

DRAFT 7/10/18 PS

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY
OF SUNNYVALE SUMMARILY VACATING A PORTION
OF AN AERIAL EASEMENT WITHIN PRIVATE
PROPERTY OWNED BY HD DEVELOPMENT OF
MARYLAND, INC. AND HERITAGE APARTMENTS**

WHEREAS, subdivision (c) of Section 8333 of the Streets and Highways Code of the State of California authorizes the City Council to summarily vacate an easement if it has been superseded by relocation, or determined to be excess by the easement holder, and there are no other public facilities located within the easement; and

WHEREAS, there is an existing Aerial Easement ("Aerial Easement") that is part of a Grant Deed granted to the City of Sunnyvale ("City") on September 9, 1966 and recorded on September 22, 1966 in Book 7512, beginning on Page 714 as Instrument No. 3121093 in the Official Records of Santa Clara County; and

WHEREAS, the City Council intends to summarily vacate only a portion of the existing Aerial Easement referenced in Book 7512, Pages 721-722, Parcel X, located on property currently owned by HD Development of Maryland, Inc., and Book 7512, Page 722, Parcel XI, located on property currently owned by Monument 3: Realty Fund VII, LTD, and Monument 3: Realty Fund VIII, LTD (referred to collectively as "Heritage Apartments") as shown on the plat maps and more fully described in the legal descriptions, attached hereto as Exhibits "A" and "B"; and

WHEREAS, the City will be receiving new Aerial Easements from HD Development of Maryland, Inc. and Heritage Apartments for the Fair Oaks Avenue Overhead Bridge Rehabilitation and Widening Project, which will supersede and replace the portion of the existing Aerial Easement located on each respective property; and

WHEREAS, the portion of the Aerial Easement to be vacated has no other public facilities; and

WHEREAS, all other easements contained in Instrument No. 3121093 affecting all other parcels shall remain valid and enforceable.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SUNNYVALE THAT:

1. The City of Sunnyvale finds and determines that:
 - a) The portion of the Aerial Easement located on property owned by HD Development of Maryland, Inc. and Heritage Apartments has been superseded by relocation; and

- b) No other public facilities are located within the portion of the Aerial Easement that would be affected by a summary vacation; and
 - c) This portion of the Aerial Easement is not needed for present or prospective easement purposes; and
 - d) The public convenience and necessity does not require reservation of any portion of the Aerial Easement.
- 2. Based upon the findings made in Section 1 of this Resolution and the provisions of Section 8333 of the Streets and Highways Code, the City Council does hereby order that the portion of the Aerial Easement located on property owned by HD Development of Maryland, Inc. and Heritage Apartments found in Instrument No. 3121093 in Book 7512, Pages 721-722, and only for Parcels X and XI, shall be summarily vacated.
 - 3. The City Council hereby authorizes and directs the City Clerk to record a certified copy of the resolution, attested by the City Clerk under seal, with the Santa Clara County Recorder's Office.
 - 4. The portions that are vacated will no longer constitute an Aerial Easement from and after the date of recordation of the documents identified in Section 3 of this Resolution.
 - 5. All other easements contained in Instrument No. 3121093 affecting all other parcels shall remain valid and enforceable

Adopted by the City Council at a regular meeting held on _____, by the following
vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

RECUSAL:

ATTEST:

APPROVED:

City Clerk
(SEAL)

Mayor

APPROVED AS TO FORM

City Attorney



EXHIBIT A

June 13, 2018
BKF Job No: 20107166

Legal Description

Real property situate in the City of Sunnyvale, County of Santa Clara, State of California, more particularly described as follows:

Being the lands described as "Aerial Easement" and labeled as Parcel A and Parcel B on exhibits shown on pages 733 and 734 of that certain Grant Deed filed in Book 7512, Page 714 of Official Records of Santa Clara County, more particularly described as follows:

Parcel A

Commencing at the intersection of the centerline of Washington Avenue (50.00 feet wide) with the centerline of Fair Oaks Avenue (50.00 feet wide) as said Avenues are shown upon that certain map entitled, "Soza's Addition to Sunnyvale, Map No. 1", which map was filed for record in Book "L" of Maps at page 89 in the Office of the Recorder of said County;

Thence North $14^{\circ}52'$ East, along said centerline of Fair Oaks Avenue, 104.45 feet;

Thence North $75^{\circ}08'$ West, 40.00 feet to the **True Point of Beginning**;

Thence Southwesterly along a curve to the right, from a tangent bearing of South $60^{\circ}00'30''$ West, having a radius of 28.00 feet and a central angle of $12^{\circ}18'46''$, an arc length of 6.02 feet to a point of reverse curvature;

Thence Southwesterly along a curve to the left having a radius of 67.00 feet and a central angle of $4^{\circ}29'32''$, an arc length of 5.25 feet;

Thence North $14^{\circ}52'$ East, along a line parallel with and distant 49.00 feet Westerly measured at right angles from said centerline of Fair Oaks Avenue, 65.89 feet to the beginning of a tangent curve to the right;

Thence Northeasterly along said curve, having a radius of 1532.50 feet and a central angle of $6^{\circ}12'45''$ an arc length of 166.17 feet to a line parallel with and distant 40.00 feet Westerly, measured at right angles, from said centerline of Fair Oaks Avenue;

Thence South $14^{\circ}52'$ West, along last said parallel line, 161.47 feet;

Thence North $75^{\circ}08'$ West, 2.50 feet;

Thence South $14^{\circ}52'$ West, 22.00 feet;

Thence South $75^{\circ}08'$ East, 2.50 feet to last said parallel line;

Thence South $14^{\circ}52'$ West, along last said parallel line 41.51 feet to the True Point of Beginning;

Containing an area of 0.034 acres more or less.



EXHIBIT A

June 13, 2018
BKF Job No: 20107166

Parcel B

Commencing at the intersection of the centerline of Fair Oaks Avenue (50.00 feet wide) with the westerly prolongation of the Southerly line of Lot 138 of Tract No. 214, Victory Village, Map No. 2, as said Map was filed for record in Book 7 of Maps at page 37 in the Office of the Recorder of said County;

Thence South $14^{\circ}52'$ West, along said centerline, 178.53 feet;

Thence South $75^{\circ}08'$ East, 48.50 feet to the True Point of Beginning;

Thence South $14^{\circ}52'$ West, along a line parallel with and distant 48.50 feet easterly measured at right angles from said centerline 168.60 feet to the beginning of a tangent curve to the right;

Thence Southwesterly along said curve, having a radius of 1232.46 feet a central angle of $4^{\circ}53'52''$ and an arc length of 105.35 feet to a line parallel with and distant 44.00 feet easterly measured at right angles from said centerline;

Thence North $14^{\circ}52'$ East, along last said parallel line, 247.89 feet to the beginning of a tangent curve to the right;

Thence Northeasterly along said curve having a radius of 77.00 feet, a central angle of $19^{\circ}41'06''$ and an arc length of 26.45 feet to the True Point of Beginning;

Containing an area of 0.023 acres more or less.

END OF DESCRIPTION

As shown on plat attached hereto and by this reference made part hereof as Exhibit "B"

For: BKF Engineers

Davis Thresh, P.L.S. No. 6868

6/13/2018

Dated



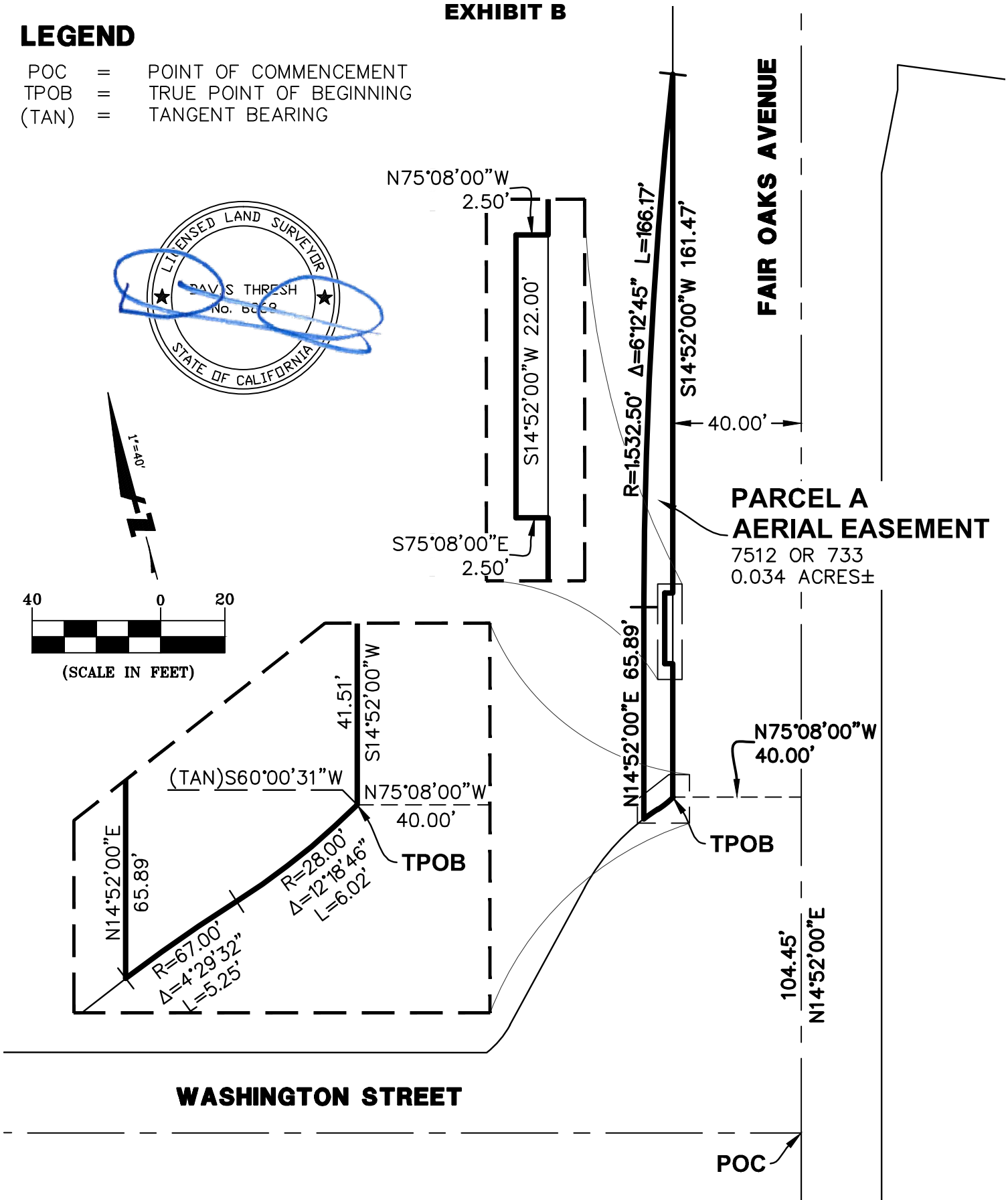
EXHIBIT B

LEGEND

POC = POINT OF COMMENCEMENT
TPOB = TRUE POINT OF BEGINNING
(TAN) = TANGENT BEARING



(SCALE IN FEET)



WASHINGTON STREET

POC

EXHIBIT B

LOT 13

7 M 37

KIFER AVENUE

POC

S14°52'00"W
178.53'

S75°08'00"E

48.50'

TPOB

R=77.00'
Δ=19°41'06"
L=26.45'

48.50'

S14°52'00"W 168.60'

FAIR OAKS AVENUE

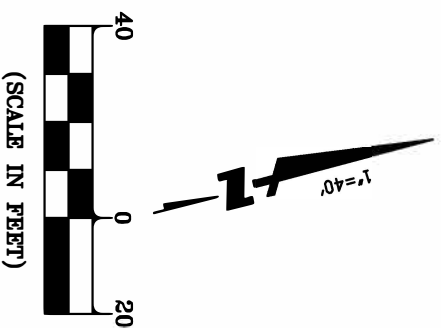
N14°52'00"E 247.89'

44.00'

R=1,232.46' Δ=4°53'52" L=105.35'

**PARCEL B
AERIAL EASEMENT**

7512 OR 734
0.023 ACRES±



ENGINEERS . SURVEYORS . PLANNERS

4670 WILLOW RD
SUITE 250
PLEASANTON, CA 94588
925-396-7700
925-396-7799 (FAX)

Subject EXHIBIT "B"
7512 OR 733 & 734 AERIAL EASEMENT
Job No. 20107166
By MR Date 6/13/18 Chkd. WS
SHEET 2 OF 2