

Recorded at the request of and
after recording return to:
Contra Costa County
Public Works Department
Attn: Real Estate Division
255 Glacier Drive
Martinez, CA 9455

Mail Tax Statements to:
Contra Costa County
Public Works Department
Attn: Real Estate Division
255 Glacier Drive
Martinez, CA 94553

**EXEMPT FROM RECORDING FEES PURSUANT TO GOVT. CODE SECTION 27383 AND DOCUMENTARY TRANSFER TAX
PURSUANT TO REVENUE AND TAXATION CODE SECTION 11922.**

Portion of A.P.N.: 373-261-002 & 373-260-001

GRANT OF STORM DRAIN EASEMENT

For good and valuable consideration, including but not limited to the agreements contained herein, the receipt and sufficiency of which are hereby acknowledged, CONTRA COSTA COUNTY, a political subdivision of the State of California (hereinafter "COUNTY"), hereby grants to the CITY OF MARTINEZ, a municipal corporation of the State of California (hereinafter "GRANTEE"), a non-exclusive, perpetual surface and subsurface easement and right of way ("Storm Drain Easement") for removing, replacing, repairing, upgrading, maintaining and operating storm drain pipelines and storm drain structures ("Facilities"), together with access for ingress and egress thereto, and for no other purposes whatsoever, upon, along, in, and across all of the hereinafter described parcel of land situated in the County of Contra Costa, State of California, within an area commonly known as 1025 Escobar Street and within a portion of Marina Vista Ave in Martinez, and as more particularly described as follows:

**FOR DESCRIPTION AND PLAT MAP, SEE ATTACHED EXHIBITS "A" AND "B,
RESPECTIVELY."**

The area of the parcel of land in and on which the easement is located shall be referred to herein as the "Storm Drain Easement" and is so designated and labeled as such on Exhibits "A" and "B."

The foregoing grant is made subject to the following terms and conditions:

1. **PRIMARY USE OF THE PROPERTY** The Storm Drain Easement is located within COUNTY-owned properties commonly identified as Assessor's Parcel Nos. 373-260-001 and 373-261-002 ("Property"). The primary use of the Property is for various Contra Costa County offices and facilities.

GRANTEE acknowledges and agrees that the use just described constitutes the primary use of the Property and that any and all rights granted or implied by this Grant of Easement are secondary and subordinate to the primary use of the Property by the COUNTY, its successors and assigns. GRANTEE shall not, at any time, use or permit the public to use the Storm Drain Easement in any manner that will interfere with or impair the COUNTY's primary use of the Property. GRANTEE shall not fence said Storm Drain Easement without the prior written approval of the COUNTY, which said approval shall not be unreasonably denied or conditioned, and shall remove any fencing when requested by COUNTY to do so. GRANTEE shall not otherwise obstruct the Storm Drain Easement area.

2. **COUNTY TITLE:** GRANTEE hereby acknowledges COUNTY's title to the Property and agrees never to assail or resist said title.

3. **CONSTRUCTION AND MAINTENANCE ACTIVITIES:** (a) GRANTEE shall, prior to any construction, reconstruction, remodeling, excavation, installation or plantings within the Storm Drain Easement area, submit specific plans and specifications to the COUNTY for review and approval, which said approval shall not be unreasonably denied or conditioned. Such approval, together with any additional requirements, shall be in the form of a written permit issued by COUNTY to GRANTEE.

(b) Normal maintenance by GRANTEE of its Facilities within the Storm Drain Easement area, including inspection and cleaning of existing pipelines, trash separating system and appurtenances, owned by the City, shall not require prior notice to the COUNTY. GRANTEE shall perform maintenance of its Facilities so as to prevent damage to the Property or neighboring properties.

4. **DAMAGE TO COUNTY PROPERTY:** Any and all COUNTY Property, facilities, landscaping or other improvements, removed or damaged as a result of the use of the Storm Drain Easement area by GRANTEE, or any other person or entity acting under GRANTEE's direction or control, shall, at COUNTY's discretion and direction, be repaired or replaced by COUNTY, with all reasonable costs and expenses to be paid by GRANTEE (including but not limited to engineering costs and legal costs of collecting any unpaid expenses), or shall be repaired or replaced by GRANTEE, at the sole cost and expense of GRANTEE, equivalent to or better than their existing condition. In the event that GRANTEE fails to commence the required work within thirty days after being directed to do so by COUNTY, or such reasonable extension as COUNTY may agree to in writing, or fails to complete the required work within a reasonable time thereafter, COUNTY may perform or complete the work at the expense of GRANTEE, which expense GRANTEE agrees to pay to COUNTY promptly upon demand, including but not limited to engineering costs and any legal expenses incurred to collect such costs.

5. **DAMAGE TO GRANTEE'S FACILITIES:** COUNTY shall have no responsibility for the maintenance or removal of GRANTEE's Facilities, appurtenances or improvements, caused by or resulting from COUNTY's use of the Property for the

primary uses described in Section 1, COUNTY's work or operation thereon, or any third parties. It shall be the sole responsibility of the GRANTEE to provide and maintain adequate protection and surface markings for its own Facilities. Subject to the foregoing, if GRANTEE'S facilities are damaged by the sole, active negligence or willful misconduct of COUNTY, COUNTY shall repair the damage at its sole cost and expense or, at the discretion of and upon written notice from COUNTY, the damage shall be repaired by GRANTEE and the pre-approved reasonable cost of such repair shall be paid for by COUNTY.

6. **NON-EXCLUSIVE EASEMENT:** The Storm Drain Easement granted hereunder is non-exclusive. This Storm Drain Easement is subject and subordinate to all existing rights, rights of way, licenses, reservations, franchises and easements of record, or that would be evident from a physical inspection or accurate survey of the Property, in and to the Property. GRANTEE agrees to take all precautions required to avoid damage to the facilities of the existing users. If GRANTEE damages the facilities or improvements of COUNTY or any existing user, GRANTEE shall repair or replace such facilities at GRANTEE's sole cost and expense. Nothing contained herein shall be construed to prevent COUNTY from granting other easements, franchises, licenses or rights of way over said lands, provided however, that said subsequent uses do not unreasonably prevent or obstruct GRANTEE's easement rights hereunder.

7. **INDEMNIFICATION, AS-IS CONDITION OF PROPERTY:** (a) In the exercise of all rights under this Grant of Easement, GRANTEE shall be responsible for any and all injury to the public, to persons and to property arising out of or connected with GRANTEE's use of the Storm Drain Easement or GRANTEE'S installation, construction, reconstruction, removal, replacement, repair, upgrade, maintenance, operation, or use of the Facilities, or GRANTEE's exercise of its rights hereunder. GRANTEE shall indemnify, defend, save, protect and hold harmless, COUNTY, its officers, agents, employees and contractors from and against any and all threatened or actual loss, damage (including foreseeable and unforeseeable consequential damages), liability, claims, suits, demands, judgments, orders, costs, fines, penalties or expense of whatever character, including but not limited to those relating to inverse condemnation, and including attorneys' fees, (hereinafter collectively referred to as "Liabilities") to persons or property, direct or consequential, directly or indirectly contributed to or caused by the granting of this Storm Drain Easement, GRANTEE's operations, acts or omissions pursuant to this Storm Drain Easement, or the GRANTEE's use of the Storm Drain Easement or GRANTEE'S installation, construction, reconstruction, removal, replacement, repair, upgrade, maintenance, operation, or use of the Facilities, or GRANTEE'S exercise of its rights hereunder, save and except Liabilities arising through the sole negligence or willful misconduct of the COUNTY, its officers or employees. GRANTEE acknowledges that Property subject to this Storm Drain Easement is in a flood control area. GRANTEE agrees that GRANTEE shall never have, claim or assert any right or action against COUNTY or the County of Contra Costa in the event of damage to or disruption of GRANTEE's facilities caused or contributed to by flooding or water, and shall indemnify, defend,

save, protect and hold COUNTY harmless from all Liabilities resulting from such damage or disruption.

b) GRANTEE further agrees to defend, indemnify, save, protect and hold harmless, COUNTY from any and all actual or threatened claims, costs, actions or proceedings to attack, set aside, void, abrogate or annul this Grant of Easement or any act or approval of COUNTY related thereto.

c) GRANTEE accepts the Storm Drain Easement area in an "as is" physical condition, with no warranty, guarantee, representation or liability, express or implied on the part of the COUNTY as to any matter, including but not limited to the physical condition of the Property and/or the condition and/or possible uses of the land or any improvements thereon, the condition of the soil or the geology of the soil, the condition of the air, surface water or groundwater, the presence of known and unknown faults, the presence of any hazardous substance, materials, or other kinds of contamination or pollutants of any kind in the air, soil, groundwater or surface water, or the suitability of the Property for the construction and use of the improvements thereon. It shall be the sole responsibility of GRANTEE, at its sole cost and expense, to investigate and determine the suitability of the soil, water, geologic, environmental and seismic conditions of the Property for the intended use contemplated herein, and to determine and comply with all building, planning and zoning regulations relative to the Property and the uses to which it can be put. GRANTEE relies solely on GRANTEE's own judgment, experience and investigations as to the present and future condition of the Property or its suitability for GRANTEE's intended use and is not relying in any manner on any representation or warranty by COUNTY. GRANTEE agrees that neither GRANTEE, its heirs, successors nor assigns shall ever claim to have or assert any right or action against COUNTY for any loss, damage or other matter arising out of or resulting from the presence of any hazardous substance or any other condition of the Property at the commencement of the Storm Drain Easement or from the release of any hazardous substance in, on or around any part of the Property or in the soil, water, subsurface strata or ambient air by any person or entity other than the COUNTY following the commencement of this Storm Drain Easement. As used herein, "hazardous substance" means any substance, material or waste which is or may become designated, classified or regulated as being "toxic," "hazardous" or a "pollutant" under any federal, state or local law, regulation or ordinance. Nothing in this Section is intended in any way to restrict the right of GRANTEE to seek contribution or indemnity from any person or entity other than COUNTY whose activities are a cause of any discharge, leakage, spillage or emission of hazardous materials on or to the Property.

d) To the extent permitted by law, GRANTEE shall indemnify, defend, save, protect and hold the COUNTY harmless from and against any and all claims, demands, Liabilities, expenses (including without limitation attorneys fees and consultants fees), penalties, damages, consequential damages and losses, and costs (including but not limited to the costs of any required or necessary testing, remediation, repair, removal, cleanup or detoxification of the Property and

surrounding properties and from and against the preparation of any cleanup, remediation, closure or other required plans whether such action is required or necessary prior to or following the termination of the Storm Drain Easement), of any kind or nature, to the extent caused or contributed to by GRANTEE's operation or performance under this Storm Drain Easement, or GRANTEE's use, release or disposal of any hazardous substance, including all costs, claims, damages (including property and personal injury) caused by the uncovering, release or excavation of hazardous materials (including petroleum) as a result of GRANTEE's construction, reconstruction, maintenance, use, replacement, or removal of its Facilities, to the extent that such activities increase the costs attributable to the cleanup or remediation of such hazardous materials.

e) The obligations contained in this Section shall survive the expiration or other termination of this Storm Drain Easement.

8. **NO WARRANTIES:** GRANTEE understands and acknowledges that COUNTY makes no representations, warranties or guarantees of any kind or character, express or implied, with respect to the Property, and GRANTEE is entering into this transaction without relying in any manner on any such representation or warranty by COUNTY.
9. **ABANDONMENT:** In the event GRANTEE shall cease to use the Storm Drain Easement herein continuously for a period of five years, or in the event GRANTEE abandons its Facilities or fails to use the Storm Drain Easement for the purpose for which it is granted, then all rights of GRANTEE in and to said lands shall thereupon cease and terminate and shall immediately revert to and vest in COUNTY or its successors. Upon any such termination of GRANTEE's rights, GRANTEE shall, upon request by COUNTY, and at GRANTEE's sole cost and expense, remove all of its Facilities from the Storm Drain Easement area and restore said Property to its original condition. Upon the failure of GRANTEE to do so, this work may be performed by COUNTY at GRANTEE's expense, which expense GRANTEE agrees to pay to COUNTY upon demand. GRANTEE shall execute any Quitclaim Deeds required by COUNTY in this regard.
10. **NO ASSIGNMENT OF EASEMENT:** No rights granted hereunder shall be transferred, apportioned or assigned without the prior written consent of COUNTY.
11. **NO SECONDARY RIGHTS:** Except to the extent this Grant of Storm Drain Easement provides, otherwise, nothing herein contained shall be deemed to construe that access or other secondary rights are conveyed by this document over any of COUNTY's adjacent lands lying outside of the aforesaid strip of land above described.
12. **ENTIRE AGREEMENT:** This Grant of Storm Drain Easement contains the entire agreement between the parties hereto and shall not be modified in any manner except by an instrument in writing executed by the parties or their respective successors in interest.

13. **CONSTRUCTION:** This Grant of Storm Drain Easement shall not be construed as if it had been prepared by one of the parties, but rather as if both parties have prepared it. The parties to this Grant of Storm Drain Easement and their counsel have read and reviewed this grant of easement and agree that any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply to the interpretation of this Grant of Storm Drain Easement.
14. **SUCCESSORS AND ASSIGNS:** This indenture and all of the covenants herein contained shall inure to the benefit of and be binding upon the heirs, successors and assigns of the respective parties hereto.

IN WITNESS WHEREOF, this Grant of Storm Drain Easement is signed and executed this _____ day of _____ 2023.

CONTRA COSTA COUNTY

GRANTEE
CITY OF MARTINEZ

By _____
John Gioia
Chair, Board of Supervisors

By _____
Michael Chandler
City Manager

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.

STATE OF CALIFORNIA
COUNTY OF CONTRA COSTA

On _____, before me, _____ Clerk of the Board of Supervisors, Contra Costa County, personally appeared _____, 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.

Signature _____
Deputy Clerk

APPROVED AS TO FORM
by County Counsel
July, 1999

JL:
G:\realprop\County Administration Bldg Replacement\EA.17PA - Grant of Storm Drain Easement - v4 04032023.doc
03/02/09

EXHIBIT A – LEGAL DESCRIPTION

**CITY OF MARTINEZ
STORM DRAIN EASEMENT**

APN 373-261-002

APN 373-260-001

REAL PROPERTY in the city of Martinez, County of Contra Costa, State of California described as follows:

A portion of the lands of the County of Contra Costa, as described in the Deed, recorded in Volume 4876 at Page 623, recorded May 26, 1965, on file at the Recorder of the County of Contra Costa, State of California and a portion of those lands described in Volume 6579 at Page 248, recorded February 4, 1972, on file at the Recorder of the County of Contra Costa, State of California and also being a portion of Lots 1, 2, 7 and 8 Block 1 of the Additional Survey of the Town of Martinez, filed for record in Book D at Page 83 of Maps, on March 30, 1895, on file at the Recorder of the County of Contra Costa, State of California, a portion of the vacated Pine Street between Marina Vista Avenue and Escobar Street and a portion of the Lands of Contra Costa County, described in Book 7222 at Page 274 of Official Records of Contra Costa County, recorded May 8, 1974 being a portion of Block 346 of the Additional Survey of the Town of Martinez, filed for record in Book D at Page 83 of Maps, on March 30, 1895, on file at the Recorder of the County of Contra Costa State of California more particularly described as follows:

BEGINNING on the Northerly line of Escobar Street at the intersection with the Southerly terminus of the line between Lots 6 and 7 in said Block 1;

THENCE along said line between Lots 6 and 7 and Lots 2 and 3 in said Block 1, North 35°43'22" West a distance of 183.51 feet to the Southerly line of Marina Vista Avenue and the Northwesterly end of the course described as North 64°09'31" East, a distance of 87.41 feet in the Director's Deed recorded on October 31, 1962 in Volume 4234 at Page 568, Official Records of Contra Costa County;

THENCE along said Southerly of Marina Vista Avenue and the course described in the aforementioned Director's Deed, North 64°09' 31" East, a distance of 87.41 feet to the Westerly line of the former Pine Street (Vacated);

THENCE continuing along the Southerly line of Marina Vista Avenue and Northerly line of the vacated Pine Street North 64°09' 31" East a distance of 85.01 feet;

THENCE leaving said Southerly line of Marina Vista South 25°53'55" East, a distance of 8.00 feet;

THENCE South 64°09'31" West, a distance of 155.81 feet;

THENCE South 35°43'22" East, a distance of 164.76 feet;

THENCE North 54°12'07" East, a distance of 88.24 feet;

THENCE North 52°42'36" East, a distance of 49.96 feet to the easterly line of the aforementioned vacated Pine Street and the Westerly line of aforementioned Block 346;

**EXHIBIT A – LEGAL DESCRIPTION
CITY OF MARTINEZ
STORM DRAIN EASEMENT**

**APN 373-261-002
APN 373-260-001**

THENCE North 53°39'45" East, a distance of 21.07 feet;

THENCE South 36°20'22" East, a distance of 8.00 feet to the Northerly line of Escobar Street;

THENCE South 53°39'45" West, a distance of 21.00 feet to the Southeasterly corner of the aforementioned vacated Pine Street;


THENCE along the Southerly line of aforementioned Pine Street South 52°42'36" West, a distance of 50.00 feet to the Southeasterly corner of the aforementioned Lot 8 Block 1, Additional Survey of Town of Martinez and the Northerly line of Escobar Street;

THENCE along the Northerly line of Escobar Street South 54°12'07" West, a distance of 103.35 feet to the **POINT OF BEGINNING**.

Containing an area of 5,259 Square Feet, more or less.

APN 373-261-002 & 373-260-001

Attached hereto is a plat entitled Exhibit "B" and by this reference made a part hereof.



Mennor C. Chan, P.L.S. 8406

1.20.2021
Date

TELAMON ENGINEERING CONSULTANTS, INC.
855 Folsom Street, Suite 142
San Francisco, CA 94107
Tel: 415.837.1336



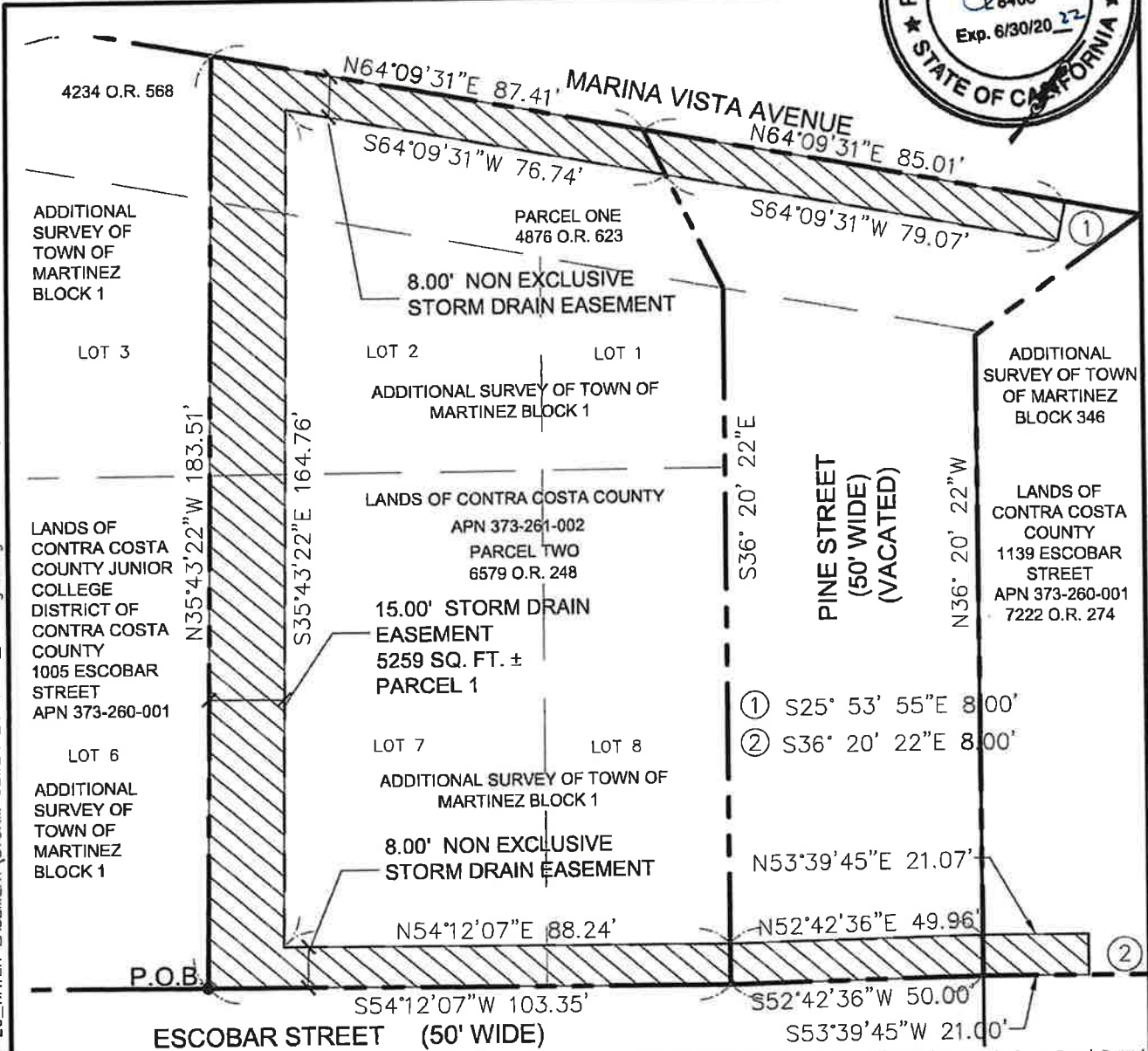
EXHIBIT "B"

CITY OF MARTINEZ

RIGHT OF WAY MAP FOR STORM DRAIN



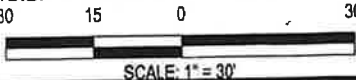
P:\16086 CCC Admin Bldg\8_TECI_Survey\Drawings\5-26-20_WATER EASEMENT\STORM SEWER EASEMENT_DZ.dwg Doug Jan 20, 2021 - 11:50am



Basis of Bearings: The bearing of North 64° 09' 31" East, being the Southeasterly line of Marina Vista Street, as described with that certain Grant Deed, Parcel Three, granted to Contra Costa County as recorded in Book 8574 at Page 572, dated August 8, 1977, County of Contra Costa Records was used as the basis of bearings for this survey.

ABBREVIATIONS

- APN = ASSESSOR'S PARCEL NUMBER
- O.R. = OFFICIAL RECORDS
- P.O.B. = POINT OF BEGINNING



LEGEND

- = STORM DRAIN EASEMENT
- = PROPERTY LINE
- = STORM DRAIN EASEMENT LINE
- = LOT LINES PER ADDITIONAL SURVEY OF TOWN OF MARTINEZ BLOCK 1

TELAMON
ENGINEERING CONSULTANTS, INC.
855 FOLSOM STREET, SUITE 142
SAN FRANCISCO, CA 94107
TEL: 415-837-1336 FAX: 415-837-1354

EXHIBIT B
NON-EXCLUSIVE STORM DRAIN EASEMENT

CITY OF MARTINEZ
COUNTY OF CONTRA COSTA, CA

DRAWING NO.	
SHEET NO.	REVISION
REVISION DATE	
01-19-21	

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

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.

STATE OF CALIFORNIA
COUNTY OF CONTRA COSTA

On _____, before me, _____,

Notary Public, personally appeared _____, 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.

Signature _____ (Seal)
Notary Public