

RESOLUTION NO. 21-8937

**A RESOLUTION OF THE CITY OF SANTA CLARA,
CALIFORNIA, APPROVING PURCHASES OF OVERHEAD
ELECTRIC EASEMENTS**

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 ("City" or "SVP") 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, the Project was analyzed in accordance with the requirements of the California Environmental Quality Act (CEQA). A Mitigated Negative Declaration (MND) [SCH# 2020-05-9009] was prepared for the project by the environmental consultant firm Aspen Environmental Group, and adopted by Council on July 7, 2020 by Resolution No. 20-8869; and,

WHEREAS, City Council provided authority to negotiate Easements with owners of certain parcels required to construct the Project and the City has reached agreements with the two (2) property owners to purchase easements necessary for the Project, upon the terms set forth below.

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

1. That the purchase of the easements from the following two (2) property owners for the negotiated purchase prices are approved.

Address	Grantors	APN	Purchase Price
2755 Lafayette Street	Witkin Properties, L.P.	224-04-062	\$180,000
630 Martin Avenue	D & R Miller Properties, LLC	224-35-014	\$8,800

2. That the City Manager, or duly authorized designee, is hereby authorized and directed to execute the Purchase and Sale Agreements (Utility Easement) with each of the forgoing Grantors, which are attached to the Report to Council accompanying this Resolution and presented to the City Council on February 9, 2021, as incorporated by this reference.

3. 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 SPECIAL MEETING THEREOF HELD ON THE 9TH DAY OF FEBRUARY, 2021, 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. RTC 21-1409
2. Agreement for Purchase and Sale - 2755 Lafayette Street [224-04-062]
3. Agreement for Purchase and Sale – 630 Martin Avenue [224-35-014]



City of Santa Clara

1500 Warburton Avenue
Santa Clara, CA 95050
santaclaraca.gov
@SantaClaraCity

Agenda Report

21-1409

Agenda Date: 2/9/2021

REPORT TO COUNCIL

SUBJECT

Action on a Resolution Approving Purchase and Sale Agreements for Electric Utility Easements on the South Loop Reconfigure Project; 2755 Lafayette Street and 630 Martin Avenue

COUNCIL PILLAR

Deliver and Enhance High Quality Efficient Services and Infrastructure

BACKGROUND

The City of Santa Clara's Electric Utility, Silicon Valley Power (SVP), is proposing to construct approximately 3.5 miles of new single and double circuit 60 kilovolt (kV) overhead transmission lines within the northeastern area of the City. SVP's primary objective of the South Loop Reconfigure Project (Project) is to shift the electrical load demand that is currently being seen on the South Loop Circuit to the East Loop Circuit to increase capacity and system reliability.

The City Council has previously taken a number of actions on this Project:

- June 16, 2015 - Adopted the FY 2015/16 Capital Improvement Program (CIP) Budget which included the initial funding for the engineering for this 60kV conductoring and upgrading project.
- July 12, 2016 - Approved a professional services agreement with Electrical Consultants, Inc. to provide transmission line engineering design services which included reconfiguring the south transmission loop.
- January 14, 2020 - Amended a service agreement with Valbridge Property Advisors to perform appraisal services as part of the easement acquisition for the Project.
- July 7, 2020 - Adopted the Negative Declaration and Mitigation, Monitoring and Reporting Program for the Project and increased the capital funding of the Transmission System Reinforcements Capital Improvement Program Project (No. 2124) by \$6,300,000.
- October 13, 2020 - Approved three Purchase and Sale Agreements for Electric Utility Easements
- November 10, 2020 - Approved two Purchase and Sale Agreements for Electric Utility Easements
- November 17, 2020 - Approved four Purchase and Sale Agreements for Electric Utility Easements
- December 16, 2020 - Approved one Purchase and Sale Agreement for Electric Utility Easement

The majority of the new 60 kV transmission line would be constructed along the following city streets in areas where existing power lines do not currently exist: Lafayette Street, Mathew Street, Martin Avenue and De La Cruz Boulevard. The Project requires the acquisition of thirty-seven (37) parcel

easements to facilitate construction of multiple new monopole steel structures and results in either the expansion of existing electric overhead and wire clearance easements or the acquisition of new easements electrical facilities. Ten (10) Purchase and Sale Agreements for Electric Utility Easements have been approved by Council.

DISCUSSION

The City has negotiated the proposed purchase of the easements from the following two (2) property owners of certain parcels necessary for the Project, upon the terms set forth below.

Address	Grantors	APN	Purchase Price
2755 Lafayette St.	Witkin Properties, L.P.	224-04-062	\$180,000
630 Martin Avenue	D & R Miller Properties, LLC	224-35-014	\$8,800

ENVIRONMENTAL REVIEW

The potential impacts to the Project were addressed in the Mitigated Negative Declaration (MND) [SCH#2020-05-9009] prepared by the environmental consultant firm, Aspen Environmental Group and was adopted by Council on July 7, 2020 by Resolution No. 20-8869.

FISCAL IMPACT

The total cost of the easement purchases is \$188,800. Funds are available in the Adopted Biennial FY 2020/21 and FY 2021/22 Capital Improvement Program Transmission System Reinforcement Project's budget in the Electric Utility Capital Fund.

COORDINATION

This report has been coordinated with the Finance Department and City Attorney's Office.

PUBLIC CONTACT

Public contact was made by posting the Council agenda on the City's official-notice bulletin board outside City Hall Council Chambers. A complete agenda packet is available on the City's website and in the City Clerk's Office at least 72 hours prior to a Regular Meeting and 24 hours prior to a Special Meeting. A hard copy of any agenda report may be requested by contacting the City Clerk's Office at (408) 615-2220, email clerk@santaclaraca.gov <<mailto:clerk@santaclaraca.gov>>.

RECOMMENDATION

1. Adopt the Resolution approving the purchases of overhead electric easements at 2755 Lafayette Street [224-04-062], and 630 Martin Avenue [224-35-014]; and
2. Authorize the recordation thereof.

Reviewed by: Manuel Pineda, Chief Electric Utility Officer

Approved by: Deanna J. Santana, City Manager

ATTACHMENTS

1. Resolution
2. Agreement for Purchase and Sale - 2755 Lafayette Street [224-04-062]
3. Agreement for Purchase and Sale - 630 Martin Avenue [224-35-014]

**AGREEMENT FOR PURCHASE AND SALE
(UTILITY EASEMENT)**

THIS AGREEMENT FOR PURCHASE AND SALE ("**Agreement**") is made and entered into as of JULY 20th, 2021 (the "**Effective Date**") by and between **CITY OF SANTA CLARA**, a municipal corporation ("Grantee" or "City"), and **Witkin Properties, L.P., a California limited partnership** ("Grantor") with regard to the purchase and sale of certain property interests, upon the terms and conditions set forth herein.

RECITALS

WHEREAS, The City of Santa Clara's Electric Utility, Silicon Valley Power (SVP), plans to construct approximately 3.5 miles of new single and double circuit 60 kilovolt (kV) overhead transmission lines within the northeastern area of the City of Santa Clara. SVP's primary objective of the South Loop Reconfigure Project ("Project") is accommodated to shift the electrical load demand that is currently being seen on the South Loop Circuit to the East Loop Circuit to increase capacity and system reliability.

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, Grantee wishes to acquire from Grantor, and Grantor wishes to sell to Grantee certain property rights, as more particularly described in **Exhibit A** and **Exhibit B** (the "Easement") for the Project upon the terms and conditions set forth herein.

WHEREAS, Grantor and Grantee recognize that the sale of the Easement is subject to approval of the Santa Clara City Council and that this Agreement shall have no force or effect unless and until said City Council approval has been obtained, which approval shall be obtained before execution of the Agreement by Grantee.

NOW THEREFORE, in consideration of the mutual covenants and promises of the parties, the parties hereto agree as follows:

**ARTICLE 1
PURCHASE**

1.1. The Easement. Grantor is the fee owner of certain real property commonly known as **2755 Lafayette Street** APN: **224-04-062** located in the City of Santa Clara, California over which the Easement will cross.

1.2. Sale and Conveyance. Grantor shall sell to Grantee and Grantee shall purchase from Grantor, the Easement rights, subject to all of the terms and conditions set forth in Articles 2 and 3 hereof.

**ARTICLE 2
PURCHASE PRICE**

2.1. Purchase Price. The purchase price ("Purchase Price") for the Easement shall be **One Hundred Eighty Thousand and no/100 Dollars (\$180,000.00)**.

2.2. Payment of Purchase Price. The purchase price shall be payable all in cash upon close of Escrow (as defined below) in accordance with Section 4.2.

ARTICLE 3 CONDITIONS TO PURCHASE AND SALE

3.1. Conditions Precedent to Purchase and Sale. The obligation of Grantee to purchase and Grantor to sell the Easement is expressly conditioned upon the satisfaction, prior to closing, of each of the conditions set forth in this Section 3.1 (the "Conditions Precedent").

3.2. Title. Grantee has obtained a preliminary title report dated April 24, 2020, from First American Title Company (the "Title Report"). Grantee acknowledges and agrees that all exceptions are approved by Grantee (the "Approved Exceptions").

3.3. Execution of Overhead Electric Easement Deed. Grantor shall be ready, willing and able to convey title to the Easement by Overhead Electric Easement Deed to Grantee in the form of **Exhibit C** attached hereto (the "Easement Deed") subject only to the Approved Exceptions.

3.4. Deposit of Grant Deed. Grantor shall have deposited into Escrow (as defined below) the Overhead Electric Easement Deed as provided for in Section 4.1.1, conveying title to the Easement (subject to the Approved Exceptions) to the Grantee.

3.5. Title Insurance. The Title Company shall be prepared to issue an ALTA Standard Owner Policy of Title Insurance in the amount of the purchase price insuring title to the Easement vested in Grantee subject only to the Approved Exceptions (the "Title Policy").

3.6. Certificate of Acceptance. Grantee has obtained a resolution of the City Council of the City of Santa Clara authorizing recordation of the Overhead Electric Easement Deed and has deposited a properly executed Certificate of Acceptance into Escrow.

3.7. No Breach. There shall be no material breach of any of Grantor's representations, warranties, or covenants set forth in Article 5.

3.8. Documentary Deposit. Grantor and Grantee shall have each deposited into Escrow all materials required to be deposited under Article 4.

3.9. Grantee's Remedies.

3.9.1 Conditions Precedent. If any of the foregoing Conditions Precedent which inure to the benefit of Grantee are not satisfied, Grantee shall have the right either to waive the condition in question and proceed with the purchase of the Easement pursuant to all of the other terms of this Agreement, or, in the alternative, to terminate this Agreement and any money deposited into Escrow by Grantee shall be returned to Grantee, and thereafter neither party shall have any further rights, obligations or liabilities hereunder, except to the extent that any right, obligation or liability set forth herein expressly survives termination of this Agreement.

3.9.2 Default. If Grantor fails to perform any of its obligations or is otherwise in default under this Agreement, Grantee shall have the right to give notice to Grantor specifically setting forth the nature of said failure and stating that Grantor shall have a period of ten (10) calendar days to cure such failure. If Grantor has not cured such failure within such period (or,

if such failure is not capable of being cured within ten (10) calendar days, and Grantor either has not commenced in good faith the curing of such failure within such period or does not diligently thereafter complete such cure prior to the Closing Date, as may be extended under the terms of this Agreement), Grantee's sole and exclusive remedy shall be one of the following:

(a) Waiver. Waive such failure and proceed to the Closing pursuant to all of the other terms of this Agreement; or

(b) Terminate. Grantee may terminate this Agreement by notice to Grantor and Escrow Agent to that effect. Nothing herein shall be deemed a waiver by Grantor of its right or ability to exercise its power of eminent domain to acquire the Easement after a termination of this Agreement.

3.10. Grantor's Remedies.

3.10.1 Conditions Precedent. If any of the foregoing Conditions Precedent which inure to the benefit of Grantor are not satisfied, Grantor shall have the right to either waive the condition in question and proceed with the sale of the Easement pursuant to all of the other terms of this Agreement, or, in the alternative, to terminate this Agreement and any amounts deposited into Escrow shall be returned to Grantee, and thereafter neither party shall have any further rights, obligations or liabilities hereunder except to the extent that any right, obligation or liability set forth herein expressly survives termination of this Agreement.

ARTICLE 4 CLOSING AND ESCROW

4.1. Deposits into Escrow. Grantee has established an escrow (the "Escrow") with First American Title, 1850 Mt. Diablo Blvd., Suite 530, Walnut Creek, California 94596. Attn.: Roni Sloan Loftin, telephone: (925) 927-2127 (the "Escrow Agent"). A copy of this Agreement, duly executed by both parties, shall be deposited therein within five (5) business days after the Effective Date. Subject to Section 4.2.2 below, this Agreement shall serve as escrow instructions to Escrow Agent, as escrow holder, for consummation of the purchase and sale contemplated hereby. Prior to or on the Closing Date, the Parties shall deposit the following into the Escrow:

4.1.1 Grantor. Grantor shall deposit the following into Escrow:

(a) The Overhead Electric Easement Deed, fully executed and suitable for recordation;

(b) If required by the Escrow Agent, a FIRPTA Affidavit stating Grantor's U.S. taxpayer identification number and that the Grantor is a "United States person" as defined by Internal Revenue Code sections 1445(f)(3) and 7701(b); and

(c) Such other documents and instruments as may be required by other provisions of this Agreement or may be reasonably required by Escrow Agent or otherwise to carry out the terms and intent of this Agreement.

4.1.2 Grantee. Grantee shall deposit the following into Escrow:

(a) Cash or immediately available funds in the amount of the Purchase Price together with such additional cash in the amount necessary to pay Grantee's share of closing costs and prorations, as hereinafter set forth;

(b) An executed Certificate of Acceptance; and

(c) Such other documents and instruments as may be required by any other provision of this Agreement or as may reasonably be required by Escrow Agent or otherwise to carry out the term and intent of this Agreement.

4.2. Close of Escrow.

4.2.1 Closing Date. Escrow shall close on or before the thirtieth (30th) day following execution of this Agreement by Grantee or upon such other date as is mutually agreed upon by Grantee and Grantor (the "Closing Date").

4.2.2 Closing of Escrow. When the Conditions Precedent listed in Section 3.1 have been satisfied or waived by Grantee and Grantor and Escrow Agent has received all necessary cash and documents and is in a position to issue the Title Policy, as provided in Section 3.1.4, Escrow Agent shall immediately close Escrow as provided below (the "Closing"). The parties to this Agreement shall cooperate with each other and the Escrow Agent in preparing and executing such further documents (including further escrow instructions) as may be reasonably necessary to close Escrow as contemplated by this Agreement; provided however, that in the event of any conflict between the provisions of this Agreement and any such further documents or escrow instructions, the terms of this Agreement shall control.

4.2.3 Procedure. Escrow Agent shall close Escrow as follows:

4.2.3.1 Record Deed. Date and record the Overhead Electric Easement Deed in the Official Records of Santa Clara County.

4.2.3.2 Deliver Copies of Deed. Deliver one (1) certified copy of the recorded Deed to Grantee and to Grantor.

4.2.3.3 Pay to Grantor. Pay to Grantor the funds in Escrow equal to the Purchase Price, reduced only by the Grantor's share of closing costs and prorations, as hereinafter set forth in Section 4.2.4 below.

4.2.3.4 Deliver Title Policy. Deliver the Title Policy to Grantee.

4.2.3.5 Closing Statement. Prepare and deliver to Grantee and Grantor one signed copy of the Escrow Agent's closing statement showing all receipts and disbursements of the Escrow.

4.2.4 Closing Costs and Prorations.

4.2.4.1 Closing Costs. Grantee and Grantor shall each pay its own attorney's fees in connection with negotiating this Agreement and closing the Escrow. Grantee shall pay recording costs, if any, Escrow fees, the title insurance premium, and any documentary transfer taxes.

ARTICLE 5
REPRESENTATIONS AND WARRANTIES

5.1. Grantor's Representations and Warranties. Grantor represents and warrants to Grantee that the following matters are true and correct in all material respects as of the execution of this Agreement and will also be true and correct in all material respects as of the Closing:

5.1.1 Organization Authority. **Witkin Properties, L.P.** is a **California limited partnership**, duly organized, validly existing and in good standing under the laws of the State of California and has the full power and authority to execute and deliver this Agreement and all documents now or hereinafter to be executed and delivered by it pursuant to this Agreement and to perform all obligations arising under this Agreement and such performance does not conflict with any obligations of the Grantor. The individuals executing this Agreement and the instruments referred to herein on behalf of Grantor, have the legal power, rights and actual authority to bind Grantor to the terms and conditions hereof and thereof;

5.1.2 No Violation of Agreement; Litigation. Neither the execution, delivery or performance of this Agreement by Grantor will result in the breach of any terms, conditions or provisions of, or conflict with or constitute a default under the terms of any indenture, deed to secure debt, mortgage, deed of trust, note, evidence of indebtedness or any other agreement or instrument by which Grantor or the Easement is bound. Grantor has no knowledge of any pending or threatened litigation, actions, applications, orders, protests, proceedings, or complaints against or affecting title to the Easement or Grantor's interest therein;

5.1.3 Compliance with Laws. Grantor has received no written notice alleging violations of any federal, state or municipal laws or ordinances with regard to any portion of the Easement;

5.1.4 Existing Lease. There are no contracts or agreements with respect to the occupancy of the Easement which will be binding upon Grantee after Closing; and

5.1.5 Grantor Not a Foreign Person. Grantor is not a foreign person within the meaning of Section 1445 of the Internal Revenue Code of 1986, as amended.

ARTICLE 6
GENERAL PROVISIONS

6.1. Approval of City Council. Grantor and Grantee recognize that as of the execution of this Agreement by Grantor, this Agreement is subject to approval of the City Council of the City of Santa Clara and that this Agreement shall have no force or effect unless and until said City Council's approval has been obtained, but such approval shall be obtained before execution of this Agreement by Grantee.

6.2. Binding on Successors. The terms, covenants, and conditions herein contained shall be binding upon and inure to the benefit of the successors and assigns of the parties hereto.

6.3. Entire Agreement. This Agreement including all exhibits hereto contains all of the covenants, conditions, and agreements between the parties and shall supersede all prior correspondence, agreements, and understandings both verbal and written. No addition or

modification of any term or provision shall be effective unless set forth in writing and signed by both Grantor and Grantee.

6.4. Brokers' Fees. Grantor and Grantee each represent and warrant to the other that, there are no brokers' fees or finders' fees arising out of this transaction and each shall indemnify, defend, and hold the other harmless from any claim, loss, cost, damage or expense including, without limitation, attorneys' and experts' fees and costs and court costs arising out of or incurred in connection with any claim by any other broker, finder or other person or entity for any brokerage commission, finder's fee or other amount in connection with any acts or dealings with such indemnifying party with any such broker, finder or other person or entity.

6.5. Attorney's Fees. In the event either party to this Agreement institutes an action to interpret or enforce the terms hereof, or to obtain money damages, the prevailing party, as determined by the court (whether at trial or upon appeal) shall be entitled to recover from the other, in addition to costs and judgment as awarded by the court, its attorney's fees incurred therein. The prevailing party shall include, without limitation, a party who dismisses an action or proceeding for recovery hereunder in exchange for consideration substantially equal to the relief sought in the action or proceeding. In no event shall an attorney's fee award exceed \$5,000.00, whether in the trial court, appellate court, or otherwise, and regardless of the number of attorneys, trials, appeals, or actions.

6.6. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of California.

6.7. Captions. All captions and headings in this Agreement are for the purposes of reference and convenience and shall not limit or expand the provisions of this Agreement.

6.8. Time. Time is of essence of every provision herein contained in this Agreement.

6.9. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all counterparts shall constitute one agreement.

6.10. Survival. The terms, covenants and conditions of Articles 5, 6, and 7 shall remain true and correct as of the Closing Date, shall be deemed to be material and shall survive the execution and delivery of this Agreement, the delivery of the Grant Deed, and transfer of title.

6.11. Notices. All notices, requests or other communications required or permitted to be given in connection with this Agreement shall be in writing and shall be personally delivered (with prompt confirmation by registered or certified mail, postage prepaid), or by commercial courier service, or by registered or certified mail, postage pre-paid, addressed to the party whom it is directed at the following addresses, or at such other addresses as may be designated by notice from such party in the manner provided herein:

To Grantor:

Witkin Properties, L.P.
Attention: JM Witkin
188 Twin Oaks Drive
Los Gatos, California, 95032
Telephone: 408-640-0044

To Grantee:

City of Santa Clara
1500 Warburton Avenue
Santa Clara, California 95050
Attn: City Manager
Telephone: 408-615-2210

With a copy to:

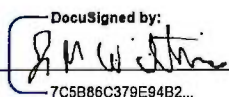
City of Santa Clara City Attorney's Office
1500 Warburton Avenue
Santa Clara, California 95050
Attn: City Attorney
Telephone: (408) 615-2230

Notices which are delivered by hand shall be deemed received upon delivery; notices which are deposited in the United States Mail in accordance with the terms of this Section shall be deemed received three (3) days after the date of mailing and notices delivered by commercial courier service shall be deemed received the date of actual delivery. The foregoing addresses may be changed by notice to the other party as herein provided.

IN WITNESS WHEREOF, the parties hereto have executed one (1) or more copies of this Agreement, on the date(s) set forth below, effective as of the day and year first above written ("Effective Date").


GRANTOR

Witkin Properties, L.P.,
a California limited partnership

By:  7C5B86C379E94B2...
Title: managing partner
Date: 1/25/2021

GRANTEE

City of Santa Clara,
a municipal corporation

By:  Ruth Mizebe Shikade
Title: City Manager
Date: 1/20/2021

APPROVED AS TO FORM



 
City Attorney

EXHIBIT A**(Description of Easement)**

SVP REF: SC 19-299

EXHIBIT "A"

POWERLINE EASEMENT ACROSS:
 WITKIN PROPERTIES L.P.
 2755 LAFAYETTE STREET
 SANTA CLARA, CALIFORNIA 95050
 APN: 224-04-062
 EASEMENT AREA: 8513 SQ. FT. ±

DESCRIPTION:

A portion of that parcel of land conveyed in that certain Grant Deed recorded May 16, 2011 as Document No. 21178877 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 12, 13, 14 and 15 in Block 2, as shown upon that certain Map entitled, "LAURELWOOD FARM SUBDIVISION", which Map was filed for record in the office of the Recorder of County of Santa Clara, State of California, on March 13, 1924, in Book "S" of Maps at page 7 and 8, located in the City of Santa Clara, County of Santa Clara, State of California and described as follows:

Commencing at the monument located at the intersection of Central Expressway and Lafayette Street; thence South 01°14'42" West 1,064.65 feet along the said centerline; thence South 88°45'18" East 50.00 feet to the northwesterly corner of said Grantor's Parcel and the **POINT OF BEGINNING**; thence South 01°14'42" West 516.10 feet along the easterly right-of-way of said Lafayette Street to the beginning of a curve concave northeasterly having a radius of 30.00 feet; thence southeasterly 31.63 feet along said curved right-of-way through a central angle of 60°24'26"; thence North 01°39'27" East 118.62 feet; thence North 00°14'52" East 134.42 feet; thence North 02°28'51" East 186.72 feet; thence North 01°19'50" East 104.69 feet to the northerly line of said Grantor's Parcel; thence South 84°11'42" West 18.02 feet along said northerly line to the **POINT OF BEGINNING**.

Containing 8,513 square feet, more or less.



REV: 3	DATE: 5/13/20	SCALE: N/A	BY: TMA	CHK: GHJ	APP: JJC
		WITKIN PROPERTIES L.P. 2755 LAFAYETTE STREET SANTA CLARA, CALIFORNIA 95050 APN: 224-04-062			
SHEET: 2 OF 2					

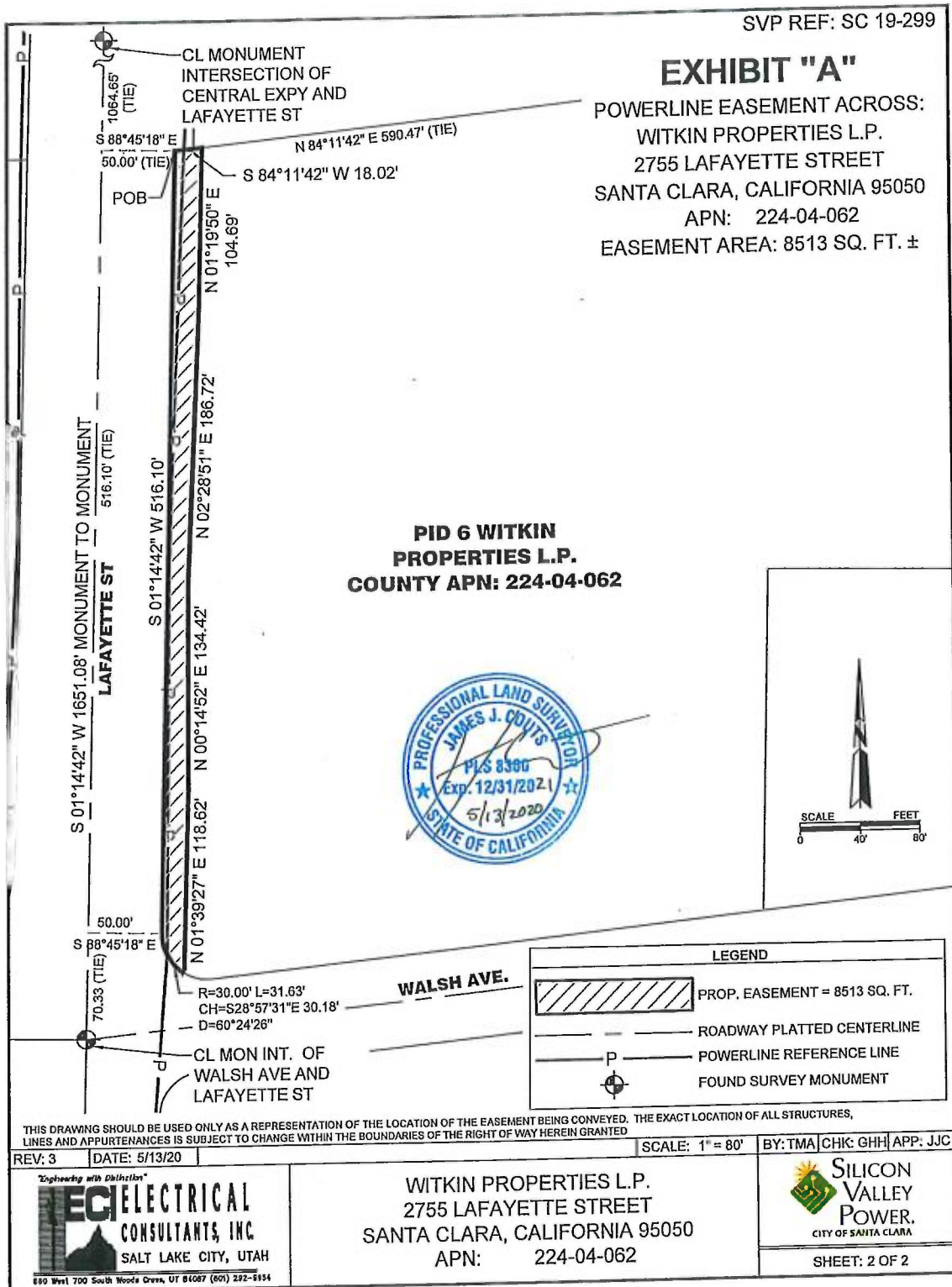


EXHIBIT B

SVP REF: SC 19-299

EXHIBIT "B"**TEMPORARY CONSTRUCTION EASEMENT ACROSS:**

WITKIN PROPERTIES L.P.
 2755 LAFAYETTE STREET
 SANTA CLARA, CALIFORNIA 95050
 APN: 224-04-062
 TCE AREA: 1284 SQ. FT. ±

DESCRIPTION:

A portion of that parcel of land conveyed in that certain Grant Deed recorded May 16, 2011 as Document No. 21178877 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 12, 13, 14 and 15 in Block 2, as shown upon that certain Map entitled, "LAURELWOOD FARM SUBDIVISION", which Map was filed for record in the office of the Recorder of County of Santa Clara, State of California, on March 13, 1924, in Book "S" of Maps at page 7 and 8, located in the City of Santa Clara, County of Santa Clara, State of California and described as follows:

The southerly 30 feet of a 40 feet wide strip of land lying easterly of and adjoining the easterly line of that certain Transmission Powerline Easment described in Exhibit A and as shown of page 2 of 2 of this Exhibit B.

Containing 1,284 square feet, more or less.



REV: 0	DATE: 5/13/2020	SCALE: N/A	BY: TMA	CHK: GHH	APP: JJC
<p>NECELECTRICAL CONSULTANTS, INC. SALT LAKE CITY, UTAH 660 West 700 South Woods Creek, UT 84087 (801) 292-9354</p>		<p>TEMPORARY CONSTRUCTION EASEMENT WITKIN PROPERTIES L.P. 2755 LAFAYETTE STREET SANTA CLARA, CALIFORNIA 95050 APN: 224-04-062</p>		<p>SILICON VALLEY POWER. CITY OF SANTA CLARA</p>	
SHEET: 1 OF 2					

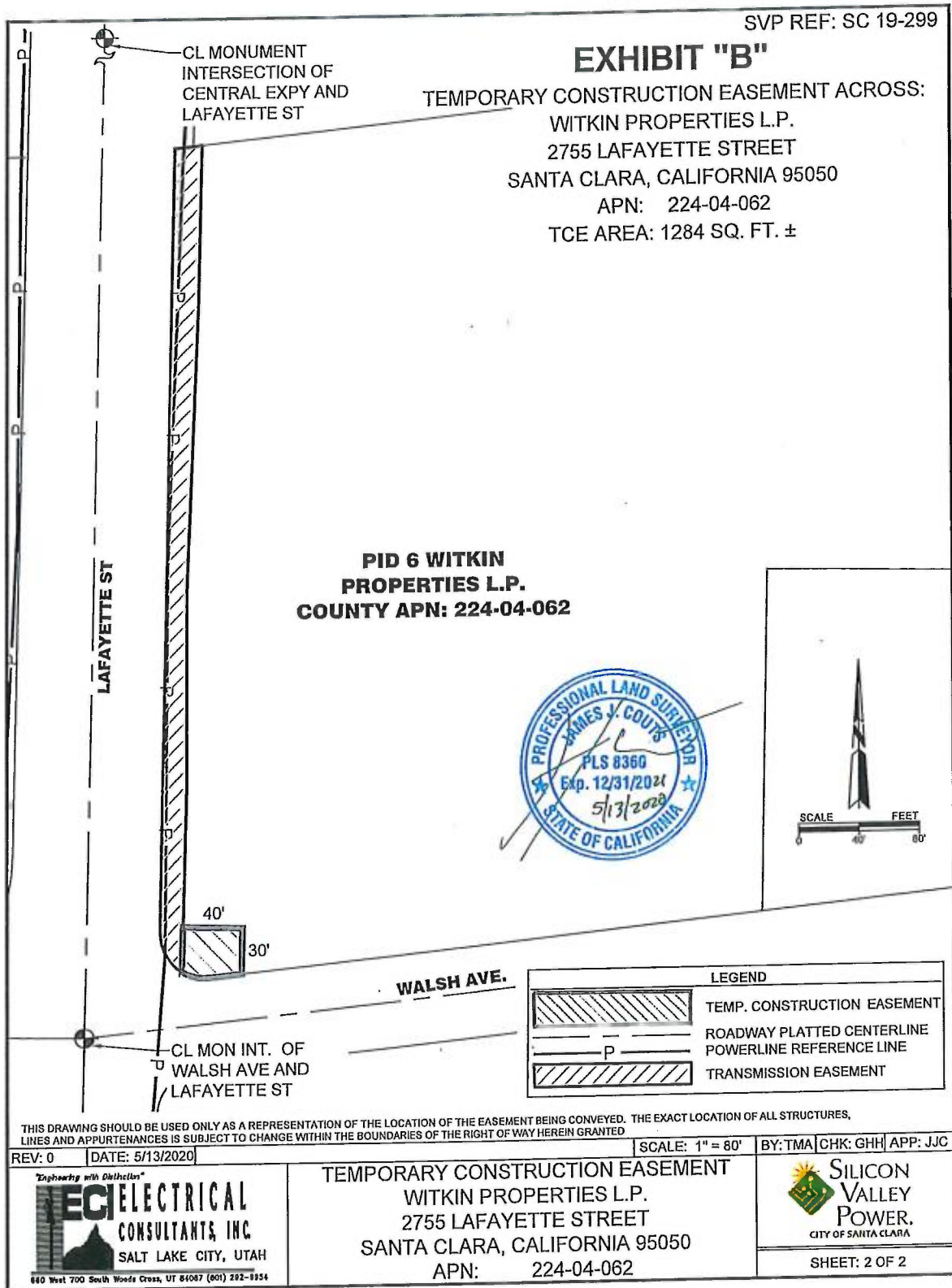


EXHIBIT C

(Overhead Electric Easement Deed)

Recording Requested by:

Office of the City Attorney
City of Santa Clara, California

When Recorded, Mail to:

Office of the City Clerk
City of Santa Clara
1500 Warburton Avenue
Santa Clara, CA 95050

APN: 224-04-062

EXEMPT FROM RECORDING FEE
PER GOV'T CODE §§ 6103 and 27383

EXEMPT FROM FEE
PER GOV'T CODE § 27388.1 (a)(2)(D)

OVERHEAD ELECTRIC EASEMENT DEED

**2755 Lafayette Street
Santa Clara, California**

For valuable consideration, the receipt of which is hereby acknowledged, **Witkin Properties, L.P., a California limited partnership** (herein "**Grantor**"), hereby grants to the **CITY OF SANTA CLARA**, California, a chartered municipal corporation, (herein "**Grantee**"), an easement and right-of-way (herein "**Easement**") in, on, over, along and across the real property owned by Grantor in the City of Santa Clara, State of California, described in **Exhibit A** and **Exhibit B** attached hereto and incorporated herein by this reference ("**Easement Area**").

This Easement described in **Exhibit A** shall be used by Grantee 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 Grantor. In exercising said right of ingress and egress, Grantee shall, wherever practical, use existing roads and lanes across lands of Grantor, if such there be, and if not, by such route or routes as shall result in the least practicable inconvenience to Grantor and any occupants of Grantor'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 Grantor for driveway(s), landscaping (excluding trees), and parking, as will not interfere with the Grantee's use of the Easement. Any other use of the Easement Area by Grantor shall be subject to Grantee's express written consent and only after Grantee's review of plans and specifications and determination that such use will not interfere with

its use of the Easement. Grantee may trim any trees or remove any tree or structure which is in or adjacent to the Easement Area which, in its reasonable determination, interferes with its use of the Easement. Grantee 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 Grantee's facilities or equipment located within the Easement.

The Easement described in **Exhibit B** shall be used by Grantee 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 ("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 Property owner. Access and use of portions of the TCE Area by Property 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 Property owner so as not to unreasonably impede/hinder access to/from and within the Property.

[SIGNATURE(S) APPEAR ON THE FOLLOWING PAGE]

IN WITNESS WHEREOF, said grantor has hereunto set their hands this _____ day of _____, 20____.

**Witkin Properties, L.P.,
a California limited partnership**

By: _____

Title: _____

Date: _____

APPROVED FOR FORM:

Brian Doyle
City Attorney

ALL LEGAL OWNERS OF PROPERTY MUST EXECUTE THIS DOCUMENT. IF GRANTOR IS A CORPORATION, THE COMPLETE LEGAL NAME AND CORPORATE SEAL OF THE CORPORATION AND CORPORATE TITLES OF THE PERSONS SIGNING FOR THE CORPORATION SHALL APPEAR ABOVE. WRITTEN EVIDENCE OF AUTHORITY OF PERSON OR PERSONS EXECUTING THIS DOCUMENT ON BEHALF OF CORPORATION, PARTNERSHIP, OR JOINT VENTURE, OR ANY OTHER ORGANIZATION OTHER THAN A SOLE PROPRIETORSHIP SHALL BE ATTACHED.
ATTACH THE ALL-PURPOSE NOTARY ACKNOWLEDGMENT FORM FOR THE PERSON OR PERSONS EXECUTING THIS DOCUMENT ON BEHALF OF THE GRANTOR.

CALIFORNIA NOTARY ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California

County of _____

On _____ before me, _____ (name and title of officer), personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that she/he/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____

(Seal)

CERTIFICATE OF ACCEPTANCE

This is to certify that the interest in real property conveyed by Overhead Electric Utility Deed dated the ____ of _____ 20____, from Witkin Properties, L.P., a California limited partnership (Grantor) to the City of Santa Clara, California, a chartered California municipal corporation (City), is hereby accepted by the undersigned officer on behalf of the City Council of the City pursuant to authority conferred by Resolution No. 5600 of the City Council of the City of Santa Clara adopted on the 28 day of May, 1991, and the Resolution Approving Purchase of Overhead Electric Easement, Resolution No. _____ adopted on _____, 20____. The City, as Grantee, consents to recordation by its duly authorized officer, the City Clerk of the City of Santa Clara.

Re: APN 224-04-062

Dated: This ____ day of _____, 20____

DEANNA J. SANTANA
City Manager
City of Santa Clara

APPROVED AS TO FORM:

BRIAN DOYLE
City Attorney

ATTEST: _____
NORA PIMENTEL, MMC
Assistant City Clerk

Exhibit A

SVP REF: SC 19-299

EXHIBIT "A"

POWERLINE EASEMENT ACROSS:
 WITKIN PROPERTIES L.P.
 2755 LAFAYETTE STREET
 SANTA CLARA, CALIFORNIA 95050
 APN: 224-04-062
 EASEMENT AREA: 8513 SQ. FT. ±

DESCRIPTION:

A portion of that parcel of land conveyed in that certain Grant Deed recorded May 16, 2011 as Document No. 21178877 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 12, 13, 14 and 15 in Block 2, as shown upon that certain Map entitled, "LAURELWOOD FARM SUBDIVISION", which Map was filed for record in the office of the Recorder of County of Santa Clara, State of California, on March 13, 1924, in Book "S" of Maps at page 7 and 8, located in the City of Santa Clara, County of Santa Clara, State of California and described as follows:

Commencing at the monument located at the intersection of Central Expressway and Lafayette Street; thence South 01°14'42" West 1,064.65 feet along the said centerline; thence South 88°45'18" East 50.00 feet to the northwesterly corner of said Grantor's Parcel and the **POINT OF BEGINNING**; thence South 01°14'42" West 516.10 feet along the easterly right-of-way of said Lafayette Street to the beginning of a curve concave northeasterly having a radius of 30.00 feet; thence southeasterly 31.63 feet along said curved right-of-way through a central angle of 60°24'26"; thence North 01°39'27" East 118.62 feet; thence North 00°14'52" East 134.42 feet; thence North 02°28'51" East 186.72 feet; thence North 01°19'50" East 104.69 feet to the northerly line of said Grantor's Parcel; thence South 84°11'42" West 18.02 feet along said northerly line to the **POINT OF BEGINNING**.

Containing 8,513 square feet, more or less.



REV: 3	DATE: 5/13/20	SCALE: N/A	BY: TMA CHK: GHH APP: JJC
		WITKIN PROPERTIES L.P. 2755 LAFAYETTE STREET SANTA CLARA, CALIFORNIA 95050 APN: 224-04-062	
		SHEET: 2 OF 2	

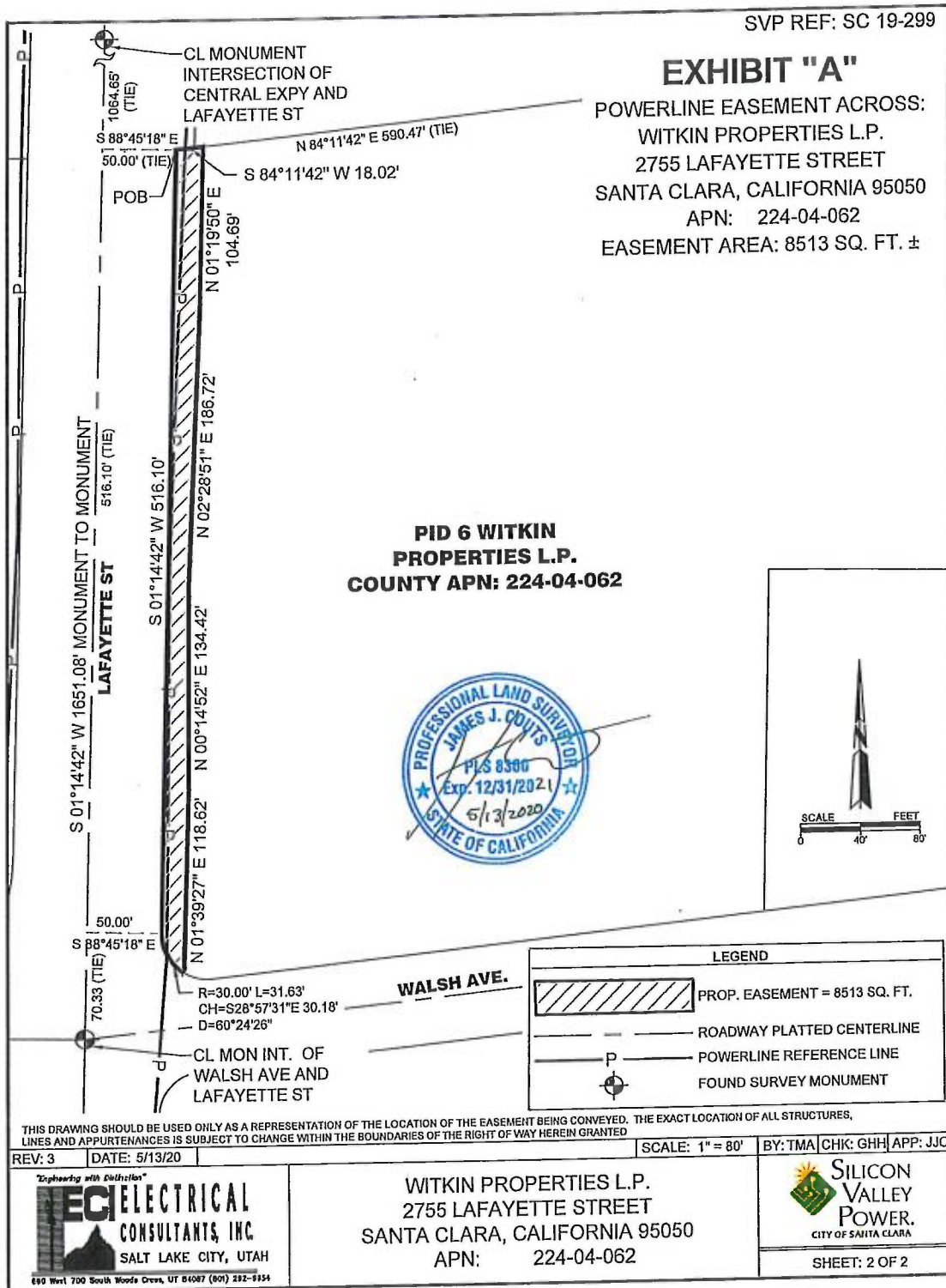


Exhibit B

SVP REF: SC 19-299

EXHIBIT "B"**TEMPORARY CONSTRUCTION EASEMENT ACROSS:**

WITKIN PROPERTIES L.P.
 2755 LAFAYETTE STREET
 SANTA CLARA, CALIFORNIA 95050
 APN: 224-04-062
 TCE AREA: 1284 SQ. FT. ±

DESCRIPTION:

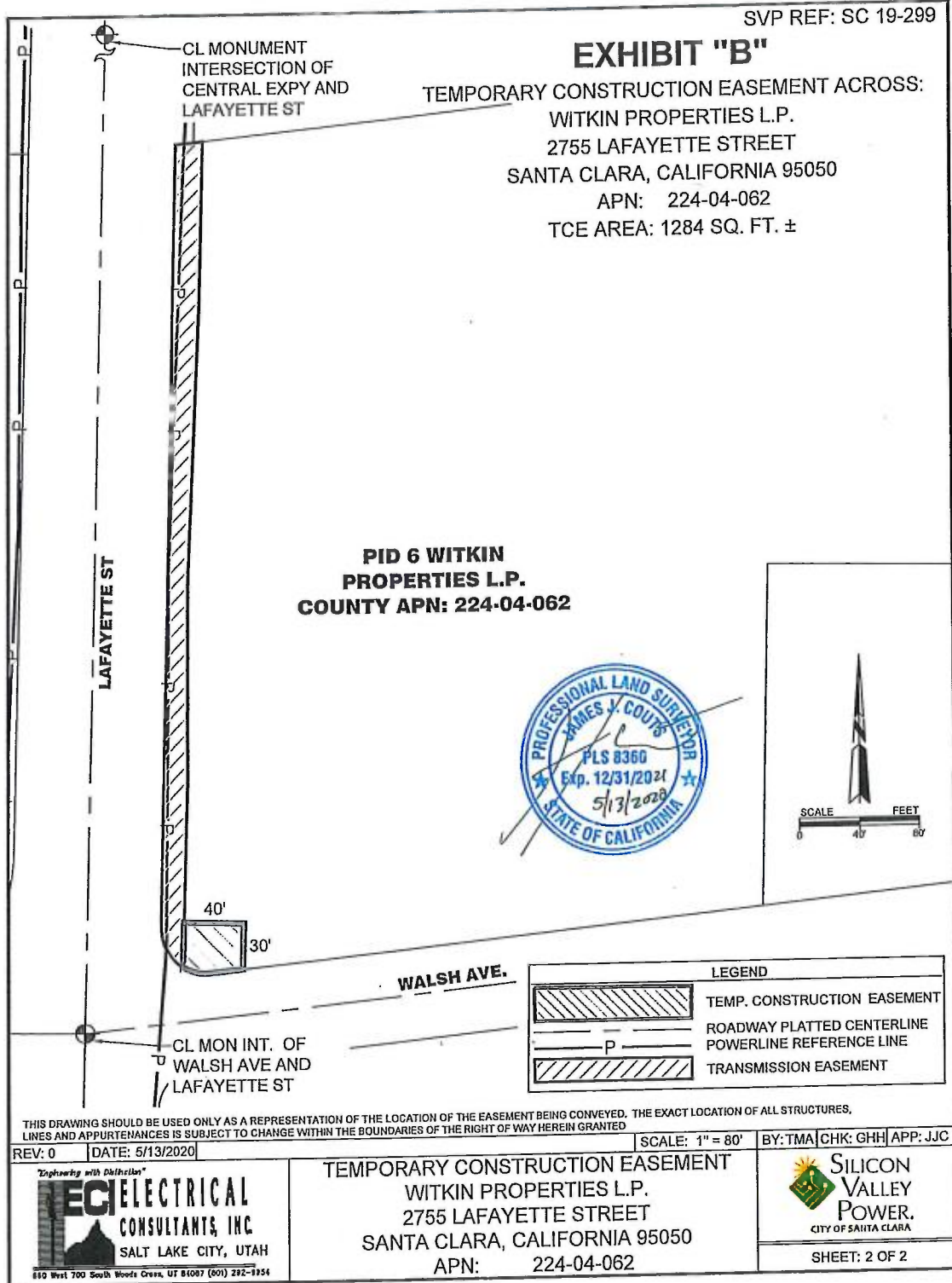
A portion of that parcel of land conveyed in that certain Grant Deed recorded May 16, 2011 as Document No. 21178877 in the Office of the Recorder of the County of Santa Clara (ORCSC), and herein after known as the Grantor's Parcel, being a Portion of Lots 12, 13, 14 and 15 in Block 2, as shown upon that certain Map entitled, "LAURELWOOD FARM SUBDIVISION", which Map was filed for record in the office of the Recorder of County of Santa Clara, State of California, on March 13, 1924, in Book "S" of Maps at page 7 and 8, located in the City of Santa Clara, County of Santa Clara, State of California and described as follows:

The southerly 30 feet of a 40 feet wide strip of land lying easterly of and adjoining the easterly line of that certain Transmission Powerline Easment described in Exhibit A and as shown of page 2 of 2 of this Exhibit B.

Containing 1,284 square feet, more or less.



REV: 0	DATE: 5/13/2020	SCALE: N/A	BY: TMA CHK: GHM APP: JJC
<p>HECI ELECTRICAL CONSULTANTS, INC. SALT LAKE CITY, UTAH 815 West 700 South Woods Creek, UT 84087 (801) 232-1554</p>	<p>TEMPORARY CONSTRUCTION EASEMENT WITKIN PROPERTIES L.P. 2755 LAFAYETTE STREET SANTA CLARA, CALIFORNIA 95050 APN: 224-04-062</p>		<p>SILICON VALLEY POWER. CITY OF SANTA CLARA</p>
			SHEET: 1 OF 2



**AGREEMENT FOR PURCHASE AND SALE
(UTILITY EASEMENT)**

THIS AGREEMENT FOR PURCHASE AND SALE ("**Agreement**") is made and entered into as of JULY 20th 2021 (the "**Effective Date**") by and between CITY OF SANTA CLARA ("Grantee" or "City") and **D & R Miller Properties, LLC, a California limited liability company** ("Grantor") with regard to the purchase and sale of certain property interests, upon the terms and conditions set forth herein.

RECITALS

WHEREAS, The City of Santa Clara's Electric Utility, Silicon Valley Power (SVP), plans to construct approximately 3.5 miles of new single and double circuit 60 kilovolt (kV) overhead transmission lines within the northeastern area of the City of Santa Clara. SVP's primary objective of the South Loop Reconfigure Project ("Project") is accommodated to shift the electrical load demand that is currently being seen on the South Loop Circuit to the East Loop Circuit to increase capacity and system reliability.

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, Grantee wishes to acquire from Grantor, and Grantor wishes to sell to Grantee certain property rights, as more particularly described in **Exhibit A** and **Exhibit B** (the "Easement") for the Project upon the terms and conditions set forth herein.

WHEREAS, Grantor and Grantee recognize that the sale of the Easement is subject to approval of the Santa Clara City Council and that this Agreement shall have no force or effect unless and until said City Council approval has been obtained, which approval shall be obtained before execution of the Agreement by Grantee.

NOW THEREFORE, in consideration of the mutual covenants and promises of the parties, the parties hereto agree as follows:

**ARTICLE 1
PURCHASE**

1.1. The Easement. Grantor is the fee owner of certain real property commonly known as **630 Martin Avenue** APN: **224-35-014** located in the City of Santa Clara, California over which the Easement will cross.

1.2. Sale and Conveyance. Grantor shall sell to Grantee and Grantee shall purchase from Grantor, all of the terms and conditions set forth in Articles 2 and 3 hereof, the Easement.

**ARTICLE 2
PURCHASE PRICE**

2.1. Purchase Price. The purchase price ("Purchase Price") for the Easement shall be **Eight Thousand Eight Hundred and no/100 Dollars (\$8,800.00)**.

2.2. Payment of Purchase Price. The purchase price shall be payable all in cash upon close of Escrow (as defined below) in accordance with Section 4.2.

ARTICLE 3 CONDITIONS TO PURCHASE AND SALE

3.1. Conditions Precedent to Purchase and Sale. The obligation of Grantee to purchase and Grantor to sell the Easement is expressly conditioned upon the satisfaction, prior to closing, of each of the conditions set forth in this Section 3.1 (the "Conditions Precedent").

3.2. Title. Grantee has obtained a preliminary title report dated November 18, 2020, from First American Title Company (the "Title Report"). Grantee acknowledges and agrees that all exceptions are approved by Grantee (the "Approved Exceptions").

3.3. Execution of Overhead Electric Easement Deed. Grantor shall be ready, willing and able to convey title to the Easement by Overhead Electric Easement Deed to Grantee in the form of **Exhibit C** attached hereto (the "Easement Deed") subject only to the Approved Exceptions.

3.4. Deposit of Grant Deed. Grantor shall have deposited into Escrow (as defined below) the Overhead Electric Easement Deed as provided for in Section 4.1.1, conveying title to the Easement (subject to the Approved Exceptions) to the Grantee.

3.5. Title Insurance. The Title Company shall be prepared to issue an ALTA Standard Owner Policy of Title Insurance in the amount of the purchase price insuring title to the Easement vested in Grantee subject only to the Approved Exceptions (the "Title Policy").

3.6. Certificate of Acceptance. Grantee has obtained a resolution of the City Council of the City of Santa Clara authorizing recordation of the Overhead Electric Easement Deed and has deposited a properly executed Certificate of Acceptance into Escrow.

3.7. No Breach. There shall be no material breach of any of Grantor's representations, warranties, or covenants set forth in Article 5.

3.8. Documentary Deposit. Grantor and Grantee shall have each deposited into Escrow all materials required to be deposited under Article 4.

3.9. Grantee's Remedies.

3.9.1 Conditions Precedent. If any of the foregoing Conditions Precedent which inure to the benefit of Grantee are not satisfied, Grantee shall have the right either to waive the condition in question and proceed with the purchase of the Easement pursuant to all of the other terms of this Agreement, or, in the alternative, to terminate this Agreement and any money deposited into Escrow by Grantee shall be returned to Grantee, and thereafter neither party shall have any further rights, obligations or liabilities hereunder except to the extent that any right, obligation or liability set forth herein expressly survives termination of this Agreement.

3.9.2 Default. If Grantor fails to perform any of its obligations or is otherwise in default under this Agreement, Grantee shall have the right to give notice to Grantor specifically setting forth the nature of said failure and stating that Grantor shall have a period of ten (10) calendar days to cure such failure. If Grantor has not cured such failure within such period (or,

if such failure is not capable of being cured within ten (10) calendar days, Grantor either has not commenced in good faith the curing of such failure within such period or does not diligently thereafter complete such cure prior to the Closing Date, as may be extended under the terms of this Agreement), Grantee's sole and exclusive remedy shall be one of the following:

(a) Waiver. Waive such failure and proceed to the Closing pursuant to all of the other terms of this Agreement; or

(b) Terminate. Grantee may terminate this Agreement by notice to Grantor and Escrow Agent to that effect. Nothing herein shall be deemed a waiver by Grantor of its right or ability to exercise its power of eminent domain to acquire the Easement after a termination of this Agreement.

3.10. Grantor's Remedies.

3.10.1 Conditions Precedent. If any of the foregoing Conditions Precedent which inure to the benefit of Grantor are not satisfied, Grantor shall have the right to either waive the condition in question and proceed with the sale of the Easement pursuant to all of the other terms of this Agreement, or, in the alternative, to terminate this Agreement and any amounts deposited into Escrow shall be returned to Grantee, and thereafter neither party shall have any further rights, obligations or liabilities hereunder except to the extent that any right, obligation or liability set forth herein expressly survives termination of this Agreement.

ARTICLE 4 CLOSING AND ESCROW

4.1. Deposits into Escrow. Grantee has established an escrow (the "Escrow") with First American Title, 1850 Mt. Diablo Blvd., Suite 530, Walnut Creek, CA 94596. Attn.: Roni Sloan Loftin, telephone: (925) 927-2127 (the "Escrow Agent"). A copy of this Agreement, duly executed by both parties, shall be deposited therein within five (5) business days after the Effective Date. Subject to Section 4.2.2 below, this Agreement shall serve as escrow instructions to Escrow Agent, as escrow holder, for consummation of the purchase and sale contemplated hereby. Prior to or on the Closing Date, the Parties shall deposit the following into the Escrow:

4.1.1 Grantor. Grantor shall deposit the following into Escrow:

(a) The Overhead Electric Easement Deed, fully executed and suitable for recordation;

(b) If required by the Escrow Agent, a FIRPTA Affidavit stating Grantor's U.S. taxpayer identification number and that the Grantor is a "United States person" as defined by Internal Revenue Code sections 1445(f)(3) and 7701(b); and

(c) Such other documents and instruments as may be required by other provisions of this Agreement or may be reasonably required by Escrow Agent or otherwise to carry out the terms and intent of this Agreement.

4.1.2 Grantee. Grantee shall deposit the following into Escrow:

(a) Cash or immediately available funds in the amount of the Purchase Price together with such additional cash in the amount necessary to pay Grantee's share of closing costs and prorations, as hereinafter set forth;

(b) An executed Certificate of Acceptance; and

(c) Such other documents and instruments as may be required by any other provision of this Agreement or as may reasonably be required by Escrow Agent or otherwise to carry out the term and intent of this Agreement.

4.2. Close of Escrow.

4.2.1 Closing Date. Escrow shall close on or before the thirtieth (30th) day following execution of this Agreement by Grantee or upon such other date as is mutually agreed upon by Grantee and Grantor (the "Closing Date").

4.2.2 Closing of Escrow. When the Conditions Precedent listed in Section 3.1 have been satisfied or waived by Grantee and Grantor and Escrow Agent has received all necessary cash and documents and is in a position to issue the Title Policy, as provided in Section 3.1.4, Escrow Agent shall immediately close Escrow as provided below (the "Closing"). The parties to this Agreement shall cooperate with each other and the Escrow Agent in preparing and executing such further documents (including further escrow instructions) as may be reasonably necessary to close Escrow as contemplated by this Agreement; provided however, that in the event of any conflict between the provisions of this Agreement and any such further documents or escrow instructions, the terms of this Agreement shall control.

4.2.3 Procedure. Escrow Agent shall close Escrow as follows:

4.2.3.1 Record Deed. Date and record the Overhead Electric Easement Deed in the Official Records of Santa Clara County.

4.2.3.2 Deliver Copies of Deed. Deliver one (1) certified copy of the recorded Deed to Grantee.

4.2.3.3 Pay to Grantor. Pay to Grantor the funds in Escrow equal to the Purchase Price, reduced only by the Grantor's share of closing costs and prorations, as hereinafter set forth in Section 4.2.4 below.

4.2.3.4 Deliver Title Policy. Deliver the Title Policy to Grantee.

4.2.3.5 Closing Statement. Prepare and deliver to Grantee and Grantor one signed copy of the Escrow Agent's closing statement showing all receipts and disbursements of the Escrow.

4.2.4 Closing Costs and Prorations.

4.2.4.1 Closing Costs. Grantee and Grantor shall each pay its own attorney's fees in connection with negotiating this Agreement and closing the Escrow. Grantee shall pay recording costs, if any, Escrow fees, the title insurance premium, and any documentary transfer taxes.

ARTICLE 5 REPRESENTATIONS AND WARRANTIES

5.1. Grantor's Representations and Warranties. Grantor represents and warrants to Grantee that the following matters are true and correct in all material respects as of the execution of this Agreement and will also be true and correct in all material respects as of the Closing:

5.1.1 Organization Authority. **D & R Miller Properties, LLC**, is a **California limited liability company**, duly organized, validly existing and in good standing under the laws of the State of California and has the full power and authority to execute and deliver this Agreement and all documents now or hereinafter to be executed and delivered by it pursuant to this Agreement and to perform all obligations arising under this Agreement and such performance does not conflict with any obligations of the Grantor. The individuals executing this Agreement and the instruments referred to herein on behalf of Grantor, have the legal power, rights and actual authority to bind Grantor to the terms and conditions hereof and thereof;

5.1.2 No Violation of Agreement; Litigation. Neither the execution, delivery or performance of this Agreement by Grantor will result in the breach of any terms, conditions or provisions of, or conflict with or constitute a default under the terms of any indenture, deed to secure debt, mortgage, deed of trust, note, evidence of indebtedness or any other agreement or instrument by which Grantor or the Easement is bound. Grantor has no knowledge of any pending or threatened litigation, actions, applications, orders, protests, proceedings, or complaints against or affecting title to the Easement or Grantor's interest therein;

5.1.3 Compliance with Laws. Grantor has received no written notice alleging violations of any federal, state or municipal laws or ordinances with regard to any portion of the Easement;

5.1.4 Existing Lease. There are no contracts or agreements with respect to the occupancy of the Easement which will be binding upon Grantee after Closing; and

5.1.5 Grantor Not a Foreign Person. Grantor is not a foreign person within the meaning of Section 1445 of the Internal Revenue Code of 1986, as amended.

ARTICLE 6 GENERAL PROVISIONS

6.1. Approval of City Council. Grantor and Grantee recognize that as of the execution of this Agreement by Grantor, this Agreement is subject to approval of the City Council of the City of Santa Clara and that this Agreement shall have no force or effect unless and until said City Council's approval has been obtained, but such approval shall be obtained before execution of this Agreement by Grantee.

6.2. Binding on Successors. The terms, covenants, and conditions herein contained shall be binding upon and inure to the benefit of the successors and assigns of the parties hereto.

6.3. Entire Agreement. This Agreement including all exhibits hereto contains all of the covenants, conditions, and agreements between the parties and shall supersede all prior correspondence, agreements, and understandings both verbal and written. No addition or

modification of any term or provision shall be effective unless set forth in writing and signed by both Grantor and Grantee.

6.4. Brokers' Fees. Grantor and Grantee each represent and warrant to the other that, there are no brokers' fees or finders' fees arising out of this transaction and each shall indemnify, defend, and hold the other harmless from any claim, loss, cost, damage or expense including, without limitation, attorneys' and experts' fees and costs and court costs arising out of or incurred in connection with any claim by any other broker, finder or other person or entity for any brokerage commission, finder's fee or other amount in connection with any acts or dealings with such indemnifying party with any such broker, finder or other person or entity.

6.5. Attorney's Fees. In the event either party to this Agreement institutes an action to interpret or enforce the terms hereof, or to obtain money damages, the prevailing party, as determined by the court (whether at trial or upon appeal) shall be entitled to recover from the other, in addition to costs and judgment as awarded by the court, its attorney's fees incurred therein. The prevailing party shall include, without limitation, a party who dismisses an action or proceeding for recovery hereunder in exchange for consideration substantially equal to the relief sought in the action or proceeding. In no event shall an attorney's fee award exceed \$5,000, whether in the trial court, appellate court, or otherwise, and regardless of the number of attorneys, trials, appeals, or actions.

6.6. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of California.

6.7. Captions. All captions and headings in this Agreement are for the purposes of reference and convenience and shall not limit or expand the provisions of this Agreement.

6.8. Time. Time is of essence of every provision herein contained in this Agreement.

6.9. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all counterparts shall constitute one agreement.

6.10. Survival. The terms, covenants and conditions of Articles 5, 6, and 7 shall remain true and correct as of the Closing Date, shall be deemed to be material and shall survive the execution and delivery of this Agreement, the delivery of the Grant Deed, and transfer of title.

6.11. Notices. All notices, requests or other communications required or permitted to be given in connection with this Agreement shall be in writing and shall be personally delivered (with prompt confirmation by registered or certified mail, postage prepaid), or by commercial courier service, or by registered or certified mail, postage pre-paid, addressed to the party whom it is directed at the following addresses, or at such other addresses as may be designated by notice from such party in the manner provided herein:

To Grantor:

D & R Miller Properties, LLC
Attention: Dana Miller
630 Martin Avenue
Santa Clara, CA, 95050
Telephone: 408-261-2595

To Grantee:

City of Santa Clara
1500 Warburton Avenue
Santa Clara, CA 95050
Attn: City Manager
Telephone: 408-615-2210

With a copy to:

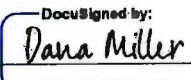
City of Santa Clara City Attorney's Office
1500 Warburton Avenue
Santa Clara, CA 95050
Attn: City Attorney
Telephone: (408) 615-2230

Notices which are delivered by hand shall be deemed received upon delivery; notices which are deposited in the United States Mail in accordance with the terms of this Section shall be deemed received three (3) days after the date of mailing and notices delivered by commercial courier service shall be deemed received the date of actual delivery. The foregoing addresses may be changed by notice to the other party as herein provided.

IN WITNESS WHEREOF, the parties hereto have executed one (1) or more copies of this Agreement, on the date(s) set forth below, effective as of the day and year first above written ("Effective Date").

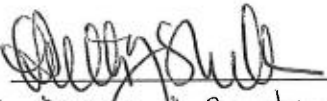

GRANTOR

D & R Miller Properties, LLC, a California limited liability company

By: 
DocuSigned by:
58DEF7E5B215417...
Title: Vice President
Date: 12/9/2020

GRANTEE

City of Santa Clara,
a municipal corporation

By:  
Title: City Manager
Date: 2/10/2021

APPROVED AS TO FORM


 for
City Attorney, Brian Doyle

EXHIBIT A**(Description of Easement)**

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
		D & R MILLER PROPERTIES, LLC APN: 224-35-014 630 MARTIN AVE SANTA CLARA, CALIFORNIA 95050			
SHEET: 2 OF 2					

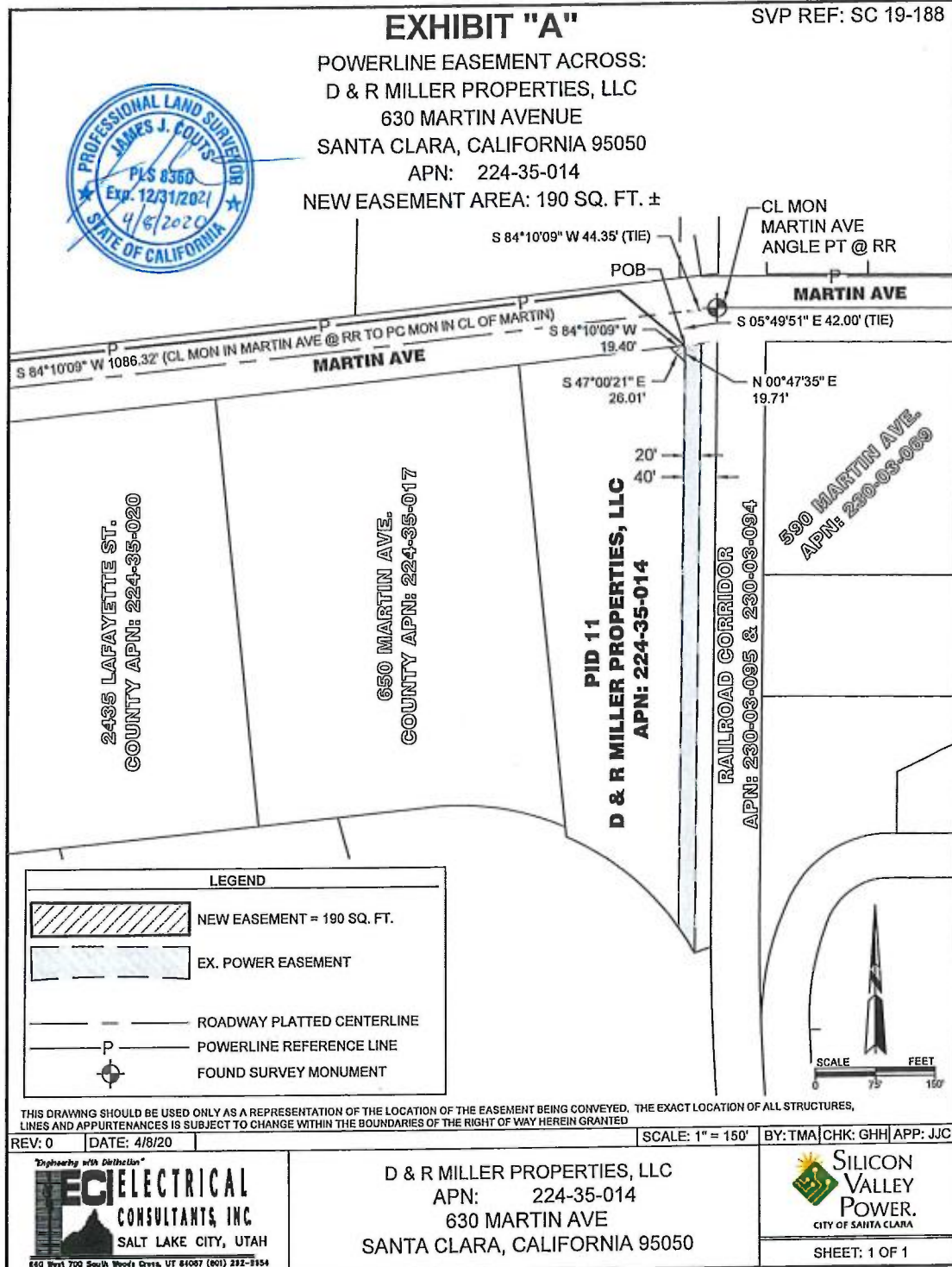


EXHIBIT B**EXHIBIT "B"**

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. ±

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:

The westerly 42 feet of the easterly 97 feet of that portion of the Grantor's Parcel lying northerly of a line parallel with and 5 feet distant northerly of the existing building. Along with the easterly 55 feet of that portion of the Grantor's parcel lying northerly of the existing fence land gate line. As shown on page 2 of this exhibit.

Containing 1,823 square feet, more or less.

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



REV: 1	DATE: 11/20/2020	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	

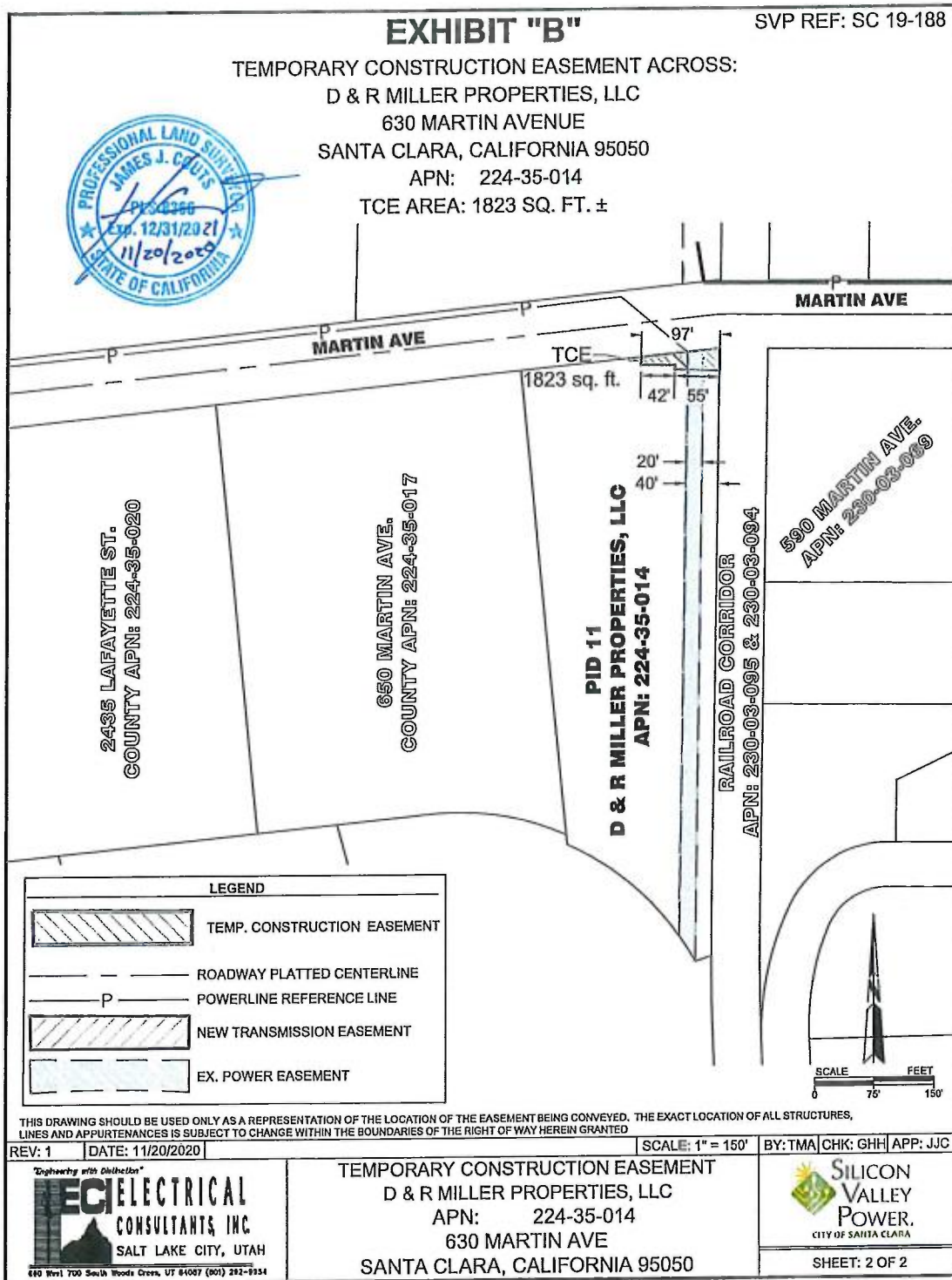


EXHIBIT C

(Overhead Electric Easement Deed)

Recording Requested by:

Office of the City Attorney
City of Santa Clara, California

When Recorded, Mail to:

Office of the City Clerk
City of Santa Clara
1500 Warburton Avenue
Santa Clara, CA 95050

APN: 224-35-014

EXEMPT FROM RECORDING FEE
PER GOV'T CODE §§ 6103 and 27383

EXEMPT FROM FEE
PER GOV'T CODE § 27388.1 (a)(2)(D)

OVERHEAD ELECTRIC EASEMENT DEED

**630 Martin Avenue
Santa Clara, California**

For valuable consideration, the receipt of which is hereby acknowledged, **D & R Miller Properties, LLC, a California limited liability company** (herein "**Grantor**"), hereby grants to the **CITY OF SANTA CLARA, California**, a chartered municipal corporation, (herein "**Grantee**"), an easement and right-of-way (herein "**Easement**") in, on, over, along and across the real property owned by Grantor in the City of Santa Clara, State of California, described in **Exhibit A** and **Exhibit B** attached hereto and incorporated herein by this reference ("**Easement Area**").

This Easement described in **Exhibit A** shall be used by Grantee 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 Grantor. In exercising said right of ingress and egress, Grantee shall, wherever practical, use existing roads and lanes across lands of Grantor, if such there be, and if not, by such route or routes as shall result in the least practicable inconvenience to Grantor and any occupants of Grantor'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 Grantor for driveway(s), landscaping (excluding trees), and parking, as will not interfere with the Grantee's use of the Easement. Any other use of the Easement Area by Grantor shall be subject to Grantee's express written consent and only after Grantee's review of plans and specifications and determination that such use will not interfere with

its use of the Easement. Grantee may trim any trees or remove any tree or structure which is in or adjacent to the Easement Area which, in its reasonable determination, interferes with its use of the Easement. Grantee 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 Grantee's facilities or equipment located within the Easement.

The Easement described in **Exhibit B** shall be used by Grantee 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 ("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 Property owner. Access and use of portions of the TCE Area by Property 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 Property owner so as not to unreasonably impede/hinder access to/from and within the Property.

[SIGNATURE(S) APPEAR ON THE FOLLOWING PAGE]

IN WITNESS WHEREOF, said grantor has hereunto set their hands this _____ day of _____, 20__.

**D & R Miller Properties, LLC,
a California limited liability company**

By: _____

Title: _____

Date: _____

APPROVED FOR FORM:

Brian Doyle
City Attorney

ALL LEGAL OWNERS OF PROPERTY MUST EXECUTE THIS DOCUMENT. IF GRANTOR IS A CORPORATION, THE COMPLETE LEGAL NAME AND CORPORATE SEAL OF THE CORPORATION AND CORPORATE TITLES OF THE PERSONS SIGNING FOR THE CORPORATION SHALL APPEAR ABOVE. WRITTEN EVIDENCE OF AUTHORITY OF PERSON OR PERSONS EXECUTING THIS DOCUMENT ON BEHALF OF CORPORATION, PARTNERSHIP, OR JOINT VENTURE, OR ANY OTHER ORGANIZATION OTHER THAN A SOLE PROPRIETORSHIP SHALL BE ATTACHED.
ATTACH THE ALL-PURPOSE NOTARY ACKNOWLEDGMENT FORM FOR THE PERSON OR PERSONS EXECUTING THIS DOCUMENT ON BEHALF OF THE GRANTOR.

CALIFORNIA NOTARY ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California

County of _____

On _____ before me, _____ (name and title of officer), personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that she/he/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____

(Seal)

CERTIFICATE OF ACCEPTANCE

This is to certify that the interest in real property conveyed by Overhead Electric Utility Deed dated the ____ of _____ 20____, from **D & R Miller Properties, LLC, a California limited liability company** (Grantor) to the City of Santa Clara, California, a chartered California municipal corporation (City), is hereby accepted by the undersigned officer on behalf of the City Council of the City pursuant to authority conferred by Resolution No. 5600 of the City Council of the City of Santa Clara adopted on the 28 day of May, 1991, and the Resolution Approving Purchase of Overhead Electric Easement, Resolution No. _____ adopted on _____, 20____. The City, as Grantee, consents to recordation by its duly authorized officer, the City Clerk of the City of Santa Clara.

Re: APN **224-35-014**

Dated: This ____ day of _____, 20____

DEANNA J. SANTANA
City Manager
City of Santa Clara

APPROVED AS TO FORM:

BRIAN DOYLE
City Attorney

ATTEST: _____
NORA PIMENTEL, MMC
Assistant City Clerk

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
		D & R MILLER PROPERTIES, LLC APN: 224-35-014 630 MARTIN AVE SANTA CLARA, CALIFORNIA 95050			
				SHEET: 2 OF 2	

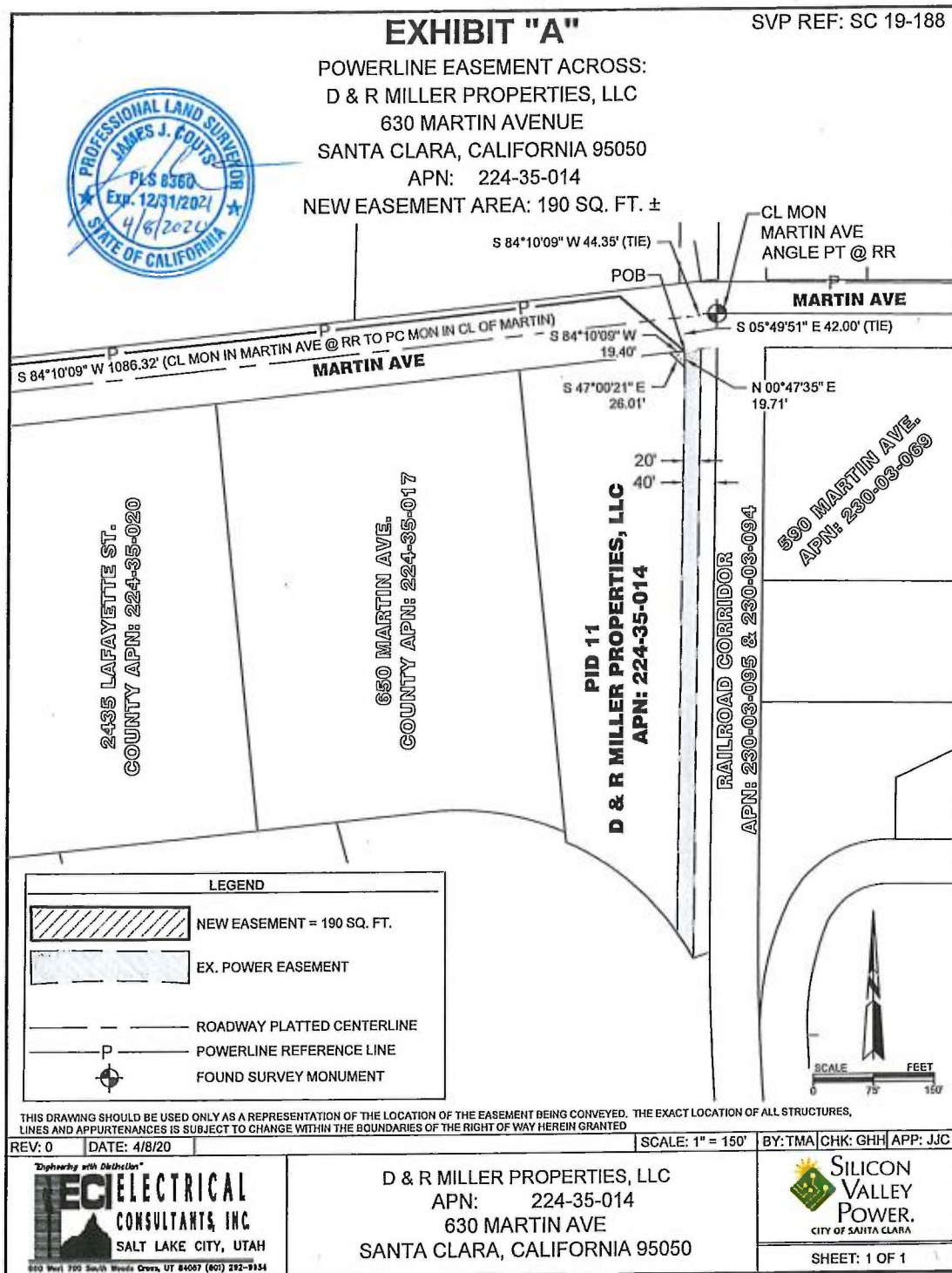


Exhibit B**EXHIBIT "B"**

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. ±

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:

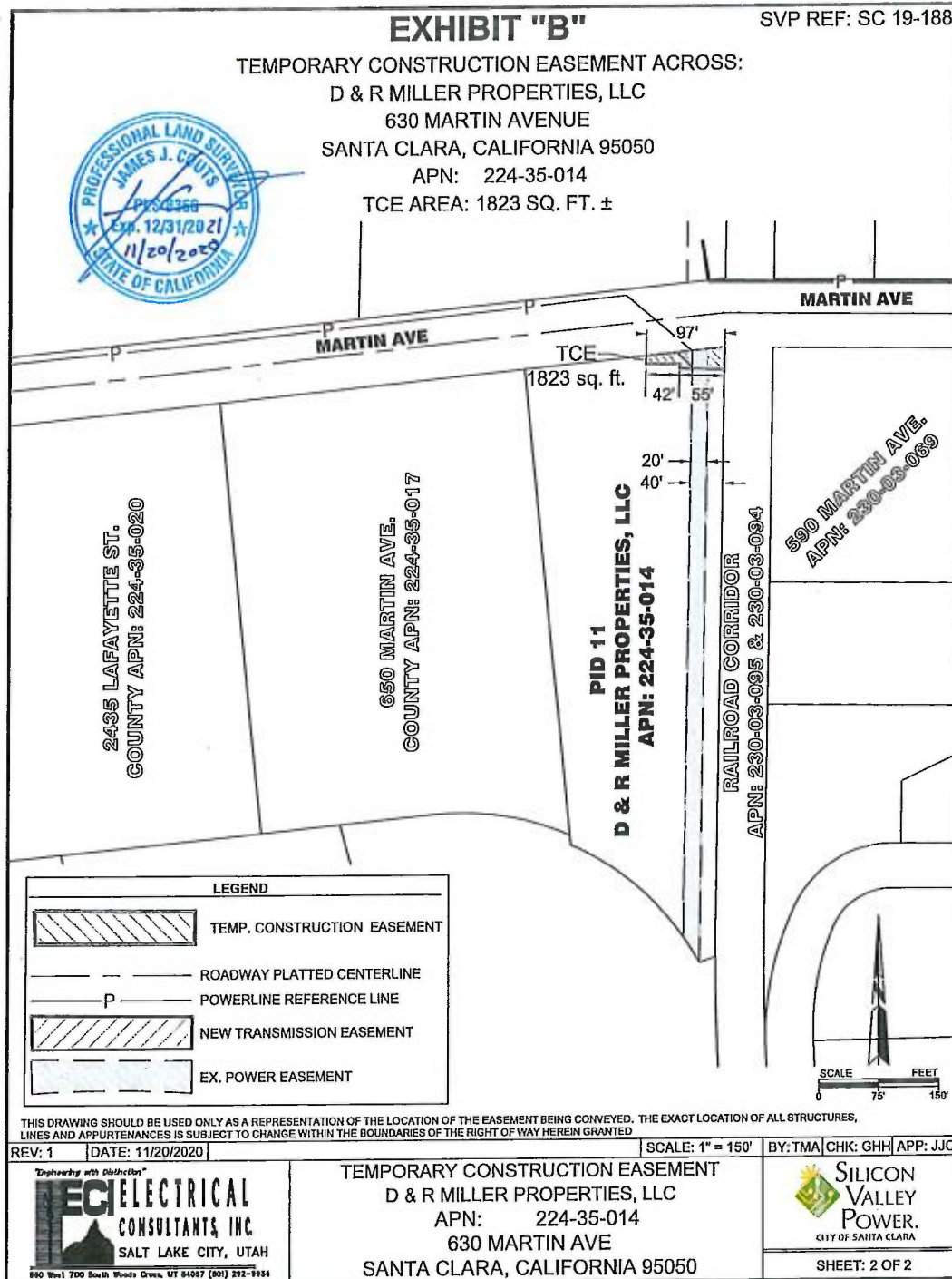
The westerly 42 feet of the easterly 97 feet of that portion of the Grantor's Parcel lying northerly of a line parallel with and 5 feet distant northerly of the existing building. Along with the easterly 55 feet of that portion of the Grantor's parcel lying northerly of the existing fence land gate line. As shown on page 2 of this exhibit.

Containing 1,823 square feet, more or less.

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



REV: 1	DATE: 11/20/2020	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					



FEB 10 2022

[Exempt From Filing Fee
Government Code § 6103]

1 F. GALE CONNOR (Bar No. 131994)
ANGELA J. YU (Bar No. 263212)
2 MILLER STARR REGALIA
A Professional Law Corporation
3 580 California Street, 12th Floor
San Francisco, California 94104
4 Telephone: (415) 638-4800
Facsimile: (415) 371-1012
5 Email: gale.connor@msrlegal.com
angela.yu@msrlegal.com

Filed
February 14, 2022
Clerk of the Court
Superior Court of CA
County of Santa Clara
21CV388727
By: rsandoval

6 Attorneys for Plaintiff CITY OF SANTA CLARA
7

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA

9 COUNTY OF SANTA CLARA
10

11 CITY OF SANTA CLARA, a California
12 Charter City,

Case No. 21CV388727

APN: 224-35-014

13 Plaintiff,

~~[PROPOSED]~~
FINAL ORDER OF CONDEMNATION

14 v.

15 D & R MILLER PROPERTIES, LLC, a
California limited liability company suspended
16 by the Secretary of State; and DOES 1 - 50,

17 Defendants.
18

Action Filed: September 16, 2021
Trial Date: None Set

19
20 Judgment of Condemnation having been entered in the above-entitled action on
21 December 21, 2021, in the Office of the County Clerk of the County of Santa Clara, State of
22 California, and appearing to the satisfaction of the Court that the Total Compensation due and
23 owing under said Judgment has been paid by Plaintiff City of Santa Clara in accordance with the
24 Stipulation for Entry of Judgment in Condemnation and the Judgment in Condemnation.

25 IT IS HEREBY ORDERED, ADJUDGED AND DECREED THAT the real
26 property located in the County of Santa Clara, State of California, more particularly described
27
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1 and depicted in Exhibits A and B attached hereto (the "Easements") are hereby condemned to
2 Plaintiff City of Santa Clara, subject to the terms and conditions set forth herein.

3 IT IS HEREBY ORDERED, ADJUDGED AND DECREED THAT the property
4 condemned by the City in this action is an approximately 190 square foot permanent overhead
5 electric utility easement ("Permanent Easement") and an approximately 1,823 square foot non-
6 exclusive temporary easement for construction purposes ("TCE") (collectively, the "Easement
7 Area" and "Easements") for the purpose of constructing and reconstructing, installing, operating,
8 inspecting, maintaining, repairing, removing and/or replacing overhead electrical transmission,
9 distribution and/or communication systems, and appurtenances thereto. The overhead electric
10 system will consist of poles, wire supports, wires and conductors suspended from pole to pole,
11 transformers and other equipment mounted on the poles, anchors, guy attachments and other
12 appurtenances (the "Improvements"), all as more particularly described and depicted in Exhibits
13 A and B attached hereto. The property encumbered by said Easements is commonly known as
14 630 Martin Avenue, Santa Clara, CA 95050, APN 224-35-014 (the "Encumbered Property").

15 IT IS HEREBY ORDERED, ADJUDGED AND DECREED THAT the City
16 shall, at all times during the continuance of the Easements, have a reasonable right of ingress and
17 egress over adjoining lands of the fee owner. In exercising said right of ingress and egress, the
18 City shall, wherever practical, use existing roads and lanes across lands of the fee owner; if such
19 there be, and if not, by such route or routes as shall result in the least practical inconvenience to
20 the fee owner of the Encumbered Property and any occupants thereof. Portions of the Easement
21 Area may be used by the fee owner for driveway(s), landscaping (excluding trees), and parking,
22 as will not interfere with the City's use of the Easement. Any other use of the Easement Area by
23 fee owner shall be subject to the City's express written consent and only after the City's review
24 of plans and specifications and determinations that such use will not interfere with its use of its
25 Easement. The City may trim any trees or remove any trees or structures which are in or
26 adjacent to the Easement Area which, in the City's reasonable determination, interfere with its
27 use of the Easement. The City may trim any trees or remove any trees which are in or adjacent
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1 to the Easement Area which exceed a height of 20 feet or pose a risk of falling onto the
2 Easement, onto the City's facilities or equipment located within the Easement.

3 IT IS HEREBY ORDERED, ADJUDGED AND DECREED THAT all
4 Improvements installed in or affixed to the Easement Area by the City shall be constructed,
5 maintained and operated in compliance with all applicable laws and regulations and in such
6 manner as to not unreasonably interfere with Defendants' use and enjoyment of the Encumbered
7 Property. For purposes of Project related construction activities, the City's contractor
8 ("Contractor") shall comply with all toxic, water and soil pollution controls and air pollution
9 controls specified in Government Code section 11017 and ensure that members of the public are
10 protected from exposure to airborne hazards or contaminated water, soil or other toxic materials
11 used during or generated by activities on the site associated with the Project. In the event the
12 Contractor causes hazardous or toxic materials to be deposited on the Property, Defendants shall
13 immediately notify Plaintiff so that it can cause the Contractor to remove or remediate such
14 condition. There are no petroleum-based products, creosote or arsenicals used in connection
15 with the steel pole on a concrete foundation to be constructed within the Easement Area. The
16 City shall pay for all labor used upon and all materials joined to or affixed to the Easement Area
17 and shall keep the Easement Area and Encumbered Property free of any lien, or claim of lien, in
18 respect thereto. The City shall repair, at its sole cost and expense, any and all damages to the
19 Easement Area or Encumbered Property arising from or by reason of the City's access to, or use
20 of the Easement Area, and in doing so, shall restore the Easement Area and Encumbered
21 Property to a condition as close to its original condition as possible. Defendants shall promptly
22 notify the City of any damage to the Encumbered Property arising from or by reason of the
23 City's access to, or use of the Easement Area. The foregoing notwithstanding, in no event shall
24 the City be liable for any damage to, or loss of personal property or equipment sustained by the
25 fee owner within the Easement Area, whether or not it is insured, except if such loss is caused by
26 the gross negligence or willful misconduct of the City. Any taxes assessed upon the City's
27 Improvements located with the Easement Area shall be paid by the City.

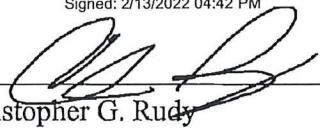
1 IT IS HEREBY ORDERED, ADJUDGED AND DECREED THAT actual
2 physical use and occupation of the TCE Area will occur only intermittently and only for a
3 timeframe not to exceed twenty-one (21) days total, each phase of which to commence following
4 forty-eight (48) hours prior written notice to the fee owner. Access and use of portions of the
5 TCE Area by the fee owner, tenants, invitees and guests will be allowed to the extent that said
6 portion is not being used for Project construction or for staging purposes at that time.
7 Construction of the Project is expected to take no more than six (6) months, and the TCE shall
8 terminate upon written notice from Plaintiff that the TCE is no longer needed for the Project.
9 Under all circumstances, unless it expires or is terminated earlier, the TCE term shall expire nine
10 (9) months following the date the TCE is first used for the Project (the "TCE Term"). Plaintiff
11 will stage and coordinate work in the TCE Area with the fee owner so as not to unreasonably
12 impede/hinder access to/from and within the larger parcel. Upon completion of the TCE Term,
13 Plaintiff will cause the removal of all construction equipment and materials from the TCE Area,
14 and will restore the TCE Area to a condition which is safe and reasonably suited to its original
15 use.

16 IT IS HEREBY ORDERED, ADJUDGED AND DECREED THAT upon the
17 recording of a certified copy of this Final Order of Condemnation with the County Recorder of
18 the County of Santa Clara, State of California, title to the Easement described and depicted in
19 Exhibit A shall vest in Plaintiff City of Santa Clara, its successors and assigns.

20
21 **IT IS SO ORDERED.**

22 DATED: February 13, 2022

Signed: 2/13/2022 04:42 PM


Hon. Christopher G. Rudy
JUDGE OF THE SUPERIOR COURT

23
24
25 **APPROVED AS TO FORM.**
26
27
28

1 Dated: January 31, 2022

MILLER STARR REGALIA

BY FAX

2
3 By: 

4 F. GALE CONOR

5 Attorneys for Plaintiff CITY OF SANTA CLARA

6
7 Dated: February 9, 2022, 2022 THE ELLIS LAW GROUP, P.C.

8
9 By: 

BY FAX

10 MICHAEL ELLIS

11 Attorneys for Defendant D & R MILLER
12 PROPERTIES, LLC
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EXHIBIT A

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, "Lafayette 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.

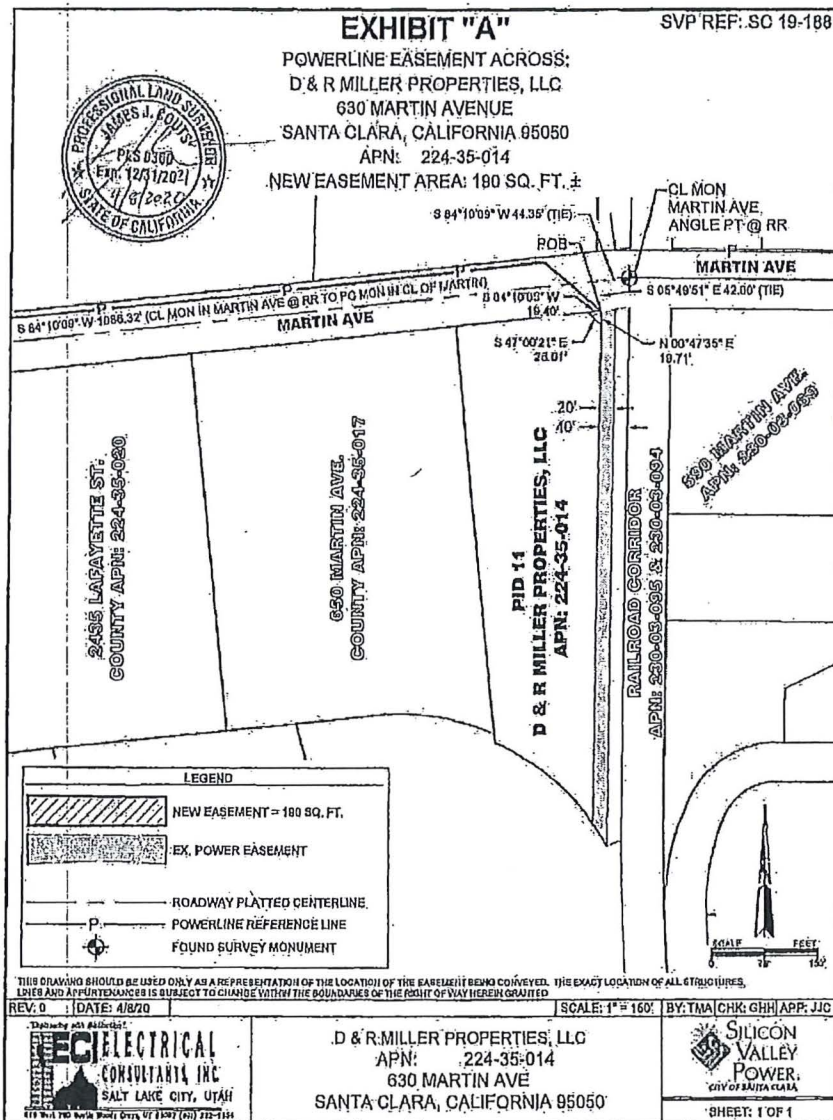
Containing 190 square feet, more or less.



REV: 0	DATE: 4/8/20	SCALE: N/A	BY: TMA/CHK: GHH/APP: JJC
 ELECTRICAL CONSULTANTS INC. SALT LAKE CITY, UTAH		D & R MILLER PROPERTIES, LLC APN: 224-35-014 630 MARTIN AVE SANTA CLARA, CALIFORNIA 95050	
		 SILICON VALLEY POWER CITY OF SANTA CLARA SHEET: 2 OF 2	

Resolution of Necessity/D&R Miller Properties, LLC/Exhibit A
Rev: 11/22/17

Page 1 of 2



Resolution of Necessity/D&R Miller Properties, LLC/Exhibit A
 Rev. 11/22/17

Page 2 of 2.

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EXHIBIT B

EXHIBIT B

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. ±

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:

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).

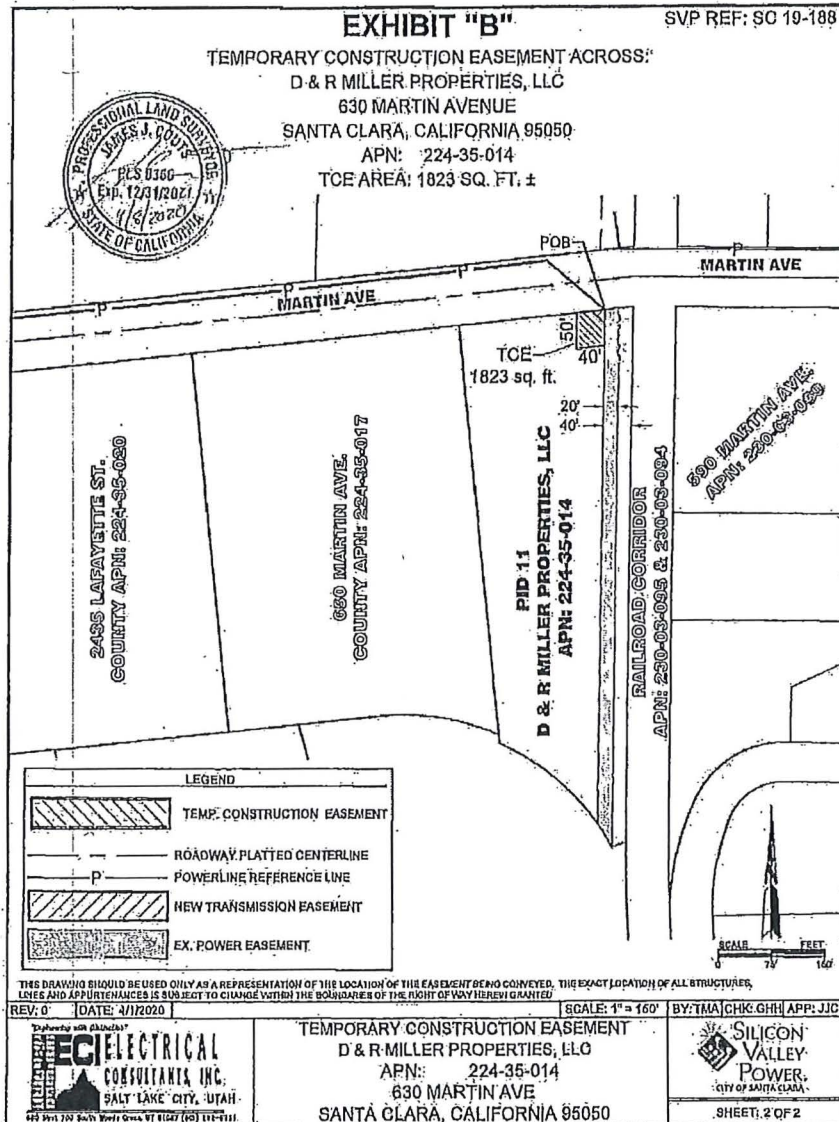
Containing 1823 square feet, more or less.



REV: 0	DATE: 4/17/2020	SCALE: NA	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	

Resolution of Necessity/D&R Miller Properties, LLC/Exhibit B
Rev. 11/22/17

Page 1 of 2



Resolution of Necessity/D&R Miller Properties, LLC/Exhibit B
Rev. 11/22/17

Page 2 of 2