

Introduced By ^D
CITY CLERK
AND

Approved For Form And Legality

7 PM 1:41

Councilmember

Allegra Chen
City Attorney

OAKLAND CITY COUNCIL

RESOLUTION No. 84889 C.M.S.

A RESOLUTION CONDITIONALLY APPROVING THE REALIGNMENT OF AN EXISTING PUBLIC SERVICE EASEMENT AT 13451 CAMPUS DRIVE

WHEREAS, Campus Drive Investors, LLC, as "Permittee" and owner of the real property described in a Grant Deed, series no. 2009-389536, recorded December 18, 2009, by the Alameda County Clerk-Recorder, and identified by the Alameda County Assessor as APN 037A-3156-002-02 (New Parcel 2) and 037A-3156-007-04 (New Parcel 3), and identified by the City of Oakland as 13451 Campus Drive, and more particularly described in *Exhibit A* attached hereto, has made application to the City Engineer of the City of Oakland to realign an existing public service easement (PPE 13056 and PPE 13057) for its use in perpetuity as a public service easement; and

WHEREAS, the realignment of the new public service easement is to allow the unconditional installation, continuing use, maintenance, repair, replacement, and removal of below-ground utilities, including separate sanitary and storm water sewer mains; and

WHEREAS, pursuant to the California Government Code section 7050, the legislative body of a local agency may consent to an irrevocable offer of realignment of public service easements for any public purpose; and

WHEREAS, the City Engineer, in consultation with the Public Works Agency of the City of Oakland, has determined that the alignment of said easement may be adjusted in such a way as to better serve the lot boundaries created by the amended Tract Map 5018 so that sanitary sewer and stormwater will continue to be adequately conveyed to a downstream facility; and

WHEREAS, such offer of realignment shall be executed, acknowledged, and recorded in the same manner as a conveyance of real property; and

WHEREAS, such offer of realignment may be terminated and the right to accept such offer abandoned in the same manner as is prescribed for the summary vacation of streets or highways by Section 7050 of the Government Code; and

WHEREAS, the limits of said existing easement are delineated diagrammatically in *Exhibit B* attached hereto; and

WHEREAS, the requirements of the California Environmental Quality Act (CEQA), the Guidelines as prescribed by the Secretary of Resources, and the provisions of the Statement of Objectives, Criteria and Procedures for Implementation of the California Environmental Quality Act: City of Oakland, have been satisfied, and that in accordance with CEQA Guidelines Sections 15061(b)(3) (no significant effect on the environment), 15183 (projects consistent with General Plan and Zoning) and 15301 (minor alteration to existing structure), this project is categorically exempt from the provisions of the California Environmental Quality Act; now, therefore, be it

RESOLVED: That the proposed realignment of the public service easement does comply with the California Environmental Quality Act; and be it

FURTHER RESOLVED: That the realignment of the public service easement delineated in *Exhibit C* at 13451 Campus Drive to the City of Oakland, a California municipal corporation, as conditioned herein under, is hereby granted; and be it

FURTHER RESOLVED: That this approval shall become immediately void and the property owner shall be required to file a new application for said realignment and pay new fees in the event that the final acceptance by the City Engineer and the expiration of the one (1) year warrantee period for reconstructing the existing storm and sanitary drainage pipes does not occur within three (3) years following the date of approval of this Resolution by the Council of the City of Oakland; and be it

FURTHER RESOLVED: That the realignment is hereby conditioned by the following special requirements:

1. the Permittee, by the acceptance of this realignment, agrees and promises to defend, hold harmless, and indemnify the City of Oakland and its officials, officers, employees, agents, representatives, and volunteers from any and all claims, demands, lawsuits and judgments for damages of any kind and nature whatsoever arising out said realignment and regardless of responsibility for negligence; and
2. the Permittee acknowledges that the City of Oakland makes no representations or warranties as to the conditions beneath the public service easement; and that by accepting this realignment, the Permittee agrees that it will use the easement area in the future at its own risk; and
3. the Permittee acknowledges that the City of Oakland is unaware of the existence of any hazardous substances beneath the easement areas, and hereby waives and fully releases and forever discharges the City of Oakland and its officers, directors, employees, agents, and volunteers from any and all claims, demands, liabilities, damages, actions, causes of action, penalties, fines, liens, judgments, costs, or expenses whatsoever (including, without limitation, attorneys' fees and costs), whether direct or indirect, known or unknown, foreseen or unforeseen, that may arise out of or in any way connected with the physical condition, or required remediation of the excavation area or any law or regulation applicable thereto, including, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 U.S.C. Sections 9601 *et seq.*), the Resource Conservation and Recovery Act of 1976 (42 U.S.C. Section 6901 *et seq.*), the Clean Water Act (33 U.S.C.

Section 466 et seq.), the Safe Drinking Water Act (14 U.S.C. Sections 1401-1450), the Hazardous Materials Transportation Act (49 U.S.C. Section 1801 et seq.), the Toxic Substance Control Act (15 U.S.C. Sections 2601-2629), the California Hazardous Waste Control Law (California Health and Safety Code Sections 25100 et seq.), the Porter-Cologne Water Quality Control Act (California Health and Safety Code Section 13000 et seq.), the Hazardous Substance Account Act (California Health and Safety Code Section 25300 et seq.), and the Safe Drinking Water and Toxic Enforcement Act (California Health and Safety Code Section 25249.5 et seq.); and

4. the Permittee further acknowledges that it understands and agrees that it hereby expressly waives all rights and benefits which it now has or in the future may have, under and by virtue of the terms of California Civil Code Section 1542, which reads as follows: "A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM MUST HAVE MATERIALLY AFFECTED HIS SETTLEMENT WITH THE DEBTOR"; and
5. This offer of realignment is made pursuant to Section 7050 of the Government Code, and shall be binding upon the heirs, successors, and assigns of the parties hereto; and
6. the Permittee recognizes that by waiving the provisions of Civil Code Section 1542, it will not be able to make any claims for damages that may exist, and to which, if known, would materially affect its decision to execute this agreement, regardless of whether Permittee's lack of knowledge is the result of ignorance, oversight, error, negligence, or any other cause; and
7. the hereinabove conditions shall be binding upon the Permittee and the successive owners and assigns thereof; and be it

FURTHER RESOLVED: That this resolution shall take effect upon its recordation by the Alameda County Clerk-Recorder; and be it

FURTHER RESOLVED: That the City Clerk is hereby directed to file a certified copy of this resolution for recordation by the Alameda County Clerk-Recorder.

IN COUNCIL, OAKLAND, CALIFORNIA, MAR 18 2014, 2014.

PASSED BY THE FOLLOWING VOTE:

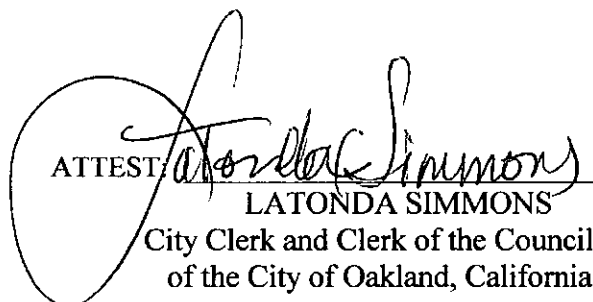
AYES - ~~BRUNSON~~, GALLO, GIBSON MCELHANEY, KALB, KAPLAN, REID, SCHAAF,
AND PRESIDENT KERNIGHAN - 7

NOES - 0

ABSENT - 0

ABSTENTION - 0

Excused - Brooks - 1

ATTEST 
LATONDA SIMMONS
City Clerk and Clerk of the Council
of the City of Oakland, California

DATE OF ATTESTATION: _____

84889

Exhibit A

Description of Property from Deed 2009-389536, recorded December 18, 2009.

New Parcel 2, as particularly described and shown in that certain Lot Line Adjustment Deed, recorded June 24, 2008, in the Official Records of Alameda County, California, under Recorder's Serial Number 2008-197022.

BEING APN 37A-3156-002-02

New Parcel 3, as particularly described and shown in that certain Lot Line Adjustment Deed recorded June 24, 2008, in the Official Records of Alameda County, California, under Recorder's Serial Number 2008-197022.

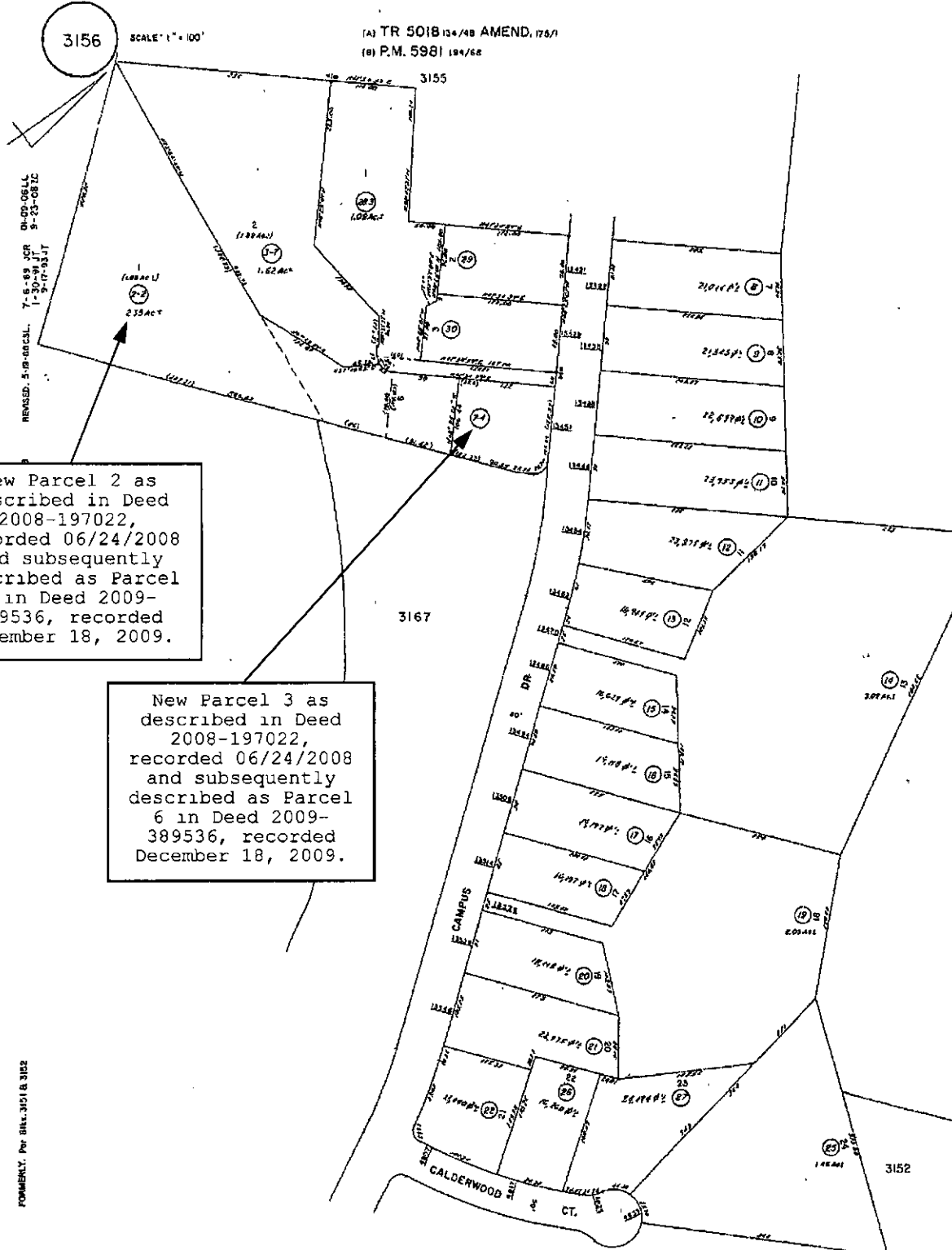
BEING APN 37A-3156-007-04

Exhibit A (continued)
Description of Property

ASSESSOR'S MAP 37A

Code Area Nos. 11-001

(A) TR 5018 134/48 AMEND. 176/1
 (B) P.M. 5981 194/68



New Parcel 2 as described in Deed 2008-197022, recorded 06/24/2008 and subsequently described as Parcel 4 in Deed 2009-389536, recorded December 18, 2009.

New Parcel 3 as described in Deed 2008-197022, recorded 06/24/2008 and subsequently described as Parcel 6 in Deed 2009-389536, recorded December 18, 2009.

FORMERLY: Per Shts. 3151 & 3152

Exhibit B
*Delineation of Existing Easement Accepted by the City of Oakland in February 11, 1988
 through Amended Map Tract 5018, Series 88039247, Map Book 175 Page 1-16*

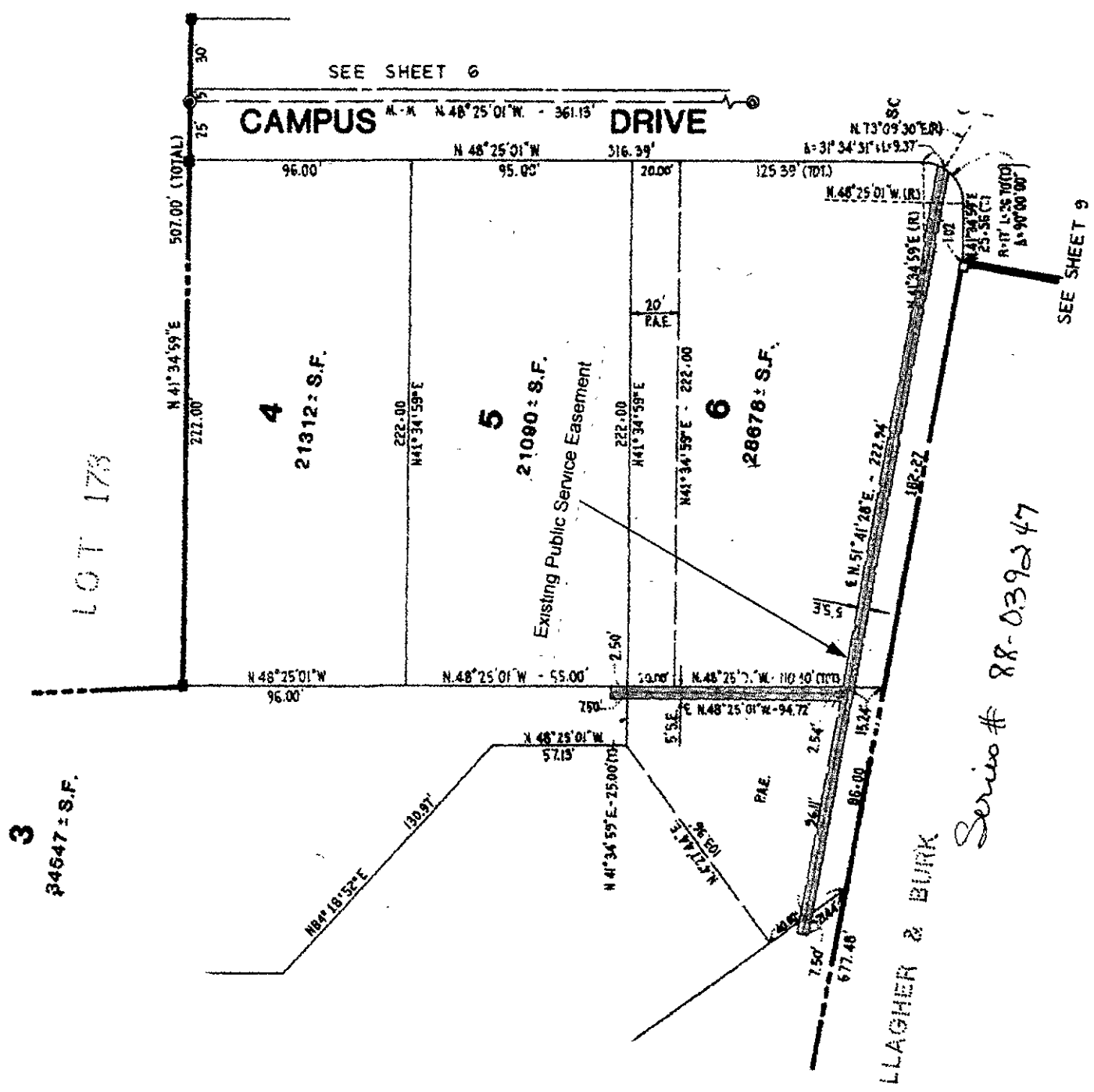
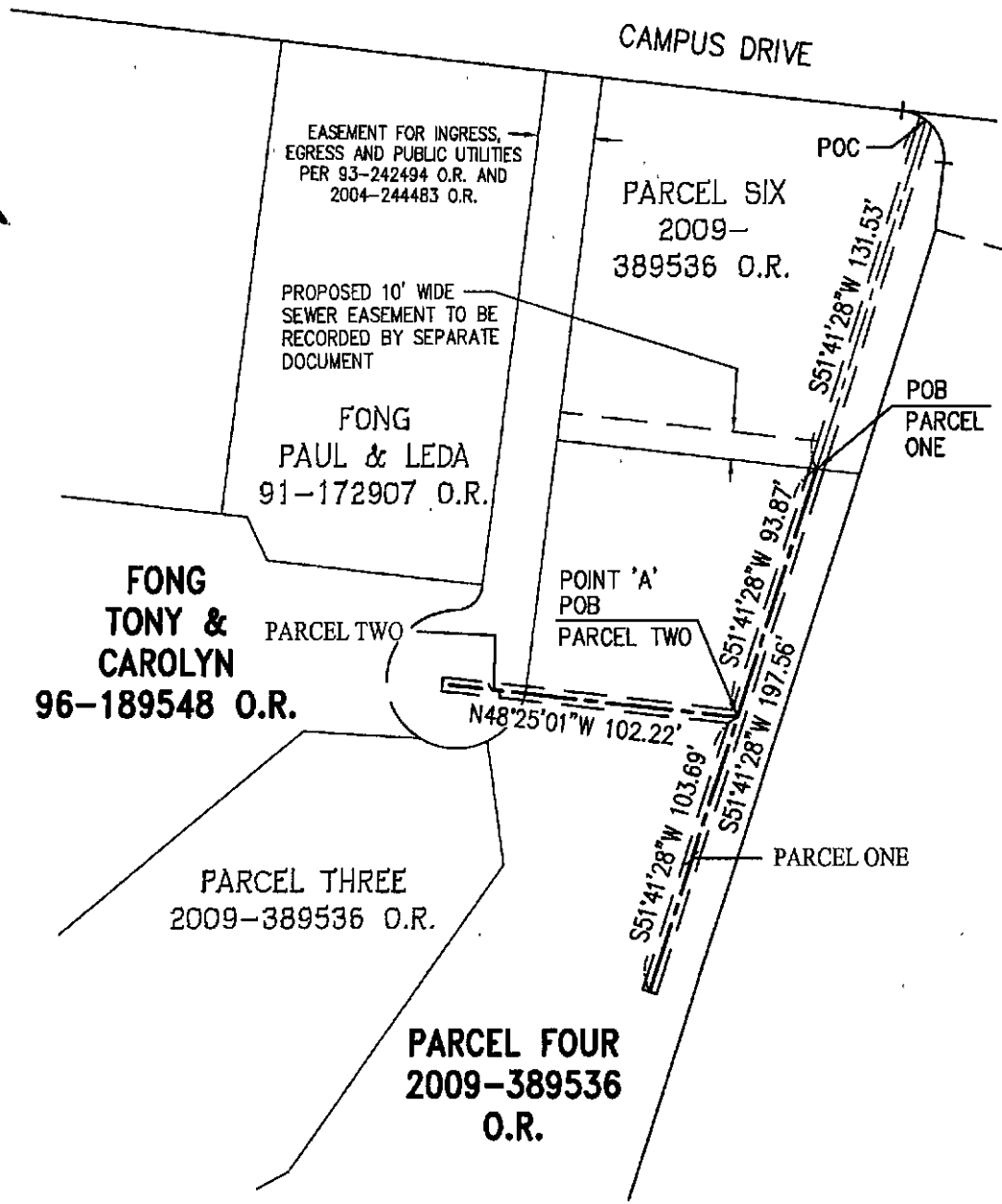
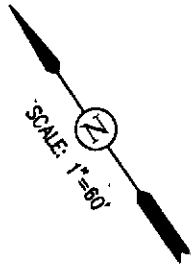


Exhibit B (continued)



PLAT TO ACCOMPANY LEGAL DESCRIPTION
QUITCLAIM - 5' SANITARY SEWER EASEMENT (175 M 1)
CITY OF OAKLAND, ALAMEDA COUNTY, CALIFORNIA

Exhibit B (continued)

**LEGAL DESCRIPTION
FIVE FOOT SANITARY SEWER EASEMENT (PORTION)
TO BE QUITCLAIMED
AMENDED TRACT 5018 (175 M 48)
OAKLAND, CALIFORNIA**

REAL PROPERTY, SITUATE IN THE INCORPORATED TERRITORY OF THE CITY OF OAKLAND, COUNTY OF ALAMEDA, STATE OF CALIFORNIA, CONSISTING OF TWO (2) PARCELS, DESCRIBED AS FOLLOWS:

PARCEL ONE

BEING A PORTION OF THAT CERTAIN FIVE FOOT SANITARY SEWER EASEMENT (5' S.E.) LYING WITHIN LOTS 1, 3, AND 6, AS SAID FIVE FOOT SANITARY SEWER EASEMENT (5' S.E.) AND LOTS ARE SHOWN AND SO DESIGNATED ON THE AMENDED MAP OF TRACT 501B, RECORDED FEBRUARY 11, 1988, IN BOOK 175 OF MAPS, AT PAGE 1, IN THE OFFICE OF THE COUNTY RECORDER OF ALAMEDA COUNTY, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEING A STRIP OF LAND FIVE (5.00') WIDE, THE CENTERLINE OF WHICH IS DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEASTERN CENTERLINE TERMINUS OF SAID FIVE FOOT SANITARY SEWER EASEMENT (5' S.E.) LYING WITHIN SAID LOT 6;

THENCE, FROM SAID POINT OF COMMENCEMENT, ALONG SAID CENTERLINE, SOUTH 51°41'28" WEST 131.53 FEET TO THE POINT OF BEGINNING FOR THIS DESCRIPTION;

THENCE, FROM SAID POINT OF BEGINNING, CONTINUING ALONG SAID CENTERLINE, SOUTH 51°41'28" WEST 93.87 FEET TO A POINT REFERRED TO AS POINT 'A';

THENCE, CONTINUING ALONG SAID CENTERLINE, SOUTH 51°41'28" WEST 103.69 FEET TO THE SOUTHWESTERN TERMINUS OF SAID FIVE FOOT SANITARY SEWER EASEMENT (5' S.E.) LYING WITHIN SAID LOT 1 AND THE POINT OF TERMINUS FOR THIS DESCRIPTION;

Exhibit B (continued)

PARCEL TWO

BEING A STRIP OF LAND, FIVE (5.00) FEET WIDE THE CENTERLINE OF WHICH IS DESCRIBED AS FOLLOWS:

BEGINNING AT HEREINABOVE REFERRED TO AS POINT 'A';

THENCE, FROM SAID POINT OF BEGINNING, ALONG THE CENTERLINE OF SAID FIVE FOOT SANITARY SEWER EASEMENT (5' S.E.), NORTH 48°25'01" WEST 102.22 FEET TO THE NORTHWESTERN TERMINUS OF SAID FIVE FOOT SANITARY SEWER EASEMENT (5'S.E.), LYING WITHIN SAID LOT 3 AND THE POINT OF TERMINUS FOR THIS DESCRIPTION.

ATTACHED HERETO IS A PLAT TO ACCOMPANY LEGAL DESCRIPTION, AND BY THIS REFERENCE MADE A PART HEREOF.

END OF DESCRIPTION



Christopher S. Harmison

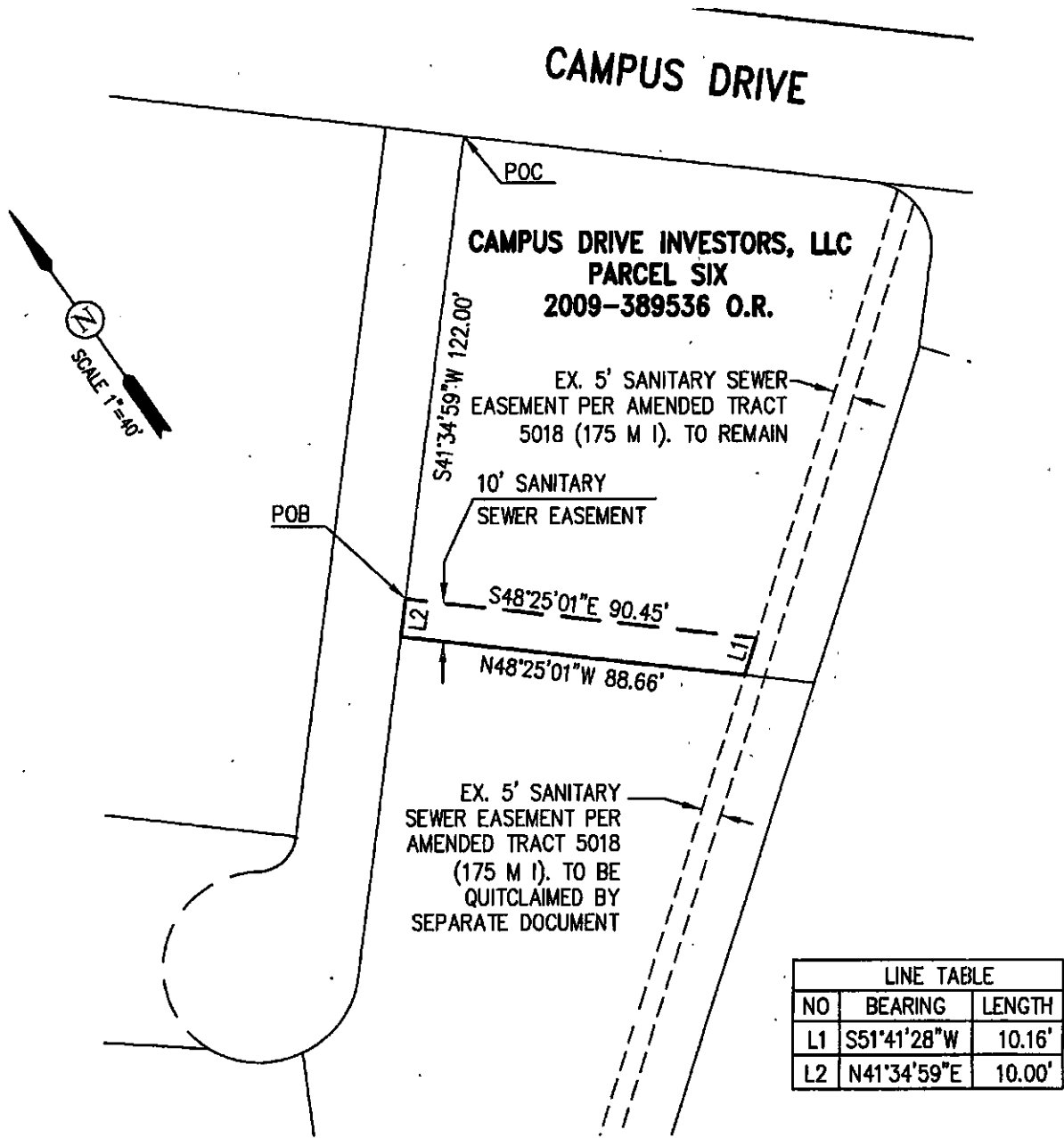
CHRISTOPHER S. HARMISON, P.L.S.

L.S. NO. 7176

DATE SIGNED: 12-17-2013

Exhibit C

Plat of Realigned Public Service Easement



**PLAT TO ACCOMPANY LEGAL DESCRIPTION
10' SANITARY SEWER EASEMENT
CAMPUS DRIVE INVESTORS, LLC PROPERTY (APN 037A-3156-007-04)
CITY OF OAKLAND, ALAMEDA COUNTY, CALIFORNIA**

Exhibit C (continued)

LEGAL DESCRIPTION
10' SANITARY SEWER EASEMENT
CAMPUS DRIVE INVESTORS, LLC (APN 037A-3156-007-04)
OAKLAND, CALIFORNIA

REAL PROPERTY, SITUATE IN THE INCORPORATED TERRITORY OF THE CITY OF OAKLAND, COUNTY OF ALAMEDA, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

BEING A PORTION OF PARCEL SIX, AS SAID PARCEL SIX IS DESCRIBED IN THAT CERTAIN DEED GRANTED TO CAMPUS DRIVE INVESTORS, LLC, A CALIFORNIA LIMITED LIABILITY COMPANY, RECORDED DECEMBER 18, 2009, IN DOCUMENT NUMBER 2009-389536 OF OFFICIAL RECORDS, IN THE OFFICE OF THE COUNTY RECORDER OF ALAMEDA COUNTY, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE MOST NORTHERN CORNER OF SAID PARCEL SIX;

THENCE, FROM SAID POINT OF COMMENCEMENT, ALONG THE NORTHWESTERN LINE OF SAID PARCEL SIX, SOUTH 41°34'59" WEST 122.00 FEET TO THE POINT OF BEGINNING FOR THIS DESCRIPTION;

THENCE, FROM SAID POINT OF BEGINNING, LEAVING SAID NORTHWESTERN LINE, SOUTH 48°25'01" EAST 90.45 FEET TO A POINT ON THE NORTHWESTERN LINE OF AN EXISTING 5' SANITARY SEWER EASEMENT, AS SHOWN AND SO DESIGNATED ON THAT CERTAIN AMENDED MAP OF TRACT 5018, RECORDED FEBRUARY 11, 1988, IN BOOK 175 OF MAPS, AT PAGE 1, IN SAID OFFICE OF THE COUNTY RECORDER OF ALAMEDA COUNTY;

THENCE, ALONG SAID NORTHWESTERN LINE, SOUTH 51°41'28" WEST 10.16 FEET;

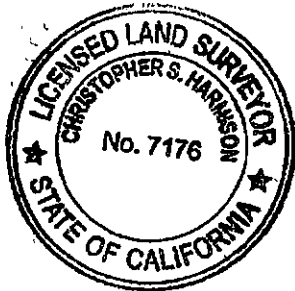
THENCE, LEAVING SAID NORTHWESTERN LINE, NORTH 48°25'01" WEST 88.66 FEET TO A POINT ON SAID NORTHWESTERN LINE OF PARCEL SIX;

THENCE, ALONG SAID NORTHWESTERN LINE, NORTH 41°34'59" EAST 10.00 FEET TO SAID POINT OF BEGINNING.

CONTAINING 896 SQUARE FEET OF LAND, MORE OR LESS.

ATTACHED HERETO IS A PLAT TO ACCOMPANY LEGAL DESCRIPTION, AND BY THIS REFERENCE MADE A PART HEREOF.

END OF DESCRIPTION



Christopher S. Harmison
CHRISTOPHER S. HARMISON, P.L.S.
L.S. NO. 7176
DATE SIGNED: 12-17-2013

Exhibit C (continued)

