

PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298



April 8, 2014

Advice Letter 3442-G

Brian K. Cherry
Vice President, Regulation and Rates
Pacific Gas and Electric Company
77 Beale Street, Mail Code B10C
P.O. Box 770000
San Francisco, CA 94177

**Subject: Easement Quitclaim and Relocation of Certain Gas Facilities
from PG&E Easement to City of San Jose Franchise Area –
Request for Approval Under Section 851**

Dear Mr. Cherry:

Advice Letter 3442-G is effective March 13, 2014 per Resolution G-3494.

Sincerely,

A handwritten signature in cursive script that reads "Edward F. Randolph".

Edward F. Randolph, Director
Energy Division



Brian K. Cherry
Vice President
Regulatory Relations

Pacific Gas and Electric Company
77 Beale St., Mail Code B10C
P.O. Box 770000
San Francisco, CA 94177

Fax: 415.973.7226

December 18, 2013

Advice 3442-G

(Pacific Gas and Electric Company ID U 39 G)

Public Utilities Commission of the State of California

Subject: Easement Quitclaim and Relocation of Certain Gas Facilities from PG&E Easement to City of San Jose Franchise Area – Request for Approval under Section 851

Purpose

At the request of Samsung Semiconductor, Inc. (“Samsung”) and the City of San Jose (“City”), Pacific Gas and Electric Company (“PG&E”) respectfully submits this filing requesting California Public Utilities Commission (“Commission” or “CPUC”) approval under Public Utilities Code §851 to allow PG&E to 1) relocate certain existing underground gas transmission facilities from a non-exclusive easement on private property to the public road right-of-way within the City of San Jose, and 2) quitclaim a portion of PG&E’s gas pipeline easement.

Background

Samsung will be building a 680,000 square foot, 10-story research and development/office building on their property located on the northwest corner of West Tasman Drive and North First Street in the City of San Jose, Assessor’s Parcel Numbers 097-53-026 & 097-53-027 (“Property”). PG&E currently owns, operates and maintains a 24-inch diameter gas transmission pipeline, commonly known as L-132 (“Pipeline”), which travels along the southerly and easterly boundary line of property. PG&E acquired a 15-foot wide easement for the original location by deed dated June 1, 1944 and recorded June 23, 1944 Volume 1200 of Official Records at Page 478, Santa Clara County Records (“Original Easement”), and then later modified to change the location of the Easement by agreement dated August 1, 2013 and recorded on August 9, 2013, Doc#22347600 in Santa Clara County Records (“Easement”) in order to accommodate a prior relocation (Attachment 1). Samsung and the City of San Jose have requested that PG&E relocate a 500 foot section of the Pipeline on the Property from the Easement to a new location along West Tasman Road within the public road right-

of-way. PG&E will be installing in the public road right-of-way pursuant to its franchise agreement with the City of San Jose.

Samsung will be responsible for all costs associated with PG&E relocating the 500 foot section of Pipeline. Following the relocation, PG&E in return will quitclaim the 500 foot section of Easement to Samsung.

In accordance with General Order ("G.O.") 173, PG&E provides the following information related to the proposed transaction:

(a) Identity of All Parties to the Proposed Transaction:

Pacific Gas and Electric Company	Shawn Koo, Facilities Director
Darren P. Roach	Samsung Semiconductor, Inc.
Law Department	3655 North First Street
P.O. Box 7442	San Jose, CA 95134
San Francisco, CA 94120	Telephone: (408) 544-4805
Telephone: (415) 973-6345	E-mail: skoo@ssi.samsung.com
Facsimile: (415) 973-5520	
Email: DPRC@pge.com	

(b) Complete Description of the Facilities and Property Including Present Location, Condition and Use:

Currently, PG&E owns, operates and maintains a 24-inch diameter natural gas transmission pipeline which travels along the southerly and easterly boundary line of Samsung property located in the City of San Jose, APN: 097-53-026 & 097-53-027. A 500 foot section of the Pipeline located along the southeasterly boundary line of the Property will be relocated in the public road right-of-way along West Tasman Road.

(c) Intended Use of the Property and Facilities:

Samsung will be developing a 680,000 square foot, 10-story research and development/office building on the Property. At the request of Samsung and the City of San Jose, PG&E will be relocating the 500 foot section of Pipeline to provide a 50 foot setback from the proposed building foundation. The remaining sections of Pipeline will remain in place on the Property.

The 500 foot section of Pipeline will be vacated and abandoned and a portion of the Easement will be quitclaimed. A map of the relocation project showing the current location of the Pipeline and the proposed new location is attached hereto as Attachment 2.

(d) Complete Description of Financial Terms of the Proposed Transaction:

Being that the Pipeline is currently located within a non-exclusive easement and PG&E will be relocating at the request of Samsung, Samsung will reimburse PG&E for the full, actual cost of the relocation.

PG&E is not collecting any fees associated with the quitclaim of a portion of the Easement.

(e) Description of How Financial Proceeds of the Transaction Will Be Distributed:

Not Applicable.

(f) Statement on the Impact of the Transaction on Ratebase and Any Effect on the Ability of the Utility to Serve Customers and the Public:

The proposed transaction will not have an adverse effect on the public interest as it will not interfere with the safe operation of PG&E's facilities, or with the provision of service to PG&E's customers.

The quitclaim of the Easement will not adversely affect existing ratepayers, and there are no changes to PG&E's rate base as a result of the pipeline relocation.

(g) The Original Cost, Present Book Value, and Present Fair Market Value for Sales of Real Property and Depreciable Assets, and a Detailed Description of How the Fair Market Value Was Determined (e.g., Appraisal):

Not Applicable.

(h) The Fair Market Rental Value for Leases of Real Property, and a Detailed Description of How the Fair Market Rental Value Was Determined:

Not Applicable.

(i) For Fair Market Rental Value of the Easement or Right-of-Way and a Detailed Description of How the Fair Market Rental Value Was Determined:

Not Applicable.

(j) A Complete Description of any Recent Past (Within the Prior Two Years) or Anticipated Future Transactions that May Appear To Be Related to the Present Transaction:¹

PG&E and Samsung will enter into a contract in which Samsung will be responsible for the actual cost of the relocation.

(k) Sufficient Information and Documentation (Including Environmental Review Information) to Indicate that All Criteria Set Forth in Rule 3 of General Order (“GO”) 173 are Satisfied:

PG&E has provided information in this Advice Letter to satisfy the eligibility criteria under GO 173 in that:

- The activity proposed in the transaction will not require environmental review by the CPUC as a Lead Agency (see (m) below);
- The transaction will not have an adverse effect on the public interest or on the ability of PG&E to provide safe and reliable service to its customers at reasonable rates;
- The transaction will not materially impact the rate base of PG&E; and
- The transaction does not warrant a more comprehensive review that would be provided through a formal Section 851 application.

(l) Additional Information to Assist in the Review of the Advice Letter:

PG&E is not aware of any additional relevant information other than what is included with this advice letter.

(m) Environmental Information

Pursuant to GO 173, the Advice Letter program applies to proposed transactions that will not require environmental review by the CPUC as a lead agency under the California Environmental Quality Act (“CEQA”) either because: (a) a statutory or categorical exemption applies (the applicant must provide a notice of exemption from the Lead Agency or explain why an exemption applies), or (b) because the transaction is not a project under CEQA (the applicant must explain the reasons why it believes that the transaction is not a project), or (c) because another public

¹ During adoption of the Advice Letter pilot program in ALJ-186 (later followed by ALJ-202 and ALJ-244), this category of information was included to enable the CPUC to ensure that utilities were not seeking to circumvent the \$5 million Advice Letter threshold by dividing what is a single asset with a value of more than \$5 million into component parts each valued at less than \$5 million, which is clearly not the case here. (See CPUC Resolution ALJ-186, issued August 25, 2005, mimeo, p.5.)

agency, acting as the Lead Agency under CEQA, has completed environmental review of the project, and the Commission is required to perform environmental review of the project only as a Responsible Agency under CEQA.

For this Advice Letter, the City has completed environmental review as a Lead Agency, and the Commission can serve as a Responsible Agency.

a. Exemption

i. Has the proposed transaction been found exempt from CEQA by a government agency?

1. If yes, please attach notice of exemption. Please provide name of agency, date of Notice of Exemption, and State Clearinghouse number.

Not Applicable.

2. If no, does the applicant contend that the project is exempt from CEQA? If yes, please identify the specific CEQA exemption or exemptions that apply to the transaction, citing to the applicable State CEQA Guideline(s) and/or Statute(s).

This project qualifies as categorically exempt under Section 15304(f) of the CEQA guidelines, which exempts minor trenching and backfilling where the surface is restored.

Additionally, the City of San Jose issued a site development permit (Attachment 3) for the Property and confirmed the project, including pipeline relocation, will not have an unacceptable negative affect on adjacent property or properties. Therefore, PG&E requests that the Commission find that this pipeline relocation project is categorically exempt from CEQA and that no additional environmental review pursuant to CEQA is necessary to approve this advice letter.

Protests

Anyone wishing to protest this filing may do so by sending a letter by January 7, 2014, which is 20 days from the date of this filing. The protest must state the grounds upon which it is based, including such items as financial and service impact, and should be submitted expeditiously. Protests should be mailed to:

CPUC Energy Division
ED Tariff Unit
505 Van Ness Avenue, 4th Floor
San Francisco, California 94102

Facsimile: (415) 703-2200
E-mail: EDTariffUnit@cpuc.ca.gov

Copies of protests also should be mailed to the attention of the Director, Energy Division, Room 4004, at the address shown above.

The protest shall also be sent to PG&E either via E-mail or U.S. mail (and by facsimile, if possible) at the address shown below on the same date it is mailed or delivered to the Commission:

Brian K. Cherry
Vice President, Regulatory Relations
Pacific Gas and Electric Company
77 Beale Street, Mail Code B10C
P.O. Box 770000
San Francisco, California 94177

Facsimile: (415) 973-7226
E-mail: PGETariffs@pge.com

Any person (including individuals, groups, or organizations) may protest or respond to an advice letter. (General Order 96-B, Section 7.4.) The protest shall contain the following information: specification of the advice letter protested; grounds for the protest; supporting factual information or legal argument; name, telephone number, postal address, and (where appropriate) e-mail address of the protestant; and statement that the protest was sent to the utility no later than the day on which the protest was submitted to the reviewing Industry Division (General Order 96-B, Section 3.11).

Effective Date

Pursuant to the review process outlined in General Order 173, PG&E requests that this Tier 2 advice filing become effective on January 17, 2014, which is 30 days from the date of filing.

Notice

In accordance with General Order 96-B, Section IV, a copy of this advice letter is being sent electronically and/or via U.S. mail to parties shown on the attached list. Address changes to the General Order 96-B service list should be directed to PG&E at email address PGETariffs@pge.com. For changes to any other service

list, please contact the Commission's Process Office at (415) 703-2021 or at Process_Office@cpuc.ca.gov. Send all electronic approvals to PGETariffs@pge.com. Advice letter filings can also be accessed electronically at: <http://www.pge.com/tariffs>.

Brian Cherry /IG

Vice President – Regulatory Relations

Attachments

***** SERVICE LIST Advice 3442-G *****
APPENDIX A

***** 3rd Party *****

Karen Clopton
Administrative Law Judge Division
505 Van Ness Avenue
San Francisco, CA 94102
(415) 703-2008
kvc@cpuc.ca.gov

Shawn Koo, Facilities Director
Samsung Semiconductor, Inc.
3655 North First Street
San Jose, CA 95134
Telephone: (408) 544-4805
E-mail: skoo@ssi.samsung.com

Myra J. Prestidge
Administrative Law Judge Division
505 Van Ness Avenue
San Francisco, CA 94102
(415) 703-2629
tom@cpuc.ca.gov

Jonathan Reiger
Legal Division
505 Van Ness Avenue
San Francisco, CA 94102
(415) 355-5596
jzr@cpuc.ca.gov

Mary Jo Borak
Energy Division
505 Van Ness Avenue
San Francisco, CA 94102
(415) 703-1333
bor@cpuc.ca.gov

Edward Randolph
Energy Division
505 Van Ness Avenue
San Francisco, CA 94102
(415) 703-2083
efr@cpuc.ca.gov

Brewster Fong
Division of Ratepayer Advocates
505 Van Ness Avenue
San Francisco, CA 94102
(415) 703- 2187
bfs@cpuc.ca.gov

Andrew Barnsdale
Energy Division
505 Van Ness Avenue
San Francisco, CA 94102
(415) 703-3221
bca@cpuc.ca.gov

CALIFORNIA PUBLIC UTILITIES COMMISSION

ADVICE LETTER FILING SUMMARY ENERGY UTILITY

MUST BE COMPLETED BY UTILITY (Attach additional pages as needed)

Company name/CPUC Utility No. **Pacific Gas and Electric Company (ID U39 G)**

Utility type:

ELC GAS
 PLC HEAT WATER

Contact Person: Igor Grinberg

Phone #: (415) 973-8580

E-mail: ixg8@pge.com and PGETariffs@pge.com

EXPLANATION OF UTILITY TYPE

ELC = Electric GAS = Gas
PLC = Pipeline HEAT = Heat WATER = Water

(Date Filed/ Received Stamp by CPUC)

Advice Letter (AL) #: **3442-G**

Tier: **2**

Subject of AL: **Easement Quitclaim and Relocation of Certain Gas Facilities from PG&E Easement to City of San Jose Franchise Area – Request for Approval under Section 851**

Keywords (choose from CPUC listing): Agreements

AL filing type: Monthly Quarterly Annual One-Time Other _____

If AL filed in compliance with a Commission order, indicate relevant Decision/Resolution #: N/A

Does AL replace a withdrawn or rejected AL? If so, identify the prior AL: No

Summarize differences between the AL and the prior withdrawn or rejected AL: _____

Is AL requesting confidential treatment? If so, what information is the utility seeking confidential treatment for: No

Confidential information will be made available to those who have executed a nondisclosure agreement: Yes No

Name(s) and contact information of the person(s) who will provide the nondisclosure agreement and access to the confidential information:

Resolution Required? Yes No

Requested effective date: **January 17, 2014**

No. of tariff sheets: N/A

Estimated system annual revenue effect (%): N/A

Estimated system average rate effect (%): N/A

When rates are affected by AL, include attachment in AL showing average rate effects on customer classes (residential, small commercial, large C/I, agricultural, lighting).

Tariff schedules affected: N/A

Service affected and changes proposed: N/A

Pending advice letters that revise the same tariff sheets: N/A

Protests, dispositions, and all other correspondence regarding this AL are due no later than 20 days after the date of this filing, unless otherwise authorized by the Commission, and shall be sent to:

California Public Utilities Commission
Energy Division
EDTariffUnit
505 Van Ness Ave., 4th Flr.
San Francisco, CA 94102
E-mail: EDTariffUnit@cpuc.ca.gov

Pacific Gas and Electric Company
Attn: Brian Cherry
Vice President, Regulatory Relations
77 Beale Street, Mail Code B10C
P.O. Box 770000
San Francisco, CA 94177
E-mail: PGETariffs@pge.com

Attachment 1

Original and Modified Easement Agreements

THIS INDENTURE made by and between JOHN VEIGA and VIRGINIA VEIGA, husband and wife

hereinafter called first party, and PACIFIC GAS AND ELECTRIC COMPANY, a California corporation, hereinafter called second party,

WITNESSETH that:

In consideration of value paid therefor by second party, the adequacy and receipt whereof are hereby acknowledged, first party does hereby grant to second party the right to excavate for, install, replace (of the initial or any other size), maintain and use for conveying gas such pipe line or lines as it shall from time to time elect, with necessary valves and other appliances, within the hereinafter de-

scribed strip..... of those certain premises which are situate in the.....

County of Santa Clara, State of California, and described as follows, viz.:

That portion of lot 4, as said lot is delineated and so designated on the Map of James Lick Tract, recorded in Book A of Maps at page 30, records of said Santa Clara County, conveyed by J. A. Goodwin and W. P. Lillick, trustees, to John Veiga by deed dated August 16, 1928 and recorded in Book 420 of Official Records at page 277, records of said Santa Clara County.

Said strip of said premises is described as follows, viz.:

A strip of land of the uniform width of 15 feet extending from the southwesterly boundary line of the San Jose-Alviso County Road southwesterly to the southeasterly boundary line of said premises and lying equally on each side of that certain line which begins at a point in the southwesterly boundary line of said county road (marked by a fence) from which an iron pipe marking the intersection thereof with the southeasterly boundary line of said lot 4, bears south 29° 46' east 252.3 feet distant, and runs thence south 36° 19 1/2' west 593 feet, more or less, to the southeasterly boundary line of said premises.

First party also grants to second party the right to erect, maintain and use gates in all fences which now cross or shall hereafter cross said strip of said premises.

First party also grants to second party (a) the privilege of using such portion of said premises along and adjacent to said strip..... as may be reasonably necessary in connection with the installation and maintenance of such pipe line or lines and (b) the right of ingress to said pipe line or lines and egress therefrom across said premises by means of then existing roads and lanes thereon, if such there be, and if there be no such roads and lanes then over such route as shall be most convenient to second party doing as little damage to said premises as practicable.

Second party shall promptly backfill any trench made by it on said premises so as to leave the surface of the ground thereover as nearly normal as practicable.

Second party shall avoid unreasonable interference with such use by first party of said premises as shall not be inconsistent with the full enjoyment hereof by second party; provided, however, that first party shall not erect, or construct, or permit to be erected or constructed, any building or other structure, or drill, or operate, any sort of well within said strip..... of said premises.

Second party will indemnify first party against any and all loss and damage which may be caused by the exercise of said ingress and egress or by any wrongful or negligent act or omission of second party, or of its agents or employees in the course of their employment.

The provisions hereof shall inure to the benefit of and bind the successors and assigns of the respective parties hereto.

IN WITNESS WHEREOF first party has executed these presents this 15th day of June, 1944.

Executed in the presence of [Signature] Witness

[Signatures of John Veiga and Virginia Veiga]



Handwritten initials 'U.S.' in the bottom left corner.

Handwritten number '163' at the bottom center.

209-151

WHEREAS, PACIFIC GAS AND ELECTRIC COMPANY, a California corporation, proposes to acquire an easement for pipe lines for conveying gas over and across those certain premises of John Veiga and wife situate in the County of Santa Clara, State of California, described as follows:

That portion of lot 4, as said lot is delineated and so designated on the Map of James Lick Tract, recorded in Book A of Maps at page 30, records of said Santa Clara County, conveyed by J. A. Goodwin and W. F. Lillick, trustees, to John Veiga by deed dated August 16, 1928 and recorded in Book 420 of Official Records at page 277, records of said Santa Clara County;

and

WHEREAS the undersigned is the tenant in possession of said premises;

NOW, THEREFORE, in consideration of value adequate therefor, paid by said corporation, receipt whereof is hereby acknowledged, the undersigned does hereby consent to the excavation for, installation, maintenance and use of said gas pipe lines along the easement therefor when granted by the owners of said premises, on condition that said corporation will reimburse the undersigned for any and all damage to the crops and livestock of the undersigned caused by said corporation, its agents or employees, during the excavation for and installation of said gas pipe lines.

Dated: June 15th 1944

J. Ibarra

Ray M. Logg
Witness

Ibarra

RECORDING REQUESTED BY AND RETURN TO:

PACIFIC GAS AND ELECTRIC COMPANY
245 Market Street, NI0A, Room 1015
P.O. Box 770000
San Francisco, California 94177

Location: City/County SAN JOSE

Recording Fee \$ _____

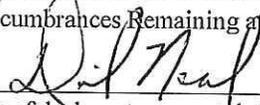
Document Transfer Tax \$ NO CONSIDERATION

This is a conveyance where the consideration and Value is less than \$100.00 (R&T 11911).

Computed on Full Value of Property Conveyed, or

Computed on Full Value Less Liens

& Encumbrances Remaining at Time of Sale



Signature of declarant or agent determining tax

LD# 2306-01-2310

2013173 (22-13-028) 6 13 1
Line 132 Relocation Project

CONFORMED COPY: This document has not been compared with the original.
SANTA CLARA COUNTY CLERK-RECORDER

Doc#: 22347600

8/09/2013

1:57 PM

(SPACE ABOVE FOR RECORDER'S USE ONLY)

AGREEMENT

EASEMENT RELOCATION AGREEMENT

SAMSUNG SEMICONDUCTOR, INC., a California corporation, hereinafter called first party, makes this agreement with PACIFIC GAS AND ELECTRIC COMPANY, a California corporation, hereinafter called second party, for the purpose of changing the location of the right of way and easement described in the deed from John Veiga and Virginia Veiga to Pacific Gas and Electric Company dated June 1, 1944 and recorded in Book 1200 of Official Records at page 478, Santa Clara County Records, and in connection therewith, redefining the lands described in said deed dated June 1, 1944.

NOW, THEREFORE, the parties to this agreement mutually agree as follows:

A. That the lands described in said deed dated June 1, 1944 shall be redefined to be the lands described as follows:

(APN 097-53-026, -027)

PARCEL A and PARCEL B, as said parcels are shown upon the Parcel Map filed for record February 23, 1989 in Book 596 of Maps at page 23, Santa Clara County Records.

B. That the location of the right of way and easement described in said deed dated June 1, 1944 shall be changed to the strip of land described as follows:

The strip of land described in EXHIBIT "A" attached hereto and made a part hereof.

As so modified, the rights in, on, over and across said lands of first party as herein redefined granted by said deed dated June 1, 1944 are hereby confirmed in second party on the terms and conditions therein set forth.

Except as expressly set forth herein, this agreement shall not in any way alter, modify, or terminate any provision of said deed dated June 1, 1944.

This agreement shall inure to the benefit of and bind the successors and assigns of the respective parties hereto.

IN WITNESS WHEREOF the parties hereto have executed this agreement this First day of August, 20 13.

First Party:

Second Party:

SAMSUNG SEMICONDUCTOR, INC.,
a California corporation

PACIFIC GAS AND ELECTRIC COMPANY,
a California corporation

By [Signature]
Name Sang Kil LEE
Title CTO

By [Signature]
Joseph O'Neal
Manager
Land Surveying

By [Signature]
Name Jerrence H. Cross
Title Vice President + General Counsel

State of California)
County of Santa Clara)

CALIFORNIA ALL-PURPOSE CERTIFICATE OF ACKNOWLEDGMENT

On 8-01-2013 before me, MARRISA A. ROMERO, NOTARY PUBLIC
(here insert name and title of the officer)

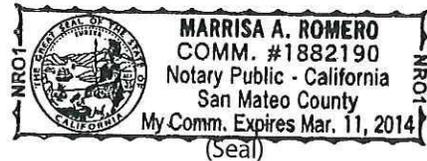
personally appeared SONG KIL LEE

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 Marrisa A. Romero



OPTIONAL INFORMATION

Although the information in this section is not required by law, it could prevent fraudulent removal and reattachment of this acknowledgment to an unauthorized document and may prove useful to persons relying on the attached document.

Description of Attached Document

The preceding Certificate of Acknowledgment is attached to a document titled/for the purpose of Easement relocation agreement / SSI & PGE containing 4 pages, and dated 8-01-2013.

The signer(s) capacity or authority is/are as:

- Individual(s)
 Attorney-in-Fact
 Corporate Officer(s) CFO Title(s)

- Guardian/Conservator
 Partner - Limited/General
 Trustee(s)
 Other: _____

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

Additional Information

Method of Signer Identification

Proved to me on the basis of satisfactory evidence:
 form(s) of identification credible witness(es)

Notarial event is detailed in notary journal on:
Page # 1 Entry # 8

Notary contact: _____

Other

Additional Signer(s) Signer(s) Thumbprint(s)

State of California)
County of Santa Clara)

CALIFORNIA ALL-PURPOSE CERTIFICATE OF ACKNOWLEDGMENT

On 8-01-2013 before me, MARRISA A. ROMERO, NOTARY PUBLIC,
(here insert name and title of the officer)

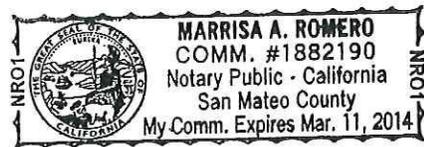
personally appeared TERRENCE HAMILTON ROSE

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 Marrisa A. Romero



(Seal)

OPTIONAL INFORMATION

Although the information in this section is not required by law, it could prevent fraudulent removal and reattachment of this acknowledgment to an unauthorized document and may prove useful to persons relying on the attached document.

Description of Attached Document

The preceding Certificate of Acknowledgment is attached to a document titled/for the purpose of EMERGENCY RELOCATION AGREEMENT / SSI & PG & E containing 4 pages, and dated 8/01/2013.

The signer(s) capacity or authority is/are as:

- Individual(s)
- Attorney-in-Fact
- Corporate Officer(s) LEGAL COUNSEL
Title(s)

- Guardian/Conservator
- Partner - Limited/General
- Trustee(s)
- Other: _____

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

Additional Information
Method of Signer Identification
Proved to me on the basis of satisfactory evidence: <input checked="" type="checkbox"/> form(s) of identification <input type="checkbox"/> credible witness(es)
Notarial event is detailed in notary journal on: Page # <u>1</u> Entry # <u>06</u>
Notary contact: _____
Other
<input type="checkbox"/> Additional Signer(s) <input type="checkbox"/> Signer(s) Thumbprint(s)
<input type="checkbox"/> _____

ACKNOWLEDGMENT

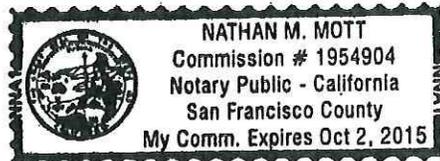
State of California
County of Contra Costa)

On 07/24/2013 before me, Nathan M. Mott, Notary Public
(insert name and title of the officer)

personally appeared Joseph Byron Oneal
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 Nathan M. Mott

(Seal)

EXHIBIT "A"

A strip of land of the uniform width of 15 feet extending from the northeasterly boundary line of PARCEL B, as said PARCEL B is shown upon the Parcel Map filed for record February 23, 1989 in Book 596 of Maps at page 23, Santa Clara County Records, southwesterly to the southerly boundary line of PARCEL A, as said PARCEL A is shown upon said Parcel Map, and lying 7.5 feet on each side of the line described as follows:

(APN 097-53-026, -027)

Beginning at a point in the northeasterly boundary line of said PARCEL B, said northeasterly boundary line being also the southwesterly boundary line of North First Street, and running thence

- (1) south $36^{\circ}22'30''$ west 29.60 feet; thence
- (2) south $22^{\circ}29'24''$ east 118.00 feet

to a point which bears north $70^{\circ}03'08''$ west, 30.54 feet distant from the found X scribed in concrete shown upon said Parcel Map as marking the northeasterly terminus of a course in the general northerly boundary line of Tasman Drive, which course has a bearing of S $59^{\circ}28'40''$ W and a length of 600.35 feet; thence

- (3) south $59^{\circ}28'42''$ west 580.80 feet; thence
- (4) southwesterly on a curve to the right with a radius of 997.50 feet, through a central angle of $29^{\circ}25'55''$ and tangent at the easterly terminus thereof to the previous course, an arc distance of 512.40 feet; thence
- (5) south $0^{\circ}23'30''$ east 23.61 feet, more or less,

to a point in said southerly boundary line, said southerly boundary line being also the general northerly boundary line of Tasman Drive.

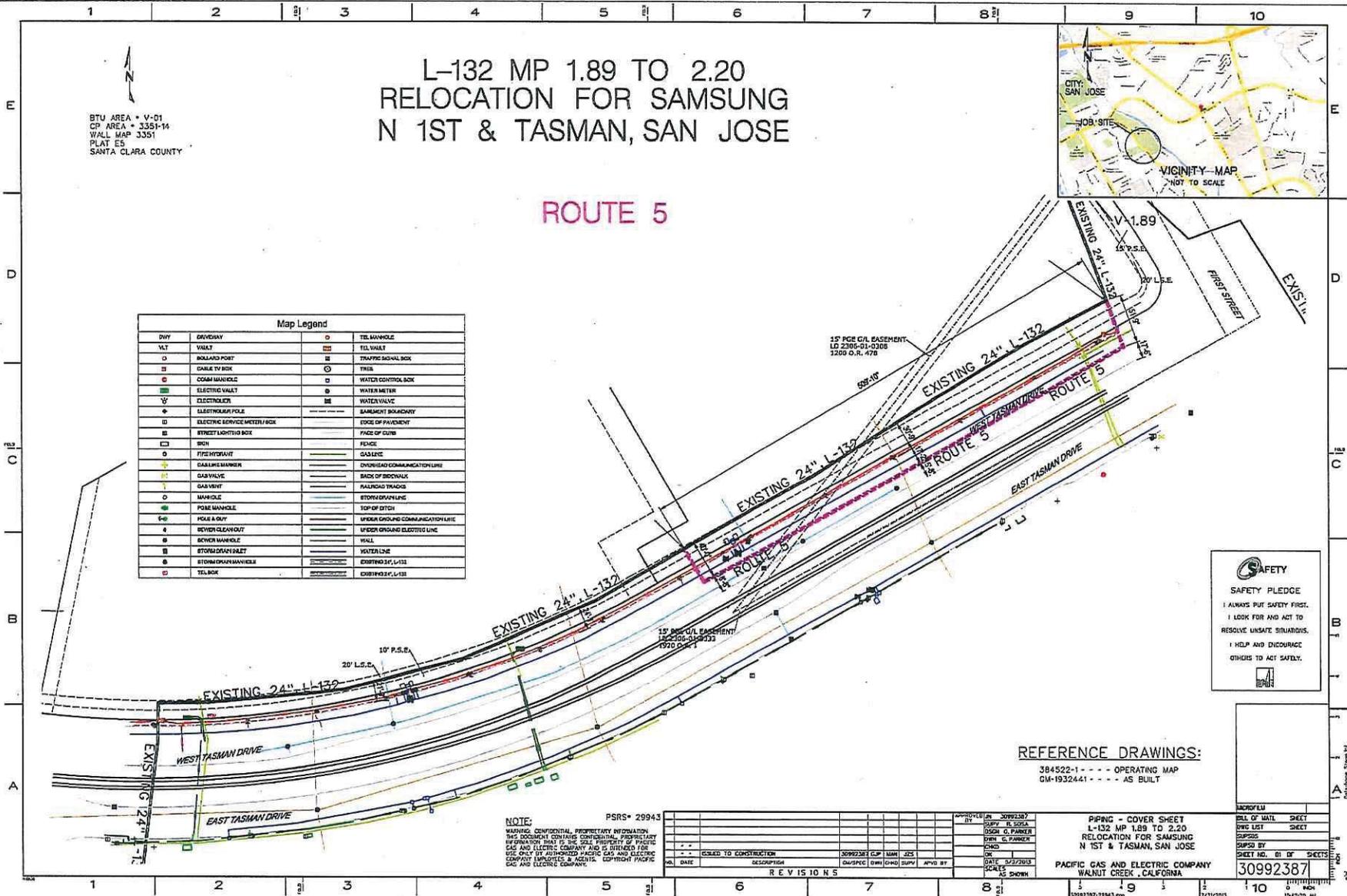
The foregoing description is based on a survey made by Pacific Gas and Electric Company in June 2013. The bearings used are based on the course shown upon said Parcel Map filed for record February 23, 1989 in Book 596 of Maps at page 23, Santa Clara County Records, which has a bearing of S $59^{\circ}28'40''$ W and a distance of 600.35 feet. Each terminus of said course is marked by a found X scribed in concrete as shown upon said Parcel Map.



Attach to LD 2306-01-2310
Area 3, Mission Trail Region, San Jose Division
Land Service Office: San Francisco
Operating Department: Gas Transmission
T6S, R1W, MDM
Section 14, N2ofSW4
FERC License Number(s): N/A
PG&E Drawing Number(s): B-3183, Sh. 3, B-5808, Sh. 1
PLAT NO.: Elec.: E1621, Gas: 3351-E5
LD of any affected documents (if applicable): 2306-01-0308
LD of any Cross-referenced documents (if applicable): N/A
Vesting Deed: 20072897
Reference Map: 506 Maps 24
TYPE OF INTEREST: 5, 52
SBE Parcel Number: N/A
(For Quitclaims, % being quitclaimed): N/A
Order # or PM #: 30965271-0090
JCN: 22-13-028
County: Santa Clara
Utility Notice Numbers (if applicable): N/A
851 Approval Application No.: N/A
Prepared By: DQT1
Checked By: *TeP*

Attachment 2

Project Map



Attachment 3

Site Development Permit

March 25, 2013

RECEIVED

MAR 27 2013

NBBJ

Laurence R. Chambers
NBBJ
88 Kearny St, Suite 900
San Francisco, CA 94108

Dear Laurence R. Chambers:

RE: Site Development Permit, File No. H13-001, located on the Northwest corner of N. First Street and W. Tasman Drive (3655 N. First Street, 85-99 W. Tasman Drive).

The enclosed is your copy of the Planning Director's action on this Site Development Permit.

This permit may contain one or more conditions, such as revised plans, which must be met within a specific deadline. If conditions are not met the permit will automatically expire. Please read your permit carefully!

The Planning Director's action taken on this permit or any of the conditions of this permit may be appealed by the applicant to the Planning Commission by filing a Notice of Appeal and a \$2,232.00 fee. The appeal must be submitted in person and presented on the Notice of Appeal form available from this department on or before **5:00 p.m., April 4, 2013**. If you have any questions, please feel free to contact your Project Manager, Sylvia Do at (408) 535-7907 or by e-mail at sylvia.do@sanjoseca.gov.

Sincerely,



Deputy

cc: Samsung Semiconductors, Inc., 3655 N. First Street, San Jose, CA 95134

Enclosures

SD, lvb

SITE DEVELOPMENT PERMIT

FILE NO.	H13-001
LOCATION OF PROPERTY	Northwest corner of N. First Street and W. Tasman Drive (3655 N. First Street, 85-99 W. Tasman Drive)
ZONING DISTRICT	IP Industrial Park
GENERAL PLAN DESIGNATION	Industrial Park
PROPOSED USE	Site Development Permit to allow the construction of a 680,000 square foot research and development/office building with a 575,000 square foot parking structure, relocation of a natural gas pipeline, and demolition of three buildings totaling 215,000 square feet on a 9.4 gross acre site
ENVIRONMENTAL STATUS	Addendum to North San Jose Development Policies Update Final Program EIR and Envision San Jose 2040 General Plan Update Final Program EIR
OWNER/ADDRESS	Samsung Semiconductors, Inc. 3655 N. First Street San Jose, CA 95134

FACTS

The Director of Planning, Building, and Code Enforcement finds that the following are the relevant facts regarding this proposed project:

1. This site has a designation of Industrial Park on the adopted Envision San José 2040 General Plan Land Use/Transportation Diagram.
2. The site is located in the IP Industrial Park Zoning District.
3. The site is approximately 9.4 acres in size.
4. The site was developed in 1986 with three research and development/office buildings totaling 215,000 square feet.
5. This is a Site Development Permit to allow the demolition of three buildings totaling 215,000 square feet, the construction of a 680,000 square foot research and development/office building with a 575,000 square foot parking structure, and the relocation of a natural gas pipeline, as proposed by the applicant.
6. The project includes the removal of 166 trees on-site, including 22 ordinance-sized trees and 144 non-ordinance sized trees.

7. Surrounding land uses consist of industrial uses to the north, south, and west, and commercial uses and an undeveloped property to the east.
8. Research and development and office uses are permitted uses in the IP Industrial Park Zoning District.
9. A 24-inch diameter natural gas line runs through the site in a 15-foot wide easement. The pipeline alignment starts to the east from N. First Street and then continues west along the site's frontage parallel to W. Tasman Drive. The pipeline leaves the site near its western boundary by turning southwest, crossing under W. Tasman Drive. An existing building is located 6 feet outside of the existing easement. The building is proposed located 7 feet outside of the existing easement.
10. A risk assessment report was prepared by Arup, dated March 11, 2013, which identified potential blast and fire hazards associated with the existing natural gas pipeline.
11. The applicant is proposing to relocate the natural gas pipeline to the south of the current alignment, in accordance with recommendations set forth in the aforementioned risk assessment report. The pipeline relocation is subject to approval by the Pacific Gas and Electric Company (PG&E) and the California Public Utilities Commission.
12. Under the provisions of Section 20.90.220(A)(1) of the San Jose Municipal Code, a reduction in required vehicle parking spaces of up to 50 percent may be authorized for structures or uses that implement at least three transportation demand management (TDM) measures specified in said Section. A total of 1,925 vehicle parking spaces are required based upon 577,340 net square feet of research and development/office uses. A total of 1,545 parking spaces are proposed on-site, representing a 20 percent reduction in required parking spaces.
13. Under the provisions of Table 20-120 of the San Jose Municipal Code, a total of 144 bicycle parking spaces are required based upon 577,340 net square feet of research and development/office uses. A total of 144 bicycle parking spaces are proposed on-site.
14. Under the provisions of Section 20.100.610(A)(1) of the San José Municipal Code, a Site Development Permit is required prior to the issuance of any building permit for erection, construction, enlargement, placement or installation of a building or structure on any site.
15. Under the provisions of Section 20.80.460 of the San Jose Municipal Code, the Director, or on appeal the Planning Commission or City Council, shall determine whether the benefits of permitting the demolition, removal or relocation of a building outweighs the impacts of the demolition, removal or relocation of a building prior to the issuance of any development permit which allows for the demolition, removal, or relocation such building.
16. Under the provisions of Section 20.80.020(D) of the San Jose Municipal Code, the maximum building height shall not exceed 200 feet for properties located within a radius of 2,000 feet of an existing or planned passenger rail station along the Guadalupe Rail Corridor north of Montague Expressway. The proposed building height is 191 feet.
17. On February 6, 2013, in compliance with Federal Aviation Regulations, Part 77, the Federal Aviation Administration (FAA) received six "Notice of Proposed Construction" forms (FAA Form 7460-1) for a proposed building on the subject site ranging up to a maximum height of 191 feet above ground level (AGL), or 206 feet above mean sea level (AMSL). As of March 20, 2013, the FAA review of the proposed building's impact on airspace safety remains underway. FAA issuance of a "Determination of No Hazard" for each building high point will be a prerequisite of building construction.

18. The nearest reclaimed water irrigation system is located approximately 1,200 feet from the site. The project provides an irrigation system ready to connect to a future recycled water connection, should the system become available to the site.
19. On March 25, 2013, the Director of Planning adopted an Addendum to the North San Jose Development Policies Update Final Program Environmental Impact Report and Envision San Jose 2040 General Plan Final Program Environmental Impact Report for the project.

FINDINGS

The Director of Planning, Building, and Code Enforcement concludes and finds, based on the analysis of the above facts, that under the provisions of Section 20.80.440(A) of the San José Municipal Code, no demolition permit or removal permit shall be issued unless and until a Development Permit which specifically approves such demolition or removal has been issued and has become effective pursuant to the provisions of Chapter 20.100.

1. The Director of Planning has considered the following in evaluating the proposed demolition:
 - a. The failure to approve the permit would result in the creation of continued existence of a nuisance, blight or dangerous condition.
 - b. The failure to approve the permit would jeopardize public health, safety or welfare.
 - c. Both inventoried and non-inventoried buildings, sites and districts of historical significance will not be negatively impacted.
 - d. The approval of the demolition of the building would maintain the supply of existing housing stock in the City;
 - e. Rehabilitation or reuse of the existing building would not be feasible; and
 - f. The approval of the demolition of the building should facilitate a project that is compatible with the surrounding neighborhood.
2. Further, the Director of Planning concludes and finds, based on the analysis of the above facts, that:
 - a. The three buildings were constructed for industrial uses and such demolition would not decrease the City's housing stock.
 - b. The three buildings are not listed on the City's Historic Resources Inventory.
 - c. The site is not located in a National Register or City Landmark District, or City Conservation Area.
 - d. The proposed project is in conformance with the California Environmental Quality Act.
 - e. The re-use of the existing buildings could not accommodate the proposed intensification in industrial uses.
 - f. The benefits of permitting the demolition, removal or relocation of the subject buildings outweigh the impacts of the demolition, removal or relocation.
 - g. The demolished buildings would be replaced with a new building.

The Director of Planning, Building, and Code Enforcement concludes and finds, based on the analysis of the above facts with respect to the Site Development Permit findings (Section 20.100.630), that:

1. The interrelationship between the orientation, location and elevations of the proposed buildings and structures and other uses on-site are mutually compatible and aesthetically harmonious in that:
 - a. The tallest portion of the overall building is located at the corner of N. First Street and W. Tasman Drive.
 - b. The building is broken into smaller masses that reflect the building's internal functions, including the office tower, open terraces, data center, cafeteria, and parking garage.
 - c. To visually lighten the appearance of massing, the ground-level features storefront windows to enhance the pedestrian environment.
 - d. Rooftop equipment enclosed and integrated into building form.
2. The orientation, location and elevation of the proposed buildings and structures and other uses on the site are compatible with and are aesthetically harmonious with adjacent development or the character of the neighborhood in that:
 - a. Consistent with the North San Jose Urban Design Guidelines, the proposed building is a contemporary design that supports the vision for North San Jose as an innovative, urban place.
 - b. Consistent with the North San Jose Urban Design Guidelines, the proposed landscaped plaza is visible and accessible from N. First Street and W. Tasman Drive.
 - c. The proposed parking structure is placed along the rear property line so as to minimize its presence from N. First Street and W. Tasman Drive.
 - d. The project meets in the intent of the City's Development Guidelines for Land in Proximity to High Pressure Natural Gas Pipelines, dated July 18, 1986, in that the applicant's proposal to relocate the natural gas pipeline will establish a greater distance between the building and pipeline, and reduce risks associated with development in close proximity to natural gas pipelines, particularly compared to the separation between the existing building and existing pipeline location.
3. 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 in that:
 - a. An Addendum was granted for this project under the provisions of environment review requirements of Title 21 of the San José Municipal Code implementing the California Environmental Quality Act of 1970, as amended. The project will not have a significant adverse effect on the environment.
 - b. The project establishes a Mitigation Monitoring or Reporting Program to address adverse effects to air quality, biological resources, cultural resources, and hazards and hazardous materials.

4. Landscaping, irrigation systems, walls and fences, features to conceal outdoor activities, exterior heating, ventilating, plumbing, utility and trash facilities are sufficient to maintain or upgrade the appearance of the neighborhood in that:
 - a. Parking garage is screened by decorative perforated metal mesh panels from off-site view at N. First Street and W. Tasman Drive.
 - b. Utility and trash facilities are located inside the building.
 - c. Rooftop equipment are screened from off-site view.
5. Traffic access, pedestrian access and parking are adequate in that:
 - a. An area wide traffic impact analysis was prepared as part of the North San Jose Area Development Policy, adopted June 2005. Traffic impacts were identified and resulted in an area wide traffic impact fees. This project is covered under the North San Jose EIR.
 - b. The project includes the increasing sidewalks to a 12-foot width along N. First Street and W. Tasman Drive.
 - c. The project conforms to the vehicle and bicycle parking requirements set forth in the Zoning Ordinance.
 - d. In accordance to Section 20.90.220(A) of the San Jose Municipal Code and the project's mitigation monitoring and reporting program, the project will implement transportation demand management program that includes measures such as implementing a carpool program, providing preferential parking for carpool and alternatively-fueled vehicles, and providing an on-site TDM manager.
6. The application is consistent with site's Envision San Jose 2040 General Plan Land Use/Transportation Diagram designation of Industrial Park in that:
 - a. Consistent with General Land Use Policy 1.6, this employee-intensive industrial use is located within walking distance to local and regional transportation infrastructure, including bus lines and light rail stations.
 - b. Consistent with General Land Use Policy 6.4, the project proposes to redevelop an older industrial site with new industrial uses at a location which facilitates efficient commute patterns, given the site's proximity to three light rail stations.
 - c. Consistent with General Land Use Policy 6.7, the project proposes an auxiliary cafeteria to support employees of the primary industrial use.

Further, after investigation and hearing held pursuant to Chapter 13.32 of the San José Municipal Code, the Director of City Planning finds that:

- a. The location of the trees with respect to the proposed improvements unreasonably restricts the economic development of the parcel in question.

APPROVED SUBJECT TO THE FOLLOWING CONDITIONS:

1. **Acceptance of Permit.** Per Section 20.100.290(B), should the applicant fail to file a timely and valid appeal of this Permit within the applicable appeal period, such inaction by the applicant shall be deemed to constitute all of the following on behalf of the applicant:
 - a. Acceptance of the Permit by the applicant; and

- b. Agreement by the applicant to be bound by, to comply with, and to do all things required of or by the applicant pursuant to all of the terms, provisions, and conditions of this permit or other approval and the provisions of Title 20 applicable to such Permit.
2. **Permit Expiration.** This Site Development Permit shall automatically expire twenty-four (24) months from and after the date of issuance hereof by said Director, if within such 24-month period, the proposed construction of building has not commenced, pursuant to and in accordance with the provisions of this Site Development Permit. The date of issuance is the date this Permit is approved by the Director of Planning. However, the Director of Planning may approve a Permit Adjustment to extend the validity of this Permit in accordance with Title 20 of the San José Municipal Code.
3. **Sewage Treatment Demand.** Chapter 15.12 of Title 15 of the San José Municipal Code requires that all land development approvals and applications for such approvals in the City of San José shall provide notice to the applicant for, or recipient of, such approval that no vested right to a Building Permit shall accrue as the result of the granting of such approval when and if the City Manager makes a determination that the cumulative sewage treatment demand of the San José-Santa Clara Water Pollution Control Plant represented by approved land uses in the area served by said Plant will cause the total sewage treatment demand to meet or exceed the capacity of San José-Santa Clara Water Pollution Control Plant 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. Substantive conditions designed to decrease sanitary sewage associated with any land use approval may be imposed by the approval authority.
4. **Conformance to Plans.** Development of the site shall conform to approved Site Development plans entitled "Samsung Semiconductor, Inc.," dated January 3, 2013, last revised February 25, 2013, on file with the Department of Planning, Building and Code Enforcement, and to the San José Building Code (San José Municipal Code, Title 17, Chapter 17.04), with the exception of any subsequently approved changes.
5. **Revocation.** This Site Development Permit is subject to revocation for violation of any of its provisions or conditions.
6. **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.
7. **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 Site Development Permit incorporated by reference in this Permit in accordance with Chapter 20.100 of the San José Municipal Code.
8. **Building Permit.** Procurement of a Building Permit from the Building Official for the structures described or contemplated under this permit shall be deemed acceptance of all conditions specified in this permit and the applicant's agreement to fully comply with all of said conditions. 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.
9. **Building Demolition.** A Demolition Only Permit may be issued for the demolition of the existing buildings prior to the issuance of a Building Permit for the replacement buildings.

10. **Foundation Permit.** A Foundation Only Permit may be issued for the foundation of the proposed buildings prior to the issuance of a Building Permit for the replacement buildings.
11. **Building Clearance for Building Permits.** Prior to the issuance of a Building Permit, the following requirements must be met to the satisfaction of the Chief Building Official:
 - a. *Construction Plans.* This permit file number, H13-001, and conditions of approval shall be printed on all plans submitted to the Building Division.
 - b. *Conformance Review.* A project construction 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 plan check approval and building permit issuance by the Building Division, the developer shall obtain confirmation from the Planning Division that the project conforms to all applicable requirements of the subject Permit, including the plan sets.
 - c. *Natural Gas Pipeline-Related Requirements.* Because the applicant has included as a part of its proposed project a relocation of an existing natural gas pipeline located on the subject property, as shown on the approved plans, prior to the issuance of a Building Permit, the following information must be provided to the Chief Building Official:
 - i. *Supplemental Risk Assessment.* In connection with this pipeline relocation, the applicant has had prepared and has submitted as a part of this development permit application that a certain risk assessment report prepared by Arup, dated March 11, 2013, which identified potential blast and fire hazards associated with the existing natural gas pipeline and proposes moving the pipeline 50 feet from the new building. A supplemental risk assessment report prepared by a licensed engineering consultant that identifies any structural and fire/life safety enhancement recommendations determined to be necessary to address any risk associated with deflagration of the natural gas pipeline.
 - ii. *Construction Documents.* All necessary structural and fire/life safety enhancement recommendations identified and set forth in the supplemental risk assessment report shall be incorporated into the construction documents submitted to the Building Division.
 - iii. *Acknowledgement Letter.* An acknowledgement letter from a licensed engineering consultant stating that they have reviewed the final version of the construction documents to be submitted to the Building Division and verified that the recommendations set forth in the supplemental risk assessment report have been implemented to their satisfaction.
 - d. *Parcel Map Required.* Prior to the issuance of a Foundation Permit or Building Permit, the permittee shall secure approval and provide recordation of a Parcel Map to remove or relocate any existing lot lines and public easements that cause the development to not comply with zoning and/or building code setbacks.
 - e. *FAA Clearance Required.* The permittee shall obtain from the Federal Aviation Administration a "Determination of No Hazard to Air Navigation" for each building high point. The permittee shall abide by any and all conditions of the FAA determinations (if issued) such as height specifications, rooftop marking/lighting, construction notifications to the FAA through filing of Form 7460-2, and "No Hazard Determination" expiration date. The data on the FAA forms should be prepared by a licensed civil engineer or

surveyor using NAD83 location coordinates out to hundredths of seconds and NAVD88 elevations rounded off to next highest foot.

12. **Public Works Department Clearance (3-05844).** Prior to the approval of the Tract or Parcel Map by the Director of Public Works, or the issuance of 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.
- a. *Construction Agreement:* The public improvements conditioned as part of this permit require the execution of a Construction Agreement that guarantees the completion of the public improvements to the satisfaction of the Director of Public Works. This agreement includes privately engineered plans, bonds, insurance, a completion deposit, and engineering and inspection fees.
 - b. *Transportation:*
 - i. Consistent with North San Jose EIR, this project is required to pay a traffic impact fee (TIF). The project proposes approximately 577,340 square feet of net useable office/R&D space. Approximately 394,659 square feet are subject to the TIF per the policy (proposed net square footage – existing net square footage).
 - ii. The TIF required is \$1,973,295. The TIF is based on \$5.00 per square foot and is consistent with the Short-Term Incentive Program of the NSJADP, adopted January 31, 2012. The TIF shall be paid prior to the issuance of building permit. However, failure to pull a building permit and meet construction or occupancy targets would require the developer to pay the non-incentive TIF effective at time of payment. Currently based on the 2013 rate, the non-incentive TIF is \$13.54 per square foot, which translates to a total fee of \$5,343,683.
 - c. *Easements:*
 - i. This project will be required to vacate the 20-foot landscape service easements located on both the N. 1st Street and Tasman Drive frontage.
 - ii. This project will be required to vacate a portion of the existing 15-foot and 10-foot public service easements along N. 1st Street and Tasman Drive respectively. The public service easements will need to be relocated adjacent to the new back of walk.
 - iii. A street dedication is required to order to accomplish the new 12-foot attached sidewalk along both frontages.
 - d. *Grading/Geology:*
 - i. A grading permit is required prior to the issuance of a Public Works Clearance.
 - ii. If the project proposes to haul more than 10,000 cubic yards of cut/fill to or from the project site, a haul route permit is required. Prior to issuance of a grading permit, contact the Department of Transportation at (408) 535-3850 for more information concerning the requirements.
 - iii. Because this project involves a land disturbance of one or more acres, the applicant is required to submit a Notice of Intent to the State Water Resources Control Board and to prepare a Storm Water Pollution Prevention Plan (SWPPP) for controlling storm water discharges associated with construction activity. Copies of these documents must be submitted to the City Project Engineer prior to issuance of a grading permit.

- iv. The Project site is within the State of California Seismic Hazard Zone. A geotechnical investigation report addressing the potential hazard of liquefaction must be submitted to, reviewed and approved by the City Geologist prior to issuance of a grading permit or Public Works Clearance. The investigation should be consistent with the guidelines published by the State of California (CGS Special Publication 117A) and the Southern California Earthquake Center (SCEC, 1999). A recommended depth of 50 feet should be explored and evaluated in the investigation.
- e. *Stormwater Runoff Pollution Control Measures:* This project must comply with the City's Post-Construction Urban Runoff Management Policy (Policy 6-29) which requires implementation of Best Management Practices (BMPs) that include site design measures, source controls, and stormwater treatment controls to minimize stormwater pollutant discharges. Post-construction treatment control measures, shown on the project's Stormwater Control Plan, shall meet the numeric sizing design criteria specified in City Policy 6-29.
- f. *Flood:* Portion in Zone AO, Depth 1' & Depth 2', Majority in Zone X
 - i. The project shall conform to the Updated 2006 North San Jose Floodplain Management Study (NSJFMS). The NSJFMS was updated to reflect the completed Downtown and Lower Guadalupe River Flood Protection Projects and to show the resulting blockage requirements for applicable projects in North San Jose.
 - 1) Based on the 2006 NSJFMS, ultimate blockage not to exceed 75% of the site perpendicular to flow of flood waters. Flow direction is south to north.
 - ii. Elevate or Floodproof the lowest floor of the 1) proposed Office/R&D building and 2) the enclosure connected to the parking garage structure not used for parking above the minimum design elevation of 12.00' North American Vertical Datum of 1988 (NAVD88) as shown on the 2006 NSJFMS map.
 - iii. An Elevation Certificate (FEMA form 81-31) for each proposed structure, based on construction drawings, is required prior to issuance of a building permit. Consequently, an Elevation Certificate for each built structure, based on finished construction is required prior to issuance of an occupancy permit.
 - iv. If the structure is to be floodproofed, a Floodproofing Certificate (FEMA Form 81-65 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.
 - v. Building support utility systems such as HVAC, electrical, plumbing, air conditioning equipment, including duckwork, and other service facilities must be elevated above the base flood elevation or protected from flood damage.
- g. *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, and due and payable.

- h. *Assessments:* This project is located within the boundaries of Zone B of Maintenance District 20 which maintains the enhanced street island landscaping along a portion of North First Street. The benefiting properties within the district pay for the maintenance through annual assessments placed on the property tax bills which are adjusted annually by the Consumer Price Index. The 2012-13 assessment is \$450.42, which is calculated at approximately \$95 per acre. Future year assessments will be apportioned based on any new parcel configuration with the district boundary and will continue to be collected through the County property tax bills.
 - i. *Utilities:* Street improvement plans shall include the relocation of existing 24-inch PG&E high pressure gas main to the satisfaction of the Director of Public Works.
 - j. *Street Improvements:*
 - i. Reconstruct curb, gutter, and install 12-foot attached sidewalk with tree wells along entire project frontage. Provide appropriate street dedication for the required 12-foot sidewalk.
 - ii. Remove existing pavers within the public right of way at the corner of N. 1st Street and Tasman Drive.
 - iii. Remove and replace existing handicap ramps along project frontage to current City standard.
 - iv. Repair, overlay, or reconstruction of asphalt pavement may be required. The existing pavement will be evaluated with the street improvement plans and any necessary pavement restoration will be included as part of the final street improvement plans.
 - k. *Street Trees:* Install street trees within public right-of-way along entire project street frontages per City standards; refer to the current "Guidelines for Planning, Design, and Construction of City Streetscape Projects". Street trees shall be installed in cut-outs at the back of curb. Obtain a DOT street tree planting permit for any proposed street tree plantings. Contact the City Arborist at (408) 794-1901 for the designated street trees.
 - l. *Bus Service:* Construct improvements to existing bus stop near the northwest corner of First Street and Tasman Drive to include bus duckout, bus pay, and bus shelter to the satisfaction of the Director of Public Works.
14. **Fire Clearance for Issuing Permits.** The permittee will be required to comply with all applicable fire and building codes and standards relating to fire and panic safety as verified by the Fire Department during the Building Permit process.
15. **Hazardous Materials.** Any hazardous materials regulated by Chapter 17.68 of the San José Municipal Code on the site must be used and stored within approved buildings and/or within areas specified on the approved plan set, if any, in full compliance with the City's Hazardous Material Ordinance and the Hazardous Materials Management Plan for the site approved by the San José Fire Prevention Bureau.
16. **Industrial Waste.** If industrial waste, as defined by Section 15.12 of the San Jose Municipal Code, is to be discharged into the sanitary sewer system, a clearance shall be obtained from the Water Pollution Control Plant, Industrial Waste Section.

17. Air Quality Mitigation.

- a. The project will implement the following on-site measures, with a goal of a 15 percent reduction in daily vehicle trips:
 - i. Provide physical improvements, such as sidewalk improvements, landscaping and bicycle parking that would act as incentives for pedestrian and bicycle modes of travel.
 - 1) Bicycle parking is required at one space per 4,000 square feet of building area, 80 percent short-term and 20 percent long-term. The long-term parking is provided along the north side of the tower under a canopy in a secured fenced area and short-term parking is in racks at the entry to each building.
 - ii. Provide on-site showers and lockers for employees bicycling or walking to work. Provide secure and conveniently located bicycle parking and storage for workers.
 - 1) Showers will be provided within the tower building at the first floor and at the gym floor.
 - iii. Utilize reflective (or high albedo) and emissive roofs and light colored construction materials to increase the reflectivity of roads, driveways, and other paved surfaces, and include shade trees near buildings to directly shield them from the sun's rays and reduce local air temperature and cooling energy demand.
 - 1) The project will incorporate a high albedo roofing material.
 - 2) Other building materials such as metal panels will be light colored.
 - 3) High performance glazing will be incorporated.
 - 4) Shade trees will be incorporated near the building on the southern exposures where possible.
 - iv. Design buildings so that they can provide on-site services for future employees:
 - A. The project includes a cafeteria.
- b. The following TDM measures will be implemented by the building owner and coordinated with future tenants occupying the project development:
 - i. The building owner will provide an on-site TDM coordinator to develop and implement a transit use incentive program for building employees, including on-site distribution of Eco-passes (or equivalent broad spectrum transit pass) and/or subsidized transit passes for local transit systems (participation in the Clipper program would satisfy this requirement).
 - ii. The on-site TDM coordinator will distribute transit information to employees.
 - iii. On-site TDM coordinator will implement a carpool program, providing carpool ridematching for employees.
 - iv. Provide designated preferential parking for carpool vehicles.
 - v. Provide designated preferential parking for electric or alternatively-fueled vehicles.
- c. Temporary Construction.
 - i. All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day.

- ii. All haul trucks transporting soil, sand, or other loose material off-site shall be covered.
- iii. All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
- iv. All vehicle speeds on unpaved roads shall be limited to 15 mph.
- v. All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.
- vi. Replant vegetation in disturbed areas as quickly as possible.
- vii. Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points.
- viii. All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified visible emissions evaluator.
- ix. Post a publicly visible sign with the telephone number and person to contact at the lead agency regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Air District's phone number shall also be visible to ensure compliance with applicable regulations.

18. Biological Resources Mitigation.

- a. Construction shall be scheduled to avoid the nesting season to the extent feasible. The nesting season for most birds, including most raptors in the San Francisco Bay area, extends from February through August.
- b. If it is not possible to schedule demolition and construction between September and January, a qualified biologist shall perform pre-construction breeding bird surveys within 14 days of the onset of construction or clearing of vegetation. The survey should encompass the project area, and the areas within a 100-foot buffer. If active nests or behavior indicative of nests are encountered, those areas plus a 50 foot buffer for small songbirds and 250-foot buffer for larger birds (e.g. raptors) designated by the biologist in coordination with the California Department of Fish and Wildlife shall be avoided until the nests have been vacated. If the work areas are left unattended for more than one week following the initial surveys, additional surveys shall be completed.

19. Cultural Resources.

- a. In the event any significant cultural materials are encountered, all construction within a radius of 50-feet radius of the find would be halted, the Director of Planning, Building and Code Enforcement would be notified, and a professional archaeologist will examine the find and make appropriate recommendations regarding the significance of the find and make appropriate recommendations regarding the significance of the find and the appropriate mitigation. Recommendations could include collection, recordation, and analysis of any significant cultural materials.

- b. If human remains are discovered, the Santa Clara County Coroner will be notified. The Coroner would determine whether or not the remains are Native American. If the Coroner determines that the remains are not subject to his authority, he would notify the Native American Heritage Commission, would attempt to identify "most likely" descendants of the deceased.
- c. If the Director of Planning, Building and Code Enforcement finds that the archaeological find is not a significant resource, work would resume only after the submittal of a preliminary archaeological report and after provisions for reburial and ongoing monitoring are accepted. A final report will be prepared by the project archaeologist when a find is determined to be a significant archaeological resource, and/or when Native American remains are found on the site. The final report will include background information on the completed work, a description and list of identified resources, the disposition and curation of these resources, and testing, and other recovered information, and conclusions.

20. Hazards and Hazardous Materials Mitigation.

- a. Prior to building demolition, an asbestos survey is required by local authorities and/or National Emissions Standards for Hazardous Air Pollutants (NESHAP) guidelines. NESHAP guidelines require the removal of potentially friable asbestos-containing building materials (ACBM) prior to building demolition or renovation that may disturb the ACBM.
- b. A lead survey of painted surfaces built prior to 1978 will be performed prior to demolition. The removal of lead based paint is not required prior to building demolition if it is bonded to the building materials. However, if the lead-based paint is flaking, peeling, or blistering, it shall be removed prior to demolition. In either case, applicable OSHA regulations must be followed; these include requirements for worker training, air monitoring and dust control, among others. Any debris or soil containing lead must be disposed appropriately at facilities that meet acceptance criteria for hazardous waste.
- c. If mercury-containing fluorescent light tubes are present, tubes shall be removed from the fixtures without breakage and packaged for mercury reclamation as a universal waste through an appropriate vendor prior to demolition of the structures.
- d. Light ballast shall be observed for the printed statement, "No PCBs". Ballasts missing the "No PCBs" label shall be removed from the fixtures and disposed as PCB containing materials prior to the demolition of the buildings. Ballast marked as "No PCBs" could contain land-banned dielectric fluids and also shall be disposed in an appropriate manner.

21. Hydrology and Water Quality Mitigation.

- a. Destruction of existing on-site wells will be required to comply with all applicable permitting requirements of the Santa Clara Valley Water District.

22. **Construction Impact Mitigation Measures.** The permittee is responsible for notifying all contractors of the conditions of this permit and that they shall perform construction activities in compliance with these conditions, or be subject to enforcement action.
- a. *Compliance.* The applicant shall ensure that the following construction impact mitigation measures are fully complied with throughout the duration of all construction activities associated with this project and related off-site construction work. Failure to comply with these conditions by the applicant, their contractors or subcontractors shall be cause for shutdown of the project site until compliance with the following conditions can be ensured by the City. These construction impact mitigation measures shall be included in all contract documents for the project to ensure full disclosure to contractors and subcontractors.
 - b. *Construction Hours.* Construction shall be limited to the hours of 7:00 a.m. to 11:00 p.m. Monday through Friday and 7:00 a.m. to 5:00 p.m. Saturday and Sunday for any on-site or off-site work within 500 feet of any residential unit. The work beyond the hours of 7:00 a.m. and 7:00 p.m. should be limited to relatively quiet activities, such as small hand tools, placement of reinforcing steel, and small, diesel powered equipment. The work between the hours of 7:00 a.m. and 7:00 p.m. could include activities such as the demolition of the existing buildings, installation of foundations which require large, diesel equipment, earth moving activities, placement of concrete and setting of structural steel and vertical concrete.
 - c. *Signage.* The name and phone number of the disturbance coordinator, the hours of construction limitations, City File Number H13-001, city contact and phone number (department and phone number), and shall be displayed on a weatherproof sign posted at each entrance to the project site.
 - d. *Enforcement.* The Director of Planning, Building and Code Enforcement may order an immediate halt to construction activities on the project site any time that the Director determines that the project is not in substantial conformance with the requirements of this Permit. Within seven days of ordering such a halt to construction, the Director of Planning, Building and Code Enforcement shall issue a Notice of Noncompliance in conformance with Section 20.100.320 of Title 20 of the San José Municipal Code indicating the specific area(s) of noncompliance and providing notice that the Director may issue an Order to Show Cause why the development permit shall not be revoked, suspended, or modified if the noncompliance is not corrected.
 - e. *Dust Control.* On-site areas visible to the public from the public right-of-way shall be cleaned of debris, rubbish, and trash at least once a week. While the project is under construction, the developer shall implement effective dust control measures to prevent dust and other airborne matter from leaving the site.
 - f. *Noise.* The project will implement the following measures, as documented in a noise logistics plan, to reduce construction noise levels as low as practical:
 - i. Utilize “quiet” models of air compressors and other stationary noise sources where technology exists.
 - ii. Equip all internal combustion engine-driven equipment with mufflers, which are in good condition and appropriate for the equipment;
 - iii. Locate all stationary noise-generating equipment, such as air compressors and portable power generators, as far away as possible from adjacent land uses;

- iv. Locate staging areas and construction material areas as far away as possible from adjacent land uses;
 - v. Prohibit all unnecessary idling of internal combustion engines;
 - vi. If impact pile driving is proposed, multiple-pile drivers shall be considered to expedite construction. Although noise levels generated by multiple pile drivers would be higher than the noise generated by a single pile driver, the total duration of pile driving activities would be reduced;
 - vii. If impact pile driving is proposed, temporary noise control blanket barriers shall shroud pile drivers or be erected in a manner to shield the adjacent land uses. Such noise control blanket barriers can be rented and quickly erected;
 - viii. If impact pile driving is proposed, foundation pile holes shall be pre-drilled to minimize the number of impacts required to seat the pile. Pre-drilling foundation pile holes is a standard construction noise control technique. Pre-drilling reduces the number of blows required to seat the pile. Notify all adjacent land uses of the construction schedule in writing;
 - ix. Designate a "disturbance coordinator" who would be responsible for responding to any local complaints about construction noise. The disturbance coordinator will determine the cause of the noise complaint (e.g. starting too early, bad muffler, etc.) and will require that reasonable measures warranted to correct the problem be implemented. The telephone number for the disturbance coordinator at the construction site will be posted and included in the notice sent to neighbors regarding the construction schedule.
23. **Tree Removals and Replacement.** This Permit includes the removal of 22 ordinance-sized tree and 144 non-ordinance sized trees on-site. Required replacement trees will be planted on-site as shown on the approved landscape plan.
- a. A tree protection and landscape plan shall be included with the final construction plans submitted to the Building Division.
24. **Green Building Requirements for Tier 2 Non-Residential Development (≥25,000 square feet).** The development is subject to the City's Green Building Ordinance for Private Sector New Construction. Prior to the issuance of any shell or complete building permits issued for the construction of buildings approved through the scope of this Site Development Permit, the applicant shall pay a Green Building Refundable Deposit applicable to the gross square footage for the following buildings which are approved through this Site Development Permit. The project must receive the minimum green building certification of LEED Silver. The request for refund of the Green Building Deposit together with green building certification evidence demonstrating the achievement of the green building standards indicated above shall be submitted within a year after the building permit expires or becomes final, unless a request for an extension is submitted to the Director of Planning, Building, and Code Enforcement in accordance with Section 17.84.305D of the Municipal Code.
25. **Santa Clara Valley Habitat Plan.** The proposed project is located within the Santa Clara Valley Habitat Plan Study Area ("Habitat Plan"). The Habitat Plan is a regional endangered species mitigation plan that complies with State and Federal Endangered Species Act requirements. New development projects that are within the Habitat Plan study area are subject to the payment of fees and compliance with conditions of approval related to impacts to endangered species habitat. The Santa Clara Valley Habitat Plan was adopted by the City

of San Jose on January 29, 2013 and is anticipated to begin implementation in Fall 2013. Your project may be subject to the Habitat Plan fees and conditions, depending upon when final building and grading permits are issued and based on the location and size of the project. "Pipeline Projects" that obtain final building or grading permits within one year of the start of Habitat Plan implementation may be exempt from fees and conditions. Because the project is located within one of the City's Employment Land Growth Areas, the Habitat Plan Nitrogen Deposition fee for the project would be paid by the City from the Construction Excise Tax Fund should the project not meet the Pipeline Project schedule. Checklists describing the applicability of Habitat Plan fees and conditions to specific development projects are anticipated to be available for public review by Summer 2013. The Habitat Plan and supporting materials can be viewed at www.scv-habitatplan.org.

26. Solid Waste Removal and Recycling.

- a. Storage area should be large enough to accommodate both garbage and recycling containers. The minimum enclosure size to accommodate two three cubic yard bins is 11.5 feet by eight feet with an additional eight feet in front for the concrete service pad.
- b. Enclosure should have enough capacity, or frequency of collection for garbage and recycling, to accommodate site operations.
- c. Hauler should have proper access to solid waste containers. Validate width of driveway and vehicle turning radius. Enclosure areas must be accessible by garbage/recycling trucks by providing minimum 22 foot wide driveways and a 50 foot turning radius for collection vehicles unless other waste management practices will be implemented.
- d. Scrap construction and demolition debris is required to be recycled instead of disposing of it in a landfill. An infrastructure exists within San José to accommodate such recycling efforts. Integrated Waste Management staff can provide assistance on how to recycle construction and demolition debris from the project, including information on where to conveniently recycle the material. Additional information may be found at <http://www.sjrecycles.org/construction-demolition/cddd.asp> or by contacting the Commercial Solid Waste Program at (408) 535-8550.
- e. Provide adequate space for the collection of garbage, recycling and food waste material.

27. Street Number Visibility. Street numbers of the buildings shall be easily visible from the street at all times, day and night.

28. Building and Property Maintenance. The developer shall maintain the property in good visual and functional condition. This shall include, but not be limited to all exterior elements of the buildings such as paint, roof, paving, signs, lighting and landscaping.

29. Colors and Materials. All building colors and materials are to be as specified on the approved plan set.

30. Signage. This permit does not include the approval of any signage. Any future signs are to conform to the regulations of Title 23 of the Municipal Code and allowed with the issuance of a Sign Permit Adjustment.

31. Lighting. This permit includes the approval of wall-mounted and free-standing light fixtures, as shown on the approved plans. Any additional lighting are to conform to the City of San José's Outdoor Lighting Policy and allowed with the issuance of a Permit Adjustment.

32. Roof Equipment. All roof equipment shall be screened from off-site view. Screening shall be architecturally compatible with the primarily building.

33. **Generators.** This permit does not include the approval of any stand-by/backup electrical power generation facility. Any future stand-by/backup generators are to conform to the regulations of Title 20 of the Municipal Code. Generators that do not exceed noise and air standards are allowed with the issuance of a Permit Adjustment. Generators that do exceed noise and air standards require a Conditional Use Permit.
34. **No Outside Storage.** No outside storage is permitted for the project.
35. **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.
36. **Anti Litter.** The site and surrounding area shall be maintained free of litter, refuse, and debris.
37. **Anti-Graffiti.** The applicant shall remove all graffiti from buildings and wall surfaces within 48 hours of defacement.
38. **Nuisance.** The uses of this site shall be operated in a manner that does not create a public or private nuisance. Nor shall the uses adversely affect the peace, health, safety, morals or welfare of persons residing or working in the surrounding area or be detrimental to public health, safety or general welfare. Any such nuisance must be abated immediately upon notice by the City.

APPROVED and issued on this **25th day of March, 2013.**

Joseph Horwedel, Director
Planning, Building, and Code Enforcement


Deputy

**PG&E Gas and Electric
Advice Filing List
General Order 96-B, Section IV**

1st Light Energy	Douglass & Liddell	OnGrid Solar
AT&T	Downey & Brand	Pacific Gas and Electric Company
Alcantar & Kahl LLP	Ellison Schneider & Harris LLP	Praxair
Anderson & Poole	G. A. Krause & Assoc.	Regulatory & Cogeneration Service, Inc.
BART	GenOn Energy Inc.	SCD Energy Solutions
Barkovich & Yap, Inc.	GenOn Energy, Inc.	SCE
Bartle Wells Associates	Goodin, MacBride, Squeri, Schlotz & Ritchie	SDG&E and SoCalGas
Braun Blasing McLaughlin, P.C.	Green Power Institute	SPURR
California Cotton Ginners & Growers Assn	Hanna & Morton	San Francisco Public Utilities Commission
California Energy Commission	In House Energy	Seattle City Light
California Public Utilities Commission	International Power Technology	Sempra Utilities
California State Association of Counties	Intestate Gas Services, Inc.	SoCalGas
Calpine	K&L Gates LLP	Southern California Edison Company
Casner, Steve	Kelly Group	Spark Energy
Cenergy Power	Linde	Sun Light & Power
Center for Biological Diversity	Los Angeles Dept of Water & Power	Sunshine Design
City of Palo Alto	MRW & Associates	Tecogen, Inc.
City of San Jose	Manatt Phelps Phillips	Tiger Natural Gas, Inc.
Clean Power	Marin Energy Authority	TransCanada
Coast Economic Consulting	McKenna Long & Aldridge LLP	Utility Cost Management
Commercial Energy	McKenzie & Associates	Utility Power Solutions
County of Tehama - Department of Public Works	Modesto Irrigation District	Utility Specialists
Crossborder Energy	Morgan Stanley	Verizon
Davis Wright Tremaine LLP	NLine Energy, Inc.	Water and Energy Consulting
Day Carter Murphy	NRG Solar	Wellhead Electric Company
Defense Energy Support Center	Nexant, Inc.	Western Manufactured Housing Communities Association (WMA)
Dept of General Services	North America Power Partners	
Division of Ratepayer Advocates	Occidental Energy Marketing, Inc.	