



CITY OF
HAYWARD
HEART OF THE BAY

6

DATE: September 22, 2009
TO: Mayor and City Council
FROM: Director of Public Works
SUBJECT: Adoption of a Resolution of Necessity to Initiate Eminent Domain Proceedings to Acquire Real Property – APN 427-0001-030, owned by Larry and Rena Weed

RECOMMENDATION

Adopt the attached Resolution of Necessity to Initiate Eminent Domain Proceedings to Acquire Real Property for the Route 238 Corridor Improvement Project from a vacant parcel at Foothill Boulevard and E Street (Assessor's Parcel No. 427-0001-030), owned by Larry and Rena Weed.

BACKGROUND

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

DISCUSSION

This property, consisting of 15,314 square feet of APN 427-0001-030, is located on the northeasterly side of the intersection of Foothill Boulevard and E Street. This property is required to construct the proposed roadway improvements for Foothill Boulevard and to provide landscaping and an enhanced gateway to Downtown Hayward. Without this additional right-of-way, the City will not be able to construct an efficient right turn pocket from Foothill Boulevard to Main Street, will not be able to completely vacate E Street between Main Street and the property and will not construct all of the enhanced gateway landscaping improvements.

The City has obtained an appraisal of this property by Dean Chapman and Associates and has offered, in writing, to purchase this property from Larry and Rena Weed for its appraised value (refer to Exhibit A). Subsequently, Larry and Rena Weed reviewed the appraised value, verbally rejected that valuation and asked that they be reimbursed for an independent appraisal (refer to Exhibit B). The City has reimbursed Larry and Rena Weed for this appraisal.

By adopting the attached Resolution of Necessity, the City Council will authorize the City to initiate a condemnation action so that it may acquire this necessary property from Larry and Rena Weed for the property's fair value.

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

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

As noted above, the City completed this environmental review in November 2007, when it approved the FEIR for the Route 238 Corridor Improvement Project.

The Code of Civil Procedure requires written notice to the property's owner of the City's hearing on the proposed Resolution of Necessity. The City sent this notice to Larry and Rena Weed by first-class mail on August 24, 2009 (refer to Exhibit C).

FISCAL AND ECONOMIC IMPACT

The cost estimate for the Route 238 Corridor Improvement Project is \$111 million. ACTA has allocated \$38.4 million for the Final Design and Right-of-Way Acquisition Phase of this Project. Updated cost estimates continue to show the project to be within budget.

To date, the City has expended approximately \$21 million for this phase of the project. ACTA has reimbursed approximately \$19 million of those expenditures. This acquisition phase of the work will be funded by Measure B.

SCHEDULE

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

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

Prepared by:



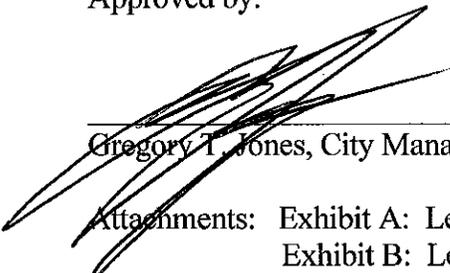
Morad Fakhrai, Deputy Director of Public Works

Recommended by:

for 

Robert A. Bauman, Director of Public Works

Approved by:



Gregory T. Jones, City Manager

Attachments: Exhibit A: Letter to Purchase Property (includes location map)
Exhibit B: Letter from Weed Requesting Reimbursement
Exhibit C: Written Notice to Weed of Hearing on Proposed Resolution of Necessity
Draft Resolution



CITY OF
HAYWARD
HEART OF THE BAY

June 1, 2009

Email and Hand Delivery

Larry Weed and Rena Weed
36665 Cuenca Court
Fremont, CA 94536

RE: City of Hayward – Route 238 Corridor Improvement Project
Weed Property, Vacant Land bounded by Foothill Boulevard, E Street and City owned parcel,
Hayward, CA, (APN 427-0001-030)

Second Written Offer to Purchase

Dear Mr. & Mrs. Weed:

This Second Written Offer to Purchase your vacant property bounded by Foothill Boulevard, E Street and the City of Hayward owned property is being made by the City of Hayward after considering our First Written Offer to Purchase, dated April 14, 2009, and points made during your subsequent discussions with our Property Agent, Owen Poole, from Real Estate Services.

In consideration of the foregoing and pursuant to the requirements of Section 7267.2 of the Government Code of the State of California, the City of Hayward hereby offers to purchase the designated property in fee for public improvement purposes for the sum of \$46,000.00 , under the terms and conditions set forth in the attached Real Property Purchase Contract.

You may seek an independent appraisal of the property; and if you do so, the City offers in accordance with section 1263.025 of the Code of Civil Procedure to reimburse you for the reasonable cost, not to exceed \$5,000, of that independent appraisal if it is performed by a California licensed real estate appraiser.

Please review all documents enclosed: Real Property Purchase Contract (the original and two copies), the Summary of Basis for Amount Established as Just Compensation, a Summary Statement Relating to Purchase of Real Property of an Interest Therein and a Brochure explaining certain rights that you have related to this acquisition process.

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

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

DEPARTMENT OF PUBLIC WORKS
ENGINEERING & TRANSPORTATION DIVISION

777 B STREET, HAYWARD, CA 94541-5007

TEL: 510/583-4730 • FAX: 510/583-3620 • TDD: 510/247-3340

163\13\678983.1

Exhibit A-1

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

Sincerely,



Morad Fakhrai
Deputy Director of Public Works

Enclosures

cc: Robert Bauman
Yaw Owusu
Norman Payne
Kevin Briggs

Hayward, California

Grantor(s): Larry Weed and Rena A. Weed

Date: June 1, 2009

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

Vacant Land bounded by Foothill Boulevard, E Street and a vacant parcel of land owned by the City of Hayward. Further identified by APN 427-0001-030 and the attached Right of Way Exhibit.

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

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

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

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

1. The parties have herein set forth the whole of their agreement. The performance of this agreement constitutes the entire consideration for said documents and shall relieve the CITY of all further obligation or claims on this account. **No obligation other than those set forth herein will be recognized.**
2. The CITY shall:
 - A) Pay the undersigned Grantor(s) the sum of \$46,000.00 for the property or interest conveyed by above document upon the close of escrow when title to said property vests in the CITY, free and clear of all liens, encumbrances, assessments, easements and leases (recorded and/or unrecorded), and taxes, except:
 - a. Taxes for the fiscal year in which escrow closes which shall be cleared and paid in the manner required by Section 5086 of the Revenue and Taxation Code, if unpaid at the close of escrow.
 - b. Covenants, conditions, restrictions and reservations of record, or contained in the above-referenced document.
 - c. Easements or rights of way in, over, under or across said land for public quasi-public utility or public street purposes, if any.
 - B) Pay all escrows and recording fees incurred in this transaction and, if title insurance is desired by the CITY the premium charge therefore.

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

APPROVED:

Robert A. Bauman
Director of Public Works

Larry Weed, Grantor

Rena Weed, Grantor

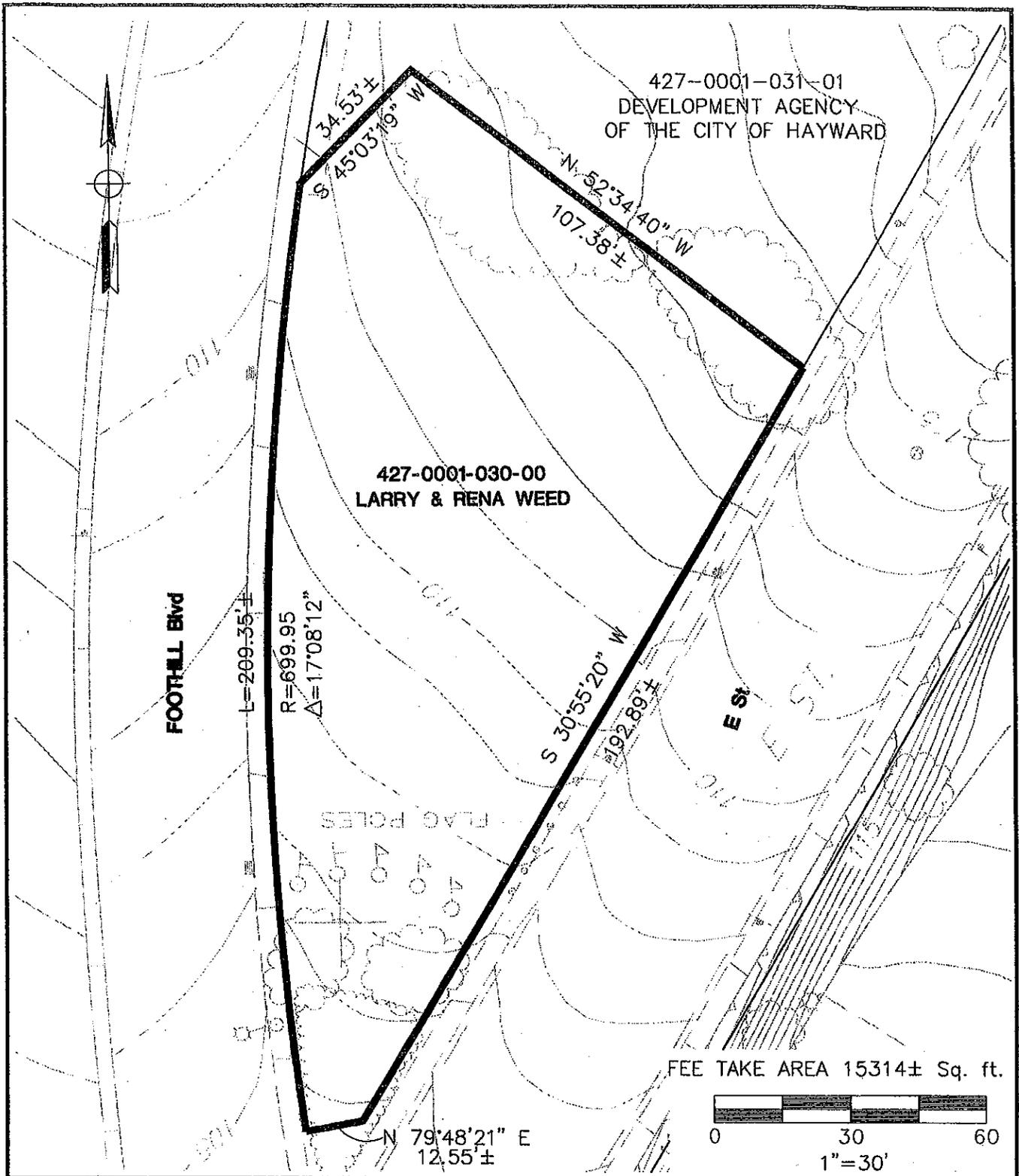
CITY OF HAYWARD, a municipal corporation

By: _____
Gregory T. Jones, City Manager

Attest: _____
Miriam Lens, City Clerk

Approved as to form:

City Attorney



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

OWNER(s): Larry Weed and Rena A. Weed
PROJECT: Route 238 Corridor Improvement Project

PROPERTY TO BE ACQUIRED: ALL
INCLUDE ACCESS RIGHT: YES

ADDRESS/ LOCATION: Vacant land bounded by Foothill Boulevard, E Street and the vacant parcel owned by the City of Hayward
PARCEL NUMBER: 427-0001-030 **MAP:** Right of Way plat
PRESENT USE: Vacant **BEST USE:** Park since the site is unbuildable
ZONING: CC-C, **Note:** The property is bisected by the Hayward Fault
VALUATION DATE: July 1, 2008

BASIS FOR AMOUNT OF JUST COMPENSATION

The Just Compensation for the real property proposed to be acquired by the City of Hayward is detailed on the attached document entitled "Valuation Statement". The value indicated in the Valuation Statement has been adjusted upward since the valuation statement is based on 14,000 square feet of property as reported by Alameda County's Tax Assessor. The property's square footage as calculated by survey indicates a square footage of 15,314. The amount of Just Compensation therefore equals the appraised market value as adjusted for actual square footage. The appraised market value is \$45,942. The just compensation has been rounded up to \$46,000.00.

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

JUST COMPENSATION

LAND and STRUCTURES:	45,942.00
TOTAL VALUE OF REQUIRED PROPERTY:	45,942.00
	ROUNDED TO: \$46,000.00

CITY OF HAYWARD

BY: *Norman Payne*
Norman Payne
Survey Engineer

DATE: June 1, 2009

City of Hayward
Route 238 Corridor Improvement Project
SUMMARY STATEMENT RELATING TO PURCHASE OF REAL PROPERTY

The City of Hayward approved a project to improve traffic conditions along Foothill Boulevard, a downtown loop and Mission Boulevard between Interstate 580 (I-580) and Industrial Parkway. This project requires a full acquisition of your property, which is within the project area, and includes the acquisition of the buildings located between Foothill Boulevard and E Street and adjacent to a City owned parcel, in Hayward, and is also identified by County Assessor Parcel Number 427-0001-030.

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

1. You are entitled to receive full payment prior to vacating the real property being purchased unless you have heretofore waived such entitlement. You are not required to pay recording fees, transfer taxes, or the pro rata portion of real property taxes which are allocable to any period subsequent to the passage of title or possession.
2. The City of Hayward will offer to purchase any remnant(s) considered by the City to be an uneconomic unit(s) which is/are owned by you or, if applicable, occupied by you as a tenant and which is/are contiguous to the land being conveyed.
3. All building structures and other improvements affixed to the land described in the referenced document(s) covering this transaction and owned by the grantor(s) herein or, if applicable, owned by you as a tenant are being conveyed unless other disposition of these improvements has been made. The interest acquired is in fee. The property being purchased comprises **15,314** square feet (+/-) of land and is described in the attached Right of Way Exhibit.
4. The market value of the property being purchased is based upon a market value appraisal which is summarized on the attached Valuation Statement and such amount:
 - a. Represents the full amount of the appraisal of just compensation for the property to be purchased;
 - b. Is not less than the approved appraisal of the fair market value of the property as improved.
 - c. Disregards any decrease or increase in the fair market value of the real property to be acquired prior to the date of valuation caused by the public improvement for which the property is to be acquired or by the likelihood that the property would be acquired for such public improvement, other than that due to physical deterioration within the reasonable control of the owner or occupant; and
 - d. Reflects consideration or allowance for relocation assistance and payments or other benefits that the owner is entitled to receive under an agreement with the City.

TO: CITY OF HAYWARD

FROM: LARRY WEED

RE: APPRAISAL (APN 427-0001-030)

ATT: MORAD FAKHRAI

In accordance with the statement in your letter of June 1, 2009, I hereby request the City of Hayward, pursuant to Section 1263.025 of the California Code of Civil Procedure, reimburse me for the reasonable costs, not to exceed \$5000, of an independent appraisal I had performed by a California licensed real estate appraiser from The Schmidt-Prescott Group. Attached to this letter is a one page invoice that shows the appraiser has been paid \$5850. for his work so far on this matter. I have paid the appraiser directly, so I would appreciate you sending me the check for \$5000. made payable to Larry Weed. Please let me know if you have any questions or concerns about this request. Please note that my attorney hired this appraiser, however, I have removed my attorney's name from the invoice, I will let you know who my attorney is at an appropriate time. At this point, I prefer to handle this matter in order to save costs.

Larry Weed
510-299-0887

A handwritten signature in cursive script that reads "Larry Weed". The signature is written in black ink and is positioned to the right of the typed name and phone number.

The Schmidt-Prescott Group

Property Valuation Services
 2010 North First Street, Suite 402
 San Jose, CA 95131

INVOICE

DUE UPON RECEIPT

408.255.6840, 408.255.1788 FAX
 510.226.7980, 510.226.7987 FAX

T.I.N. 77-0131155

		DATE		AMOUNT DUE	
		6/9/2009		\$2,850.00	
DATE	TRANSACTION	QTY	RATE	AMOUNT	BALANCE
05/09/2009	Balance forward				0.00
05/15/2009	Foothill Blvd @ E Street, Hayward- PMT #2401. Retainer			-3,000.00	-3,000.00
06/09/2009	Principal Hours - From 5/13/09 - 6/8/09	19.25	300.00	5,775.00	2,775.00
06/09/2009	Clerk Hours	0.75	100.00	75.00	2,850.00
06/09/2009	Amount Due				2,850.00



CITY OF
HAYWARD
HEART OF THE BAY

August 24, 2009

Larry and Rena Weed
36665 Cuenca Court
Fremont, CA 94536

Subject: Notice of Hearing on Resolution of Necessity to Initiate Eminent Domain Proceeding to Acquire Real Property located in the City of Hayward on Foothill Blvd. at E Street

Dear Mr. Weed and Ms. Weed:

On September 22, 2009, beginning at 8:00 p.m., or as soon thereafter as the matter can be heard, the City of Hayward will consider whether or not to adopt a proposed Resolution of Necessity to acquire the real property located on Foothill Boulevard at E Street in the City of Hayward through the process of eminent domain. Acquisition of this real property (the "Property") by eminent domain may be necessary for the Route 238 Corridor Improvement Project, which will consist of right-of-way improvements to improve traffic conditions along Foothill Boulevard, the downtown loop and Mission Boulevard between Interstate 580 and Industrial Parkway. The City will consider acquiring the Property in fee simple. The attached map shows the approximate location of the Property and of the Route 238 Corridor Improvement Project.

The Property is the parcel identified by the Alameda County assessor as Assessor's Parcel Number 427-0001-030. You have received this notice because you are the owner of record of the real property. If you are no longer the owner or tenant of the Property, or if you know of other persons who may claim interests in the Property but whose names do not appear in public records, please share this notice with those interested persons.

DEPARTMENT OF PUBLIC WORKS
ENGINEERING & TRANSPORTATION DIVISION

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

Exhibit C-1

In accordance with the provisions of the Government Code Section 1245.235, the City will conduct a hearing on the proposed Resolution. **The hearing will occur on September 22, 2009, beginning at 8:00 p.m., or as soon thereafter as it can be heard, in the Council Chambers at the Hayward City Hall, located at 777 B Street.** The purpose of the hearing is to receive information pertaining to the proposed Resolution, and to consider whether or not to adopt that Resolution.

You and/or your representatives have the right to appear at the City's September 22, 2009 meeting and to be heard on the matters specified in section 1240.030 of the Code of Civil Procedure and on any other matter material to the City's decision on the proposed Resolution. These matters include:

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

If you wish to speak at the City's hearing, please file a written request within fifteen (15) days from the date of this Notice. Failure to notify the City in writing of your desire to be heard at the City's September 22, 2009 meeting may result in a waiver of your right to be heard at the meeting concerning the Resolution. You may submit your written request to:

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

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

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

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

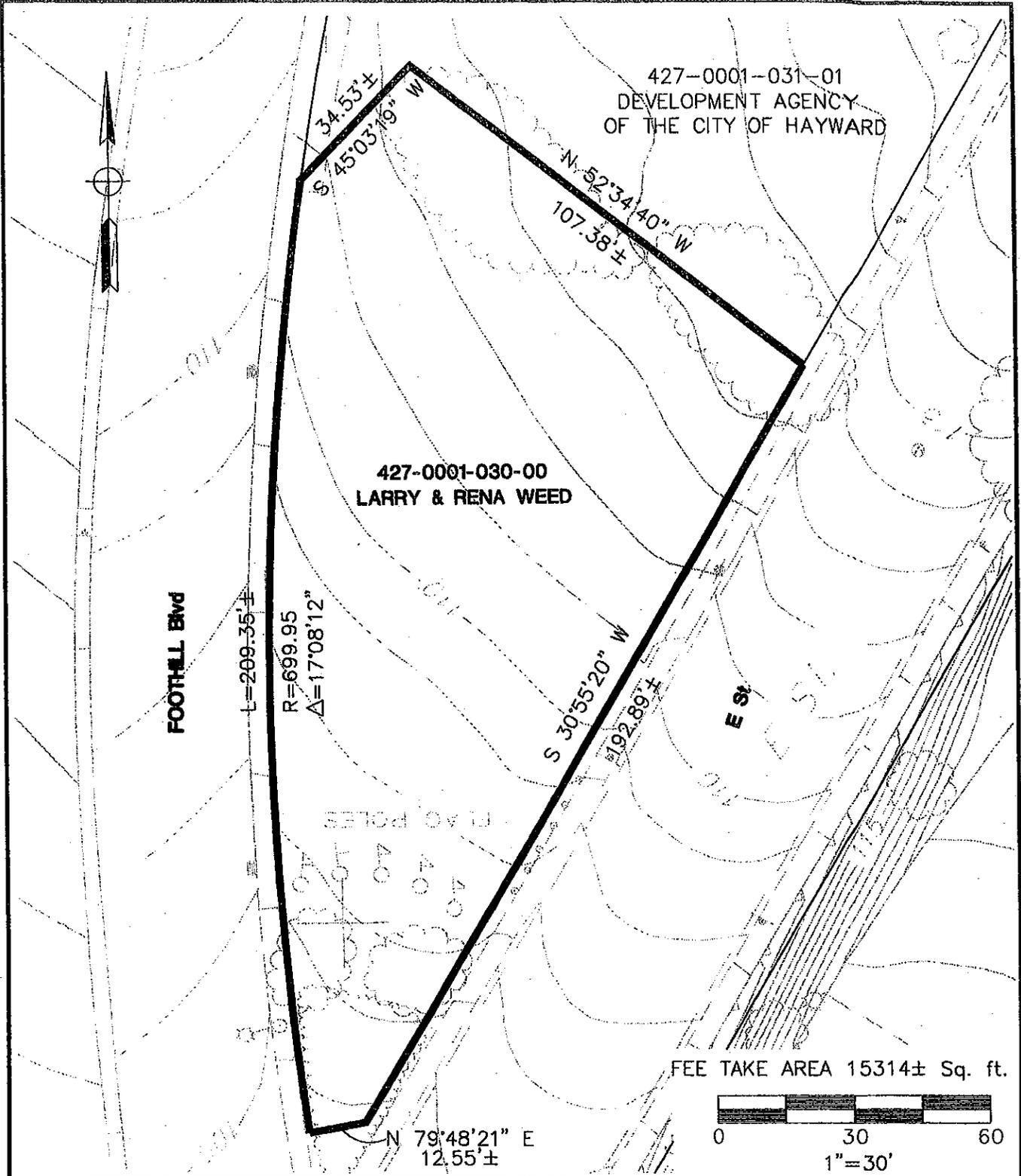
Sincerely,

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

Morad Fakhrai
Deputy Director of Public Works

Enclosures

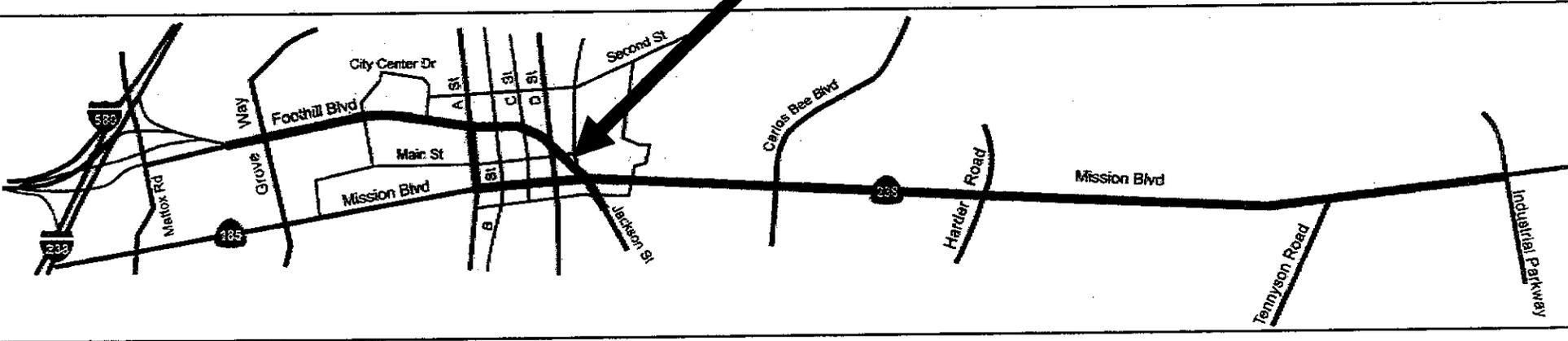
Cc: Robert Bauman
Yaw Owusu
Norman Payne
Kevin Briggs



 <p>Mark Thomas & Company, Inc.</p>	<p>ROUTE 238 IMPROVEMENT HAYWARD FOOTHILL BLVD</p>	<p>In Alameda County, California</p>
<p>Scale 1" = 30' Date 4-3-2009 Drawn By TL Checked By DM</p>	<p>RIGHT OF WAY TAKE EXHIBIT APN 427-0001-030-00</p>	<p>4/3/2009</p>

Weed Parcel Location

WEED
APN 427-0001-030



DRAFT

MSL
8/27/09

HAYWARD CITY COUNCIL

RESOLUTION NO. 09-_____

Introduced by Council Member _____

RESOLUTION OF NECESSITY DECLARING A PUBLIC NEED FOR AND AUTHORIZING THE ACQUISITION AND IMMEDIATE POSSESSION BY EMINENT DOMAIN PROCEEDINGS OR OTHERWISE OF REAL PROPERTY FOR THE ROUTE 238 CORRIDOR IMPROVEMENT PROJECT ON FOOTHILL BOULEVARD AT E STREET (APN 427-0001-030) OWNED BY LARRY AND RENA WEED

WHEREAS, the City of Hayward is pursuing acquisition of a vacant parcel located on Foothill Boulevard at E Street (Assessor's Parcel Number 427-0001-030: hereinafter the "Property"), owned by Larry and Rena Weed, for purposes of constructing the roadway improvements at the Foothill Boulevard/E Street intersection, proposed by the Route 238 Corridor Improvement Project; and

WHEREAS, the Property consists of 15,314 square feet of vacant land; and

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

WHEREAS, on November 27, 2007, the City Council of the City of Hayward considered the environmental impacts of the Route 238 Corridor Improvement Project and certified the Final Environmental Impact Report (FEIR), which included the proposed acquisition of the Property which is required for the construction of the roadway improvements at the Foothill Boulevard/E Street intersection, landscaping and an enhanced gateway to Downtown Hayward; and

WHEREAS, staff commissioned an appraisal of the property on July 1, 2008, and made an offer to the owner to purchase the parcels for \$46,000 on June 1, 2009, which the owner rejected; and

WHEREAS, after providing notice in the manner specified in Code of Civil Procedure Section 1245.235, the City held a public hearing at which the persons whose property interests are to be acquired pursuant to this resolution, and whose names and addresses appear on the last equalized county assessment roll for the Property, as well as tenants of the Property, had an opportunity to appear and be heard on the following matters referred to in Code of Civil Procedure Section 1240.030:

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

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

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

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

1. That the public interest and necessity require the Route 238 Corridor Improvement Project;
2. That the Route 238 Corridor Improvement Project is planned and located in the manner which will be most compatible with the greatest public good and the least private injury;
3. That the acquisition by the City of Hayward of the property described in Exhibit "A" attached to this Resolution, for the construction of the roadway improvements at the Foothill Boulevard/E Street intersection is necessary for the Project; and
4. That staff has made the offer required by Section 7267.2 of the Government Code of the State of California to Larry and Rena Weed, owner of the subject Property, prior to the public hearing held on September 22, 2009, regarding the adoption of this resolution of necessity.

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

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

EXHIBIT "A"
LANDS OF LARRY AND RENA WEED
APN 427-0001-030

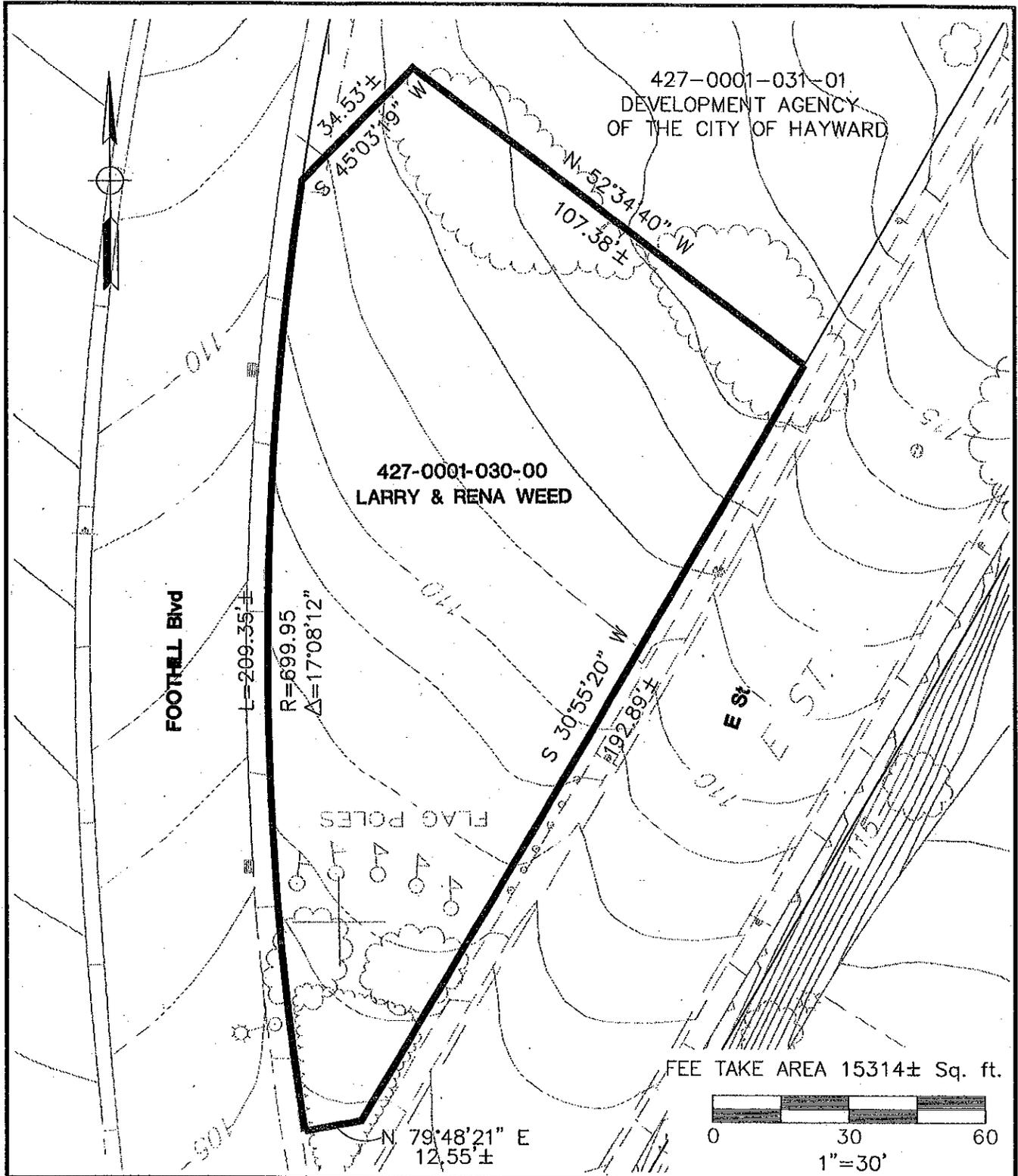
All that property situate in the City of Hayward, County of Alameda, State of California described as follows:

THAT PORTION OF "MAP OF THE TOWN OF HAYWARD," FILED APRIL 21, 1868, IN BOOK 6 OF MAPS, PAGE 17, RECORDS OF SAID COUNTY, DESCRIBED AS FOLLOWS:

BEGINNING FOR REFERENCE AT THE INTERSECTION OF THE NORTHEASTERLY LINE OF CASTRO STREET AND THE NORTHWESTERN LINE OF E STREET, ALSO KNOWN AS JACKSON STREET; THENCE ALONG SAID LINE OF E STREET, NORTH 29° 53' EAST, 94.53 FEET TO THE TRUE POINT OF COMMENCEMENT; THENCE SOUTH 80° 57' 56" WEST, 12.54 FEET TO A CURVE CONCENTRIC WITH AND 50.00 FEET EASTERLY, MEASURED RADially FROM THE SURVEY LINE OF THE DEPARTMENT OF PUBLIC WORKS' SURVEY FOR THE STATE HIGHWAY IN HAYWARD, DESIGNATED AS ROAD IV-ALA-5-HAY; THENCE FROM A TANGENT THAT BEARS NORTH 9° 02' 04" WEST ALONG SAID CURVE TO THE RIGHT WITH A RADIUS OF 700 FEET, THROUGH AN ANGLE OF 16° 51' 56", AN ARC DISTANCE OF 206.05 FEET TO THE LINE COMMON TO THE PROPERTIES, NOW OR FORMERLY, OF LEO W. PALMAG AND OF THE STATE OF CALIFORNIA; THENCE ALONG SAID COMMON PROPERTY LINE, NORTH 41° 28' EAST, 3.50 FEET, AND SOUTH 55° 37' EAST, 107.51 FEET TO SAID NORTHWESTERN LINE OF E STREET; THENCE ALONG THE LAST MENTIONED LINE, SOUTH 29° 53' WEST, 193.44 FEET TO THE TRUE POINT OF BEGINNING.

APN: 427-0001-030

Containing 15,314 square feet or 0.35 acres, more or less.



 <p>Mark Thomas & Company, Inc.</p>	<p>ROUTE 238 IMPROVEMENT HAYWARD FOOTHILL BLVD</p>	<p>In Alameda County, California</p>
<p>Scale 1" = 30' Date 4-3-2009 Drawn By TL Checked By DM</p>	<p>RIGHT OF WAY TAKE EXHIBIT APN 427-0001-030-00</p>	<p>4/3/2009</p>

Exhibit B