

**RESOLUTION NO. 21-8998**

**A RESOLUTION OF THE CITY OF SANTA CLARA, CALIFORNIA  
DETERMINING THAT THE PUBLIC INTEREST AND NECESSITY  
REQUIRE THE ACQUISITION OF CERTAIN REAL PROPERTY  
INTERESTS FOR A PUBLIC PROJECT AND DIRECTING THE  
FILING OF EMINENT DOMAIN PROCEEDINGS**

**BE IT RESOLVED BY THE CITY OF SANTA CLARA AS FOLLOWS:**

**WHEREAS**, the City of Santa Clara, a chartered city and municipal corporation acting by and through its municipally owned utility, Silicon Valley Power (hereinafter the "City") is engaged in a continuing effort to upgrade and enhance its Overhead and Underground Distribution and Transmission systems to meet new customer demand and to maintain the reliability of SVP's systems. The South Loop Reconfigure Project (Project) is a keystone project for this effort;

**WHEREAS**, the Project will involve the placement of multiple new monopole steel structures and result in either the expansion of existing Electric Overhead and Wire Clearance Easements or the acquisition of new easements;

**WHEREAS**, it is desirable and necessary for the City to acquire the following real property interests for the project.

A. A 190 square foot permanent Easement in, on, over, along and across the real property described and depicted in Exhibit "A" and incorporated herein by this reference ("Easement Area") for the purpose of constructing and reconstructing, installing, operating, inspecting, maintaining, repairing, removing and/or replacing overhead electrical transmission, distribution and/or communication systems, and appurtenances thereto, including a reasonable right of ingress and egress over adjoining lands of fee owner. In exercising said right of ingress and egress, easement holder shall, wherever practical, use existing roads and lanes across lands of fee owner, if such there be, and if not, by such route or routes as shall result in the least practicable inconvenience to fee owner and any occupants of fee owner's property.

The overhead system will consist of poles, wire supports, wires and conductors suspended from pole to pole, transformers and other equipment mounted on the poles, anchors, guy

attachments, and other appurtenances. Portions of the Easement Area may be used by the fee owner for driveway(s), landscaping (excluding trees), and parking, as will not interfere with the easement holder's use of the Easement. Any other use of the Easement Area by fee owner shall be subject to easement holder's express written consent and only after easement holder's review of plans and specifications and determination that such use will not interfere with its use of the Easement. Easement holder may trim any trees or remove any tree or structure which are in or adjacent to the Easement Area which, in easement holder's reasonable determination, interferes with its use of the Easement. Easement holder may trim any trees or remove any tree which is in or adjacent to the Easement Area which exceeds a height of 20 feet or poses a risk of falling onto the easement holder's facilities or equipment located within the Easement.

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B. A 1,823 square foot nonexclusive temporary easement for construction purposes ("TCE") related to the Project, and all purposes related thereto, in, on, upon, over, under and across that real property described and depicted in Exhibit "B" and incorporated herein by this reference ("TCE Area"). Actual physical use and occupation of the TCE Area will occur only intermittently and only for a timeframe not to exceed twenty-one (21) days total, each phase of which to commence following forty-eight (48) hours prior written notice to fee owner. Access and use of portions of the TCE Area by fee owner, tenants, invitees and guests will be allowed to the extent that said portion is not being used for Project construction or staging purposes at that time. Construction of the Project is expected to take no more than six months, and this TCE shall terminate upon written notice from easement holder that the TCE is no longer needed for the Project. Under all circumstances, unless it expires or is terminated earlier, the TCE term shall expire nine (9) months following the date the TCE is first used for the Project. Easement holder will stage and coordinate work in the TCE Area with the fee owner so as not to unreasonably impede/hinder access to/from and within the larger parcel. Upon completion of the TCE Term, easement holder will cause the removal of all construction equipment and materials from the TCE area, and will restore the TCE area to a condition which is safe and reasonably suited to its original use;

**WHEREAS**, the City is vested with the power of eminent domain to acquire real property by virtue of Article I, Section 19 of the Constitution of the State of California, Sections 37350.5 of the California Government Code, Section 612 of the California Public Utilities Code and Sections 1240.010 and 1240.220 of the California Code of Civil Procedure;

**WHEREAS**, pursuant to the provisions of Section 1245.235 of the California Code of Civil Procedure, notice has been duly given to D&R Miller Properties, LLC whose property interests are to be acquired by eminent domain and whose name and address appears on the Santa Clara County Equalized Assessment Roll, and the property owner has been given a reasonable opportunity to appear and be heard before the City Council;

**WHEREAS**, on July 7, 2020, by Resolution No. 20-8869, the City Council [certified the Mitigated Negative Declaration (MND) and Mitigation Monitoring and Reporting Program (MMRP)] for the Project in accordance with California Environmental Quality Act (CEQA). No further environmental review is necessary pursuant to CEQA; and,

**WHEREAS**, pursuant to the provisions of Section 7267.2 of the California Government Code, the City has made an offer to the owner(s) of record to acquire its interests under the Lease for the amount which it has established to be just compensation, therefore.

**NOW THEREFORE, BE IT FURTHER RESOLVED BY THE CITY OF SANTA CLARA AS FOLLOWS:**

1. That the public interest and necessity require the Project.
2. That the Project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury.
3. That the Subject Property Interests sought to be acquired is necessary for the Project.
4. That all environmental review required by law has been prepared and adopted.
5. That the offer required by Section 7267.2 of the California Government Code has been made to the owner(s) of record of the Subject Property Interests.
6. That the necessary notice of hearing has been given, as required by Code of Civil Procedure Section 1245.235.
7. That to the extent the Subject Property Interests are already devoted to a public use, the use of the Subject Property Interests for the Project is a compatible use that will not unreasonably interfere with or impair the continuance of the public use as it presently exists or may reasonably be expected to exist in the future (California Code of Civil Procedure Section 1240.510), or the use of the Subject Property Interests for the Project is a more necessary public use than the presently existing public use (California Code of Civil Procedure Section 1240.610).
8. The City has complied with requirements of CEQA for the Project.

9. That the City Attorney or his duly authorized designee is hereby authorized and directed to institute and conduct to conclusion an action in eminent domain for the acquisition of the estates and interests aforesaid and to take such actions as he may deem advisable or necessary in connection therewith.

10. That the City may deposit with the State Treasury the probable amount of compensation and obtain an order for prejudgment possession of the Subject Property Interests.

11. Effective date. This resolution shall become effective immediately.

I HEREBY CERTIFY THE FOREGOING TO BE A TRUE COPY OF A RESOLUTION PASSED AND ADOPTED BY THE CITY OF SANTA CLARA, CALIFORNIA, AT A REGULAR MEETING THEREOF HELD ON THE 24<sup>TH</sup> DAY OF AUGUST, 2021, BY THE FOLLOWING VOTE:

AYES:	COUNCILORS:	Becker, Chahal, Jain, Park, and Watanabe, and Mayor Gillmor
NOES:	COUNCILORS:	None
ABSENT:	COUNCILORS:	Hardy
ABSTAINED:	COUNCILORS:	None

ATTEST:



NORA PIMENTEL, MMC  
ASSISTANT CITY CLERK  
CITY OF SANTA CLARA

Attachments incorporated by reference:

1. Exhibit A
2. Exhibit B

# EXHIBIT A

SVP REF: SC 19-188

## EXHIBIT "A"

POWERLINE EASEMENT ACROSS:  
D & R MILLER PROPERTIES, LLC  
630 MARTIN AVENUE  
SANTA CLARA, CALIFORNIA 95050  
APN: 224-35-014  
NEW EASEMENT AREA: 190 SQ. FT. ±

### DESCRIPTION:

A portion of that parcel of land conveyed in that certain Grant Deed recorded November 29, 2012 as Document No. 21974802, in the Office of the Recorder of the County of Santa Clara (ORCSC) and herein after known as the Grantor's Parcel, being a portion of Lots 2, 3, 4 and 5 in Block 2, as shown on that certain Map entitled, "Laurelwood Farm Subdivision", which Map was filed for record in the Office of the Recorder of the County of Santa Clara, State of California on March 13, 1924, in Book "S" of Maps, page(s) 7 and 8, being located in the City of Santa Clara, County of Santa Clara, State of California and described as follows:

**COMMENCING** at a monument located at the intersection of the centerline of Martin Avenue and the westerly right-of-way line of the Southern Pacific Railroad; thence South 84°10'09" West 44.35 feet along said centerline; thence South 05°49'51" East 42.00 feet to the southerly right-of-way line of Martin Avenue and the **POINT OF BEGINNING**; thence South 84°10'09" West 19.40 feet along said southerly right-of-way line; thence South 47°00'21 East 26.01 feet to the westerly line of an existing Power Easement (Book 1339 Page 130 ORCSC); thence North 00°47'35" East 19.71 feet along said westerly line to the **POINT OF BEGINNING**.

Containing 190 square feet, more or less.

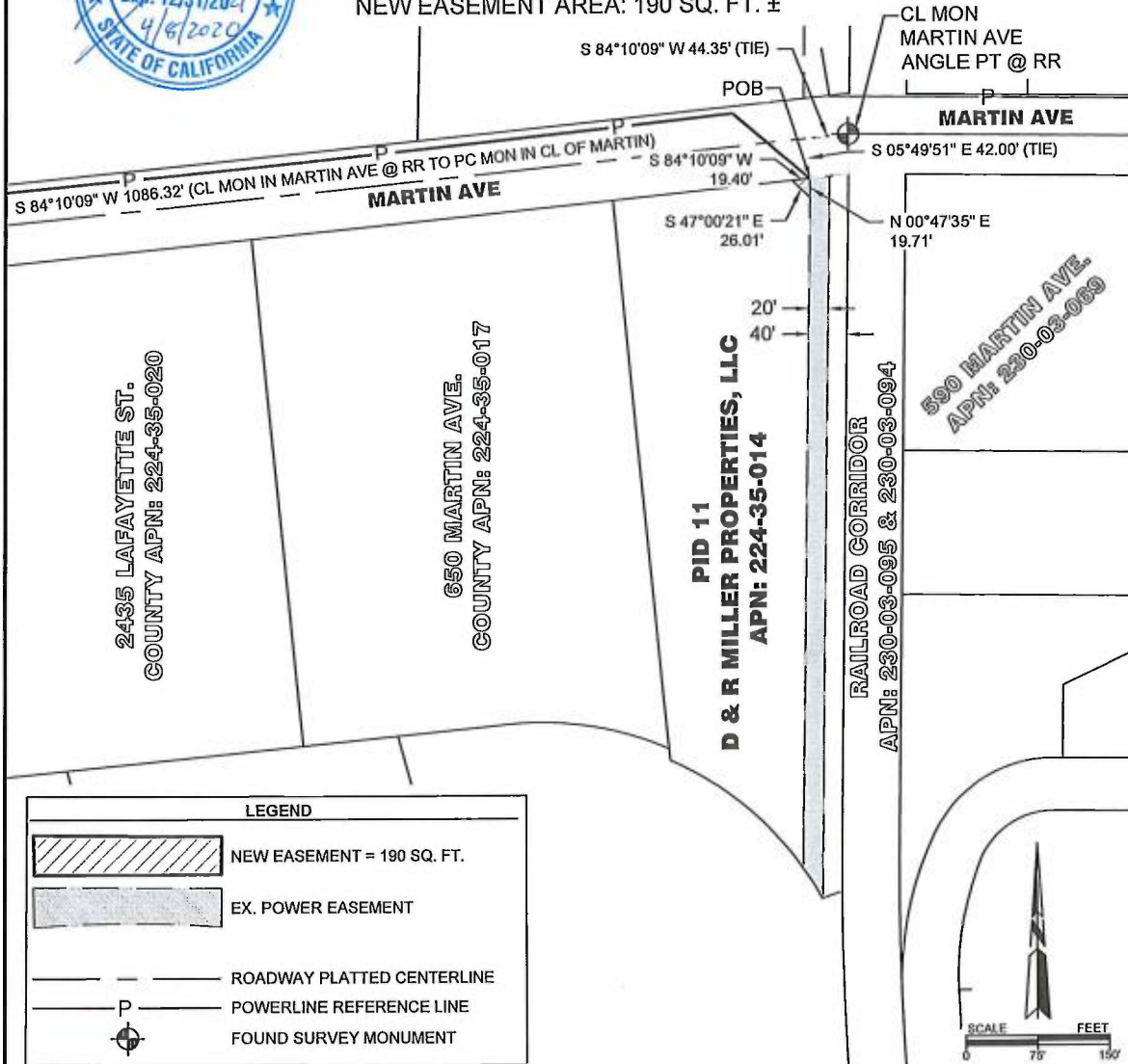


REV: 0	DATE: 4/8/20	SCALE: N/A	BY: TMA	CHK: GHH	APP: JJC
 <b>TEC ELECTRICAL CONSULTANTS, INC.</b> SALT LAKE CITY, UTAH <small>650 West 700 South Woods Cross, UT 84087 (801) 282-9254</small>	D & R MILLER PROPERTIES, LLC APN: 224-35-014 630 MARTIN AVE SANTA CLARA, CALIFORNIA 95050		 <b>SILICON VALLEY POWER.</b> CITY OF SANTA CLARA		
			SHEET: 2 OF 2		






# EXHIBIT "A"

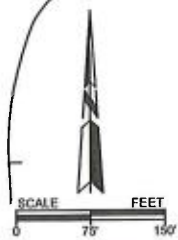
SVP REF: SC 19-188

POWERLINE EASEMENT ACROSS:  
 D & R MILLER PROPERTIES, LLC  
 630 MARTIN AVENUE  
 SANTA CLARA, CALIFORNIA 95050  
 APN: 224-35-014  
 NEW EASEMENT AREA: 190 SQ. FT. ±



**LEGEND**

-  NEW EASEMENT = 190 SQ. FT.
-  EX. POWER EASEMENT
-  ROADWAY PLATTED CENTERLINE
-  POWERLINE REFERENCE LINE
-  FOUND SURVEY MONUMENT



THIS DRAWING SHOULD BE USED ONLY AS A REPRESENTATION OF THE LOCATION OF THE EASEMENT BEING CONVEYED. THE EXACT LOCATION OF ALL STRUCTURES, LINES AND APPURTENANCES IS SUBJECT TO CHANGE WITHIN THE BOUNDARIES OF THE RIGHT OF WAY HEREIN GRANTED

REV: 0    DATE: 4/8/20    SCALE: 1" = 150'    BY: TMA    CHK: GHH    APP: JJC

*Engineering with Distinction*  
**ECI ELECTRICAL**  
 CONSULTANTS, INC.  
 SALT LAKE CITY, UTAH  
 860 West 700 South, Woods Cross, UT 84087 (801) 292-9954

D & R MILLER PROPERTIES, LLC  
 APN: 224-35-014  
 630 MARTIN AVENUE  
 SANTA CLARA, CALIFORNIA 95050

 **SILICON VALLEY POWER.**  
 CITY OF SANTA CLARA  
 SHEET: 1 OF 1

**EXHIBIT B**

SVP REF: SC 19-188

**EXHIBIT "B"**

TEMPORARY CONSTRUCTION EASEMENT ACROSS:  
 D & R MILLER PROPERTIES, LLC  
 630 MARTIN AVENUE  
 SANTA CLARA, CALIFORNIA 95050  
 APN: 224-35-014  
 TCE AREA: 1823 SQ. FT. ±

**DESCRIPTION:**



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The northerly 50 feet of the westerly 40' of the easterly 80' of the Grantor's Parcel.

Less and excepting that portion of land described in the proposed Power Easement (Exhibit A).

Containing 1823 square feet, more or less.



REV: 0	DATE: 4/1/2020	SCALE: N/A	BY: TMA	CHK: GHH	APP: JJC
		TEMPORARY CONSTRUCTION EASEMENT D & R MILLER PROPERTIES, LLC APN: 224-35-014 630 MARTIN AVE SANTA CLARA, CALIFORNIA 95050		 SHEET: 1 OF 2	

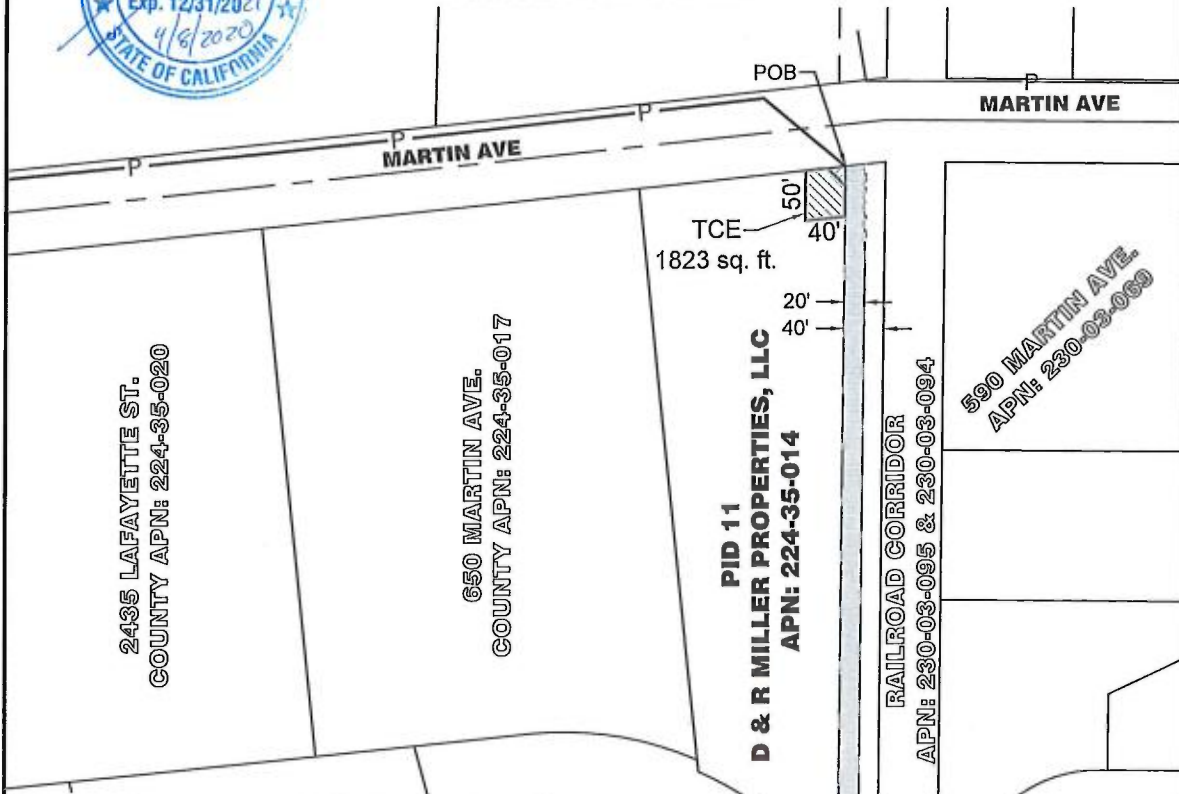


# EXHIBIT "B"

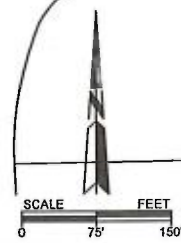
SVP REF: SC 19-188

TEMPORARY CONSTRUCTION EASEMENT ACROSS:

D & R MILLER PROPERTIES, LLC  
 630 MARTIN AVENUE  
 SANTA CLARA, CALIFORNIA 95050  
 APN: 224-35-014  
 TCE AREA: 1823 SQ. FT. ±



LEGEND	
	TEMP. CONSTRUCTION EASEMENT
	ROADWAY PLATTED CENTERLINE
	POWERLINE REFERENCE LINE
	NEW TRANSMISSION EASEMENT
	EX. POWER EASEMENT



THIS DRAWING SHOULD BE USED ONLY AS A REPRESENTATION OF THE LOCATION OF THE EASEMENT BEING CONVEYED. THE EXACT LOCATION OF ALL STRUCTURES, LINES AND APPURTENANCES IS SUBJECT TO CHANGE WITHIN THE BOUNDARIES OF THE RIGHT OF WAY HEREIN GRANTED

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 CITY OF SANTA CLARA  
 SHEET: 2 OF 2