

RESOLUTION NO. \_\_\_\_\_

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

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

**WHEREAS**, the City of Santa Clara, a chartered city and municipal corporation acting by and through its municipally owned utility, Silicon Valley Power (hereinafter the “City”) is engaged in a continuing effort to upgrade and enhance its Overhead and Underground Distribution and Transmission systems to meet new customer demand and to maintain the reliability of SVP’s systems. The Transmission System Reinforcement Project (Project) is a keystone project for this effort; 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 the following real property interests necessary for the Project

[i] a 1,975 square foot permanent Overhead Electric 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; 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 Diana J Alman, Trustee et al, 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**, on July 7, 2020, by Resolution No. 20-8869, the City Council [certified the Mitigated

Negative Declaration (MND) and Mitigation Monitoring and Reporting Program (MMRP)] for the Project in accordance with the California Environmental Quality Act (CEQA). No further environmental review is necessary pursuant to CEQA; and

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

**NOW THEREFORE, BE IT FURTHER RESOLVED BY THE CITY OF SANTA CLARA THAT  
THE CITY FINDS AND DETERMINES 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. The Subject Property Interests sought to be acquired are necessary for the Project.
4. That all environmental review required by law has been prepared and adopted.
5. That the offer required by Section 7267.2 of the California Government Code has been made to the owner(s) of record of the Subject Property Interests.
6. That the necessary notice of hearing has been given, as required by Code of Civil Procedure section 1245.235.
7. That to the extent the Subject Property Interests are already devoted to a public use, the use of the Subject Property Interests for the Project is a compatible use that will not unreasonably interfere with or impair the continuance of the public use as it presently exists or may reasonably be expected to exist in the future (California Code of Civil Procedure Section 1240.510), or the use of the Subject Property Interests for the Project is a more necessary public use than the presently existing public use (California Code of Civil Procedure Section 1240.610).
8. The City has complied with requirements of CEQA for the Project.
9. That the City Attorney or his duly authorized designee is hereby authorized and directed to institute and conduct to conclusion an action in eminent domain for the acquisition of the

estates and interests aforesaid and to take such actions as he may deem advisable or necessary in connection therewith.

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

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

I HEREBY CERTIFY THE FOREGOING TO BE A TRUE COPY OF A RESOLUTION PASSED AND ADOPTED BY THE CITY OF SANTA CLARA, CALIFORNIA, AT A REGULAR MEETING THEREOF HELD ON THE \_\_\_\_ DAY OF \_\_\_\_\_, 2020, BY THE FOLLOWING VOTE:

AYES: COUNCILORS:

NOES: COUNCILORS:

ABSENT: COUNCILORS:

ABSTAINED: COUNCILORS:

ATTEST: \_\_\_\_\_  
NORA PIMENTEL, MMC  
ASSISTANT CITY CLERK  
CITY OF SANTA CLARA

Attachments incorporated by reference:

1. Exhibit A

## EXHIBIT A

SVP REF: SC 19-189

### EXHIBIT "A"

#### POWERLINE EASEMENT ACROSS:

MARK D. ALMAN & LAURA A. ALMAN FAMILY TRUST (35%)  
MELVIN J. LA RUSSA & CAROL A. LA RUSSA FAMILY TRUST (30%);  
DOUGLAS S. ALMAN FAMILY TRUST (35%)  
1401 MARTIN AVENUE  
SANTA CLARA, CALIFORNIA 95050  
APN: 224-61-002  
EASEMENT AREA: 1,975 SQ. FT. ±



#### DESCRIPTION:

A portion of Parcel 1, as shown on that parcel map filed for record in the Office of the Recorder of Santa Clara County, State of California on October 4, 1978 in Book 427 of Maps, page 41, located in the City of Santa Clara, County of Santa Clara, State of California and described as follows:

**COMMENCING** at a monument located on the centerline of Martin Avenue being 42' southerly of the southeasterly corner of said Parcel 1 (Basis of Bearings is North 89°23'07" West along said monumented centerline); thence North 01°03'46" East 42.00 feet to said southeasterly corner of Parcel 1 and the **POINT OF BEGINNING**; thence North 01°13'18" East 8.52 feet along the easterly line of said Parcel 1; thence North 87°55'06" West 102.67 feet; thence North 89°56'32" West 90.22 feet to the westerly line of said Parcel 1; thence South 00°39'08" West 10.27 feet along said westerly line to the northerly line of said Martin Avenue; thence South 89°23'07" East 192.77 feet along said northerly line to the **POINT OF BEGINNING**.

Containing 1,975 square feet, more or less.



REV: 0	DATE: 4/1/2020	SCALE: N/A	BY: AGD	CHK: GHH	APP: JJC
		MULTIPLE OWNERS (ALMAN, LA RUSSA, ALMAN) APN: 224-61-002 1401 MARTIN AVENUE SANTA CLARA, CALIFORNIA 95050		 SHEET: 1 OF 2	

