

RESOLUTION NO. 22-9126

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"), plans to construct approximately 0.6 miles of new single circuit 60 kilovolt overhead transmission line within the eastern area of the City of Santa Clara as an element of the Memorex Junction Transmission Line Extension Project ("Project"). The Project will provide service to the new Memorex Junction Substation to be constructed as part of the 1200 Memorex Development and other potential data center or other developments within the vicinity; and

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; and

WHEREAS, it is desirable and necessary for the City to acquire certain real property interests Overhead Electric Utility Easement necessary for the Project, as depicted in Exhibit A; and

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; and

WHEREAS, pursuant to the provisions of Section 1245.235 of the California Code of Civil Procedure, notice has been duly given to SEW, LLC, a California limited liability company, 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; and

WHEREAS, the potential impacts of the Project were evaluated in the Final Environmental Impact Report for the Memorex Data Center Project, which was adopted by the Council on November 9, 2021, by Resolution No. 21-9017. 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 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 property 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 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 may be deemed advisable or necessary in connection therewith.

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7. 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.

8. 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 12TH DAY OF JULY, 2022, BY THE FOLLOWING VOTE:


AYES: COUNCILORS: Becker, Chahal, Hardy, Jain, Park, and Watanabe, and Mayor Gillmor

NOES: COUNCILORS: None

ABSENT: COUNCILORS: None

ABSTAINED: COUNCILORS: None

ATTEST:



NORA PIMENTEL, MMC
ASSISTANT CITY CLERK
CITY OF SANTA CLARA

Attachments incorporated by reference:

1. Exhibit A – Overhead Electric Utility Easement
2. Exhibit B – Exhibit A Description

EXHIBIT A

EXHIBIT "A"

SVP REF: SC -

OVERHEAD ELECTRIC EASEMENT ACROSS:

SEW, LLC

2265 LAFAYETTE STREET

SANTA CLARA, CALIFORNIA 95050

APN: 224-03-080

EASEMENT AREA: 1,200 SQ. FT. ±



DESCRIPTION:

A portion of Parcel B, as shown upon that certain Parcel Map For Lot Line Adjustment Purposes filed for record on October 1, 1985 in Book 550 of Maps, at Page 6, Santa Clara County Records, located in the City of Santa Clara, County of Santa Clara, State of California, described as follows:

COMMENCING at a monument located in the centerline of Lafayette Street near the intersection with Shulman Avenue (as shown on Page 2 of this Exhibit); thence South 15°53'48" East 341.31 feet along said centerline to the monument located at the centerline intersection of said Lafayette Street and Memorex Drive; thence North 74°06'12" East 42.00 feet to the easterly right-of-way of said Lafayette Street and the **POINT OF BEGINNING**; thence North 15°53'48" West 104.65 feet along said easterly right-of-way to the beginning of a curve concave easterly having a radius of 20 feet; thence northerly 13.52 feet along said curved right-of-way through a central angle of 38°44'45" to the southerly line of an existing overhead electric easement; thence South 75°28'59" East 11.30 feet along said southerly line; thence North 82°14'48" East 6.71 feet continuing along said southerly line; thence South 5°14'36" East 112.43 feet to the **POINT OF BEGINNING**.

CONTAINING: 1,200 sq. ft., more or less.



REV: 0	DATE: 4-18-22	BY: AGD	CHK: GHJ	APP: JJC
 SALT LAKE CITY, UTAH 800 West 700 South Woods Cross, UT 84007 (801) 232-2854		SEW, LLC APN: 224-03-080 2265 LAFAYETTE STREET SANTA CLARA, CALIFORNIA 95050		 SHEET: 1 of 2

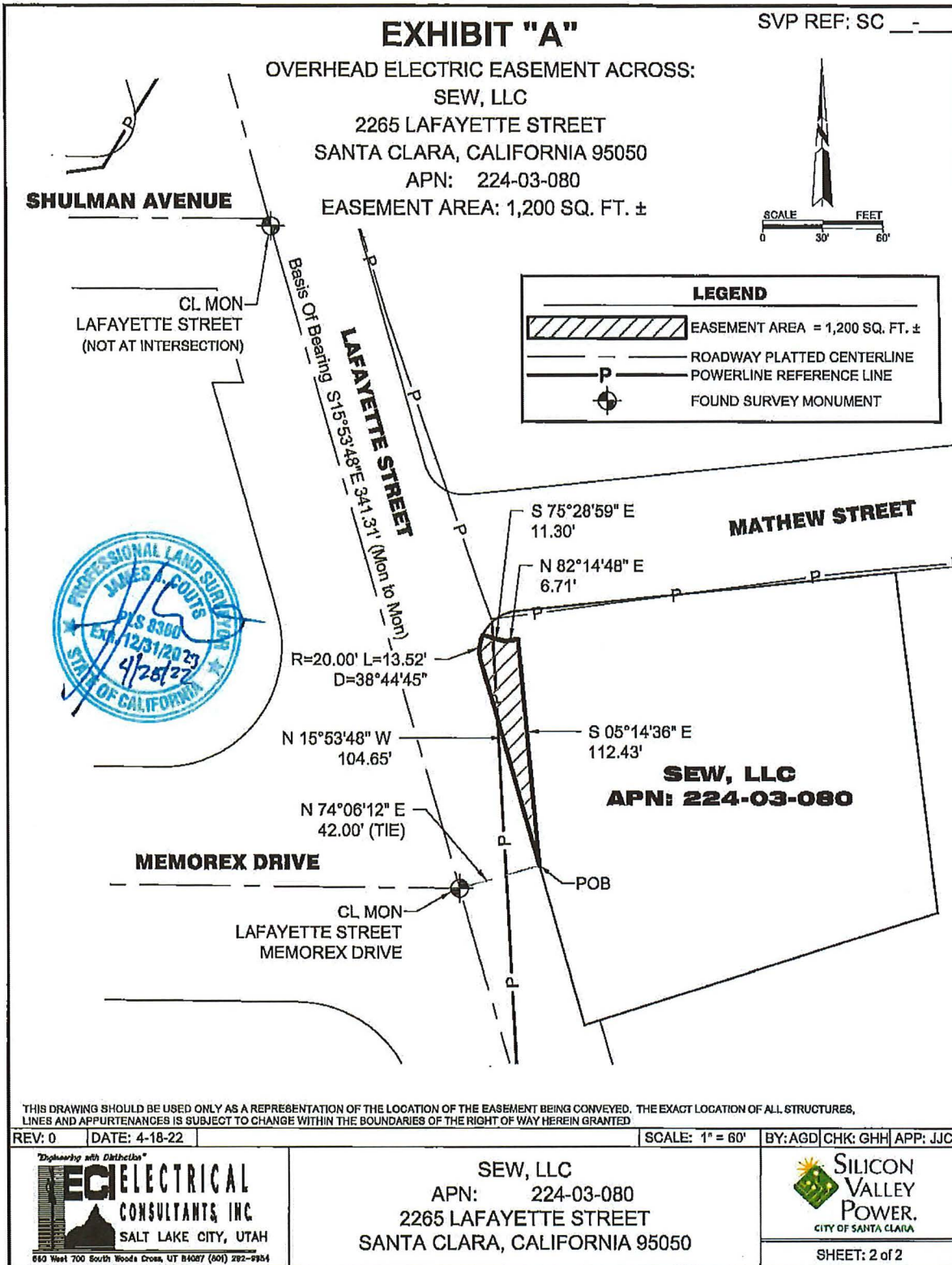


EXHIBIT B

Exhibit A Description

[i] a 1,200 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.