

ORDINANCE 2018-08-30-0663

**AUTHORIZING THE GRANTING OF A BUILDING OVERHANG
ENCROACHMENT EASEMENT TO CBMB OFFICE PROPERTIES,
L.L.C. TOTALING A COMBINED 0.027 OF AN ACRE OVER A CITY
RIGHT-OF-WAY LOCATED AT THE INTERSECTION OF BROADWAY
AND EIGHTH STREET IN COUNCIL DISTRICT 1.**

* * * * *

WHEREAS, CBMB Office Properties, L.L.C. is developing a new six (6) story commercial office building which will provide for approximately 141,000 rentable square feet including retail and restaurant components with one level of subsurface parking (the "Development"); and

WHEREAS, City Council has previously authorized through Ordinance 2018-06-21-0480 action to close, vacate, and abandoned two improved alleys (0.138 acres) located within the same block bordered by Broadway, Brooklyn, Avenue B and 8th Street in an effort to support the Development; and

WHEREAS, CBMB Office Properties, L.L.C. has designed a building with a roof that will overhang a combined 1,142 square feet or 0.027 acre into the city right-of-way at Eighth Street and Broadway, consisting of a 0.023 acre or 987 square feet more or less beyond the height of 17.5 feet above the finished asphalt elevation located on Eighth street and Broadway street, the land more particularly described on **Exhibit B** and a 0.004 acre or 155 square feet more or less beyond the height of 17.5 feet above the finished asphalt elevation located on Broadway street, the land being more particularly described on **Exhibit C**; and

WHEREAS, the City of San Antonio Historic Design and Review Committee has approved the design of the building; and

WHEREAS, the granting of a 75-year building overhang encroachment easement will allow the developer to cantilever a portion of the roof over the westernmost intersection of Eighth and Broadway streets; and

WHEREAS, the City shall receive compensation for the building overhang encroachment easement in the amount of \$9,615.64 based on the appraised value of land of \$33.68 per square foot multiplied by 25% due to the minimal impact of the overhang easement on the right of way; and

WHEREAS, the City of San Antonio shall reserve the right to reclaim the building overhang encroachment easement if CBMB Office Properties, L.L.C. ceases to use this easement for 12 consecutive months or if the building is demolished prior to the 75 year period; **NOW THEREFORE:**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO:

SECTION 1. The City Manager and her designee, severally, are authorized to grant an overhang encroachment easement substantially in the form of **Exhibit A** to CBMB Office Properties, L.L.C. consisting of approximately 1,142 square feet over the westernmost intersection of Eighth and Broadway streets, as described and depicted in the attached **Exhibit B** and **Exhibit C**, in order to support the Development. The form of any easement must be approved by the City Attorney's Office prior to execution. The City Manager and her designee, severally, are further authorized and directed to execute and deliver all other documents and instruments necessary or convenient to effectuate the transactions contemplated by this ordinance and otherwise to do all things necessary or convenient to effectuate the transaction. The form of any documents or instruments necessary or convenient to effectuate the transaction must be approved by the City Attorney's Office prior to execution.

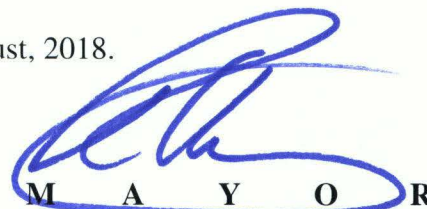
SECTION 2. Funds generated by this Ordinance will be deposited into Fund 11001000, Internal Order 223000000254 and General Ledger 4202410.

SECTION 3. The disposition of surplus property must be coordinated through the City's Finance Department to assure the removal of these assets into the City's financial records and to record the proper accounting transactions.

SECTION 4. The financial allocations in this Ordinance are subject to approval by the Director of Finance, City of San Antonio. The Director of Finance may, subject to concurrence by the City Manager or the City Manager's designee, correct allocations to specific Cost Centers, WBS Elements, Internal Orders, General Ledger Accounts, and Fund Numbers as necessary to carry out the purpose of this Ordinance.

SECTION 5. This Ordinance becomes effective 10 days after passage, unless it receives the eight votes requisite to immediate effectiveness under City Code of San Antonio § 1-15, in which case it becomes effective immediately.

PASSED AND APPROVED this 30th day of August, 2018.




M A Y O R
Ron Nirenberg

ATTEST:



Leticia M. Vacek, City Clerk

APPROVED AS TO FORM:



Andrew Segovia, City Attorney

Agenda Item:	12 (in consent vote: 4, 5, 6, 7, 8, 9, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 28, 29, 30)						
Date:	08/30/2018						
Time:	09:43:58 AM						
Vote Type:	Motion to Approve						
Description:	Ordinance granting an easement to allow a building overhang over the sidewalk along Broadway and at the southwesterly intersection of Broadway and Eighth Streets Public Rights of Way to facilitate the Cavender Office Building project in Council District 1. [Lori Houston, Assistant City Manager; John Jacks, Director, Center City Development and Operations]						
Result:	Passed						
Voter	Group	Not Present	Yea	Nay	Abstain	Motion	Second
Ron Nirenberg	Mayor		x				
Roberto C. Treviño	District 1		x			x	
William Cruz Shaw	District 2		x				x
Rebecca Viagran	District 3		x				
Rey Saldaña	District 4		x				
Shirley Gonzales	District 5		x				
Greg Brockhouse	District 6		x				
Ana E. Sandoval	District 7		x				
Manny Pelaez	District 8		x				
John Courage	District 9		x				
Clayton H. Perry	District 10		x				

VVS
08/30/18
Item No. 12

EXHIBIT A

Notice of Confidentiality Rights: If You Are a Natural Person, You May Remove or Strike Any or All the Following Information from Any Instrument That Transfers an Interest in Real Property Before it Is Filed for Record in the Public Records: Your Social Security Number or Your Driver's License Number.

State of Texas §
 § **Know All By These Presents:**
County of Bexar §

Building Overhang Encroachment Easement

Authorizing Ordinance: [XXXXXX]

SP No.: Parcel [XXXXXX]

Grantor: City of San Antonio

Grantor's Address: P.O. Box 839966, San Antonio, Texas 78283-3966

Grantee: CBMB Office Properties, L.L.C.

Grantee's Address: 315 E. Commerce Street, Suite 300, San Antonio, Texas
78205

Purpose of Easement: Constructing, maintaining, and repairing a building overhang; removing from the servient estate obstructions that may interfere with the exercise of the rights granted hereunder; together with the right of ingress and egress over the servient estate for the purpose of exercising all other rights hereby granted.

Description of Servient Estate: A combined 0.027 acre, or 1,142 square feet more or less adjacent to Block 2, New City Block 447 of the San Antonio, Bexar County, Texas, consisting of a 0.023 acre or 987 square feet more or less easement tract beyond the height of 17.5 feet above the finished asphalt elevation located on Eighth street and Broadway street, the land more particularly described on **Exhibit A** and a 0.004 acre or 155 square feet more or less easement tract beyond the height of 17.5 feet above the finished asphalt elevation located on Broadway street, the land being more particularly described on **Exhibit B**, which is incorporated herein by reference for all purposes as if it were fully set forth.

Term: 75 years or when the building is demolished, whichever occurs first.

Purchase Price: Cash and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged.

Grantor grants, dedicates, and conveys to Grantee, for and in consideration of the Purchase Price, an easement over and across the Servient Estate for a term of 75 years or when the building is demolished, whichever shall occur first. The easement may be used only for the Purpose of Easement stated above. Grantor covenants and for itself, its heirs, executors, successors, and assigns, that no other building or obstruction of any kind will be placed on the servient estate herein granted.

To Have and To Hold the above described easement and rights unto Grantee, its successors and assigns, until its use is abandoned.

It is anticipated that Grantee will complete construction of the building (with the permitted overhangs) by March 1, 2020. At any time after that date Grantee, or those claiming through Grantee, cease to use this easement for 12 consecutive months, Grantor has the right to terminate this easement by means of a written instrument recorded in the appropriate records of Bexar County, Texas. The instrument need be signed only by Grantor and assert that the easement was not used for 12 consecutive months.

Witness my hand, this _____ day of _____, 2018.

City of San Antonio,
a Texas municipal corporation

(Signature)

(Printed Name)

(Representative Capacity)

Attest:

City Clerk

Approved As To Form:

City Attorney

State of Texas §

County of Bexar §

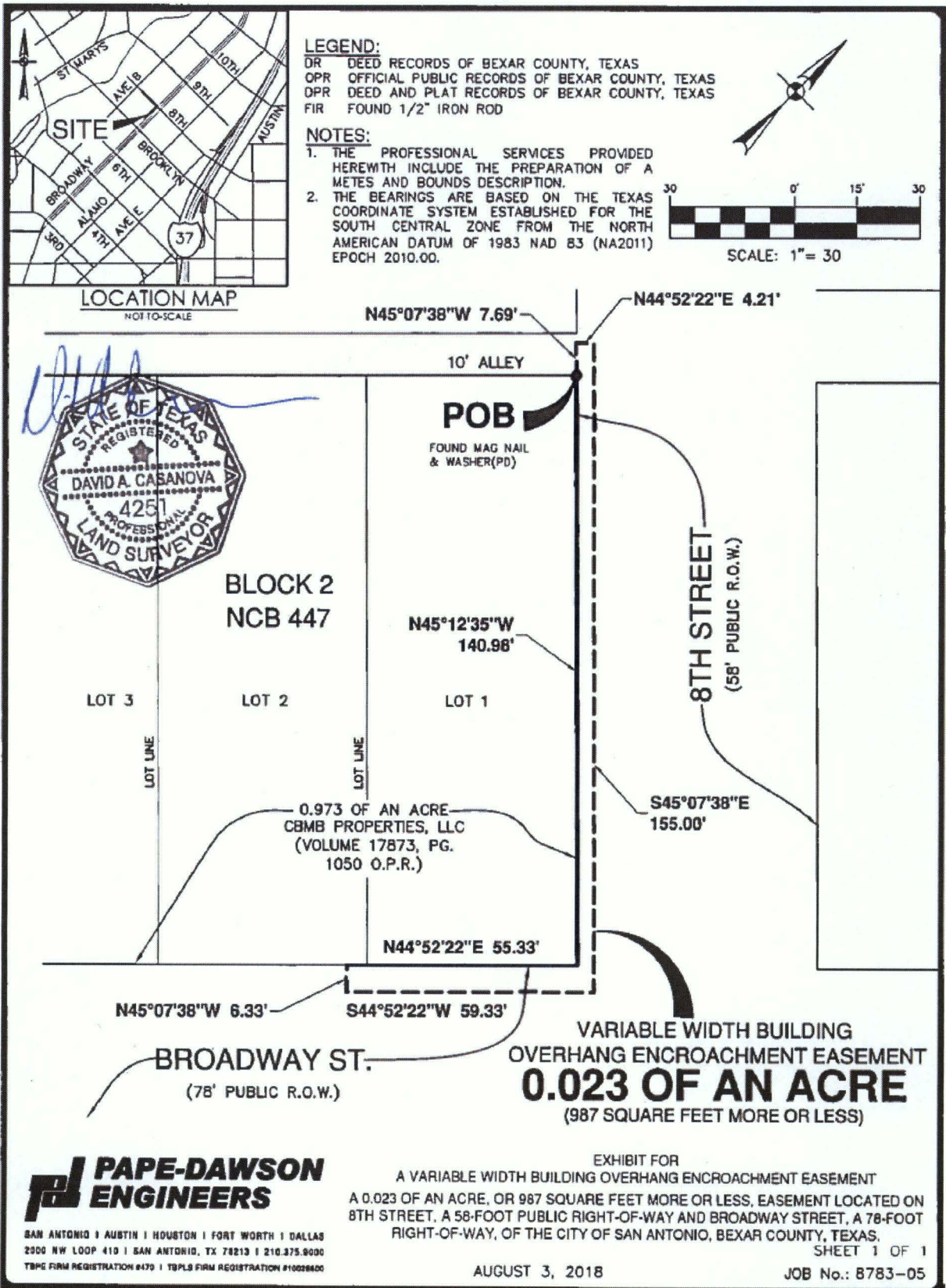
This instrument was acknowledged before me this date by _____,
of the City of San Antonio, a Texas municipal corporation, in the capacity therein
stated and on behalf of that entity.

Date: _____

Notary Public, State of Texas

My Commission expires: _____

EXHIBIT A





METES AND BOUNDS DESCRIPTION
FOR

A VARIABLE WIDTH BUILDING OVERHANG ENCROACHMENT EASEMENT

A 0.023 of an acre, or 987 square feet more or less, easement located on 8th Street, a 58-foot public right-of-way and on Broadway Street, a 78-foot right-of-way, adjacent to Block 2, New City Block 447 of the City of San Antonio, Bexar County, Texas. Said 0.023 of an acre tract being more fully described as follows, with bearings based on the Texas Coordinate System established for the South Central Zone from the North American Datum of 1983 NAD 83 (NA2011) epoch 2010.00;

BEGINNING: At a found mag nail and washer stamped Pape-Dawson at the north corner of Lot 1, Block 2, New City Block 447 and the north corner of a 0.973 of an acre tract conveyed to CBMB Properties, LLC recorded in Volume 17873, Page 1050 of the Official Public Records of Bexar County, Texas, and on the southwest right-of-way line of said 8th Street;

THENCE: N 45°07'38" W, with the southwest right-of-way line of said 8th Street, a distance of 7.69 feet to a point;

THENCE: Departing the southeast right-of-way line of said 8th Street, over and across said 8th Street and said Broadway Street, the following bearings and distances:

N 44°52'22" E, a distance of 4.21 feet to a point;

S 45°07'38" E, a distance of 155.00 feet to a point;

S 44°52'22" W, a distance of 59.33 feet to a point;

N 45°07'38" W, a distance of 6.33 feet to a point, on the northwest right-of-way line of said Broadway Street, on the south line of said 0.973 of an acre tract;

THENCE: N 44°52'22" E, with the northwest right-of-way line of said Broadway Street and the southeast line of said Lot 1 and said 0.973 of an acre tract, a distance of 55.33 feet to a point, the east corner of said 0.973 of an acre tract;

THENCE: N 45°12'35" W, with the southwest right-of-way line of said 8th Street, a distance of 140.98 feet to the POINT OF BEGINNING, and containing 0.023 of an acre in the City of San Antonio, Bexar County, Texas. Said easement tract being described in accordance with an exhibit prepared under job number 8783-05 by Pape-Dawson Engineers, Inc.

PREPARED BY: Pape-Dawson Engineers, Inc.
DATE: August 2, 2018
JOB NO. 8783-05
DOC. ID. N:\CIVIL\8783-05\WORD\8783-05 ESOE-0.023 AC.docx

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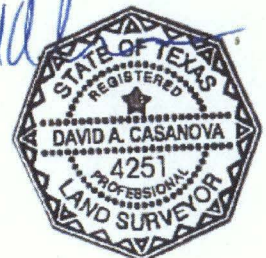
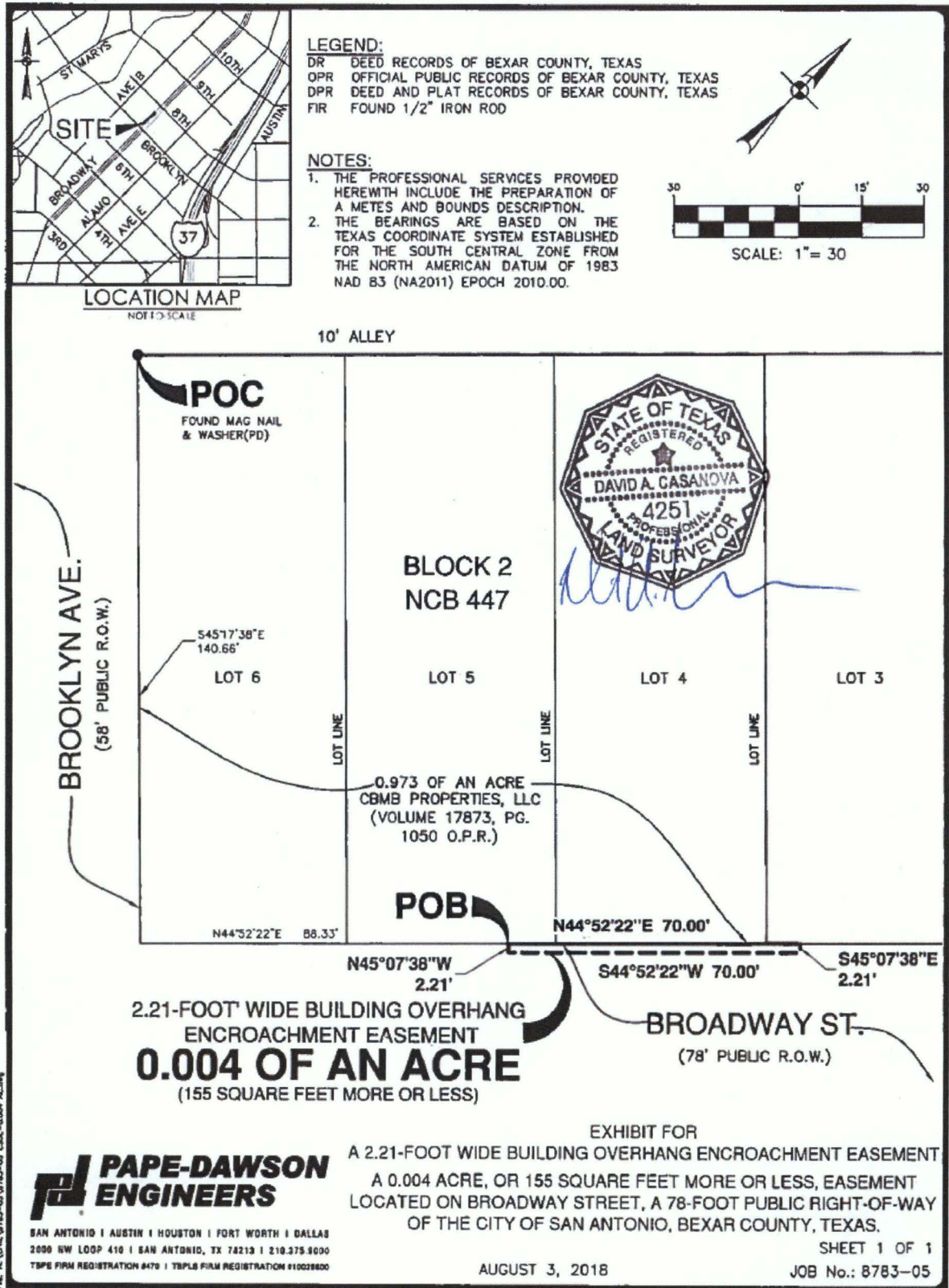


EXHIBIT B





METES AND BOUNDS DESCRIPTION
FOR

A 2.21-FOOT WIDE BUILDING OVERHANG ENCROACHMENT EASEMENT

A 0.004 of an acre, or 155 square feet more or less, easement located on Broadway Street, a 78-foot public right-of-way, and adjacent to Block 2, New City Block 447 of the City of San Antonio, Bexar County, Texas. Said 0.004 of an acre tract being more fully described as follows, with bearings based on the Texas Coordinate System established for the South Central Zone from the North American Datum of 1983 NAD 83 (NA2011) epoch 2010.00;

COMMENCING: At a found mag nail and washer stamped Pape-Dawson at the west corner of Lot 6, Block 2, New City Block 447, also being the west corner of a 0.973 of an acre tract conveyed to CBMB Properties, LLC recorded in Volume 17873, Page 1050 of the Official Public Records of Bexar County, Texas, and on the northeast right-of-way line of Brooklyn Avenue, a 58-foot public right-of-way;

THENCE: S 45°17'38" E, along and with the southwest line of said Lot 6 and said 0.973 of an acre tract, and the northeast right-of-way line of Brooklyn Avenue, a distance of 140.66 feet to the south corner of said Lot 6 and said 0.973 of an acre tract, on the northwest right-of-way line of Broadway Street, a 78-foot public right-of-way;

THENCE: N 44°52'22" E, with the northwest right-of-way line of said Broadway Street, the southeast line of said 0.973 of an acre tract, a distance of 88.33 feet to the POINT OF BEGINNING of the herein described easement;

THENCE: N 44°52'22" E, continuing with the northwest right-of-way line of said Broadway Street and said southeast lines of said 0.973 of an acre tract, a distance of 70.00 feet to a point;

THENCE: Departing the southeast line of said 0.973 of an acre tract, the northwest right-of-way line of said Broadway Street, over and across said Broadway Street, the following bearings and distances:

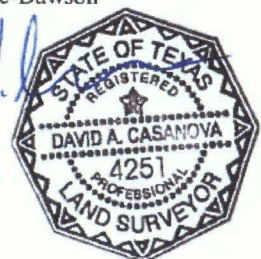
S 45°07'38" E, a distance of 2.21 feet to a point;

S 44°52'22" W, a distance of 70.00 feet to a point;

N 45°07'38" W, a distance of 2.21 feet to the POINT OF BEGINNING, and containing 0.004 of an acre in the City of San Antonio, Bexar County, Texas. Said easement tract being described in accordance with an exhibit prepared under job number 8783-05 by Pape-Dawson Engineers, Inc.

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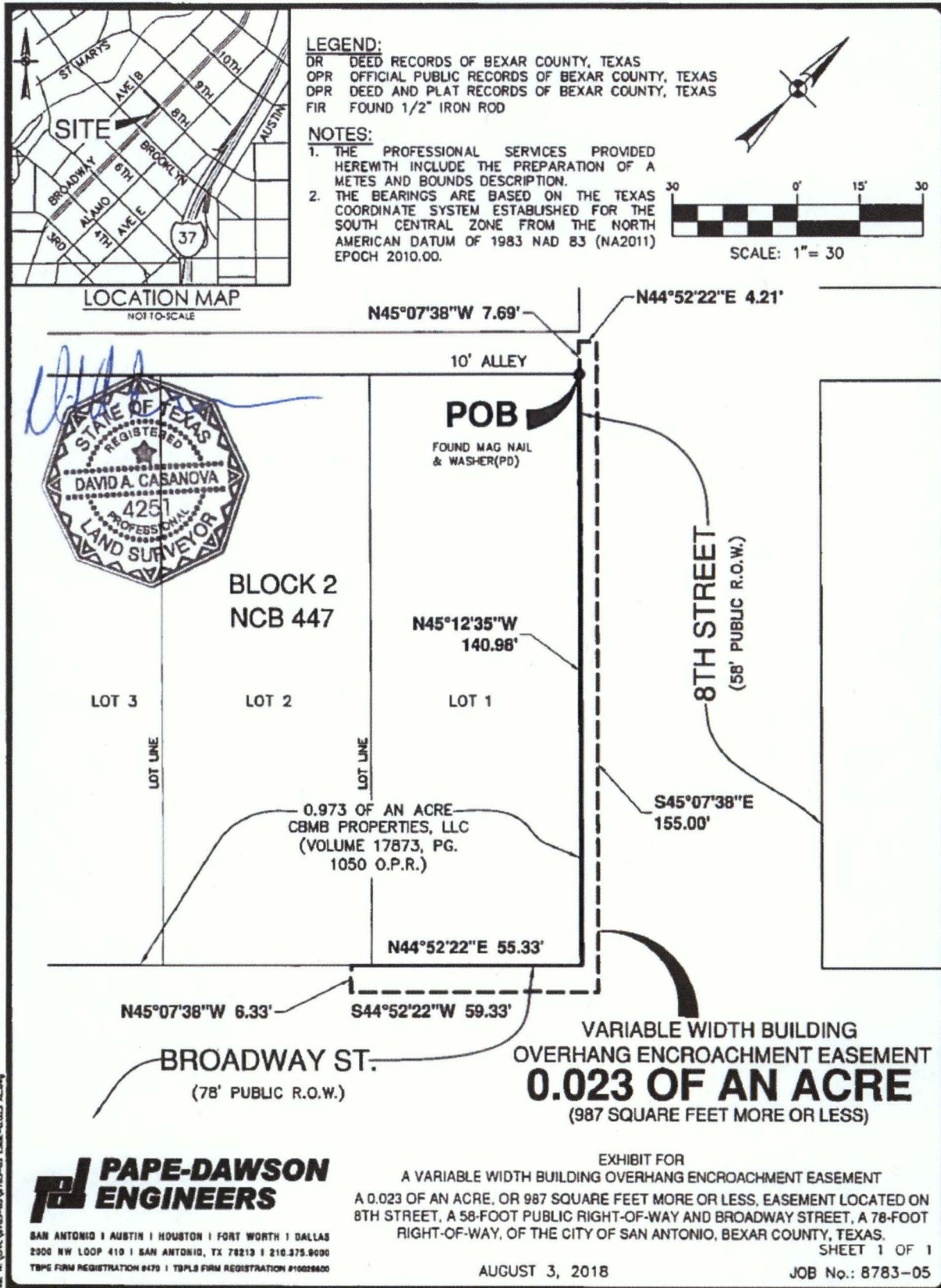
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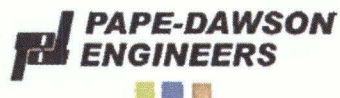


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Item No. 12

EXHIBIT B

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METES AND BOUNDS DESCRIPTION
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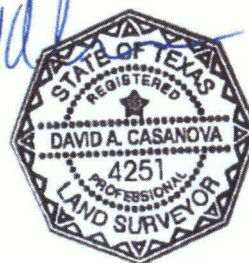
N 45°07'38" W, a distance of 6.33 feet to a point, on the northwest right-of-way line of said Broadway Street, on the south line of said 0.973 of an acre tract;

THENCE: N 44°52'22" E, with the northwest right-of-way line of said Broadway Street and the southeast line of said Lot 1 and said 0.973 of an acre tract, a distance of 55.33 feet to a point, the east corner of said 0.973 of an acre tract;

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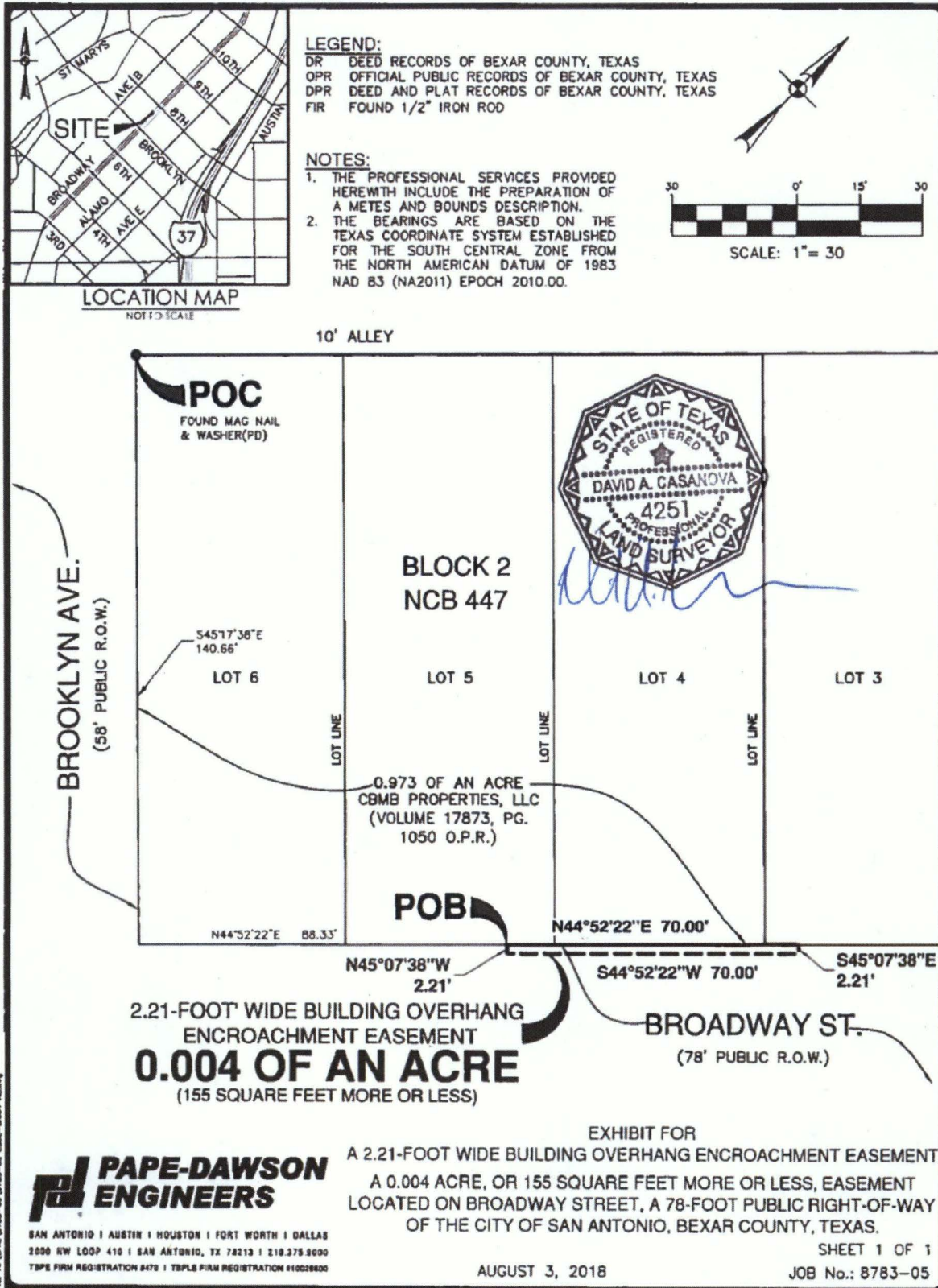
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EXHIBIT C

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THENCE: S 45°17'38" E, along and with the southwest line of said Lot 6 and said 0.973 of an acre tract, and the northeast right-of-way line of Brooklyn Avenue, a distance of 140.66 feet to the south corner of said Lot 6 and said 0.973 of an acre tract, on the northwest right-of-way line of Broadway Street, a 78-foot public right-of-way;

THENCE: N 44°52'22" E, with the northwest right-of-way line of said Broadway Street, the southeast line of said 0.973 of an acre tract, a distance of 88.33 feet to the POINT OF BEGINNING of the herein described easement;

THENCE: N 44°52'22" E, continuing with the northwest right-of-way line of said Broadway Street and said southeast lines of said 0.973 of an acre tract, a distance of 70.00 feet to a point;

THENCE: Departing the southeast line of said 0.973 of an acre tract, the northwest right-of-way line of said Broadway Street, over and across said Broadway Street, the following bearings and distances:

S 45°07'38" E, a distance of 2.21 feet to a point;

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