

RESOLUTION NO. 20-8915

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;

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

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

A. A 1,242 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.

B. A 1,830 square foot nonexclusive temporary easement for construction purposes ("TCE") related to the Project, and all purposes related thereto, in, on, upon, over, under and across that real property described and depicted in Exhibit "B" and incorporated herein by this reference ("TCE Area"). Actual physical use and occupation of the TCE Area will occur only intermittently and only for a timeframe not to exceed twenty-one (21) days total, each phase of which to commence following forty-eight (48) hours prior written notice to fee owner. Access and use of portions of the TCE Area by fee owner, tenants, invitees and guests will be allowed to the extent that said portion is not being used for Project construction or staging purposes at that time. Construction of the Project is expected to take no more than six months, and this TCE shall terminate upon written notice from easement holder that the TCE is no longer needed for the Project. Under all circumstances, unless it expires or is terminated earlier, the TCE term shall expire nine (9) months following the date the TCE is first used for the Project.

Easement holder will stage and coordinate work in the TCE Area with the fee owner so as not to unreasonably impede/hinder access to/from and within the larger parcel. Upon completion of the TCE Term, easement holder will cause the removal of all construction equipment and materials from the TCE area, and will restore the TCE area to a condition which is safe and reasonably suited to its original use;

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

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

WHEREAS, on July 7, 2020, by Resolution No. 20-8869, the City Council [certified the Mitigated Negative Declaration (MND) and Mitigation Monitoring and Reporting Program (MMRP)] for the Project in accordance with 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.

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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 17TH DAY OF NOVEMBER, 2020, BY THE FOLLOWING VOTE:

AYES: COUNCILORS: Chahal, Davis, Hardy, O'Neill, and Watanabe,
and Mayor Gillmor

NOES: COUNCILORS: None

ABSENT: COUNCILORS: None

ABSTAINED: COUNCILORS: None

ATTEST:



NORA PIMENTEL, MMC
ASSISTANT CITY CLERK
CITY OF SANTA CLARA

Attachments incorporated by reference:

1. Exhibit A
2. Exhibit B

EXHIBIT "A"

SVP REF: SC 19-181

POWERLINE EASEMENT ACROSS:
DOLLINGER LAFAYETTE ASSOCIATES
2908 LAFAYETTE STREET
SANTA CLARA, CALIFORNIA 95054
APN: 224-08-109
EASEMENT AREA: 1,242 SQ. FT. ±

DESCRIPTION:



Two (2) parcels of land, being part of the parcel of land conveyed in that certain Grant Deed recorded December 3, 2009 as Document No. 20527116, in the Office of the Recorder of Santa Clara County (ORSCC), located in the City of Santa Clara, County of Santa Clara, and described as follows:

PARCEL 1: COMMENCING at the Centerline Monument at the intersection of Central Expressway and Lafayette Street; thence North 74°53'25" West 291.88 feet to the northerly right-of-way line of Central Expressway and the **POINT OF BEGINNING**, (Basis of Bearings is North 13°44'17" East 304.03 feet between said Centerline Monument and a Right-of-Way Monument on the northerly right-of-way line of Comstock Street); thence North 01°08'23" East 35.22 feet; thence South 46°52'39" East 53.91 feet to said northerly right-of-way line of central Expressway; thence North 87°39'30" West 40.08 feet along said northerly right-of-way line to the **POINT OF BEGINNING**.

PARCEL 2: COMMENCING at the Centerline Monument at the intersection of Central Expressway and Lafayette Street; thence North 11°39'06" West 226.03 feet to the westerly right-of-way line of said Lafayette Street and the **POINT OF BEGINNING**, (Basis of Bearings is North 13°44'17" East 304.03 feet between said Centerline Monument and a Right-of-Way Monument on the northerly right-of-way line of Comstock Street); thence North 01°07'43" East 16.02 feet along the said westerly right-of-way line of Lafayette Street to the beginning of a curve to the left having a radius of 25 feet; thence northwesterly 39.27 feet along said curved right-of-way line through a central angle of 90°00'00" (chord bears North 43°52'17" West 35.36 feet); thence North 88°52'18" West 11.07 feet along the southerly right-of-way line of said Comstock Street; thence South 55°08'13" East 8.80 feet; thence South 36°49'36" East 43.23 feet t to the **POINT OF BEGINNING**.

Containing in Total 1,242 square feet, more or less.



REV: 1	DATE: 8/12/2020	SCALE: N/A	BY: TMA	CHK: GHF	APP: JJC
		DOLLINGER LAFAYETTE ASSOCIATES 2908 LAFAYETTE STREET SANTA CLARA, CALIFORNIA 95054 APN: 224-08-109		 SHEET: 1 OF 2	

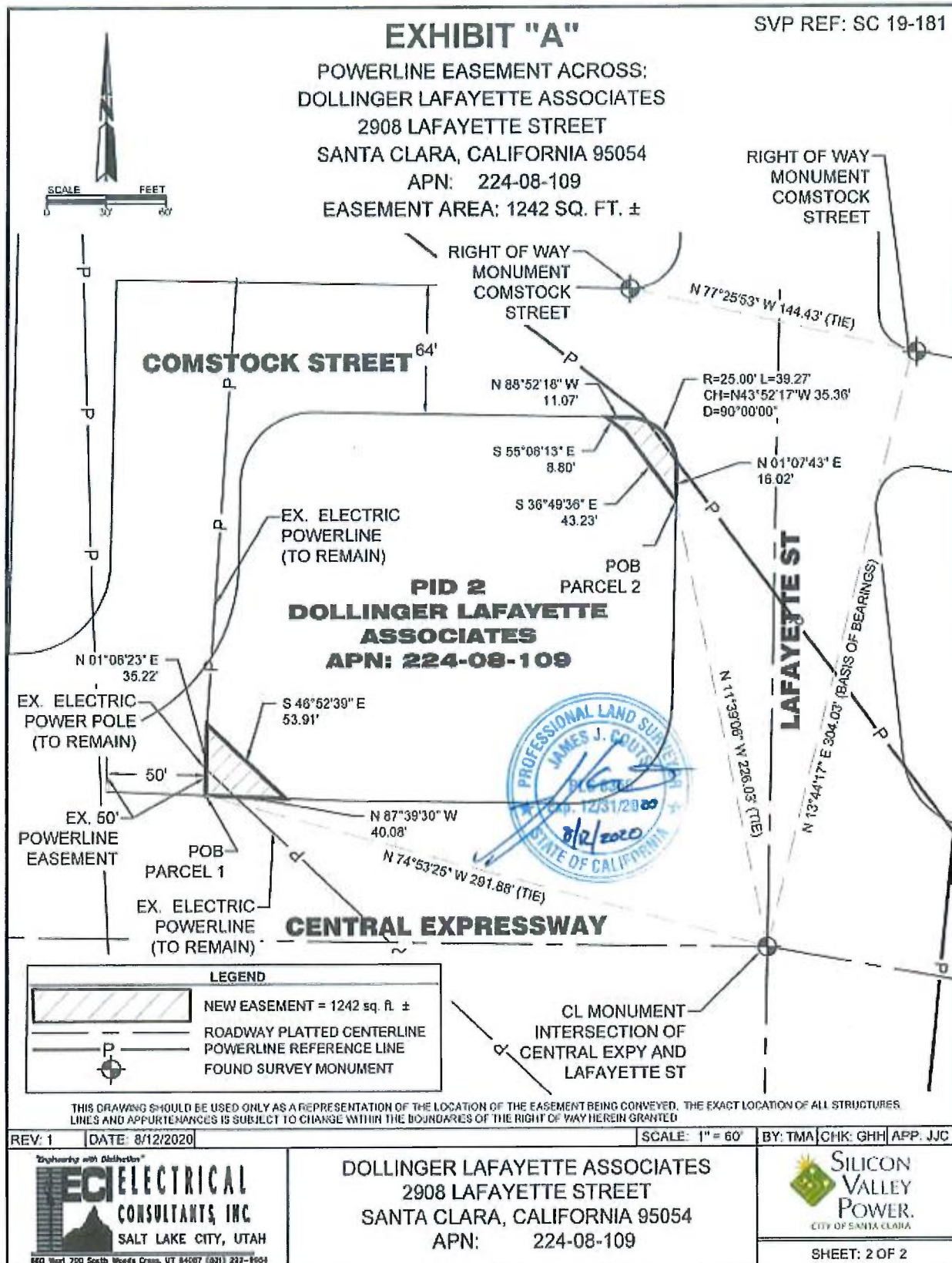


EXHIBIT "B"

TEMPORARY CONSTRUCTION EASEMENT ACROSS:
DOLLINGER LAFAYETTE ASSOCIATES
2908 LAFAYETTE STREET
SANTA CLARA, CALIFORNIA 95054
APN: 224-08-109
TCE TOTAL AREA: 1,830 SQ. FT. ±

DESCRIPTION:

A Parcel of land, being part of the parcel of land conveyed in that certain Grant Deed recorded December 3, 2009 as Document No. 20527116, in the Office of the Recorder of Santa Clara County (ORSCC) and herein after known as the Grantor's Parcel, being located in the City of Santa Clara, County of Santa Clara, and described as follows:

The northerly 50' of the easterly 50' of said Grantor's Parcel. Less and excepting any portion lying within the Powerline Easement described in Exhibit A.

Containing in Total 1,830 square feet, more or less.

EXHIBIT B PAGE 2 by this reference made apart hereof.



REV: 2	DATE: 8/21/2020	SCALE: N/A	BY: TMA	CHK: GHH	APP: JJC
 TEC ELECTRICAL CONSULTANTS, INC. SALT LAKE CITY, UTAH <small>203 West 700 South Woods Creek, UT 84087 (801) 222-6654</small>	TEMPORARY CONSTRUCTION EASEMENT DOLLINGER LAFAYETTE ASSOCIATES 2908 LAFAYETTE STREET SANTA CLARA, CALIFORNIA 95054 APN: 224-08-109		 SILICON VALLEY POWER. CITY OF SANTA CLARA SHEET: 1 OF 2		

EXHIBIT "B"

TEMPORARY CONSTRUCTION EASEMENT ACROSS:

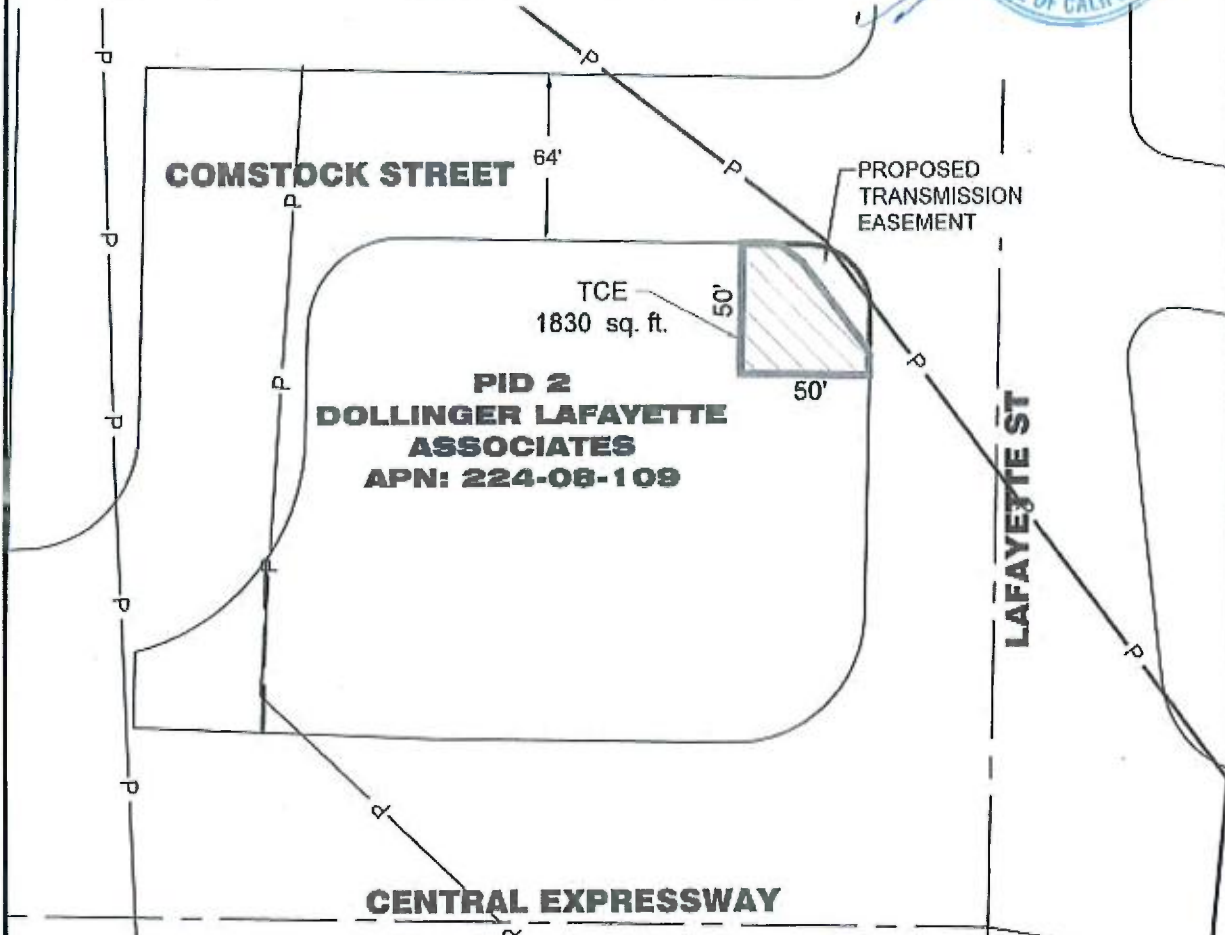
DOLLINGER LAFAYETTE ASSOCIATES

2908 LAFAYETTE STREET

SANTA CLARA, CALIFORNIA 95054

APN: 224-08-109

TCE TOTAL AREA: 1,830 SQ. FT. ±



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

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

REV: 2	DATE: 8/21/2020	SCALE: 1" = 60'	BY: TMA CHK: GHH APP: JJC
 ECI ELECTRICAL CONSULTANTS, INC. SALT LAKE CITY, UTAH <small>880 West 700 South, Suite 200, UT 84007 (801) 333-6954</small>		TEMPORARY CONSTRUCTION EASEMENT DOLLINGER LAFAYETTE ASSOCIATES 2908 LAFAYETTE STREET SANTA CLARA, CALIFORNIA 95054 APN: 224-08-109	
 SILICON VALLEY POWER CITY OF SANTA CLARA		SHEET: 2 OF 2	