

EASEMENT DEDICATION AGREEMENT

THIS EASEMENT DEDICATION AGREEMENT (hereinafter referred to as the "Agreement") is entered into by and between the FAIR OAKS SEWER MAINTENANCE DISTRICT, a special district (hereinafter the "DISTRICT") governed by the COUNTY OF SAN MATEO Board of Supervisors (hereinafter the "Governing Board"), and James E. Kittock and Leslie E. Walker, husband and wife, as community property with the right of survivorship (hereinafter referred to as the "OWNER") with reference to the following:

WHEREAS, OWNER is the owner of Assessor's Parcel Number 060-123-490, also known as 784 San Benito Avenue, Menlo Park, in unincorporated San Mateo County, California (hereinafter the "Property"); and

WHEREAS, DISTRICT is the owner of existing sanitary sewer facilities located immediately adjacent to or encumbering the Property that are operated and maintained for the benefit of the DISTRICT to construct and maintain District's sanitary sewer facilities through the Property; and

WHEREAS, OWNER has requested to dedicate, and DISTRICT desires to accept, a new sanitary sewer easement vested in DISTRICT encumbering the Property, which easement (hereinafter referred to as the "New Sanitary Sewer Easement") is described and shown on Exhibits "A" and "B" attached hereto and incorporated herein by reference; and

WHEREAS, the New Sanitary Sewer Easement is required for DISTRICT use.

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

1. DEDICATION OF PROPERTY INTERESTS: DISTRICT and OWNER have determined that the property interests to be dedicated by OWNER to DISTRICT according to the terms and conditions herein are of mutual benefit to both OWNER and DISTRICT 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, 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 1 attached hereto and incorporated herein by reference.

This Agreement is subject to approval by DISTRICT'S Governing Board, which is an express condition precedent to 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 DISTRICT 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. DISTRICT OBLIGATIONS: Within ten (10) business days following execution of this Agreement by DISTRICT, DISTRICT shall deliver the fully-executed Agreement and the Easement Deed with signed Certificate of Acceptance to the Escrow Holder.

4. ESCROW AND FEES:

(a) Escrow shall be opened with Senior Escrow Officer Susan Goulet at Old Republic Title Company located at 361 Lytton Street, Suite 100, Palo Alto, Ca 94301 ("Escrow Holder"), with escrow instructions to be based upon the terms and conditions set forth herein, and DISTRICT 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) 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 DISTRICT, the DISTRICT's Governing Board authorizes the County of San Mateo 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) or other documents subordinating any loans, liens, and/or deeds of trust encumbering the Property to the DISTRICT's interest in the New Easement.

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

- (i) To provide a current preliminary title report covering the Property; and
- (ii) To record documents at Close of Escrow in an order that ensures subordination of any loans, liens, and/or deeds of trust to DISTRICT'S New Easement; and
- (iii) To issue to DISTRICT a California Land Title Association policy of title insurance for DISTRICT'S interest in the New Easement.

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

- (i) OWNER shall pay Escrow Holder's fees at the close of escrow;
- (ii) OWNER shall pay all recording fees, including the documentary stamp tax, if any, incurred in the recordation of the above documents;
- (iii) OWNER shall pay for a Standard California Land Title Association policy of title insurance covering the New Easements being conveyed to DISTRICT.

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 DISTRICT.

6. GOOD FAITH DISCLOSURE: OWNER has made and shall make good faith disclosure to DISTRICT 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.

7. **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 DISTRICT: County of San Mateo
Real Property Services
Attn: Don Grady
555 County Center, 4th floor
Redwood City, CA 94063
Phone: (650) 363-4047
Email: dgrady@smcgov.org

TO OWNER: James E. Kittock
Leslie E. Walker
784 San Benito Avenue, Menlo Park

8. **TERMINATION:** DISTRICT 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.

9. **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.

10. **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.

11. **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.

12. **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.

13. **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.

14. **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.

15. **CERTIFICATION OF SIGNATORY(IES):** OWNER represents and warrants that it is the sole owner of the Property or sole authorized party to execute this Agreement and that no additional signatures are required to carry out the duties contemplated herein.

16. **AGREEMENT APPROVAL:** This Agreement is subject to the approval of the DISTRICT's Governing Board. Execution of this Agreement by the President, or designee, of the DISTRICT's Governing Board shall evidence said approval by said Governing Board.

17. **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 or them as the parties shall preserve undestroyed, shall together constitute one and the same instrument.

[Balance of page intentionally left blank.]

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

"DISTRICT"

FAIR OAKS SEWER MAINTENANCE DISTRICT, a special district

By: _____


David Canepa, President
Board of Supervisors
Ex-Officio Governing Board

Date: _____

"OWNER"

James E. Kittock and Leslie E. Walker,
husband and wife, as community property with the right of survivorship

By: 
James E. Kittock

By: 
Leslie E. Walker

Date: 5/18/21

**EXHIBIT A
LEGAL DESCRIPTION
SANITARY SEWER EASEMENT**

ALL THAT CERTAIN REAL PROPERTY SITUATE IN THE TOWN OF MENLO PARK, COUNTY OF SAN MATEO, STATE OF CALIFORNIA, BEING A PORTION OF LANDS OF KITTOCK AND WALKER, DESCRIBED IN THAT CERTAIN GRANT DEED 2007-136343, RECORDED SEPTEMBER 13TH, 2017, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE MOST NORTHERLY CORNER OF SAID DEED 2007-136343;

1. THENCE ALONG THE NORTHERLY LINE OF SAID DEED SOUTH 63°48'00" EAST, A DISTANCE OF 129.00 FEET;
2. THENCE ALONG THE EASTERLY LINE OF SAID DEED SOUTH 26°12'00" WEST, A DISTANCE OF 5.00 FEET;
3. THENCE LEAVING SAID EASTERLY LINE NORTH 63°48'00" WEST, A DISTANCE OF 129.00 FEET TO THE WESTERLY LINE OF SAID DEED;
4. THENCE ALONG THE WESTERLY LINE OF SAID DEED NORTH 26°12'00" EAST, A DISTANCE OF 5.00 FEET TO THE **POINT OF BEGINNING.**

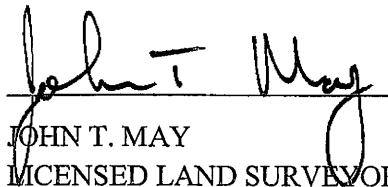
SEE EXHIBIT B TO ACCOMPANY DESCRIPTION, ATTACHED HERETO AND MADE A PART HEREOF.

APN 060-123-490

END OF DESCRIPTION

CONTAINING AN AREA OF 645 SQUARE FEET MORE OR LESS

THIS LEGAL DESCRIPTION AND PLAT TO ACCOMPANY HAVE BEEN PREPARED BY ME, OR UNDER MY DIRECTION:

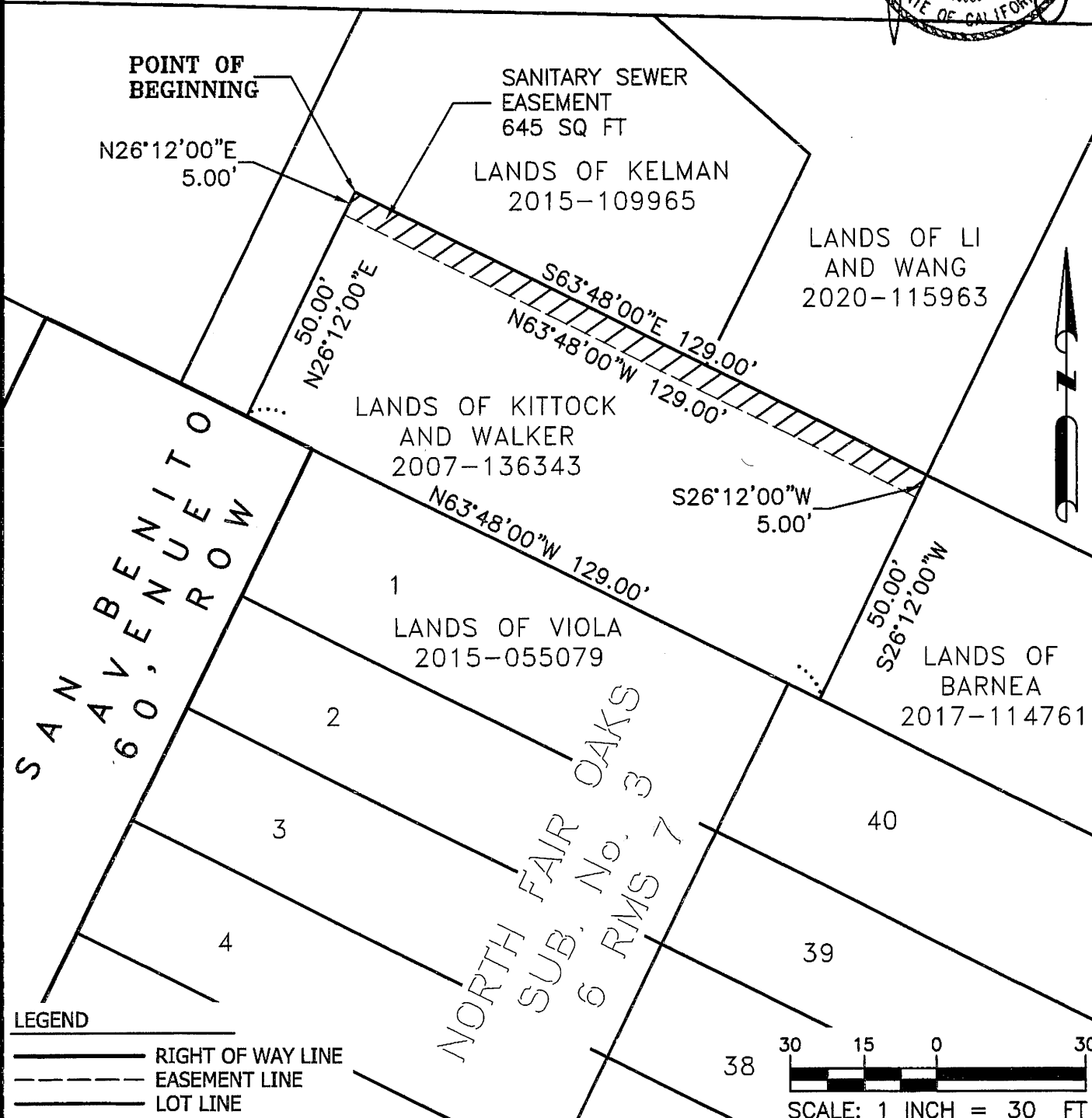
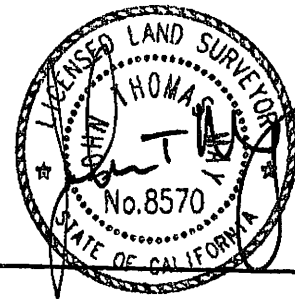

JOHN T. MAY

LICENSED LAND SURVEYOR No. 8570
(EXP. 03/31/23)
STATE OF CALIFORNIA

5/10/2021

DATE

EXHIBIT B



DESIGNED BY: KMK
CHECKED BY: JTM
DRAWN BY: KMK

NEW SEWER EASEMENT
PLAT TO ACCOMPANY LEGAL DESCRIPTION
784 SAN BENITO AVENUE

SCALE: AS SHOWN
DATE: 5/3/2021
FILE NO:

JAMES C. PORTER, DIRECTOR OF PUBLIC WORKS
SAN MATEO COUNTY

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

WHEN RECORDED RETURN TO:

REAL PROPERTY SERVICES DIVISION
COUNTY OF SAN MATEO
555 County Center, 4th Floor
Redwood City, CA 94063

NO FEE DOCUMENT Per Gov. Code 6103
NO Doc. Transfer Tax Per R & T Code 11922

THIS SPACE FOR RECORDER'S USE ONLY

Escrow No. _____
APNs: 060-123-490 (portion)
Property Address: 784 San Benito, Menlo Park, CA 94062

DEED OF EASEMENT AND DEDICATION

THIS DEED OF EASEMENT AND DEDICATION is made this ____ day of _____
2020, BETWEEN

James E. Kittock and Leslie E. Walker, husband and wife, as community property with the right of survivorship, (hereinafter referred to as "Grantor"), AND

FAIR OAKS SEWER MAINTENANCE DISTRICT, a special district (hereinafter referred to as "Grantee").

WHEREAS, Grantor is the owner of that certain property situated in the County of San Mateo currently referred to as Assessor's Parcel Number 060-123-490, and also known as 784 San Benito, Menlo Park, California (hereinafter the "Property"); and

WHEREAS, certain sanitary sewer lines, pipes, manholes and other appurtenances were installed and constructed over, under, upon and through or adjacent to a portion of the Property (the "Sewer Facilities"); and

WHEREAS, Grantor desires to dedicate to Grantee, which desires to accept, a permanent sanitary sewer easement and right of way over, under, upon and across at any time without notification all that real property situated in unincorporated County of San Mateo, State of California, described and shown in EXHIBITS "A" (legal description) and "B" (plat) attached hereto and made a part hereof (the "New Sanitary Sewer Easement Area"), for the purpose of exercising and performing all of the rights and privileges herein granted; and

WHEREAS, Grantor desires to dedicate to Grantee, and Grantee desires to accept, all of Grantor's right, title and interest in and to the Sewer Facilities installed within the New Sanitary Sewer Easement Area.

NOW THEREFORE, intending to be legally bound hereby, and for good consideration, the receipt and sufficiency of which is acknowledged, Grantor and Grantee agree and covenant as follows:

1. The recitals above are hereby incorporated by reference and made a part hereof as if set forth in full.
2. Grantor hereby grants and conveys to Grantee a permanent sanitary sewer easement (the "New Sanitary Sewer Easement") over, under, upon and through the New Sanitary Sewer Easement Area for sanitary sewer purposes inclusive of digging, constructing, reconstructing, repairing, operating, upgrading and forever maintaining thereon a sanitary sewer, of such dimensions as Grantee shall deem necessary, together with all necessary appurtenances appertaining thereto, including a perpetual right of way over, under, upon and across the New Sanitary Sewer Easement Area at any time without notification, for the purpose of exercising and performing all of the rights and privileges herein granted.
3. Grantor additionally grants and conveys to Grantee title to the Sewer Facilities located within the New Sanitary Sewer Easement Area.
4. Any use of the New Sanitary Sewer Easement Area by Grantor or assignees or successors in interest, except for use as: (i) lawn or similar groundcover or (ii) driveways or surface parking, shall not be allowed except upon approval by, and at the discretion of, Grantee. Any allowable uses shall not be installed in a manner that will impede vehicular access in the New Sanitary Sewer Easement Area by Grantee for maintenance purposes. Other than said allowable uses, each use proposed by Grantor must be acceptable to Grantee's authorized administrator or the Director of the County of San Mateo's Department of Public Works (collectively referred to hereinafter as "Grantee's Representative"), and approved in writing, prior to such construction on or use of the New Sanitary Sewer Easement Area. For such approval, the Grantor shall contact the Grantee, or successor. Any use within the New Sanitary Sewer Easement Area not approved by Grantee's Representative shall not in any way limit Grantee's rights granted herein. Even if Grantee's Representative has approved the use, Grantee retains the right to remove all or any part of the approved use to allow Grantee to use the New Sanitary Sewer Easement at any time pursuant to Grantee's rights granted herein. Grantee shall not be liable for any cost for the removal or replacement of improvements constructed by Grantor within the New Sanitary Sewer Easement Area.
5. Grantor and Grantee, as those words are used herein, shall include the parties hereto and their respective successors and assigns.

[Balance of page intentionally left blank.]

IN WITNESS WHEREOF, Grantor has executed this Deed of Easement and Dedication on the day and year first written above.

Grantors:

James E. Kittock and Leslie E.
Walker, husband and wife, as
community property with the right
of survivorship

By: _____
James E. Kittock

By: _____
Leslie E. Walker

Date: _____

Grantee:

"DISTRICT"
FAIR OAKS SEWER MAINTENANCE DISTRICT,
a special district

By: _____
David Canepa, President
Board of Supervisors
Ex-Officio Governing Board

Date: _____

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SANITARY SEWER EASEMENT**

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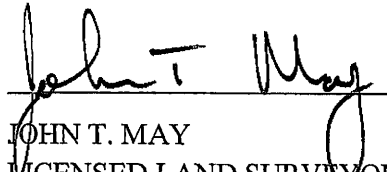
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APN 060-123-490

END OF DESCRIPTION

CONTAINING AN AREA OF 645 SQUARE FEET MORE OR LESS

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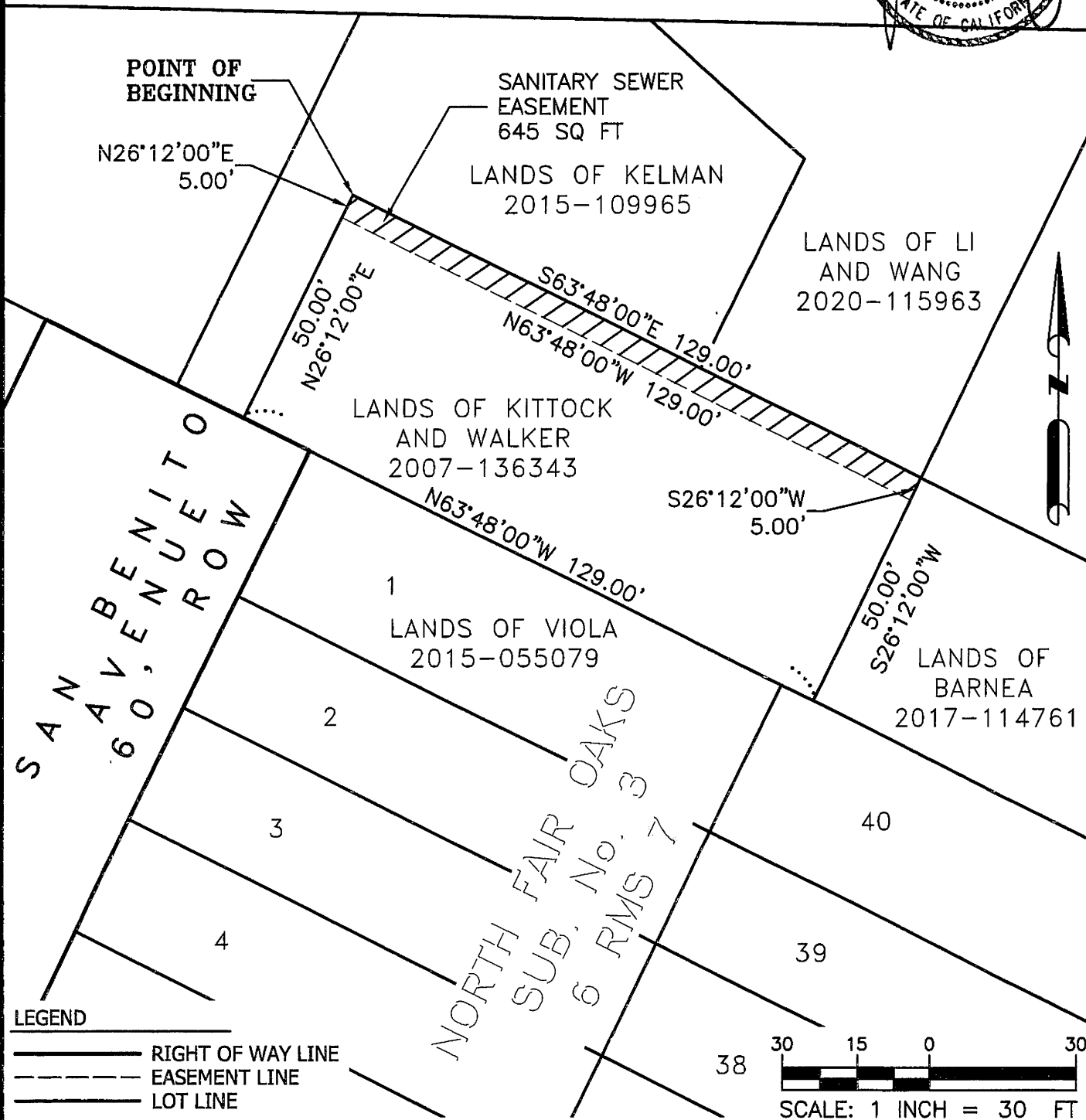
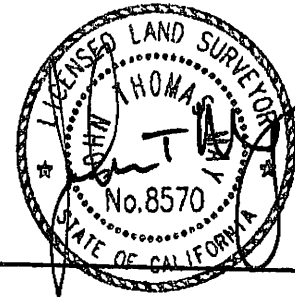


JOHN T. MAY
LICENSED LAND SURVEYOR No. 8570
(EXP. 03/31/23)
STATE OF CALIFORNIA

5/10/2021

DATE

EXHIBIT B



DESIGNED BY: KMK

CHECKED BY: JTM

DRAWN BY: KMK

NEW SEWER EASEMENT
PLAT TO ACCOMPANY LEGAL DESCRIPTION
784 SAN BENITO AVENUE

SCALE: AS SHOWN

DATE: 5/3/2021

FILE NO:

JAMES C. PORTER, DIRECTOR OF PUBLIC WORKS
SAN MATEO COUNTY

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

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California

County of _____

On _____, before me, _____
(insert name and title of the officer)

personally appeared _____,
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
paragraph is true and correct. WITNESS my hand and official seal.

Signature _____(Seal)

CERTIFICATE OF ACCEPTANCE

STATE OF CALIFORNIA, COUNTY OF SAN MATEO: SS.

THIS IS TO CERTIFY that the interest in real property conveyed by the DEED OF EASEMENT AND DEDICATION dated _____, 2021, from James E. Kittock and Leslie E. Walker, husband and wife, as community property with the right of survivorship, as Grantor, to FAIR OAKS SEWER MAINTENANCE DISTRICT, a special district, as Grantee, is hereby accepted by order of the Board of Supervisors of San Mateo County, acting as the Governing Board of the Fair Oaks Sewer Maintenance District on _____, 2021 pursuant to authority conferred by resolution adopted on _____ 2021, and the FAIR OAKS SEWER MAINTENANCE DISTRICT consents to recordation thereof by its duly authorized officer.

WITNESS my hand and official seal

this _____ day of _____, 2021

FAIR OAKS SEWER MAINTENANCE DISTRICT

By: _____
Michael P. Callagy, County Manager/
Clerk of the Board of Supervisors