

**AGREEMENT FOR PURCHASE AND SALE OF
REAL PROPERTY
FROM THE CITY OF SAN JOSE
TO THE SANTA CLARA VALLEY WATER DISTRICT
(Public Right of Way - Alma & Willow)**

**District Document No: 3015-614,
3015-617,
3015-618**

THIS AGREEMENT FOR PURCHASE AND SALE OF REAL PROPERTY ("AGREEMENT") is made and entered into by and between the **CITY OF SAN JOSE**, a municipal corporation of the State of California (hereinafter "CITY") and the **SANTA CLARA VALLEY WATER DISTRICT**, a Special District created by the California Legislature (hereinafter "DISTRICT"), upon execution by both CITY and DISTRICT (hereinafter "Effective Date"). For the purposes of this AGREEMENT, CITY and DISTRICT are sometimes collectively referred to as "Parties" and individually as "Party".

WITNESSETH:

WHEREAS, CITY is the owner of that certain real property located in the City of San José, County of Santa Clara, State of California consisting of public right of way, more particularly described in **EXHIBITS "A1, A2 & A3"** and depicted in **EXHIBITS "B1, B2 & B3"** (hereinafter "PROPERTY") attached hereto and incorporated herein; and

WHEREAS, DISTRICT, in conjunction with the U.S. Army Corp of Engineers, intends to construct and maintain a By-Pass Channel for the Guadalupe River Flood Protection Project and appurtenances, on the PROPERTY; and

WHEREAS, CITY and DISTRICT have agreed that the PROPERTY will be purchased in fee at just compensation value per an approved appraisal; and

WHEREAS, CITY desires to sell the PROPERTY to DISTRICT with a reservation of that certain Public Road Easement, Public Service Easement, and Public Sidewalk Easement described in the Quitclaim Deed as described in Exhibit C and DISTRICT

desires to purchase the PROPERTY from CITY on the terms and conditions set forth below;

NOW, THEREFORE, in consideration of their mutual promises, covenants and conditions hereinafter set forth, the Parties do hereby agree as follows:

1. Property to be Conveyed.

Subject to the provisions of this AGREEMENT, CITY shall transfer and convey to DISTRICT by Quitclaim Deed in the same form as **Exhibit C** and DISTRICT shall purchase and take from CITY, all of CITY's right, title and interest in and to the PROPERTY, except that certain reserved public roadway easement, public services easement and public sidewalk easement right described in Exhibits A1, A2, A3 and depicted in B1, B2, B3 (collectively, the "Easement Area"). CITY, by this reservation, accepts any and all obligations and responsibilities to repair or maintain the bridge foundations, abutments, wing walls, the roadway and any roadway appurtenances.

- A. The Easement Area shall be kept clear of any type of structure, except for the future bridge and appurtenant structures. Activities, including but not limited to, excavation, underground work or utility installation, that could impact the DISTRICT's improvements and facilities are not allowed in the Easement Area unless prior written approval in the form of a permit is obtained from the District.

2. Purchase Price.

DISTRICT shall pay to CITY, in consideration of CITY's conveyance to DISTRICT of said PROPERTY the sum of **FOUR HUNDRED FORTY-FIVE THOUSAND DOLLARS (\$445,000)**. Said sum shall hereinafter be referred to as the "Purchase Price".

3. Tender and Acceptance of Payment.

DISTRICT shall deposit the Purchase Price with Old Republic Title Company, 224 Airport Parkway, Suite 170, San Jose, CA 95110 (the "Escrow Holder") no later than two (2) business days prior to the "Closing Date", as defined below. By its execution of this AGREEMENT, CITY accepts the Purchase Price as full compensation for the PROPERTY.

4. Additional Fees and Charges.

DISTRICT shall be responsible for the full payment of all title insurance, escrow, recording fees, documentary transfer taxes, broker commission and other fees and charges associated with this transaction. DISTRICT shall indemnify, defend and hold CITY harmless from and against, and CITY shall have no liability or responsibility for any such fees, costs, taxes, or expenses.

5. Delivery and Recording of Deed and Real Property Taxes.

No later than thirty (30) days from the Effective Date, CITY shall deliver, to the office of the Escrow Holder, a Quitclaim Deed executed by CITY. CITY and DISTRICT shall deliver any such additional documents and instruments as Escrow Holder may reasonably require in order to close escrow. The CITY and DISTRICT shall provide Escrow Holder with their separate instructions for closing escrow consistent with the terms of this AGREEMENT. The Escrow Holder will close the escrow and record the Quitclaim Deed on such date (the "Closing Date") as is directed by CITY in its escrow instructions, but in no event later than fifteen (15) days after delivery of the Quitclaim Deed to the Escrow Holder.

Real property taxes and assessments, if any, shall be payable by DISTRICT for the period from and after the date of recordation of the Quitclaim Deed.

6. DISTRICT's Sole Remedy for Failure to Convey.

In the event that CITY's Quitclaim Deed shall, for any reason, be insufficient to convey fee title to the PROPERTY in condition acceptable to DISTRICT on or before the Closing Date, as shall be evidenced by Escrow Holder's willingness to issue an Owner's policy of title insurance, in form and content acceptable to DISTRICT, insuring such title in the name of DISTRICT in the amount of the Purchase Price, DISTRICT shall have the right to terminate this AGREEMENT, but shall have no other right of action against CITY and shall not be entitled to recover any damages from CITY, and all Parties hereby shall return to status quo ante. The close of escrow shall constitute DISTRICT's waiver of its right to terminate this AGREEMENT pursuant to this Section 6 or other right of action against CITY in regard to failure to convey fee title or other condition of title.

7. Condition of Title.

CITY's right, title and interest in and to the PROPERTY shall be delivered by CITY hereunder subject to all exceptions, encumbrances, liens and restrictions of record and not of record, as of the Closing Date.

8. AS-IS Property Condition/DISTRICT's Due Diligence.

DISTRICT agrees that: i) it is purchasing the PROPERTY "as is" and in reliance on DISTRICT's own investigation, which it has had the opportunity to conduct to its satisfaction prior to the Effective Date, ii) no representations or warranties of any kind whatsoever, express or implied, have been made by CITY regarding the PROPERTY or the legal or physical condition thereof, including without limitation any zoning regulations or other governmental requirements, the existence of "Hazardous Materials" (as defined in Section 9, below) or other site conditions, or any other matters affecting the use, value or condition of the PROPERTY, and iii) it shall take the PROPERTY in the condition that it is in at the Closing Date. To the extent that CITY has provided to DISTRICT information or reports regarding the PROPERTY, CITY makes no representations or warranties with respect to the accuracy or completeness thereof.

9. Indemnification and Hold Harmless.

DISTRICT agrees to protect, defend, indemnify and hold harmless, CITY, its officers, employees, or agents, from and against all claims, response costs, losses, demands, debts, liens, liabilities, causes of action, suits, legal or administrative proceedings, interest, fines, charges, penalties and expenses (collectively, "Claims") of any kind whatsoever paid, incurred, suffered or asserted, or related to, on or after the close of escrow directly or indirectly arising from or attributable to physical conditions on or DISTRICT's use of the PROPERTY (including DISTRICT's use of the PROPERTY before the Effective Date), including without limitation any repair, cleanup or detoxification, or preparation and implementation of any removal, remedial, response, closure or other plan concerning any Hazardous Material on, under or about the PROPERTY, regardless of whether undertaken due to governmental action, excepting those damages or injuries resulting from the CITY's active negligence or willful misconduct. Without limiting the generality of this indemnity and hold harmless provision in any way, this provision is intended to operate as an agreement pursuant to 42 U.S.C. Section 9607(e) and California Health and Safety Code Section 25364 in order to indemnify, defend, protect and hold harmless CITY, its officers, agents or employees for any liability pursuant to such sections. CITY and DISTRICT agree that for purposes of this AGREEMENT, the term "Hazardous Material" shall have the definition set forth in **EXHIBIT "D"**, which is attached to this AGREEMENT and incorporated by reference. DISTRICT, for itself, its legal representatives and assigns, releases CITY, its officers, agents or employees from any and all Claims that DISTRICT had, now has, or claims to have, or that any person claiming through DISTRICT may have, or claim to have, arising out of any District use, or legal or physical conditions, of the PROPERTY, including, without limitation, uses of or conditions on the Property undertaken or caused by DISTRICT prior to the Effective Date. The indemnity and other rights afforded to the CITY by this Section 9 indemnification provision shall survive the termination of this Agreement.

CITY agrees to indemnify, protect, defend and hold harmless the DISTRICT, its elected officials, officers, employees, invitees, guests, contractors, and agents, from and against all claims, actions, losses, liabilities, damages, costs and expenses arising out of or in connection with (a) the use of the Property by CITY, its employees, invitees, guests, contractors, agents, or any other parties using the Property, (b) the performance by CITY of its duties, obligations, agreements, and covenants under this Agreement, and (c) any breach or default by CITY under this Agreement, except to the extent any such personal injury or property damage is caused by the active negligence or willful misconduct of the DISTRICT, its elected officials, officers, agents, employees, invitees, guests, contractors, agents, or anyone directly or indirectly employed or under contract with DISTRICT. The indemnity and other rights afforded to the DISTRICT by this Section 9 Indemnification provision shall survive the termination of this Agreement.

10. General Release.

DISTRICT acknowledges that it has read and understood the following statutory language of Civil Code Section 1542:

A general release does not extend to a claim, which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor.

Having been so apprised, to the fullest extent permitted by law, DISTRICT, elects to assume all risk for Claims heretofore or hereafter, known or unknown, arising from the subject of this release, and DISTRICT knowingly and voluntarily expressly releases the CITY, its officers, agents or employees from all Claims, unknown or unsuspected, arising out of any use, or legal or physical conditions, of the PROPERTY. The provisions of Sections 4, 6, 8, 9 and 10 shall survive the close of escrow or earlier termination of this AGREEMENT.

11. Binding on Successors.

This AGREEMENT inures to the benefit of and is binding on the Parties, their respective heirs, personal representatives, successors and assigns.

12. Merger; Entire Agreement.

This AGREEMENT supersedes any prior agreements, negotiations and communications, oral or written, and contains the entire agreement between CITY and DISTRICT relating to the subject matter hereof. No subsequent agreement, representation, or promise made by either Party, or by or to any employee, officer, agent or representative of either Party shall be of any effect unless it is in writing and executed by the Party to be bound thereby. The terms of this AGREEMENT shall not be modified or amended except by an instrument in writing executed by each of the Parties.

13. Notices.

Any notice which is required to be given hereunder, or which either Party may desire to give to the other, shall be in writing and may be personally delivered or given by mailing the same by registered or certified mail, postage prepaid, addressed as follows:

To the DISTRICT: Santa Clara Valley Water District
5750 Almaden Expressway
San Jose, CA 95118-3686
Attn: Real Estate Services Unit

or to such other place as DISTRICT may designate by written notice.

To the CITY: City of San José
Office of Economic Development
Real Estate Services and Asset Management
200 East Santa Clara Street 12th Floor

San José, CA 95113-1905
Attn: Administrative Officer

or to such other place as CITY may designate by written notice.

14. Miscellaneous.

- a. Whenever the singular number is used in this AGREEMENT and when required by the context, the same shall include the plural and the masculine gender shall include the feminine and neuter genders.
- b. If there be more than one entity designated in or signatory to this AGREEMENT as DISTRICT, the obligations hereunder imposed upon DISTRICT shall be joint and several; and the term DISTRICT as used herein shall refer to each and every of said signatory Parties, severally as well as jointly.
- c. Time is and shall be of the essence of each term and provision of this AGREEMENT.
- d. Each and every term, condition, covenant and provision of this AGREEMENT is and shall be deemed to be a material part of the consideration for the Parties' entry into this AGREEMENT, and any breach hereof by either Party shall be deemed to be a material breach. Each term and provision of this AGREEMENT performable by either Party shall be construed to be both a covenant and a condition.
- e. This AGREEMENT shall be deemed to have been made in, and be construed in accordance with the laws of the State of California. Venue for any proceeding to enforce the provisions of this AGREEMENT shall be in the County of Santa Clara.

- f. The headings of the several paragraphs and sections of this AGREEMENT are inserted only as a matter of convenience and for reference and in no way define, limit or describe the scope or intent of any provisions of this AGREEMENT and shall not be construed to affect in any manner the terms and provisions hereof or the interpretation or construction thereof.
- g. In the event any covenant, condition or provision herein contained is held to be invalid by a court of competent jurisdiction, the invalidity of any such covenant, condition or provision shall in no way affect any other covenant, condition or provision herein contained, provided the invalidity of any such covenant, condition or provision does not materially prejudice either DISTRICT or CITY in its respective rights and obligations contained in the valid covenants, conditions and provisions of this AGREEMENT.
- h. All exhibits and addenda referred to herein, and any exhibits or schedules which may from time to time be referred to in any duly executed amendment hereto, are by such reference incorporated herein and shall be deemed a part of this AGREEMENT as if set forth fully herein. The exhibits to this AGREEMENT are as follows:

Exhibits A1, A2, A3 – Legal Descriptions of PROPERTY

Exhibit B1, B2, B3 – Plats of PROPERTY

Exhibit C – Form of Quitclaim Deed

Exhibit D – Hazardous Materials

- i. This AGREEMENT shall be interpreted and construed only by the contents hereof, and there shall be no presumption or standard of construction in favor of or against either Party.
- j. Days, unless otherwise specified, shall mean calendar days.
- k. The Chief of Staff of the Office of the City Manager of CITY and the Chief Executive Officer of DISTRICT, or their respective designee, are authorized

to execute on behalf of, respectively, the CITY and DISTRICT, deeds and all other documents as may be necessary to effectuate this AGREEMENT and the transfer of property rights herein.

- I. This Agreement may be executed in counterparts, each of which shall be deemed to be an original and all of which together shall be deemed one and the same instrument.

WITNESS THE EXECUTION HEREOF on the date of execution by the PARTIES as written below:

"SELLER"

Approved as to form:

CITY OF SAN JOSE,
a California municipal corporation

By: 
Kevin Fisher
Chief Deputy City Attorney


By: _____
Leland Wilcox
Chief of Staff
Office of the City Manager

Date of Execution: _____

"BUYER"

Approved as to form:

SANTA CLARA VALLEY WATER
DISTRICT, a California Special District

By: 
Joseph Aranda
Assistant District Counsel

By: 
Norma J. Camacho
Chief Executive Officer

Date of Execution: 4/9/19

EXHIBIT A1

LEGAL DESCRIPTION OF PROPERTY

SANTA CLARA VALLEY WATER DISTRICT

5750 Almaden Expressway

San Jose, CA 95118

Original By: B. SNYDER
Date: 12/04/09

Revised By: SJ
Revision Date: 02/21/2017

PROJECT: GUADALUPE RIVER
PROPERTY: CITY OF SAN JOSE

APN: 434-20-000
RESU File No.: 3015-614

ALL THAT CERTAIN REAL PROPERTY SITUATE IN THE CITY OF SAN JOSE, COUNTY OF SANTA CLARA, STATE OF CALIFORNIA, BEING A PORTION OF THE LANDS OF THE CITY OF SAN JOSE AS SHOWN ON THAT CERTAIN MAP FILED AS R-108.17, IN DISTRICT 4 OFFICE OF THE CALIFORNIA DEPARTMENT OF TRANSPORTATION, OAKLAND, CALIFORNIA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE INTERSECTION OF THE SOUTHEASTERLY LINE OF ALMA AVENUE, 80 FEET WIDE AS SHOWN ON THAT CERTAIN RECORD OF SURVEY FILED IN BOOK 138 OF MAPS AT PAGE 18, IN THE OFFICE OF THE RECORDER, COUNTY OF SANTA CLARA, STATE OF CALIFORNIA, WITH THE CENTERLINE OF GUADALUPE RIVER (FORMERLY KNOWN AS LEWIS CANAL), AS DESCRIBED IN THAT CERTAIN GRANT DEED RECORDED ON FEBRUARY 19, 1958 AS DOCUMENT NUMBER 1438775 OF OFFICIAL RECORDS, IN THE OFFICE OF THE RECORDER, COUNTY OF SANTA CLARA, STATE OF CALIFORNIA;

THENCE NORTHEASTERLY ALONG THE SOUTHEASTERLY LINE OF SAID ALMA AVENUE, NORTH 76°23'50" EAST, 55.80 FEET TO THE **POINT OF BEGINNING**;

THENCE LEAVING SAID SOUTHEASTERLY LINE OF ALMA AVENUE, NORTH 25°58'10" WEST, 81.90 FEET TO A POINT ON THE NORTHWESTERLY LINE OF SAID ALMA AVENUE;

THENCE NORTHEASTERLY ALONG SAID NORTHWESTERLY LINE, NORTH 76°23'50" EAST, 17.54 FEET TO THE BEGINNING OF A CURVE CONCAVE NORTHERLY HAVING A RADIUS OF 1960.00 FEET;

THENCE NORTHEASTERLY ALONG SAID CURVE AND ALONG THE NORTHWESTERLY LINE OF SAID ALMA AVENUE THROUGH A CENTRAL ANGLE OF 2°16'22" FOR AN ARC LENGTH OF 77.75 FEET;

THENCE CONTINUING ALONG SAID NORTHWESTERLY LINE, NORTH 38°33'29" EAST, 18.59 FEET;

EXHIBIT A1
LEGAL DESCRIPTION OF PROPERTY

(continued)

THENCE LEAVING SAID NORTHWESTERLY LINE, SOUTH 36°04'02" EAST, 96.15 FEET TO A POINT ON THE SOUTHEASTERLY LINE OF SAID ALMA AVENUE, SAID POINT ALSO BEING A POINT OF A CURVE CONCAVE NORTHERLY HAVING A RADIUS OF 2040.00 FEET AND TO WHICH POINT A TANGENT BEARS SOUTH 72°46'03" WEST,

THENCE SOUTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 3°37'47" FOR AN ARC LENGTH OF 129.24 FEET TO THE POINT OF BEGINNING.

CONTAINING 9,848 SQUARE FEET OR 0.226 ACRE OF LAND, MORE OR LESS.

BASIS OF BEARING:

BEARINGS ARE BASED ON AND IDENTICAL TO DOCUMENT NUMBER 1438775 OF OFFICIAL RECORDS, SANTA CLARA COUNTY, STATE OF CALIFORNIA.

SURVEYOR'S STATEMENT:

THIS DESCRIPTION WAS PREPARED BY ME OR UNDER MY DIRECTION IN CONFORMANCE WITH THE REQUIREMENTS OF THE LAND SURVEYOR'S ACT.



GISELA SILKE JOBST, L9169

2-22-2017
Date



EXHIBIT A2
LEGAL DESCRIPTION OF PROPERTY

SANTA CLARA VALLEY WATER DISTRICT
San Jose, California

By: B. SNYDER
Date: 02/05/10

Checked by: _____

Date: _____

PROJECT: GUADALUPE RIVER
PROPERTY: CITY OF SAN JOSE

FILE NO.: 3015-617

All that certain real property situate in the City of San Jose, County of Santa Clara, State of California, described as follows:


Being a portion of the lands as described as "SEGMENT 2" in the deed recorded as Document Number 14166907 in the office of the Recorder, County of Santa Clara, State of California, to wit:

BEGINNING at that intersection of the northwesterly line of (Formerly) Willow Street (60 feet wide) with the southwesterly line of said parcel as shown on that certain map filed as R-108.18, in District 4 Office of the California Department of Transportation, Oakland, California; thence southeasterly along the general southwesterly line of said parcel, S35°15'45"E 7.96 feet to the TRUE POINT OF BEGINNING; thence leaving said general southwesterly line running parallel and concentric, 30.00 feet distant as measured at right angles from the centerline of Willow Street realigned designated as "WS" Line as shown on said map, along a curve to the right from a tangent which bears N64°14'23"E, having a radius of 580.00 feet, through a central angle of 10°48'06", for an arc distance of 109.35 feet; thence S14°57'31"E 51.26 feet to a point lying 21.26 feet measured at right angles southeasterly of said "WS" Line as shown on said map; thence running parallel and concentric along a curve to the left from a tangent which bears S75°02'29"W, having a radius of 528.74 feet, through a central angle of 9°52'15", for an arc distance of 91.09 feet to an angle point on the general southwesterly line of said parcel as shown on said map; thence northwesterly along the general southwesterly line of said parcel S35°15'45"W 52.04 feet to the TRUE POINT OF BEGINNING.

Containing 5137 square feet or 0.118 acre of land, more or less.

BASIS OF BEARING: Bearings are based on and identical to that certain map filed as R-108.18, in District 4 office of the California Department of Transportation, Oakland, California.

SURVEYOR'S STATEMENT: This description was prepared by me or under my direction in conformance with the requirement of the Land Surveyor's Act.


Dwight J. Busalacchi PLS 7903
Prepared by the Santa Clara Valley Water District, San Jose, CA

Sept 29, 2010
Date



Exhibit A2-1

T-35081/1514114

EXHIBIT A3

LEGAL DESCRIPTION OF PROPERTY

SANTA CLARA VALLEY WATER DISTRICT
San Jose, California

By: B. SNYDER
Date: 02/05/10

Checked by: _____ Date: _____

PROJECT: GUADALUPE RIVER
PROPERTY: CITY OF SAN JOSE

FILE NO.: 3015-618

All that certain real property situate in the City of San Jose, County of Santa Clara, State of California, described as follows:

Being a portion of the lands shown as Willow Street (60 feet wide) on that certain map filed as R-108.18, in District 4 Office of the California Department of Transportation, Oakland, California, to wit:

BEGINNING at that intersection of the northwesterly line of Willow Street (60 feet wide) with the southwesterly line of lands designated as "SEGMENT 2" as shown on that certain map filed as R-108.18, in District 4 Office of the California Department of Transportation, Oakland, California; thence southeasterly along the general southwesterly line of said parcel as shown on said map, S35°15'45"E 7.96 feet to a point which is the TRUE POINT OF BEGINNING; thence continuing southeasterly along said general southwesterly line of lands designated as "SEGMENT 2" as shown on said map, S35°15'45"E 52.04 feet to a point on the southeasterly line of Willow Street (60 feet wide) as shown on said map; thence southwesterly along said southeasterly line of Willow Street (60 feet wide), S54°44'15"W 114.20 feet; thence leaving said southeasterly line of Willow Street (60 feet wide), N17°56'33"W 62.85 feet to a point on the northwesterly line of Willow Street (60 feet wide) as shown on said map, said point being 30 feet distant as measured at right angles from the centerline of Willow Street realigned designated as "WS" Line as shown on said map; thence leaving said northwesterly line of Willow Street (60 feet wide) running parallel and concentric to said centerline of Willow Street realigned designated as "WS" Line as shown on said map, along a curve to the right from a tangent which bears N54°44'15"E, having a radius of 580.00 feet, through a central angle of 9°28'36", for an arc distance of 95.93 feet to the TRUE POINT OF BEGINNING.

Containing 6037 square feet or 0.139 acre of land, more or less.

BASIS OF BEARING: Hearings are based on and identical to that certain map filed as R-108.18, in District 4 office of the California Department of Transportation, Oakland, California.

SURVEYOR'S STATEMENT: This description was prepared by me or under my supervision in conformance with the requirement of the Land Surveyor's Act.


Dwight J. Busalacchi PLS 7903
Prepared by the Santa Clara Valley Water District, San Jose, CA

Sept 29, 2010
Date

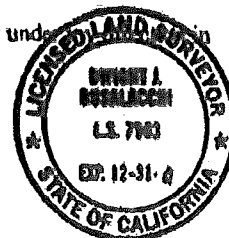


Exhibit A3-1

T-35081/1514114

EXHIBIT B1
PLAT OF PROPERTY

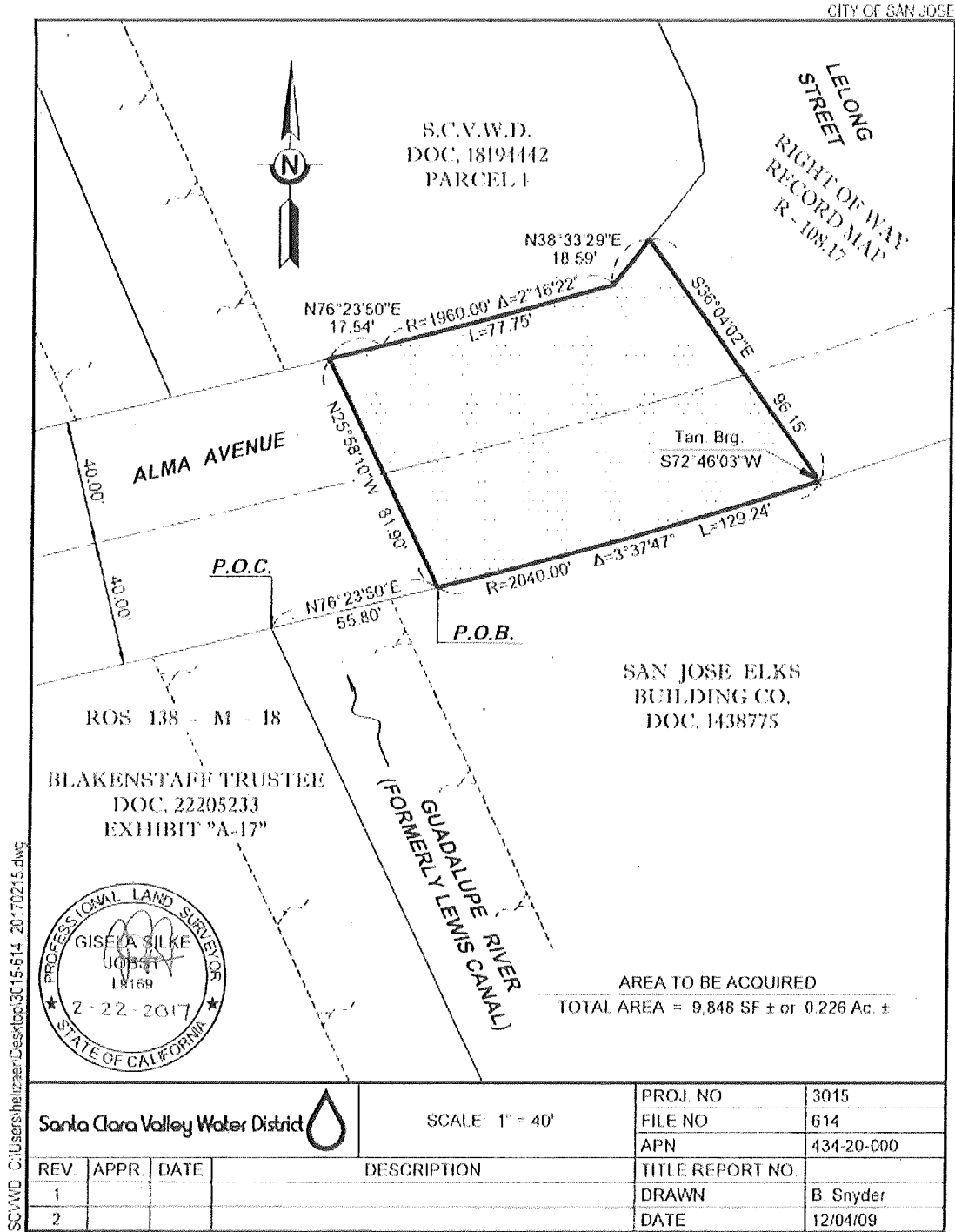
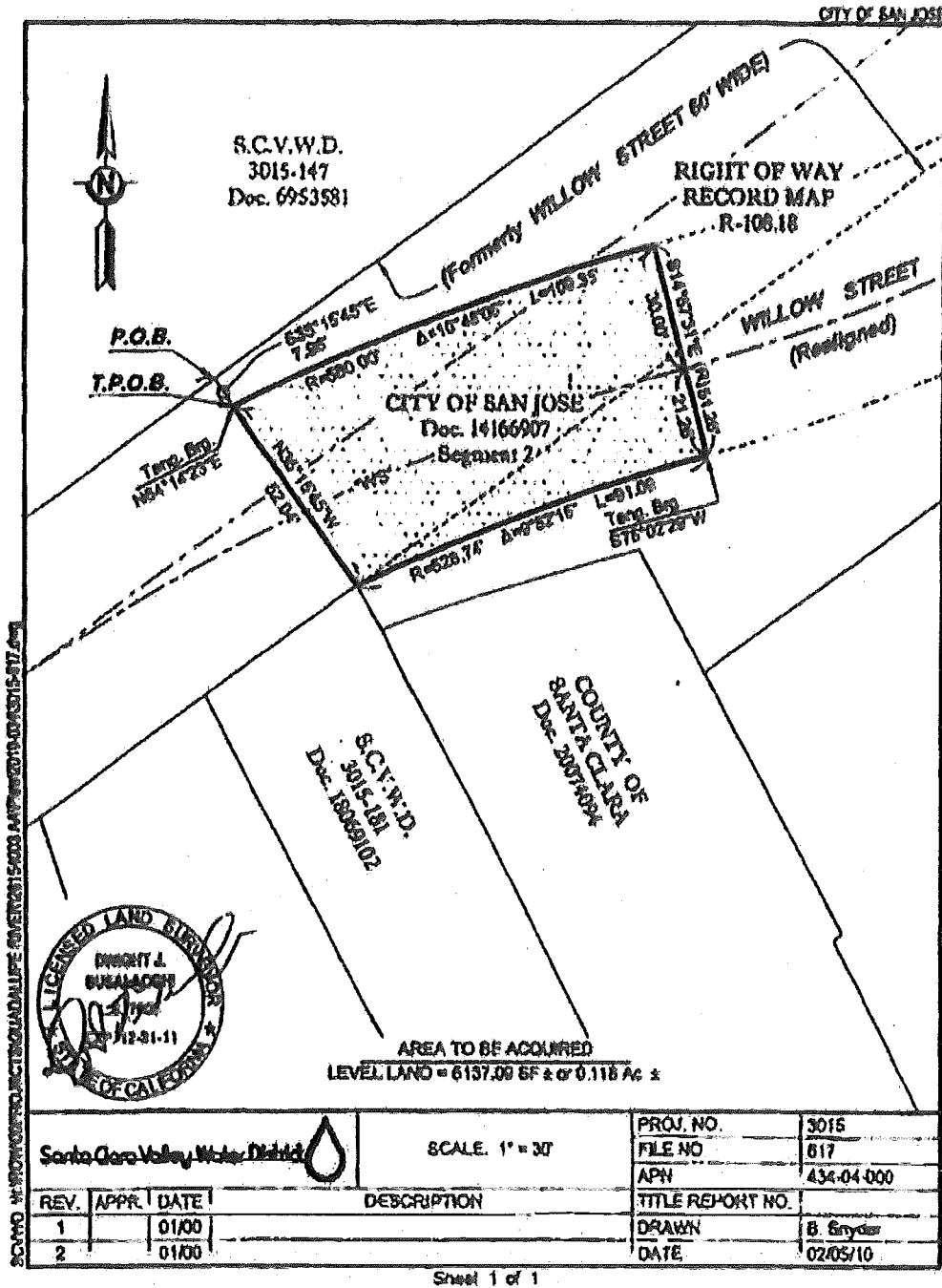


Exhibit B1-1

T:35081/1514114

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

EXHIBIT B2
PLAT OF PROPERTY



T-35081/1514114

Exhibit B2-1

PLAT OF PROPERTY

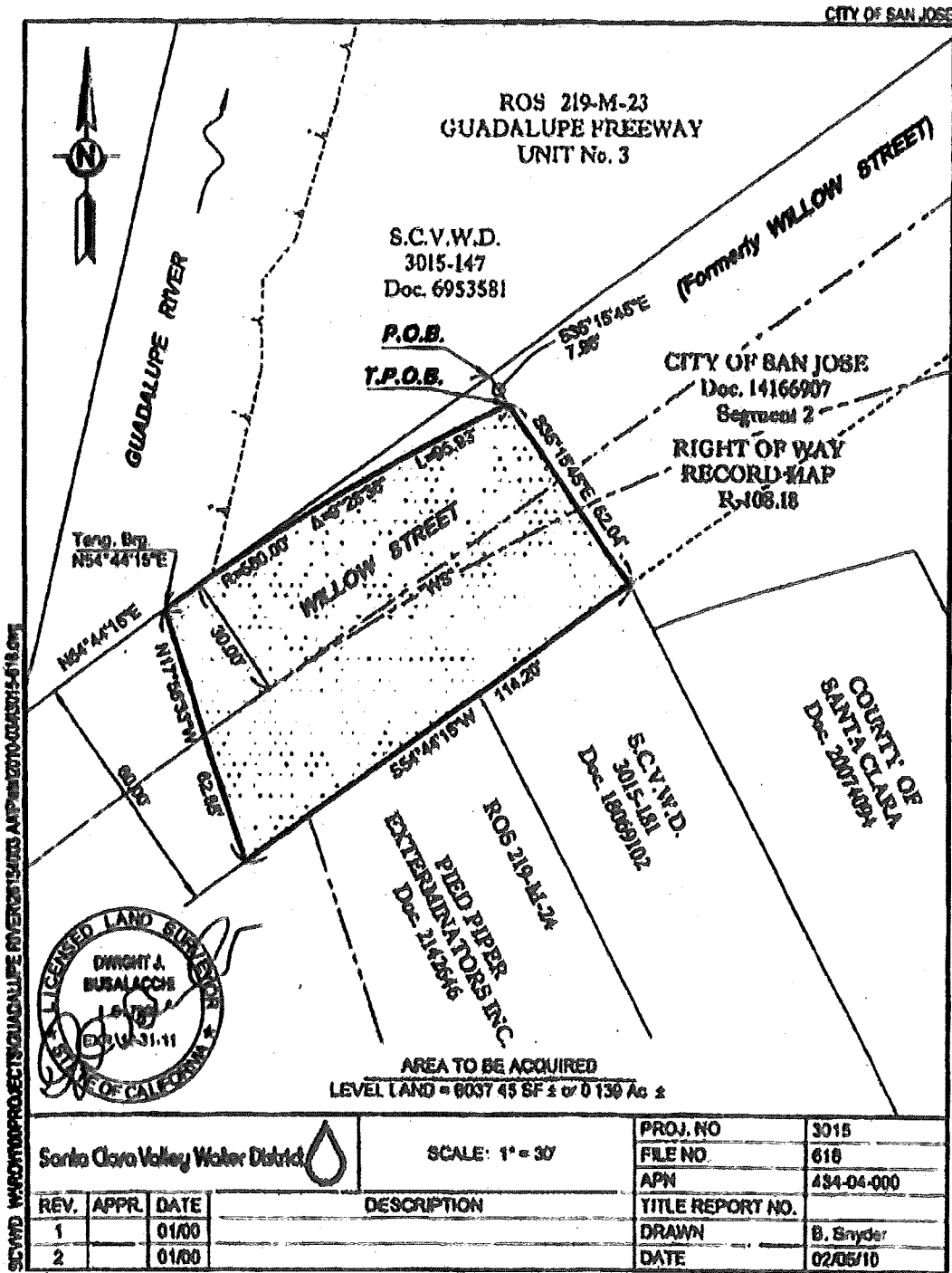


EXHIBIT C

Quit Claim Deed

RECORD WITHOUT FEE UNDER SECTION 6103
GOVERNMENT CODE OF THE STATE OF CALIFORNIA

AFTER RECORDING RETURN TO:

REAL ESTATE SERVICES UNIT
SANTA CLARA VALLEY WATER DISTRICT
5750 ALMADEN EXPRESSWAY
SAN JOSE, CALIFORNIA 95118

SPACE ABOVE THIS LINE FOR RECORDER'S USE

APN: 434-20-000, 434-04-000 (portions)

DISTRICT	<u>3015-614</u>
DOCUMENT	<u>3015-617</u>
NOS:	<u>3015-618</u>

QUITCLAIM DEED

1. The **CITY OF SAN JOSE**, a municipal corporation of the State of California, hereinafter "CITY", hereby REMISES, RELEASES AND FOREVER QUITCLAIMS to the **SANTA CLARA VALLEY WATER DISTRICT**, a Special District, created by the California Legislature ("District"), any and all right, title or interest in the real property located in the City of San Jose, County of Santa Clara, State of California, described and depicted in the attached Exhibits A1, A2, A3, B1, B2, and B3 ("Property").
2. **RESERVING**, unto CITY, a "**Public Roadway Easement**" and all rights necessary to construct, maintain, operate, modify, enlarge, replace, remove and renew any and all in-place and future public roadway improvements, roadway appurtenances and utility facilities located at-road-grade and within the Property; a "**Public Service Easement**" and all rights necessary to construct, maintain, operate, modify, enlarge, replace, remove and renew any and all in-place and future public utility facilities located at-road-grade and above-road-grade and below-road-grade within the Property; a "**Public Sidewalk Easement**" and all rights necessary to construct, maintain, operate, modify, enlarge, replace, remove and renew any and all in-place and future public sidewalk facilities located at-road-grade and above-road-grade within the Property. "**City Improvement**" shall include any in place or future improvements constructed, conveyed to CITY by DISTRICT, or owned by CITY as part of or across an existing or future Public Roadway Easement, Public Service Easement or Public Sidewalk Easement in favor of CITY.

Exhibit C-1

T-35081/1514114

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

3. CITY shall be responsible for the operation, maintenance, and repair costs of all CITY Improvements.
4. Upon completion of the bridge and appurtenant structures, including but not limited to the bridge deck, the roadway, the abutments, the foundations, and the wingwalls, by the District, ownership of the bridge and any appurtenant structures shall transfer automatically upon CITY'S completion of a structural inspection and written acceptance and formal District acceptance. CITY shall also be responsible for the operation and maintenance costs of the bridge and appurtenant structures and improvements.
5. The Easement Area shall be kept clear of any type of structure, except for the future bridge and appurtenant structures. Activities, including but not limited to, excavation, underground work or utility installation, that could impact the DISTRICT's improvements and facilities are not allowed in the Easement Area unless prior written approval in the form of a permit is obtained from the District.
6. District shall not remove or relocate the CITY Improvements placed on the Property by CITY without the prior written approval of CITY. Any improvements constructed, maintained or owned by DISTRICT that conflict with any CITY Improvements existing as of the date this deed is fully executed shall be removed and replaced and or relocated by DISTRICT at no cost to the CITY.
7. CITY's use of the Public Roadway Easement, Public Service Easement and Public Sidewalk Easement shall be conducted in a manner that does not damage or endanger the DISTRICT's improvements located on the Property or compromise the structural support of such improvements.
8. CITY shall indemnify, protect, defend and hold harmless DISTRICT, its elected officials, officers, employees, invitees, guests, contractors, and agents from and against all claims, actions, losses, liabilities, damages, costs and expenses arising out of or in connection with (a) the use of the Property by CITY, its employees, invitees, guests, contractors, agents, or any other parties using the Property, (b) the performance by CITY of its duties, obligations, agreements, and covenants under this Agreement, (c) the exercise of CITY's right to construct, repair, operate, or maintain a roadway, sidewalk, future bridges, utility installations or any other improvement that is related and appurtenant to said uses on the Property, and (d) any breach or default by CITY under this deed, excepting those damages or injuries resulting from DISTRICT's active negligence or willful misconduct. The provisions of this Paragraph shall survive the expiration or termination of the rights reserved herein.
9. DISTRICT shall indemnify, protect, defend and hold harmless CITY, its elected officials, officers, employees, invitees, guests, contractors, and agents from and against all claims, actions, losses, liabilities, damages, costs and expenses arising out of or in connection with (a) the use of the Property by DISTRICT, its employees, invitees, guests, contractors, agents, or anyone directly or indirectly employed or under contract with DISTRICT, (b) the performance by DISTRICT of its duties, obligations, agreements, and covenants under this deed, and (c) any breach or default by DISTRICT under this deed, excepting those damages or injuries resulting from CITY's active negligence or willful misconduct. The provisions of this Paragraph shall survive the expiration or termination of the easements reserved herein.

Dated this day of , 2019

Approved as to Form:

CITY OF SAN JOSE,
a Municipal Corporation of the State of
California

By: _____
Kevin Fisher
Chief Deputy City Attorney

By: _____
Leland Wilcox
Chief of Staff,
Office of the City Manager

Approved as to form:

SANTA CLARA VALLEY WATER DISTRICT,
a California Special District

By: _____
Joseph Aranda
Assistant District Counsel

By: _____
Norma J. Camacho
Chief Executive Officer

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.

ALL-PURPOSE ACKNOWLEDGMENT

COUNTY OF SANTA CLARA } STATE OF CALIFORNIA
SS

On this ____ day of _____, in the year 20__, before me _____,

Notary Public, personally appeared

Name(s) of Signer(s)

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 he/she/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.

Notary Public in and for said County and State

CAPACITY CLAIMED BY SIGNER

Though statute does not require the Notary to fill in the data below, doing so may prove invaluable to persons relying on the document.

- | | |
|--|---|
| <input type="checkbox"/> Individual | <input type="checkbox"/> Trustee (s) |
| <input type="checkbox"/> Corporate Officer (s): _____ | <input type="checkbox"/> Guardian/Conservator |
| <input type="checkbox"/> Partner (s) <input type="checkbox"/> Limited <input type="checkbox"/> General | <input type="checkbox"/> Other: _____ |
| <input type="checkbox"/> Attorney-In-Fact _____ | |

Signer is Representing (Name of Person(s) or Entity (ies))

CERTIFICATE OF CONSENT AND ACCEPTANCE

This is to certify that the interest in real property conveyed by the attached Deed or Grant to the Santa Clara Valley Water District, also referred to herein as the Grantee, is hereby accepted by the undersigned duly authorized agent on behalf of the Board of Directors of said Santa Clara Valley Water District, pursuant to authority conferred by Resolution No. 14-79 of said Board of Directors adopted on the 9th day of September 2014, and the Grantee consents to recordation thereof by its said duly authorized agent.

Dated: _____, 20__

Santa Clara Valley Water District

By: _____
Chief Executive Officer/Clerk of the Board of Directors
(Strike out inapplicable one)

Exhibit C-5

T-35081/1514114

EXHIBIT A1
LEGAL DESCRIPTION OF THE PROPERTY

EXHIBIT A1
LEGAL DESCRIPTION OF THE PROPERTY
SANTA CLARA VALLEY WATER DISTRICT
5750 Almaden Expressway
San Jose, CA 95118

Original By: B. SNYDER
Date: 12/04/09

Revised By: SJ
Revision Date: 02/21/2017

PROJECT: GUADALUPE RIVER
PROPERTY: CITY OF SAN JOSE

APN: 434-20-000
RESU File No.: 3015-614

ALL THAT CERTAIN REAL PROPERTY SITUATE IN THE CITY OF SAN JOSE, COUNTY OF SANTA CLARA, STATE OF CALIFORNIA, BEING A PORTION OF THE LANDS OF THE CITY OF SAN JOSE AS SHOWN ON THAT CERTAIN MAP FILED AS R-108.17, IN DISTRICT 4 OFFICE OF THE CALIFORNIA DEPARTMENT OF TRANSPORTATION, OAKLAND, CALIFORNIA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE INTERSECTION OF THE SOUTHEASTERLY LINE OF ALMA AVENUE, 80 FEET WIDE AS SHOWN ON THAT CERTAIN RECORD OF SURVEY FILED IN BOOK 138 OF MAPS AT PAGE 18, IN THE OFFICE OF THE RECORDER, COUNTY OF SANTA CLARA, STATE OF CALIFORNIA, WITH THE CENTERLINE OF GUADALUPE RIVER (FORMERLY KNOWN AS LEWIS CANAL), AS DESCRIBED IN THAT CERTAIN GRANT DEED RECORDED ON FEBRUARY 19, 1958 AS DOCUMENT NUMBER 1438775 OF OFFICIAL RECORDS, IN THE OFFICE OF THE RECORDER, COUNTY OF SANTA CLARA, STATE OF CALIFORNIA;

THENCE NORTHEASTERLY ALONG THE SOUTHEASTERLY LINE OF SAID ALMA AVENUE, NORTH 76°23'50" EAST, 55.80 FEET TO THE **POINT OF BEGINNING**;

THENCE LEAVING SAID SOUTHEASTERLY LINE OF ALMA AVENUE, NORTH 25°58'10" WEST, 81.90 FEET TO A POINT ON THE NORTHWESTERLY LINE OF SAID ALMA AVENUE;

THENCE NORTHEASTERLY ALONG SAID NORTHWESTERLY LINE, NORTH 76°23'50" EAST, 17.54 FEET TO THE BEGINNING OF A CURVE CONCAVE NORTHERLY HAVING A RADIUS OF 1960.00 FEET;

THENCE NORTHEASTERLY ALONG SAID CURVE AND ALONG THE NORTHWESTERLY LINE OF SAID ALMA AVENUE THROUGH A CENTRAL ANGLE OF 2°16'22" FOR AN ARC LENGTH OF 77.75 FEET;

THENCE CONTINUING ALONG SAID NORTHWESTERLY LINE, NORTH 38°33'29" EAST, 18.59 FEET;

**EXHIBIT A1
LEGAL DESCRIPTION OF THE PROPERTY**

(continued)

THENCE LEAVING SAID NORTHWESTERLY LINE, SOUTH 36°04'02" EAST, 96.15 FEET TO A POINT ON THE SOUTHEASTERLY LINE OF SAID ALMA AVENUE, SAID POINT ALSO BEING A POINT OF A CURVE CONCAVE NORTHERLY HAVING A RADIUS OF 2040.00 FEET AND TO WHICH POINT A TANGENT BEARS SOUTH 72°46'03" WEST,

THENCE SOUTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 3°37'47" FOR AN ARC LENGTH OF 129.24 FEET TO THE **POINT OF BEGINNING**.

CONTAINING 9,848 SQUARE FEET OR 0.226 ACRE OF LAND, MORE OR LESS.

BASIS OF BEARING:

BEARINGS ARE BASED ON AND IDENTICAL TO DOCUMENT NUMBER 1438775 OF OFFICIAL RECORDS, SANTA CLARA COUNTY, STATE OF CALIFORNIA.

SURVEYOR'S STATEMENT:

THIS DESCRIPTION WAS PREPARED BY ME OR UNDER MY DIRECTION IN CONFORMANCE WITH THE REQUIREMENTS OF THE LAND SURVEYOR'S ACT.



GISELA SILKE JOBST, L9169

2-22-2017
Date



EXHIBIT A2
LEGAL DESCRIPTION OF THE PROPERTY

SANTA CLARA VALLEY WATER DISTRICT
San Jose, California

By: B. SNYDER
Date: 02/05/10

Checked by: _____ Date: _____

PROJECT: GUADALUPE RIVER
PROPERTY: CITY OF SAN JOSE

FILE NO.: 3015-617

All that certain real property situate in the City of San Jose, County of Santa Clara, State of California, described as follows:

Being a portion of the lands as described as "SEGMENT 2" in the deed recorded as Document Number 14166907 in the office of the Recorder, County of Santa Clara, State of California, to wit:

BEGINNING at that intersection of the northwesterly line of (Formerly) Willow Street (60 feet wide) with the southwesterly line of said parcel as shown on that certain map filed as R-108.18, in District 4 Office of the California Department of Transportation, Oakland, California; thence southeasterly along the general southwesterly line of said parcel, S35°15'45"E 7.96 feet to the TRUE POINT OF BEGINNING; thence leaving said general southwesterly line running parallel and concentric, 30.00 feet distant as measured at right angles from the centerline of Willow Street realigned designated as "WS" Line as shown on said map, along a curve to the right from a tangent which bears N64°14'23"E, having a radius of 580.00 feet, through a central angle of 10°48'06", for an arc distance of 109.35 feet; thence S14°57'31"E 51.26 feet to a point lying 21.26 feet measured at right angles southeasterly of said "WS" Line as shown on said map; thence running parallel and concentric along a curve to the left from a tangent which bears S75°02'29"W, having a radius of 528.74 feet, through a central angle of 9°52'15", for an arc distance of 91.09 feet to an angle point on the general southwesterly line of said parcel as shown on said map; thence northwesterly along the general southwesterly N35°15'45"W 52.04 feet to the TRUE POINT OF BEGINNING.

Containing 5137 square feet or 0.118 acre of land, more or less.

BASIS OF BEARING: Bearings are based on and identical to that certain map filed as R-108.18, in District 4 office of the California Department of Transportation, Oakland, California.

SURVEYOR'S STATEMENT: This description was prepared by me or under my direction in conformance with the requirement of the Land Surveyor's Act.


Dwight J. Busalacchi PLS 7903

Sept 29, 2010
Date

Prepared by the Santa Clara Valley Water District, San Jose, CA



Exhibit A2-1 to Exhibit C

T-35081/1514114

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

EXHIBIT A3
LEGAL DESCRIPTION OF THE PROPERTY

SANTA CLARA VALLEY WATER DISTRICT
San Jose, California

By: B. SNYDER
Date: 02/05/10

Checked by: _____ Date: _____

PROJECT: GUADALUPE RIVER
PROPERTY: CITY OF SAN JOSE

FILE NO.: 3015-618

All that certain real property situate in the City of San Jose, County of Santa Clara, State of California, described as follows:

Being a portion of the lands shown as Willow Street (60 feet wide) on that certain map filed as R-108.18, in District 4 Office of the California Department of Transportation, Oakland, California, to wit:

BEGINNING at that intersection of the northwesterly line of Willow Street (60 feet wide) with the southwesterly line of lands designated as "SEGMENT 2" as shown on that certain map filed as R-108.18, in District 4 Office of the California Department of Transportation, Oakland, California; thence southeasterly along the general southwesterly line of said parcel as shown on said map, S35°15'45"E 7.96 feet to a point which is the TRUE POINT OF BEGINNING; thence continuing southeasterly along said general southwesterly line of lands designated as "SEGMENT 2" as shown on said map, S35°15'45"E 52.04 feet to a point on the southeasterly line of Willow Street (60 feet wide) as shown on said map; thence southwesterly along said southeasterly line of Willow Street (60 feet wide), S54°44'15"W 114.20 feet; thence leaving said southeasterly line of Willow Street (60 feet wide), N17°56'33"W 62.85 feet to a point on the northwesterly line of Willow Street (60 feet wide) as shown on said map, said point being 30 feet distant as measured at right angles from the centerline of Willow Street realigned designated as "WS" Line as shown on said map; thence leaving said northwesterly line of Willow Street (60 feet wide) running parallel and concentric to said centerline of Willow Street realigned designated as "WS" Line as shown on said map, along a curve to the right from a tangent which bears N54°44'15"E, having a radius of 580.00 feet, through a central angle of 9°28'36", for an arc distance of 95.93 feet to the TRUE POINT OF BEGINNING.

Containing 6037 square feet or 0.139 acre of land, more or less.

BASIS OF BEARING: Bearings are based on and identical to that certain map filed as R-108.18, in District 4 office of the California Department of Transportation, Oakland, California.

SURVEYOR'S STATEMENT: This description was prepared by me or under my supervision in conformance with the requirement of the Land Surveyor's Act.


Dwight J. Dunsacchi PLS 7903
Prepared by the Santa Clara Valley Water District, San Jose, CA

Sept. 19, 2010
Date



Exhibit A3-1 to Exhibit C

T-35081/1514114

**EXHIBIT B1
PLAT OF PROPERTY (A1 Legal Description)**

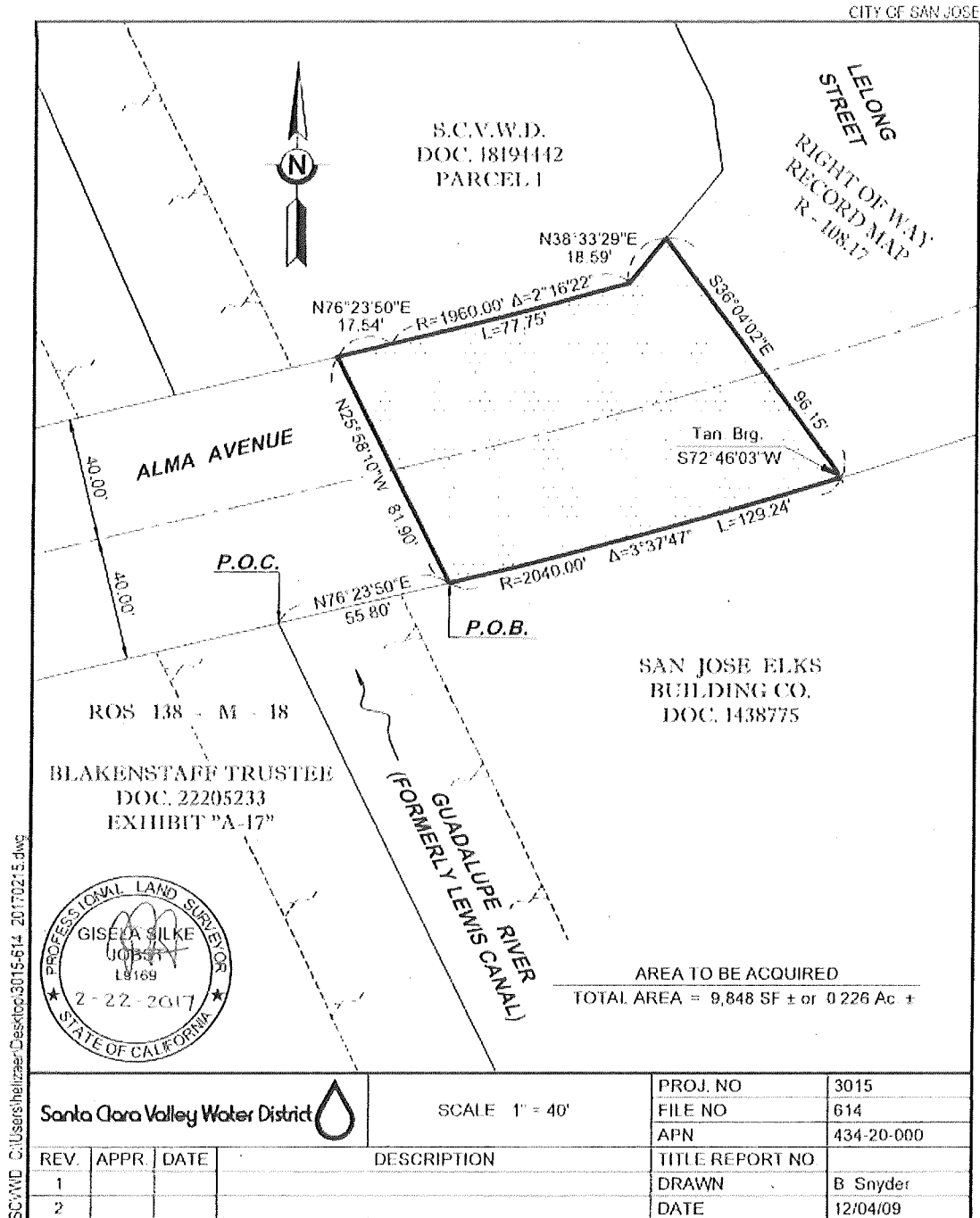


Exhibit B1-1 to Exhibit C

T-35081/1514114

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

**EXHIBIT B2
PLAT OF PROPERTY (A2 Legal Description)**

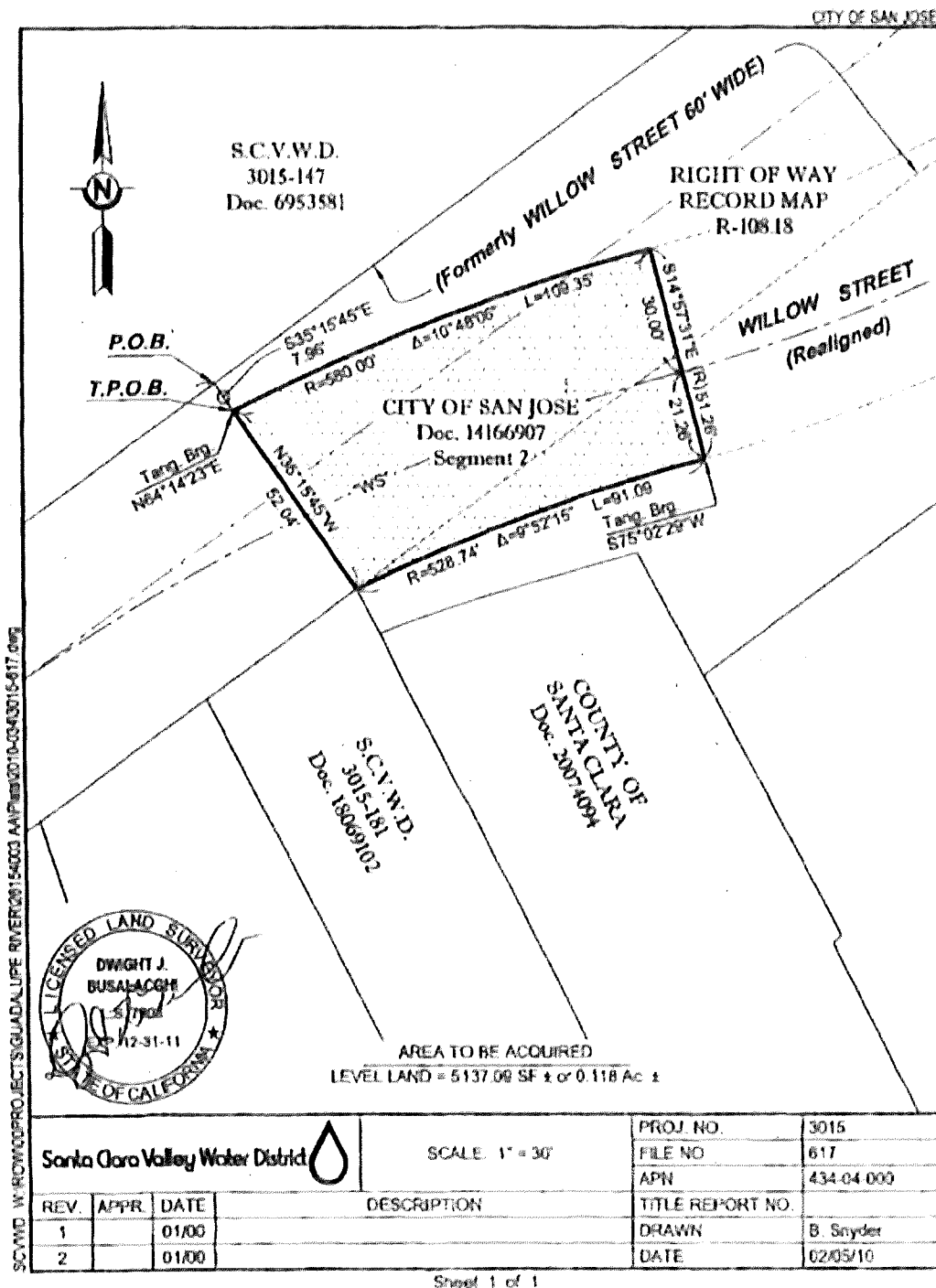


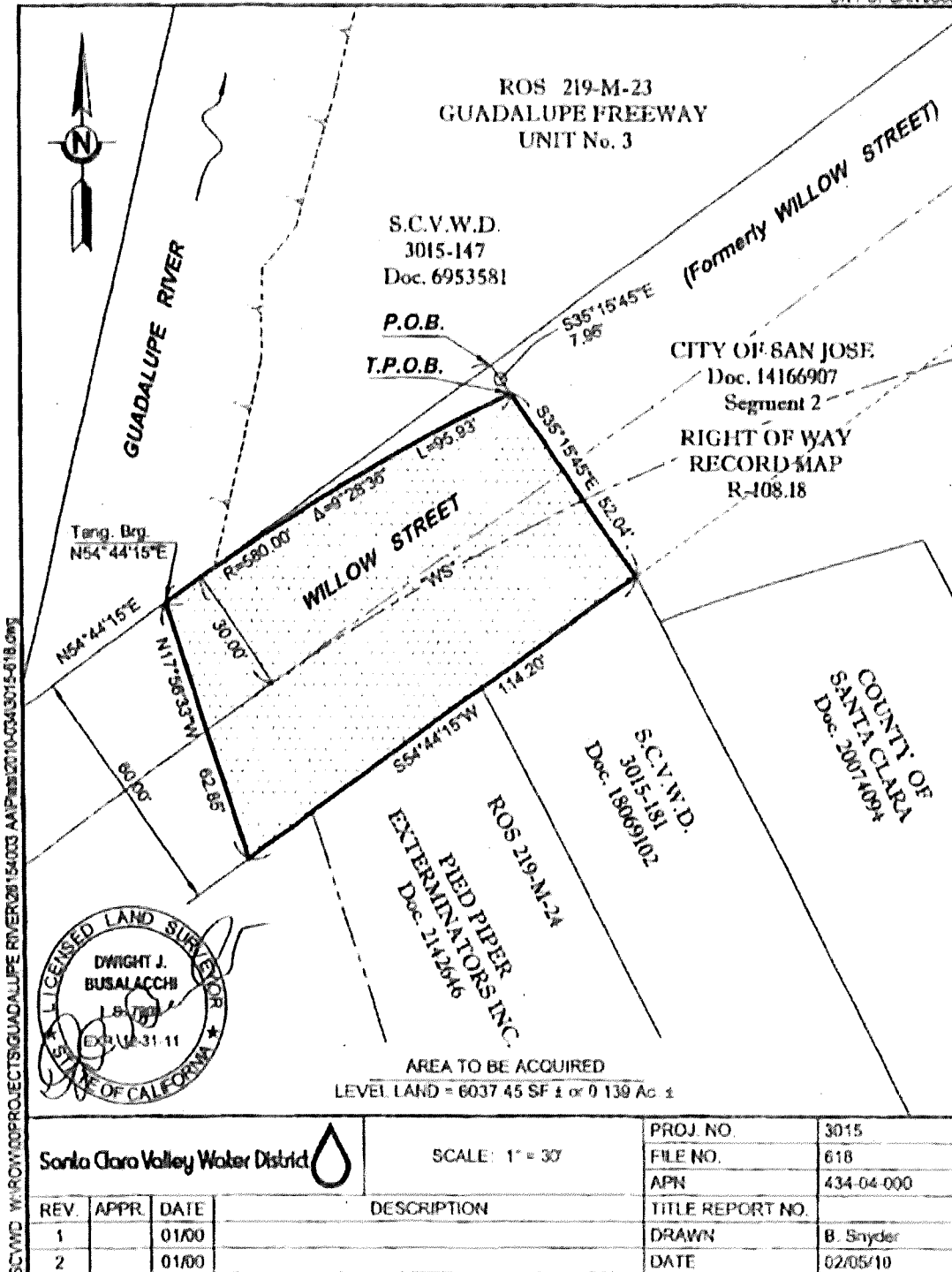
Exhibit B2-1 to Exhibit C

T-35081/1514114

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

**EXHIBIT B3
PLAT OF PROPERTY (A3 Legal Description)**

CITY OF SAN JOSE



Sheet 1 of 1

T-35081/1514114

Exhibit B3-1 to Exhibit C

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

EXHIBIT D
Hazardous Materials

For the purpose of this Agreement, **"HAZARDOUS MATERIALS"** shall mean any and all: (a) substances, products, by-products, waste, or other materials of any nature or kind whatsoever which is or becomes listed, regulated or addressed under any Environmental Laws; (b) materials, substances, products, by-products, waste, or other materials of any nature or kind whatsoever whose presence in and of itself or in combination with other materials, substances, products, by-products, or waste may give rise to liability under any Environmental Law or any statutory or common law theory based on negligence, trespass, intentional tort, nuisance, strict or absolute liability or under any reported decisions of any state or federal court; and, (c) substances, products, by-products, wastes or other materials which may be hazardous or harmful to the air, water, soil, environment or affect industrial hygiene, occupational, health, safety and/or general welfare conditions, including without limitation, petroleum and/or asbestos materials, products, by-products, or waste.

For the purposes of this Agreement, **"ENVIRONMENTAL LAWS"** shall mean and include all federal, state, and local laws, statutes, ordinances, regulations, resolutions, decrees, and/or rules now or hereinafter in effect, as may be amended from time to time, and all implementing regulations, directives, orders, guidelines, and federal or state court decisions, interpreting, relating to, regulating or imposing liability (including, but not limited to, response, removal, remediation and damage costs) or standards of conduct or performance relating to industrial hygiene, occupational, health, and/or safety conditions, environmental conditions, or exposure to, contamination by, or clean-up of, any and all Hazardous Materials, including without limitation, all federal or state environmental clean-up.