; and

**WHEREAS**, the Council of the City of Bakersfield has certified the Final EIR for GPA 01-0973 in a separate resolution; and

**WHEREAS**, the Council has considered and hereby makes the following findings:

1. The above recitals and findings are true and correct and constitute the Findings of the Council, incorporated herein.
2. The provisions of the California Environmental Quality Act have been met.
3. That this project was the subject of an Environmental Impact Report pursuant to CEQA and the entire environmental record is hereby adopted and incorporated herein by reference including the resolution certifying the Final Environmental Impact Report.
4. That this amendment will go into effect with the next amendment of the General Plan by the City Council.
5. The proposed project is consistent with the intent and purpose of the original Metropolitan Bakersfield 2010 General Plan adopted in 1990.
6. Based on the evidence in the record, as required by Section 21082.2 of the State of California Public Resources Code (CEQA) for the purpose of documenting significant effects, and the mitigation measures proposed to address impacts on biological resources, it is the conclusion of the Lead Agency that this project will result in impacts that fall below the threshold of significance with regard to wildlife resources and, therefore, must be granted a "de minimis" exemption in accordance with Section 711.4 of the State of California of Fish and Game Code. Additionally, the assumption of adverse effect is rebutted by the above-referenced evidence and the conclusion of the Final Environmental Impact Report that the implementation of the proposed mitigation measures would reduce project and cumulative impacts on biological resources to a level that is less than significant.

**WHEREAS**, it is not the intention of the City Council to reverse any land use decisions. If there is a conflict between an individual case and the General Plan Land Use Map the individual case will take precedence.

**NOW, THEREFORE, BE IT RESOLVED** and found by the Council of the City of Bakersfield as follows:

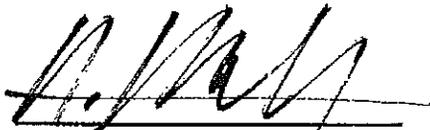
1. The above recitals and findings incorporated herein, are true and correct.
2. The report of the Planning Commission, including maps and all reports and papers relevant thereto, transmitted by the Secretary of the Planning Commission to the City Council, is hereby received, accepted and approved.
3. The Statement of Facts, Findings, and Mitigation Measures attached in Exhibit A are hereby adopted for GPA 01-0973.
4. That certain environmental impacts regarding traffic/circulation, air quality, noise, and agriculture and soils are considered unavoidable and cannot feasibly be mitigated to a less than significant level. Moreover, the project alternatives analyzed in the Final Environmental Impact Report would not feasibly mitigate the impacts. These impacts are discussed in attached Exhibit A. Notwithstanding disclosure of these impacts, the City Council is approving the project based on the overriding considerations as set forth in the "Statement of Overriding Considerations" attached in Exhibit B.
5. The Mitigation Monitoring and Reporting Program attached in Exhibit C is hereby adopted for GPA No. P01-0973.
6. The City Council hereby approves and adopts Case No. GPA P01-973 of the proposed amendment to the Metropolitan Bakersfield 2010 General Plan constituting changes as shown in the Metropolitan Bakersfield General Plan Update text, attached hereto and incorporated as though fully set forth.
7. That Case No. P01-0973, approved herein, be combined with other approved cases described in separate resolutions, to form a single General Plan Amendment with the next amendment to the General Plan by the City Council.
8. The Planning Division of the Development Services Department is hereby directed to file a Notice of Determination with the County Clerk of Kern County, pursuant to the provisions of Section 21152 of the Public Resources Code and Section 15094 of the CEQA Guidelines adopted pursuant thereto and a Certificate of Fee Exemption pursuant to Section 711.4 (c)(2)(B) of the State of California Department of Fish and Game Code.
9. No individual City Council land use decision is intended to be changed via the adoption of the new Metropolitan Bakersfield Land Use Map.

I HEREBY CERTIFY that the foregoing Resolution was passed and adopted, by the Council of the City of Bakersfield at a regular meeting thereof held on DEC 11 2002 by the following vote:

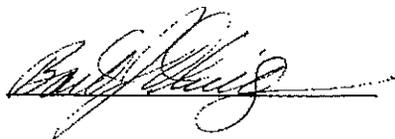
AYES:	COUNCILMEMBER CARSON, BENHAM, MAGGARD, COUCH, HANSON, SULLIVAN, SALVAGGIO
NOES:	COUNCILMEMBER <u>NONE</u>
ABSTAIN:	COUNCILMEMBER <u>NONE</u>
ABSENT:	COUNCILMEMBER <u>NONE</u>

  
 \_\_\_\_\_  
**PAMELA A. McCARTHY, CMC**  
 CITY CLERK and Ex Officio Clerk of the  
 Council of the City of Bakersfield

APPROVED DEC 11 2002

  
 \_\_\_\_\_  
**HARVEY L. HALL**  
 Mayor of the City of Bakersfield

APPROVED as to form  
**BART J. THILTGEN**  
City Attorney

By:   
 \_\_\_\_\_

## CHAPTER III - CIRCULATION ELEMENT - STREETS

Expressways are arterial highways with at least partial control of access which may or may not be divided or have grade separations at intersections and may be an interim facility for an ultimate freeway.

Arterials are used primarily by through traffic, with a minimal function to provide access to abutting property.

Collectors function to connect local streets with arterials and to provide access to abutting property.

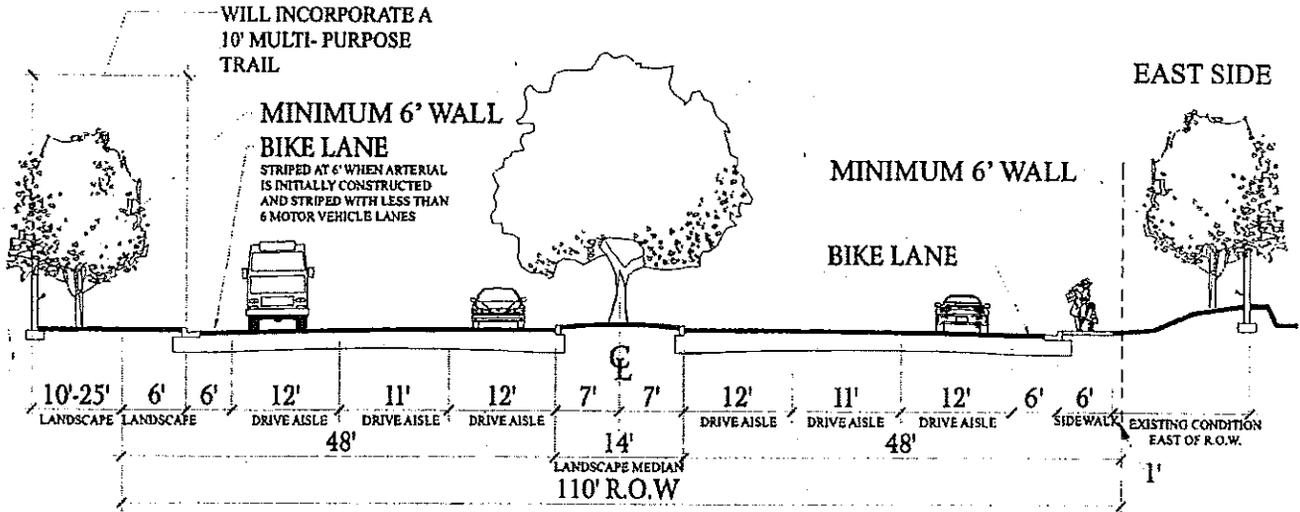
Locals are exclusively for property access and through traffic is discouraged.

2. Establish the following standards for the street system (I-2):

FACILITY TYPE	LANES	RIGHT-OF-WAY WIDTH	PAVEMENT WIDTH	CURB PARKING
Freeway/Expressway	210' - 300' minimum *			No
Arterials on State Highway	6	110' - 130'	90' plus	No
Arterial w/bike lanes	6	110'	96'	No
** Arterial w/ bike lanes	4	110'	96'	Yes
Arterial w/o bike lanes	6	110'	90'	No
** Arterial w/o bike lanes	4	110'	90'	Yes
Collector w/ bike lane w/ 2-way left turn	4	90'	74'	No
Collector w/ bike lane	4	90'	74'	Yes
Collector w/o bike lane w/ 2-way left turn	4	90'	68'	No
Collector w/o bike lane	4	90'	68'	Yes
LOCAL STREET Commercial/Industrial	2	60'	44'	***
LOCAL STREET Residential Collector ****	2	60'	44'	Yes
LOCAL STREET Residential	2	60'	40'	Yes

\* Precise geometrics will be established through specific engineering studies.

# WEST MING SPECIFIC PLAN



SIX LANE DIVIDED

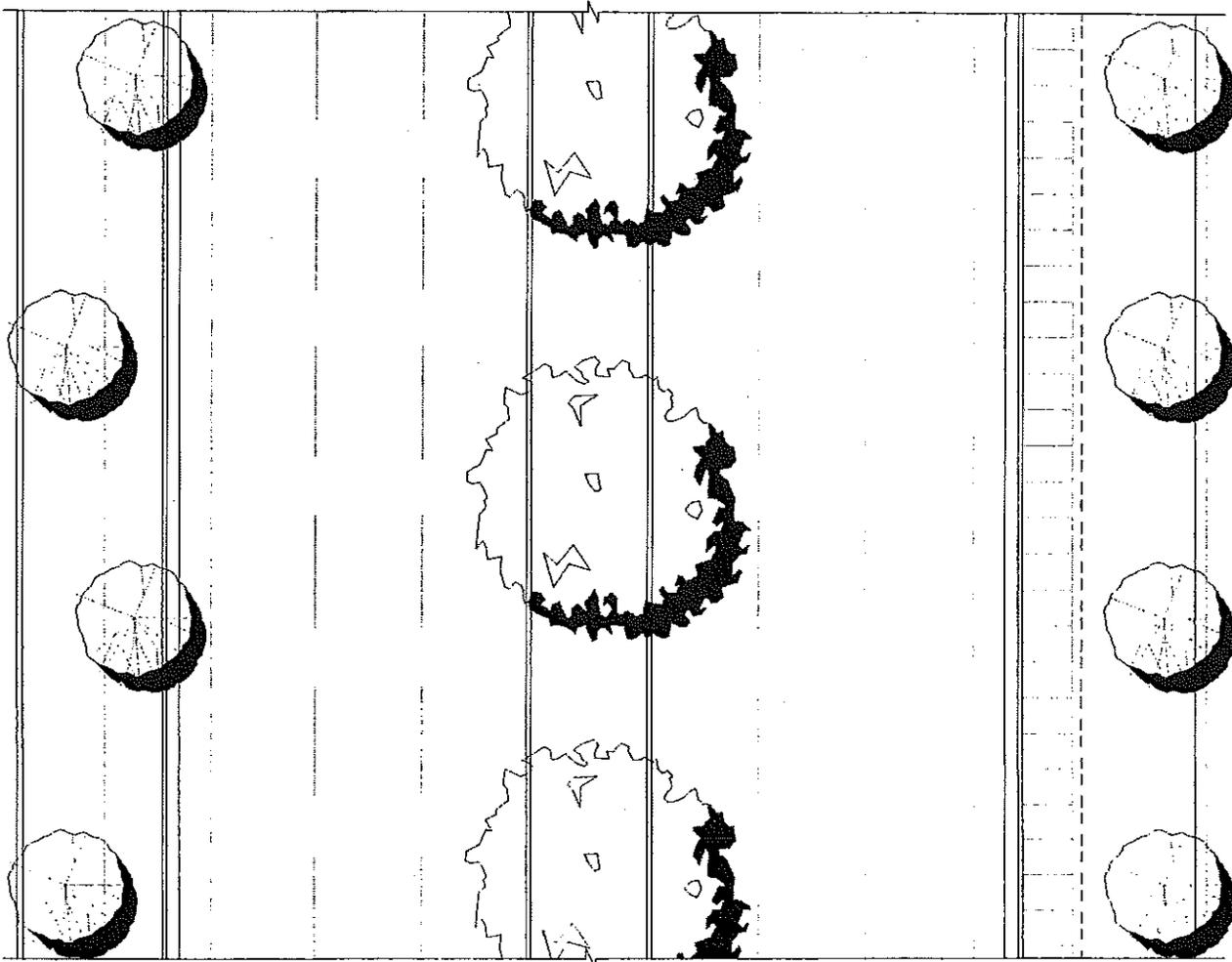


EXHIBIT 4-7  
ARTERIAL  
(Buena Vista Road)

# Advice 3552-E

## Attachment 3 Notice of Determination

**COPY**

RECEIVED WITH FEE  
RECEIPT # DEMIN

**NOTICE OF DETERMINATION**

(Filing in compliance with Section 21108 or 21152 of the Public Resources Code.)

**TO:**  Office of Planning & Research  
1400 Tenth Street, Room 121  
Sacramento, CA 95814

**FROM:** City of Bakersfield  
Development Services Dept. - Planning  
1715 Chester Avenue  
Bakersfield, CA 93301

County Clerk, County of Kern  
1415 Truxtun Avenue  
Bakersfield, CA 93301

FILED  
KERN COUNTY

DEC 18

JAMES A. RHOADES, CLERK  
BY \_\_\_\_\_ DEPUTY

**Project Title (No.):** General Plan Amendment No. P01-0973

**State Clearinghouse No.:** 2002051156  
(if submitted to the Clearinghouse)

**General Location:** Metropolitan Bakersfield General Plan Area (408 sq. miles), City of Bakersfield, County of Kern.

**Specific Location:** The Metropolitan Bakersfield General Plan Area covers the 408 square miles around the City of Bakersfield. The plan area is generally bounded by Interstate 5 and Seventh Standard Road, the Kern Canyon and Highway 223, County of Kern.

**Project Description:** Metropolitan Bakersfield General Plan Update GPA P01-0973. The "Metropolitan Bakersfield General Plan Update" amended the text and land use, circulation, and bikeways maps of the current Metropolitan Bakersfield 2010 General Plan. Proposed revisions addressed current and future development issues, as well as acknowledge programs that conserve resources and address quality of life issues, including the incorporation of concepts from the Greater Bakersfield Vision 2020 program. The General Plan Update reflects the community development issues and policy changes that have occurred since adoption of the plan in 1990.

**Approving Agency:** City of Bakersfield

**Project Applicant:** City of Bakersfield Planning Department, 1715 Chester Avenue, Bakersfield, CA 93301

**Determination:**

This is to advise that the City of Bakersfield, as the lead agency, has approved the above described project on December 11, 2002, and has made the following determinations regarding said project:

1. The project will have a significant effect on the environment.
2. An Environmental Impact Report was prepared for this project pursuant to the provisions of CEQA.
3. Mitigation measures were made a condition of the approval of the project.
4. Findings were made according to the provisions of CEQA.
5. A Statement of Overriding Considerations was adopted for the project.

Notice of Environmental Document  
Posted by County Clerk on 12/17/02  
and for 30 days thereafter, Pursuant to  
Section 21152(C), Public Resources Code

#13510

**Record of Project Approval:**

This is to certify that the Final Environmental Impact Report, with comments, responses, and record of project approval is available to the general public at the City of Bakersfield Development Services Department - Planning Division (1715 Chester Avenue; Bakersfield, California 93301).

**Lead Agency Contact Person:** Marc Gauthier, Principal Planner

**Telephone:** (661) 326-3786

**Signature:** Wayne Clavin

**Date:** December 16, 2002 **Title:** Associate Planner  
Date received for filing at OPR:

# Advice 3552-E

Attachment 4  
Resolution 163-07

163-07

RESOLUTION NO. \_\_\_\_\_

**RESOLUTION ADOPTING THE WEST MING SPECIFIC  
PLAN GENERALLY BOUNDED BY MING AVE.  
(EXTENDED) TO THE NORTH, SOUTHERN PACIFIC  
RAILROAD (ASPHALTO BRANCH) ON THE SOUTH,  
BUENA VISTA ROAD TO THE EAST, AND THE  
FUTURE WEST BELTWAY TO THE WEST. (FILE NO.  
03-1544)**

**WHEREAS**, Castle and Cooke California, Inc. made application for General Plan Amendment 03-1544 to the Land Use, Circulation, and Kern River Plan Elements of the Metropolitan Bakersfield General Plan for property bounded by Ming Avenue, Southern Pacific Railroad (Asphalto Branch), Buena Vista Road and West Beltway, as shown in attached Exhibit "A") to allow development of the West Ming master-planned community on approximately 2,182 acres, more specifically stated as follows:

**General Plan Amendment 03-1544:**

A request to approve the West Ming Specific Plan which would change existing Metropolitan Bakersfield General Plan and the Land Use, Kern River Plan and Circulation Elements to the West Ming Specific Plan. The West Ming Specific Plan Project (the project) is the development of a new master-planned community which includes residential, commercial, recreational, schools, and light industrial uses. The 2,182 acre project includes a maximum of 7,450 residential units, 478,880 square feet of commercial (including office, service, and retail), 331,200 square feet of town center commercial and mixed use (including office, service, and retail), 1,135,000 square feet of special uses (light industrial, mineral and petroleum, public facilities, open space, parks, a 5 acre lake, trails, public transportation, office, and other uses permitted by the Specific Plan). The western boundary of the project site is generally the alignment of the future West Beltway.

**WHEREAS**, for the above-described project, an Initial Study was conducted and it was determined that the proposed project would have a significant effect on the environment and therefore, an Environmental Impact Report (EIR) for the project was prepared in accordance with the California Environmental Quality Act (CEQA); and

**WHEREAS**, the City of Bakersfield retained the professional consulting services of Michael Brandman Associates (MBA) to prepare the Initial Study, EIR and related documents; and

**WHEREAS**, the laws and regulations relating to the preparation and adoption of and Environmental Impact Report as set forth in CEQA; and

**WHEREAS**, the project site lies within a path of development with approved urban development projects in progress; and

**WHEREAS**, adjacent urban development projects as well as local government agency efforts have extended or will extend supporting utilities and infrastructure adjacent to the property; and

**WHEREAS**, the Planning Commission of the City of Bakersfield in accordance with the provisions of Section 65353 of the Government Code, held a public hearing on MONDAY, DECEMBER 18, 2006 and THURSDAY, DECEMBER 21, 2006 on General Plan Amendment No. 03-1544 of the proposed amendment to the Land Use, Kern River Plan and Circulation Elements of the Metropolitan Bakersfield General Plan, and adoption of a the West Ming Specific Plan, notice of the time and place of hearing having been given at least ten (10) calendar days before said hearing by publication in *The Bakersfield Californian*, a local newspaper of general circulation; and

**WHEREAS**, the Planning Commission held a public hearing on December 21, 2006 that was closed and the matter was continued to January 4, 2007 in order that comments submitted shortly before said public hearing could be considered and responded to; and

**WHEREAS**, on January 4, 2007, the Planning Commission adopted Resolution 06-07 recommending adoption of the West Ming Specific Plan to the City Council; and

**WHEREAS**, the Council of the City of Bakersfield, in accordance with the provisions of Section 65355 of the Government Code, conducted and held a public hearing on WEDNESDAY, FEBRUARY 7, 2007 on the above described Case No. 03-1544 of the proposed amendment to the Land Use Element of the Metropolitan Bakersfield General Plan, notice of time and place of the hearing having been given at least ten (10) calendar days before the hearing by publication in the *Bakersfield Californian*, a local newspaper of general circulation; and

**WHEREAS**, the public hearing before the City Council held on February 7, 2007 was closed and the matter was continued to February 28, 2007 in order that comments submitted shortly before said public hearing could be considered and responded to; and

**WHEREAS**, prior to City Council action on February 28, 2007, on the West Ming project, the City decided to recirculate the Draft EIR in accordance with CEQA Guideline Section 15088.5; and

**WHEREAS**, the City does not consider the new information that has been presented as part of the EIR subsequent to the public distribution of the Draft EIR on August 31, 2006 as "significant," the recirculation of the Draft EIR provides the public additional review of the environmental information in the EIR in accordance with Section 15088.5 of CEQA Guidelines; and

**WHEREAS**, the laws and regulations relating to the preparation and adoption of an Environmental Impact Report (EIR) as set forth in CEQA and the City of Bakersfield's CEQA Implementation Procedures, have been duly followed by the city staff and the Planning Commission; and

**WHEREAS**, to ensure continued integrity of the Kern River floodplain, the area located in the northwest portion of the project site shown as designated 2.5 (Flood Plain) in the Kern River Plan Element shall be removed from the West Ming project and remain designated 2.5 (Flood Plain); and

**WHEREAS**, the original proposed amendment to the Kern River Plan Element was to remove the affected area from the Kern River Plan Element was changed to have the area remain in the Kern River Plan Element with a change to the Land Use designations from 8.1 (Intensive Agriculture), 8.1/2.1 (Intensive Agriculture/Seismic Hazard Overlay), and 8.4 (Mineral and Petroleum) to 5.35 (maximum 7.25 dwelling units per net acre) and incorporate the Kern River Plan Element into the West Ming Specific Plan; and

**WHEREAS**, the Planning Commission of the City of Bakersfield in accordance with the provisions of Section 65353 of the Government Code, held a public hearing on MONDAY, JUNE 18, 2007 and

THURSDAY, JUNE 21, 2007 on General Plan Amendment No. 03-1544 of the proposed amendment to the Land Use, Kern River Plan and Circulation Elements of the Metropolitan Bakersfield General Plan, and adoption of a the West Ming Specific Plan, notice of the time and place of hearing having been given at least ten (10) calendar days before said hearing by publication in *The Bakersfield Californian*, a local newspaper of general circulation; and

**WHEREAS**, the Council of the City of Bakersfield, in accordance with the provisions of Section 65355 of the Government Code, conducted and held a public hearing on WEDNESDAY, AUGUST 15, 2007 on the above described Case No. 03-1544 of the proposed amendment to the Land Use Element of the Metropolitan Bakersfield General Plan, notice of time and place of the hearing having been given at least ten (10) calendar days before the hearing by publication in the *Bakersfield Californian*, a local newspaper of general circulation; and

**WHEREAS**, the Council has considered and concurs with the recommendation for approval and findings made by the Planning Commission as set forth in Resolution No. 109-07, adopted on June 21, 2007:

1. All required notices have been given.
2. The provisions of CEQA have been followed.
3. Based on the initial study and comments received, staff has determined that the proposed project could have a significant effect on the environment. A Recirculated Environmental Impact Report was prepared for the project in accordance with CEQA.
4. The public necessity, general welfare and good planning practices justify the adoption of the West Ming Specific Plan.

**NOW, THEREFORE, IT IS HEREBY FOUND AND RESOLVED** as follows:

- 1) The above recitals and findings are true and correct and constitute the Findings of the Planning Commission, incorporated herein.
- 2) That the applicant by prior written agreement agreed to comply with all adopted mitigation measures contained within the Recirculated Final Environmental Impact Report.
- 3) That the Recirculated Final Environmental Impact Report for General Plan Amendment No. 03-1544 has been certified.
- 4) Adoption of the West Ming Specific Plan as requested by the applicant and as recommended by staff and shown in Exhibit "A," subject to mitigation monitoring and reporting program adopted and certified in the Recirculated Final Environmental Impact Report as shown in Exhibit "E" and conditions of approval for the project as shown in Exhibit "B."
- 5) Attached Exhibit "C" containing the "Statement of Facts, Findings, and Mitigation Measures" are appropriate and incorporated into the project.
- 6) Attached Exhibit "D" containing the "Statement of Overriding Considerations" related to significant unavoidable impacts to agricultural resources, noise, and transportation/traffic are appropriate and incorporated into the project.

- 7) The area located in the northwest portion of the project site shown as designated 2.5 (Flood Plain) in the Kern River Plan Element shall be removed from the West Ming project and remain designated 2.5 (Flood Plain)
- 8) That the infrastructure exists or can easily be provided to accommodate the types of density and intensity of the development.

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I HEREBY CERTIFY that the foregoing Resolution was passed and adopted by the Council of the City of Bakersfield at a regular meeting thereof held on AUG 15 2007 by the following vote:

AYES:  
NOES:  
ABSTAIN:  
ABSENT:

COUNCILMEMBER: CARSON, BENHAM, WEIR, COUCH, HANSON, SULLIVAN, SCRIVNER  
 COUNCILMEMBER: \_\_\_\_\_  
 COUNCILMEMBER: \_\_\_\_\_  
 COUNCILMEMBER: Benham

Pamela A. McCarthy  
 PAMELA A. MCCARTHY, CMC  
 CITY CLERK and Ex Officio Clerk of the  
 Council of the City of Bakersfield

AUG 15 2007

APPROVED

Harvey L. Hall  
 HARVEY L. HALL  
 MAYOR of the City of Bakersfield

APPROVED as to form:  
 VIRGINIA GENNARO  
 City Attorney

By: Robert M. Aherf

- Exhibit:
- A West Ming Specific Plan
  - B Mitigation/Conditions of Approval
  - C Statement of Facts, Findings, and Mitigation Measures
  - D Statement of Overriding Considerations
  - E Mitigation Monitoring and Reporting Program



# Advice 3552-E

## Attachment 5 Appraisal Report Summary

# **APPRAISAL REPORT**

OF

Proposed Taking of a Portion of PG & E Owned Land  
For Road Widening and Street Improvements

## **LOCATED AT:**

West Line of Buena Vista Road South of White Lane  
Bakersfield, California

## **AS OF:**

January 31, 2006

## **PREPARED FOR:**

Mr. Mark Jones, Attorney at Law  
Jones & Beardsley, PC  
10000 Stockdale Highway Suite 350  
Bakersfield, CA 93311

## **PREPARED BY:**

*Launer & Associates, Inc.*  
PO Box 564  
Bakersfield, California 93302  
(805) 399-0819

**EXECUTIVE SUMMARY**

**Name/Identification**

Assessor's Parcel Number 524-050-18  
West Line of Buena Vista Road s/o White Lane  
Bakersfield, California

**Owners of Record**

Pacific Gas & Electric Company

**Highest & Best Use**

Low to medium density residential

**Final Value Estimates**

**Assessor's Parcel 524-050-18**

Value Consideration	Size	Unit Value	Conclusion
Value before taking	6.13	\$93,500	\$573,155.00
Value of part taken	12733.75	\$2.15	\$27,377.56
Remainder value after taking	5.84	\$93,500	\$545,822.46
Damages to remainder	5.84	0	\$0.00
Benefits to remainder	5.84	0	\$0.00
Net damage to remainder	5.84	0	\$0.00
Value of part taken	12733.75	\$2.15	\$27,377.56
Just Compensation			\$27,377.56
Rounded to			\$27,400.00

**Date of Value**

January 31, 2006

**Date of Appraisal**

January 31, 2006

**Appraiser**

Michael Launer, MAI SRA  
Federal ID #77-0274111  
California Certified General Appraiser  
License No. AG002049

**PG&E Gas and Electric  
Advice Filing List  
General Order 96-B, Section IV**

Alcantar & Kahl	Defense Energy Support Center	North Coast SolarResources
Ameresco	Department of Water Resources	Northern California Power Association
Anderson & Poole	Department of the Army	Occidental Energy Marketing, Inc.
Arizona Public Service Company	Dept of General Services	OnGrid Solar
BART	Division of Business Advisory Services	Praxair
BP Energy Company	Douglas & Liddell	R. W. Beck & Associates
Barkovich & Yap, Inc.	Douglass & Liddell	RCS, Inc.
Bartle Wells Associates	Downey & Brand	Recon Research
C & H Sugar Co.	Duke Energy	SCD Energy Solutions
CA Bldg Industry Association	Dutcher, John	SCE
CAISO	Ellison Schneider & Harris LLP	SMUD
CLECA Law Office	FPL Energy Project Management, Inc.	SPURR
CSC Energy Services	Foster Farms	Santa Fe Jets
California Cotton Ginners & Growers Assn	G. A. Krause & Assoc.	Seattle City Light
California Energy Commission	GLJ Publications	Sempra Utilities
California League of Food Processors	Goodin, MacBride, Squeri, Schlotz & Ritchie	Sierra Pacific Power Company
California Public Utilities Commission	Green Power Institute	Silicon Valley Power
Calpine	Hanna & Morton	Silo Energy LLC
Cameron McKenna	Hitachi	Southern California Edison Company
Cardinal Cogen	International Power Technology	Sunshine Design
Casner, Steve	Intestate Gas Services, Inc.	Sutherland, Asbill & Brennan
Chamberlain, Eric	Los Angeles Dept of Water & Power	Tabors Caramanis & Associates
Chevron Company	Luce, Forward, Hamilton & Scripps LLP	Tecogen, Inc.
Chris, King	MBMC, Inc.	Tiger Natural Gas, Inc.
City of Glendale	MRW & Associates	Tioga Energy
City of Palo Alto	Manatt Phelps Phillips	TransCanada
Clean Energy Fuels	Matthew V. Brady & Associates	Turlock Irrigation District
Coast Economic Consulting	McKenzie & Associates	U S Borax, Inc.
Commerce Energy	Merced Irrigation District	United Cogen
Commercial Energy	Mirant	Utility Cost Management
Consumer Federation of California	Modesto Irrigation District	Utility Specialists
Crossborder Energy	Morgan Stanley	Verizon
Davis Wright Tremaine LLP	Morrison & Foerster	Wellhead Electric Company
Day Carter Murphy	New United Motor Mfg., Inc.	Western Manufactured Housing Communities Association (WMA)
	Norris & Wong Associates	eMeter Corporation