EASEMENT EXCHANGE AGREEMENT

THIS EASEMENT EXCHANGE AGREEMENT (hereinafter referred to as the "Agreement") is entered into by and between the COUNTY OF SAN MATEO, a political subdivision of the State of California (hereinafter referred to as the "COUNTY"), the FAIR OAKS SEWER MAINTENANCE DISTRICT, a special district governed by the COUNTY OF SAN MATEO (hereinafter the "DISTRICT"), and MAIRTINI NI DHOMHNAILL AND EDWARD FINN, a married couple, (hereinafter collectively referred to as the "OWNER") with reference to the following:

WHEREAS, OWNER is the owner of Assessor's Parcel Number 060-119-110, also known as 566 Encina Ave., in the unincorporated area of San Mateo County, California (hereinafter the "Property"); and

WHEREAS, COUNTY is the owner of an existing sanitary sewer easement encumbering the Property which is intended to be abandoned (hereinafter referred to as the "Prior Easement"), which easement is described and shown on Attachment 1 attached hereto and incorporated herein by reference; and

WHEREAS, DISTRICT has requested, and COUNTY and OWNER desire, to exchange the Prior Easement for a new sanitary sewer easement vested in DISTRICT encumbering the Property, which easement (hereinafter referred to as the "New Easement") is described and shown on Attachment 2 attached hereto and incorporated herein by reference; and

WHEREAS, California Government Code section 25365(b) authorizes the COUNTY to exchange real property of equal value where the real property to be exchanged is not needed for COUNTY use and the property to be acquired is required for COUNTY use, provided that such exchange is approved by four-fifths (4/5) vote of the COUNTY's Board of Supervisors; and

WHEREAS, the Prior Easement that which is to be abandoned is no longer needed for COUNTY or DISTRICT use and the New Easement is required for COUNTY and DISTRICT use, and the Prior Easement and the New Easement are of equal value; and

WHEREAS, OWNER will convey the New Easement to DISTRICT and in exchange the entirety of the COUNTY's Prior Easement will be quitclaimed to OWNER by COUNTY.

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereby agree as follows:

1. **EXCHANGE OF PROPERTY INTERESTS**: COUNTY, DISTRICT, and OWNER have determined that the property interests to be exchanged according to the terms and conditions herein are of equal value and that no financial consideration shall be provided by either party, and that the transfer of interests described herein shall constitute consideration for this Agreement. Subject to the terms and conditions contained in this Agreement, COUNTY agrees to transfer to OWNER, and OWNER agrees to transfer to DISTRICT, ownership of the described property interests, subject to the following:

OWNER hereby agrees to convey to DISTRICT the permanent New Easement by Easement Deed (hereinafter the "Easement Deed") in a form substantially similar to Attachment 3 attached hereto and incorporated herein by reference.

In return, COUNTY hereby agrees to relinquish the Prior Easement to OWNER by Quitclaim Deed (hereinafter the "Quitclaim Deed") in a form substantially similar to Attachment 4 attached hereto and incorporated herein by reference.

This Agreement is subject to approval by COUNTY'S Board of Supervisors and the DISTRICT'S Board of Directors, which is an express condition precedent to COUNTY's and DISTRICT's duty to perform.

2. **OWNER OBLIGATIONS AND SUBORDINATION**:

(a) Upon OWNER'S execution of this Agreement and execution and acknowledgement of the Easement Deed, OWNER shall deliver such documents to COUNTY for execution of the Agreement and acceptance of the Easement Deed.

(b) OWNER shall obtain subordination of any lien, debt or deed of trust encumbering the Property to DISTRICT'S New Easement. Such subordination shall be recorded simultaneously with the Easement Deed for the New Easement.

3. **COUNTY OBLIGATIONS**: Within ten (10) business days following execution of this Agreement by COUNTY, COUNTY shall deliver the fully-executed Agreement, the Easement Deed with signed Certificate of Acceptance, and the signed and acknowledged Quitclaim Deed to the Escrow Holder.

4. **ESCROW AND FEES**:

(a) Escrow shall be opened with Senior Escrow Officer Susan Goulet at Old Republic Title Company, 361 Lytton Avenue, Suite 100, Palo Alto, CA 94301,

("Escrow Holder"), with escrow instructions to be based upon the terms and conditions set forth herein, and COUNTY shall deliver a copy of this Agreement to the Escrow Holder.

(b) The Close of Escrow shall be within thirty (30) days of the opening of escrow, or such other date as the parties hereto shall mutually agree in writing.

(c) COUNTY, DISTRICT, and OWNER agree to execute such additional instructions and documents as are reasonably required to complete the closing of the transaction contemplated herein in accordance with the terms and conditions of this Agreement. On behalf of COUNTY and DISTRICT, the COUNTY Board of Supervisors and DISTRICT Board of Directors authorize the COUNTY Real Property Manager, or designee, to execute the necessary escrow instructions and/or additional instructions, which may be required to complete the closing of this real property transaction.

(d) This Agreement shall become part of the escrow and shall constitute the basic instructions and documents as are reasonably required to complete the closing of the transaction contemplated herein, in accordance with the terms and conditions of this Agreement. In case of conflict between this Agreement and any related escrow documents, the terms of this Agreement shall control.

(f) The "Close of Escrow" is defined as:

(i) The recordation of the Easement Deed with Certificate of Acceptance attached; and
(ii) The recordation of any Subordination Agreement(s) that may need to record prior to close of escrow;
(iii) The recordation of the Quitclaim Deed.

(g) The Escrow Officer shall be obligated as follows:

(i) To provide a current preliminary title report covering the Property; and
(ii) To issue to DISTRICT a California Land Title Association policy of title insurance for DISTRICT'S interest in the New Easement;
(iii) To issue to OWNER any additional title insurance coverage that may be requested by OWNER.

(h) Escrow, title and other fees shall be paid as follows:

(i) DISTRICT shall pay Escrow Holder's fees at the close of escrow;

(ii) DISTRICT shall pay all recording fees, including the documentary stamp tax, if any, incurred in the recordation of the above documents;

(iii) DISTRICT shall pay for a Standard California Land Title Association policy of title insurance covering the New Easement being conveyed to DISTRICT;

(iv) DISTRICT shall pay for any additional title insurance coverage that may be requested by OWNER.

5. TITLE AND DEED: The property interest in the New Easement conveyed by OWNER to DISTRICT is to be free of liens, encumbrances, restrictions, rights to possession or claims to possession, rights, and conditions (recorded and/or unrecorded) known or unknown to OWNER, except covenants, conditions, restrictions, and reservations of record approved by COUNTY.

6. PROPERTY "AS-IS WITH ALL FAULTS": Except as specifically set forth in this Agreement, OWNER, COUNTY, and DISTRICT specifically acknowledge that the areas being exchanged pursuant to the terms of this Agreement are being accepted on an "as-is with all faults" basis and that neither party is relying on any representations or warranties of any kind whatsoever, expressed or implied, from the other as to any matters concerning the areas, including without limitation: their physical condition; geology; the development potential of the areas and their use, habitability, merchantability, or fitness for a particular purpose; their zoning or other legal status; compliance with law; the presence or removal of hazardous or toxic materials, substances, or wastes on, under or about the areas or the neighboring property.

7. GOOD FAITH DISCLOSURE: OWNER, COUNTY, and DISTRICT have made and shall make good faith disclosure to the other of any and all known facts, findings, or information regarding the areas that are the subject of this Agreement including without limitation those relating to: historical uses; prior permitted uses; current uses including, but not limited to, express or implied contract, leases and/or permits; geological conditions; biological conditions; archaeological sites; flood hazard area(s); special studies zones; zoning reports; environmentally hazardous material such as asbestos, dioxins, oils, PCB's, solvents, waste disposal, gasoline tank leakage, pesticide use and spills, herbicide use or spills or any other substances and/or products of environmental contamination.

8. NOTICES: All notices, documents, correspondence, and communications concerning this transaction shall be addressed as set forth below or as either party may hereafter designate by written notice and shall be sent through the United States mail duly registered or certified with postage prepaid.

Notwithstanding the above, the parties may also provide notices, documents, correspondence or such other communications by personal delivery, first class mail postage prepaid, or reputable overnight delivery service, and any such notices, documents, correspondence and communications so given shall be deemed to have been given upon actual receipt.

TO COUNTY & DISTRICT:

County of San Mateo
Real Property Services
Attn: Caroline Shaker
555 County Center, 4th floor
Redwood City, CA 94063
Phone: (650) 363-4047
Email: cshaker@smcgov.org

TO OWNER:

Mairtini Ni Dhomhnaill and Edward Finn
566 Encina Ave.
Menlo Park, CA 94025
Phone: (650) 823-5981
Email: Mairtini@rocketmail.com

9. TERMINATION: OWNER and COUNTY shall have the right to terminate this Agreement at any time prior to the recordation of any documents referenced in Section 4(f) of this Agreement by written notice to the other party to be effective immediately.

10. WAIVER: No waiver of any of the provisions of this Agreement shall be deemed or shall constitute a waiver of any other provisions of this Agreement, whether or not similar, nor shall such waiver constitute a continuing waiver unless otherwise expressly provided.

11. ENTIRE AGREEMENT: This Agreement supersedes all prior agreements, understandings, negotiations, and discussions of the parties, whether express or implied, and there are no warranties, representations, covenants, or other agreements between the parties in connection with the subject matter hereof, except as specifically set forth herein. The parties hereto have set forth the whole of their agreement. No amendment, supplement, modification, waiver, or termination of this Agreement shall be binding unless executed in writing by both parties.

12. CONSTRUCTION: The parties agree that each party and its respective counsel have reviewed and approved this Agreement to the extent that each party in its sole discretion has desired, and that any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply in the interpretation of this Agreement. The terms and provisions of this Agreement embody the parties' mutual intent, and this Agreement shall not be

construed more liberally in favor of, nor more strictly against, any party hereto.

13. **SECTION HEADINGS:** The headings of the several sections, and any table of contents appended hereto, shall be solely for convenience of reference and shall not affect the meaning, construction, or effect hereof.

14. **REAL PROPERTY DOCUMENTS:** Each party agrees to execute and deliver any instrument or to perform any act reasonably necessary to carry out the provisions of this Agreement.

15. **SUCCESSORS AND ASSIGNS:** The rights under this Agreement shall also extend to and bind the heirs, devisees, executors, administrators, successors, and assigns of the parties.

16. **CERTIFICATION OF SIGNATORY(IES):** OWNER represents and warrants that they are, collectively, the sole OWNER of the Property or are authorized to execute this Agreement and that no additional signatures are required to carry out the duties contemplated herein.

17. **AGREEMENT APPROVAL:** This Agreement is subject to the approval of the COUNTY Board of Supervisors and DISTRICT Board of Directors. Execution of this Agreement by the President, or designee, of the COUNTY Board of Supervisors and DISTRICT Board of Directors shall evidence said approval by said Board of Supervisors and said Board of Directors.

18. **EXECUTION IN COUNTERPARTS:** The Agreement may be executed in any number of counterparts and each of such counterparts shall for all purposes be deemed to be an original; and all such counterparts, or as many of them as the parties shall preserve undestroyed, shall together constitute one and the same instrument.

[Balance of page intentionally left blank.]

IN WITNESS WHEREOF, COUNTY, DISTRICT, and OWNER have executed this Easement Exchange Agreement by the respective authorized officers as set forth below to be effective as of the date executed by the COUNTY.

"COUNTY"
COUNTY OF SAN MATEO

By: _____
Don Horsley, President
Board of Supervisors

Date: _____

"DISTRICT"
FAIR OAKS SEWER MAINTENANCE DISTRICT

By: _____
Don Horsley, President
Board of Supervisors

Date: _____

"OWNER"
Mairtini Ni Dhomhnaill and Edward Finn

By: _____
Mairtini Ni Dhomhnaill, Owner

Date: _____

By: _____
Edward Finn, Owner

Date: 6/20/2022

Attachment 1
Prior Easement

LEGAL DESCRIPTION FOR AN EXISTING EASEMENT
(Sanitary sewer easement passing from Encina Avenue to 11th Avenue, in that unincorporated portion of North Fair Oaks.)

The following legal description was copied directly from that legal description recorded February 17, 1931, at Book 518 of Official Records at pages 11 through 12, of the San Mateo County Recorder.

A right of way for the construction, operation, maintenance, repair, and replacement of a sanitary sewer, and all the necessary appurtenances thereto, in, under, upon, over, through and along the following described parcel of land in the County of San Mateo, State of California, more particularly described as follows:

Beginning at a point on the southeast boundary line of Lot 26, Block 29, North Fair Oaks Subdivision No. 3, a map of which is on file in the office of the Recorder of San Mateo County in Book 6 of Maps at page 7, 25.00 feet northeasterly of the most southerly corner of said Lot 26;

- Thence South 79° 05' West, 41.40 feet to a point on the southwest boundary line of said Lot 26;
- Thence North 63° 46' West along said southwest boundary line 9.94 feet;
- Thence North 79° 05' East, 53.86 feet to a point on the southeast boundary line of Lot 25 of said Block 29;
- Thence South 26° 12' West along the southeast boundary lines of said Lots 25 and 26, 7.52 feet to the point of beginning.

END OF DESCRIPTION

This description was prepared by me or under my direction in March of 2022, in compliance with the provisions of the Professional Land Surveyors' Act. (California Business and Professions Code section 8700 et seq.)

3/29/2022

Adrian VerHagen **Date**

San Mateo County Surveyor

LEGEND

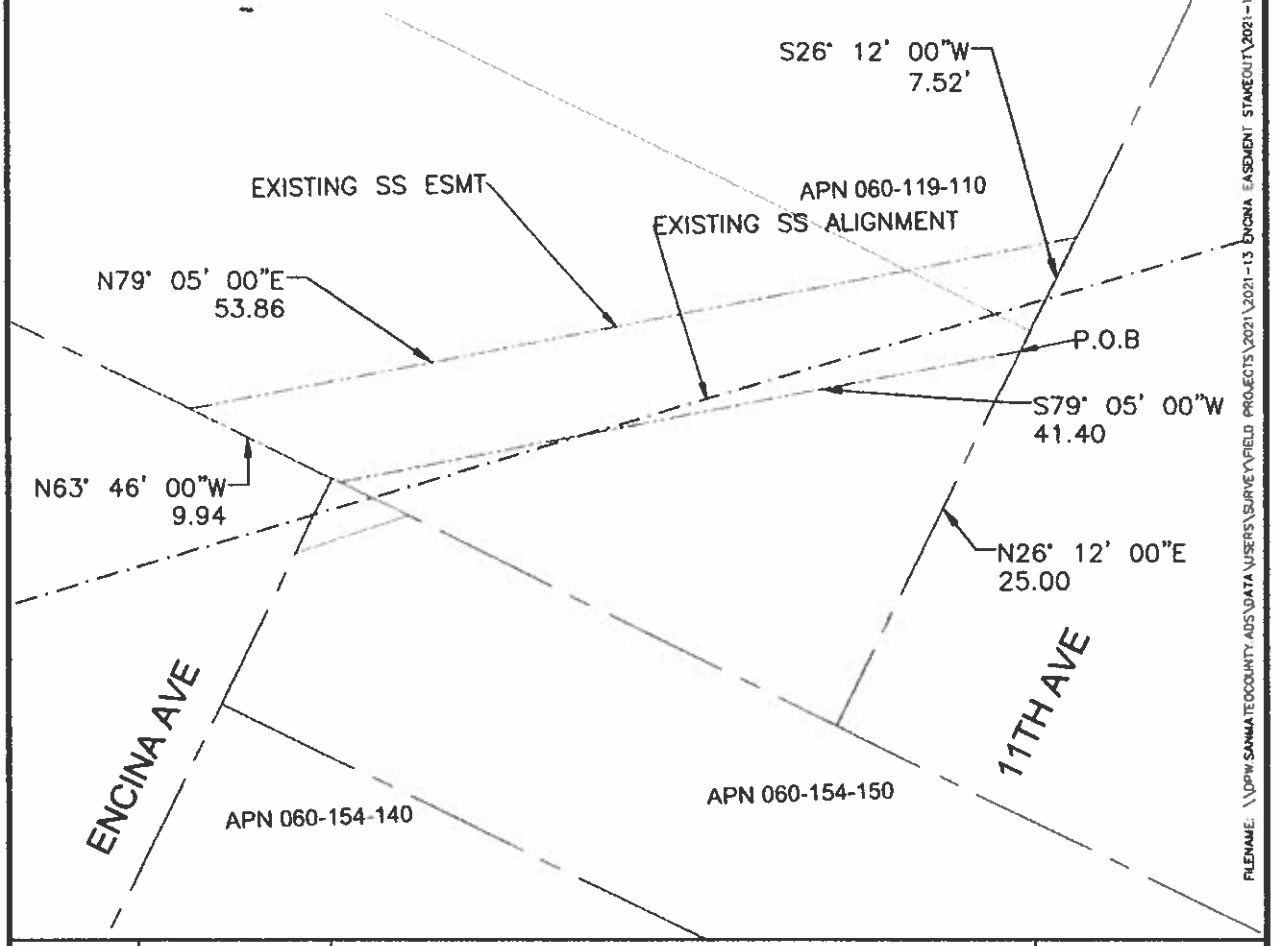
APN	ASSESSORS PARCEL NUMBERS
P.O.B	POINT OF BEGINNING
SS	SANITARY SEWER
ESMT	EASEMENT
O.R	OFFICIAL RECORD
-----	EXISTING EASEMENT
—·—·—	LOT LINES
———	ORIGINAL LOT LINES
- - - -	EXISTING S.S ALIGNMENT

0 10' 20'

SCALE 1" = 10'

LICENSED LAND SURVEYOR
ADRIAN VERHAGEN
P.L.S. 9189
3/29/2022
STATE OF CALIFORNIA

REFERENCES:
BOOK 6 OF MAPS, PAGE 7
GRANT OF EASEMENT 518 O.R 11–12



FILENAME: \\DPW.SANMATEOCOUNTY.ADS\DATA\USERS\SURVEY\FIELD PROJECTS\2021\2021-13 ENCINA EASEMENT STAKEOUT\2021-13 ENCINA EASEMENT_SO.DWG

DESIGNED BY: ALV	AT ENCINA AND 11TH AVE	SCALE: 1"=10'
CHECKED BY: ALV	LANDS OF DHOMHNAILL AND FINN	DATE: 4-6-2022
DRAWN BY: SEO	**EXISTING S.S EASEMENT AGLIGNMENT**	FILE NO: XXX

ANN M. STILLMAN, INTERIM DIRECTOR OF PUBLIC WORKS
SAN MATEO COUNTY

555 COUNTY CENTER, 5TH FLOOR
REDWOOD CITY, CALIFORNIA 94063-1665

Attachment 2
New Easement

LEGAL DESCRIPTION FOR A NEW EASEMENT
(Sanitary sewer easement passing from Encina Avenue to 11th Avenue, in that unincorporated portion of North Fair Oaks.)

A right of way for the construction, operation, maintenance, repair, and replacement of a sanitary sewer, and all the necessary appurtenances thereto, in, under, upon, over, through and along the following described parcel of land in the County of San Mateo, State of California, more particularly described as follows:

Beginning at a point on the southeast boundary line of Lot 26, Block 29, North Fair Oaks Subdivision No. 3, a map of which is on file in the office of the Recorder of San Mateo County in Book 6 of Maps at page 7, 25.00 feet northeasterly of the most southerly corner of said Lot 26;

- Thence South 74° 56' 44" West, 37.90 feet to a point on the southwest boundary line of said Lot 26;
- Thence North 63° 46' West along said southwest boundary line 8.56 feet;
- Thence North 74° 56' 44" East, 49.26 feet to a point on the southeast boundary line of Lot 25 of said Block 29;
- Thence South 26° 12' West along the southeast boundary lines of said Lots 25 and 26, 7.52 feet to the point of beginning.

END OF DESCRIPTION

This description and plat were prepared by me or under my direction in March of 2022, in compliance with the provisions of the Professional Land Surveyors' Act. (California Business and Professions Code section 8700 et seq.)

3/29/2022

Adrian VerHagen **Date**

San Mateo County Surveyor

LEGEND

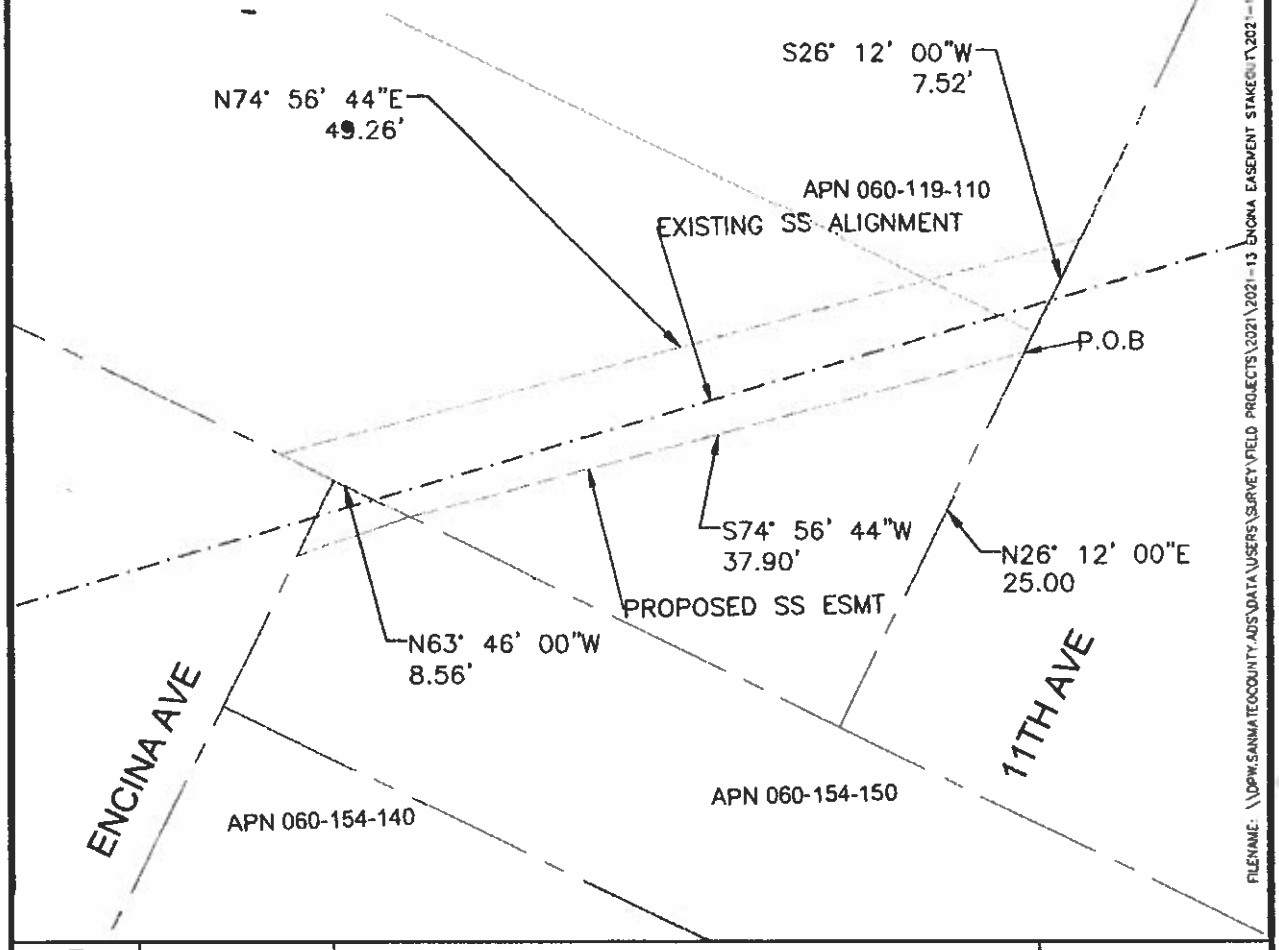
APN	ASSESSORS PARCEL NUMBERS
P.O.B	POINT OF BEGINNING
SS	SANITARY SEWER
ESMT	EASEMENT
O.R	OFFICIAL RECORD
------	PROPOSED EASEMENT
—·—	LOT LINES
———	ORIGINAL LOT LINES
—·—·—	EXISTING S.S ALIGNMENT

0 10' 20'

SCALE 1" = 10'

LICENSED LAND SURVEYOR
ADRIAN VERHAGEN
P.L.S. 9189
3/29/2022
STATE OF CALIFORNIA

REFERENCES:
BOOK 6 OF MAPS, PAGE 7
GRANT OF EASEMENT 518 O.R 11–12



FILENAME: \\DPW.SANMATEOCOUNTY.ADS\DATA\USERS\SURVEY\FIELD PROJECTS\2021\2021-13 ENCINA EASEMENT STAKEOUT\2021-13 ENCINA EASEMENT_SD.DWG

DESIGNED BY: ALV	AT ENCINA AND 11TH AVE LANDS OF DHOMHNAILL AND FINN	SCALE: 1"=10'
CHECKED BY: ALV	**PROPOSED S.S EASEMENT ALIGNMENT**	DATE: 4-06-2022
DRAWN BY: SEO		FILE NO: XXX

ANN M. STILLMAN, INTERIM DIRECTOR OF PUBLIC WORKS
SAN MATEO COUNTY

555 COUNTY CENTER, 5TH FLOOR
REDWOOD CITY, CALIFORNIA 94063-1665