

RESOLUTION NO. 18-8641

A RESOLUTION OF THE CITY OF SANTA CLARA, CALIFORNIA DETERMINING THAT THE PUBLIC INTEREST AND NECESSITY REQUIRE THE ACQUISITION OF CERTAIN REAL PROPERTY INTERESTS AT 5131 STARS & STRIPES DRIVE, SANTA CLARA, CALIFORNIA FROM D.E.II RESTAURANTS FOR A PUBLIC PROJECT AND DIRECTING THE FILING OF EMINENT DOMAIN PROCEEDINGS

BE IT RESOLVED BY THE CITY OF SANTA CLARA AS FOLLOWS:

WHEREAS, it is desirable and necessary for the City of Santa Clara, a chartered city and municipal corporation (hereinafter the “City”) to acquire certain real property interests necessary for the relocation of Stars & Stripes Drive and development of Avenues A, B and C (the “Project”), as depicted in Exhibit A;

WHEREAS, the relocation of Stars & Stripes Drive will require the demolition of a City owned building, parking lot and appurtenances currently leased pursuant to that certain Lease Agreement for the Santa Clara Banquet and Meeting Facility between the City of Santa Clara and D.E. Restaurants, Inc., dated July 1994 as amended by that certain First Amendment dated July 1, 2010 (the “Lease”) encumbering the property as described in Exhibit B;

WHEREAS, to accommodate the relocation of Stars & Stripes Drive the City must acquire the estate created by the Lease;

WHEREAS, the City is vested with the power of eminent domain to acquire real property by virtue of Article I, Section 19 of the Constitution of the State of California, Sections 37350.5, 37353 and 40404 of the California Government Code, and Sections 1240.010 and 1240.220 of the California Code of Civil Procedure;

WHEREAS, pursuant to the provisions of Section 1245.235 of the California Code of Civil Procedure, notice has been duly given to D.E. II Restaurants, Inc., whose property interests under the Lease are to be acquired by eminent domain and whose name and address appears on the Santa Clara County Equalized Assessment Roll, and the property owner has been given a reasonable opportunity to appear and be heard before the City Council;

WHEREAS, on June 28, 2016, by Resolution No. 16-8337, the City Council certified the Final Environmental Impact Report (EIR) for the CityPlace Santa Clara project (SCH#2014072078) in accordance with CEQA. The EIR analyzed the environmental and transportation impacts of the CityPlace Santa Clara project and determined the need to construct a series of both new improvements and enhancements to existing public right-of-way to mitigate the anticipated impacts of traffic and circulation of the Project. No further environmental review is necessary pursuant to CEQA; and,

WHEREAS, pursuant to the provisions of Section 7267.2 of the California Government Code, the City has made an offer to the owner(s) of record to acquire its interests under the Lease for the amount which it has established to be just compensation therefore.

NOW THEREFORE, BE IT FURTHER RESOLVED BY THE CITY OF SANTA CLARA AS FOLLOWS:

1. That the public interest and necessity require the Project.
2. That the Project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury.
3. That the property sought to be acquired is necessary for the Project.
4. That all environmental review required by law has been prepared and adopted.

5. That the offer required by Section 7267.2 of the California Government Code has been made to the owner(s) of record of the Subject Property Interests.
6. That the City Attorney or his duly authorized designee is hereby authorized and directed to institute and conduct to conclusion an action in eminent domain for the acquisition of the estates and interests aforesaid and to take such actions as he may deem advisable or necessary in connection therewith.
7. That the City may deposit with the State Treasury the probable amount of compensation and obtain an order for prejudgment possession of the Subject Property Interests.
8. Effective date. This resolution shall become effective immediately.

I HEREBY CERTIFY THE FOREGOING TO BE A TRUE COPY OF A RESOLUTION PASSED AND ADOPTED BY THE CITY OF SANTA CLARA, CALIFORNIA, AT A REGULAR MEETING THEREOF HELD ON THE 11th DAY OF DECEMBER, 2018, BY THE FOLLOWING VOTE:

AYES:	COUNCILORS:	Chahal, Davis, O'Neill, and Watanabe, and Mayor Gillmor
NOES:	COUNCILORS:	Hardy
ABSENT:	COUNCILORS:	Mahan
ABSTAINED:	COUNCILORS:	None

ATTEST: _____



NORA PIMENTEL, MMC
ASSISTANT CITY CLERK
CITY OF SANTA CLARA

Exhibits incorporated by reference:

1. Stars & Stripes
2. Legal Description of Property

EXHIBIT "B"
Legal Description

LEASE DESCRIPTION
BANQUET FACILITY

Real property in the City of Santa Clara, County of Santa Clara, State of California, and is described as follows:

Being a portion of that certain Deed of Gift, recorded February 25, 1972 in Book 9720 at Page 60, Official Records of Santa Clara County, more particularly described as follows:

BEGINNING at the most northwesterly corner of Stars and Stripes Drive, formerly known as Talluto Way, as shown on that certain Record of Survey filed for record on January 7, 1987 in Book 570 of Maps at Page 5, Records of Santa Clara County; thence along the Northerly sideline thereof

North 63°57'01" East, 400.55 feet; thence leaving said Northerly sideline

North 26°02'59" West, 42.34 feet to the Southwest corner of the building currently known as David's Banquet Facility and the **TRUE POINT OF BEGINNING** of this description; thence along the exterior of said building the following courses

North 26°02'59" West, 11.20 feet; thence

North 63°57'01" East, 5.50 feet; thence

North 26°02'59" West, 21.50 feet; thence

South 63°57'01" West, 5.50 feet; thence

North 26°02'59" West, 5.70 feet; thence

South 63°57'01" West, 2.00 feet; thence

North 26°02'59" West, 28.80 feet; thence

North 63°57'01" East, 10.50 feet; thence

North 26°02'59" West, 6.00 feet; thence

North 63°57'01" East, 21.00 feet; thence

North 26°02'59" West, 9.50 feet; thence

North 63°57'01" East, 26.50 feet; thence

North 26°02'59" West, 3.00 feet; thence

North 63°57'01" East, 35.30 feet; thence
South 26°02'59" East, 3.00 feet; thence
North 63°57'01" East, 21.00 feet; thence
South 26°02'59" East, 9.50 feet; thence
North 63°57'01" East, 16.00 feet; thence
South 26°02'59" East, 29.00 feet; thence
North 63°57'01" East, 6.00 feet; thence
South 26°02'59" East, 38.70 feet; thence
South 63°57'01" West, 43.00 feet; thence
North 26°02'59" West, 4.50 feet; thence
South 63°57'01" West, 17.00 feet; thence
South 26°02'59" East, 10.00 feet; thence
South 63°57'01" West, 74.30 feet to the **TRUE POINT OF BEGINNING.**

Containing an area of 10,031 square feet, more or less.

Bearings and distances used in the above description are on the California Coordinate System of 1983, Zone 3, Epoch 2010. Multiply distances shown by 1.00005310 to obtain ground level distances.

As shown on EXHIBIT "B" attached hereto and made a part hereof.

This legal description was prepared by me or under my direct supervision in conformance with the requirements of the Professional Land Surveyors Act.

BKF Engineers

David Darling

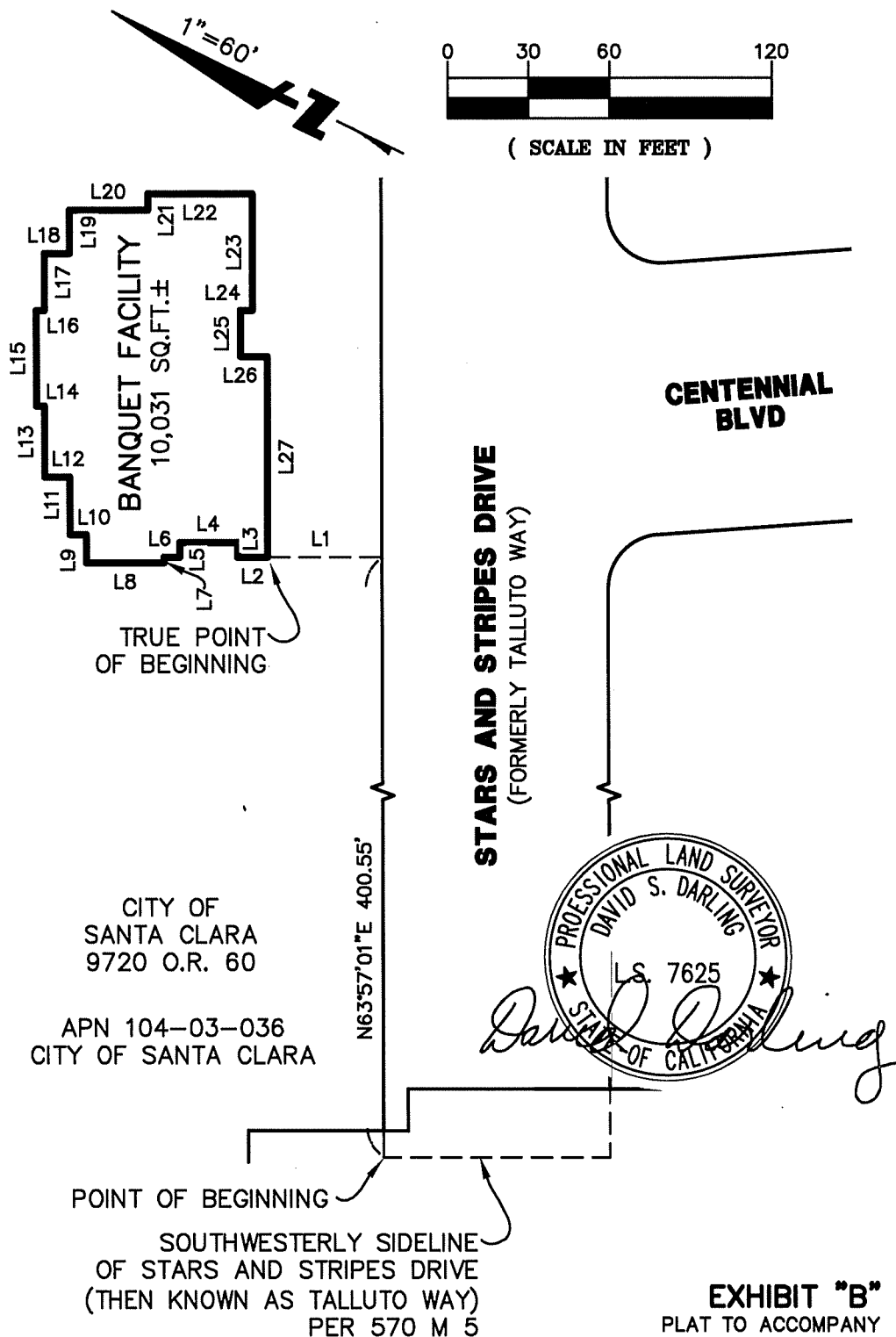
David S. Darling
P.L.S. No. 7625

12/18/2017

Date



LINE TABLE		
NO.	BEARING	LENGTH
L1	N26°02'59"W	42.34'
L2	N26°02'59"W	11.20'
L3	N63°57'01"E	5.50'
L4	N26°02'59"W	21.50'
L5	S63°57'01"W	5.50'
L6	N26°02'59"W	5.70'
L7	S63°57'01"W	2.00'
L8	N26°02'59"W	28.80'
L9	N63°57'01"E	10.50'
L10	N26°02'59"W	6.00'
L11	N63°57'01"E	21.00'
L12	N26°02'59"W	9.50'
L13	N63°57'01"E	26.50'
L14	N26°02'59"W	3.00'
L15	N63°57'01"E	35.30'
L16	S26°02'59"E	3.00'
L17	N63°57'01"E	21.00'
L18	S26°02'59"E	9.50'
L19	N63°57'01"E	16.00'
L20	S26°02'59"E	29.00'
L21	N63°57'01"E	6.00'
L22	S26°02'59"E	38.70'
L23	S63°57'01"W	43.00'
L24	N26°02'59"W	4.50'
L25	S63°57'01"W	17.00'
L26	S26°02'59"E	10.00'
L27	S63°57'01"W	74.30'



K: \2015\156041_CITY PLACE OFF-SITE IMPROVEMENTS\SUR\DWG\PLAT\LEASE\CSC_BANQUET.DWG



1730 N. FIRST STREET
SUITE 600
SAN JOSE, CA 95112
408-467-9100
408-467-9199 (FAX)

Subject LEASE DESCRIPTION
BANQUET FACILITY
Job No. 20156041 SANTA CLARA, CA
By MDB Date 12-18-17 Chkd. DSD
SHEET 1 OF 1