

PUBLIC UTILITIES COMMISSION
505 Van Ness Avenue
San Francisco CA 94102-3298



**Pacific Gas & Electric Company
ELC (Corp ID 39)
Status of Advice Letter 6561E
As of May 10, 2022**

Subject: Modification of Pacific Gas and Electric Company easement to accommodate property development Request for Approval Under Section 851 and General Order 173

Division Assigned: Energy

Date Filed: 04-13-2022

Date to Calendar: 04-15-2022

Authorizing Documents: None

Disposition:	Accepted
Effective Date:	05-09-2022

Resolution Required: No

Resolution Number: None

Commission Meeting Date: None

CPUC Contact Information:

edtariffunit@cpuc.ca.gov

AL Certificate Contact Information:

Annie Ho

(415) 973-8794

PGETariffs@pge.com

PUBLIC UTILITIES COMMISSION
505 Van Ness Avenue
San Francisco CA 94102-3298



To: Energy Company Filing Advice Letter

From: Energy Division PAL Coordinator

Subject: Your Advice Letter Filing

The Energy Division of the California Public Utilities Commission has processed your recent Advice Letter (AL) filing and is returning an AL status certificate for your records.

The AL status certificate indicates:

- Advice Letter Number
- Name of Filer
- CPUC Corporate ID number of Filer
- Subject of Filing
- Date Filed
- Disposition of Filing (Accepted, Rejected, Withdrawn, etc.)
- Effective Date of Filing
- Other Miscellaneous Information (e.g., Resolution, if applicable, etc.)

The Energy Division has made no changes to your copy of the Advice Letter Filing; please review your Advice Letter Filing with the information contained in the AL status certificate, and update your Advice Letter and tariff records accordingly.

All inquiries to the California Public Utilities Commission on the status of your Advice Letter Filing will be answered by Energy Division staff based on the information contained in the Energy Division's PAL database from which the AL status certificate is generated. If you have any questions on this matter please contact the:

Energy Division's Tariff Unit by e-mail to
edtariffunit@cpuc.ca.gov



April 13, 2022

Advice 6561-E

(Pacific Gas and Electric Company ID U 39 E)

Public Utilities Commission of the State of California

Subject: Modification of Pacific Gas and Electric Company Easement to Accommodate Property Development – Request for Approval Under Section 851 and General Order 173

Purpose

The purpose of this submittal is to enable the construction of a multi-family housing and commercial project consisting of six 3-story buildings, totaling 60 apartments, two micro-units, and a single 3,575 square ft. commercial building, which includes two 1,375 square ft. covered patios.

Pacific Gas and Electric Company (PG&E) requests Public Utilities Commission (Commission) approval under Public Utilities Code Section 851 and General Order 173 to modify PG&E's existing electric distribution easement. PG&E's easement is on a parcel of land owned by Airport Blvd. Business Park (Owner). The modification of the easement is intended to accommodate the development of the above-described project.

The modification to the easement will not interfere with PG&E's current or future operations nor its ability to provide safe and reliable utility service. Entering into this easement modification is not adverse to the public interest but instead will provide a benefit to the public by increasing much-needed housing in the community of Windsor.

Background

On June 29, 2021, PG&E received a letter of support from the Planning Commission of the Town of Windsor announcing the approval of the development of a multi-family residential housing project in the Town of Windsor. A copy of the letter is included as Attachment 1. In said letter, Jessica Jones, Community Development Director, acknowledged a 50' wide building restricted easement that was granted to PG&E on July 1, 1998 and recorded as Document No. 1998 0131887, Sonoma County Records (Easement). The Easement affects the parcel known as Assessor's Parcel Number 164-350-001 (Property) and is included as Attachment 2.

The Town of Windsor requested that PG&E evaluate the need for this Easement and, if no longer needed, to quitclaim or modify it to accommodate the project. PG&E Land Services determined that the Easement was obtained with the intention of installing an overhead power line along the north side of the Shiloh Road frontage. Instead, existing electric facilities on the south side of Shiloh Road were developed. Upon inspection, the only PG&E infrastructure within the 50' wide Easement is a guy stub (i.e., short) pole and anchor (Facilities) that are supporting the electric pole line on the south side of Shiloh Road.

PG&E Land Services consulted with PG&E's Electric Engineering and Asset Planning team to get their input on the request to quitclaim or modify the Easement. The design team discovered that they could not eliminate the Facilities within the Easement area. However, the design team was able to relocate the Facilities to a new location and proposed an easement modification to the Owner instead of a quitclaim. The Owner agreed and is fully funding the relocation of the Facilities and the easement modification.

The modification of the Easement will significantly reduce the Easement area to allow the development to move forward. At the same time, the modification retains sufficient area for PG&E's future use in this growing area. The modification was agreed upon by PG&E and Owner and was fully executed on January 20, 2022. A copy of the modification is included as Attachment 3.

For the reasons stated above, PG&E respectfully requests the Commission approve this Section 851 request to modify the Easement to facilitate the housing project.

Tribal Lands Policy

On December 5, 2019, the Commission adopted a policy titled, "Investor-Owned Utility Real Property – Land Disposition - First Right of Refusal for Disposition of Real Property Within the Ancestral Territories of California Native American Tribes" (Policy). The Policy directs investor-owned utilities to (1) notify the appropriate local Native American Tribes of any proposed dispositions of utility-owned real property that are subject to Section 851 and (2) to allow 90 days for the Tribes to respond as to their interest in purchasing the subject real property.

Resolution E-5076, effective January 14, 2021, adopted Guidelines to Implement the CPUC Tribal Land Policy (Guidelines). Section 1.3.d of the Guidelines states that "disposition" means the transfer, sale, donation, or disposition by any other means of a fee interest in real property. Therefore, the Easement modification subject to this Advice Letter is not covered by the Policy.

Other Information

In accordance with General Order 173, Rule 4, PG&E provides the following information related to the proposed transaction:

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

Pacific Gas and Electric Company	Larry L. Wasem
Steven Frank	Managing General Partner
Law Department	Airport Business Center
P.O. Box 7442	414 Aviation Blvd.
San Francisco, CA 94120	Santa Rosa, CA 95403
Telephone: (415) 971-5091	Telephone: 707-578-5344
Facsimile: (415) 973-5520	Email: LLWasem@wasem-usa.com
Email: steven.frank@pge.com	

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

The property subject to the Easement modification is identified as Sonoma County Assessor Parcel No. 164-350-001. The property is a 3.83-acre parcel in the southwest section of the Town of Windsor. The parcel has not been previously developed and is considered "vacant land." The parcel has a General Plan designation of Neighborhood Center Mixed Use and is zoned Neighborhood Center Commercial.

(c) Intended Use of the Property:

Upon Commission approval of the Easement modification, the area shown in red on the site structure areas diagram (Attachment 4) will no longer be burdened by the Easement that restricted the construction of buildings and structures. The Owner proposes that the red area will be used for open space and various buildings.

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

The Owner will fully fund PG&E's engineering and design, construction costs to relocate the Facilities, and the preparation of an Easement modification to allow development of their project.

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

The money collected from the Owner will be used to cover the cost of PG&E's engineering and design and construction to relocate the Facilities, and also the administrative cost to prepare the Easement modification.

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

There is no impact to PG&E's rate base nor will the granting of the proposed Easement modification affect PG&E's ability to provide safe and reliable service.

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

The Owner granted PG&E the original Easement at no cost to PG&E. The Easement was part of a new business request that the Owner supported by granting the Easement. The proposed plan at that time was to install facilities within the Easement area for the development of an adjacent property. However, plans to develop the adjacent property were eventually abandoned, and the majority of the Easement area remained unused by PG&E. PG&E is returning the Easement area that has not been used back to the Owner. PG&E did not request compensation from the Owner for the portion of the Easement area that is to be returned back to the Owner because PG&E originally acquired the Easement at no cost. As such, the Fair Market Value of the modified Easement area is not applicable in this case.

(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:

There are no recent past or future transactions anticipated by PG&E or Owner that are related to the present transactions.

(k) Sufficient Information and Documentation (Including Environmental Information) to Show that All of Eligibility Criteria Set Forth in Rule 3 of General Order 173 are Satisfied:

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

- The activity proposed in the transaction will not require environmental review by the Commission as a Lead Agency;

- 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 does not believe any additional information is necessary for the review of the Advice Letter.

(m) Environmental Information:

Pursuant to General Order 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 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

Pursuant to General Order 173, the Advice Letter program applies to proposed transactions that will not require environmental review by the Commission as a lead agency under the California Environmental Quality Act ("CEQA"). In the matter at hand, Resolution No. 694-21 -- adopted on June 22, 2021 by the Planning Commission of the Town of Windsor -- determined that the project is exempt from CEQA. (CEQA Guidelines Section 15332.) See Attachment 5.

Protests

Anyone wishing to protest this submittal may do so by letter sent electronically via E-mail, no later than May 3, 2022, which is 20 days after the date of this submittal. Protests must be submitted to:

CPUC Energy Division
ED Tariff Unit
E-mail: EDTariffUnit@cpuc.ca.gov

The protest shall also be electronically sent to PG&E via E-mail at the address shown below on the same date it is electronically delivered to the Commission:

Sidney Bob Dietz II
Director, Regulatory Relations
c/o Megan Lawson
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 and 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 letter become effective on May 13, 2022, which is 30 days from the date of submittal.

Notice

In accordance with General Order 96-B, Section IV, a copy of this advice letter is being sent electronically 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 submittals can also be accessed electronically at: <http://www.pge.com/tariffs>.

/S/

Sidney Bob Dietz II
Director, Regulatory Relations

Attachment 1 – Letter of Support
Attachment 2 – Electric Distribution Easement
Attachment 3 – Easement Modification
Attachment 4 – Site Structure Areas
Attachment 5 – Town of Windsor Final Resolution

******* SERVICE LIST for Advice 6561-E *****
APPENDIX A**

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

Robert (Mark) Pocta
Public Advocates Office
505 Van Ness Avenue
San Francisco, CA 94102
(415) 703- 2871
robert.pocta@cpuc.ca.gov

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

*****AGENCIES*****

Sonoma County Clerk Recorder
585 Fiscal Drive, Room 103
Santa Rosa, CA 95403
Phone: (707) 565-3800
Fax: (707) 565-3905
ClerkRecorder@sonoma-county.org

*****3rd Parties*****

Larry L. Wasem
Managing General Partner
Airport Business Center
414 Aviation Blvd.
Santa Rosa, CA 95403
Telephone: 707-578-5344
Email: LLWasem@wasem-usa.com



ADVICE LETTER 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 E)

Utility type:

- ELC GAS WATER
 PLC HEAT

Contact Person: Annie Ho

Phone #: (415) 973-8794

E-mail: PGETariffs@pge.com

E-mail Disposition Notice to: AMHP@pge.com

EXPLANATION OF UTILITY TYPE

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

(Date Submitted / Received Stamp by CPUC)

Advice Letter (AL) #: 6561-E

Tier Designation: 2

Subject of AL: Modification of Pacific Gas and Electric Company easement to accommodate property development – Request for Approval Under Section 851 and General Order 173

Keywords (choose from CPUC listing): Compliance

AL Type: Monthly Quarterly Annual One-Time Other:

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

Does AL replace a withdrawn or rejected AL? If so, identify the prior AL:

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

Confidential treatment requested? Yes No

If yes, specification of confidential information:

Confidential information will be made available to appropriate parties who execute a nondisclosure agreement. Name and contact information to request nondisclosure agreement/ access to confidential information:

Resolution required? Yes No

Requested effective date: 5/13/22

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 proposed¹: N/A

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

¹Discuss in AL if more space is needed.

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

California Public Utilities Commission
Energy Division Tariff Unit Email:
EDTariffUnit@cpuc.ca.gov

Contact Name: Sidnev Bob Dietz II. c/o Megan Lawson
Title: Director, Regulatory Relations
Utility/Entity Name: Pacific Gas and Electric Company

Telephone (xxx) xxx-xxxx: (415)973-2093
Facsimile (xxx) xxx-xxxx: (415)973-3582
Email: PGETariffs@pge.com

Contact Name:
Title:
Utility/Entity Name:

Telephone (xxx) xxx-xxxx:
Facsimile (xxx) xxx-xxxx:
Email:

CPUC
Energy Division Tariff Unit
505 Van Ness Avenue
San Francisco, CA 94102

Clear Form

Attachment 1

Letter of Support



Town of Windsor
9291 Old Redwood Highway
P.O. Box 100
Windsor, CA 95492-0100
Phone: (707) 838-1000
Fax: (707) 838-7349
www.townofwindsor.com

At-large Mayor
Sam Salmon

Vice Mayor
Rosa Reynoza

Councilmember District 3
Debora Fudge

Councilmember
Esther Lemus

Town Manager
Ken MacNab

Sent via Email
June 29, 2021

Carol Sefranka
PG&E
Email: CSSb@pge.com

RE: Letter of Support for Shiloh Apartments
Shiloh Road and Golf Course Drive, Windsor, CA (APN 164-350-001)

Dear Ms. Sefranka:

On June 22, 2021 the Planning Commission of the Town of Windsor approved Site Plan and Design Review and a Use Permit for the Shiloh Apartment project, a 62-unit multi-family residential project with approximately 3,575 square-feet of commercial space (file DR/UP21-13). The project is located on the northeast corner of Shiloh Road and Golf Course Drive in Windsor (APN 164-350-001).

As with all jurisdictions within the State of California, the Town of Windsor is experiencing a housing crisis due to low production and high demand, which spans all levels of affordability. Due to the need for housing, the Town's support of the proposal due to its consistency with the General Plan and Zoning Ordinance, as well as the close proximity of the future housing units to services and transit, Town staff moved the project through the review process as quickly as possible. The owner of the project took significant financial risk by creating the construction plans for the project, submitting the plans for building permits, ahead of the actual approval of the project. The Town is confident the owner intends to move ahead with this important mixed-use, multi-family housing project as quickly as possible.

There is one issue that is out of the control of either the Town or the owner. That is the 50-foot pole line easement that was granted to PG&E in 1998. This easement was intended to allow power poles to be installed along the Shiloh frontage, and has encumbered the entire Shiloh Road frontage of the property. However, the Town understands that the power poles were instead installed along the south side of Shiloh Road, and, as such, the easement is no longer needed.

The Planning Commission approved the project with a condition that reads "33. Provide written confirmation from PG&E that the proposed structures shown within the PG&E Utility Easement along Shiloh Road frontage will be allowed to be located within the easement." The Town understands that the owner has requested that this easement be quit-claimed by PG&E thereby freeing up this land for the structures. The Town strongly supports this request and urge PG&E to act as expeditiously as possible to quit-claim this easement. The Town also understands that with the easement in place financing the project will be virtually impossible. Without this quit-claim the project will not be able to move forward and the exceptional efforts by the Town and the owner to have this project approved will be for naught.

I have discussed this matter with the Windsor Town Manager, Ken MacNab, and we both agree that time is of the essence for this project. The sooner construction begins the sooner 62 more families will have a place to live in our Town. We strongly urge PG&E to make every effort possible to quit-claim this unneeded easement and move this project forward.

Sincerely,

A handwritten signature in cursive script that reads "Jessica Jones".

Jessica Jones
Community Development Director

cc: Ken MacNab, Town Manager
Ellen McDowell, Planner II
Carl Euphrat, Senior Civil Engineer
Doug Hughes, Building Official

Attachment 2

Electric Distribution Easement

AFTER RECORDING, RETURN TO:

PACIFIC GAS AND ELECTRIC COMPANY
Santa Rosa Land Rights Office
111 Stony Circle
Santa Rosa, CA 95401-9599



1998 0131887

OFFICIAL RECORDS OF
SONOMA COUNTY
BERNICE A. PETERSON

AT REQUEST OF:

11/05/1998
FEE: \$ 13.00
TT: \$.00
10:43:00
PGS: PAID 3

Location: City/Uninc _____
Recording Fee _____
Easement, No Consideration (R&T 11911-Value less than \$100.00)
 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

2408-09-0659

(SPACE ABOVE FOR RECORDER'S USE ONLY)

EASEMENT DEED

AIRPORT BLVD. BUSINESS PARK, a California limited partnership,

hereinafter called first party, hereby grants to PACIFIC GAS AND ELECTRIC COMPANY, a California corporation, hereinafter called second party, the right from time to time to construct, reconstruct, install, inspect, maintain, replace, remove, and use facilities of the type hereinafter specified, together with a right of way therefor, within a strip or parcel of land or along a route as hereinafter set forth, and also ingress thereto and egress therefrom, over and across the lands situate in the county of Sonoma, state of California, described as follows:

(APN 164-140-21)

The southerly 50.0 feet of the parcel of land described in the deed from Windsor Water District to Airport Blvd. Business Park dated February 19, 1988 and recorded as Official Records Series Number 8802565, Sonoma County Records; excepting therefrom that portion thereof lying westerly of the easterly boundary line of Golf Course Drive as shown upon the map of The Greens Phase 1B filed for record in Book 575 of Maps at page 17, Sonoma County Records.

Said facilities shall consist of:

Such poles, aerial wires, cables, electrical conductors with associated crossarms, braces, transformers, anchors, guy wires and cables, fixtures and appurtenances, as second party deems necessary located along the route(s) staked on the ground by employees of second party and approved by first party.

The legal description herein, or the map attached hereto, defining the location of this utility distribution easement, was prepared by Pacific Gas and Electric Company pursuant to Section 8730 (c) of the Business and Professions Code.

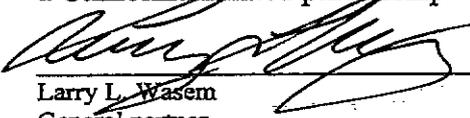
Second party shall also have the right from time to time to trim and to cut down and clear away or otherwise control any and all trees and brush now or hereafter on said strip or said parcel of land or along said route, as herein before set forth, and shall have the further right from time to time to trim and to cut down and clear away any trees on either side of said strip or said parcel of land or along said route, as herein before set forth, which now or hereafter in the opinion of second party may be a hazard to the facilities installed hereunder by reason of the danger of falling thereon, provided, however, that all trees which second party is hereby authorized to cut and remove, if valuable for timber or wood, shall continue to be the property of the first party, but all branches and brush shall be burned or removed by second party.

First party shall not erect or construct any building or other structure or drill or operate any well under or within 10.0 feet of the center line of second party's electrical conductors.

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

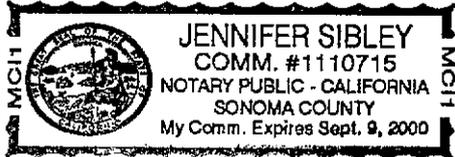
Dated 7/1, 1998.

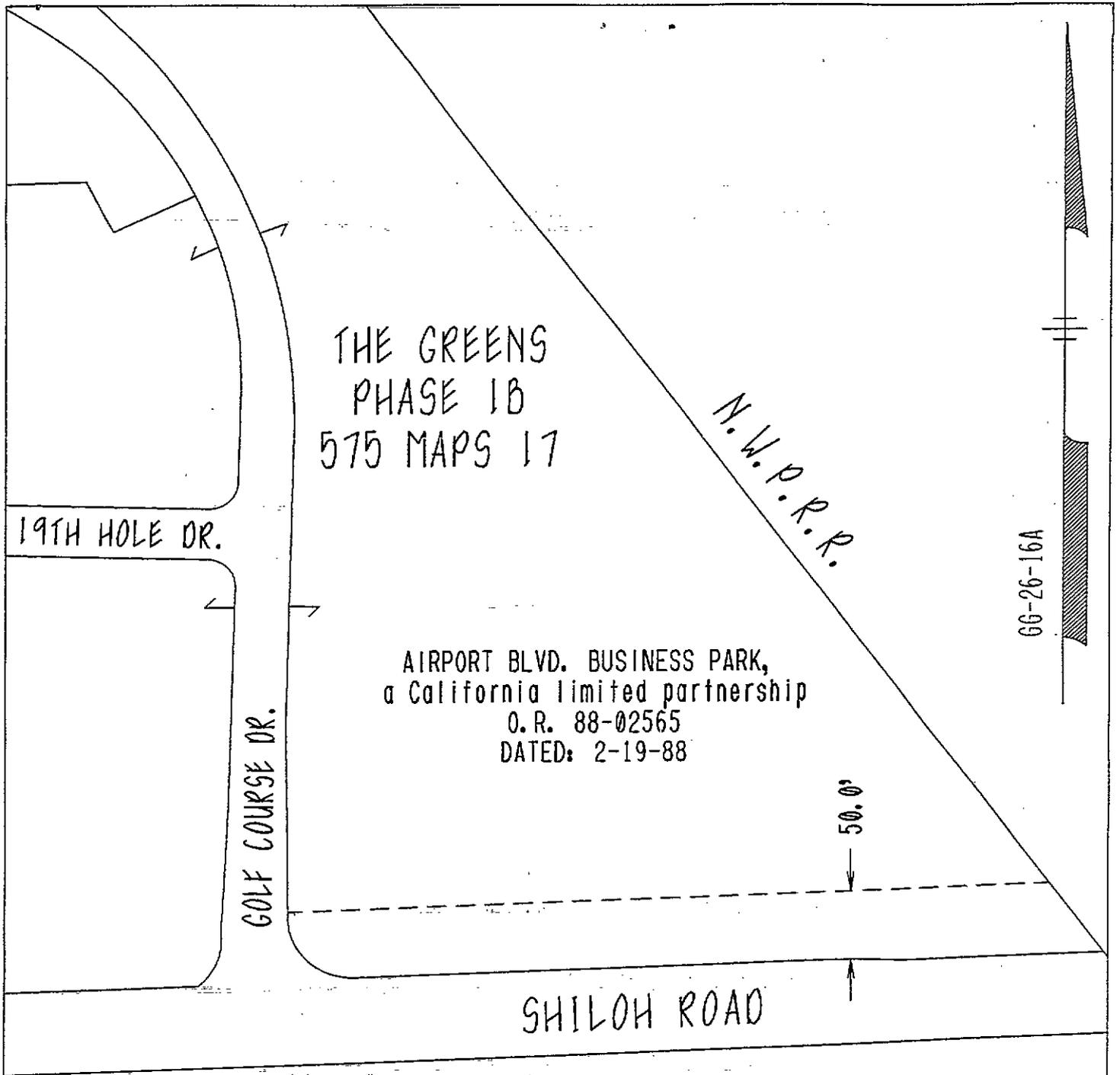
AIRPORT BLVD. BUSINESS PARK,
a California limited partnership


Larry L. Wasem
General partner

SANTA ROSA LAND RIGHTS OFFICE
SO 1002477, 0973E83378
MAP GG-26-16A, DRW-3378
T8N, R9W, MDB&M
SEC. 24, SE 1/4 of NE 1/4
Prepared By: wrl
Checked By: dak
FILE: s:\docs\srosa_98\3378.doc

not conr. to SAP

STATE OF CALIFORNIA COUNTY OF <u>Sonoma</u> } SS.	CAPACITY CLAIMED BY SIGNER
On <u>July 1, 1998</u> before me, the undersigned, a Notary Public for said State, personally appeared <u>Larry L. Wasem, General Partner</u>	<input type="checkbox"/> Individual(s) Signing For Oneself/Themselves <input type="checkbox"/> Corporate Officer(s) of the Above Named Corporation(s) <input type="checkbox"/> Guardian of the Above Named Individual(s) <input checked="" type="checkbox"/> Partner(s) of the Above Named Partnership(s) <input type="checkbox"/> Attorney(s)-in-Fact of the Above Named Principal(s) <input type="checkbox"/> Trustee(s) of the Above Named Trust(s) <input type="checkbox"/> Other _____
<p><input checked="" type="checkbox"/> personally known to me OR <input type="checkbox"/> 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/hers/their authorized capacity(ies), and that by his/hers/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.</p>	
WITNESS my hand and official seal.	
 Signature	



Unless otherwise shown
all courses extend to or
along boundaries or lines

Other references:

Facilities OH ELECTRIC

Date 4-30-98

Scale 1" = 100'

City

County of SONOMA (164-14)

Rancho

Sec. 24, T8N, R9W

MOB&M

Sheet No.

By: WRL

0973E83378, SE¼ of NE¼

3378

References

Drawing #

Attachment 3

Easement Modification

Easement Modification Agreement - General (Rev. 7/2021)

RECORDING REQUESTED BY AND RETURN TO:

PACIFIC GAS AND ELECTRIC COMPANY
245 Market Street, N10A, Room 1015
P.O. Box 770000
San Francisco, California 94177

Location: City/Uninc _____
Recording Fee \$ _____
Document Transfer Tax \$ _____

- 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
- Exempt from the fee per GC 27388.1 (a) (2); This document is subject to Documentary Transfer Tax

(SPACE ABOVE FOR RECORDER'S USE ONLY)

Signature of declarant or agent determining tax

LD# 2408-09-10031

EASEMENT MODIFICATION AGREEMENT

PM# 35263473

AIRPORT BUSINESS CENTER, a California limited partnership who acquired title as AIRPORT BLVD. BUSINESS PARK, a California limited partnership ("**First Party**"), makes this agreement ("**Agreement**") with PACIFIC GAS AND ELECTRIC COMPANY, a California corporation ("**Second Party**"), affecting the lands of First Party, situated in the Town of Windsor, County of Sonoma, State of California, and described as follows:

(APN 164-350-001)

Lot 1 as shown upon the map filed for record May 17, 2002 in Book 634 of Maps at page 1, Sonoma County Records.

Second Party is the owner of the following right of way and easement across First Party said lands (the "**Easement**"):

The easement deed from Airport Blvd. Business Park to Pacific Gas and Electric Company dated July 1, 1998 and recorded as Document No. 1998 0131887, Sonoma County Records.

NOW, THEREFORE, the parties hereto agree that the location of the right of way and easement described in the Easement, lying within said lands, shall be, and it hereby is, changed to the parcel of land described in Exhibit "A" and shown on Exhibit "B" attached hereto and made a part hereof.

Second Party further desires, and First Party is willing, to grant the additional rights as follows:

The term "easement area" used herein shall refer to the easement area described in the Easement and in this Agreement, insofar as it affects said lands. The term "facilities" used herein shall refer to the facilities described in the Easement.

First Party hereby covenants and agrees not to place or construct, nor allow a third party to place or construct, any building or other structure, or store flammable substances, or drill or operate any well, or construct any reservoir or other obstruction within said easement area, or diminish or substantially add to the ground level within the easement area, or construct any fences that will interfere with the maintenance and operation of said facilities.

First Party also grants to Second Party the right to use such portion of said lands contiguous to the easement area as may be reasonably necessary in connection with the excavation, construction, reconstruction, replacement, removal, maintenance and inspection of said facilities.

First Party further grants to Second Party the right to apportion to another public utility (as defined in Section 216 of the California Public Utilities Code) the right to excavate for, construct, reconstruct, replace, remove, maintain, inspect, and use the communications facilities within said easement area including ingress thereto and egress therefrom.

NOW, THEREFORE, in consideration of the foregoing and for good and valuable consideration paid to First Party by Second Party, the receipt of which is hereby acknowledged, the parties agree that the Easement shall be modified in the manner and to the extent hereinbefore stated and First Party hereby grants to Second Party the rights necessary to effect such modification.

Except as expressly set forth herein, this Agreement shall not in any way alter, modify, or terminate any provision of the Easement.

This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, but all of which, together, shall constitute one and the same instrument.

This Agreement shall inure to the benefit of and bind the successors and assigns of the respective parties hereto, and all covenants shall apply to and run with the land.

IN WITNESS WHEREOF the parties hereto have executed this Agreement this _____ day of JANUARY 20, 2022.

“First Party”

AIRPORT BUSINESS CENTER, a California limited partnership

By: 

Name: Richard A. Coombs

Its: General Partner

Date: December 22, 2021

“Second Party”

PACIFIC GAS AND ELECTRIC COMPANY, a California corporation

By: 

Name: Mark Swallow, PLS

Its: Supervisor
Land Surveying and Engineering Support
North Coast Distribution

Date: JANUARY 20, 2022

Notary Certificate Attached

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.

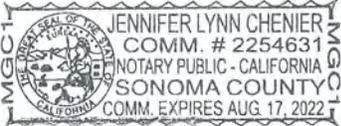
State of California
County of Sonoma

On Jan 20th 2022 before me, Jennifer Lynn Chenier Notary Public
(insert name and title of the officer)

personally appeared Mark William Swallow
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 [Handwritten Signature] (Seal)

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 Sonoma }

On December 22, 2021, before me, Jennifer Sibley, Notary Public, personally appeared RICHARD A. COOMBS, 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.

Executed under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.



PLACE NOTARY SEAL ABOVE

WITNESS my hand and official seal.

NOTARY'S SIGNATURE *Jennifer Sibley*

EXHIBIT A
PG&E EASEMENT MODIFICATION

BEING A PORTION OF THE PG&E EASEMENT DESCRIBED IN DOCUMENT NUMBER 1998-0131887, OFFICIAL RECORDS OF SONOMA COUNTY, DESCRIBED AS FOLLOWS:

ALL THAT REAL PROPERTY SITUATED IN THE COUNTY OF SONOMA, STATE OF CALIFORNIA, AND BEING A PORTION OF THE LANDS OF AIRPORT BUSINESS CENTER, ACQUIRED TITLE AS AIRPORT BOULEVARD BUSINESS PARK, SHOWN AS LOT ONE OF THE SUBDIVISION MAP OF AIRPORT BUSINESS CENTER PHASE FOUR, FILED IN BOOK 634 OF MAPS, PAGES ONE THROUGH THREE, SONOMA COUNTY RECORDS, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A BRASS DISK FOUND IN A CENTERLINE WELL MONUMENT AT THE INTERSECTION OF SHILOH ROAD AND GOLF COURSE DRIVE; THENCE NORTH $25^{\circ}46'37''$ EAST 90.48 FEET TO THE INTERSECTION OF THE NORTHERLY LINE OF SAID PG&E EASEMENT AND THE EASTERLY LINE OF THE PUBLIC UTILITY EASEMENT ADJOINING THE EAST SIDE OF GOLF COURSE DRIVE AS SHOWN ON THE SAID SUBDIVISION MAP AND BEING **THE TRUE POINT OF BEGINNING** OF THE PORTION OF THE EASEMENT HEREIN DESCRIBED; THENCE ALONG THE NORTHERLY LINE OF SAID PG&E EASEMENT, SOUTH $87^{\circ}55'17''$ WEST 6.50 FEET TO THE EAST RIGHT OF WAY OF GOLF COURSE DRIVE; THENCE ALONG SAID RIGHT OF WAY SOUTH $00^{\circ}48'45''$ EAST 2.27 FEET; THENCE ALONG A CURVE TO THE LEFT WITH A RADIUS OF 33.00 FEET, THROUGH A CENTRAL ANGLE OF $91^{\circ}15'58''$ FOR AN ARC LENGTH OF 52.57 FEET; THENCE ALONG THE NORTH RIGHT OF WAY OF SHILOH ROAD, NORTH $87^{\circ}55'17''$ EAST 321.44 FEET; THENCE ALONG A CURVE TO THE RIGHT WITH A RADIUS OF 512.00 FEET, THROUGH A CENTRAL ANGLE OF $05^{\circ}42'40''$ FOR AN ARC LENGTH OF 51.04 FEET; THENCE SOUTH $86^{\circ}22'03''$ EAST 96.09 FEET; THENCE ALONG A CURVE TO THE LEFT WITH A RADIUS OF 488.00 FEET, THROUGH A CENTRAL ANGLE OF $00^{\circ}03'39''$ FOR AN ARC LENGTH OF 0.52 FEET TO THE WESTERLY LINE OF THE LANDS OF THE TOWN OF WINDSOR SHOWN AS PARCEL B ON THAT SUBDIVISION MAP OF AIRPORT BUSINESS CENTER PHASE FOUR, FILED IN BOOK 634 OF MAPS, PAGES ONE THROUGH THREE, SONOMA COUNTY RECORDS; THENCE LEAVING SAID RIGHT OF WAY AND COINCIDENT WITH THE SAID WESTERLY LINE, NORTH $34^{\circ}54'44''$ WEST 56.40 FEET; THENCE LEAVING SAID WESTERLY LINE SOUTH $88^{\circ}47'06''$ WEST 23.53 FEET; THENCE SOUTH $01^{\circ}20'51''$ EAST 32.00 FEET TO THE EXISTING PUBLIC UTILITY EASEMENT AS SHOWN ON SAID MAP; THENCE ALONG THE NORTHERLY LINE OF SAID EXISTING PUBLIC UTILITY EASEMENT THROUGH A NON-TANGENT CURVE TO THE LEFT WITH A RADIUS OF 5048.00 FEET, FROM A TANGENT WHICH BEARS SOUTH $88^{\circ}39'09''$ WEST, THROUGH A CENTRAL ANGLE OF $00^{\circ}28'02''$ AN ARC LENGTH OF 41.16 FEET TO THE POINT OF CUSP OF A NON-TANGENT CURVE TO THE LEFT WITH A RADIUS OF 518.50 FEET, FROM A TANGENT WHICH BEARS NORTH $86^{\circ}23'24''$ WEST THROUGH A CENTRAL ANGLE OF $05^{\circ}41'19''$ AN ARC LENGTH OF 51.48 FEET; THENCE SOUTH $87^{\circ}55'17''$ WEST 321.44 FEET; THENCE ALONG A CURVE TO THE RIGHT WITH A RADIUS OF 26.5 FEET THROUGH A CENTRAL ANGLE OF $91^{\circ}15'58''$ AN ARC LENGTH OF 42.21 FEET; THENCE NORTH $00^{\circ}48'45''$ WEST 2.42 FEET TO THE POINT OF BEGINNING.

BASIS OF BEARINGS: SOUTH $87^{\circ}55'17''$ WEST 561.90 FEET BETWEEN TWO FOUND BRASS DISKS IN CENTERLINE MONUMENT WELLS AS SHOWN ON THAT SUBDIVISION MAP TITLED AIRPORT BUSINESS CENTER PHASE FOUR, FILED IN BOOK 634 OF MAPS AT PAGES ONE THROUGH THREE, SONOMA COUNTY RECORDS.

CONTAINING 4,802 SQUARE FEET MORE OR LESS

APN: 164-350-001

DATE: 12/16/2021



PREPARED BY: BRELJE & RACE, CONSULTING ENGINEERS

JOB NO.: 4500.10

AIRPORT BUSINESS CENTER
 ACQUIRED TITLE AS AIRPORT BLVD. BUSINESS PARK
 APN 164-350-001
 DOC. NO. 1988-028565

PG&E EASEMENT
 BOOK 249 PAGE 228
 LD# 2408-09-0214
 NOT AFFECTED BY
 QUICKCLAIM

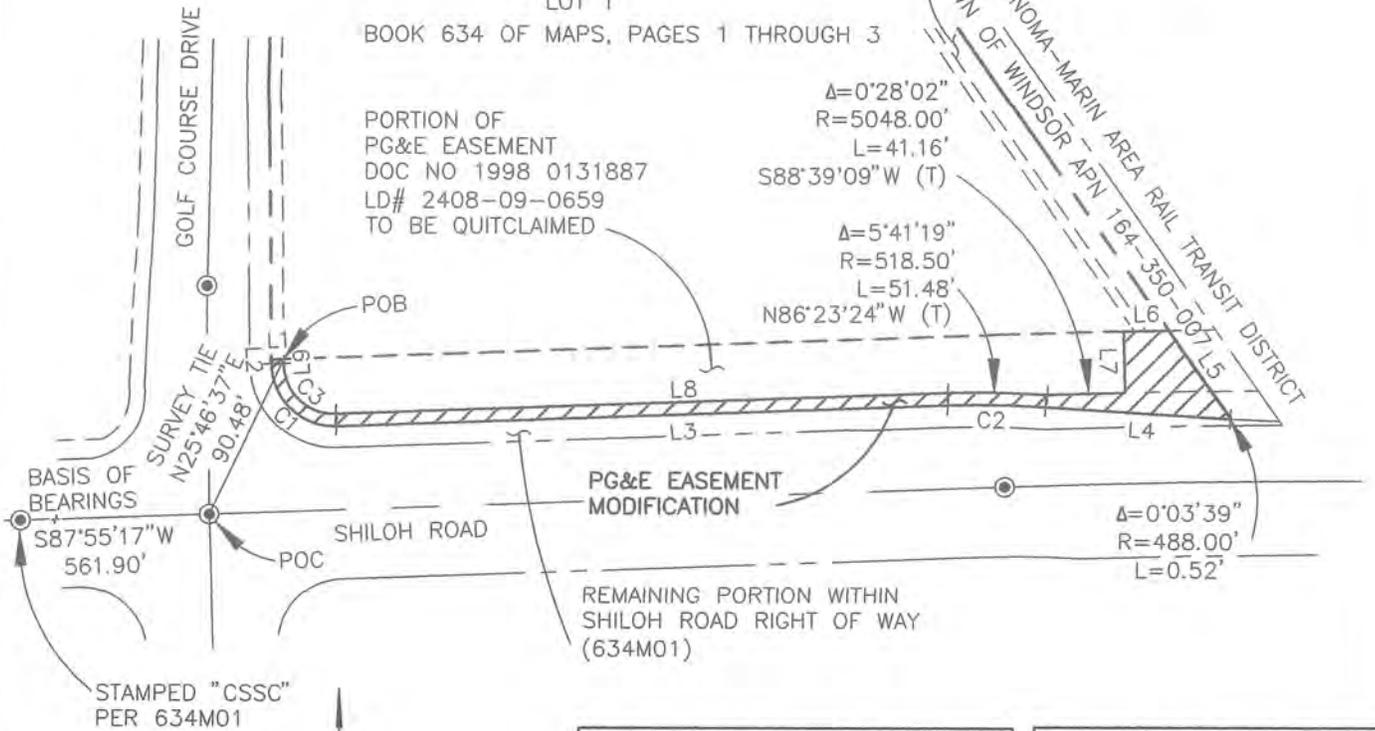
LOT 1
 BOOK 634 OF MAPS, PAGES 1 THROUGH 3

PORTION OF
 PG&E EASEMENT
 DOC NO 1998 0131887
 LD# 2408-09-0659
 TO BE QUITCLAIMED

$\Delta=0^{\circ}28'02''$
 $R=5048.00'$
 $L=41.16'$
 $S88^{\circ}39'09''W$ (T)

$\Delta=5^{\circ}41'19''$
 $R=518.50'$
 $L=51.48'$
 $N86^{\circ}23'24''W$ (T)

$\Delta=0^{\circ}03'39''$
 $R=488.00'$
 $L=0.52'$



SE1/4 NE1/4 SEC. 24
 T.8N. R.9W., M.D.M.
 TOWN OF WINDSOR
 COUNTY OF SONOMA

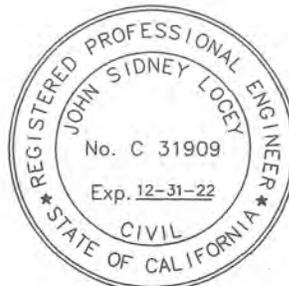
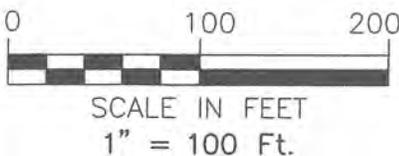
CURVE TABLE			
NO.	DELTA	RADIUS	LENGTH
C1	91°15'58"	33.00'	52.57'
C2	05°42'40"	512.00'	51.04'
C3	91°15'58"	26.50'	42.21'

LINE TABLE		
NO.	BEARING	LENGTH
L1	S87°55'17"W	6.50'
L2	S00°48'45"E	2.27'
L3	N87°55'17"E	321.44'
L4	S86°22'03"E	96.09'
L5	N34°54'44"W	56.40'
L6	S88°47'06"W	23.53'
L7	S01°20'51"E	32.00'
L8	S87°55'17"W	321.44'
L9	N00°48'45"W	2.42'

LEGEND

- POB POINT OF BEGINNING
- POC POINT OF COMMENCEMENT
- PUE PUBLIC UTILITY EASEMENT
- (T) TANGENT
- FOUND 2" BRASS DISK IN WELL MONUMENT STAMPED LS 5973

THIS EXHIBIT IS FOR GRAPHIC PURPOSES ONLY. ANY ERRORS OR OMISSIONS ON THIS EXHIBIT SHALL NOT AFFECT THE DEED DESCRIPTION.



John S. Locey
 JOHN SIDNEY LOCEY RCE 31909

EXHIBIT B

PG&E
 EASEMENT
 MODIFICATION

OWNER: AIRPORT BUSINESS CENTER
 414 AVIATION BLVD
 SANTA ROSA, CA 95403

DOC NO 1988-028565

APN 164-350-001

PREPARED BY

Brelje & Race
 CONSULTING ENGINEERS
 415 Aviation Blvd. • Suite 120 • Santa Rosa, CA 95403 • 707-576-1322
 www.brelje.com

Attach to LD: 2408-09-10031
Area, Region or Location: 7
Land Service Office: Santa Rosa
Line of Business: Electric Distribution (43)
Business Doc Type: Agreements
MTRSQ: 24.08.09.24.12
FERC License Number: N/A
PG&E Drawing Number: N/A
Plat No.: GG2621 & GG2622
LD of Affected Documents: 2408-09-0659
LD of Cross Referenced Documents: 2408-09-0214
Type of interest: Easement Modifications Agreements (41)
SBE Parcel: N/A
% Being Quitclaimed: 54%
Order or PM: 35263473
JCN: N/A
County: Sonoma
Utility Notice Number: N/A
851 Approval Application No: TBD ;Decision: TBD
Prepared By: cwj6
Checked By: dak8 *DK*
Approved By:
Revised by:

\\santarosa02\SarHQShared\GenlSvcs\Land\R_W 2021\Sonoma\35263473 - Shiloh Rd,
Windsor\Working Files

Attachment 4

Site Structure Areas

Attachment 5

Town of Windsor Final Resolution

ATTACHMENT 5

RESOLUTION NO. 694-21

**A RESOLUTION OF THE PLANNING COMMISSION OF THE TOWN OF WINDSOR APPROVING THE SITE PLAN AND DESIGN REVIEW APPLICATION OF SIX MULTI-FAMILY RESIDENTIAL BUILDINGS CONTAINING A TOTAL OF 62 UNITS AND A COMMERCIAL BUILDING LOCATED ON THE NORTHEAST CORNER OF GOLF COURSE DRIVE AND SHILOH ROAD, AND A USE PERMIT TO ALLOW MULTI-FAMILY UNITS AS PART OF A MIXED-USE PROJECT AND A REDUCTION IN THE NUMBER OF REQUIRED PARKING SPACES
(APN 164-350-001)
FILE NO. 21-13 DR/UP**

WHEREAS, the Town of Windsor Planning Commission has considered an application requesting approval of 1) Site Plan and Design Review to construct 62 multi-family residential units located at the northeast corner of Golf Course Drive and Shiloh Road (APN 164-350-001) and; 2) for a Use Permit to allow multi-family units as part of a mixed use project and a reduction in the number of parking spaces; and

WHEREAS, the subject parcel has a 2040 General Plan land use designation of Neighborhood Center Mixed Use (NCMU) which allows a density of eight to sixteen units per acre and is zoned Neighborhood Center Commercial (NC) which allows a density of eight to sixteen units per acre; and

WHEREAS, the project was publicly noticed in accordance with State law and the Town Council Public Notice Procedures; and

WHEREAS, the Town of Windsor Planning Commission did conduct a duly noticed public hearing on June 22, 2021, on said application at which time all interested persons were given an opportunity to be heard; and

WHEREAS, the Planning Commission makes the following additional findings regarding the proposed Site Plan and Design Review of the Project as required by Zoning Ordinance Section 27.34.030(H):

1. The design and layout of the proposed development are consistent with the General Plan, the development standards of the applicable zoning district, design standards/guidelines, and architectural criteria for special areas.

FINDING:

The Project, as conditioned, is consistent with applicable General Plan land use and density, which allows for eight to sixteen housing units per acre. The project proposes to construct 62 units, 2 of which are studios of less than 500 square feet and are considered one unit for density calculating purposes. The project meets all development standards of the Neighborhood Center Commercial Zoning District. The project is not located within

any special areas requiring architectural criteria. Based on the above, and as conditioned, the Project is consistent with this finding.

2. The design and layout of the proposed development will not interfere with the use and enjoyment of neighboring existing or future developments and will not create traffic or pedestrian hazards.

FINDING:

The Project is located on the northeast corner of Gold Course Drive and Shiloh Road. The Project, as conditioned, would not create traffic or pedestrian hazards in that Golf Course Drive and Shiloh Road are existing streets with frontage improvements and the Project includes the construction of a new sidewalk and the installation of curb ramps and crosswalks. The project would be located to the east of the WorldMark timeshare, south of a single-family residential development, and west of an industrially zoned parcel across the railroad tracks. The Project was reviewed by Public Works and no pedestrian or traffic hazards were identified. Based on the above, and as conditioned, the Project is consistent with this finding.

3. The architectural design of the proposed development is compatible with the character of the surrounding neighborhood.

FINDING:

The other developed properties in the immediate area include the WorldMark timeshare located on the south side of 19th Hole Drive, Charlie's restaurant, the golf course and the parking lot for these uses, and the existing residential neighborhood located north of Pool Creek and Industrial uses across the railroad tracks. The materials and colors for the Project are compatible with the WorldMark development, which is the only development visible from the Project site. Based on the above, and as conditioned, the Project is consistent with this finding.

4. The design of the proposed development will provide a desirable environment for its occupants, visiting public, and its neighbors through the appropriate use of materials, texture, and color, and will remain aesthetically appealing and be appropriately maintained.

FINDING:

The Project is designed to retain existing environmental resources, including four oak trees which will help to retain the existing character of the site. The materials and colors are compatible with the materials used for the WorldMark timeshare located on the west side Golf Course Drive. No other development is visible in the immediate area. The Project includes 3,575 square feet of commercial space for the residents and the visiting public. The Project uses quality materials, including lap siding, stucco, metal roofing materials, and a color palette of greys, blues and whites that are compatible in with the surrounding development. The approval of the Use Permit would not affect the design, desirability, materials, or aesthetics of the Project. Based on the above, the Project is consistent with this finding.

5. The proposed development will not be detrimental to the public health, safety, or welfare or materially injurious to the properties or improvements in the vicinity.

FINDING:

Since the Use Permit is required to allow Residential as part of the mixed-use project, and the reduction in the number of parking spaces was reviewed and studied in the submitted Traffic Impact Study, granting the permit would not be detrimental to the public interest, health, safety, convenience, or welfare, or materially injurious to persons, property, or improvements in the vicinity and zoning district in which the property is located. The project has been reviewed by Planning, Public Works, Building, Windsor Fire Protection District, Sonoma County Resource Recovery, and Sonoma County Airport Land Use Commission planning staff and no issues or concerns. Conditions of approval provided by Town departments and agencies have been included as requirements for the project. Based on the above, the Project is consistent with this finding.

WHEREAS, the Town of Windsor Planning Commission has made the following findings as required by Zoning Ordinance Section 27.42.050(F) in order to approve a Use Permit to allow multi-family residential as part of a mixed-use project and a reduction in the number of required parking spaces.

1. The proposed use is allowed within the applicable zoning district and complies with all other applicable provisions of this Zoning Ordinance and the Town Code.

FINDING:

The Neighborhood Center Commercial zoning district allows for eight to sixteen units per acre. Planning Commission approval of a Use Permit to allow a reduction in the number of parking spaces required would not change the multi-family residential use of the Project. With Planning Commission approval of a Use Permit, the Project would be consistent with the Zoning Ordinance requirements for the site. The Project, as conditioned is consistent with the applicable Zoning Ordinance requirements as described in the staff report. Based on the above, the Project is consistent with this finding.

2. The proposed use is consistent with the General Plan and any applicable specific plan.

FINDING:

The Neighborhood Center Mixed Use land use designation allows mixed-use development on lots at a density of eight to sixteen units per acre. The overall site is 3.83 acres which would allow for a range of 30 to 61 units. The project proposes to construct 62 units. General Plan Policy H-5.6 states that “the Town shall continue to allow pairs of studio apartments of 500 square feet or less to be counted as one unit for the purposes of calculating densities and fees.” There is no specific plan that applies to the project site. Based on the above, the Project is consistent with this finding.

3. The design, location, size, and operating characteristics of the proposed activity are compatible with the existing and future land uses in the vicinity.

FINDING:

The subject parcel is an undeveloped parcel just south of The Greens Phase 2 subdivision located on Golf Course Drive and east of the railroad tracks. The property to the west is developed with the WorldMark timeshare, the property to the south across Shiloh Road is undeveloped. The lot will be developed with multi-family units and a commercial space, which is consistent with the uses allowed by the General Plan and Zoning Ordinance. All streets needed to serve the project have already been constructed and the Project includes a new sidewalk along Golf Course Drive and Shiloh Road and new cross walks with curb ramps.

4. The site is physically suitable for the type, density and intensity of use being proposed, including access, utilities, and the absence of physical constraints.

FINDING:

The site is relatively flat, has no physical constraints, and the density and mixed-use nature are allowed by the Zoning and General Plan. All utilities have been extended to the site as part of the existing developments. Based on the above, the Project is consistent with this finding.

5. Granting the permit would not be detrimental to the public interest, health, safety, convenience, or welfare, or materially injurious to persons, property, or improvements in the vicinity and zoning district in which the property is located.

FINDING:

Since the Use Permit is required to allow Residential as part of the mixed use project, and the reduction in the number of parking spaces was reviewed and studied in the submitted Traffic Impact Study, granting the permit would not be detrimental to the public interest, health, safety, convenience, or welfare, or materially injurious to persons, property, or improvements in the vicinity and zoning district in which the property is located. The project has been reviewed by Planning, Public Works, Building, Windsor Fire Protection District, Sonoma County Resource Recovery, and Sonoma County Airport Land Use Commission planning staff and no issues or concerns. Conditions of approval provided by Town departments and agencies have been included as requirements for the project. Based on the above, the Project is consistent with this finding.

WHEREAS, by Resolution 3644-20, the Town Council affirmed the establishment of Five-Year Annual Growth Control Allocation with unused allocations for Reserve A and Reserve B rolled over to subsequent years, as follows:

YEAR:	2017	2018	2019	2020	2021	TOTAL
Reserve A Units	0	0	0	0	63	63
Reserve B Units	0	0	0	0	471	471
Banked Units	0	51	0	0	0	51

WHEREAS, the Town of Windsor Planning Commission finds that the project has been determined to be exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15332: In-Fill Development Projects, which exempts infill development in urbanized areas when: 1) consistent with the General Plan and Zoning; 2) the development occurs within city limits on a site of no more than 5 acres; 3), the project site has no value for habitat for endangered, rare or threatened species; 4) the project would not result in any significant effects related to traffic, noise, air quality or water quality; 5) and the site can be adequately served by all required utilities and public services. The Project is: 1) consistent with the General Plan and Zoning as described above; 2) the site is located in Town limits and is 3.83-acres in size and is surrounded by urban development in that the parcels to the west are developed with timeshare property, and a golf course, restaurant and associated parking area, a single-family residential subdivision is located to the north, and an industrial area is to the east across the railroad tracks; 3) a biological assessment was prepared for the site that determined that the area of the parcel that would be developed has no value for habitat for endangered, rate, or threatened species; 4) a Traffic Impact Study was prepared that concluded the Project would not result in significant impacts to traffic, the Noise Study prepared for the project includes recommendations for the project to ensure that the project is consistent with Zoning Ordinance requirements for indoor and outdoor noise, which have been included as conditions of approval (COA), the Project is required to comply with Town requirements that ensure water quality, and based on the use and size of the project there would be significant impacts to air quality; and 5) the Project has been reviewed by Town Departments and the Project can be served by all required utilities and public services.

NOW, THEREFORE, BE IT RESOLVED that the Town of Windsor Planning Commission hereby approves reservation of 62 Reserve A Growth Management allocations for the project from the 2017-2021 Five-Year Growth Control Allocation period approved by Resolution 3644-20. Pursuant to Section 16-4-124 of the Town's Growth Control Ordinance, the reserved growth control allocations shall automatically expire upon expiration of the project's discretionary approvals or expiration of unused building permits issued for the project; and

BE IT FURTHER RESOLVED that the above recitals are true and correct and are made a part of this resolution; and

BE IT FURTHER RESOLVED that the Town of Windsor Planning Commission finds the project exempt from CEQA and hereby approves the Site Plan and Design Review and Use Permit application as submitted to the Community Development Department except as modified by the following conditions of approval.

TOWN ENGINEER (Unless otherwise stated, conditions in this section shall be to the satisfaction of the Town Engineer):

**Conditions Applicable to Improvement/Site Development Plan Approval:
General Requirements:**

1. The developer shall prepare and submit improvement plans for the construction of all public and private improvements including water, sanitary sewer, storm drain facilities,

private roadway improvements, curbs, gutters, detached sidewalks, signing, striping, and streetlights. Public and private improvement drawings shall be separated per the following:

- a. All public improvements, including public landscaping and irrigation & SWLID features shall be on the Town public improvement plan sheets.
- b. All private improvements, including private landscaping and irrigation & private SWLID features shall be on building permit sheet format.

All design and construction of all public improvements shall conform to the latest edition of the Town of Windsor Design and Construction Standards, Caltrans, AASHTO, and other applicable codes, standards, guidelines, and specifications.

2. Improvement plans must be approved and signed by the Town Engineer prior to issuance of an encroachment permit, a grading permit, or a building permit.
3. An encroachment permit and a performance bond are required for all public improvements and all work within a public right-of-way.
4. Information shown on preliminary site development plans shall not be construed as accepted or meeting Town Standards and requirements and are subject to review and approval during the plan review process.
5. Plan check and inspection fees, based on the most current edition of the Town's Master Fee Schedule at the time of improvement plan submittal, shall be paid for prior to the signature of the improvement plans or, issuance of a grading permit, whichever occurs first.
6. Mailbox plans and locations shall be approved by the Windsor Postmaster prior to improvement plan approval. The developer shall provide a letter and exhibit showing mailbox locations from the Windsor Postmaster approving mailbox locations.
7. All broken or sunken curb & gutter along the project frontage shall be repaired as part of the improvements for this project. As well, all nonconforming pedestrian ramps shall be brought up to current accessibility standards.
8. Deviations from Town Standards and applicable code requirements shall be approved by the Town Engineer. The applicant's engineer shall request all design exceptions in writing. When possible, design exceptions should be processed before first plan submittal.
9. Public improvement drawings shall be drafted in the Town approved sheet format. AutoCAD drawing files can be found on the Town's website (townofwindsor.com). Only work within the public right-of-way and public water, sewer, storm drain, and recycled water improvements shall be on Town improvement plan sheets.
10. Project benchmark shall be based on a Town-approved USGS NAVD 88 benchmark.
11. Improvement plans shall be approved by the Sonoma County Fire District.
12. All improvements shall be clearly annotated as either public or private on the improvement/site development plans.
13. All existing and proposed rights-of-way and easements shall be clearly identified on the design drawings. Where the project is adjacent to the Town Boundary, the Town Boundary shall be clearly shown
14. In the event that the Town is forced to condemn or acquire off-site property interest in connection with required off-site improvements, the developer shall fund the cost of condemnation or acquisition, including but not to be limited to the amounts necessary to purchase the easement or fee simple interest, document preparation and severance, or

other damages payable to the owners of the land upon which the improvements are to be located, the actual cost and acquisition and all fees, including attorney's fee and/or other expenses necessary to prosecute the condemnation action, including expert witness and appraisal fees.

In the event that the Town elects to proceed with acquisition or condemnation pursuant to Government Code Section 66462.5, the developer shall, within 60 days of written notice by the Town, deposit with the Town, as an advance, the full estimated cost of such acquisition or condemnation. The developer shall prepare any easements or deeds necessary for off-site improvements.

Street Improvements:

15. Improvement plans shall include the following utility, roadway, and traffic related improvements such as driveways, signage, striping, concrete curb, concrete gutters & concrete sidewalk. Improvements for Shiloh Road shall conform to the Complete Streets Design Guidelines and shall include a 6-foot wide landscape strip, measured from the back of curb, and a 6-foot wide public sidewalk, meeting Town Standards, for the limits shown on the Tentative Map. Sidewalk warps shall be provided to allow a clear 6-foot walkway at all locations, including areas where mailboxes, street furniture, streetlights, street signs and fire hydrants are to be installed or, as otherwise directed by the Town Engineer.
16. The existing curb and gutter along Golf Course Drive and Shiloh Road may remain, provided any damaged curb and gutter is removed and replaced. Any existing curb and gutter that is removed and replaced with new curb and gutter shall be reconstructed meeting Town standards.
17. Americans with Disabilities Act (ADA) compliant pedestrian curb ramps shall be provided at all intersections where sidewalks and/or crosswalks are proposed. The pedestrian ramps shall conform to current ADA standards.
18. A paved pedestrian connection shall be provided in the northern part of the project connecting the parking area to the SMART trail. It is suggested that the connection be located opposite the striped access area between parking stall nos. 48 and 49 as labeled on Sheet C-1 of the Preliminary Site Plan. The requirement to complete this connection as part of this project shall be determined by the Town Engineer based on the schedule of construction of the SMART path. Other options could be considered such as payment of an in-lieu fee to fund construction at a later date.

Street Lighting, Signing, and Striping:

19. Signage restricting parking and red painted curbing onsite shall be installed where required by the Town Engineer and the Sonoma County Fire District.
20. Existing roadway signing and striping shall be shown on the improvement plans, including but not limited to traffic lines, roadway markings and symbols, bike lanes and signs. Any roadway signing and striping damaged during construction shall be replaced meeting Town standards as directed by the Town Engineer.
21. The developer shall install pedestrian curb ramp(s) and crosswalks, meeting current ADA standards.

Grading Improvements:

22. A site-grading plan prepared by a Civil Engineer registered in the State of California shall be included as part of the required improvement drawings.
23. The applicant shall submit to the Town for review and approval a detailed Geotechnical Report prepared by a Civil Engineer registered in the State of California and qualified to perform geotechnical evaluations. The grading plan shall incorporate the recommendations of the approved Geotechnical Report.
24. All existing wells, septic tanks and/or underground fuel storage tanks shall be permanently destroyed under permit and inspection by the Sonoma County Permit and Resource Management Department, Well and Septic Division and/or Sonoma County Environmental Health or other designated agency. If there are none, the project engineer shall provide a letter describing the scope of the search done to make this determination.
25. Where soil or geologic conditions encountered during grading operations that are different from those anticipated in the Geotechnical Report, or where such conditions warrant changes to the recommendations contained in the original soil investigation, a revised soil or geologic report shall be submitted for approval by the Town Engineer. It shall be accompanied by an engineering and geological opinion as to the safety of the site from hazards of land slippage, erosion, settlement, and seismic activity.
26. The grading plan shall clearly show all existing survey monuments and property corners and shall state that they shall be protected and preserved.
27. Improvements plans shall include an erosion control (winterization) plan.

Utility Improvements:

28. Sewer grades must be designed such that ultimate finished floors are more than 12 inches above the first upstream manhole rim elevation. Inadequate elevation differentials or grade on private sewer mains and laterals, as determined by the Town, must be mitigated by raising finished floor elevation(s), installing privately owned and operated sanitary sewer lift station(s) with grinder/ejector pump(s) on site, or installing a sewer backwater check valve in the building sewer line at a location approved by the Town Engineer.
29. A new sewer manhole is required in Shiloh Road where the new sewer serving the project ties into the existing sewer main.
30. All private storm drain, potable water, fire service, sanitary sewer mains, laterals, and appurtenances, must be located within the private property and clearly identified as private on the design drawings.
31. All proposed utilities, both on-site and along project frontages contiguous to the site, shall be placed underground, excluding surface mounted transformers, pedestal mounted terminal boxes and meter cabinets.
32. Final joint trench plans shall be provided by the owner/developer to the Town Engineer for review and approval prior to issuance of a grading permit. Any conflicts with existing utilities and trees shall be resolved prior to permit issuance.
33. Provide written confirmation from PG&E that the proposed structures shown within the PG&E Utility Easement along the Shiloh Road frontage will be allowed to be located within the easement.

Storm Drain Improvements:

34. The developer shall demonstrate that placement of fill and construction of structures in the flood plain shall not raise the existing 100-year water surface elevation, as established by the most current edition of the Town's Storm Drain Master Plan, nor increase the limits of inundation.
35. All project-related flooding impacts shall be mitigated by the project developer. Project flood control and drainage design and construction shall meet all requirements of the new Sonoma Water (AKA Sonoma County Water Agency) Flood Control Design Manual and the Town of Windsor Design and Construction Standards. Flood control and drainage improvements shall be designed by a Civil Engineer, registered in the State of California, to the satisfaction of the Town Engineer. Public and private flood control and drainage improvements shall be shown on the improvement plans and shall be approved by both Sonoma Water and the Town Engineer prior to improvement plan approval.
36. No concentrated drainage may discharge across sidewalks. All site drains shall be connected to the public storm drain system or discharged through the face of curb or existing waterway.
37. Plans and certifications shall demonstrate compliance of all improvements, including building finished floor elevations, with the Town's Floodplain Ordinance, to the satisfaction of the Building Official and Town Engineer. The Engineer of Record shall provide a signed stamped letter indicating the project meets the requirements of the Ordinance before plan approval. Building finished floor elevations shall be constructed a minimum of 12 inches above the 100-year storm event water surface elevation as determined by the Engineer of Record subject to the approval of the Town Engineer.

Storm Water Quality Improvements:

38. All design and construction shall meet the requirements of the most recent editions of Town of Windsor, Phase I Ms4 permit and the most recent edition of the City of Santa Rosa Low Impact Development Technical Design Manual. Prior to approval of the improvement plans, the applicant shall submit a Final Storm Water Mitigation Plan (FSWMP) subject to review and approval by the Town Engineer. The plan shall include post-construction storm water treatment and peak reduction measures and shall address maintenance funding and maintenance of private and/or public storm water facilities. The FSWMP shall be approved by the Town Engineer prior to signature of the improvement plans or, as otherwise directed by the Town Engineer.
39. If public storm water quality features are required, the owner shall execute an agreement to annex into the Town's 1982 Act Benefit Assessment District for maintenance of all public storm water quality features. The owner/developer shall pay all fees associated with setting up a new zone. Annexation shall occur prior to, or contemporaneously with, Final Map recordation.
40. The owner/developer shall prepare and submit a Declaration of Covenants Regarding Maintenance of Storm Water Best Management Practices (BMP) Facilities using the Town's template from the Town's website. The declaration shall be recorded with the Sonoma County Recorder's Office prior to the issuance of the first certificate of occupancy and shall run with the land.

41. A LID Certification will be required from the Design/Project Engineer, who shall complete a final inspection and certification that all BMPs will function per the intent of the approved design. A copy of the certification shall be provided to the Town of Windsor prior to the issuance of the first certificate of occupancy.
42. Private storm water quality improvements shall be privately owned and privately maintained.
43. Per the most recent edition of the LID Technical Design Manual, the applicant must guarantee a minimum two-year post-installation warranty period on all plant material in the private LID features. The warranty must provide for the replacement cost of the plant material and installation for all plants that do not survive or are in a state of decline at the end of the warranty period. Landscape designers are strongly encouraged to use plants listed in Appendix F of the design manual and give a two-year warranty period. If they do not use plants listed in the design manual, then a five-year warranty period must be provided. Should the applicant not be able to provide a guarantee for the plantings in the private LID features, the private LID features may need to be moved into the public right of way and put into the Towns 1982 Act Benefit Assessment District as a public feature.
44. All tributary areas with existing and new and/or replaced impervious areas must provide trash capture meeting the requirements of the most recent edition of the LID Technical Design Manual.

Rights-of-Way & Easements:

45. All existing and proposed rights-of-way and roadway and utility easements shall be clearly identified on the design drawings.
46. No structural encumbrances, such as steps, porches, balconies and eaves are allowed within public easements unless written authorization is provided by the beneficiary of the easement.
47. If required, the developer shall dedicate sufficient public right-of-way to contain the entire public improvements for the proposed sidewalk along the public road frontages. Alternatively, the developer may grant a public sidewalk/public access easement to the Town of Windsor.

Agreements:

48. If not already annexed, the property owner shall execute an agreement to annex into the Town's Landscaping and Lighting Assessment District No 1 & No. 2. Upon development of the property, the property will be assessed in Landscaping and Lighting Assessment District No. 1 and No. 2 as a developed property.

During Construction Operations, the Following Conditions Shall Apply:

49. The developer shall keep adjoining public streets free and clean of project dirt, mud, materials and debris during the construction period, as found necessary by the Town.
50. If any hazardous waste is encountered during the construction of this project, all work shall be immediately stopped and the Sonoma County Environmental Health Department, the Fire Department, the Police Department and the Town Inspector shall be notified

- immediately. Work shall not proceed until clearance has been issued by all of these agencies.
51. During construction, the Contractor shall be responsible for controlling noise, odors, dust and debris to minimize impacts on surrounding properties and roadways. Contractor shall be responsible that all construction equipment is equipped with manufacturers approved muffler's baffles. Failure to do so may result in the issuance of an order to stop work.
 52. If grading is to take place between October 15 and April 15, both temporary and permanent erosion control measures, conforming to the project erosion control plans shall be in place before October 1st. Erosion control measures shall be monitored and maintained continuously throughout the storm season.
 53. The following minimum Best Management Practices (BMPs) shall be required during construction:
 - a. Construction crews shall be instructed in preventing and minimizing pollution on the job.
 - b. Stabilize construction entrance/exit to prevent tracking onto roadway. Only one stabilized construction entrance/exit will be allowed per site, unless otherwise approved by the Town Engineer. Vehicles entering and leaving construction sites spread pollutants such as sediment, gravel, and other loose particles onto adjacent roads. Pollutants are washed into roadside ditches and are a nuisance to drivers and may cause damage to vehicles.
 - c. Protect exposed slopes from erosion through preventative measures. Cover slopes to avoid contact with storm water by hydro-seeding, mulch, use of plastic sheeting or other approved means.
 - d. Use brooms and shovels when possible to maintain a clean site. Use of a hose is not recommended. Introducing water as a cleanup method adds to water pollution.
 - e. Designate a concrete washout area, if needed, to avoid wash water from concrete tools or trucks from entering storm drain systems. Maintain washout area and dispose of concrete waste on a regular basis.
 - f. Establish a vehicle storage, maintenance and refueling area, if needed, to minimize the spread of oil, gas and engine fluids. Use of oil pans under stationary vehicles is strongly recommended.
 - g. Protect drain inlets from receiving polluted storm water through the use of filters such as fabrics, gravel bags or straw wattles.
 - h. Be prepared for rain and have the necessary materials onsite before the rainy season.
 - i. Inspect all BMPs before and after each storm event. Maintain BMPs on a regular basis and replace as necessary, through the entire course of construction.

Prior to Acceptance of Improvements and Release of Surety, the Following Conditions Shall Be Satisfied:

54. All public improvements shown on the Improvement Plans shall be completed and accepted by the Town.

55. Unless otherwise approved by the Town Engineer, the owner/developer shall post security for maintenance of the public improvements prior to acceptance of the public improvements by the Town or prior to project completion of an encroachment permit by the Public Works Inspector. Said security shall remain valid and in full force for a minimum one-year period from the date of acceptance of the public improvements or project completion of an encroachment permit.
56. Existing curb, gutter and sidewalk to remain shall be inspected by the Town. Any curb, gutter and sidewalk, which is not in accord with Town Standards or is damaged before or during construction, shall be replaced.
57. The developer shall provide a written statement signed by his or her engineer verifying that the grading and/or drainage improvements are completed in accordance with the plans approved by the Sonoma County Water Agency, the Town Engineer and the Building Official.
58. Prior to acceptance of the public improvements, the developer shall provide the Public Works Department a complete set of As-Built/Record Drawing Mylar improvement plans showing all construction changes from the original plans, TIFF files (or alternate format determined by Public Works) for each of the improvement plan sheets and one paper copy of the As-Built/Record improvement plans, including an electronic copy of the approved Storm Water Pollution Prevention Plan (SWPPP), the approved Final Storm Water LID (FSW LID) and the recorded Declaration of Covenants Regarding Maintenance of Storm Water Best Management Practices (BMP) Facilities.

COMMUNITY DEVELOPMENT DEPARTMENT - BUILDING (Unless otherwise stated, conditions in this section shall be to the satisfaction of the Building Official).

Conditions applicable to issuance of a building permit:

59. Construction shall comply with all applicable current codes. No site clearance, grubbing, grading, or fill stockpiling, may be performed without prior approval of the Building Official.
60. No construction shall be initiated until plans have been approved. A separate grading/foundation plan may be issued at the discretion of the Town Engineer, Chief Building Official and Town Community Development Director.
61. No building or ground disturbing permits shall be issued until written evidence of all applicable permits including any required mitigation payments from the appropriate resource agency(s) (NCRWQB, USACE, USFWS, CDFG, and/or RWCQB) have been acquired. Prior to issuance of a grading permit and/or start of any construction, copies of the permits and payments shall be filed with the Planning Department. Any deviations from this requirement require approval by the Community Development Director.
62. A pre-construction meeting shall be held with the Building Official, prior to permit issuance. The purpose of the meeting is to coordinate construction activities related to job site sanitary facilities, tree preservation, utility trenching, and other requirements related to construction of the proposed project.
63. Construction sites shall be maintained in a trash and litter free condition for the duration of the construction activity, to the satisfaction of the Building Official.

- 64. Toilet facilities shall be provided for construction workers and such facilities shall be maintained in a sanitary condition, to the satisfaction of the Building Official.
- 65. Site improvements shall be reviewed by the Windsor Fire Protection District.
- 66. Improvement plans, maps, and construction shall comply with all state and federal accessibility requirements, to the satisfaction of the Town Building Official.

COMMUNITY DEVELOPMENT - PLANNING (Unless otherwise stated, conditions in this section shall be to the satisfaction of the Community Development Director):

- 67. The Project shall be in substantial conformance with the Project description, plans, and materials included in the Planning Commission staff report, dated June 22, 2021 as well as all materials presented to and approved by the Planning Commission, except as modified herein.
- 68. The Project includes approval of a Use Permit to allow a reduction in the required number of parking spaces and to allow for multi-family residential as part of a mixed-use project consistent with the approved plans.
- 69. The following shall be included on the Building Permit as verbatim notes:
 - a. The Developer shall pay all applicable development impact fees for Drainage, Parks & Recreation, Public Facilities, Traffic and Recycled Water upon the earlier of the date of final inspection or issuance of the certificate of occupancy for each lot and shall pay all applicable development impact fees for Water Capacity and Wastewater Capacity prior to the issuance of a building permit for each individual lot. The developer shall pay all applicable school impact fees for each lot to the Windsor Unified School District per the school district policies and/or code.
 - b. Owner is responsible for the maintenance of sidewalks located along the street frontages of the property.
- 70. A Tree Preservation and Protection Plan shall be included with the Improvement Plans and shall include the following:
 - a. Location, size and species of the trees on the site consistent with the exhibit included in the Arborist Report dated March 4, 2021 and the approved plans.
 - b. Location of the Tree Protection Zone as delineated by the Project Arborist.
 - c. Project Arborist evaluation of the any impacts to the trees to be preserved as a result of widening the sidewalk to 6-feet (from 5-feet) and recommendations to reduce the impacts identified.
 - d. Location and detail of the required tree protection fencing consistent with the recommendations of the Project Arborist.
 - e. Location of construction staging (see condition #91 below).
- 71. The following conditions are applicable to approval of a grading permit (if applicable) and/or start of any ground disturbing construction and/or applicable to improvement plan approval:
 - a. No construction shall be initiated until plans have been approved. A separate grading/foundation plan may be issued at the discretion of the Town Engineer, Chief Building Official, and Community Development Director or his or her designee. Any

deviations to this condition require review and approval by the Town Engineer, Building Official, and Community Development Director or his or her designee.

- b. Improvement Plans shall be approved by the Community Development Department and signed by the Town Engineer. Prior to approval, plans shall include the following:
 - a. Transformers, fire line check valves, meter cabinets, and backflow preventers shall also be specified on landscape drawings and appropriately screened.
 - b. A statement on the plans by the Project Landscape Architect verifying design compliance with the Town's Low Water Use Guidelines as well as a statement that design provides sufficient quantity and sizing of plant and landscape materials to achieve 100% coverage within 3 years of installation (turf areas within 30-60 days). In the event that reclaimed water is used for irrigation purposes, plant materials are exempt from the Town's Low Water Use Guidelines and the Project landscape architect statement shall reflect this exemption.
 - c. Tree Protection Measures included as part of Project grading and utility plans as follows:
 - i. Trunk, diameter, dripline, and Tree Protection Zone (TPZ) locations of existing trees to be preserved shall be marked "to be saved" on the approved plans.
 - ii. All utility trenching, including PG&E, shall be shown outside of the TPZ, to the extent feasible. If grading or trenching for drainage or utilities must be done within the TPZ of protected trees, the Project arborist shall be present to monitor the work. At least 24 hours' notice shall be given to schedule site visits (48 hours is preferable). No work shall be done within the TPZ of protected trees without the presence of an arborist.
 - iii. If any roots larger than 1-inch are encountered which cannot be preserved, they should be cut cleanly across the face of the root with a sharp saw under the supervision of the Project Arborist.
 - iv. If pruning for clearance or hazard reduction is required on any trees to remain, it should be done by trained, qualified tree workers according to ISA and ANSI 300 Pruning Guidelines prior to construction and under the supervision of the Project Arborist. Pruning should be the minimum necessary for hazard reduction (i.e. the removal of deadwood 2" and larger, etc.) and clearance.
 - v. The location of and a detail for the tree protection fencing recommended by the Project Arborist. The required fencing shall be shown on the plans and located at the outer edge of Tree Protection Zone (TPZ) identified by the Project Arborist. If access within the TPZ will be required, the Project Arborist shall be notified and asked to verify that roots are disturbed minimally during any construction activity.
 - vi. The required fencing shall be installed prior to the start of clearing or grading operations and kept in place throughout construction activities. Prior to commencement of any clearing or grading operations, the

- installation of the fencing shall be verified in the field by the Building Inspector and/or Project Planner.
- vii. No parking, operation of equipment, storage of materials, disposal of waste, or other construction activity shall occur within the TPZ of protected trees.
 - viii. The Project Arborist shall keep written records of site inspections and shall forward a summary report to the Community Development Department of all work authorized within the TPZs, compliance to tree preservation recommendations (including pruning, removal of deadwood, supplemental watering and feedings), and any damage affecting tree survivability in accordance with conditions of Project approval. Report shall include final recommendations for retention/removal and shall be received prior to final clearance of improvements authorized by these plans.
 - ix. Evidence of a contract with a licensed arborist to oversee and verify completion of the above requirements is required.
 - x. Deviation from these requirements is subject to the approval of the Community Development Director.
72. A security deposit shall be posted to cover the value of protected trees designated for preservation (see Zoning Code Section 27.36.060.H).
73. Prior to or at the time of submittal of the Building Permit and Improvement Plans, the Developer shall submit an application for address assignment to the Community Development Department.
74. Prior to commencement of any clearing or grading activities, a security deposit shall be posted to cover the value of protected trees designated for preservation (see Zoning Code Section 27.36.060.H).
75. The following shall be required and shall be added as verbatim notes included on the grading and improvement plans:
- a. During construction, the Contractor shall be responsible for controlling noise, odors, dust and debris to minimize impacts on surrounding properties and roadways. Contractor shall be responsible that all construction equipment is equipped with manufacturers approved muffler's baffles. Failure to do so may result in the issuance of an order to stop work.
 - b. In the event that archaeological features such as pottery, arrowheads, midden or culturally modified soil deposits are discovered at any time during grading, scraping, or excavation within the property, all work shall be halted in the vicinity of the find and Town Planning staff shall be notified. A qualified archaeologist shall be contacted immediately to make an evaluation of the find and report to Town Planning. Planning staff may consult and/or notify the appropriate Tribal representative from tribes known to staff to have interests in the area. Artifacts associated with prehistoric sites include humanly modified stone, shell, bone, or other cultural materials such as charcoal, ash, and burned rock indicative of food procurement or processing activities. Prehistoric domestic features include hearths,

fire pits, or house floor depressions. Whereas typical mortuary features are represented by human skeletal remains. Historic artifacts potentially include all by-products of human land use greater than 50 years of age including trash pits older than fifty years of age. When contacted, a member of Planning Staff and the archaeologist shall visit the site to determine the extent of the resources and to develop and coordinate proper protection/mitigation measures required for the discovery. Planning Staff may refer the mitigation/protection plan to designated tribal representatives for review and comment. No work shall commence until a protection/mitigation plan is reviewed and approved by Planning staff. Mitigations may include avoidance, removal, preservation and/or recordation in accordance with California law. Archaeological evaluation and mitigation shall be at the applicant's sole expense.

- c. If human remains are encountered, California Health and Safety Code Section 7050.5 states that no further disturbance shall occur until the County Coroner has made the necessary findings as to origin. Further, pursuant to California Public Resources Code Section 5097.98(b) remains shall be left in place and free from disturbance until a final decision as to the treatment and disposition has been made. If the County Coroner determines that remains to be Native American, the Native American Heritage Commission must be contacted within 24 hours. The Native American Heritage Commission must then immediately identify the “most likely descendant(s)” of receiving notification of the discovery. The most likely descendant(s) shall then make recommendations within 48 hours and engage in consultations concerning the treatment of the remains as provided in Public Resources Code 5097.98. (General Plan EIR Mitigation Measure CR-4)
76. In order to avoid any bird species, the Developer shall retain the services of a qualified biologist to conduct a pre-construction (including but not limited to grading) nesting bird survey during nesting season (February 1-August 31) prior to all new development that may remove trees or vegetation that may provide suitable nesting habitat for migratory birds or other special status bird species. If nests are found, the qualified biologist shall identify appropriate avoidance measures.
 77. In order to avoid any bat species, the Developer shall retain the services of a qualified biologist to conduct a pre-construction (including but not limited to grading) bat roosting survey during maternity season (April – October) no more than 14 days prior to removal or trimming of trees. If found on site, appropriate species and roost specific protection measures shall be developed in consultation with CDFW to implement actions that will protect the bats and avoid impacts.
 78. Plans submitted for building permit shall include the following and are subject to staff review and approval:
 - a. Any signage, including monument signs and commercial signs are subject to staff review and approval. Sign type and locations shall be added to plans prior to building permit submittal
 - b. The conditions of approval included in this Resolution and the mitigation measures included Mitigation Monitoring and Reporting Programs as verbatim notes on the first page of the plans submitted for building permit.

- c. Manufacturer's cut sheets for all exterior lighting that is consistent with the design of the buildings.
 - d. Manufacturer's cut sheets for the garage doors.
 - e. Manufacturer's cut sheets for windows.
 - f. Manufacturer's cutsheet or detail for the metal awning located on the commercial building.
 - g. Detail for all fencing on site.
 - f. Non-reflective roofing material.
 - g. Demonstrate compliance with the Town's requirements for development in the 100-year floodplain.
 - h. Plans shall be consistent with the recommendations found in the arborist report including tree protection measures, and tree protection fencing and details.
 - i. Construction staging plan that locates all materials, vehicles and equipment outside of the drop lines of protected oak trees and other sensitive areas.
 - j. Exterior materials and colors identified on the elevations which may be modified at the discretion of the Community Development Director
 - k. A letter from the Project Arborist indicating that the site, grading, tree preservation and protection, and landscaping plans have been reviewed and will not result in impacts to the protected oak trees on the site. Recommendations from the Project Arborist for tree preservation and protection measures shall be incorporated into the plans.
79. The Project shall comply with the following requirements to in order to control construction noise: (2040 General Plan EIR Mitigation Measure N-1)
- a. Properly muffle and maintain all construction equipment powered by internal combustion engines.
 - b. Prohibit unnecessary idling of combustion engines.
 - c. Locate all stationary noise-generating construction equipment such as air compressors as far as practical from existing nearby residences and other noise-sensitive land uses. Such equipment shall also be acoustically shielded.
 - d. Select quiet construction equipment, particularly air compressors, whenever possible. Fit motorized equipment with proper mufflers in good working order.
 - e. Residences adjacent to project sites shall be notified in advance by writing of the proposed construction schedule before construction activities commence at a distance acceptable by the acoustical engineer.
 - f. The project applicant shall designate a "noise disturbance coordinator" responsible for responding to any local complaints about construction noise. The disturbance coordinator shall determine the cause of any noise complaint (e.g., starting too early, bad muffler, etc.) and shall require that reasonable measures be implemented to correct the problem. A telephone number for the disturbance coordinator shall be posted at the construction site.
80. Exterior lighting for the Project shall protect the dark/night skies by being shielded and/or directed downward to limit overspill and glare, without compromising safety and security. The exterior fixtures shall be International Dark Sky Association approved or equivalent. (2040 General Plan EIR Mitigation Measure AES-1).

81. In order to reduce construction emissions and air quality impacts, Project construction activities shall incorporate the Bay Area Air Quality Management District (BAAQMD) Basic Construction Mitigation Measures comply with the following requirements (2040 General Plan EIR Mitigation Measure AQ-1):
 - a. All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day, with priority given to the use of recycled water for this activity when feasible.
 - b. All haul trucks transporting soil, sand, or other loose material off-site shall be covered.
 - c. 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.
 - d. The use of dry power sweeping is prohibited. All vehicle speeds on unpaved roads shall be limited to 15 mph.
 - e. All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible.
 - f. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.
 - g. 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
 - h. Title 13, Section 2485 of California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points.
 - i. 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.
 - j. 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.
82. The Project shall comply with the following requirements to in order to minimize exposure to construction vibration: (2040 General Plan EIR Mitigation Measure N-2)
 - a. Avoid the use of vibratory rollers within 50 feet of fragile buildings, which are buildings that are susceptible to damage from vibration.
 - b. Schedule construction activities with the highest potential to produce vibration to hours with the least potential to affect nearby institutional, educational, and office uses that the Federal Transit Administration identifies as sensitive to daytime vibration (FTA 2006).
 - c. Notify neighbors of scheduled construction activities that would generate vibration a minimum of five days prior to the start of construction.

The following general conditions shall apply:

83. The Project shall generally comply with the project description and materials included and referenced in the staff report dated June 22, 2021, and materials presented to and approved by the Planning Commission, except as modified herein.

84. The Community Development Director has the discretion to approve minor modifications to the Project that are in substantial conformance with the approved plans.

Indemnification. The Developer shall defend, indemnify and hold harmless the Town and its agents, officers, attorneys or employees from any claim, action, or proceeding brought against the Town or its agents, officers, attorneys or employees to attack, set aside, void, or annul the Planning Commission and/or Town Council decisions relating to this Project. This indemnification shall include damages or fees awarded against the Town, if any, cost of suit, attorneys' fees, and other costs and expenses incurred in connection with such action whether incurred by the Developer, including its partners, principals, or agents, the Town and/or the parties initiating or bringing such action. The Developer shall defend, indemnify and hold harmless the Town, its agents, officers, employees and attorneys for all costs incurred in additional investigation of or study of, or for supplementing, preparing, redrafting, revising, or amending any document (such as the Categorical Exemption), if made necessary by said legal action.

In the event that a claim, action or proceeding described above is brought, the Town shall promptly notify the Developer of the existence of the claim, action or proceeding, and the Town will cooperate fully in the defense of such claim, action or proceeding. Nothing herein shall prohibit the Town from participating in the defense of any claim, action or proceeding. In the event that the Developer is required to defend the Town in connection with any said claim, action or proceeding, the Town shall retain the right to (i) approve the counsel to so defend the Town, (ii) approve all significant decisions concerning the manner in which the defense is conducted, and (iii) approve any and all settlements, which approval shall not be unreasonably withheld. The Town shall also have the right not to participate in said defense, except that the Town agrees to cooperate with the Developer in the defense of said claim, action or proceeding. If the Town chooses to have counsel of its own to defend any claim, action or proceeding where the Developer has already retained counsel to defend the Town in such matters, the fees and expenses of the counsel selected by the Town shall be paid by the Town. Notwithstanding the immediately preceding sentence, if the Town Attorney's office participates in the defense, all Town Attorney fees and costs shall be paid by the Developer.

The Developer shall indemnify the Town for all the Town's costs, fees, and damages which the Town incurs in enforcing the above indemnification provisions.

PASSED, APPROVED AND ADOPTED this 22nd day of June 2021 by the following vote:

**AYES: COMMISSIONER LEHR/M, VICE CHAIR ALBINI/2ND,
CHAIR ZELIG**

NOES: NONE

ABSTAIN: NONE

ABSENT: NONE



CHAIR

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

AT&T
Albion Power Company

Alta Power Group, LLC
Anderson & Poole

Atlas ReFuel
BART

Barkovich & Yap, Inc.
Braun Blasing Smith Wynne, P.C.
California Cotton Ginners & Growers Assn
California Energy Commission

California Hub for Energy Efficiency
Financing

California Alternative Energy and
Advanced Transportation Financing
Authority
California Public Utilities Commission
Calpine

Cameron-Daniel, P.C.
Casner, Steve
Center for Biological Diversity

Chevron Pipeline and Power
City of Palo Alto

City of San Jose
Clean Power Research
Coast Economic Consulting
Commercial Energy
Crossborder Energy
Crown Road Energy, LLC
Davis Wright Tremaine LLP
Day Carter Murphy

Dept of General Services
Don Pickett & Associates, Inc.
Douglass & Liddell

East Bay Community Energy Ellison
Schneider & Harris LLP
Engineers and Scientists of California

GenOn Energy, Inc.
Goodin, MacBride, Squeri, Schlotz &
Ritchie
Green Power Institute
Hanna & Morton
ICF
International Power Technology

Intertie

Intestate Gas Services, Inc.
Kelly Group
Ken Bohn Consulting
Keyes & Fox LLP
Leviton Manufacturing Co., Inc.

Los Angeles County Integrated
Waste Management Task Force
MRW & Associates
Manatt Phelps Phillips
Marin Energy Authority
McClintock IP
McKenzie & Associates

Modesto Irrigation District
NLine Energy, Inc.
NRG Solar

OnGrid Solar
Pacific Gas and Electric Company
Peninsula Clean Energy

Pioneer Community Energy

Public Advocates Office

Redwood Coast Energy Authority
Regulatory & Cogeneration Service, Inc.
SCD Energy Solutions
San Diego Gas & Electric Company

SPURR
San Francisco Water Power and Sewer
Sempra Utilities

Sierra Telephone Company, Inc.
Southern California Edison Company
Southern California Gas Company
Spark Energy
Sun Light & Power
Sunshine Design
Tecogen, Inc.
TerraVerde Renewable Partners
Tiger Natural Gas, Inc.

TransCanada
Utility Cost Management
Utility Power Solutions
Uplight
Water and Energy Consulting Wellhead
Electric Company
Western Manufactured Housing
Communities Association (WMA)
Yep Energy