

TO: HONORABLE CITY COUNCIL

FROM: JONATHAN LAIT, DIRECTOR

DATE: DECEMBER 14, 2020

SUBJECT: AGENDA ITEM 4 - QUASI-JUDICIAL. 4115 EL CAMINO REAL: REQUEST FOR FINAL MAP TO DIVIDE AN EXISTING 15,453 SQUARE FOOT PARCEL INTO CONDOMINIUMS FOR A MIXED-USE PROJECT, INCLUDING SEVEN RESIDENTIAL UNITS, FOUR COMMERCIAL CONDOMINIUMS, AND A PUBLIC ACCESS EASEMENT. ENVIRONMENTAL ASSESSMENT: EXEMPT. ZONING DISTRICT: CN (COMMERCIAL NEIGHBORHOOD)

Attached is the Pedestrian Access Easement Agreement, signed by the applicant. This document confirms the agreement between the applicant and the City of Palo Alto to record a pedestrian access easement through a breezeway on the project site. This easement allows for pedestrian access between El Camino Real and El Camino Way as required by the Architectural Review and Tentative Map conditions of approval.

This agreement, along with a standard sidewalk easement along El Camino Real and a utility easement near El Camino Way, will be recorded along with the Final Map. These will fulfill the conditions of approval for the previous Architectural Review and Tentative Map, as described in PAMC 21.16.

DocuSigned by:

293CF322E1294F6

Jonathan Lait
Director of Planning & Development Services

DocuSigned by:

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Ed Shikada
City Manager

**RECORDED AT THE REQUEST OF:
The City of Palo Alto**

**WHEN RECORDED RETURN TO:
The City of Palo Alto
250 Hamilton Avenue
Palo Alto, CA 94301**

EASEMENT AGREEMENT FOR PUBLIC PEDESTRIAN ACCESS

APN 023-041-09

THIS EASEMENT AGREEMENT FOR PUBLIC PEDESTRIAN ACCESS ("Breezeway Easement Agreement") is made as an easement in gross by and between Y & J Michele Way, LLC, a California limited liability company, as "Grantor" and the City of Palo Alto, a municipal corporation as "Grantee", as of _____, 2020 with respect to the real property described herein as:

All of that certain real property situated in the City of Palo Alto, Santa Clara County, State of California, described on **Exhibit "A"** attached hereto and incorporated herein by this reference (the "Servient Estate")

NOW, THEREFORE, in consideration of the mutual covenants and declarations set forth herein and for other good and valuable consideration, the receipt and sufficiency of which is acknowledged, Grantor now grants to Grantee the easement and right herein stated for access over and area of the Servient Estate for use of a breezeway pedestrian walkway for access by the public to and from El Camino Real and El Camino Way, which shall exist and endure for the benefit of Grantee and the public as hereinafter provided, over and across the Breezeway Easement Area within the Servient Estate for the term stated in this Breezeway Easement Agreement, subject to the terms and conditions stated in this Breezeway Easement Agreement being kept and fulfilled.

1. Creation of Easements. There is hereby established and granted in favor of Grantee and the public over and across, those portions of the Servient Estate shown on **Exhibit "B"** attached hereto as the Breezeway Easement Area as a non-exclusive easement in gross for the purpose of use as a breezeway pedestrian walkway to be constructed by Grantor ("Breezeway Access Easement Area") for Grantee and the general public for the term herein stated. Such rights of access shall be limited only to the Breezeway Access Easement Area as herein provided, and no other areas of the Servient Property.

2. Duration of Easement. The easements herein granted shall be perpetual until such time as Grantee terminates or abandons such easements by written instrument.

3. Use of Easement Area. The Breezeway Access Easement Area and all improvements installed and located therein may be used by the Grantee for public pedestrian access purposes for use by City, for public use as stated in Paragraph 4 of this Breezeway Easement Agreement.

Limitations on Use of Easement. The Grantor or its successors and assigns, including any common interest development association that operates the common areas of the Servient Property may establish reasonable limitations on the timing and extent of use of the easements and rights granted or created herein as the Breezeway Access Easement Area subject to reasonable approval of the City. Notwithstanding the foregoing, unless the City agrees in writing otherwise, the Breezeway Access Easement Area shall be open to and for public use for access to and from El Camino Real to El Camino Way only from the hours of 7:00 a.m. to 9:00 p.m., daily. Grantor and its successors in interest in and to the Servient Property may install lockable gates at the entrances to the Breezeway Access Easement Area to prevent access at hours other than the specified public use hours in the preceding sentence. Grantor and its successors in interest shall install and maintain signage at the entranceways to the Breezeway Access Easement Area, including on any gates, providing reasonable notice to the public that

the area is open for public use and access 7:00 a.m. to 9:00 p.m. daily.

4. Construction of Breezeway Access Easement. Grantor shall construct the improvements that constitute the Breezeway Access Easement in accordance with the project plans as approved by the City at Grantor's sole cost and expense, with the understanding that all such improvements shall be undertaken in accordance with the approved design and permit thereof, in a reasonable and prudent manner. All construction and installation of improvements hereunder shall be at no cost or expense to Grantee and shall be undertaken consistent in all material respects with the approved plans and City inspection requirements.

5. Maintenance of Breezeway Access Easement Area. The Grantor shall be responsible for general maintenance and repair of the improvements that constitute the Breezeway Access Easement during the term of this Breezeway Access Easement Agreement in a reasonable and prudent manner consistent with the City standards and at its sole cost and expense. If Grantor or its successors, assigns, contractors or invitees cause any damage to the Breezeway Access Easement Area, Grantor shall repair the Breezeway Access Easement Area within a reasonable time at its sole cost. Upon formation of a common interest development association that operates the common areas of the Servient Property the obligations of Grantor hereunder shall be deemed to have been assigned by Grantor to such a common interest development association which shall be obligated to assume and undertake such obligations for general maintenance and repair of the improvements that constitute the Breezeway Access Easement during the term of this Breezeway Access Easement Agreement. Grantee shall not bear any responsibility for the maintenance or repair of the Breezeway Access Easement improvements.

6. Easement in Gross. The easements and rights granted or created herein as the Easement Areas shall be an easement in gross for the use and benefit of Grantee and for the general public as a public access easement, and cannot be transferred, assigned, or encumbered.

7. Rights-Servient Estate Owner. The owner of the Servient Estate hereunder shall have the right to use the Servient Estate in any manner which is not inconsistent with this grant of easement hereby granted to the Grantee, which does not materially interfere with the easement rights hereunder granted to the Grantee. However, if Grantor or its successors, assigns, contractors or invitees cause any damage to the Breezeway Access Easement Area, Grantor shall repair the Breezeway Access Easement Area within a reasonable time at its sole cost.

8. Indemnity. Grantor shall indemnify and hold Grantee free and harmless from and against all cost, damage and/or liability which arises from or relates to the acts or omissions of Grantor, or of Grantor's agents, employees, contractors, or invitees, in improving, maintaining, or using this Breezeway Access Easement Area, except to the extent that such cost, damage and/or liability arises from the gross negligence or willful misconduct of Grantee or Grantee's agents, employees, contractors, or invitees.

9. Notices. Any notice request, demand or other communications permitted or required to be given under this Agreement shall be in writing duly addressed to the parties as follows:

GRANTOR:
Y & J Michele Way, LLC, a California limited liability company
433 Airport Blvd. Ste 550
Burlingame CA 94010
Attn: Bill Wu

GRANTEE:
The City of Palo Alto
250 Hamilton Avenue,
Palo Alto, CA 94301
Attn: City Manager

Any such notice sent by registered or certified mail, return receipt requested shall be deemed to have been duly given and received 5:00 p.m. (Pacific Time) two (2) business days after it is so addressed and

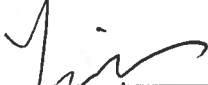

mailed with postage prepaid. Any such notice sent by a recognized overnight courier service shall be deemed to have been duly given and received 5:00 p.m. (Pacific Time) one (12) business day after is so addressed and sent with the cost of such overnight delivery service prepaid. Notice sent by any other manner shall be effective only upon actual receipt thereof. Any party may change its address for purposes of this Agreement by giving notice to the other party as provided herein.

10. Attorneys' Fees. In the event any party hereto institutes legal action to enforce or interpret its rights under this Breezeway Access Easement Agreement, then the prevailing party or parties shall be entitled to reasonable attorneys' fees in addition to other costs of suit as awarded by the court.

11. Governing Law and Venue. This this Breezeway Access Easement Agreement shall be governed under the laws of California. In the event that an action is brought pursuant to this Breezeway Access Easement Agreement, the parties agree that trial of such action will be vested exclusively in the state courts of California in the County of Santa Clara.

IN WITNESS WHEREOF, this Agreement is executed and made by the Grantor effective as of the date first above set forth.

Grantor: Y & J Michele Way, LLC,
a California limited liability company

By:  

YAN XIAO JING LI
Its: OWNER OWNER

Grantee: City of Palo Alto, a California municipal corporation

By: _____

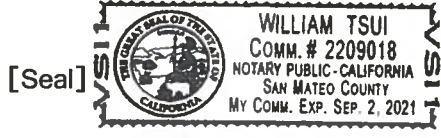
Its: _____

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT - CIVIL CODE SECTION 1189
A notary public or other officer completing the certificate verifies only the identity of the individual who signed the document to which the certificate is attached and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)
) SS
COUNTY OF San Mateo)

On December 03 2020 before me, William Tsui, Notary Public, personally appeared Yan Xiao 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 is true and correct.

Witness my hand and official seal.



[Signature]
(Signature)

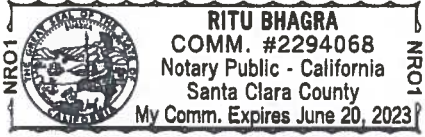
CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT - CIVIL CODE SECTION 1189
A notary public or other officer completing the certificate verifies only the identity of the individual who signed the document to which the certificate is attached and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)
) SS
COUNTY OF Santa Clara)

On 12/03/2020 B. 2020 before me, Ritu Bhagra, Notary Public, personally appeared Jing Li 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 is true and correct.

Witness my hand and official seal.

[Seal]



[Signature]
(Signature)

S:\PLAN\PLADIV\Current Planning\0 - Application Types and Approvals\Subdivision\2018\4115 El Camino Real (Tentative Map)\Breezeway - CCRs\4115 EL CAMINO BREEZEWAY ACCESS EASEMENT FORM ayedit-DMVREVIEW3.docx

Exhibit "A" - Servient Estate

All of that real property situated in the City of Palo Alto, Santa Clara County, State of California described as:

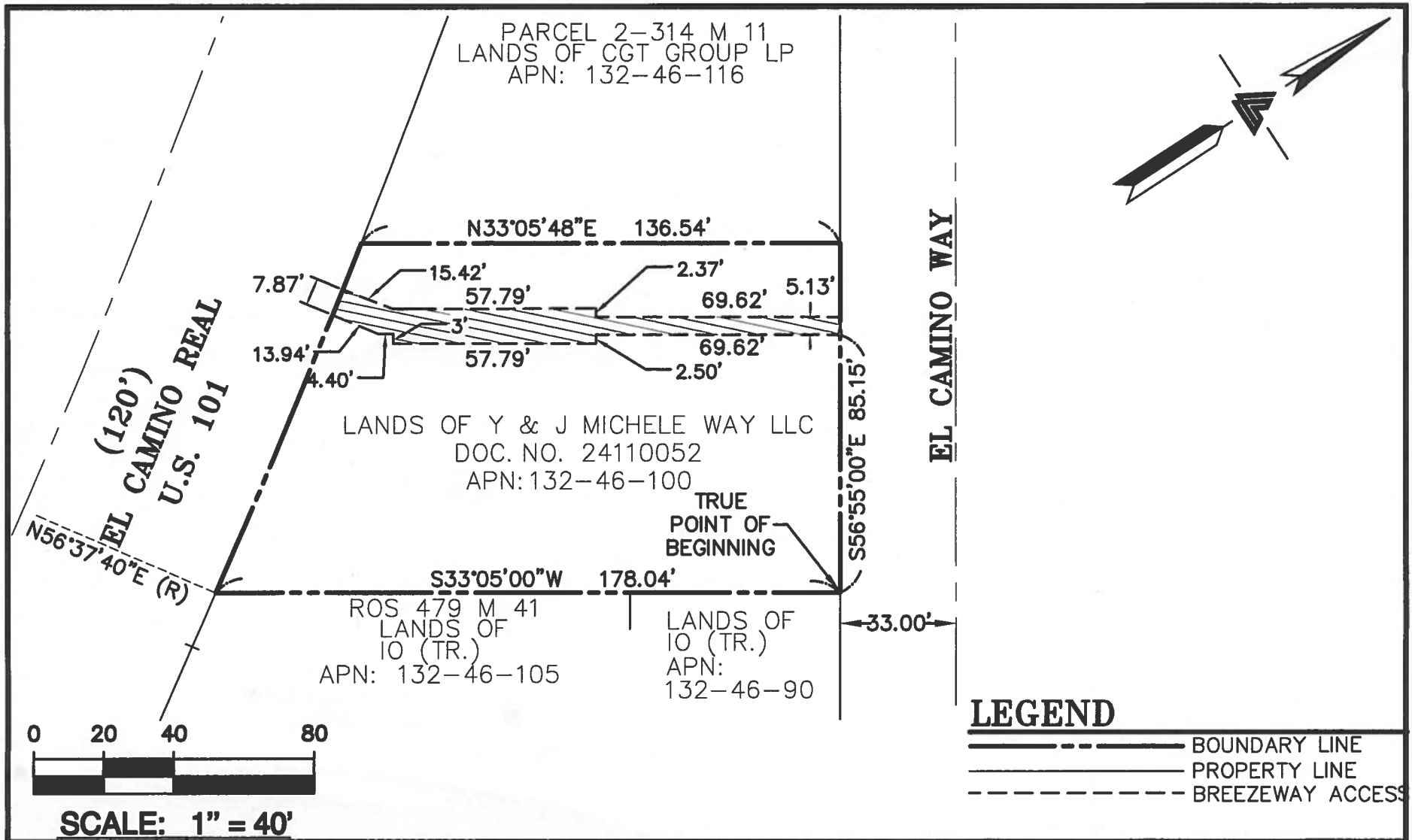
BEGINNING AT A POINT ON THE SOUTHWESTERN LINE OF THE OLD SAN FRANCISCO-SAN JOSE ROAD WHERE IT IS INTERSECTED BY THE SOUTHEASTERN LINE OF THAT CERTAIN 0.275 ACRE TRACT OF LAND AS DESCRIBED IN THE DEED FROM TYNAN LUMBER COMPANY, A CORPORATION, TO THOMAS HUNE, ET UX., BY DEED DATED OCTOBER 7, 1935, IN BOOK 749 O.R. PAGE 50, SANTA CLARA COUNTY RECORDS; THENCE ALONG SAID SOUTHWESTERN LINE OF THE OLD SAN FRANCISCO-SAN JOSE ROAD, NORTH 56° 55' WEST 100 FEET; THENCE AT RIGHT ANGLES SOUTH 33° 05' WEST 155 FEET, MORE OR LESS, TO A POINT ON THE NORTHEASTERN LINE OF THE NEW SAN FRANCISCO-SAN JOSE ROAD (STATE HIGHWAY), AS SAID NORTHEASTERN LINE WAS ESTABLISHED BY DEED FROM THERESA L. RHODES TO STATE OF CALIFORNIA, BY DEED DATED JULY 31, 1929, RECORDED SEPTEMBER 13, 1929, IN BOOK 484 O.R., PAGE 110, SANTA CLARA COUNTY RECORDS; THENCE RUNNING SOUTHEASTERLY ALONG SAID NORTHEASTERN LINE OF THE NEW SAN FRANCISCO-SAN JOSE ROAD (STATE HIGHWAY) ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 3050 FEET, A DISTANCE OF 116 FEET, MORE OR LESS, TO THE NORTHWESTERN CORNER OF THAT CERTAIN 2-1/2 ACRE TRACT OF LAND DESCRIBED IN THE DEED FROM THERESA L. RHODES TO ANDREW J. MCCOY, ET UX., DATED MARCH 18, 1925, RECORDED MARCH 21, 1925, IN BOOK 149 O.R. PAGE 163; THENCE ALONG THE NORTHWESTERN LINE OF SAID 2-1/2 ACRE TRACT OF LAND ABOVE REFERRED TO; NORTH 33° 05' EAST 190 FEET, MORE OR LESS, TO THE POINT OF BEGINNING.

EXCEPTING THEREFROM THAT PORTION THEREOF FRONTING ON THE HIGHWAY LEADING FROM SAN FRANCISCO TO SAN JOSE KNOWN AS EL CAMINO REAL TAKEN OR CONVEYED FOR THE PURPOSE OF WIDENING SAID ROADWAY.

ALSO EXCEPTING THEREFROM THAT PORTION OF THE LAND GRANTED TO THE CITY OF PALO ALTO, A MUNICIPAL CORPORATION IN THAT FINAL JUDGMENT OF CONDEMNATION RECORDED OCTOBER 3, 1967 AS INSTRUMENT NO. 3296676, IN BOOK 7880, PAGE 102 OF OFFICIAL RECORDS.

Exhibit "B" - Breezeway Access Easement Area

[ATTACH DRAWING SHOWING EASEMENT AREA]



LEA & BRAZE ENGINEERING, INC.
CIVIL ENGINEERS • LAND SURVEYORS

BAY AREA REGION 2495 INDUSTRIAL PKWY WEST HAYWARD, CALIFORNIA 94545 (P) (510) 887-4086 (F) (510) 887-3019 WWW.LEABRAZE.COM	SACRAMENTO REGION 3017 DOUGLAS BLVD, # 300 ROSEVILLE, CA 95861 (P) (916) 966-1338 (F) (916) 797-7363
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**BREEZEWAY ACCESS EXHIBIT
FOR 4115 EL CAMINO AVENUE
PALO ALTO, CALIFORNIA**

APN: 132-46-100

JOB #2181522

DRAWN BY: PC

DEC 4, 2019

Certificate Of Completion

Envelope Id: 1A608A517BCD469CB447683F8CF14B25	Status: Completed
Subject: Please DocuSign: PDS At Places Memo Council Dec. 14 Agenda Item No 4.pdf	
Source Envelope:	
Document Pages: 9	Signatures: 2
Certificate Pages: 2	Initials: 0
AutoNav: Enabled	Envelope Originator:
Envelopeld Stamping: Enabled	Madina Klicheva
Time Zone: (UTC-08:00) Pacific Time (US & Canada)	250 Hamilton Ave
	Palo Alto , CA 94301
	Madina.Klicheva@CityofPaloAlto.org
	IP Address: 199.33.32.254


Record Tracking

Status: Original	Holder: Madina Klicheva	Location: DocuSign
12/8/2020 7:01:42 PM	Madina.Klicheva@CityofPaloAlto.org	
Security Appliance Status: Connected	Pool: StateLocal	
Storage Appliance Status: Connected	Pool: City of Palo Alto	Location: DocuSign

Signer Events

Jonathan Lait
Jonathan.Lait@CityofPaloAlto.org
Interim Director Planning and Community
Environment
City of Palo Alto
Security Level: Email, Account Authentication (None)

Signature

DocuSigned by:

293CF322E1294F6...
Signature Adoption: Uploaded Signature Image
Using IP Address: 99.88.42.180

Timestamp

Sent: 12/8/2020 7:02:36 PM
Viewed: 12/9/2020 10:38:27 AM
Signed: 12/9/2020 10:39:07 AM

Electronic Record and Signature Disclosure:
Not Offered via DocuSign

Ed Shikada
Ed.Shikada@CityofPaloAlto.org
Ed Shikada, City Manager
City of Palo Alto
Security Level: Email, Account Authentication (None)

DocuSigned by:

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Signature Adoption: Pre-selected Style
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Signed: 12/10/2020 8:02:54 AM

Electronic Record and Signature Disclosure:
Not Offered via DocuSign

In Person Signer Events	Signature	Timestamp
Editor Delivery Events	Status	Timestamp
Agent Delivery Events	Status	Timestamp
Intermediary Delivery Events	Status	Timestamp
Certified Delivery Events	Status	Timestamp
Carbon Copy Events	Status	Timestamp
Witness Events	Signature	Timestamp
Notary Events	Signature	Timestamp
Envelope Summary Events	Status	Timestamps
Envelope Sent	Hashed/Encrypted	12/8/2020 7:02:36 PM

Envelope Summary Events	Status	Timestamps
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Signing Complete	Security Checked	12/10/2020 8:02:54 AM
Completed	Security Checked	12/10/2020 8:02:54 AM

Payment Events	Status	Timestamps
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