

PUBLIC UTILITIES COMMISSION  
505 Van Ness Avenue  
San Francisco CA 94102-3298



**Pacific Gas & Electric Company**  
**ELC (Corp ID 39)**  
**Status of Advice Letter 6324E**  
**As of November 2, 2021**

Subject: City of Orinda Mini Park Lease Agreement Request for Approval Under Public Utilities Code Section 851, pursuant to General Order 173

Division Assigned: Energy

Date Filed: 09-10-2021

Date to Calendar: 09-15-2021

Authorizing Documents: None

<b>Disposition:</b>	<b>Accepted</b>
<b>Effective Date:</b>	<b>10-10-2021</b>

Resolution Required: No

Resolution Number: None

Commission Meeting Date: None

CPUC Contact Information:

[edtariffunit@cpuc.ca.gov](mailto:edtariffunit@cpuc.ca.gov)

AL Certificate Contact Information:

Annie Ho

415-973-8794

[PGETariffs@pge.com](mailto:PGETariffs@pge.com)

**PUBLIC UTILITIES COMMISSION**  
505 Van Ness Avenue  
San Francisco CA 94102-3298



To: Energy Company Filing Advice Letter

From: Energy Division PAL Coordinator

Subject: Your Advice Letter Filing

The Energy Division of the California Public Utilities Commission has processed your recent Advice Letter (AL) filing and is returning an AL status certificate for your records.

The AL status certificate indicates:

- Advice Letter Number
- Name of Filer
- CPUC Corporate ID number of Filer
- Subject of Filing
- Date Filed
- Disposition of Filing (Accepted, Rejected, Withdrawn, etc.)
- Effective Date of Filing
- Other Miscellaneous Information (e.g., Resolution, if applicable, etc.)

The Energy Division has made no changes to your copy of the Advice Letter Filing; please review your Advice Letter Filing with the information contained in the AL status certificate, and update your Advice Letter and tariff records accordingly.

All inquiries to the California Public Utilities Commission on the status of your Advice Letter Filing will be answered by Energy Division staff based on the information contained in the Energy Division's PAL database from which the AL status certificate is generated. If you have any questions on this matter please contact the:

Energy Division's Tariff Unit by e-mail to  
**[edtariffunit@cpuc.ca.gov](mailto:edtariffunit@cpuc.ca.gov)**

September 10, 2021

**Advice 6324-E**

(Pacific Gas and Electric Company ID U 39 E)

Public Utilities Commission of the State of California

**Subject: City of Orinda Mini Park Lease Agreement – Request for Approval Under Public Utilities Code Section 851, pursuant to General Order 173**

**Purpose**

Pacific Gas and Electric Company (PG&E) requests Public Utilities Commission (CPUC or Commission) approval under Public Utilities Code Section 851 (Section 851) and General Order (GO) 173 for the Orinda Mini Park Lease Agreement (Lease) with the City of Orinda (Lessee). The proposed Lease is a 25-year Lease on PG&E fee property APN 273-010-016 and SBE 135-07-050C-1 in Orinda, Contra Costa County (Property).

The Property is the gateway to the City of Orinda's downtown. The Lease will support the Lessee's beautification operations including hardscaping and landscaping the Property, which comprises 0.15 acres. The Property is shown in Attachment 1- PG&E Orinda Mini-Park Lease, Exhibit "A" – The Lease Area.

PG&E has inspected the Property and has determined that the operation of the City of Orinda Mini Park does not interfere with PG&E's operations or PG&E's ability to provide safe and reliable utility service. In addition, granting this Lease will not be adverse to the public interest.

**Background**

PG&E owns land, buildings, and other facilities in connection with the provision of electric and natural gas services to its customers throughout northern and central California. In the provision of these services, PG&E relies on a portfolio of fee properties, rights-of-way, and facilities to support its electric and gas activities.

Relevant to this advice letter, PG&E owns a 0.15 acre parcel at the northwest corner of the intersection of Camino Pablo and Brookwood Road in the City of Orinda off Highway 24. This Property contains a 115kV Electric Transmission overhead line.

Historically, the Property has been used under a Cooperative Landscaping Agreement Attachment 2 - Cooperative Landscape Agreement (Agreement) to the County of Contra

Costa (County) for the development of a Mini Park in Orinda. The Agreement was executed on March 12, 1972 and the County's rights terminated 3 months after the Mini Park area was incorporated into a City per the terms of the agreement section 17 as the City of Orinda was incorporated into a City in 1985. There was no consideration paid to PG&E for the Agreement.

More recently, Lessee contacted PG&E to request a new agreement to allow them to beautify the property. The beautification project includes developing and maintaining a public park, including associated landscaping, water fountain, irrigation, walkways, lighting, public art displays, fences, and a utility driveway (Lessee's Project).

PG&E inspected the Property and determined that the Mini Park would not interfere with PG&E's operations or delivery of reliable service. Under the proposed lease, the Lessee's lease payments are waived as an offset to PG&E's landscaping and maintenance costs. The proposed Lease is conditioned upon Section 851 approval and is included here as Attachment 1 – PG&E Orinda Mini-Park Lease.

Importantly, this transaction is in the public interest because this Lease will enable a beautification project for the Gateway to the City of Orinda. PG&E has reviewed the terms and conditions of this Lease and it will not impact PG&E's provision of safe and reliable utility service to its customers.

For all of the above reasons, PG&E requests Section 851 approval from the Commission to enter into the Lease for operation of a Mini Park. In accordance with General Order 173, Rule 4, PG&E provides the following information related to the proposed transaction:

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

Pacific Gas and Electric Company	City of Orinda
Steven Frank	Attn: Todd Trimble
Law Department	28 Orinda Way
P.O. Box 7442	Orinda, CA, 94563
San Francisco, CA 94120	Phone: (925) 253-4202
Phone: (415)-971-5091	Email: ttrimble@cityoforinda.org
Facsimile: (415) 973-5520	
Email: steven.frank@pge.com	

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

The Property is located on 0.15 acres on SBE 135-07-050C-1 of PG&E-owned land (APN 273-010-016). The Property contains a 115kV Electric Transmission overhead line.

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

Under the Lease, the Property will be landscaped for the beautification of the City of Orinda Mini Park.

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

Under the Lease, the 25 year term shall commence after CPUC approval and execution of the Lease by both parties. If the Mini Park remains active after the expiration of the term, the Lease will convert to a temporary month-to-month holdover with all terms remaining the same and the parties will discuss a new lease or extension. Under the Lease, Lessee is not obligated to pay for its use of the Property since the Lessee will be in charge of installation of new landscape and future maintenance. This will offset PG&E's landscaping and maintenance costs.

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

Not applicable.

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

There is no impact to PG&E's rate base nor will granting the Lease affect PG&E's ability to provide reliable service to its customers and the public at large.

**(g) 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.

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

The fair market value of this Lease is an annual rate of \$5,000. Please see Attachment 4 - Valuation Estimate for Fair Market Value. The fair market value was determined using nearby recent comparable sales of downtown commercial properties. PG&E is not charging Lessee for its use of the Property for the reasons described in section (d) above.

**(i) The Fair Market Value of the Easement or Right-of-Way, and a Detailed Description of How the Fair Market Value Was Determined:**

Not applicable.

**(j) 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:**

There have been no recent or anticipated transactions.

**(k) Sufficient Information and Documentation (Including Environmental Information) to Show that All of Eligibility Criteria Set Forth in Rule 3 of General Order 173 are Satisfied:**

PG&E has provided information in this Advice Letter to satisfy the eligibility criteria under General Order 173 in that:

- The activity proposed in the transaction will not require environmental review by the CPUC as a Lead Agency;
- The transaction will not have an adverse effect on the public interest or on the ability of PG&E to provide safe and reliable service to its customers at reasonable rates;
- The transaction will not materially impact the rate base of PG&E; and
- The transaction does not warrant a more comprehensive review that would be provided through a formal Section 851 application.

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

PG&E does not believe any additional information is necessary for the review of the Advice Letter.

**(m) Environmental Information**

Pursuant to General Order 173, the Advice Letter program applies to proposed transactions that will not require environmental review by the CPUC as a lead agency under the California Environmental Quality Act ("CEQA") either because: (a) a statutory or categorical exemption applies (the applicant must provide a Notice of Exemption from the Lead Agency or explain why an exemption applies), or (b) because the transaction is not a project under CEQA (the applicant must explain the reasons why it believes that the transaction is not a project), or (c) because another public agency, acting as the Lead Agency under CEQA, has completed environmental review of the project, and the Commission is required to perform environmental review of the project only as a Responsible Agency under CEQA.

On July 21, 2021, the City of Orinda confirmed this project is categorically exempt under Section 15301 of CEQA.

**Protests**

**\*\*\*Due to the COVID-19 pandemic, PG&E is currently unable to receive protests or comments to this advice letter via U.S. mail or fax. Please submit protests or comments to this advice letter to EDTariffUnit@cpuc.ca.gov and PGETariffs@pge.com\*\*\***

Anyone wishing to protest this submittal may do so by letter sent via U.S. mail, facsimile or E-mail, no later than September 30, 2021, which is 20 days after the date of this submittal. Protests must be submitted to:

CPUC Energy Division  
ED Tariff Unit  
505 Van Ness Avenue, 4<sup>th</sup> Floor  
San Francisco, California 94102

Facsimile: (415) 703-2200  
E-mail: EDTariffUnit@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 shall also be sent to PG&E either via E-mail or U.S. mail (and by facsimile, if possible) at the address shown below on the same date it is mailed or delivered to the Commission:

Sidney Bob Dietz II  
Director, Regulatory Relations  
c/o Megan Lawson  
Pacific Gas and Electric Company  
77 Beale Street, Mail Code B13U  
P.O. Box 770000  
San Francisco, California 94177

Facsimile: (415) 973-3582  
E-mail: PGETariffs@pge.com

Any person (including individuals, groups, or organizations) may protest or respond to an advice letter (General Order 96-B, Section 7.4). The protest shall contain the following information: specification of the advice letter protested; grounds for the protest; supporting factual information or legal argument; name, telephone number, postal address, and (where appropriate) e-mail address of the protestant; and statement that the protest was sent to the utility no later than the day on which the protest was submitted to the reviewing Industry Division (General Order 96-B, Section 3.11).

**Effective Date**

Pursuant to General Order (GO) 96-B, Rule 5.2, PG&E requests that this Tier 2 advice letter become effective on October 10, 2021 which is 30 days from the date of submittal.

**Notice**

In accordance with General Order 96-B, Section IV, a copy of this advice letter is being sent electronically and/or via U.S. mail to parties shown on the attached list. Address changes to the General Order 96-B service list should be directed to PG&E at email address PGETariffs@pge.com. For changes to any other service list, please contact the Commission's Process Office at (415) 703-2021 or at Process\_Office@cpuc.ca.gov. Send all electronic approvals to PGETariffs@pge.com. Advice letter submittal can also be accessed electronically at: <http://www.pge.com/tariffs>.

\_\_\_\_\_  
/S/

Sidney Bob Dietz II  
Director, Regulatory Relations

**Attachments**

- Attachment 1 - PG&E Orinda Mini-Park Lease
- Attachment 2 - Cooperative Landscape Agreement
- Attachment 3 - Property Photos
- Attachment 4 - Valuation Estimate for Fair Market Value
- Attachment 5 - Grant Deed

\*\*\*\*\* SERVICE LIST for Advice 6324-E \*\*\*\*\*  
APPENDIX A

Jonathan Reiger  
Legal Division  
505 Van Ness Avenue  
San Francisco, CA 94102  
(415) 355-5596  
jzr@cpuc.ca.gov

Mary Jo Borak  
Energy Division  
505 Van Ness Avenue  
San Francisco, CA 94102  
(415) 703-1333  
bor@cpuc.ca.gov

Robert (Mark) Pocta  
Public Advocates Office  
505 Van Ness Avenue  
San Francisco, CA 94102  
(415) 703- 2871  
robert.pocta@cpuc.ca.gov

Andrew Barnsdale  
Energy Division  
505 Van Ness Avenue  
San Francisco, CA 94102  
(415) 703-3221  
bca@cpuc.ca.gov

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

Contra Costa County Clerk's Office  
555 Escobar St., Martinez, CA 94553  
(925) 335-7900  
webmaster@cr.cccounty.us

\*\*\*\*\*3rd Parties\*\*\*\*\*

Lawrence Theis, P.E.  
Assistant City Manager/Director of Public Works &  
Engineering Services  
22 Orinda Way Orinda, CA 94563  
(925) 253-4260  
ltheis@cityoforinda.org

City of Orinda  
Attn: Todd Trimble  
28 Orinda Way  
Orinda, CA, 94563  
Phone: (925) 253-4202  
Email: ttrimble@cityoforinda.org

Osa L. Wolff  
City Attorney  
City of Orinda  
Shute, Mihaly & Weinberger LLP  
396 Hayes St.  
San Francisco, CA 94102  
415.625.4733  
wolff@smwlaw.com



# ADVICE LETTER 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 E)

Utility type:

- ELC       GAS       WATER  
 PLC       HEAT

Contact Person: Annie Ho  
 Phone #: (415) 973-8794  
 E-mail: PGETariffs@pge.com  
 E-mail Disposition Notice to: AMHP@pge.com

EXPLANATION OF UTILITY TYPE

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

(Date Submitted / Received Stamp by CPUC)

Advice Letter (AL) #: 6324-E

Tier Designation: 2

Subject of AL: City of Orinda Mini Park Lease Agreement – Request for Approval Under Public Utilities Code Section 851, pursuant to General Order 173

Keywords (choose from CPUC listing): Agreements, Section 851

AL Type:  Monthly  Quarterly  Annual  One-Time  Other:

If AL submitted 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:

Confidential treatment requested?  Yes  No

If yes, specification of confidential information:

Confidential information will be made available to appropriate parties who execute a nondisclosure agreement. Name and contact information to request nondisclosure agreement/ access to confidential information:

Resolution required?  Yes  No

Requested effective date: 10/10/21

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:

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

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

<sup>1</sup>Discuss in AL if more space is needed.

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

CPUC, Energy Division  
Attention: Tariff Unit  
505 Van Ness Avenue  
San Francisco, CA 94102  
Email: [EDTariffUnit@cpuc.ca.gov](mailto:EDTariffUnit@cpuc.ca.gov)

Name: Sidney Bob Dietz II, c/o Megan Lawson  
Title: Director, Regulatory Relations  
Utility Name: Pacific Gas and Electric Company  
Address: 77 Beale Street, Mail Code B13U  
City: San Francisco, CA 94177  
State: California Zip: 94177  
Telephone (xxx) xxx-xxxx: (415)973-2093  
Facsimile (xxx) xxx-xxxx: (415)973-3582  
Email: [PGETariffs@pge.com](mailto:PGETariffs@pge.com)

Name:  
Title:  
Utility Name:  
Address:  
City:  
State: District of Columbia Zip:  
Telephone (xxx) xxx-xxxx:  
Facsimile (xxx) xxx-xxxx:  
Email:

# **Attachment 1**

**PG&E Orinda Mini-Park Lease**

**LEASE AGREEMENT**  
**FOR PARK USE**

This Lease Agreement for Park Use (this “**Lease Agreement**”) is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2021 (the “**Effective Date**”) by PACIFIC GAS AND ELECTRIC COMPANY, a California corporation, hereinafter called “**PG&E**”, and CITY OF ORINDA, a public body of the State of California, hereinafter called “**Tenant**” or “**Lessee**.”

R E C I T A L S:

A. PG&E owns the real property commonly known as Sobrante – Moraga 115kv Tower Line fee strip also known as the CROSSROADS MINI-PARK, Camino Pablo and Brookwood Road, Assessor’s Parcel Number 273-010-016, State Board of Equalization No., 135-07-050C-1, hereinafter called the “**Property**”, located in the City of Orinda, County of Contra Costa, State of California.

B. Lessee has, since its incorporation in 1985, maintained a public park on the Property as the successor to Contra Costa County under a 1973 agreement between PG&E and the County titled “Cooperative Landscaping Agreement.”

C. Lessee wishes to continue to use the Property for a public park as shown on **EXHIBIT “A”** attached hereto and by this reference made a part hereof (the “**Lease Area**”) and wishes to upgrade landscaping and other improvements at the park.

D. Lessee has requested a Lease Agreement that gives Lessee the right to use the Lease Area for a public park as more fully described in this Lease Agreement and PG&E is willing to grant such Lease subject to the terms and conditions set forth herein.

NOW, THEREFORE, for good and valuable consideration, PG&E and Lessee hereby agree as follows:

1. Park Use. Subject to the terms and conditions set forth in this Lease Agreement, PG&E grants to Lessee a temporary, personal, non-exclusive and non-possessory right and Lease to enter, and for Lessee to allow Lessee’s directors, officers, partners, members, managers, employees, contractors, subcontractors, consultants, representatives, agents, permittees and invitees (“**Lessee’s Representatives**”) to enter, at reasonable times, the Lease Area for the sole purpose of developing and maintaining a public park, including associated landscaping, water fountain, irrigation, walkways, lighting, public art displays, fences, and a utility driveway, and for no other purpose whatsoever, hereinafter referred to as “**Lessee’s Activities**”. Restrictions for this park shall include (i) no trees that at maturity will reach a height in excess of ten feet (10’); (ii) any public art displays, fences or signs shall not exceed eight feet (8’) in height, will be grounded and cannot be made of metal. Any public art displays shall be installed in accordance with the provision set forth in **Exhibit “B”** attached hereto and made a part hereof. Tenant shall not use the Lease Area to transport or store materials, including, without limitation, any Hazardous Substances, as defined in Section 5(b) below. Tenant shall not use or permit the use of the Lease Area in any manner that

would tend to create waste or a nuisance. All of Lessee's Activities shall be performed at Lessee's sole cost and expense. This Lease Agreement gives Lessee a Lease only and does not constitute a grant by PG&E of any ownership, easement or other similar property interest or estate.

2. Fee.

(a) In lieu of a use fee payable by Lessee to PG&E, PG&E will grant to Lessee an in-kind contribution in the form of permission for Lessee to use the Lease Area of the Property under the terms and conditions set forth in this Lease, which contribution shall become effective on the date Lessee is entitled to enter and use the Lease Area under the Lease.

(b) It is the intent of this Lease that, except as expressly set forth herein, all expenses for insurance, repair, maintenance and operation of the Lease Area and all other obligations of every kind and nature whatsoever relating to Lessee's use and operation of the Lease Area, arising or becoming due during or with respect to the Term of this Lease, shall be paid or discharged by Lessee, in addition to carrying out the Work Plan defined in Section 3. Without limiting the foregoing, Lessee shall pay the cost of any repairs to or protection of any of PG&E's existing Electric Transmission Facilities arising from Lessee's use of the Lease Area. All such Fee shall be due and payable to PG&E within thirty (30) days after Lessee's receipt of an invoice therefor.

(c) All sums of money required to be paid under this Lease shall be considered Fee (and are sometimes collectively referred to herein as "Fee") whether or not specifically designated as such in any other section of this Lease. PG&E's remedies for non-payment of Fee shall include termination of the Lease Agreement within thirty (30) days of refusal by Lessee to pay the required Fee.

3. Work Plan. Lessee shall discuss with PG&E any specific requirements for Lessee's Activities on the Property, and shall prepare a work plan that incorporates such requirements and that describes in detail and with specificity the nature, scope, location and purpose of all of Lessee's Activities to be performed on the Property, including, without limitation, methods and procedures for restoration of any alteration to the Lease Area, and a health and safety plan (the "**Work Plan**"). The Work Plan shall be accompanied by the following information: landscaping plan, artwork plan and improvement plan. PG&E reserves the right to request Lessee to provide additional information, reports, studies or other documents not included in the Work Plan. Lessee acknowledges and agrees that PG&E's review of the Work Plan 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 Work Plan is adequate or appropriate for any purpose, or complies with applicable Legal Requirements, as defined herein. Lessee shall not commence any activity whatsoever on the Property without the prior written consent of PG&E to the Work Plan as set forth above, which consent shall be in PG&E's sole and absolute discretion. Lessee agrees and covenants that all of Lessee's Activities shall be performed solely within the Lease Area and in strict accordance with the approved Work Plan.

4. Term; Termination; Surrender. This Lease Agreement shall be for a term of twenty-five (25) years, commencing on \_\_\_\_\_, 2021 and expiring on \_\_\_\_\_, 2046, unless sooner terminated as specifically provided elsewhere in this Lease Agreement (the "**Term**"). PG&E shall not terminate the lease except in

the event Lessee is in material default under any of the provisions of this Lease. If the park use remains active, but the parties have not yet put in place a lease extension or new lease effective \_\_\_\_\_, 2046, this Lease Agreement will automatically convert to a month-to-month rental, with all other terms remaining the same, while the parties discuss such a new lease or lease extension. Upon the expiration or termination of this Lease Agreement, PG&E may demand that Lessee remove from the Property all fixtures and improvements or certain fixtures or improvements or both. Lessee shall bear the entire cost of such removal, repair and restoration, and PG&E shall have no liability for any losses or damages caused by or related to any termination consistent with the terms of this Lease Agreement. In the event Lessee fails to comply with the requirements of this Section, PG&E may elect, at Lessee's expense, to remove such vehicles, personal property, debris and waste material and to perform such repair or restoration as necessary. Lessee shall pay such costs and expenses within ten (10) days after receipt of an invoice therefor. Lessee's obligations under this Section shall survive the expiration or termination of this Lease Agreement.

5. CPUC Approval. PG&E has determined that approval of the CPUC will be required ("CPUC Approval") as a condition precedent to the effectiveness of this Lease. Lessee acknowledges and agrees that CPUC Approval shall not be deemed to have occurred for purposes of this Lease, unless and until the CPUC approves of this Lease in a form that is final, unconditional and unappealable, including exhaustion of all administrative appeals or remedies before the CPUC, and such CPUC Approval is approved by PG&E in its sole and absolute discretion. Tenant further acknowledges and agrees that PG&E makes no representation or warranty with respect to the likelihood of, or timing of, CPUC Approval, and Lessee hereby waives all claims against PG&E for losses, expenses or damages suffered or incurred by Lessee as a result of the need for CPUC Approval, any delay in receipt of CPUC Approval, or the failure of the CPUC to approve of this Lease. This Lease is made subject to all the provisions of the CPUC Approval, as more particularly set forth in like manner as though said provisions were set forth in full herein.

6. Condition of the Property. Lessee accepts the Property "as is", in its existing physical condition, without warranty by PG&E or any duty or obligation on the part of PG&E to maintain the Property. Lessee acknowledges that one or more of the following (collectively, "**Potential Environmental Hazards**") may be located in, on or underlying the Property:

(a) electric and magnetic fields, electromagnetic fields, power frequency fields and extremely low frequency fields, however designated, whether emitted by electric transmission lines, other electrical distribution equipment or by any other means ("**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 defined herein, relating to the protection of human health or the environment, 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

**Park Lease (Rev. 02/10)**

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

(3) the presence of which on the Property poses or threatens to pose a hazard to the health or safety of persons on or about the Property 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.

Lessee shall take all necessary precautions to protect Lessee's Representatives from risks of harm from Potential Environmental Hazards, and Lessee shall be responsible for the health and safety of Lessee's Representatives. Lessee acknowledges that it has previously evaluated the condition of the Property and all matters affecting the suitability of the Property for the uses permitted by this Lease Agreement, including, but not limited to, the Potential Environmental Hazards listed herein.

In the event that Hazardous Substances are found on the Property, Lessee shall be responsible for and bear the entire cost of removal and disposal of Hazardous Substances introduced to and/or released on the Property during the Lease Term or as a result of Lessee's occupancy or use of the Lease Area. Lessee shall also be responsible for and bear the entire cost to remediate and clean up any contaminated soil and/or groundwater, both on-site and off-site, resulting from Hazardous Substances introduced to and/or released on the Property during the

Lease Term or as a result of Lessee's occupancy or use of the Lease Area. Lessee shall not be responsible for or bear the cost of removal or disposal of Hazardous Substances introduced to the Property that did not result from Lessee's occupancy or use of the Lease Area.

7. Lessee's Covenants.

(a) Legal Compliance. Lessee agrees, at Lessee's sole cost and expense, promptly to comply, and cause all of Lessee's Representatives to comply, with (i) 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 laws which relate to the generation, use, storage, handling, treatment, transportation or disposal of Hazardous Substances or to health, safety, noise, environmental protection, air quality or water quality, (ii) the conditions of any permit, occupancy certificate, Lease or other approval issued by public officers relating to Lessee's Activities or Lessee's use or occupancy of the Property; and (iii) any liens, encumbrances, easements, covenants, conditions, restrictions and servitudes (if any) of record, or of which Lessee has notice, which may be applicable to the Property (collectively, "**Legal Requirements**") regardless of when they become effective, insofar as they relate to Lessee's Activities or the use or occupancy of the Property by Lessee. The judgment of any court of competent jurisdiction, or the admission of Lessee in any action or proceeding against Lessee, whether or not PG&E is a party in such action or proceeding, that Lessee has violated any Legal Requirement relating to the use or occupancy of the Property, shall be conclusive of that fact as between PG&E and Lessee. Lessee shall furnish satisfactory evidence of such compliance upon request by PG&E.

(b) Notification of Investigations, Orders or Enforcement Proceedings. Lessee agrees to notify PG&E in writing within three (3) business days after obtaining knowledge of any investigation, order or enforcement proceeding that in any way relates to the Property, or to the occurrence of any contamination or suspected contamination on, within or underlying the Property. Such notice shall include a complete copy of any order, complaint, agreement, or other document that may have been issued, executed or proposed, whether draft or final.

(c) Use of Property. Lessee agrees that Lessee shall not in any way interfere or permit any interference with the use of the Property by PG&E. Interference shall include, but not be limited to, any activity by Lessee that places any of PG&E's gas or electric facilities in violation of any of the applicable provisions of General Order Nos. 95 (Overhead Electric), 112 (Gas), and 128 (Underground Electric) of the CPUC or of any other applicable provisions of the laws and regulations of the State of California or other governmental agencies under which the operations of utility facilities are controlled or regulated, including, without limitation, the CPUC or the Federal Energy Regulatory Commission ("**FERC**"). Lessee 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 even if such orders allow it, under no circumstances closer than ten (10) feet from any energized electric conductors or appliances. Lessee shall not drill, bore, or excavate under any circumstances.

(d) Lessee's Activities. Lessee agrees that Lessee and Lessee's Representatives shall notify PG&E, as part of the Work Plan, of any potential safety, environmental or other

hazards to PG&E employees or property arising out of, or associated with, Lessee's Activities or stemming from conditions caused by Lessee, so that PG&E may take appropriate precautions. Lessee agrees that Lessee shall conduct Lessee's Activities in compliance with the Work Plan approved by PG&E and in such a manner so as to protect the Property, PG&E's utility facilities, the environment, and human health and safety. Lessee shall not make use of the Property in any way which will endanger human health or the environment, create a nuisance or otherwise be incompatible with the use of the Property by PG&E or others entitled to use the Property. Lessee shall post signs, as approved by PG&E as part of the Work Plan, at the entrance(s) to the Lease Area. Lessee 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 Property within the Lease Area. Lessee agrees to be responsible for the clean up and remediation of any releases of Hazardous Substances resulting from Lessee's Activities, or any activity by Lessee or Lessee's Representatives, and shall immediately report the details of any such releases to PG&E and to the appropriate regulatory agencies as required by any and all applicable Legal Requirements. In the event PG&E determines that Lessee's Activities in any way endanger the Property, PG&E's utility facilities, the environment, or human health or safety, PG&E may, in PG&E's sole and absolute discretion, require that Lessee halt Lessee's Activities until appropriate protective measures may be taken to eliminate such endangerment to PG&E's satisfaction. Lessee waives any claims against PG&E resulting from any delay under this Section. PG&E's right to halt activities under this Section shall not in any way affect or alter Lessee's insurance or indemnity obligations under this Lease Agreement, nor shall it relieve Lessee from any of Lessee's obligations hereunder that pertain to health, safety, or the protection of the environment.

(e) Non-Interference. Lessee agrees to coordinate Lessee's Activities to strictly avoid any interference with PG&E's use of the Property and any adjoining lands owned by PG&E.

(f) Site Security. Lessee agrees that Lessee and Lessee's Representatives shall comply with any and all of PG&E's on-site safety and security requirements and any other rules and regulations that may be applicable to Lessee's Activities at the Property. Lessee agrees to cooperate with PG&E and to abide by any and all orders or instructions issued by PG&E, its employees, agents or representatives. PG&E reserves the right to restrict access to the Property 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's facilities, wherever located, or otherwise when PG&E deems it reasonably necessary 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 Property.

8. Indemnification; Release.

(a) Lessee shall, to the maximum extent permitted by law, indemnify, protect, defend and hold harmless PG&E, its parent corporation, subsidiaries, affiliates, and their 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**") including Claims arising from the passive negligence of the Indemnitees, which arise from or are in any way connected with Lessee's Activities, or the entry

on, occupancy or use of, the Property by Lessee or Lessee's Representatives, or the exercise by Lessee of Lessee's rights hereunder, or the performance of, or failure to perform, Lessee's duties under this Lease Agreement, including, but not limited to, Claims arising out of: (i) injury to or death of persons, including, but not limited to, employees of PG&E or Lessee (and including, but not limited to, injury due to exposure to EMFs and other Potential Environmental Hazards in, on or about the Property); (ii) injury to property or other interest of PG&E, Lessee or any third party; (iii) violation of any applicable federal, state, or local laws, statutes, regulations, or ordinances, including all Legal Requirements relating to the environment and including any liability imposed by law or regulation without regard to fault. The indemnity described above shall not extend to that portion of such loss or damage that shall have been caused by PG&E's active negligence or willful misconduct. Without limiting the generality of the foregoing, Lessee 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 labor performed on the Property by, or at the request or for the benefit of, Lessee. In the event any action or proceeding is brought against any Indemnitee for any Claim against which Lessee is obligated to indemnify or provide a defense hereunder, upon written notice from PG&E, Lessee shall defend such action or proceeding at Lessee's sole expense by counsel approved by PG&E, which approval shall be in PG&E's sole and absolute discretion.

(b) Lessee acknowledges that all Claims arising out of or in any way connected with releases or discharges of a Hazardous Substance, or the exacerbation of a Potential Environmental Hazard, occurring as a result of or in connection with Lessee's use or occupancy of the Property, Lessee's Activities or the activities of any of Lessee's Representatives, and all costs, expenses and liabilities for environmental investigations, monitoring, containment, abatement, removal, repair, cleanup, restoration, remediation and other response costs, including attorneys' fees and disbursements and any fines and penalties imposed for the violation of any Legal Requirements relating to the environment or human health, are expressly within the scope of the indemnity set forth above. The purpose of the foregoing indemnity is to protect PG&E and the Indemnitees from expenses and obligations related to Hazardous Substances on the Property to the fullest extent permitted by law. The Lessee's obligation to defend includes, but is not limited to, the obligation to defend claims and participate in administrative proceedings, even if they are false or fraudulent.

(c) Lessee's use of the Property shall be at Lessee's sole risk and expense, and Lessee accepts all risk relating to Lessee's occupancy and use of the Property. PG&E shall not be liable to Lessee for, and Lessee 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 an occurrence on or about the Property relating to Lessee's use of the Property.

(d) Lessee shall, to the maximum extent permitted by law, indemnify, protect, defend and hold Indemnitees harmless against claims, losses, costs (including attorneys' fees and costs), liabilities and damages resulting from the failure of Lessee, or any of Lessee's consultants, contractors or subcontractors, to comply with the insurance requirements set forth in **EXHIBIT "C"**.

(e) The provisions of this Section 8 shall survive the expiration or termination of this Lease Agreement.

9. Additional Activities. Lessee shall not perform any grading, paving or install any alterations, facilities or improvements in, on, under or over the Lease Area, except as described in the approved Work Plan. Lessee shall not deposit or remove soil or gravel from or on the Lease Area. Lessee shall not perform any activities beyond Lessee's Activities specifically authorized by this Lease Agreement without the prior written consent of PG&E, which consent shall be in PG&E's sole and absolute discretion, and the prior consent, to the extent required by applicable Legal Requirements, of any governmental authority having jurisdiction, including, but not limited to, the CPUC or the FERC.

10. Reserved Rights. PG&E reserves the right to use the Property for such purposes as may be reasonably necessary for utility purposes. Lessee shall not make use of the Property in any way which will endanger human health or the environment, create a nuisance or otherwise be incompatible with the use of the Property by PG&E or others entitled to use the Property.

11. Compliance; Safety; Insurance. Lessee shall obtain, at Lessee's sole cost and expense, any and all necessary permits, authorizations and approvals applicable to Lessee's Activities and to evidence compliance with all Legal Requirements. PG&E shall have a right to observe Lessee's Activities at any time to confirm Lessee's compliance with the requirements of this Lease Agreement and applicable Legal Requirements. Lessee shall procure, carry and maintain in effect throughout the Term of this Lease Agreement, with respect to the Lease Area and the use, occupancy and activities of Lessee and Lessee's Representatives on or about the Lease Area, in a form and with deductibles acceptable to PG&E and with such insurance companies as are acceptable to PG&E, the insurance specified in **EXHIBIT "C"** and by this reference made a part hereof. All policies shall contain endorsements that the insurer shall give PG&E and its designees at least thirty (30) days advance written notice of any change, cancellation, termination, failure to renew or lapse of insurance. Upon Lessee's execution of this Lease Agreement, and thereafter at least thirty (30) days prior to the expiration date of any policy, Lessee shall provide PG&E with evidence of the insurance coverage, or continuing coverage, as applicable, required by this Lease Agreement as more specifically set forth in **EXHIBIT "C"**. This Lease Agreement shall not become effective, and Lessee and Lessee's Representatives shall not enter the Property nor commence or conduct any activity whatsoever on the Property unless and until the insurance coverage required by this Lease Agreement is in effect and current proof of insurance has been provided to PG&E. Lessee is also responsible for the compliance of Lessee's consultants, contractors and subcontractors with the insurance requirements, provided that Lessee may, with PG&E's written consent in PG&E's sole and absolute discretion, permit Lessee's consultants, contractors and subcontractors to maintain coverages and limits lower than those specified, so long as the coverages and limits required by Lessee are commercially reasonable in light of applicable circumstances. Lessee's consultants, contractors and subcontractors shall not enter the Property nor commence any activity whatsoever on the Property without the insurance coverage required by this Lease Agreement being in effect and current proof of insurance having been provided to PG&E from each such consultant, contractor and subcontractor, respectively. The requirements of this Section and **EXHIBIT "C"** shall in no event limit the liability of Lessee under this Lease Agreement. 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. In the event that Lessee or any of Lessee's Representatives fail at any time during the Term to procure, carry or maintain, the insurance required under this Section and **EXHIBIT "C"**, or fail to deliver such policies or certificates as required, PG&E may, at its option, (i) procure such policies for the account of Lessee and Lessee's Representatives, and the cost thereof shall be paid by Lessee to PG&E within five (5) days after delivery to Lessee of an invoice therefor, and/or (ii) terminate this Lease Agreement, upon written notice to Lessee, in which event Lessee shall immediately vacate the Property and comply with the provisions concerning the condition of the Property on expiration or termination set forth in Section 4 above. For so long as the Lessee hereunder is the City of Orinda, Lessee may elect to self-insure for any or all of the required coverage.

12. Mechanics' Liens. Lessee shall keep the Property free and clear of all mechanics' liens arising, or alleged to arise, in connection with any work performed, labor or materials supplied or delivered, or similar activities performed by Lessee or at Lessee's request or for Lessee's benefit. If any mechanics' liens are placed on the Property in connection with Lessee's use or activities, Lessee shall diligently pursue all necessary actions to remove such liens from title, either by payment or by recording a lien release bond in the manner specified in California Civil Code Section 8424 or any successor statute. Notwithstanding anything to the contrary set forth in this Lease Agreement, if any such lien is not released and removed within thirty (30) days, PG&E at its sole option, may immediately take all actions necessary to release and remove such lien, without any duty to investigate the validity thereof, and all sums, costs and expenses, including attorneys' fees and costs, incurred by PG&E in connection with such lien shall be due and payable by Lessee within thirty (30) days after receipt of a written demand therefor, accompanied by reasonable supporting documentation.

13. Notices. 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 by national overnight courier, with charges prepaid for next business day delivery, addressed to the addressee party at the address or addresses listed below, or to such other address or addresses as such party may from time to time designate in writing. Notices shall be deemed received upon actual receipt or refusal of the notice by the party being sent the notice.

If to PG&E by standard U.S. mail or by registered or certified mail, return receipt requested:

Manager, Land Rights  
PG&E Land Management  
P.O. Box 770000, Mail Code N10A  
San Francisco, CA 94177

With a copy to:

Law Department  
Pacific Gas and Electric Company  
P.O. Box 7442  
San Francisco, CA 94120  
Attn: Managing Counsel, Environmental and Land

Lease/Lease Land Agent  
PG&E Land Management  
1850 Gateway Blvd., 7th Floor  
Concord, CA 94520

If to PG&E by personal delivery or overnight courier:

Manager, Land Rights  
PG&E Land Management  
245 Market Street, Mail Code N10A  
San Francisco, CA 94105

If to Lessee:

City Manager  
City of Orinda  
268 Orinda Way  
Orinda, CA 94563

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

15. Entire Agreement. This Lease 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 Lease Agreement may not be amended except by a written agreement executed by both parties.

16. Binding Effect. This Lease Agreement and the covenants and agreements herein contained shall be binding on, and inure to the benefit of, the parties hereto and their respective heirs, successors and assigns, subject to the limitations on assignment set forth in this Lease Agreement.

17. Assignment. This Lease Agreement is personal to Lessee, and Lessee shall not assign, transfer, convey or encumber the Lease and other rights herein granted or any portion thereof or interest herein.

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, and including any appeal thereof, 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. 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 Lease 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. Any waiver with respect to any provision of this Lease Agreement shall not be effective unless in writing and signed by the party against whom it is asserted. The waiver of any provision of this Lease Agreement by a party shall not be construed as a waiver of a subsequent breach or failure of the same term or condition or as a waiver of any other provision of this Lease Agreement.

20. No Offsets. Lessee acknowledges that PG&E is executing this Lease Agreement in its capacity as the owner of real property, 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 PG&E 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 Lessee under this Lease Agreement. Further, Lessee covenants not to raise as a defense to Lessee's obligations under this Lease Agreement, or assert as a counterclaim or cross-claim in any litigation or arbitration between PG&E and Lessee relating to this Lease Agreement, any claim, loss, damage, cause of action, liability, cost or expense (including, without limitation, attorneys' fees) arising from or in connection with PG&E's provision of (or failure to provide) electricity and natural gas.

21. No Dedication; No Third Party Beneficiary. Nothing herein contained shall be deemed to be a gift or dedication of the Property or portion thereof to the general public, or for any public use or purpose whatsoever. The right of the public or any person, including Lessee and Lessee's Representatives, to make any use whatsoever of the Lease Area 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 and absolute discretion. The provisions of this Lease Agreement are for the exclusive benefit of the parties and their successors and assigns, and shall not be deemed to confer any rights upon any person, except such parties and their successors and assigns, subject to the limitations on assignment set forth in this Lease Agreement. No obligation of a party under this Lease Agreement is enforceable by, or is for the benefit of, any other third parties.

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

23. 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.

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

25. Counterparts. This Lease 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.

26. Joint and Several Liability. If two or more individuals, corporations, partnerships or other business associations (or any combination of two or more thereof) shall sign this Lease Agreement as Lessee, the liability of each such individual, corporation, partnership or other business association to perform Lessee's obligations hereunder shall be deemed to be joint and several, and all notices, payments and agreements given or made by, with or to any one of such individuals, corporations, partnerships or other business associations shall be deemed to have been given or made by, with or to all of them. In like manner, if Lessee shall be a partnership or other business association, the members of which are, by virtue of statute or federal law, subject to personal liability, then the liability of each such member shall be joint and several.

27. Survival. The waivers of claims or rights, the releases and the obligations of Lessee under this Lease Agreement to indemnify, protect, defend and hold harmless PG&E and other Indemnitees shall survive the expiration or earlier termination of this Lease Agreement, and so shall all other obligations or agreements of PG&E and Lessee hereunder which by their terms survive the expiration or earlier termination of this Lease Agreement.

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

29. Authority; Execution; Conditions to Effectiveness. The parties and the individuals executing this Lease Agreement on behalf of the parties, each represent, by executing this Lease Agreement, that he or she is duly authorized to do so and to bind the respective party to its terms. The submission of this Lease Agreement for examination or execution does not constitute an approval of the terms herein, or an offer to Lease the Lease Area in accordance with the terms and conditions contained herein, and this Lease Agreement shall not become effective unless and until it has been executed and delivered by both PG&E and Lessee, and Lessee delivers to PG&E the Lease fee as set forth in Section 2 above, and current proof of insurance for Lessee and its consultants, contractors and subcontractors as set forth in Section 10 above, and the CPUC approves this Lease Agreement as set forth in Section 5 above.

IN WITNESS WHEREOF, the parties have executed this Lease Agreement as of the date set forth below each signature, effective upon the Effective Date first written above.

**Park Lease (Rev. 02/10)**

“PG&E”

PACIFIC GAS AND ELECTRIC COMPANY,  
a California corporation

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

Name: \_\_\_\_\_

Its: \_\_\_\_\_

Date: \_\_\_\_\_

“Lessee”

CITY OF ORINDA, a public body of the  
State of California

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

Name: \_\_\_\_\_

Its: \_\_\_\_\_

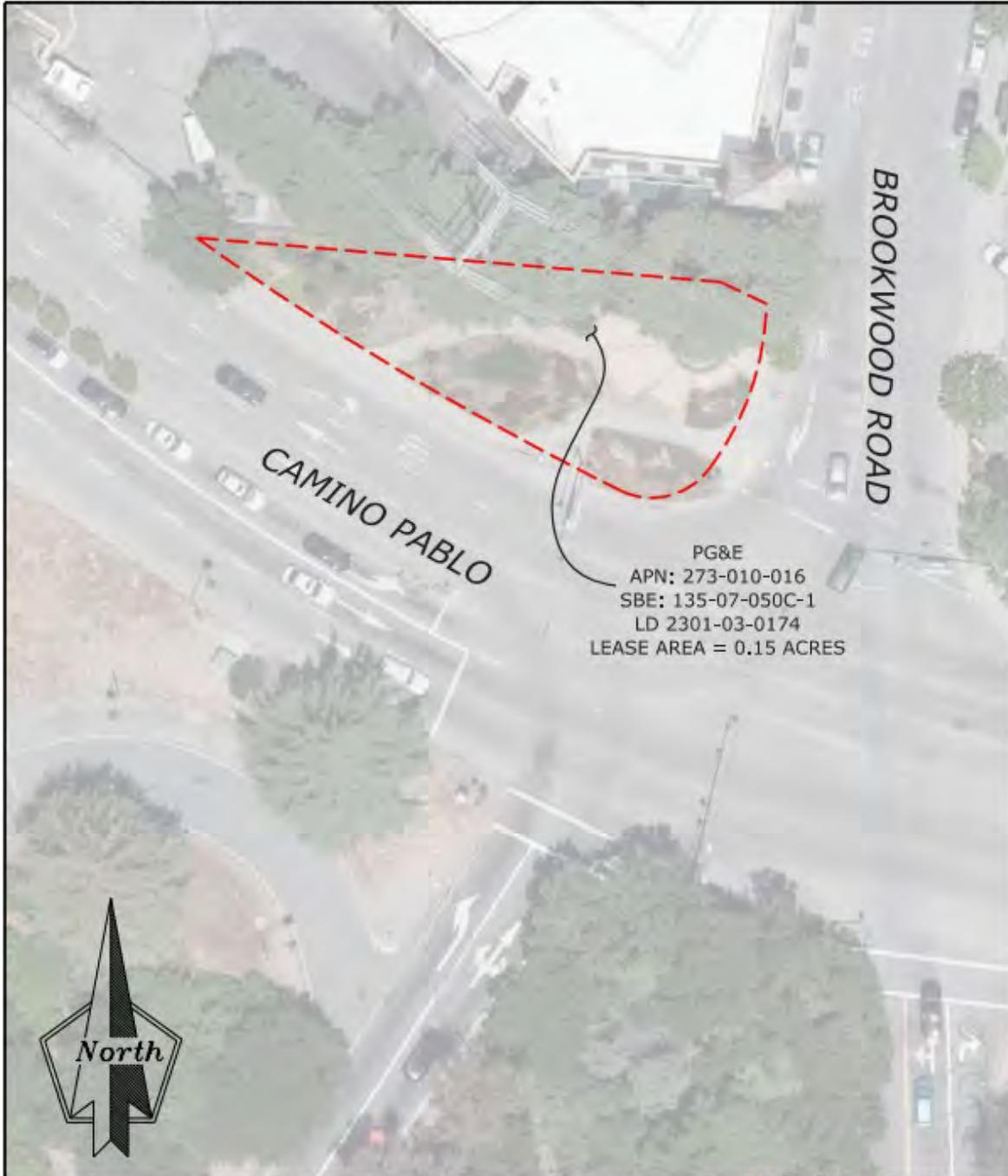
Date: \_\_\_\_\_

EXHIBITS “A”, “B”, & “C” attached

**EXHIBIT A**

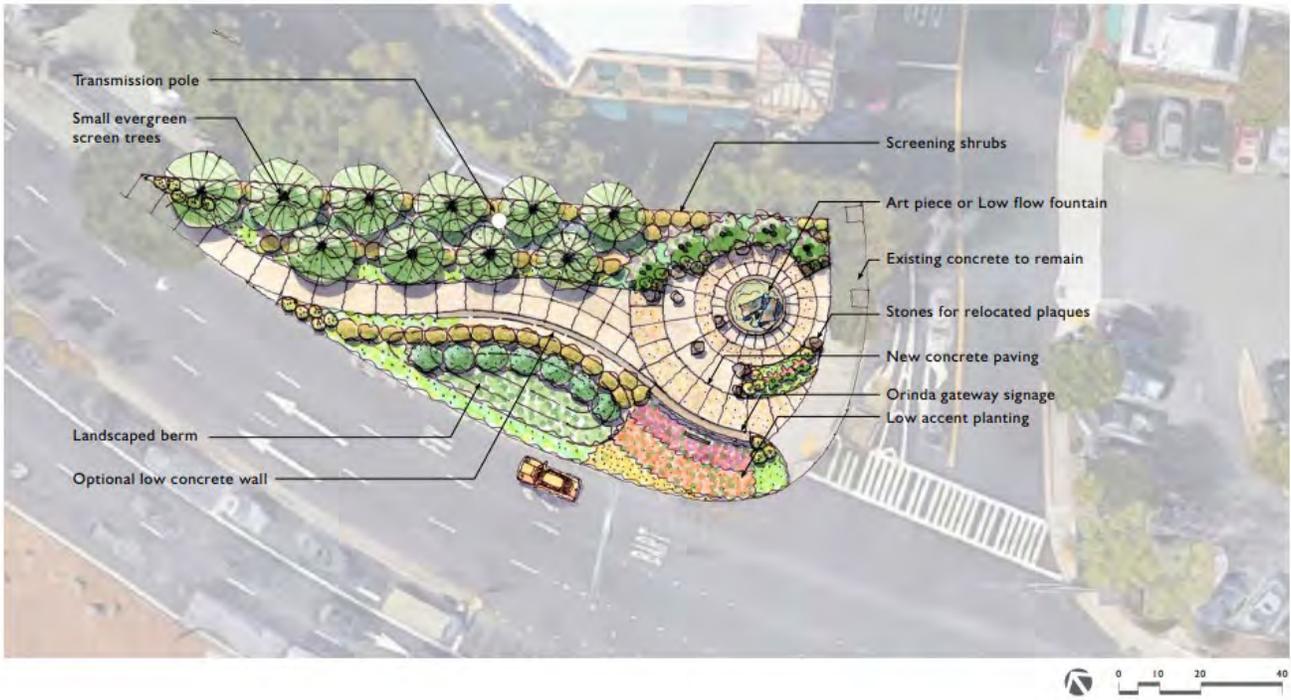
**THE LEASE AREA**

Ground Lease Agreement - Recreational Use (Rev. 5/2019) LD 2301-03-10035



ATTACHMENT 2 - THE LEASE AREA CITY OF ORINDA MINI PARK				SCALE NTS	DATE 8/19/2021
SECTION NE 1/4 NW 1/4 03	TOWNSHIP T1S	RANGE R3W	MERIDIAN MDB&M	COUNTY: CONTRA COSTA	CITY OF: ORINDA
PLAT MAP: E0708 ELEC, 05B16 GAS REFERENCES: LD 2301-03-0174				DR.BY: JQW3	CH.BY: P1A8 & JPW1
<b>PG&amp;E</b>		DIABLO DIVISION	41860703 AUTHORIZ	N/A DRAWING NO.	

### THE LEASE AREA



## EXHIBIT B

### PUBLIC ART DISPLAY REQUIREMENTS

The following provisions shall govern any public art displays on the Lease Area:

1 Creation of Artworks. Lessee may contract with various community arts partners (“Artists”) to have artworks (“Artworks”) created for public display. Lessee shall provide each Artist with a general theme for the Artwork and the size and specifications for its creation. Each Artwork shall not exceed eight (8) feet in height. The first installation of Artworks shall include (either as a separate Artwork or integrated into an Artwork) the following text unless otherwise agreed by the parties: “The Orinda Art Project, sponsored by the City of Orinda and Pacific Gas and Electric Company.” The parties will work together to finalize a mutually acceptable schedule for completion and installation of the Artworks. Lessee shall use all commercially reasonable efforts to complete the installation of the Artworks in accordance with this Agreement and the schedule agreed by the parties.

2 Artist Agreements; Ownership. Lessee shall enter into an agreement with each Artist producing an Artwork (“Artist Agreement”) that shall, at a minimum, include the following terms and conditions and otherwise be consistent with the terms and conditions of this Agreement:

(a) Upon delivery of the Artwork to Lessee, Lessee shall own the Artwork and shall have the royalty-free right to publicly display the Artwork;

(b) Lessee and PG&E shall each have the non-exclusive, worldwide, perpetual, and royalty-free right to make reproductions of the Artwork in whole or in part, and to distribute and publicly display such reproductions in print, over the internet or thorough any other means now existing or hereafter invented solely for the purpose of promoting their respective businesses, and to use the Artist’s name and biographical information in connection with all such uses;

(c) Subject to the foregoing, the Artist shall retain the copyright in the Artwork;

(d) The Artist represents and warrants that the Artwork (and the public display thereof) will not infringe or misappropriate any copyright, trademark, right of publicity or privacy or other right of any third party, and will not contain any defamatory, libelous or other unlawful matter;

(e) The Artist waives any rights with respect to the manner in which the Artwork is publicly displayed;

(f) An acknowledgement by the Artist that there is no promise or guarantee that the Artwork will be displayed, or if displayed, the duration of the display; and

(g) An acknowledgement that PG&E is a third party beneficiary of the Artist Agreement.

Lessee will provide PG&E with a form of the Artist Agreement prior to use, and shall thereafter provide PG&E with a copy of each Artist Agreement upon its execution by Lessee and the Artist.

3 Artwork Approval. Lessee shall obtain PG&E's approval of each Artwork prior to its installation. Unless otherwise notified by PG&E in writing, Lessee shall obtain such PG&E approval from the PG&E Area 2 Public Affairs Manager. PG&E will not unreasonably withhold its approval of an Artwork and will use reasonable efforts to respond to requests in a timely manner. With respect to each Artwork that is requested to be installed, Lessee represents and warrants that it is the owner of the Artwork and the Artwork (and the public display thereof) will not infringe or misappropriate any copyright, trademark, right of publicity or privacy or other right of any third party and does and will not contain any defamatory, libelous or other unlawful matter.

4 Installation. Lessee shall be responsible at its sole cost and expense for the installation, removal and storage of Artworks. The method of installation and specific location of the Artworks will be mutually agreed by the parties. Lessee shall ensure that the placement of the Artworks comply with all current and future federal, state and local laws and regulations.

5 Maintenance and Repair. Lessee shall be responsible for maintaining the Artworks at Lessee's sole cost and expense. Lessee shall promptly remove any Artwork that has become damaged or worn.

6 Removal. PG&E's may from time to time request in its sole discretion that Lessee remove one or more of the Artworks identified by PG&E. Upon receipt of such a request, Lessee will promptly (and in any event within 10 days) remove the identified Artworks and, unless the Artworks are to be replaced by other Artworks, any associated hardware. In connection with the removal of any hardware, Lessee will repair and patch any holes in accordance with specifications provided by PG&E. Removal of the Artworks, associated hardware and the repair and patching of any holes shall be at Lessee's sole cost and expense. Should Lessee fail to remove any Artwork as requested, or in the case of an emergency or any other circumstances that may expose PG&E to potential liability, PG&E may elect to remove the Artwork and the associated hardware. PG&E will not be responsible for any damage to the Artwork occasioned by its removal, transport or storage. Lessee agrees to pay the reasonable removal and storage costs incurred by PG&E. PG&E is not obligated to store an Artwork for more than 60 days, and if the Artwork is not retrieved by Lessee within such timeframe, PG&E may dispose of the Artwork in any manner it deems appropriate in PG&E's sole discretion.

7 Performance of Work. Lessee represents and warrants that all work required of Lessee hereunder shall be performed by qualified contractors appropriately licensed in the State of California in conformance with generally accepted professional standards and in accordance with all specifications and instructions and all applicable federal, state and local laws, rules and regulations. Lessee and each contractor engaged by Lessee shall comply with the insurance requirements set forth on Exhibit C of the Lease. Lessee shall obtain all necessary governmental approvals and permits prior to commencing any work hereunder and thereafter Lessee shall comply with such approvals and permits during the course of the work.

## EXHIBIT C

### INSURANCE REQUIREMENTS

Lessee shall procure, carry and maintain the following insurance coverage, and Lessee is also responsible for the compliance of Lessee's consultants, contractors and subcontractors with the insurance requirements:

A. Workers' Compensation and Employers' Liability

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

B. Commercial General Liability

1. Coverage shall be at least as broad as the Insurance Services Office (ISO) Commercial General Liability Coverage "occurrence" form, with no coverage deletions.
2. The limit shall not be less than Five Million Dollars (\$5,000,000) each occurrence/ Five Million Dollars (\$5,000,000) aggregate, for bodily injury, property damage and personal injury. In addition, such insurance shall insure the performance by Lessee of its indemnity and other contractual obligations under the Lease Agreement.
3. Coverage shall (a) by "Additional Insured" endorsement add as insureds PG&E, its directors, officers, agents and employees with respect to liability arising out of work performed by or for the Lessee or any other obligation or liability under the Lease Agreement, and (b) be endorsed to specify that the Lessee's insurance is primary and that any insurance or self-insurance maintained by PG&E shall not contribute to it.

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 Two Million Dollars (\$2,000,000) each accident for bodily injury and property damage.

D. Additional Insurance Provisions

1. Upon execution of the Lease Agreement, Lessee shall furnish PG&E with certificates of insurance and endorsements of all required insurance for Lessee.

**Park Lease (Rev. 02/10)**

2. The documentation shall state that coverage shall not be changed, cancelled, terminated, failed to be renewed or lapsed, except after thirty (30) days prior written notice has been given to PG&E.
3. The documentation must be signed by a person authorized by that insurer to bind coverage on its behalf and shall be submitted to PG&E's Land Agent as specified under Notices in the body of the Lease Agreement.
4. PG&E may inspect the original policies or require complete certified copies, at any time.
5. Lessee shall furnish PG&E the same evidence of insurance for Lessee's agents, consultants, contractors or subcontractors as PG&E requires of Lessee, prior to entry onto the Property by such parties.
6. Should Lessee have the right under this Lease Agreement to self-insure for any required insurance, Lessee shall be liable to PG&E for the full equivalent of insurance coverage which would have been available to PG&E if the applicable insurance policies had been obtained by Lessee from a third party insurer, in full compliance with the provisions of this EXHIBIT "C", 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, Lessee shall act with the same promptness and subject to the same standards of good faith as would apply to a third party insurance company.

1384546.1

## **Attachment 2**

### **Cooperative Landscape Agreement**

*No Consideration*

## Attachment 2 - Cooperative Landscape Agreement

## COOPERATIVE LANDSCAPING AGREEMENT

## RECITALS:

PACIFIC GAS AND ELECTRIC COMPANY (PACIFIC), a California corporation, owns a parcel of land suitable for the development of a Mini Park in Orinda, County of Contra Costa, State of California, more particularly described as follows:

Beginning at the northeast corner of the 0.473 acre parcel of land described and designated Parcel 3 in the deed from Broadmoor Improvement Co. to Pacific Gas and Electric Company dated May 13, 1940 and recorded in Book 548 of Official Records at page 198, Contra Costa County Records, and running thence along the northerly boundary line of said 0.473 acre parcel of land

(1) north 65° 11' 30" west 14.38 feet;  
thence leaving said northerly boundary line and running along the southerly boundary line of the parcel of land described in the deed from Pacific Gas and Electric Company to Donald F. Rheem and wife dated September 26, 1941 and recorded in Book 636 of Official Records at page 131, Contra Costa County Records,

(2) north 85° 43' 30" west 155.77 feet;  
thence leaving said southerly boundary line

(3) southeasterly on a curve to the left with a radius of 790.00 feet, through a central angle of 6° 15' 10" and tangent at the northwesterly terminus thereof to a line which has a bearing of south 54° 16' 53" east, an arc distance of 86.21 feet

to a point in the general northerly boundary line of the 0.160 acre parcel of land described and designated Parcel I in the deed from Pacific Gas and Electric Company to the State of California dated July 19, 1955 and recorded in Book 2637 of Official Records at page 205, Contra Costa County Records; thence running along said general northerly boundary line

- (4) southeasterly on a curve to the left with a radius of 957.50 feet, through a central angle of  $3^{\circ} 49' 24''$  and tangent at the northwesterly terminus thereof to a line which has a bearing of south  $63^{\circ} 32' 05''$  east, an arc distance of 63.90 feet; thence
- (5) easterly on a curve to the left with a radius of 20.00 feet, through a central angle of  $79^{\circ} 02' 13''$ , and tangent at the westerly terminus thereof to a line which has a bearing of south  $67^{\circ} 19' 05''$ , an arc distance of 27.59 feet; thence
- (6) northerly on a curve to the left with a radius of 80.00 feet, and tangent at the southerly terminus thereof to a line which has a bearing of north  $33^{\circ} 38' 42''$  east, an arc distance of 50.60 feet, more or less,  
to the point of beginning and containing 0.152 acre.

PACIFIC and the COUNTY OF CONTRA COSTA (COUNTY), a political subdivision of the State of California, on behalf of County Service Area M-11, acting by and through its Director of Public Works, now desire to cooperate in the development of a Mini Park (hereinafter referred to as "the park area") on said lands for the benefit of the local community. To provide for the development of the park area, and to fix their respective rights and obligations with respect to it, PACIFIC and COUNTY hereby agree as follows:

**AGREEMENT:**

1. PACIFIC hereby grants to COUNTY at no cost as PACIFIC's contribution to the cooperative development of the park area an easement for the use of the park area for the purposes of landscaping, developing, and maintaining the same; provided, however, that COUNTY shall make no entry hereunder, except for planning purposes, until COUNTY and PACIFIC have developed and accepted detailed plans depicting all improvements to be installed in the park area. If COUNTY desires to develop the park area in stages, COUNTY and PACIFIC shall develop and accept a tentative overall plan together with a detailed plan for the initial stages of the development and tentative plans for each of the other

stages of the development with proposed dates of completion thereof. The plans referred to herein shall be completed and accepted not later than three months after the date of this agreement.

2. COUNTY shall, at its own expense, develop the park area in accordance with the plans referred to in paragraph 1 above. COUNTY shall commence work not less than six months after the date of this agreement and shall complete said development, or each stage thereof, not more than three months after the estimated date of completion as set forth on said plans. COUNTY shall coordinate any material change in the development with PACIFIC.

3. All chain link fences or any other metallic equipment installed by COUNTY shall be grounded in accordance with PACIFIC's established standards. Any existing fences constructed or owned by Pacific shall be maintained, repaired or replaced as needed by PACIFIC at no cost to COUNTY.

4. Upon completion of its development of the park area, or any stage thereof, COUNTY shall at its own expense install, at a mutually satisfactory location, a permanent sign or marker containing wording developed jointly by COUNTY and PACIFIC, setting forth the purpose of the park and the cooperative aspects thereof.

5. COUNTY shall, at its own expense, maintain the park area during the life of this agreement in a manner acceptable to PACIFIC.

6. The plans shall provide for no trees in the park area which, at maturity, will grow within fifteen (15) feet of the conductors suspended from PACIFIC's steel structure. Should any trees planted in the park area grow closer to such conductors than the clearances specified in this paragraph, whether to conductors now existing or hereafter installed as provided for in

paragraph 7 below, COUNTY shall trim such trees to conform to the aforesaid clearance requirements. If COUNTY shall fail to trim any such tree as aforesaid, PACIFIC shall perform such work at the expense of COUNTY.

7. In the course of landscaping the park area, the vertical ground clearances beneath any of said conductors shall not be reduced to less than thirty (30) feet.

8. Notwithstanding anything to the contrary herein contained, the development and landscaping of the park area shall at all times conform to the minimum requirements as to wire clearances as set forth in General Order 95 of the Public Utilities Commission of the State of California as such requirements now exist or may hereafter be amended.

9. COUNTY'S right to develop, maintain and use the park area under this agreement shall at all times be subject to the prior and continuing right and obligation of PACIFIC to use and maintain its facilities in the park area in the performance of its duties as a public utility, and is further subject to the right of PACIFIC, without liability or obligation to COUNTY, except as provided in paragraph 10 below, to replace, remove, alter, or reconstruct its facilities in the park area, or place them underground, or to install any other facilities in the park area, whether overhead or underground, whenever, in the interest of its service to its patrons or consumers, it shall appear necessary or desirable so to do.

10. PACIFIC shall repair any damage to the park area, including the lawns, shrubs or trees, or the sprinkler or irrigation system, or any other improvements installed in the park area by COUNTY under this agreement, resulting from PACIFIC's operations therein except as follows:

(a) If PACIFIC shall place any overhead electric line underground at the request of or on the demand of COUNTY, or to satisfy any ordinance adopted by COUNTY, the costs of restoring the park area to its condition existing immediately prior to such work shall be borne by COUNTY.

(b) If PACIFIC shall place any overhead electric line underground in order to satisfy any statute, ordinance, rule, or regulation of any governmental body or authority other than COUNTY, the costs of restoring the park area to its condition existing immediately prior to such work shall be borne equally by PACIFIC and COUNTY.

11. COUNTY shall indemnify PACIFIC, its officers, agents, and employees against all loss, damage, expense, and liability resulting from injury to or death of any person, including employees or agents of PACIFIC, or injury to any property, including property of PACIFIC, arising out of the use by the public or the development, maintenance and use by COUNTY, its employees, agents, or contractors of the park area under this agreement, unless such loss, damage, expense, or liability shall be caused by the negligence or willful misconduct of PACIFIC. COUNTY shall, on PACIFIC's request, defend any suit asserting a claim covered by this indemnity. COUNTY shall pay any costs that may be incurred by PACIFIC in enforcing this indemnity.

12. For the purposes of this agreement, any contractors performing work hereunder for COUNTY shall be deemed the agents of COUNTY and not of PACIFIC.

13. COUNTY acknowledges PACIFIC's title to the park area and agrees never to resist or assail the same for any cause arising out of COUNTY's occupancy of or activities in the park area during the life of this agreement or any renewal hereof; provided, however, that nothing in this paragraph shall be construed as an impairment of COUNTY's right to acquire property by proceedings in eminent domain.

14. The term of this agreement shall be twenty (20) years from and after the date hereof, and thereafter for successive periods of five (5) years unless or until terminated at the end of said twenty (20) years or at the end of any said five (5) year period by either party giving the other one (1) year's advance written notice of such termination.

15. In the event COUNTY shall not complete the installation of the park area within the stated development period, or extension thereof which may be agreed to in writing by COUNTY and PACIFIC, or if COUNTY shall cease to maintain the park area, then all rights granted COUNTY hereunder shall terminate. COUNTY, upon the termination of the rights hereby granted and at the written request of PACIFIC, shall execute and deliver to PACIFIC a good and sufficient quitclaim of said rights. Should COUNTY fail or refuse to deliver such quitclaim to PACIFIC within ninety (90) days after written demand therefore, PACIFIC may execute and record a written notice reciting such termination and COUNTY's failure or refusal and, after ten (10) days from the date of recordation of such notice, it shall be conclusive evidence of the termination of said rights against COUNTY and all persons claiming under COUNTY.

16. The foregoing grant is made subject to all liens and encumbrances which may affect the park area and the word "grant" as used herein shall not be deemed to be a covenant against the existence of any thereof.

17. Should the community including the Mini Park area described herein be annexed to or incorporated into a City, then the COUNTY's rights and obligations as set forth in this agreement shall be terminated three (3) months after such occurrence.

18. Time is of the essence of the provisions hereof.

19. This agreement shall inure to the benefit of and bind the respective successors and assigns of PACIFIC and COUNTY.

IN WITNESS WHEREOF, PACIFIC and COUNTY have executed this agreement this

12th day of March, 1972.

PACIFIC GAS AND ELECTRIC COMPANY, a California Corporation

By *Norman W. Brown*  
Director of Land Management **NORMAN W. BROWN**

By *D. B. Allison* **D. B. ALLISON**  
Assistant Secretary

COUNTY OF CONTRA COSTA, a Political Subdivision of the State of California

By *W. T. Paasch*  
Chairman, Board of Supervisors  
ATTEST: W. T. PAASCH, CLERK

By *Helen C Marshall*  
Deputy Clerk

<b>PG &amp; E CO.—APPROVED</b>	
DIV'N. <u>AGS</u>	LAND <u>EB</u>
DESC. <u>ABC</u>	OPER. <u>DFG</u>
LAW <u>EFH</u>	ENGR. <u>FGH</u>

APPROVED AS TO FORM:

By *Victor J. Whelan*

RECOMMENDED:

Citizens Advisory Committee for County Service Area M-11

By *Clarence E. DeF...*  
Chairman

RECOMMENDED:

*Victor J. Whelan*  
Public Works Director

62-4203 2-73 (Corporation)

STATE OF CALIFORNIA

City and County of San Francisco } ss.

On this 14 day of March, in the year 1973, before me, Lucille Mullen, a Notary Public in and for the said City and County, duly commissioned and sworn, personally appeared

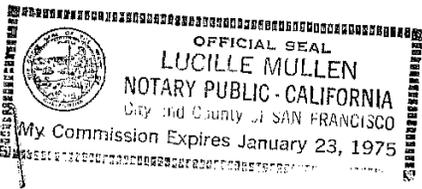
Norman W. Brown and D. B. Allison

known to me to be the Director of Land Management and the Assistant Secretary, respectively,

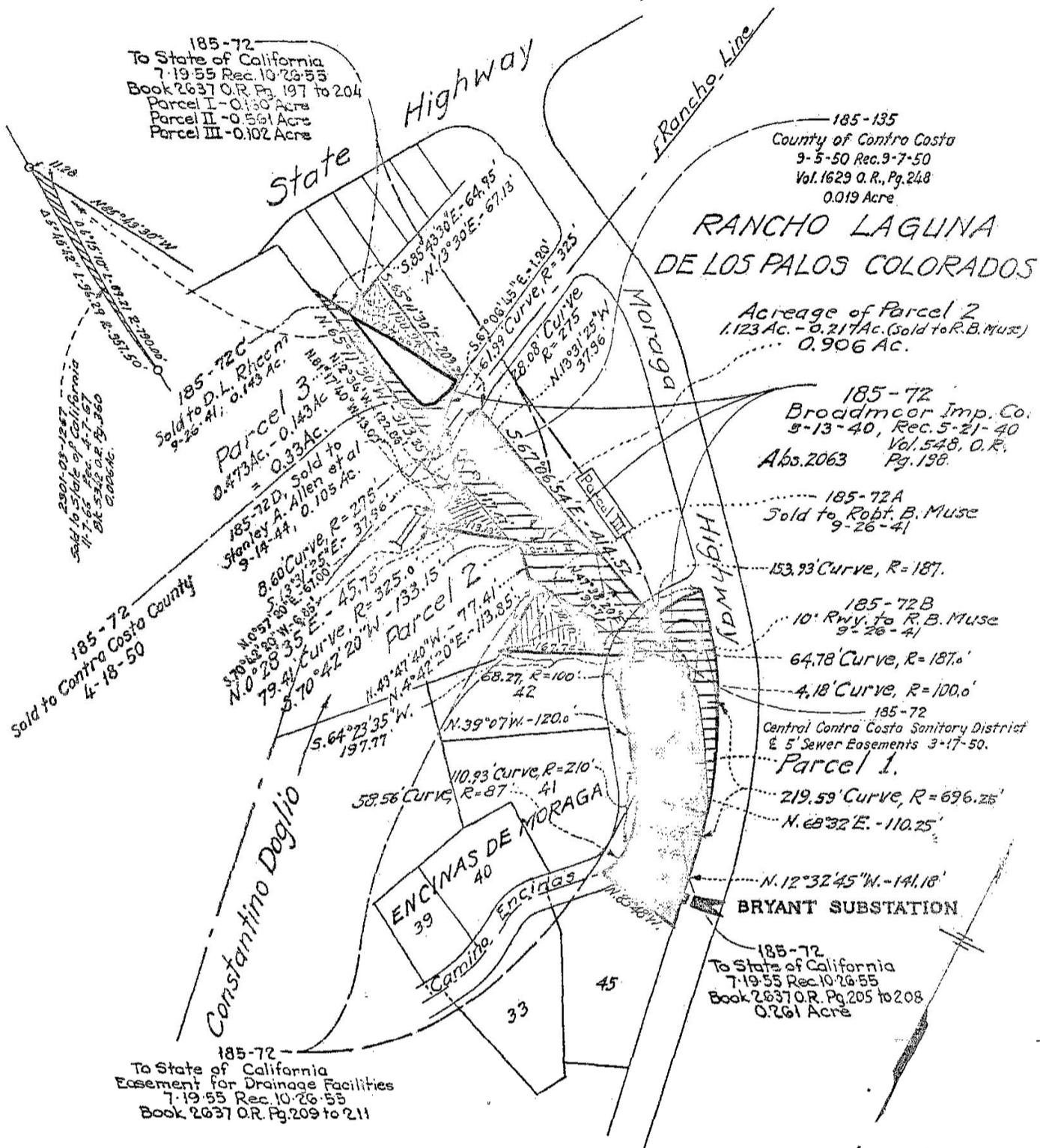
of the corporation that executed the within instrument, and to be the person who executed the said instrument on behalf of said corporation therein named, and acknowledged to me that such corporation executed the within instrument pursuant to its by-laws or a resolution of its board of directors.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal in the City and County of San Francisco, the day and year in this certificate first above written.

Lucille Mullen



RIGHT OF WAY IN FEE  
 Golden Gate - Oakland, Tower-Line  
 For Sec. 3, T. 1 S. R. 3 W. M. D. B. & M.  
 Contra Costa County.

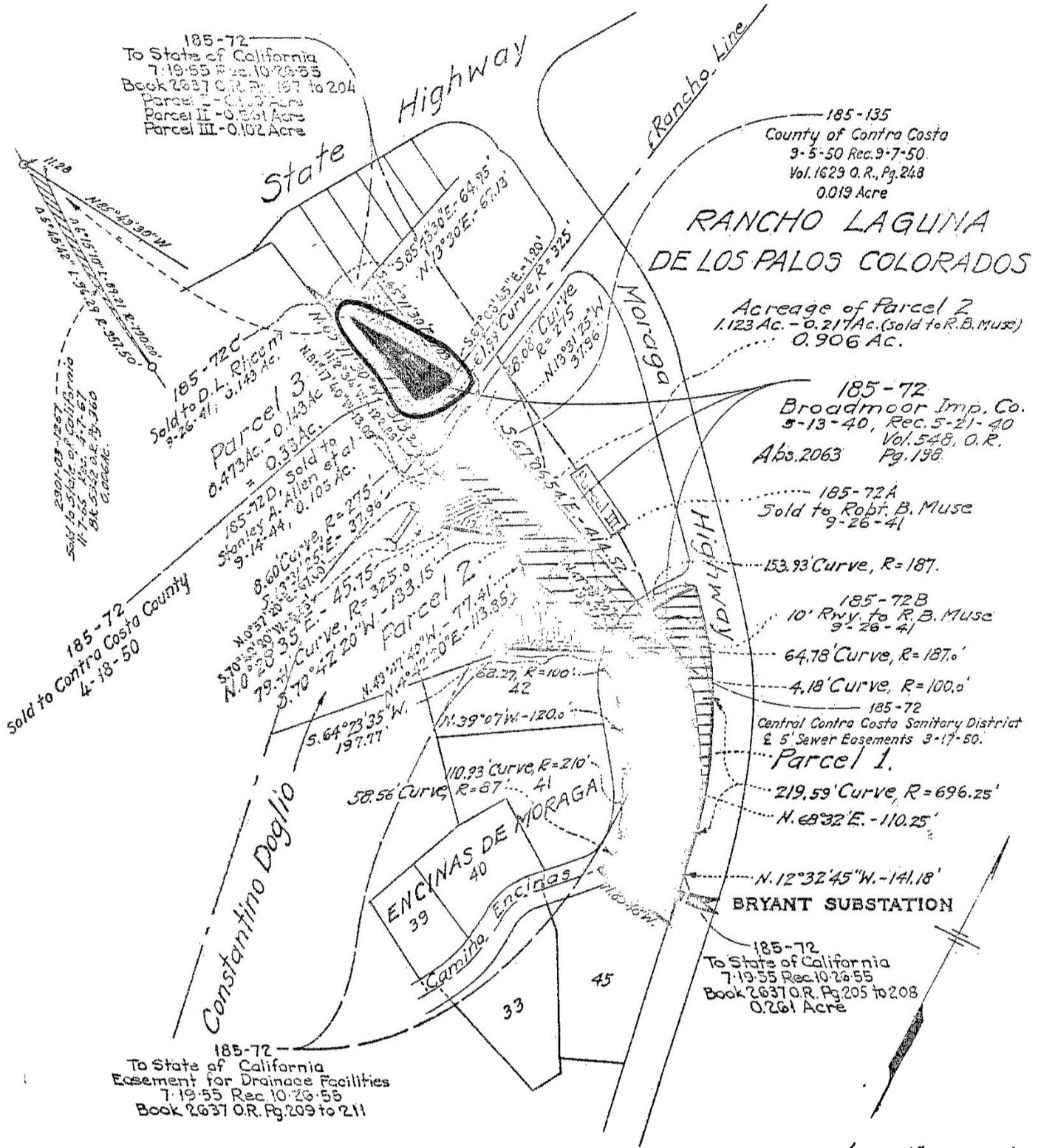


See Dwg. C-1170-71

Scale: 1" = 200'

Issue of: 12-21-55

185-72  
 Contra Costa County.



185-72  
 To State of California  
 7-19-55 Rec. 10-26-55  
 Book 2637 O.R. Pg. 197 to 204  
 Parcel I - 0.126 Acre  
 Parcel II - 0.161 Acre  
 Parcel III - 0.102 Acre

185-135  
 County of Contra Costa  
 9-5-50 Rec. 9-7-50  
 Vol. 1629 O.R., Pg. 248  
 0.019 Acre

**RANCHO LAGUNA  
 DE LOS PALOS COLORADOS**

Acreage of Parcel 2  
 1.123 Ac. - 0.217 Ac. (Sold to R.B. Muse)  
 0.906 Ac.

185-72  
 Broadmoor Imp. Co.  
 5-13-40, Rec. 5-21-40  
 Vol. 548, O.R.  
 Abs. 2063 Pg. 156

185-72A  
 Sold to Robt. B. Muse  
 9-26-41

185-72B  
 10' Rwy. to R.B. Muse  
 9-26-41

185-72  
 Central Contra Costa Sanitary District  
 & 5' Sewer Easements 3-17-50.

**Parcel 1.**  
 219.59' Curve, R=696.25'  
 N. 68°32' E. - 110.25'

N. 12°32'45" W. - 141.18'  
**BRYANT SUBSTATION**

185-72  
 To State of California  
 7-19-55 Rec. 10-26-55  
 Book 2637 O.R. Pg. 205 to 208  
 0.261 Acre

185-72  
 To State of California  
 Easement for Drainage Facilities  
 7-19-55 Rec. 10-26-55  
 Book 2637 O.R. Pg. 209 to 211

See Dwg. C-1170-71

Scale: 1" = 200'

Issue of: 12-21-55

In the Board of Supervisors  
of  
Contra Costa County, State of California

May 8, 19 73

In the Matter of  
Approval of Agreement with  
Pacific Gas and Electric Company  
for Development of a Mini Park  
in Orinda (County Service Area  
M-11).

The Board having considered a Cooperative Landscaping Agreement between the County of Contra Costa and Pacific Gas and Electric Company for the purpose of landscaping, developing and maintaining a Mini Park to be developed by the Orinda Rotary Club and maintained through funds from County Service Area M-11, as more particularly set forth in said agreement;

On the recommendation of the Public Works Director and on motion of Supervisor E. A. Linscheid, seconded by Supervisor W. N. Boggess, IT IS BY THE BOARD ORDERED that the aforementioned Cooperative Landscaping Agreement is APPROVED subject to the Rotary Club furnishing the proper liability insurance for performing this work.

IT IS BY THE BOARD FURTHER ORDERED that Supervisor Alfred M. Dias, Chairman, is AUTHORIZED to execute said agreement on behalf of the County.

The foregoing order was passed by the following vote:

AYES: Supervisors J. P. Kenny, J. E. Moriarty,  
W. N. Boggess, E. A. Linscheid, A. M. Dias.

NOES: None.

ABSENT: None.

I hereby certify that the foregoing is a true and correct copy of an order entered on the minutes of said Board of Supervisors on the date aforesaid.

cc: Public Works Director  
P.G.& E. via P.W. ✓  
County Auditor  
County Administrator

Witness my hand and the Seal of the Board of  
Supervisors  
affixed this 8th day of May, 19 73

W. T. PAASCH, Clerk

By Helen C. Marshall, Deputy Clerk  
Helen C. Marshall

## **Attachment 3**

**Property Photos**

Attachment 3 - Property Photos















## **Attachment 4**

**Valuation Estimate for Fair Market Value**

**Valuation Estimate:**

Orinda Pocket Park – Ground Lease

As requested, attached is a summary report of the estimated market value for the proposed acquisition of PG&E property. This is a desktop estimate based on information available to PG&E's Appraisal Department, which is assumed to be accurate but may not be personally verified. While the valuation estimate contains much of the same research and methodology that would be found in an appraisal, it is not considered to be a formal appraisal as certain elements such as interviewing principals to the comparable sales transactions and viewing the comparable properties, among others, have been eliminated due to the non-complex nature of the valuation question and the relatively low total value of the proposed acquisition. If a formal appraisal is required, by law/regulation, or if a particularly high degree of certainty is necessary for decision making or risk mitigation, please work with the PG&E's Appraisal Administrator to have a formal appraisal ordered.

Please be aware of the following assumptions, all of which are critical to understanding and using this valuation estimate. If any of the assumptions are proven incorrect, this valuation estimate may need to be revised:

- The estimates contained within this waiver valuation are for budgeting and negotiation purposes and should not be considered an appraisal for condemnation/eminent domain uses. If an actual appraisal were to be performed on this property, it is possible that information discovered about the property or the market could result in opinions of value that differ from those presented in this estimate.
- The estimated land value of the subject was based on the assumption that the Highest and Best Use of the land, as vacant, is for parking/outdoor storage. This supposition was made after researching the zoning designation for the parcel with the City of Orinda and taking into account that the subject is encumbered with an overhead powerline that limits its development potential.
- The existing powerline is not in an easement on this property because it is a PG&E line and PG&E own's the property in fee so there is no need for an easement. PG&E would encumber the parcel with a standard electric transmission easement for its facilities if it were ever to sell the subject parcel. This valuation takes place under the hypothetical condition that an easement is in place for the powerlines.
- No title report has been provided or reviewed. It is assumed that, apart from the hypothetical PG&E electric transmission easement, there are no issues affecting title that would play a significant role in the valuation of the subject parcel.
- No environmental review of the property has been performed. The property is assumed to be "clean" or at least as clean as the comparable sales. If this supposition is incorrect, the value of the property could be significantly lower than what is indicated in this report.
- The scope of this Valuation Estimate is limited: The estimator has not visited the subject or comparable properties. Data has not been personally verified, but is assumed reasonably accurate.

**Valuation Estimate:**

Orinda Pocket Park – Ground Lease

- This valuation is based on limited information provided by the project team and ascertained via desktop research. If, in the future, better or more complete information becomes available, this valuation can be updated/revised.
- The dollar figures generated for this estimate are influenced by real estate market conditions and will change over time.

Please contact me should you need clarification or additional information.

**Valuation Estimate:**

Orinda Pocket Park – Ground Lease

DATE: 6/16/2020

INTENDED USER: PG&E Land Rights Department

INTENDED USE: Estimating the current value of a portion of PG&E property in Orinda

FROM: PG&E Appraisal and Valuation Department

ORDER NUMBER: 41860736

OPERATIONS NUMBER: 0010

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PROPERTY OWNER: Pacific Gas and Electric Company

PROPERTY IDENTIFICATION:

APN: 273-010-016 (Contra Costa County)

ADDRESS: Corner of Brookwood Rd and Camino Pablo

INTEREST ESTIMATED: Ground Lease

ZONING: Downtown Commercial

HIGHEST and BEST USE, as encumbered (Assumed): Parking or Open Storage

PARCEL VALUATION ESTIMATE:

**Subject Property Description and Highest and Best Use:**

The subject parcel is a 0.152-acre (6,621 ft<sup>2</sup>) site located on the north west corner of the intersection of Brookwood Rd and Camino Pablo in Orinda. It is currently owned by Pacific Gas and Electric Company and is home to an electric transmission line. The surface of the lot has been developed into a small ‘pocket’ park.

The zoning of the parcel is downtown commercial, but it is relatively small in size and has an irregular teardrop shape. If vacant, it would likely be used either for assemblage to an adjoining parcel or maybe a small retail/coffee shop. In reality, the site is home to an electric transmission line, which would require PG&E to reserve itself an easement to protect the facilities if the property were to be transferred. This valuation estimate takes place under the hypothetical condition that PG&E has reserved itself an electric transmission easement which would encumber the entire property and further limit its potential uses.

Under the assumption that the easement is in place the highest and best use of the property is likely parking or mobile storage as the easement would restrict buildings.

**Comparable Sales Data and Underlying Fee Simple Value Opinion:**

The Orinda Downtown area is effectively “built-out” and no recent sales of vacant land were found, much less vacant land with extreme development constraints that would limit economic uses to things like parking or storage, as in the case of the subject.

## Valuation Estimate:

### Orinda Pocket Park – Ground Lease

In order to establish an underlying value for this encumbered site, the estimator will first establish an unencumbered land value and then apply a diminution for encumbered condition of the parcel that is based on a recent study that an independent appraiser compiled for the valuation of another remnant parcel in PG&E's ownership. This two-step approach will allow the estimator to establish a value for the subject that relies on market data even with an absence of direct comparable sales.

Address	Price/Land SF	City	Sale Status	Sale Price	Sale Date	Land Area (AC)	Land Area (SF)
2100 N Broadway	\$78.05	Walnut Creek	Sold	\$2,400,000	5/30/2019	0.71	30,749
1015 Country Club Dr	\$21.91	Moraga	Sold	\$355,000	5/22/2019	0.37	16,204
1015 Country Club Dr	\$19.29	Moraga	Sold	\$312,500	8/15/2018	0.37	16,204
1075-1079 Boulevard Way	\$53.81	Walnut Creek	Sold	\$900,000	5/14/2018	0.38	16,727
348 Park St	\$45.55	Moraga	Active			1.26	54,886

Based on the recent sales of several downtown commercial-type properties in the general vicinity, the unencumbered value of the subject is estimated at \$50/ft<sup>2</sup>.

A study on remnant parcel values that PG&E recently had performed as part of an appraisal by an independent appraiser shows discounts from 30-85% for remnant parcels vs. standard market based counterparts. This is constant with values that PG&E's valuation department and independent appraisers use when estimating the diminution of value within an electric transmission easement. For the purpose of this valuation, the subject parcel will be discounted 75% to account for the electric transmission encumbrance over the entire parcel footprint.

### Valuation of Subject Parcel, as Encumbered with Electric Transmission Easement:

The subject parcel contains 6,621ft<sup>2</sup> of land:

$$6,621\text{ft}^2 * \$50/\text{sf} * 25\% = \$83,000 \text{ ROUNDED}$$

### Ground Lease:

Ground leases in Northern California typically range from 2-8% in current market conditions. Those at the lower end of the spectrum tend to be agricultural properties, while those at the upper end tend to be riskier investments or have shorter terms. The lease of the subject property will be valued at a 6% rate of return.

$$\text{Annual Lease Rate:} \\ \$83,000 * 6\% = \$5,000 \text{ ROUNDED}$$



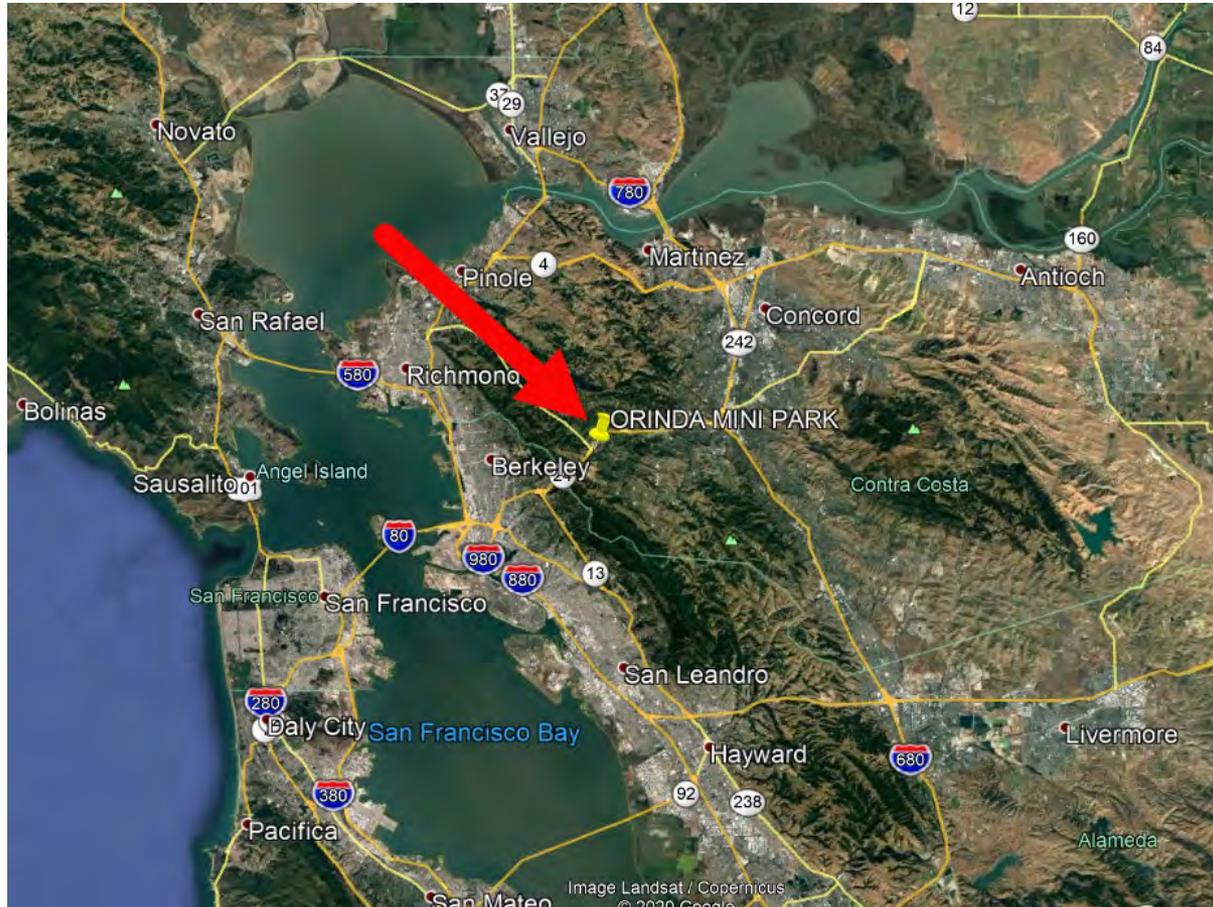
PG&E  
 APN: 273-010-016  
 SBE: 135-07-050C-1  
 LD 2301-03-0174  
 LICENSED AREA = 0.152 ACRES

**EXHIBIT A**  
**CITY OF ORINDA CROSSROADS PARK**

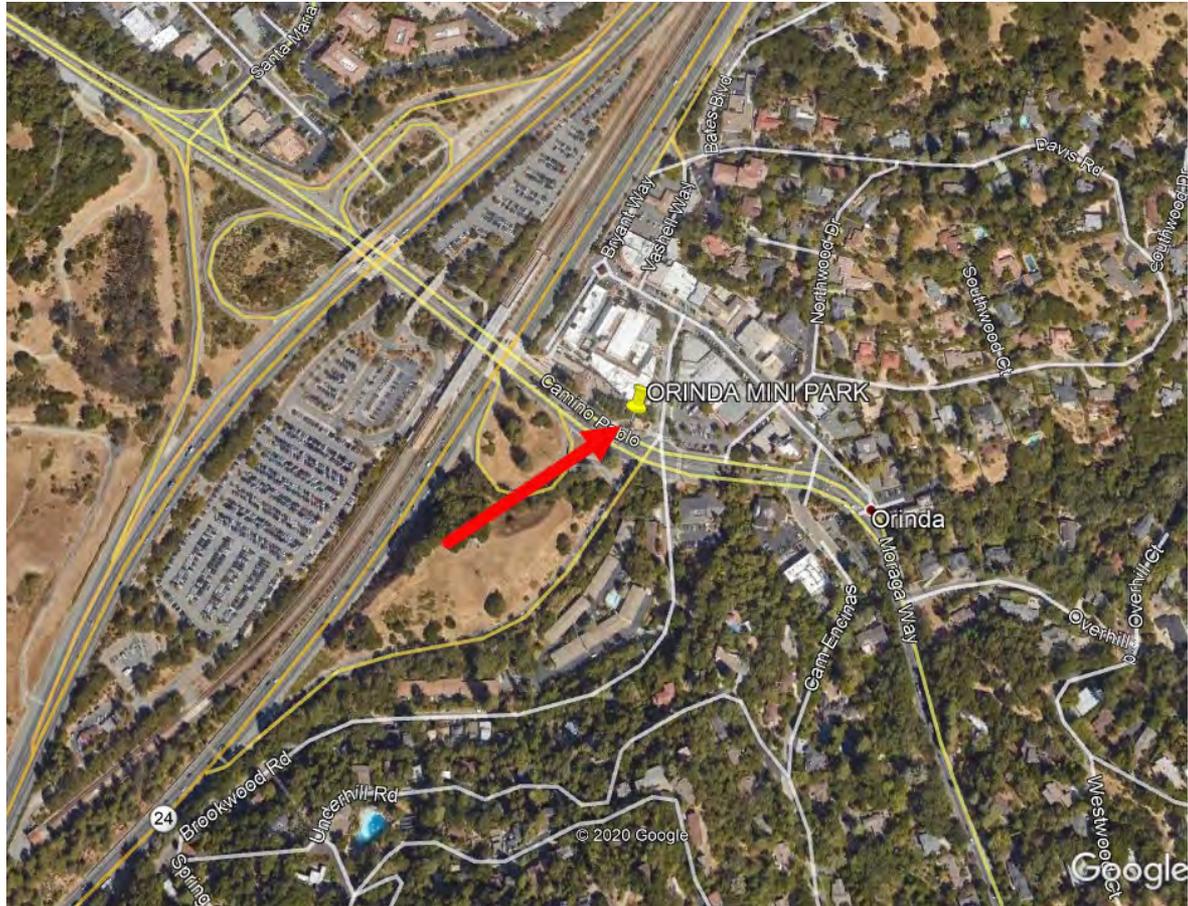
SCALE: NTS  
 DATE: 6/9/2020

SECTION NE 1/4 NW 1/4 03	TOWNSHIP T1S	RANGE R3W	MERIDIAN MDB&M	COUNTY: CONTRA COSTA	CITY OF: ORINDA		
PLAT MAP: E0708 ELEC, 05B16 GAS REFERENCES: LD 2301-03-0174				DR.BY: JQW3	CH.BY: P1A8 & JPW1		
				<b>PG&amp;E</b>	DIABLO DIVISION	N/A AUTHORIZ	N/A DRAWING NO.

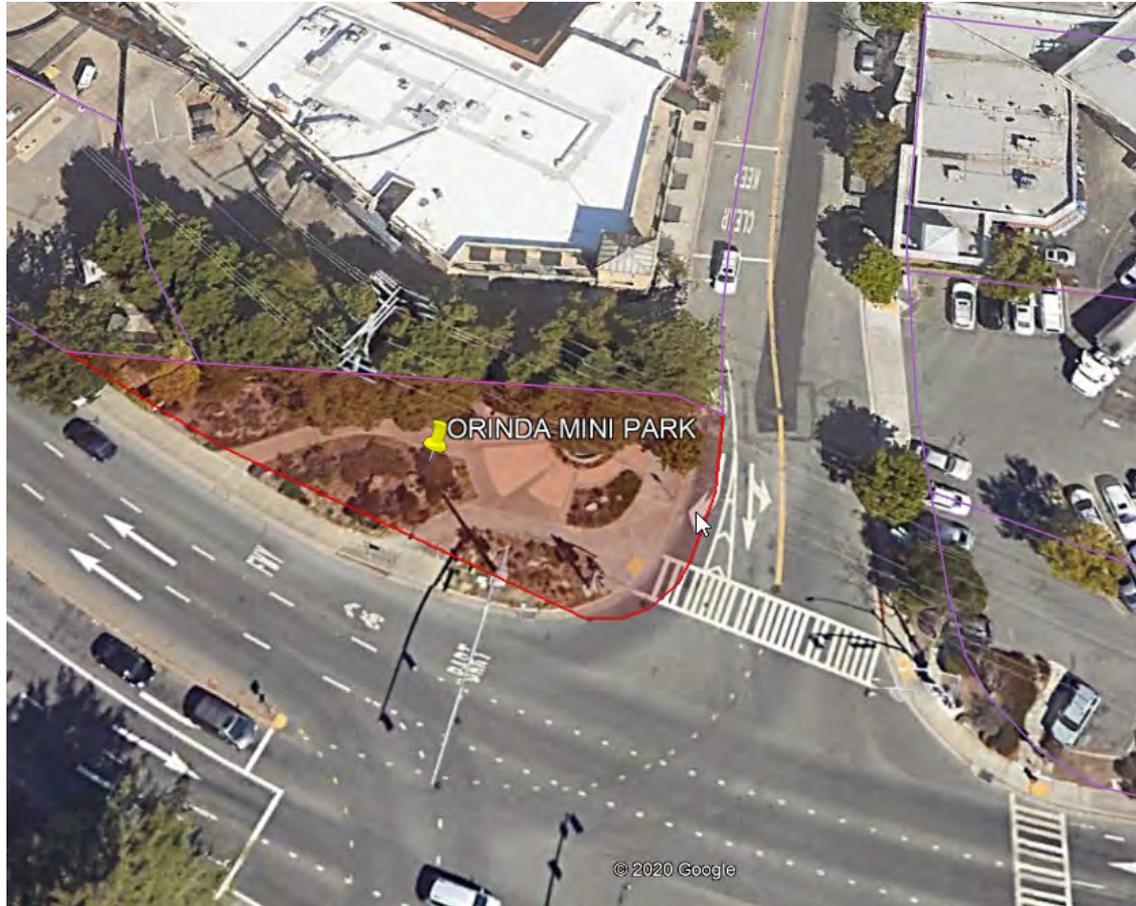
# General Location



# Specific Location



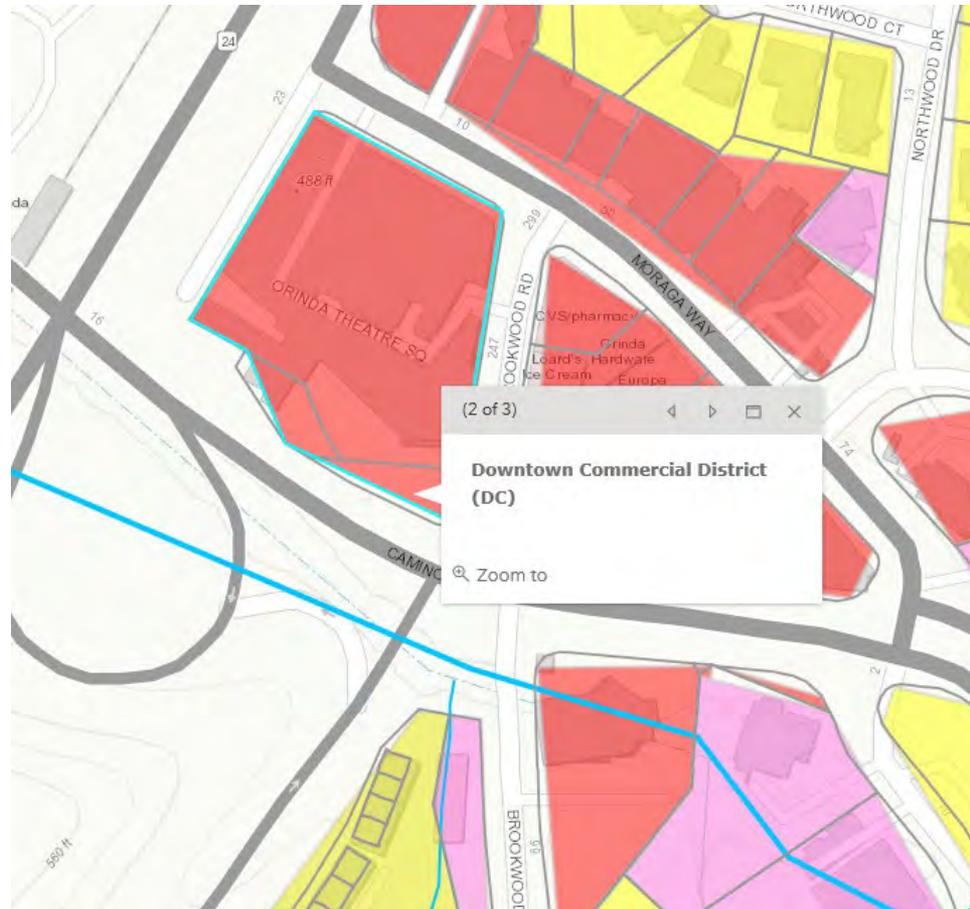
# Subject Parcel



# Street View



# Zoning: Downtown Commercial



# Commercial Land Sales/Listings

	Address	Price/Land SF	City	Sale Status	Sale Price	Sale Date	Land Area (AC)	Land Area (SF)
✓	2100 N Broadway	\$78.05	Walnut Creek	Sold	\$2,400,000	5/30/2019	0.71	30,749
✓	1015 Country Club Dr	\$21.91	Moraga	Sold	\$355,000	5/22/2019	0.37	16,204
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✓	1075-1079 Boulevard Way	\$53.81	Walnut Creek	Sold	\$900,000	5/14/2018	0.38	16,727
✓	348 Park St	\$45.55	Moraga	Active			1.26	54,886

# Remnant Value compared to Market Value

## REMNANT LAND SALES SUMMARY

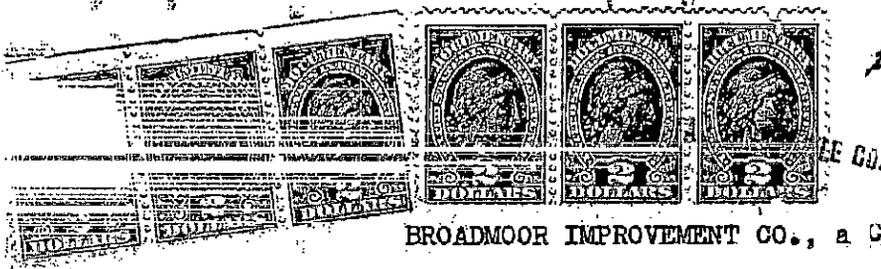
<u>Sale No.</u>	<u>Location</u>	<u>Sale Date</u> <u>Grantor</u> <u>Grantee</u>	<u>Purchase Price</u> <u>Estimated Market</u>	<u>Zoning</u>	<u>Discount</u> <u>From Market</u>
1	1098 S. 3rd St. San Jose, CA 472-15-029	<u>Dec-05</u> Union Pacific Railroad Lawrence B. Stone Properties	\$ 13.79 \$ 30.00	M1	54%
2	West of Dobbin Rd. San Jose, CA 254-55-013	<u>Apr-07</u> Union Pacific Railroad Allen Mirzaei	\$ 9.83 \$ 25.00	LI	61%
3	Griffith St. (East Side) San Leandro, CA 077B-0851-048 & -055	<u>Jan-07</u> Union Pacific Rosalinde & Arthur Gilbert Foundation	\$ 14.10 \$ 20.00	IG	30%
4	Griffith St. (East Side) San Leandro, CA 077B-0851-055	<u>Nov-09</u> Rosalinde & Arthur Gilbert Foundation Coca Cola Bottling Co.	\$ 7.98 \$ 14.00	IG	43%
5	323 South Canal St. South San Francisco, CA 015-164-220	<u>Jan-09</u> <u>unknown</u> Chang & Young Ahn	\$ 30.00 \$ 45.00	MI	33%
6	220 Shaw Rd. South San Francisco, CA 015-164-230	<u>Aug-09</u> Economy Lumber Angelo, Gordon & Co.	\$ 27.38 \$ 45.00	M2	39%
7	2075 N. Capitol Ave. San Jose, CA 244-01-057	<u>Dec-00</u> PG&E MA Laboratories, Inc.	\$ 8 \$ 22.00	IP	64%
8	2110 Railroad Ave. Pittsburg, CA 087-030-083	<u>Aug-11</u> City of Pittsburg Randy Baugh	\$ 2.22 \$ 15.00	PD-1319	85%
10	4050 Port Chicago Highway Concord, CA 100-370-009	<u>Mar-14</u> City of Concord Pacific Ranch Inv.	\$ 3.52 \$ 9.00	Parks & Rec.	61%

# **Attachment 5**

**Grant Deed**

1:4 PEW:GD 5:10:40

Golden Gate - Oakland T/L  
BMD-62934



Portion Sold - see 105-220

Recorded & Indexed  
D. U. Matson

2301-03-0114  
185-72

BROADMOOR IMPROVEMENT CO., a California cor-

poration, hereinafter called first party, does hereby grant to PACIFIC GAS AND ELECTRIC COMPANY, a California corporation, hereinafter called second party, all that certain real property situate in the County of Contra Costa, State of California, particularly described as follows, to wit:

Parcel 1. Lots 43 and 44, as said lots 43 and 44 are delineated and so designated upon that certain map of Encinas de Moraga, recorded in Book 21 of Maps at pages 591 and 592, records of said Contra Costa County, subject, however, to a declaration of restrictions made by first party dated May 1, 1930, and recorded June 18, 1930, in Book 227 of Official Records of said Contra Costa County, at page 320, and to a supplemental declaration of restrictions made by first party dated May 28, 1936, and recorded June 10, 1936, in Book 416 of Official Records of said Contra Costa County, at page 146, except that said declarations are hereby so far modified and released as to permit the erection, repair and maintenance of towers, poles, conduits, cables, wires and all other appliances used for and in connection with the transmission of electricity and telephone and telegraph purposes and for the erection, repair and maintenance of all fixtures and accessories and other facilities in connection therewith.

Parcel 2. That certain parcel of land, situate in Rancho Laguna de los Palos Colorados, bounded by a line which begins at the most northerly corner of lot 42, as said lot 42 is delineated and so designated upon said map; and runs thence south 64° 23' 35" west, along the northwesterly boundary line of said lot 42, 197.77 feet to a point in the easterly boundary line of the 2 acre parcel of land described in that certain decree quieting title dated March 28, 1929 and recorded in Book 191 of Official Records at page 26, records of said Contra Costa County; thence along the boundary line of said 2 acre parcel of land north 4° 42' 20" east 113.85 feet, north 43° 47' 40" west 77.41 feet and south 70° 42' 20" west 133.15 feet; thence north 0° 28' 35" east 45.75 feet; thence northerly along a curve concave to the west, with a radius of 325.0 feet.

and tangent to the last described course, 79.41 feet; thence north 13° 31' 25" west 37.96 feet; thence northerly along a curve concave to the east, with a radius of 275.0 feet and tangent to the last described course, 28.08 feet; thence south 67° 06' 54" east 414.52 feet to a point in the westerly boundary line of said lot 43; thence along the westerly boundary line of said lot 43, southerly along a curve concave to the east, with a radius of 187.0 feet and tangent at the southerly terminus thereof to a line bearing south 0° 02' 25" east, 64.78 feet and southerly along a curve concave to the east, with a radius of 100.0 feet and tangent to the last described curve, 4.18 feet, more or less, to the point of beginning, containing 1.123 acres.

Parcel 3. That certain parcel of land, situate in section 3, township 1 south, range 3 west, M. D. B. & M., and in said rancho, bounded by a line which begins at a point distant north 67° 06' 54" west 56.58 feet from the most northerly corner of the parcel of land hereinbefore described and designated Parcel 2, and runs thence southerly along a curve concave to the east, with a radius of 325.0 feet and tangent to the next described course, 61.99 feet; thence south 13° 31' 25" east 37.96 feet; thence southerly along a curve concave to the west, with radius of 275.0 feet and tangent to the last described course, 8.60 feet to a point in the southeasterly prolongation of the southwesterly boundary line of the parcel of land conveyed by East Bay Municipal Utility District to Broadmoor Improvement Company by deed dated May 5, 1936 and recorded in Book 417 of Official Records at page 110, records of said Contra Costa County; thence north 65° 11' 30" west, successively along said prolongation and the southwesterly boundary line of the last mentioned parcel of land, 313.35 feet; thence south 85° 43' 30" east 64.95 feet; thence north 13° 30' east 67.13 feet; thence south 65° 11' 30" east 203.32 feet, more or less, to the point of beginning, containing 0.473 acre, subject, however, to the following covenants which are expressly made for the benefit of this Parcel 3 and of the balance of the tract conveyed to first party by East Bay Municipal Utility District under dates of May 5, 1936, and December 16, 1936, and which covenants shall continue to December 31, 1960, except covenant number (4) which shall continue to December 1, 1950:

(1) That this Parcel 3 or any part thereof shall not be used for the maintenance thereon of any heavy industry's manufacturing business, laundry,

foundry, hospital, cannery, or for the stabling or maintaining thereon of any horses, cattle, sheep, swine, dogs or any other animals;

(2) That no building or other structure shall be placed or erected or the erection thereof begun on this Parcel 3 until the plans and specifications thereof have first been approved, in writing, by first party, so long as first party shall maintain its corporate existence, and own any land in said tract so conveyed to it by said utility district;

(3) That any building or structure started on this Parcel 3 shall be prosecuted to completion with due diligence;

(4) That no malt, vinous, nor spirituous liquors shall be manufactured on this Parcel 3 or sold for consumption thereon.

TO HAVE AND TO HOLD unto second party, its successors and assigns, forever, subject, however, to the lien of taxes for the fiscal year commencing July 1, 1940.

IN WITNESS WHEREOF, first party has caused these presents to be executed by its president and assistant secretary thereunto duly authorized, and its corporate seal to be affixed, this 13<sup>th</sup> day of May 1940.

BROADMOOR IMPROVEMENT CO.,

By A. S. Reed  
Its President

And by A. S. Reed Jr.  
Its Assistant Secretary

Compared  
5/13/40  
78

...to be maintained in accordance with the provisions of the charter of the corporation and the laws of the State of California.

(2) That any building or structure erected or placed on the premises hereinafter described shall be maintained in accordance with the provisions of the charter of the corporation and the laws of the State of California.

(3) That any building or structure erected or placed on the premises hereinafter described shall be maintained in accordance with the provisions of the charter of the corporation and the laws of the State of California.

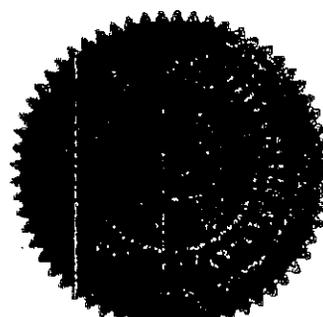
(4) That no male, female, or child shall be permitted to enter the premises hereinafter described for any purpose whatsoever.

...of the County of Alameda, State of California, residing therein, duly commissioned and sworn, personally appeared A. H. Breed, known to me to be the President and Assistant Secretary of the Corporation that executed the within instrument and the officers who executed the within instrument on behalf of the Corporation therein named, and acknowledged to me that such Corporation executed the same.

...and year in this certificate first above written.

CORPORATION ACKNOWLEDGMENT

State of California } ss.  
County of Alameda }



On this thirteenth day of May, in the year One Thousand  
Nine Hundred and Forty before me, Margaret Walker,  
a Notary Public in and for the County of Alameda, State of California, residing therein,  
duly commissioned and sworn, personally appeared A. H. Breed  
known to me to be the Assistant President and A. H. Breed, Jr.  
known to me to be the Secretary of the Corporation that executed the within instrument,  
and the officers who executed the within instrument on behalf of the Corporation therein  
named, and acknowledged to me that such Corporation executed the same.

CORPORATION ACKNOWLEDGMENT  
Hardy's Blank No. 414  
Hardy's Bookstore Oakland California

Margaret Walker Notary Public  
In and for said County of Alameda, State of California

# Broadmoor Improvement Co.

INCORPORATED

REALTORS

A. H. BREED, President  
DONALD A. BREED, Vice-President  
HOBACE H. BREED, Secretary  
A. H. BREED, Jr., Ass't Secretary

315 FIFTEENTH STREET  
OAKLAND, CALIFORNIA

Telephone  
HIGHGATE 0487

*Abs. 2063*

May 13, 1940

Pacific Gas and Electric Company  
245 Market Street  
San Francisco, California

Gentlemen:

Referring to deed dated May 13, 1940, conveying three parcels of land, we hereby modify and release the restrictions as to Parcel Three of said deed so as to permit the erection, repair and maintenance of towers, poles, conduits, cables, wires and all other appliances used for and in connection with the transmission of electricity and for the erection, repair and maintenance of the same and all fixtures and accessories in connection therewith.

Very truly yours,

BROADMOOR IMPROVEMENT CO.

*A. H. Breed*  
President

# Broadmoor Improvement Co.

INCORPORATED

REALTORS

A. H. BREED, President  
DONALD A. BREED, Vice-President  
HORACE H. BREED, Secretary  
A. H. BREED, Jr., Ass'y Secretary

315 FIFTEENTH STREET  
OAKLAND, CALIFORNIA

Telephone  
HIGHGATE 0467

*Abs. 2063.*

May 21, 1940

Pacific Gas and Electric Company  
245 Market Street  
San Francisco, California

Gentlemen:

This is to certify that the Broadmoor Improvement Co. has not and never has levied any charges or assessments on any of the property in the Encinas de Moraga tract.

Also for your further information there has never been formed the "Encinas de Moraga Homes Association".

Very truly yours,

BROADMOOR IMPROVEMENT CO.

*A. H. Breed*  
President

AHB:EE



This Policy issued direct from the

**COSTA COUNTY TITLE COMPANY**

Martinez, California

AFFILIATED WITH

**ABST. 2063**

**TITLE INSURANCE AND GUARANTY COMPANY**

ESTABLISHED 1848

INCORPORATED 1902

**A TRUST COMPANY**

Costa County  
POLICY NUMBER  
**40660**

**POLICY OF TITLE INSURANCE**

Costa County  
ORDER NUMBER  
**71353**  
wb

**TITLE INSURANCE AND GUARANTY COMPANY**

A CORPORATION OF CALIFORNIA, HEREIN CALLED THE COMPANY.  
FOR A VALUABLE CONSIDERATION, PAID FOR THIS POLICY OF TITLE INSURANCE

**DOES HEREBY INSURE**

**PACIFIC GAS AND ELECTRIC COMPANY**

together with each successor in ownership of any indebtedness secured by any mortgage or deed of trust shown in Schedule B, the owner of which is named as an insured, and any such owner or successor in ownership of any such indebtedness who acquires the land described in Schedule C, or any part thereof, by lawful means in satisfaction of said indebtedness or any part thereof; and any person or corporation deriving an estate or interest in said land as an heir, or devisee of a named insured, or by reason of the dissolution, merger, or consolidation of a corporate named insured, against loss or damage not exceeding \$12,000.00

TWELVE THOUSAND

dollars,

which any insured shall sustain

by reason of title to the land described in Schedule C being vested, at the date hereof, otherwise than as herein stated; or

by reason of unmarketability of the title of any vestee to said land, at the date hereof, unless such unmarketability exists because of defects, liens, encumbrances, or other matters shown in Schedule B; or

by reason of any defect in, or lien or encumbrance on said title, existing at the date hereof, not shown in Schedule B; or

by reason of any defect in the execution of any mortgage or deed of trust shown in Schedule B securing an indebtedness, the owner of which is insured by this policy, but only insofar as such defect affects the lien or charge of such mortgage or deed of trust upon said land; or

by reason of priority, at the date hereof, over any such mortgage or deed of trust, of any lien or encumbrance upon said land, except as shown in Schedule B;

all subject, however, to Schedules A, B and C and the stipulations herein, all of which schedules and stipulations are hereby made a part of this policy.

**SCHEDULE A**

On **May 21, 1940** at **11:00** o'clock, **a.** m., the title to the land described in Schedule C is vested in:

**PACIFIC GAS AND ELECTRIC COMPANY, a California corporation**

*Resigned OK JB*

(A) The Company does not, by this policy, insure against loss by reason of:

1. Easements or liens which are not shown by the public records (a) of the District Court of the Federal District, (b) of the county, or (c) of the city, in which said land or any part thereof is situated.
2. Rights or claims of persons in possession of said land which are not shown by those public records which impart constructive notice.
3. Any facts, rights, interests, or claims which are not shown by those public records which impart constructive notice, but which could be ascertained by an inspection of said land, or by making inquiry of persons in possession thereof, or by a correct survey.
4. Mining claims, reservations in patents, water rights, claims or title to water.
5. Any governmental acts or regulations restricting, regulating or prohibiting the occupancy or use of said land or any building or structure thereon.

(B) Liens and encumbrances to which said title is subject shown in the order of their priority, and defects and other matters to which said title is subject:

1- Taxes for the year 1940-41 became a lien March 4, 1940, but are not yet due or payable, the amount thereof not having been determined.

2- As to Parcels One and Two:

Perpetual restrictions, as provided for in the deed from The Moraga Company to Louis Evans, et al, dated November 30, 1928 and recorded January 4, 1929 in Volume 156 of Official Records, at page 268.

3- As to Parcel One:

Declaration of restrictions which expire December 31, 1960, by Broadmoor Improvement Co., dated May 1, 1930 and recorded June 18, 1930 in Volume 227 of Official Records, at page 320, and the supplement thereto dated May 28, 1936 and recorded June 10, 1936 in Volume 416 of Official Records, at page 146. Provision is made so that a breach shall not affect a mortgage or deed of trust. Reversionary clause.

4- As to Parcel One:

The right to levy assessments, provided for in the declaration by Broadmoor Improvement Co., dated May 1, 1930 and recorded June 18, 1930 in Volume 227 of Official Records, at page 320, as follows:

"All private property subject to this declaration, whether owned by Declarant or otherwise, shall be subject to an annual charge or assessment on the basis of a fixed amount per lot, each lot to be charged the same amount as every other lot", - the amount of said assessment to be fixed by the "Encinas de Moraga Homes Association".

There are no unpaid charges at this time.

5- As to Parcel Three:

Restrictions, expiring December 1, 1950 and December 31, 1960, as provided for in the deed from Broadmoor Improvement Co., to Pacific Gas and Electric Company, dated May 13, 1940 and recorded May 21, 1940 (File No. 8562). No reversionary clause.

6- Any bonded indebtedness of Pacific Gas and Electric Company.

This policy includes an examination for federal judgments.

#### SCHEDULE C

The land referred to in this policy is described as follows:

Those parcels of land in the County of Contra Costa, State of California, described as follows:

Those parcels of land described in the deed from Broadmoor Improvement Co., to Pacific Gas and Electric Company, dated May 13, 1940 and recorded May 21, 1940 (File No. 8562), as follows:

#### PARCEL ONE

"Lots 43 and 44, as said lots 43 and 44 are delineated and so designated upon that certain map of Encinas de Moraga, recorded in Book 21 of Maps at pages 591 and 592, records of said Contra Costa County".

#### PARCEL TWO

"That certain parcel of land, situate in Rancho Laguna de los Palos Colorados, bounded by a line which begins at the most northerly corner of lot 42, as said lot 42 is delineated and so designated upon said map, and runs thence south  $64^{\circ} 23' 35''$  west, along the northwesterly boundary line of said lot 42, 197.77 feet to a point in the easterly boundary line of the 2 acre parcel of land described in that certain decree quieting title dated March 28, 1929 and recorded in Book 191 of Official Records at page 26; records of said Contra Costa County; thence along the boundary line of said 2 acre parcel of land north  $4^{\circ} 42' 20''$  east 113.85 feet, north  $43^{\circ} 47' 40''$  west 77.41 feet and south  $70^{\circ} 42' 20''$  west 133.15 feet; thence north  $0^{\circ} 28' 35''$  east 45.75 feet; thence northerly along a curve concave to the west, with a radius of 325.0 feet and tangent to the last described course, 79.41 feet; thence north  $13^{\circ} 31' 25''$  west 37.96 feet; thence northerly along a curve concave to the east, with a radius of 275.0 feet and tangent to the last described course, 28.08 feet; thence south  $67^{\circ} 06' 54''$  east 414.52 feet to a point in the westerly boundary line of said lot 43; thence along the westerly boundary line of said lot 43, southerly along a curve concave to the east, with a radius of 187.0 feet and tangent at the southerly terminus thereof to a line bearing south  $0^{\circ} 02' 25''$  east, 64.78 feet and southerly along a curve concave to the east, with a radius of 100.0 feet and tangent to the last described curve, 4.18 feet, more or less, to the point of beginning, containing 1.123 acres."

#### PARCEL THREE

"That certain parcel of land, situate in section 3, township 1 south, range 3 west, M. D. B. & M., and in said rancho, bounded by a line which begins at a point distant north  $67^{\circ} 06' 54''$  west 56.58 feet from the most northerly corner of the parcel of land hereinafore described and designated Parcel 2, and runs thence southerly along a curve concave to the east, with a radius of 325.0 feet and tangent to the next described course, 61.99 feet; thence south  $13^{\circ} 31' 25''$  east 37.96 feet; thence southerly along a curve concave to the west, with radius of 275.0 feet and tangent to the last described course, 8.60 feet to a point in the southeasterly prolongation of the southwesterly boundary line of the parcel of land conveyed by East Bay Municipal Utility District to Broadmoor Improvement Company by deed dated May 5, 1936 and recorded in Book 417 of Official Records at page 110, records of said Contra Costa County; thence north  $65^{\circ} 11' 30''$  west, successively along said prolongation and the southwesterly boundary line of the

last mentioned parcel of land, 313.35 feet; thence south 85° 43' 30" east 64.95 feet; thence north 13° 30' east 67.13 feet; thence south 65° 11' 30" east 203.32 feet, more or less, to the point of beginning, containing 0.473 acre".

EXCEPTING FROM PARCELS ONE, TWO AND THREE ABOVE:

1- As to Parcel Three:

The rights reserved in the deed from East Bay Municipal Utility District to Broadmoor Improvement Company, dated May 5, 1936 and recorded May 8, 1936 in Volume 417 of Official Records, at page 110, as follows:

"Reserving and excepting to the grantor however, from the operation of this deed, all water rights in, upon or pertaining to the said real property hereinabove described, including all riparian rights and all rights to surface waters whatsoever, all rights to underground and, or percolating waters, and all rights whatsoever now held or acquired, or to be hereafter held or acquired, by said grantor by appropriation or prescription to flood or freshet waters, or to any waters whatsoever together with full rights to sell or otherwise dispose of said or any waters for domestic or other uses apart from or at points distant from said real property; provided, however, that said grantee may use upon said real property for domestic uses (including dairying and other natural uses) and irrigation uses, any water found in or upon said lands whenever said grantor does not require or use said water, but without the right in said grantee to conduct said water from said real property to or for use upon other lands, and subject always to the paramount rights of said grantor to collect for use or sale all the water obtainable at all and any dams, reservoirs, wells and pumping plants, existing or future, of said grantor; and provided further that failure of the grantor to use or to take all waters at all times shall not affect, impair, diminish or destroy the right and title thereto, and herein reserved and excepted from the operation of this deed."

2- As to Parcels One and Two:

The right of the public over that portion of the premises lying within Camino Encinas.



... provided, however, that a residence...  
... at a reasonable best price that...  
... is given its approval and...  
... shall be placed or maintained...  
... within twenty feet from the line of any street or avenue delineated on any map...  
... herein referred to or attached hereto, except upon the written approval and...  
... of first party; and further provided, that there shall at no time be allowed or...  
... conducted on any of said property, before the 31st day of December, 1934, any road...  
... house, dancing pavilion or other place of public resort or for public recreational...  
... purpose and this provision is hereby made an express condition and the same...  
... shall be inserted in any deed to be made pursuant to this contract as a covenant...  
... running with and for the benefit of the land.

Upon breach of either of these conditions, the said land, together with the...  
... improvements thereon, shall revert to first party, and it or its agents shall...  
... thereupon become entitled to enter upon said land and take possession thereof...  
... A breach of either of these conditions shall be a nuisance detrimental to said...  
... first party, or its successor or successors in interest in or to any portion...  
... or portions of the tract of which the land hereby conveyed forms a part.

It is agreed that the first party reserves rights of way through, upon over...  
... and under the above described land for the purpose of laying installing, maintaining...  
... and using from time to time as party of the first part, its successors or assigns...  
... may see fit, storm drains, sewer pipes and water pipes and connections therewith...  
... and water and other meters, and electric light, heat and power, telephone and telegraph...  
... poles and underground conduits and wires for electric light, heat and...  
... power, telephone and telegraph poles and underground conduits and wires now installed...  
... or which may be hereafter laid or installed under, upon or over said land.

IN WITNESS WHEREOF, the said first party has caused these presents to be...  
... executed by its Vice-President and Secretary thereunto duly authorized, and its...  
... corporate seal to be affixed, the day and year first above written.

THE MORAGA COMPANY  
By Guy C. Earl  
Vice-President  
By E. M. Pries  
Secretary

STATE OF CALIFORNIA }  
and County of San Francisco } ss.

On this 1st day of December in the year One Thousand Nine Hundred and

### STIPULATIONS

1. This policy does not insure against, and the Company will not be liable for loss or damage created by or arising out of any of the following: (a) defects, liens, claims, encumbrances, or other matters which result in no pecuniary loss to the insured; (b) defects, liens, encumbrances, or other matters created or occurring subsequent to the date hereof; (c) defects, liens, encumbrances, or other matters created or suffered by the insured claiming such loss or damage, or existing at the date of this policy and known to the insured claiming such loss or damage, either at the date of this policy or at the date such insured claimant acquired an estate or interest insured by this policy, unless such defect, lien, claim, encumbrance, or other matter shall have been disclosed to the Company in writing prior to the issuance of this policy. Any rights or defenses of the Company against a named insured shall be equally available against any person or corporation who shall become an insured hereunder as successor of such named insured.

2. The Company at its own cost shall defend the insured in all actions or proceedings against the insured founded upon a defect, lien, encumbrance, or other matter insured against by this policy, and may pursue such litigation to final determination in the court of last resort. In case any such action or proceeding shall be begun, or in case knowledge shall come to any insured of any claim of title or interest adverse to the title as insured, or which might cause loss or damage for which the Company shall or may be liable by virtue of this policy, such insured shall at once notify the Company thereof in writing. If such notice shall not be given to the Company at least five days before the appearance day in any such action or proceeding, or if such insured shall not, in writing, promptly notify the Company of any defect, lien, encumbrance, or other matter insured against, or of any such adverse claim which shall come to the knowledge of such insured, in respect to which loss or damage is apprehended, then all liability of the Company as to each insured having such notice in regard to the subject of such action, proceeding, or claim shall cease and terminate; provided, however, that failure to so notify shall in no case prejudice the claim of any insured unless the Company shall be actually prejudiced by such failure. The Company shall have the right to institute and prosecute any action or proceeding or do any other act which, in its opinion, may be necessary or desirable to establish the title, or any insured lien or charge, as insured. In all cases where this policy permits or requires the Company to prosecute or defend any action or proceeding, the insured shall secure to it in writing the right to so prosecute or defend such action or proceeding, and all appeals thereon, and permit it to use, at its option, the name of the insured for such purpose. Whenever requested by the Company the insured shall assist the Company in any such action or proceeding, in effecting settlement, securing evidence, obtaining witnesses, prosecuting or defending such action or proceedings to such extent and in such manner as is deemed desirable by the Company, and the Company shall reimburse the insured for any expense so incurred. The Company shall be subrogated to and be entitled to all costs and attorney's fees incurred or expended by the Company, which may be recoverable by the insured in any litigation carried on by the Company on behalf of the insured. The word "knowledge" in this paragraph means actual knowledge, and does not refer to constructive knowledge or notice which may be imputed to the insured by reason of any public record or otherwise.

3. The Company reserves the option to pay, settle, or compromise for, or in the name of, the insured, any claim insured against or to pay this policy in full at any time, and payment or tender of payment of the full amount of this policy, together with all accrued costs which the Company is obligated hereunder to pay, shall terminate all liability of the Company hereunder, including all obligations of the Company with respect to any litigation pending and subsequent costs thereof.

4. Whenever the Company shall have settled a claim under this policy, it shall be subrogated to and be entitled to all rights, securities, and remedies which the insured would have had against any person or property in respect to such claim, had this policy not been issued. If the payment does not cover the loss of the insured, the Company shall be subrogated to such rights, securities, and remedies in the proportion which said payment bears to the amount of said loss. In either event the insured shall transfer, or cause to be transferred, to the Company such rights, securities and remedies, and shall permit the Company to use the name of the insured in any transaction or litigation involving such rights, securities, or remedies.

5. The Company has the right and option, in case any loss is claimed under this policy by an insured owner of an indebtedness secured by mortgage or deed of trust, to pay such insured the indebtedness of the mortgagor or trustor under said mortgage or deed of trust, together with all costs which the Company is obligated hereunder to pay, in which case the Company shall become the owner of, and such insured shall at once assign and transfer to the Company said mortgage or deed of trust and the indebtedness thereby secured, and such payment shall terminate all liability under this policy to such insured.

6. A statement in writing of any loss or damage for which it is claimed the Company is liable under this policy shall be furnished to the Company within sixty days after such loss or damage shall have been ascertained. No action or proceeding for the recovery of any such loss or damage shall be instituted or maintained against the Company until after full compliance by the insured with all the conditions imposed on the insured by this policy, nor unless commenced within twelve months after receipt by the Company of such written statement.

7. The Company will pay, in addition to any loss insured against by this policy, all costs imposed upon the insured in litigation carried on by the Company for the insured, and in litigation carried on by the insured with the written authorization of the Company, but not otherwise. The liability of the Company under this policy shall in no case exceed, in all, the actual loss of the insured and costs which the Company is obligated hereunder to pay, and in no case shall such total liability exceed the amount of this policy and said costs. All payments under this policy shall reduce the amount of the insurance pro tanto, and payment of loss or damage to an insured owner of indebtedness shall reduce, to that extent, the liability of the Company to the insured owner of said loan. No payment can be demanded by any insured without producing this policy for indorsement of such payment.

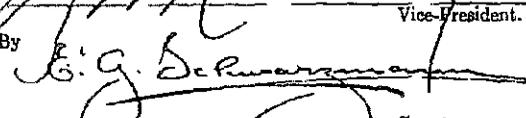
8. Loss under this policy shall be payable, first, to any insured owner of indebtedness secured by mortgage or deed of trust shown in Schedule B, in order of priority therein shown, and if such ownership vests in more than one, payment shall be made ratably as their respective interests may appear, and thereafter, any loss shall be payable to the other insured, and if more than one, then to such insured ratably as their respective interests may appear. If there be no such insured owner of indebtedness, any loss shall be payable to the insured, and if more than one, to such insured ratably as their respective interests may appear.

9. No provision or condition of this policy can be waived or changed except by writing indorsed hereon or attached hereto signed by the President, a Vice-President, the Secretary, or an Assistant Secretary of the Company.

The date of this policy is the date set forth in Schedule A.

**TITLE INSURANCE AND GUARANTEE COMPANY**

By  Vice-President.

By  Secretary.

San Francisco Office  
130 MONTGOMERY STREET

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

AT&T  
Albion Power Company

Alta Power Group, LLC  
Anderson & Poole

Atlas ReFuel  
BART

Barkovich & Yap, Inc.  
California Cotton Ginners & Growers Assn  
California Energy Commission

California Hub for Energy Efficiency  
Financing

California Alternative Energy and  
Advanced Transportation Financing  
Authority  
California Public Utilities Commission  
Calpine

Cameron-Daniel, P.C.  
Casner, Steve  
Cenergy Power  
Center for Biological Diversity

Chevron Pipeline and Power  
City of Palo Alto

City of San Jose  
Clean Power Research  
Coast Economic Consulting  
Commercial Energy  
Crossborder Energy  
Crown Road Energy, LLC  
Davis Wright Tremaine LLP  
Day Carter Murphy

Dept of General Services  
Don Pickett & Associates, Inc.  
Douglass & Liddell

East Bay Community Energy Ellison  
Schneider & Harris LLP Energy  
Management Service  
Engineers and Scientists of California

GenOn Energy, Inc.  
Goodin, MacBride, Squeri, Schlotz &  
Ritchie

Green Power Institute  
Hanna & Morton  
ICF

IGS Energy  
International Power Technology  
Intestate Gas Services, Inc.  
Kelly Group  
Ken Bohn Consulting  
Keyes & Fox LLP  
Leviton Manufacturing Co., Inc.

Los Angeles County Integrated  
Waste Management Task Force  
MRW & Associates  
Manatt Phelps Phillips  
Marin Energy Authority  
McKenzie & Associates

Modesto Irrigation District  
NLine Energy, Inc.  
NRG Solar

OnGrid Solar  
Pacific Gas and Electric Company  
Peninsula Clean Energy

Pioneer Community Energy

Public Advocates Office

Redwood Coast Energy Authority  
Regulatory & Cogeneration Service, Inc.  
SCD Energy Solutions  
San Diego Gas & Electric Company

SPURR  
San Francisco Water Power and Sewer  
Sempra Utilities

Sierra Telephone Company, Inc.  
Southern California Edison Company  
Southern California Gas Company  
Spark Energy  
Sun Light & Power  
Sunshine Design  
Tecogen, Inc.  
TerraVerde Renewable Partners  
Tiger Natural Gas, Inc.

TransCanada  
Utility Cost Management  
Utility Power Solutions  
Water and Energy Consulting Wellhead  
Electric Company  
Western Manufactured Housing  
Communities Association (WMA)  
Yep Energy