

From: [Phan, Johnny](#)
To: [Downtown West Project](#)
Subject: FW: Preliminary Draft Google Exhibits A and B
Date: Tuesday, April 6, 2021 3:07:16 PM
Attachments: [Exhibit C2 Autumn Street Parcels-c.pdf](#)
[VTA Legal Descriptions-c.pdf](#)

From: Straka, Stephanie <SStraka@coblentzlaw.com>
Sent: Thursday, March 25, 2021 10:23 AM
To: Phan, Johnny <Johnny.Phan@sanjoseca.gov>
Cc: Miller, Gregg <gmiller@coblentzlaw.com>
Subject: RE: Preliminary Draft Google Exhibits A and B

[External Email]

Stephanie R. Straka | Special Counsel
Coblentz Patch Duffy & Bass LLP
Direct 415-772-5750 | Cell 951-333-5572 | Office 415-391-4800

This transmittal is intended solely for use by its addressee, and may contain confidential or legally privileged information. If you receive this transmittal in error, please email a reply to the sender and delete the transmittal and any attachments.

From: Phan, Johnny <Johnny.Phan@sanjoseca.gov>
Sent: Thursday, March 25, 2021 10:08 AM
To: Straka, Stephanie <SStraka@coblentzlaw.com>
Cc: Miller, Gregg <gmiller@coblentzlaw.com>
Subject: [EXTERNAL] Re: Preliminary Draft Google Exhibits A and B

Can you send again?

Johnny V. Phan
Chief Deputy City Attorney
Office of the City Attorney
City of San Jose
[200 East Santa Clara Street](#)
[San Jose, CA 95113-1905](#)
Main Ph: [\(408\) 535-1900](tel:(408)535-1900)
Direct No.: [\(408\) 535-1981](tel:(408)535-1981)

Fax No. [\(408\) 998-3131](tel:(408)998-3131)

On Mar 25, 2021, at 9:36 AM, Straka, Stephanie <SStraka@coblentzlaw.com> wrote:

[External Email]

Thanks, Johnny. Has the City surveyor seen/reviewed the VTA and Autumn Street legal descriptions (Autumn = C2)?

Stephanie R. Straka | Special Counsel
Coblentz Patch Duffy & Bass LLP
Direct 415-772-5750 | Cell 951-333-5572 | Office 415-391-4800

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From: Phan, Johnny <Johnny.Phan@sanjoseca.gov>
Sent: Wednesday, March 24, 2021 11:01 PM
To: Miller, Gregg <gmilller@coblentzlaw.com>; Straka, Stephanie <SStraka@coblentzlaw.com>
Subject: [EXTERNAL] Preliminary Draft Google Exhibits A and B

Comments from City Surveyor.

Johnny V. Phan
Chief Deputy City Attorney
Office of the City Attorney
City of San Jose
[200 East Santa Clara Street](https://www.sanjoseca.gov/200-East-Santa-Clara-Street)
[San Jose, CA 95113-1905](https://www.sanjoseca.gov/95113-1905)
Main Ph: [\(408\) 535-1900](tel:(408)535-1900)
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I have reviewed the Legal Description (Exhibit A) and the Project Boundary map (Exhibit B) and have the following comments.

Legal Description (Exhibit A)

The legal description, which describes the boundary of the Development Agreement, actually describes three (3) separate sites named **PARCEL 1** (east of Los Gatos Creek), **PARCEL 2** (between Santa Clara and Lenzen), and **PARCEL 3** (west of Los Gatos Creek, between Santa Clara and Auzerais).

The legal description contains **only** course information (bearings and distances) without any boundary details. Although the description is not a normal description that will transfer rights, it should contain at least a few streets so that it is apparent where the intent of the boundary line should follow.

Eg. “...along the southerly line of Santa Clara Street...”, “...along the easterly line of Barack Obama Blvd, formerly know as South Autumn St...”, “...to the most northwesterly line of Auzerais Street...”.

The legal description courses also seem too detailed with too many minor jogs. However, Exhibit B seem very smooth in comparison and does not show all the jogs and curves as described in the legal. I believe they have a GIS shapefile that may be a better and simpler shape for the boundary. That should be used for the legal description.

At the end of the legal description for PARCEL 3, there is an exception clause for only Document 16434322 (APN 259-38-139). However, Exhibit B shows multiple parcels to be excluded that are not listed in the legal description exclusions. Per DA Recital, Section H (pg 10-11):

As reflected in Exhibit B, the Project Site for purposes of this Agreement also does not include certain property owned by the Pacific Gas and Electric Company (a portion of APN 261-35-002), certain property owned by the Peninsula Corridor Joint Powers Board (APN 261-34-020), or certain other property owned by VTA (APNs 259-38-139, 259-38-114, 259-38-134 [~~NOTE-working with VTA to include~~]),

I recommend that HMM revise the Legal Description to 1) ADD calls to Streets and Boundary lines, 2) simplify and match course information as shown on the Exhibit B parcel shapes, 3) provide a Closure Report for the Parcels, and to 4) add additional references for the Exception parcels that are to be excluded from the DA, shown on Exhibit B, but not described as an exception.

Project Boundary map (Exhibit B)

I recommend that HMH revise the Project Boundary Map to 1) label Streets and Boundary lines, 2) label each specific Parcel and its Point of Beginning (POB), 3) add additional feature information to the Legend, and 4) verify the additional references for the Exception parcels that are shown, but not included, in the Legal description.

Sorry for the delay in responding, this was very complicated review due to the complexity of the legal description. Please let me know if you have any questions or comments.

Steve Choy, PLS
City of San José, Dept. of Public Works
408-793-6986 vm | 408-375-3206 cell

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AUTUMN STREET PARCELS SITE PLAN

Scale: 1" = 20'
Drawn: DMJ Reviewed: DM
HMH#5719.00 | 03/04/21



APN 259-29-012
260 NORTH MONTGOMERY STREET


REAL PROPERTY in the City of San Jose, County of Santa Clara, State of California, being all of Parcel Two described in the Grant Deed recorded August 15, 2019, in Document No. 24255972 of Official Records, Santa Clara County Records, described as follows:

BEGINNING at the southerly corner of said Parcel Two, being on the northeasterly line of North Montgomery Street;
Thence along said northeasterly line, North 40°09'41" West, 50.00 feet, to the northwesterly line of said Parcel Two;
Thence along said northwesterly line and the northeasterly and southeasterly lines of said Parcel Two the following three courses:
1. Thence North 49°50'18" East, 118.81 feet;
2. Thence South 38°44'42" East, 50.02 feet;
3. Thence South 49°50'18" West, 117.57 feet, to the POINT OF BEGINNING.

Containing 5,910 square feet or 0.14 acres, more or less.

This legal description was prepared by me or under my direction in accordance with the Professional Land Surveyors Act.

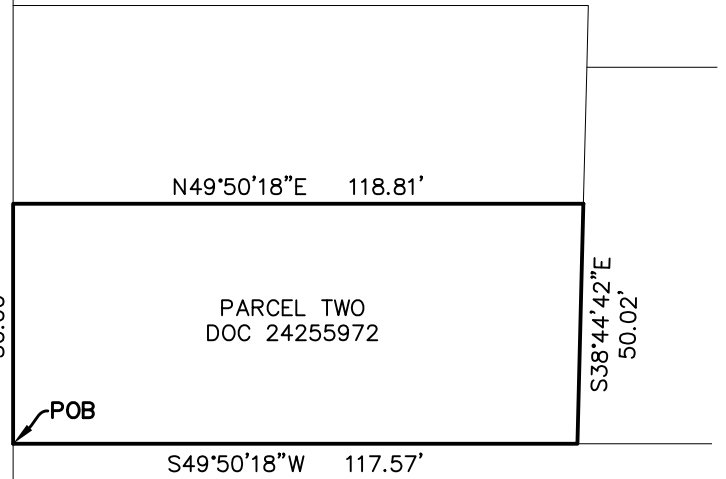
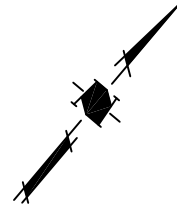
Date: 3.11.21


Tracy L. Giorgetti, LS 8720



WEST JULIAN STREET

NORTH MONTGOMERY STREET



N49°50'18"E 118.81'

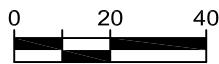
PARCEL TWO
DOC 24255972

N40°09'41"W
50.00'

S38°44'42"E
50.02'

POB

S49°50'18"W 117.57'



1 IN. = 40 FT.

LEGEND

POB

POINT OF BEGINNING

SHEET 1 OF 1

Date: 2021-03-11

Designed: DM

Drawn: RF

Checked: TG

Proj. Engr.: -

571900PL21



1570 Oakland Road (408) 487-2200
San Jose, CA 95131 HMMH.com

PLAT TO ACCOMPANY DESCRIPTION:
APN 259-29-012
260 NORTH MONTGOMERY STREET

SAN JOSE

CALIFORNIA



APN 259-29-020
255 NORTH AUTUMN STREET

REAL PROPERTY in the City of San Jose, County of Santa Clara, State of California, being all of Parcel One described in the Grant Deed recorded August 15, 2019, in Document No. 24255972 of Official Records, Santa Clara County Records, described as follows:

BEGINNING at the northerly corner of said Parcel One, being on the southwesterly line of North Autumn Street;

Thence along said southwesterly line, South 40°22'50" East, 87.54 feet to the southeasterly line of said Parcel One;


Thence along said southwesterly line and the southwesterly and northwesterly lines of said Parcel One the following four courses:

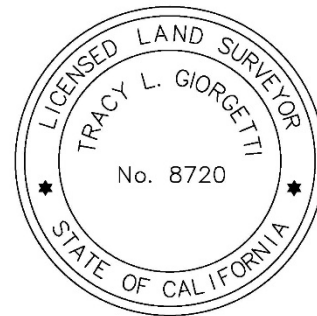
1. Thence South 54°25'13" West, 113.86 feet;
2. Thence South 49°50'18" West, 61.71 feet;
3. Thence North 38°44'42" West, 78.46 feet;
4. Thence North 49°50'18" East, 172.93 feet, to the POINT OF BEGINNING.

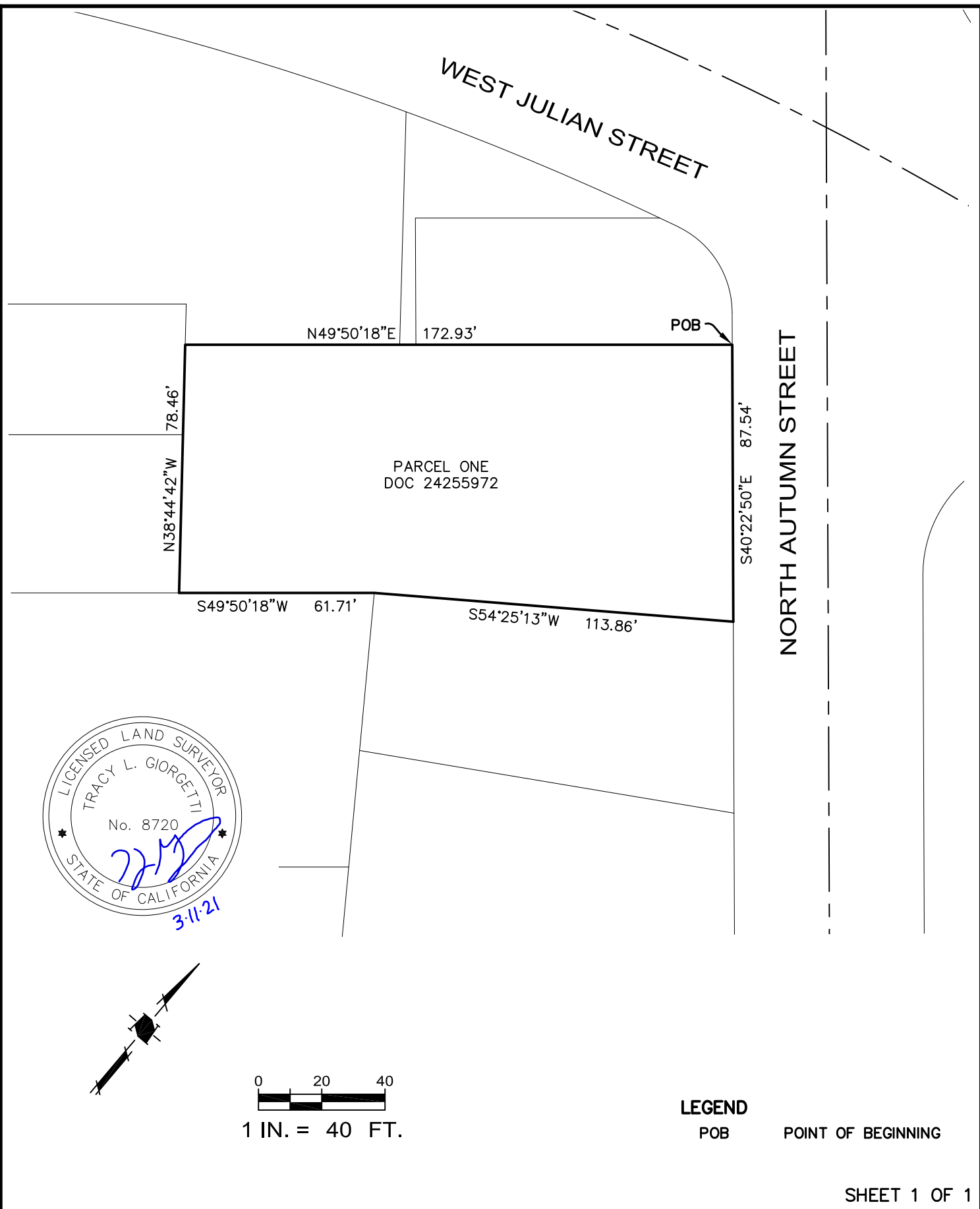
Containing 14,168 square feet or 0.33 acres, more or less.

This legal description was prepared by me or under my direction in accordance with the Professional Land Surveyors Act.

Date: 3.11.21


Tracy L. Giorgetti, LS 8720





SHEET 1 OF 1

Date:	2021-03-11
Designed:	DM
Drawn:	RF
Checked:	TG
Proj. Engr.:	—
571900PL20	

1570 Oakland Road (408) 487-2200
San Jose, CA 95131 HMMHca.com

PLAT TO ACCOMPANY DESCRIPTION:
APN 259-29-020
255 NORTH AUTUMN STREET

SAN JOSE

CALIFORNIA



APN 259-29-103
240 NORTH MONTGOMERY STREET


REAL PROPERTY in the City of San Jose, County of Santa Clara, State of California, being all of that parcel of land described in the Grant Deed recorded August 15, 2019, in Document No. 24255999 of Official Records, Santa Clara County Records, described as follows:

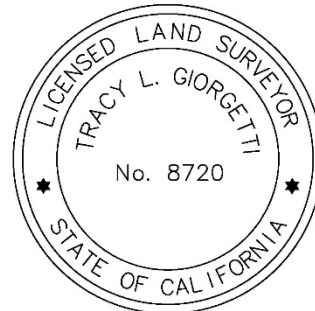
BEGINNING at the southerly corner of said parcel of land, being on the northeasterly line of North Montgomery Street;
Thence along said northeasterly line, North 40°09'41" West, 86.60 feet, to the northwesterly line of said parcel of land;
Thence along said northwesterly line and the northeasterly and southeasterly lines of said parcel of land the following three courses:
1. Thence North 49°50'18" East, 179.28 feet;
2. Thence South 34°49'59" East, 86.98 feet;
3. Thence South 49°50'18" West, 171.20 feet, to the POINT OF BEGINNING.

Containing 15,177 square feet or 0.35 acres, more or less.

This legal description was prepared by me or under my direction in accordance with the Professional Land Surveyors Act.

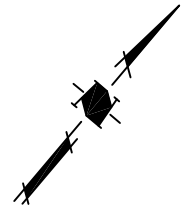
Date: 3-11-21


Tracy L. Giorgetti, LS 8720



WEST JULIAN STREET

NORTH MONTGOMERY STREET



N49°50'18"E 179.28'

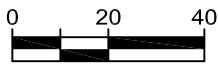
DOC 24255999

N40°09'41"W 86.60'

S34°49'59"E 86.98'

POB

S49°50'18"W 171.20'



1 IN. = 40 FT.

LEGEND

POB POINT OF BEGINNING

SHEET 1 OF 1

Date:	2021-03-11
Designed:	DM
Drawn:	RF
Checked:	TG
Proj. Engr.:	-
571900PL22	



1570 Oakland Road (408) 487-2200
San Jose, CA 95131 HMMHca.com

PLAT TO ACCOMPANY DESCRIPTION:
APN 259-29-103
240 NORTH MONTGOMERY STREET

SAN JOSE

CALIFORNIA



February 17, 2021
HMH 5719.00.270
Page 1 of 1


EXHIBIT "A"
VTA PARCEL
APN 259-38-134

REAL PROPERTY in the City of San Jose, County of Santa Clara, State of California, being all of Parcel No. 2 described in the Grant Deed recorded June 8, 1981, in Book G136 of Official Records, page 338, Santa Clara County Records.

Containing 5,375 square feet or 0.12 acres, more or less.

This legal description was prepared by me or under my direction in accordance with the Professional Land Surveyors Act.

Date: 2-17-21



Tracy L. Giorgetti, LS 8720

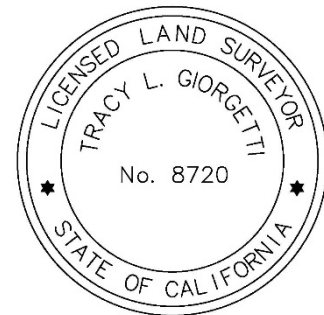




EXHIBIT "A"
VTA PARCEL
APN 259-38-114

REAL PROPERTY in the City of San Jose, County of Santa Clara, State of California, being a portion of the parcel of land described in the Grant Deed recorded May 13, 1969, in Book 8531 of Official Records, page 151, Santa Clara County Records, described as follows:

BEGINNING at northwest corner of said parcel of land;

Thence along the northerly line of said parcel of land, North 87°32'04" East, 132.94 feet, to the westerly line of Los Gatos Creek as shown on that certain Record of Survey filed for record on March 30, 1972, in Book 298 of Maps, page 38, Santa Clara County Records;

Thence along said westerly line the following two courses:

1. Thence, southerly, along a non-tangent curve to the right, having a radius of 404.00 feet, whose center bears North 81°50'11" West, through a central angle of 04°01'14" for an arc length of 28.35 feet;
2. Thence South 12°11'03" West, 23.09 feet;

Thence South 87°32'04" West, 120.89 feet, to the easterly line of South Autumn Street;


Thence along said easterly line, the following two courses:

1. Thence northerly, along a non-tangent curve to the right, having a radius of 999.96 feet, whose center bears North 87°17'53" East, through a central angle of 00°14'10" for an arc length of 4.12 feet;
2. Thence North 02°27'56" West, 45.88 feet, to the POINT OF BEGINNING.

Containing 6,362 square feet or 0.15 acres, more or less.

This legal description was prepared by me or under my direction in accordance with the Professional Land Surveyors Act.

Date: 2.17.21


Tracy L. Giorgetti, LS 8720

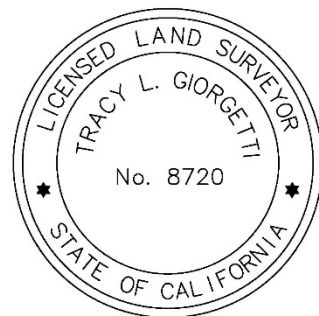




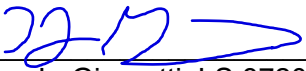
EXHIBIT "A"
VTA PARCEL
APN 259-38-139

REAL PROPERTY in the City of San Jose, County of Santa Clara, State of California, being all of Property ID No. V014-01 described in the Final Order of Condemnation recorded August 22, 2002, in Document No. 16434322, Santa Clara County Records.

Containing 2,600 square feet or 0.06 acres, more or less.

This legal description was prepared by me or under my direction in accordance with the Professional Land Surveyors Act.

Date: 2-17-21



Tracy L. Giorgetti, LS 8720

