

ORDINANCE NO.

AN ORDINANCE OF THE CITY OF SAN JOSÉ REZONING CERTAIN REAL PROPERTY SITUATED ON THE EAST SIDE OF MONTEREY ROAD, APPROXIMATELY 300 FEET SOUTHERLY OF ALMA AVENUE, TO A CONFORMING PLANNED DEVELOPMENT REZONING FROM THE CG(PD) PLANNED DEVELOPMENT ZONING DISTRICT TO THE CG(PD) PLANNED DEVELOPMENT ZONING DISTRICT TO ALLOW A THIRD DRIVE-THROUGH USE (CARWASH AT A GAS STATION) TO A PREVIOUSLY-APPROVED 257,296 SQUARE FOOT SHOPPING CENTER (SUN GARDENS)

WHEREAS, all rezoning proceedings required under the provisions of Chapter 20.120 of Title 20 of the San José Municipal Code have been duly had and taken with respect to the real property hereinafter described; and

WHEREAS, pursuant to Section 15168 of the CEQA Guidelines, the City of San Jose has determined that the area and uses encompassed by the proposed rezoning is pursuant to or in furtherance of the activities and uses described in the Final Environmental Impact Report prepared under the California Environmental Quality Act of 1970 for the Sun Garden Redevelopment Project (the "FEIR"), for which findings were adopted by City Council under its Resolution No. 75929 on June 21, 2011; and

WHEREAS, the City Council of the City of San José is the decision-making body for the proposed subject rezoning to the conforming CG(PD) Planned Development Zoning District; and

WHEREAS, this Council of the City of San José has considered and approves the use of said FEIR and related Resolution No. 75929 prior to taking any approval actions on this project.

NOW THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF SAN JOSE:

SECTION 1. All that real property hereinafter described in this section, hereinafter referred to as "subject property," is hereby rezoned as CG(PD) Planned Development. The base zoning district of the subject property shall be the CG – Commercial General Zoning District. The Planned Development zoning of the subject property shall be that development plan for the subject property entitled, "Sun Garden Retail Center, 1420-1600 Monterey Road, San Jose, California," dated May 16, 2011, as last revised as of _____, 2012.

Said General Development Plan is on file in the office of the Director of Planning and is

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

EXHIBIT "A-1"
PROJECT LEGAL DESCRIPTION

The land referred to herein is situated in the State of California, County of Santa Clara, City of San Jose, and described as follows:

PARCEL A:

BEING THE LANDS DESCRIBED AS PARCEL A IN THAT CERTAIN LOT LINE ADJUSTMENT PERMIT, RECORDED OCTOBER 22, 2001 AS DOCUMENT NO. 15920623, OFFICIAL RECORDS OF SANTA CLARA COUNTY AND A PORTION OF THE LANDS DESCRIBED AS PARCEL B IN THAT CERTAIN GRANT DEED, CONVEYED TO UNION PACIFIC RAILROAD COMPANY, A DELAWARE CORPORATION, RECORDED JANUARY 31, 2007 AS DOCUMENT NO. 19284857, OFFICIAL RECORDS OF SAID COUNTY, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE MOST WESTERLY CORNER OF SAID PARCEL A (DOC. 15920623), SAID CORNER BEING ALSO A POINT ON THE NORTHEASTERLY LINE OF MONTEREY ROAD; THENCE LEAVING SAID CORNER AND ALONG SAID NORTHEASTERLY LINE OF MONTEREY ROAD, SOUTH 37° 47' 50" EAST, 101.64 FEET; THENCE LEAVING SAID NORTHEASTERLY LINE OF MONTEREY ROAD AND ALONG THE CENTRAL SOUTHWESTERLY LINE OF SAID PARCEL A, THE FOLLOWING THREE (3) COURSES: 1) NORTH 60° 12' 40" EAST, 235.51 FEET; 2) SOUTH 30° 02' 50" EAST, 543.06 FEET; 3) SOUTH 37° 49' 00" EAST, 222.14 FEET TO THE MOST SOUTHERLY CORNER OF SAID PARCEL A (DOC. 15920623) THENCE LEAVING SAID CORNER AND ALONG THE GENERAL SOUTHEASTERLY LINE OF SAID PARCEL A, THE FOLLOWING FOUR (4) COURSES: 1) NORTH 51° 26' 40" EAST, 1.87 FEET TO THE BEGINNING OF A TANGENT CURVE TO THE LEFT, HAVING A RADIUS OF 100.00 FEET; 2) NORTHEASTERLY, ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 84° 19' 30", FOR AN ARC LENGTH OF 147.17 FEET; 3) NORTH 32° 52' 50" WEST, 73.32 FEET; 4) NORTH 57° 07' 10" EAST, ALONG SAID SOUTHEASTERLY LINE AND THE PROLONGATION OF SAID LINE, 419.56 FEET TO THE BEGINNING OF A NONTANGENT CURVE, CONCAVE TO THE SOUTHWEST, HAVING A RADIUS OF 460.00 FEET, FROM WHICH A RADIAL LINE BEARS SOUTH 61° 44' 11" FEET; THENCE LEAVING SAID PROLONGATION LINE, THE FOLLOWING SIX (6) COURSES: 1) NORTHWESTERLY, ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 05° 02' 06" FOR AN ARC LENGTH OF 40.42 FEET; 2) NORTH 33° 17' 54" WEST, 588.54 FEET TO THE BEGINNING OF A TANGENT CURVE TO THE RIGHT, HAVING A RADIUS OF 615.00 FEET; 3) NORTHWESTERLY ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 07° 28' 53", FOR AN ARC LENGTH OF 80.30 FEET; 4) NORTH 25° 49' 01" WEST, 71.56 FEET TO THE BEGINNING OF A TANGENT CURVE TO THE LEFT, HAVING A RADIUS OF 585.00 FEET; 5) NORTHWESTERLY, ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 07° 03' 49", FOR AN ARC LENGTH OF 72.12 FEET; 6) NORTH 32° 52' 50" WEST, 51.85 FEET TO THE SOUTHEASTERLY LINE OF ALMA AVENUE, BEING 80.00 FT IN WIDTH; THENCE ALONG SAID SOUTHEASTERLY LINE OF ALMA AVENUE, SOUTH 60° 09' 10" WEST, 85.12 FEET TO THE MOST WESTERLY CORNER OF SAID PARCEL B (DOC. 19284857); THENCE LEAVING SAID CORNER AND ALONG SAID SOUTHWESTERLY LINE OF SAID PARCEL B, SOUTH 32° 52' 5" EAST, 239.57 FEET TO THE MOST NORTHERLY CORNER OF SAID PARCEL A (DOC. 15920623); THENCE LEAVING SAID CORNER AND ALONG THE NORTHWESTERLY

LINE OF SAID PARCEL A, SOUTH 60°09' 10" WEST, 678.73 FEET TO THE POINT OF BEGINNING.

EXCEPTING FROM THAT PORTION OF PARCEL B (DOC. 19284857) DESCRIBED ABOVE, ALL MINERALS AND ALL MINERAL RIGHTS OF EVERY KIND AND CHARACTER NOW KNOWN TO EXIST OR HEREAFTER DISCOVERED, INCLUDING, WITHOUT LIMITATION, OIL AND GAS AND RIGHTS THERETO, TOGETHER WITH THE SOLE, EXCLUSIVE AND PERPETUAL RIGHT TO EXPLORE FOR, REMOVE AND DISPOSE OF SAID MINERALS BY ANY MEANS OR METHODS SUITABLE TO GRANTOR, ITS SUCCESSORS AND ASSIGNS, BUT WITHOUT ENTERING UPON OR USING THE SURFACE OF THE PROPERTY AND IN SUCH MANNER AS NOT TO DAMAGE THE SURFACE OF THE PROPERTY OR TO INTERFERE WITH THE USE OF THE PROPERTY BY GRANTEEES, THEIR HEIRS, SUCCESSORS OR ASSIGNS, AS RESERVED BY UNION PACIFIC RAILROAD COMPANY, A DELAWARE CORPORATION IN DEED RECORDED NOVEMBER 17, 2010 AS INSTRUMENT NO. 20964088, SANTA CLARA COUNTY RECORDS.

PARCEL B:

BEGINNING AT AN IRON PIPE "BB 15" IN THE NORTHEASTERLY LINE OF MONTEREY ROAD, 80 FEET WIDE, DISTANT THEREON SOUTH 38° 35' 50" EAST 1144.38 FEET FROM THE POINT OF INTERSECTION OF SAID LINE OF MONTEREY ROAD WITH THE SOUTHEASTERLY CITY LIMIT LINE OF SAN JOSE, THE MOST SOUTHEASTERLY CITY LIMIT LINE BEING ALSO THE SOUTHEASTERLY LINE OF ALMA AVENUE, FROM WHICH POINT OF BEGINNING AN IRON PIPE "BB 20" ON THE SOUTHWESTERLY LINE OF THE 8.24 ACRE TRACT OF LAND AS DESCRIBED IN THE DEED FROM JAMES D. PHELAN, ET AL, TO JOSEPH A. BISCEGUA, ET AL, RECORDED DECEMBER 29, 1920 IN BOOK 527 OF DEEDS, PAGE 213, BEARS SOUTH 50° 40' WEST 9.47 FEET; RUNNING THENCE ALONG SAID LINE OF MONTEREY ROAD NORTH 38° 35' 50" WEST 233.97 FEET; THENCE LEAVING SAID LINE AND RUNNING NORTH 50° 40' EAST 201.64 FEET TO THE SOUTHWESTERLY LINE OF THE 9.779 FEET TRACT, AS DESCRIBED IN THE DEED FROM BANK OF AMERICA NATIONAL TRUST AND SAVINGS ASSOCIATION, A CORPORATION, TO MAYFAIR PACKING COMPANY, A CO-PARTNERSHIP, DATED AUGUST 13, 1940, RECORDED AUGUST 23, 1940 IN BOOK 1001 OF OFFICIAL RECORDS, PAGE 87, SANTA CLARA COUNTY RECORDS; THENCE ALONG SAID LINE 8.779 ACRE TRACT, SOUTH 30° 49' 30" EAST 11.95 FEET TO AN IRON PIPE "BB 11" AND SOUTH 38° 35' 50" EAST 222.15 FEET TO AN IRON PIPE "BB 10" AT ONE OF THE CORNER OF SAID 8.779 ACRE TRACT; THENCE LEAVING SAID LINE AND RUNNING ALONG NORTHWESTERLY LINE OF THE 25 FOOT STRIP OF LAND, AS DESCRIBED IN THE DEED TO SAID CO-PARTNERSHIP, AND DESCRIBED THEREIN AS PARCEL NO. 2, SOUTH 50° 40' WEST 200.02 FEET TO THE POINT OF BEGINNING, AND BEING A PORTION OF 500 ACRE LOT 9, SAN JOSE CITY LANDS.

PARCEL C:

BEGINNING AT A POINT IN THE NORTHEASTERLY LINE OF MONTEREY ROAD 80 FEET WIDE, DISTANT THEREON SOUTH 38° 35' 50" EAST 910.41 FEET FROM THE POINT OF INTERSECTION OF SAID LINE OF MONTEREY ROAD WITH THE SOUTHEASTERLY CITY LIMIT LINE OF SAN JOSE, THE SAID SOUTHEASTERLY CITY LIMIT LINE BEING ALSO THE SOUTHEASTERLY LINE OF ALMA AVENUE; THENCE ALONG SAID LINE OF MONTEREY ROAD, NORTH 38° 35' 50" WEST 200 FEET TO THE MOST SOUTHERLY CORNER OF THE 0.809

ACRE TRACT DESCRIBED IN THE DEED FROM BANK OF AMERICA NATIONAL TRUST AND SAVINGS ASSOCIATION, A NATIONAL BANKING ASSOCIATION TO E.O. HABERDIER, DATED MAY 10, 1940, RECORDED MAY 28, 1940 IN BOOK 982 OF OFFICIAL RECORDS, PAGE 531, SANTA CLARA COUNTY RECORDS; THENCE ALONG THE SOUTHEASTERLY LINE OF SAID 0.808 ACRE TRACT, NORTH 59° 26' EAST 226.46 FEET TO THE MOST EASTERLY CORNER OF SAID 0.808 ACRE TRACT, THE SOUTHWESTERLY LINE OF THE 8.779 ACRE TRACT, AS DESCRIBED IN THE DEED FROM BANK OF AMERICA NATIONAL TRUST AND SAVINGS ASSOCIATION, A CORPORATION, TO MAYFAIR COMPANY, A CO-PARTNERSHIP, DATED AUGUST 13, 1940, RECORDED AUGUST 23, 1940 IN BOOK 1001 OF OFFICIAL RECORDS, PAGE 87, SANTA CLARA COUNTY RECORDS; THENCE ALONG SAID LINE OF SAID 8.779 ACRE TRACT, SOUTH 30° 49' 30" EAST 167.30 FEET TO THE POINT WHICH BEARS NORTH 50° 40' WEST 201.64 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 50° 40' WEST 201.64 FEET TO THE POINT OF BEGINNING, AND BEING A PORTION OF THE 500 ACRE LOT 9, SAN JOSE CITY LANDS.

EXCEPTING FROM SAID PARCELS B AND C, THE FOLLOWING DESCRIBED PROPERTY:

BEGINNING FOR REFERENCE AT THE MOST EASTERN CORNER OF THAT 0.011 ACRE TRACT OF LAND DESIGNATED AS PARCEL II IN THE DEED FROM BANK OF AMERICA NATIONAL TRUST AND SAVINGS ASSOCIATION TO THE STATE OF CALIFORNIA RECORDED MARCH 8, 1941 IN VOLUME 1030, PAGE 106, OFFICIAL RECORDS OF SANTA CLARA COUNTY; THENCE ALONG THE NORTHEASTERN LINE OF SAID PARCEL II, N. 38° 40' W. 25.00 FEET TO THE TRUE POINT OF COMMENCEMENT WHICH POINT IS DISTANT N. 50° 40' E. 40.00 FEET FROM ENGINEER'S STATION 98+99.00 ON THE CENTER LINE OF THE DEPARTMENT OF PUBLIC WORKS' SURVEY FOR THE RELOCATION OF THE STATE HIGH WAY BETWEEN SOUTH CITY LIMIT LINE OF SAN JOSE, AND 0.08 MILE SOUTH OF TULLY ROAD, ROAD IV-SC1-2-B; THENCE ALONG THE NORTHEASTERN LINE OF SAID PARCEL II AND ALONG THE NORTHEASTERN LINE OF PARCEL I OF SAID DEED TO THE STATE, N. 39° 40' W. 458.97 FEET TO THE MOST SOUTHERN CORNER OF THE 0.808 ACRE TRACT OF LAND DESCRIBED IN THE DEED FROM BANK OF AMERICA NATIONAL TRUST AND SAVINGS ASSOCIATION, TO E.O. HABERDIER, RECORDED MAY 28, 1940 IN VOLUME 982; PAGE 531, OFFICIAL RECORDS OF SANTA CLARA COUNTY; THENCE ALONG THE SOUTHEASTERN LINE OF SAID 0.808 ACRE TRACT N. 59° 26' E. 40.40 FEET TO A LINE PARALLEL WITH AND 80.00 FEET NORTHEASTERLY AT RIGHT ANGLES, FROM SAID CENTER LINE; THENCE ALONG SAID PARALLEL LINES. 38° 40' E. 452.81 FEET TO A POINT DISTANT N. 50° 40' N. 40.00 FEET FROM THE TRUE POINT OF COMMENCEMENT; THENCE S. 50° 40' W. 40.00 FEET TO THE TRUE POINT OF COMMENCEMENT.

PARCEL D:

BEGINNING AT AN IRON PIPE IN THE NORTHEASTERLY LINE OF MONTEREY ROAD, DISTANT THEREON SOUTH 38° 07' 20" EAST 559.61 FEET FROM THE POINT OF INTERSECTION OF SAID NORTHEASTERLY LINE OF MONTEREY ROAD WITH THE SOUTHEASTERLY CITY LIMIT LINE OF SAN JOSE, SAID POINT OF INTERSECTION BEING ALSO THE POINT OF INTERSECTION OF THE SOUTHEASTERLY LINE OF ALMA AVENUE WITH THE NORTHEASTERLY LINE OF FIRST STREET; SAID POINT OF BEGINNING BEING ALSO ON THE SOUTHWESTERLY LINE OF THAT CERTAIN 10 ACRE TRACT CONVEYED BY JAMES D. PHELAN, ET AL, TO BISCEGLIA BROS. BY DEED DATED JUNE 24, 1913, AND RECORDED IN VOLUME 405 OF DEEDS, PAGE 44, RECORDS OF SANTA CLARA COUNTY,

CALIFORNIA, DISTANT THEREON SOUTH 38° 07' 20" EAST 319.37 FEET FROM AN IRON PIPE AT THE MOST WESTERLY CORNER OF SAID 10 ACRE TRACT; AND RUNNING THENCE NORTH 59° 26' EAST 4.68 FEET TO AN IRON PIPE ON THE PROPOSED NEW NORTHEASTERLY LINE OF MONTEREY ROAD, BEING A LINE PARALLEL WITH AND 40 FEET NORTHEASTERLY MEASURED AT RIGHT ANGLES FROM THE CENTER LINE OF THE DEPARTMENT OF WORKS' SURVEY BETWEEN SAN JOSE AND COYOTE ROAD IV-S.C1-2B, WHICH PIPE IS DISTANT SOUTH 38° 35' 50" EAST 560.24 FEET FROM SAID POINT OF INTERSECTION OF THE NORTHEASTERLY LINE OF MONTEREY ROAD WITH THE SOUTHEASTERLY CITY LIMIT LINE OF SAN JOSE, AND WHICH PIPE IS THE TRUE POINT OF BEGINNING OF THIS DESCRIPTION; THENCE CONTINUING ON THE SAME COURSE, NORTH 59° 26' EAST 246.77 FEET TO AN IRON PIPE; THENCE SOUTH 30° 49' 30" EAST 148.70 FEET TO AN IRON PIPE; THENCE SOUTH 59° 26' WEST 226.46 FEET TO AN IRON PIPE ON THE SAME PROPOSED NEW NORTHEASTERLY LINE OF MONTEREY ROAD, DISTANT THEREON SOUTH 38° 35' 50" EAST 710.41 FEET FROM THE SAID POINT OF INTERSECTION OF THE NORTHEASTERLY LINE OF MONTEREY ROAD WITH THE SOUTHEASTERLY CITY LIMITS LINE OF SAN JOSE FROM WHICH AN IRON PIPE ON THE NORTHEASTERLY LINE OF MONTEREY ROAD AND ON THE SOUTHWESTERLY LINE OF SAID 10 ACRE TRACT BEARS SOUTH 59° 26' WEST 5.94 FEET; THENCE ALONG THE SAME PROPOSED NEW NORTHEASTERLY LINE OF MONTEREY ROAD, NORTH 38° 35' 50" WEST 150.17 FEET TO THE TRUE POINT OF BEGINNING.

EXCEPTING THEREFROM ALL THAT PORTION THEREOF CONVEYED TO THE STATE OF CALIFORNIA BY DEED RECORDED OCTOBER 9, 1957 IN BOOK 3909 OF OFFICIAL RECORDS,PAGE 368.

PARCEL E:

BEGINNING AT AN IRON PIPE IN THE NORTHEASTERLY LINE OF MONTEREY ROAD, DISTANT THEREON SOUTH 38° 07' 20" EAST 342.61 FEET FROM THE POINT OF INTERSECTION OF SAID NORTHEASTERLY LINE OF MONTEREY ROAD WITH THE SOUTHEASTERLY CITY LIMIT LINE OF SAN JOSE, SAID POINT OF INTERSECTION BEING ALSO THE POINT OF INTERSECTION OF THE SOUTHEASTERLY LINE OF ALMA AVENUE WITH THE NORTHEASTERLY LINE OF FIRST STREET, SAID POINT OF BEGINNING ALSO ON THE SOUTHWESTERLY LINE OF THAT CERTAIN 10 ACRE TRACT AS DESCRIBED IN THE DEED FROM JAMES D. PHELAN, ET AL, TO BISCEGUA BROS., DATED JUNE 24, 1913, RECORDED IN BOOK 405 OF DEEDS, PAGE 44, SANTA CLARA COUNTY RECORDS, DISTANT THEREON SOUTH 38° 07' 20" 102.37 FEET FROM AN IRON PIPE AT THE MOST WESTERLY CORNER OF SAID 10 ACRE TRACT; AND RUNNING THENCE NORTH 59° 26' EAST 2.87 FEET TO AN IRON PIPE ON THE PROPOSED NEW NORTHEASTERLY LINE OF MONTEREY ROAD, WHICH PIPE IS DISTANT THEREON SOUTH 38° 35' 50" EAST 343 FEET FROM THE SAID POINT OF INTERSECTION OF THE NORTHEASTERLY LINE OF MONTEREY ROAD WITH THE SOUTHEASTERLY CITY LIMITED LINE OF SAN JOSE; THENCE CONTINUING ON THE SAME COURSE NORTH 59° 26' EAST 276.14 FEET TO AN IRON PIPE; THENCE SOUTH 30° 49' 30" EAST 215.13 FEET TO AN IRON PIPE; THENCE SOUTH 59° 26' WEST 246.77 FEET TO AN IRON PIPE ON THE SAID PROPOSED NEW NORTHEASTERLY LINE OF MONTEREY ROAD, DISTANT THEREON SOUTH 39° 35' 50" EAST 560.24 FEET FROM THE SAID POINT OF INTERSECTION OF THE NORTHEASTERLY LINE OF MONTEREY ROAD WITH THE SOUTHEASTERLY CITY LIMIT LINE OF SAN JOSE; THENCE CONTINUING ON THE SAME COURSE, SOUTH 59° 26' WEST 4.60 FEET TO AN IRON PIPE ON THE NORTHEASTERLY LINE

OF MONTEREY ROAD AND ON THE SOUTHWESTERLY LINE OF SAID 10 ACRE TRACT;
THENCE ALONG THE NORTHEASTERLY LINE OF MONTEREY ROAD AND
SOUTHWESTERLY LINE OF THE SAID 10 ACRE TRACT NORTH 38° 07' 20" WEST 217 FEET
TO THE POINT OF BEGINNING, AND BEING PART OF THE SAID 10 ACRE TRACT, SURVEY
JANUARY 1940 BY MARK E. THOMAS, REGISTERED CIVIL ENGINEER.

EXCEPTING THEREFROM THAT PORTION THEREOF AS DESCRIBED IN THE DEED FROM
LLOYD A. HOUSE TO THE STATE OF CALIFORNIA, DATED JULY 12, 1940, AND RECORDED
NOVEMBER 28, 1940 IN BOOK 1015 OF OFFICIAL RECORDS, PAGE 182, AS FOLLOWS:

COMMENCING AT A POINT ON THE NORTHEASTERLY LINE OF MONTEREY ROAD, SAID
POINT BEING DISTANT ALONG SAID NORTHEASTERLY LINE SOUTH 38° 07' 20" EAST 102.37
FEET FROM THE MOST WESTERLY CORNER OF THOSE CERTAIN LANDS AS DESCRIBED IN
THE DEED FROM BISCEGLIA BROS., INC., BY CORPORATION OF AMERICA, AS TRUSTEES,
TO THE BANK OF AMERICA NATIONAL TRUST AND SAVINGS ASSOCIATION, BY
TRUSTEE'S DEED RECORDED NOVEMBER 27, 1939 IN BOOK 960 OF OFFICIAL RECORDS,
PAGE 156; SANTA CLARA COUNTY RECORDS; SAID POINT BEING AT THE MOST
WESTERLY CORNER OF PARCEL 1, AS SHOWN ON A MAP OF SAID LANDS, THE DATE FOR
SAID MAP WAS ASCERTAINED FROM THE A SURVEY MADE IN JANUARY, 1940 BY MARK
E. THOMAS, REGISTERED CIVIL ENGINEER, SAID POINT OF COMMENCEMENT BEING
OPPOSITE APPROXIMATE ENGINEER'S STATION 90+72 OF THE DEPARTMENT OF PUBLIC
WORKS' SURVEY BETWEEN SAN JOSE AND COYOTE ROAD, IV-SC1-2- B; THENCE FROM
SAID POINT OF COMMENCEMENT ALONG THE NORTHWESTERLY LINE OF SAID PARCEL
1, AS SHOWN ON SAID MAP, NORTH 55° 26' EAST 2.87 FEET TO A LINE PARALLEL WITH
AND DISTANT NORTHEASTERLY 40 FEET AT RIGHT ANGLES FROM THE CENTER LINE OF
SAID DEPARTMENT OF PUBLIC WORKS' SURVEY; THENCE ALONG SAID PARALLEL LINE
BEING THE NEW NORTHEASTERLY LINE OF MONTEREY ROAD, AS SHOWN ON SAID MAP,
SOUTH 38° 35' 50" EAST 217.24 FEET TO THE SOUTHEASTERLY LINE OF SAID PARCEL 1;
THENCE ALONG LAST SAID LINE, SOUTH 59° 26' WEST 4.68 FEET TO THE
NORTHEASTERLY LINE OF MONTEREY ROAD; THENCE ALONG LAST SAID LINE OF
MONTEREY ROAD NORTH 38° 07' 20 WEST 217.00 FEET TO THE POINT OF
COMMENCEMENT.

ALSO EXCEPTING THEREFROM THAT PORTION CONVEYED TO THE STATE OF
CALIFORNIA, BY INSTRUMENT RECORDED MARCH 10, 1954 IN BOOK 2830 OFFICIAL
RECORDS, PAGE 375, AND BEING DESCRIBED AS FOLLOWS:

COMMENCING AT THE MOST NORTHERLY CORNER OF THAT CERTAIN 0.019 ACRE
PARCEL OF LAND CONVEYED TO THE STATE OF CALIFORNIA BY DEED RECORDED ON
NOVEMBER 28, 1940 IN VOLUME 1015, AT PAGE 182, OFFICIAL RECORDS, OF THE COUNTY
OF SANTA CLARA COUNTY, BEING AT THE INTERSECTION OF THE PROPERTY LINE
COMMON TO THE LANDS NOW OR FORMERLY OF EUNICE D. CATLEDGE, ET VIR. AND OF
MAYFAIR PACKING COMPANY, WITH THE NORTHEASTERLY LINE OF THE EXISTING
STATE HIGHWAY BETWEEN SAN JOSE AND COYOTE ROAD IV-SC1-2-B; THENCE ALONG
SAID HIGHWAY LINE, BEING ALSO ALONG THE NORTHEASTERLY LINE OF SAID 0.019
ACRE PARCEL SOUTH 38° 40' EAST 217.24 FEET TO THE PROPERTY LINE COMMON TO THE
LANDS NOW OR FORMERLY OF EUNICE D. CATELEDGE, ET VIR. AND OF E.O. HABERDIER,
ET AL; THENCE ALONG LAST SAID COMMON LINE NORTH 59° 26' WEST 40.40 FEET TO A
LINE PARALLEL WITH THE DISTANT 80.00 FEET NORTHEASTERLY AT RIGHT ANGLES,

FROM THE CENTER LINE OF THE DEPARTMENT OF PUBLIC WORKS' SURVEY FOR THE RELOCATION OF SAID STATE HIGHWAY; THENCE ALONG SAID PARALLEL LINE NORTH 38° 40' WEST 217.24 FEET TO FIRST SAID COMMON PROPERTY LINE; THENCE ALONG SAID COMMON LINE SOUTH 59° 26' WEST 40.40 FEET TO THE POINT OF COMMENCEMENT.

PARCEL F:

BEING THE LANDS DESCRIBED AS PARCEL B IN THAT CERTAIN LOT LINE ADJUSTMENT PERMIT, RECORDED OCTOBER 22, 2001 AS DOCUMENT NO. 15920623, OFFICIAL RECORDS OF SANTA CLARA COUNTY AND A PORTION OF THE LANDS DESCRIBED AS PARCEL B IN THAT CERTAIN GRANT DEED, CONVEYED TO UNION PACIFIC RAILROAD COMPANY, A DELAWARE CORPORATION, RECORDED JANUARY 31, 2001 AS DOCUMENT NO. 19284857, OFFICIAL RECORDS OF SAID COUNTY, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE MOST SOUTHERLY CORNER OF SAID PARCEL B (DOC. 1590623), SAID CORNER BEING ALSO A POINT ON THE NORTHEASTERLY LINE OF MONTEREY ROAD; THENCE LEAVING SAID CORNER AND ALONG THE SOUTHEASTERLY LINE AND THE PROLONGATION OF SAID LINE OF SAID PARCEL B, NORTH 50° 40' 00" EAST, 590.92 FEET; THENCE LEAVING SAID PROLONGATION LINE, THE FOLLOWING THREE (3) COURSES: 1) NORTH 32° 52' 50" WEST 137.74 FEET TO THE BEGINNING OF A TANGENT CURVE TO THE RIGHT, HAVING A RADIUS OF 690.00 FEET; 2) NORTHWESTERLY, ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 18° 01' 13", FOR AN ARC LENGTH OF 217.01 FEET TO THE BEGINNING OF A REVERSE CURVE, CONCAVE TO THE SOUTHWEST, HAVING A RADIUS OF 460.00 FEET; 3) NORTHWESTERLY, ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 13° 24' 11", FOR AN ARC LENGTH OF 107.61 FEET TO A POINT OF INTERSECTION WITH THE NORTHEASTERLY PROLONGATION OF THE NORTHWESTERLY LINE OF SAID PARCEL B; THENCE LEAVING SAID POINT AND ALONG THE GENERAL NORTHWESTERLY LINE OF SAID PARCEL B, THE FOLLOWING FOUR (4) COURSES: 1) SOUTH 57° 07' 10" WEST, 419.56 FEET; 2) SOUTH 32° 52' 50" EAST, 73.32 FBET TO THE BEGINNING OF A TANGENT CURVE TO THE RIGHT, HAVING A RADIUS OF 100.00 FEET; 3) SOUTHEASTERLY, ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 84° 19' 30", FOR AN ARCL.ENGTH OF 147.17 FEET; 4) SOUTH 51° 26' 40" WEST, 161.96 FEET TO SAID NORTHEASTERLY LINE OF MONTEREY ROAD; THENCE ALONG SAID NORTHEASTERLY LINE, SOUTH 37° 47'50" EAST, 335.27 FEET TO THE POINT OF BEGINNING.

EXCEPTING FROM THAT PORTION OF PARCEL B (DOC. 19284857) DESCRIBED ABOVE, ALL MINERALS AND ALL MINERAL RIGHTS OF EVERY KIND AND CHARACTER NOW KNOWN TO EXIST OR HEREAFTER DISCOVERED, INCLUDING, WITHOUT LIMITATION, OIL AND GAS AND RIGHTS THERETO, TOGETHER WITH THE SOLE, EXCUSIVE AND PERPETUAL RIGHT TO EXPLORE FOR, REMOVE AND DISPOSE OF SAID MINERALS BY ANY MEANS OR METHODS SUITABLE TO GRANTOR, ITS SUCCESSORS AND ASSIGNS, BUT WITHOUT ENTERING UPON OR USING THE SURFACE OF THE ROPERTY AND IN SUCH MANNER AS NOT TO DAMAGE THE SURFACE OF THE PROPERTY OR TO INTERFERE WITH THE USE OF THE PROPERTY BY GRANTEES, THEIR HEIRS, SUCCESSORS OR ASSIGNS, AS RESERVED BY UNION PACIFIC RAILROAD COMPANY, A DELAWARE CORPORATION IN DEED RECORDED NOVEMBER 17, 2010 AS INSTRUMENT NO. 20964089, SANTA CLARA COUNTY RECORDS.

PARCEL G:

BEING THE LANDS DESCRIBED IN THAT CERTAIN GRANT DEED AS CONVEYED TO SDS HAYWARD LIMITED PARTNERSHIP, A CALIFORNIA LIMITED PARTNERSHIP, RECORDED JUNE 20, 2006 AS DOCUMENT NO. 18981561, OFFICIAL RECORDS OF SANTA CLARA COUNTY AND A PORTION OF THE LANDS DESCRIBED AS PARCEL B IN THAT CERTAIN GRANT DEED, CONVEYED TO UNION PACIFIC RAILROAD COMPANY, A DELAWARE CORPORATION, RECORDED JANUARY 31, 2007 AS DOCUMENT NO. 19284857, OFFICIAL RECORDS OF SAID COUNTY, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE MOST SOUTHERLY CORNER OF SAID LAND (DOC. 18981561), SAID CORNER BEING ALSO A POINT ON THE NORTHEASTERLY LINE OF MONTEREY ROAD; THENCE LEAVING SAID CORNER AND ALONG THE SOUTHEASTERLY LINE OF SAID LAND, NORTH 50°40'00" EAST, 569.36 FEET TO THE SOUTHWESTERLY LINE OF SAID PARCEL B (DOC. 19284857); THENCE ALONG SAID SOUTHWESTERLY LINE, SOUTH 32°52'50" EAST, 12.79 FEET TO THE MOST SOUTHERLY CORNER OF SAID PARCEL B; THENCE LEAVING SAID CORNER AND ALONG THE SOUTHEASTERLY LINE OF SAID PARCEL B, NORTH 50°41'10" EAST, 15.10 FEET; THENCE LEAVING SAID SOUTHEASTERLY LINE, NORTH 32°52'50" WEST, 88.27 FEET TO A POINT OF INTERSECTION WITH THE NORTHEASTERLY PROLONGATION OF THE NORTHWESTERLY LINE OF SAID LAND (DOC. 18981561); THENCE LEAVING SAID POINT AND ALONG SAID NORTHWESTERLY LINE OF SAID LAND, SOUTH 50°40'00" WEST, 590.92 FEET TO SAID NORTHEASTERLY LINE OF MONTEREY ROAD; THENCE ALONG SAID NORTHEASTERLY LINE, SOUTH 37°47'50" EAST, 75.03 FEET TO THE POINT OF BEGINNING.

EXCEPTING FROM THAT PORTION OF PARCEL B (DOC. 19284857) DESCRIBED ABOVE, ALL MINERALS AND ALL MINERAL RIGHTS OF EVERY KIND AND CHARACTER NOW KNOWN TO EXIST OR HEREAFTER DISCOVERED, INCLUDING, WITHOUT LIMITATION, OIL AND GAS AND RIGHTS THERETO, TOGETHER WITH THE SOLE, EXCLUSIVE AND PERPETUAL RIGHT TO EXPLORE FOR, REMOVE AND DISPOSE OF SAID MINERALS BY ANY MEANS OR METHODS SUITABLE TO GRANTOR, ITS SUCCESSORS AND ASSIGNS, BUT WITHOUT ENTERING UPON OR USING THE SURFACE OF THE PROPERTY AND IN SUCH MANNER AS NOT TO DAMAGE THE SURFACE OF THE PROPERTY OR TO INTERFERE WITH THE USE OF THE PROPERTY BY GRANTEEES, THEIR HEIRS, SUCCESSORS OR ASSIGNS, AS RESERVED BY UNION PACIFIC RAILROAD COMPANY, A DELAWARE CORPORATION IN DEED RECORDED NOVEMBER 17, 2010 AS INSTRUMENT NO. 20964090, SANTA CLARA COUNTY RECORDS.

As shown on that certain ALTA/ACSM Land Title Survey for SDS NexGen Partners, LP 1438-1592 Monterey Road, prepared by Kier & Wright Civil Engineers & Surveyors, Inc. dated June 28, 2012 and Updated July 03, 2012.