RESOLUTION NO. _____

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE APPROVING, SUBJECT TO CONDITIONS, A CONDITIONAL USE PERMIT TO ALLOW A CHURCH TO OCCUPY APPROXIMATELY 18,480 SQUARE FEET OF AN EXISTING 29,193-SQUARE FOOT OFFICE BUILDING AND AN ALTERNATING USE PARKING ARRANGEMENT (SHARED PARKING) ON A 2.0 GROSS ACRE SITE, LOCATED AT THE SOUTHEAST CORNER OF TRADE ZONE BOULEVARD AND LUNDY AVENUE (2222 TRADE ZONE BOULEVARD)

FILE NO. CP18-036

WHEREAS, pursuant to the provisions of Chapter 20.100 of Title 20 of the San José Municipal Code, on September 28, 2018, an application (File No. CP18-036) was filed by the applicant, Templo La Hermosa on behalf of Trade Zone Property Management LLC with the City of San José for a Conditional Use Permit to allow a church to occupy an 18,480-square foot area of an existing 29,193-gross square foot office building with alternating use parking arrangement (shared parking) on a 2.0-gross acre site, on that certain real property situated in the TEC Transit Employment Center Zoning District and located at the southeast corner of Trade Zone Boulevard and Lundy Avenue (2222 Trade Zone Boulevard, San José, California, which real property is sometimes referred to herein as the "subject property"); and

WHEREAS, the subject property is all that real property more particularly described in Exhibit "A," entitled "Legal Description," and depicted in Exhibit "B," entitled "Plat of Description," which is attached hereto and made a part hereof by this reference as if fully set forth herein; and

WHEREAS, pursuant to and in accordance with Chapter 20.100 of Title 20 of the San José Municipal Code, this City Council conducted a hearing on said application, notice of which was duly given; and

WHEREAS, at said hearing, this City Council gave all persons full opportunity to be heard and to present evidence and testimony respecting said matter; and

WHEREAS, at said hearing this City Council received and considered the reports and recommendation of the City's Director of Planning, Building and Code Enforcement; and

WHEREAS, at said hearing, this City Council received in evidence a plan for the subject property entitled "Templo La Hermosa," dated January 8, 2019, said plan is on file in the Department of Planning, Building and Code Enforcement and is available for inspection by anyone interested herein, and said development plan is incorporated herein by this reference, the same as if it were fully set forth herein; and

WHEREAS, said public hearing before the City Council was conducted in all respects as required by the San José Municipal Code and the rules of this City Council;

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF SAN JOSE THAT:

After considering all of the evidence presented at the Public Hearing, the City Council finds that the following are the relevant facts regarding this proposed project:

1. **Site Description and Surrounding Uses**. The subject site is located at the southeast corner of Trade Zone Boulevard and Lundy Avenue, and is currently developed with a single-story office building occupied by a small research operation. The current tenant is only occupying a third of the available interior space. The building has an associated 109-space parking lot with well-developed landscaping around the perimeter of the lot. The site is accessed by two driveways located on Lundy Avenue. A similar one-story office structure is directly south of the subject site; a two-story office complex with parking lot is located to the north, across Trade Zone Boulevard; offices are located to the east and another two-story office complex with associated parking to the west, across Lundy Avenue Traveling further east and there are residential neighborhoods accessed off Trade Zone Boulevard.
2. **Project Description**. The Conditional Use Permit is to allow a church to occupy approximately 18,480 square feet of an existing 29,193-square foot, one-story office building and an alternating use parking arrangement (shared parking) on a 2.0 gross

acre site. The church use will share the available parking spaces between itself and the existing office tenant by employing staggered hours of operation, so that the two occupants are never utilizing all the available space at one time. The church use will have limited hours outside of 8:00 am to 5:00 pm Monday through Friday, as discussed below.

3. **General Plan Conformance**. The Project is consistent with the General Plan in that the Transit Employment Center Land Use/Transportation Diagram designation allows flexibility for the development of a varied mixture of compatible commercial and industrial uses including private gathering facilities which are allowed uses in the Industrial Park designation. Furthermore, this Project is consistent with the following General Plan Policies:

   a. Community Design Policy: CD-2.9: Encourage adaptable space that can be used for multiple employment or public/quasi-public purpose and religious assembly use in a single space.

      Analysis: The project site is comprised of one industrial office building. Approximately two thirds of this building will be used for the Templo La Hermosa Church and the other third for an existing office use. This adaptable space accommodates the religious assembly use now but does not preclude the use as industrial office space at a later date. Only tenant improvement permits would be required to return the religious assembly space back into office space. Sufficient parking on an alternating use basis (i.e., shared parking) is provided by the surface parking lot as further described below.

   b. Vibrant Neighborhood Goal: VD-5: Provide for the development of private community gathering facilities at locations within or near residential, commercial, or mixed residential-commercial neighborhoods throughout the City to accommodate the social and cultural activities on the San José community.

      Analysis: Even though the project is within an office/business area, the building is located approximately 1,900 feet west of a Santa Clara Valley Transportation Authority (VTA) light rail transit station, other office buildings and near residential neighborhoods east and west of the property. This site is a convenient location for religious assembly use as it has adequate parking and is accessible by the Cropley VTA light rail station and these neighborhoods.

   c. Vibrant Neighborhood Policy: VD-5.3: Consider Private Community Gathering Facilities through a discretionary review process to carefully evaluate land use compatibility, multi-use spaces, and conditions of approval.

      Analysis: The purpose of this discretionary Conditional Use Permit is to review this project for consistency with the General Plan and the Zoning Ordinance to ensure that this is a compatible land use in this area. The religious assembly use is compatible with the surrounding land uses, as those uses include offices in the

near vicinity and retail centers and residential development further east and west of the site. As stated above, the routine operational hours of the church are outside the normal hours of business for the existing and surrounding office uses and therefore would not interfere with these uses.

d. Vibrant Neighborhood Policy: VD-5.4: Recognize that private community gathering facilities can inherently involve large groups of people, including people who are susceptible to environmental hazards, such as children or the elderly. Carefully consider existing and potential future proximate land uses when locating private community gathering facilities to avoid health and safety risks and minimize incompatible land uses. Consider locating private community gathering facilities only on the edges of Industrial Park, Light Industrial, or Heavy Industrial areas on properties that are directly adjacent to residential or school uses. Allow private community gathering facilities in these areas only if they will not have adverse impacts on the viability of the adjacent industrial areas due to environmental hazards or land use incompatibilities. Do not locate private community gathering facilities within the interior of Industrial Park, light Industrial, or Heavy Industrial areas.

Analysis: While the site is not within Industrial Park, Light Industrial, or Heavy Industrial designated areas, the site is surrounded by industrial park offices that are primarily research and development based. The operations are contained within these buildings, and will not create safety risks or hazards for those that attend the church because large quantities of hazardous materials are neither being transported or processed. The church will therefore not result in land use incompatibilities that could adversely affect these existing uses.

As discussed in the Zoning Code Compliance section below, the project site has a parking lot that can accommodate the religious assembly use, and church uses will not impact the availability of parking in the surrounding area because there are an adequate number of spaces provided for the site's uses and staggered hours of operation. Potential future uses of surrounding properties are offices, research & development centers, as well as supportive commercial uses. Intense industrial uses are excluded from this general plan designation. Furthermore, the site is within a relatively short distance to multifamily residential neighborhoods to the east and west (approximately 1,200 and 600 feet, respectively), and is well served by bus transit and a light rail corridor further eastward. The project is therefore consistent with this policy

4. **Zoning Code Compliance**. The Project is consistent with the regulations of the Zoning Ordinance in the following manner:

   a. This project is zoned TEC Transit Employment Center Zoning District (File No. C18-031).

b. Land Uses. The religious assembly use is a conditionally allowed use in the TEC Transit Employment Center Zoning District when the underlying General Plan land use designation is Transit Employment Center.

c. Parking Requirements. Pursuant to Table 20-190 of Chapter 20.90 of the San José Municipal Code, parking for church/religious assembly use requires one space per 30 square feet of area designed for assembly used together or separately for worship or one parking space per four fixed seats. The main assembly space has approximately 518 seats. Parking spaces required for the assembly room are 104 spaces (after a 20 percent reduction for proximity to a light rail station-as allowed in San José Municipal Code Section 20.90.220 - Reduction in Required Off-Street Parking Spaces), and the subject site has 109 parking spaces.

   A separate parking requirement is calculated for the remaining 10,221 square foot office use at a rate of one space per 250 square feet of floor office area. The floor area (net) of 10,221 would be 8,688 square feet which requires a total 35 spaces dedicated to the office tenant. However, the office and church uses have distinct operational hours and can utilize 109 parking spaces as a shared pool of parking. Based on the following hours:

   Office: Monday-Friday 8:00 am to 5:00 pm;

   Church: Tuesday 7:00 pm to 8:00 pm, Sunday 6:00 am to 2:00 pm and 6:00 pm to 8:00 pm; Friday 7:00 pm to 8:30 pm;

   Shared parking is allowed pursuant to Section 20.90.200 entitled “Off-site, Alternating Use and Alternative Parking Arrangements - Vehicle or Bicycle” of the San José Municipal Code.

d. Bicycle Parking Requirements. Pursuant to Table 20-190 of Chapter 20.90 of the San José Municipal Code, bicycle parking for church/assembly use is one space per 60 fixed seats for assembly. With 518 seats, nine bicycle spaces would be required. This project provides nine bicycle parking spaces.

e. Motorcycle Parking Requirements. Pursuant to Table 20-250 of Chapter 20.90 of the San José Municipal Code, the number of motorcycle parking spaces required for offices is one per 50 required vehicle spaces, or one space. This project provides a total of four motorcycle parking spaces. No motorcycle spaces are required for churches.

5. **Conditional Use Permit Findings.** Chapter 20.100 of Title 20 of the San José Municipal Ordinance establishes required findings for issuance of a Conditional Use Permit. This City Council must conclude and find, based on the above facts and analysis that:

   a. The conditional use permit, as approved, is consistent with and will further the policies of the General Plan, applicable specific plans, and;

Analysis: As discussed above, this Conditional Use Permit is consistent with the Transit Employment Center land use designation and furthers the General Plan policies related to assembly use. This project does not include any major or substantial exterior modification.

b. The conditional use permit, as approved, conforms with the zoning code and all other provisions of the San José Municipal Code applicable to the project; and

Analysis: The project is permitted as a conditional use (religious assembly) in the TEC Zoning District. As discussed above, this project complies with the zoning code for building height and setbacks and noise, and provides the required number of car, bicycle and motorcycle parking spaces required for church/assembly use per the Zoning Ordinance.

c. The Conditional Use Permit, as approved, is consistent with applicable City Council Policies, or counterbalancing considerations justify the inconsistency; and

Analysis: There are no City Council Policies related to assembly use; however, the project is consistent with all applicable City Council policies. Compliant with Council Policy 6-30: Public Outreach Policy, a notice of the public hearing was distributed to the owners and tenants of all properties located within 500 feet of the project site and posted on the City website. Additionally, the project is also consistent with Council Policy 6-29, Post-Construction Urban Runoff Management, in that the project plans were reviewed by the Public Works department and determined consistent with the City's stormwater requirements.

d. The proposed use at the location requested will not:

   i. Adversely affect the peace, health, safety, morals or welfare of persons residing or working in the surrounding area; or

   ii. Impair the utility of value of the property of other persons located within the vicinity of the site; or

   iii. Be detrimental to public health, safety or general welfare.

Analysis: The church/religious assembly use will not adversely affect the surrounding area in that it is a compatible land use with the surrounding office uses. Church operations would occur during off hours of the surrounding offices and no church activities would occur outside. Further, the surrounding businesses are operated completely within their respective buildings and do not produce any hazardous emissions or loud noises that would affect the health and safety of the church/religious assembly participants.

e. The proposed site is adequate in size and shape to accommodate the yards, walls, fences, parking and loading facilities, landscaping and other development features prescribed in this title, or as is otherwise required in order to integrate said use with the uses in the surrounding areas; and

Analysis: The church/religious assembly use meets the parking requirements of the Zoning Ordinance. This project includes only minimal exterior modification such as restriping of the parking lot and relocation of a trash enclosure.

f. The proposed site is adequately served:

i. By highways or streets of sufficient width and improved as necessary to carry the kind and quality of traffic such use would generate; and

ii. By other public or private service facilities as are required.

Analysis: The subject site is well-served and easily accessible from Trade Zone Boulevard and Lundy Avenue. Existing utility systems, including water, electricity, natural gas, and communications, currently serve the site.

g. The environmental impacts of the project, including but not limited to noise, vibration, dust, drainage, erosion, storm water runoff, and odor which, even if insignificant for purposes of the California Environmental Quality Act (CEQA), will not have an unacceptable negative affect on adjacent property or properties.

Analysis: This Conditional Use Permit does not involve new construction, does not include any expansion of the existing building footprint, and has adequate parking. Except for minor external modifications such as restriping of the parking area and new landscaping, the project will require only interior modification, and would not result in any physical changes to the site or to the building. As described in the Addendum prepared for the project, the religious assembly use would not have an unacceptable negative affect on adjacent properties for noise, vibration, dust, drainage, erosion, storm water runoff, or odor.

6. **Environmental Review.** Pursuant to Section 15164 of the CEQA Guidelines, the Planning Director of the City of San José has prepared and approved an Addendum to the Final Program Environmental Impact Report (General Plan FPEIR), Supplemental Program Environmental Impact Report (General Plan SEIR) for the Envision San José 2040 General Plan, and addenda thereto. The Addendum concluded that implementation of the Project would not result in new significant effects on the environment beyond those already identified in the previously approved General Plan FPEIR, SEIR and Addenda thereto, nor will the Project result in an increase in the severity of significant effects identified in the EIRs and the identified mitigation measures, as amended, would continue to reduce each of those significant effects to a less than significant level. The church expansion would occur within the existing building that is currently used for office use; there would be no expansion of the building footprint and no additional parking spaces beyond the existing paved areas.

In accordance with the findings set forth above, a Conditional Use Permit to use the subject property for said purpose specified above and subject to each and all of the conditions hereinafter set forth is hereby **approved**. This City Council expressly declares that it would

not have approved this Permit except upon and subject to each and all of said conditions, each and all of which conditions shall run with the land and be binding upon the owner and all subsequent owners of the subject property, and all persons who use the subject property for the use conditionally permitted hereby.

CONDITIONS

1. **Acceptance of Permit.** Per Section 20.100.290(B) of Title 20 of the San José Municipal Code, should the permittee fail to file a timely and valid appeal of this Permit within the applicable appeal period, such inaction by the permittee shall be deemed to constitute all of the following on behalf of the permittee:

   a. Acceptance of the Permit by the permittee; and

   b. Agreement by the permittee to be bound by, to comply with, and to do all things required of or by the permittee pursuant to all of the terms, provisions, and conditions of this Permit or other approval and the provisions of Title 20 of the San José Municipal Code applicable to such Permit.

2. **Permit Expiration.** This Conditional Use Permit shall automatically expire two years from and after the date of issuance hereof by the Planning Commission, if within such time period, a Building Permit has not been obtained or the use, if no Building Permit is required, has not commenced, pursuant to and in accordance with the provision of this Permit. The date of issuance is the date this Permit is approved by the Planning Commission. However, the Director of Planning may approve a Permit Adjustment/ Amendment to extend the validity of this Permit in accordance with Title 20 of the San José Municipal Code. The Permit Adjustment/Amendment must be approved prior to the expiration of this Permit.

3. **Certificate of Occupancy.** No change in the character of occupancy or change to a different group of occupancies as described by the Building Code shall be made without first obtaining a Certificate of Occupancy from the Building Official, as required under San José Municipal Code Section 24.02.610, and any such change in occupancy must comply with all other applicable local and state laws.

4. **Sewage Treatment Demand.** Pursuant to Chapter 15.12 of Title 15 of the San José Municipal Code, acceptance of this Permit by Permittee shall constitute acknowledgement of receipt of notice by Permittee that (1) no vested right to a Building Permit shall accrue as the result of the granting of this Permit when and if the City Manager makes a determination that the cumulative sewage treatment demand of the San José - Santa Clara Regional Wastewater Facility represented by approved land uses in the area served by said Facility will cause the total sewage treatment demand to meet or exceed the capacity of San José - Santa Clara Regional Wastewater Facility to treat such sewage adequately and within the discharge standards imposed on the City by the State of California Regional Water Quality Control Board for the San Francisco

Bay Region; (2) substantive conditions designed to decrease sanitary sewage associated with any land use approval may be imposed by the approval authority; (3) issuance of a Building Permit to implement this Permit may be suspended, conditioned or denied where the City Manager is necessary to remain within the aggregate operational capacity of the sanitary sewer system available to the City of San José or to meet the discharge standards of the sanitary sewer system imposed on the City by the State of California Regional Water Quality Control Board for the San Francisco Bay Region.

5. **Conformance to Plans.** The development of the site shall conform to the approved Conditional Use Permit plans entitled, "Templo La Hermosa" dated received January 8, 2019 on file with the Department of Planning, Building and Code Enforcement, as may be amended subject to City approval, and to the San José Building Code (San José Municipal Code, Title 24). The approved plans are referred to in this Permit as the "approved plans" or "Approved Plan Set".
6. **Use Authorization.** Subject to all conditions herein, this project is authorized for a religious assembly use occupying approximately 18,480 square feet of an existing 29,193-gross square foot office building, and minor parking lot re-striping changes, trash enclosure relocation; with alternating use parking arrangement (shared parking). The use authorized under this Permit shall be in strict compliance with the approved "Operations Plan" dated January 29, 2019 on file with the Department of Planning, Building and Code Enforcement.
7. **Hours of Operation:** The religious assembly use shall operate during the following hours only: Tuesday 7:00 p.m. to 8:00 p.m., Sunday 6:00 a.m. to 2:00 p.m. and 6:00 p.m. to 8:00 p.m.; Friday 7:00 p.m. to 8:30 p.m.; and as stated in the "Operational Plan" dated 1/29/19, on file with the Department of Planning, Building and Code Enforcement.
8. **Outdoor Use**. No outdoor uses are permitted with this Permit.
9. **Conformance with Municipal Code.** No part of this approval shall be construed to permit a violation of any part of the San José Municipal Code.
10. **Nuisance.** This use shall be operated in a manner which does not create a public or private nuisance. Any such nuisance must be abated immediately upon notice by the City.
11. **Compliance with Local and State Laws.** The subject use shall be conducted in full compliance with all local, state, and federal laws and regulations.
12. **Discretionary Review.** The Director of Planning, Building and Code Enforcement maintains the right of discretionary review of requests to alter or amend structures, conditions, or restrictions of this Permit incorporated by reference in accordance with Chapter 20.100 of the San José Municipal Code.

13. **Refuse.** All trash areas shall be effectively screened from view and covered and maintained in an orderly state to prevent water from entering into the garbage container. Trash areas shall be maintained in a manner to discourage illegal dumping.
14. **Outdoor Storage**. No outdoor storage is allowed or permitted unless designated on the Approved Plan Set.
15. **Anti-Graffiti.** The permittee shall remove all graffiti from buildings and wall surfaces within 48 hours of defacement.
16. **Anti-Litter**. The site and surrounding area shall be maintained free of litter, refuse, and debris. Cleaning shall include keeping all publicly used areas free of litter, trash, cigarette butts and garbage.
17. **Sign Approval.** No signs are approved at this time. All signs shall be subject to review and approval by the Director of Planning through a subsequent Permit Adjustment.
18. **Fire Safety.** The permittee shall meet all requirements of the Fire Department at the Building Permit stage, including but not limited to the maximum occupancy of the facility.
19. **Generators.** This Permit does not include the approval of any stand-by/backup electrical power generation facility. Any future stand-by/backup generators shall secure appropriate permits and shall conform to the regulations of Title 20 of the Municipal Code.
20. **Mechanical Equipment.** No new roof equipment is permitted with this Permit.
21. **Street Number Visibility.** Street numbers of the buildings shall be easily visible from the street at all times, day and night.
22. **Permittee Responsibility.** The permittee shall ensure that the uses authorized by this Permit are implemented in conformance with all of the provisions of this Permit.
23. **Recycling.** Scrap construction and demolition material shall be recycled. Integrated Waste Management staff at (408) 535-8550 can provide assistance on how to recycle construction and demolition debris from the project, including information on available haulers and processors.
24. **Building Division Clearance for Issuing Permits.** Prior to the issuance of any Building Permit, the following requirements shall be met to the satisfaction of the Chief Building Official:
    a. *Construction Plans.* This Permit file number, CP18-036 shall be printed on all construction plans submitted to the Building Division.
    b. *Americans with Disabilities Act.* The permittee shall provide appropriate access as required by the Americans with Disabilities Act (ADA).

c. *Emergency Address Card.* The permittee shall file an Emergency Address Card, Form 200-14, with the City of San José Police Department.

d. *Construction Plan Conformance.* A project construction plan conformance review by the Planning Division is required. Planning Division review for project conformance will begin with the initial plan check submittal to the Building Division. Prior to any Building Permit issuance, Building Permit plans shall conform to the approved Planning development permits and applicable conditions.

25. **Public Works.** Prior to the approval of the Tract or Parcel Map (if applicable) by the Director of Public Works, or the issuance of any Building permits, whichever occurs first, the permittee will be required to have satisfied all of the following Public Works conditions. The permittee is strongly advised to apply for any necessary Public Works permits prior to applying for Building permits. Standard review timelines and submittal instructions for Public Works permits may be found at the following:

A. Transportation:

a) In alignment with State of California Senate Bill 743 (SB743), the City of San José Policy, Transportation Impact Policy - Council Policy 5-3 has been replaced with a new Transportation Analysis Policy - Council Policy 5-1. Council Policy 5-1 replaces the transportation impacts threshold from Level of Service (LOS) under Council Policy 5-3 to Vehicle Miles Traveled (VMT). The new Transportation Analysis Policy has been in effect since March 29, 2018.

b) This project would not require a detailed CEQA transportation analysis because the project is expected to result in less-than-significant VMT impacts based on Table 1 (Screening Criteria for CEQA Transportation Analysis for Development Projects) of the Transportation Analysis Handbook 2018.

c) The church assembly use will generate trips during weekends and not during weekdays; therefore, the project is not subject to detail additional analysis under Council Policy 5-1 and no further transportation analysis is required.

B. Stormwater Peak Flow Control Measures: The project is located in a non-Hydromodification Management area and is not required to comply with the City's Post-Construction Hydromodification Management Policy (Council Policy 8-14).

C. Flood Zone AO, Depth 1 foot: Project must comply with the City's Substantial Improvement Policy for improvements to existing structures in a Special Flood Hazard Area.

a) Submit a cost estimate of the improvements and a document showing the market value of the existing structure.

b) If the cost of the improvements exceeds 50% of the market value of the existing structure, it will be considered a substantial improvement and the entire structure must fully comply with the following City Floodplain Management requirements:

i) Elevate the lowest floor 1 foot or more above the existing highest adjacent grade to the project structure or floodproof to the same elevation. For insurance rating purposes, the building's floodproofed design elevation must be at least one foot above the base flood elevation to receive rating credit.

ii) An Elevation Certificate (FEMA Form 086-0-33) for the structure, based on construction drawings, is required prior to issuance of a building permit. Consequently, an Elevation Certificate for the built structure, based on finished construction is required prior to issuance of an occupancy permit.

iii) If the structure is to be floodproofed, a Floodproofing Certificate (FEMA Form 086-0-34) for each structure, floodproofing details, and if applicable, a Flood Emergency Operation Plan and an Inspection & Maintenance Plan are required prior to the issuance of a Public Works Clearance.

iv) Building support utility systems such as HVAC, electrical, plumbing, air conditioning equipment, including ductwork, and other service facilities must be elevated above the depth of flooding or protected from flood damage.

v) Construction materials used below the depth of flooding must be resistant to flood damage.

D. Sewage Fees: In accordance with City Ordinance all storm sewer area fees, sanitary sewer connection fees, and sewage treatment plant connection fees, less previous credits, are due and payable prior to Public Works clearance.

E. Assessments: This project is located within Maintenance District 2 (Trade Zone Boulevard - Lundy Avenue), which maintains the enhanced landscaped median islands on Trade Zone Boulevard, Lundy Avenue, and Concourse Drive, plus mini-courtyard maintenance within the boundaries of the district. Benefiting properties within the district pay for the maintenance through annual assessments placed on the County property tax bills, which are adjusted annually by the Consumer Price Index. The 2018-19 assessment is calculated at approximately $196 to $245 per acre minus any credits. Future year assessments will continue to be collected through the County property tax bills listed under Tax Code 0923 "S J MAINT DIST # 2". Any questions may be directed to the City of San José Department of Public Works at (408) 535-6831.

DRAFT – Contact the Office of the City Clerk at (408) 535-1260 or CityClerk@sanjoseca.gov for final document.

26. **Revocation, Suspension, Modification.** This Conditional Use Permit may be revoked, suspended or modified by the Planning Commission, or by the City Council on appeal, at any time regardless of who is the owner of the subject property or who has the right to possession thereof or who is using the same at such time, whenever, after a noticed hearing in accordance with Part 2, Chapter 20.100, Title 20 of the San José Municipal Code it finds:

    a. A violation of any conditions of the Conditional Use Permit was not abated, corrected or rectified within the time specified on the notice of violation; or

    b. A violation of any City ordinance or State law was not abated, corrected or rectified within the time specified on the notice of violation; or

    c. The use as presently conducted creates a nuisance.

In accordance with the findings set forth above, a permit to use the subject property for said purpose specified above is hereby approved.

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EFFECTIVE DATE

The effective date of this Permit shall be the effective date of the Conforming Rezoning for File No. CP18-036 adopted on _____, 2019 (the "TEC Transit Employment Center Zoning District Rezoning Ordinance") and shall be no earlier than the effective date of said TEC Transit Employment Center Rezoning Ordinance.

ADOPTED this ___ day of _____ 2019, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

SAM LICCARDO
Mayor

ATTEST:

TONI J. TABER, CMC
City Clerk

NOTICE TO PARTIES

The time within which judicial review must be sought to review this decision is governed by the provisions of the California Code of Civil Procedure Section 1094.6.

MEI #18054 **October 8, 2018**

EXHIBIT "A"
2222 TRADE ZONE BLVD.
SAN JOSE, CA

C18-031

LEGAL DESCRIPTION

All that certain real property lying within the City of San Jose, State of California described as follows:

All of Parcel 56 as shown on Parcel Map recorded on July 21, 1978 in Book 423 of Maps at pages 39, 40 and 41, Santa Clara County Records, said parcel being more particularly described as follows:

Beginning at a point lying on the easterly boundary line of Lundy Avenue at the corner common to said Parcel 56 and Parcel 57 as shown on said Parcel Map;

Thence, along the common boundary line to said Parcels 56 and 57, N 86°86'29" E, 357.75 feet to the westerly boundary line of Tract No. 6692 as shown on map filed on September 25, 1979 in Book 450 at Pages 16 and 17, Santa Clara County Records;

Thence, along the westerly boundary line of said Parcel 58, N 3°23'31" W, 235.00 feet, to the southerly boundary line of Trade Zone Boulevard shown as Trimble Road on said map;

Thence, along said southerly boundary line of Trade Zone Boulevard, N 84°10'36" W, 265.42 feet;

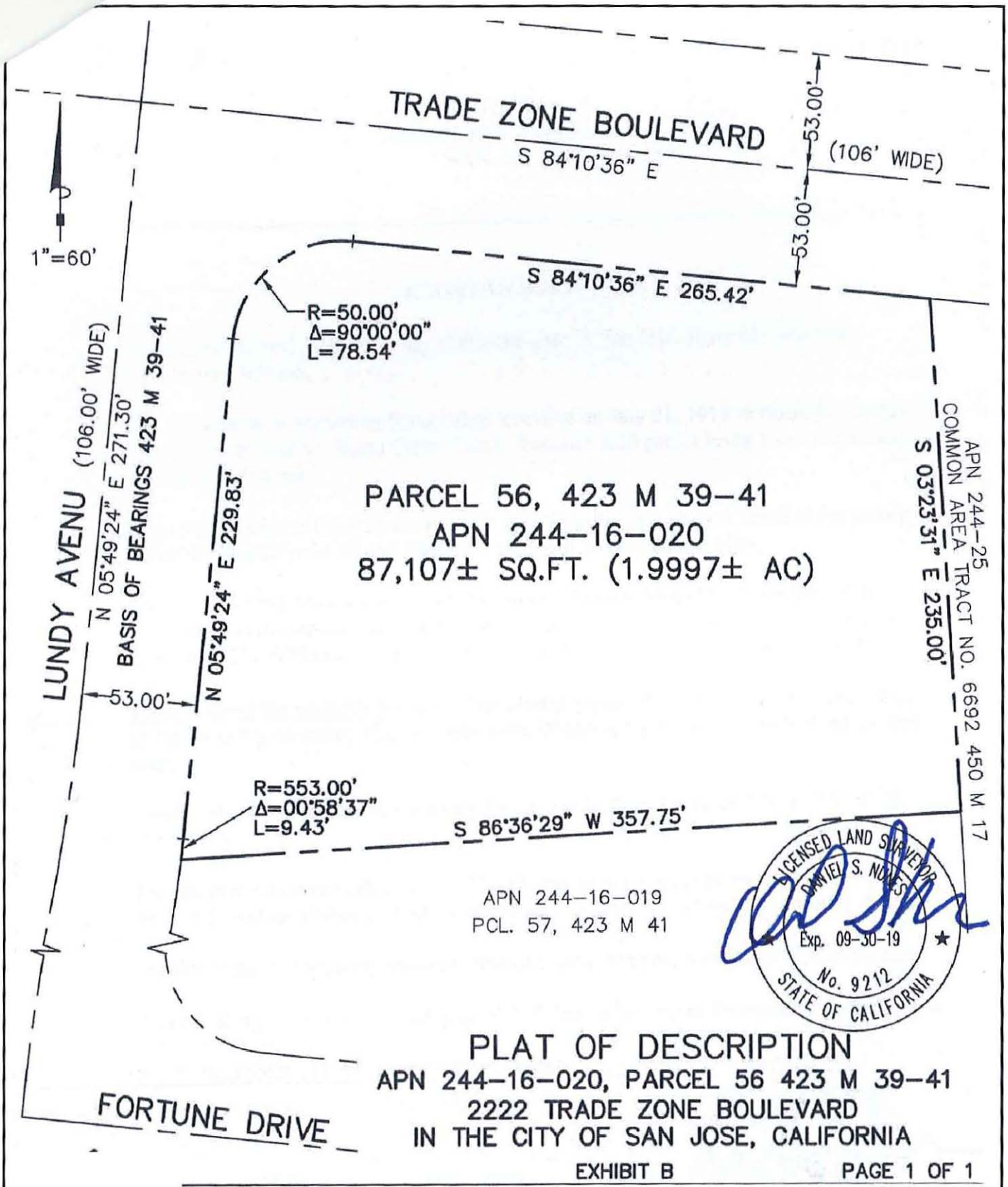
Thence, along a curve with a radius of 50.00 feet deflecting to the left through an angle of 90°00'00" and arc distance of 78.54 feet to said easterly boundary line of Lundy Avenue;

Thence, along said easterly boundary line of Lundy Avenue, S 0°49'24" E, 229.83 feet;

Thence, along a curve with a radius of 553.00 feet deflecting to the right through an angle of 00°58'37" and arc distance of 9.43 feet to the Point of Beginning and containing 87,107 square feet, (1.9997 acres), more or less.



EXHIBIT "B"
(File Nos. C18-031; CP18-036)



PLAT OF DESCRIPTION

APN 244-16-020, PARCEL 56 423 M 39-41
2222 TRADE ZONE BOULEVARD
IN THE CITY OF SAN JOSE, CALIFORNIA

EXHIBIT B PAGE 1 OF 1

VOLER LAND PERMITTING & ENGINEERING

84 WEST SANTA CLARA STREET
SUITE 760, SAN JOSE, CA 95113
(408) 933-6185

SCALE:	1"=60'
DATE:	10/08/2018
JOB NO.	18054
DWN:	XX