

OFFICIAL BUSINESS OF PORT OF OAKLAND & CITY OF SAN LEANDRO
NO FEE MAY BE CHARGED FOR RECORDATION PER GOVERNMENT CODE §27383
NO DOCUMENTARY TRANSFER TAXES MAY BE CHARGED; GRANTEE IS AN EXEMPT PUBLIC
AGENCY PER REVENUE & TAXATION CODE §11922

**RECORDED ON BEHALF OF AND
WHEN RECORDED
RETURN TO:**

Attention: Port Attorney
Port of Oakland
530 Water Street
4th Floor
Oakland, CA 94607

(Space above this line reserved for Recorder's use only)

GRANT OF EASEMENT FOR FLOOD PROTECTION PURPOSES

This Grant of Easement is made as of _____, 2019, by the City of San Leandro, a California municipal corporation ("Grantor"), to the City of Oakland, a California municipal corporation, acting by and through its Board of Port Commissioners ("Grantee" or "Port"), in and to the real property in the State of California, County of Alameda, City of San Leandro, described in Exhibit A and depicted in Exhibit B attached hereto ("Property"), for flood protection purposes.

WITNESSETH:

WHEREAS, the Grantor is the owner in fee of that certain real property located in the City of San Leandro where a perimeter dike will be constructed by Grantee providing flood protection to areas of the City of San Leandro and Oakland International Airport, which property is referred to hereinafter as the Property; and

WHEREAS, the Grantee desires to access, improve, and maintain the Property for the benefit of the health, safety, and welfare of the residents of the City of San Leandro and the occupants, traveling public, and facilities of the Oakland International Airport; and

WHEREAS, under the Charter of the City of Oakland, the Port is vested with the complete and exclusive power, and it is the Port's duty for and on behalf of the City of Oakland with respect to its Port Area, to make provisions for the needs of commerce, shipping, and navigation, to promote and develop this area and, in the exercise of such power and fulfillment of such duty, to acquire any necessary easements upon such terms and conditions as the Board of Port Commissioners shall prescribe; and

WHEREAS, the Port has determined that commerce, shipping, and navigation and the development of the Port Area will be promoted and enhanced by acquiring this Grant of Easement over the Property from the Grantor for flood protection purposes.

NOW, THEREFORE, in consideration of these premises, the mutual covenants set forth below, and other good and valuable consideration, the receipt of which is hereby acknowledged, Grantor and Grantee agree as follows:

Section 1. Grant of Easement

Grantor hereby grants to Grantee a continuous and perpetual easement upon, over, under, across and through the Property for use as a dike for the purpose of constructing, reconstructing, improving, repairing, and maintaining such dike to hold back the waters of San Francisco Bay and provide flood protection, including incidental roadway purposes.

Section 2. Term

Unless duly terminated earlier, the term of this Grant of Easement shall be continuous and perpetual commencing on the date this Grant of Easement is signed as approved as to form and legality by the Port Attorney.

Section 3. Maintenance of the Dike

The Property, and any dike constructed thereon, shall be maintained in good and sanitary order and condition, and shall be operated, repaired and, as necessary, replaced at Grantee's sole cost. Grantee shall, at Grantee's sole cost, perform all activities on or about the Property in a good and workmanlike manner, and shall comply with all laws, rules, regulations, codes, orders and ordinances that apply to such activities. Grantee shall keep the Property free from any and all liens arising out of activities performed by Grantee. During the maintenance, repair, or replacement of any improvements on the Property, or any part thereof, Grantee shall maintain, or shall cause all contractors entering onto the Property to maintain, workers' compensation insurance in the statutorily prescribed amount and commercial general liability insurance coverage of at least \$1,000,000, naming Grantor as additional insureds. Excepting emergency repairs, Grantee shall provide at least 48 hours advance notice to Grantor for maintenance access to the easement area. Grantee shall conduct maintenance activities in a manner that does not interfere with or obstruct Grantor's routine operations. In the event that emergency repairs are necessary, Grantee shall provide notice to the Grantor of such repairs as soon as possible. Notice regarding repairs shall be provided to:

City of San Leandro
Water Pollution Control Plant Manager
3000 Davis Street
San Leandro, CA 94577
(510) 577-3434 (business hours)
(510) 577-2740 (Police dispatch – use for after-hours emergencies only)

Section 4. Termination

All or any part of this Grant of Easement may be terminated upon failure by the Grantee to comply with any of its terms and conditions, or upon abandonment of the rights granted herein. Further, all or any part of this Grant of Easement may be terminated upon failure by Grantee to comply with any of the terms and conditions set forth in that certain grant of easement by Grantee for roadway purposes, dated _____, 2019, granting to Grantor rights and responsibilities to construct and maintain a portion of Eden Road in the Port Area of the City of Oakland, or upon failure of Grantor to enter into such grant of easement.

Section 5. Hold Harmless

Grantee shall indemnify, defend, reimburse and hold harmless Grantor, and each of its employees, officers, agents, contractors, heirs, successors, and assigns, from and against any and all

claims, demands, legal or administrative proceedings, losses, penalties, fines, liens, liabilities, judgments, damages, and costs of any kind ("Claims") arising out of or relating to the Property, excluding any Claims to the extent they result from Grantor's intentional wrongful acts or gross negligence.

Section 6. Additional Terms & Conditions

A. Entire Easement. This Grant of Easement contains and integrates the entire agreement of the parties with respect to the subject matter hereof, and supersedes all negotiations and previous agreements, if any, between the parties with respect hereto. This Grant may be modified or amended, in whole or in part, only by a written instrument executed by both the Grantee and Grantor.

B. Severability. If any term, covenant, or condition of this Grant of Easement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining terms, covenants, and conditions shall continue in full force and effect.

C. Notices. All notices and demands shall be given in writing either by personal delivery, recognized overnight delivery service or certified mail, postage prepaid and return receipt requested. Notices shall be considered received by the addressee upon actual delivery to the required address or, in the case of certified mail, 48 hours after deposit with the U.S. Postal Service, postage prepaid. Unless either party receives notice of a change of address in the manner provided in this paragraph, notices shall be addressed as follows:

Notices to Grantee shall be addressed to:

Attention: Manager - Airport Properties
Oakland International Airport
1 Airport Drive, Box 45
Oakland, CA 94621

with a copy to:

Attention: Port Attorney
Port of Oakland
530 Water Street
4th Floor
Oakland, CA 94607

Notices to Grantor shall be addressed to:

City Manager
City of San Leandro
835 E. 14th Street
San Leandro, CA 94577

with a copy to:

City Attorney
City of San Leandro
835 E. 14th Street
San Leandro, CA 94577

D. Attorneys' Fees. In the event any legal proceeding is initiated by one party hereto against the other in connection with this Grant of Easement, the prevailing party in such proceeding shall be entitled to recover its costs and expenses (including without limitation reasonable attorneys' fees) paid or incurred in good faith. The "prevailing party," for purposes of this Grant of Easement, shall be deemed to be that party which obtains substantially the relief sought, whether by court order or by award or judgment.

E. Mutually Drafted Agreement. Each of the parties to this Grant of Easement has been fully and competently represented by counsel of its own choosing in the negotiation and drafting of this Grant of Easement. Accordingly, the parties agree that any rule of construction of contracts resolving any ambiguities against the drafting party shall be inapplicable to this Grant of Easement. Further, each of the parties acknowledges that it has read this entire document, including the attached exhibits, and fully understands its terms and effect.

F. Further Assurances. The parties to this Grant of Easement shall execute, acknowledge, and deliver such additional documents or instruments as may be necessary to carry out the intent of this Grant of Easement, including, but not limited to, those expressly referred to in this Grant of Easement.

G. Recordation. The Grantee shall record this document in the Official Records of Alameda County.

H. Binding. This Grant and all of the covenants contained herein shall run with the land and inure to the benefit of and be binding on Grantor and Grantee and their respective successors and assigns forever.

I. Exhibits. The following attached exhibits are incorporated herein and made a part hereof by this reference:

EXHIBIT A
EXHIBIT B

Legal Description of the Property
Legal Depiction of the Property

[SIGNATURES ON NEXT PAGE]

IN WITNESS WHEREOF, the parties hereto have executed this Grant of Easement as of the date this Grant of Easement is signed as approved as to form and legality by the Port Attorney.

GRANTOR:

CITY OF SAN LEANDRO,
a California municipal corporation

Dated: _____

By: _____
Jeff Kay, City Manager

Approved as to form:

Richard Pio Roda, City Attorney

GRANTEE:

CITY OF OAKLAND,
a California municipal corporation, acting by and
through its Board of Port Commissioners

Dated: _____

By: _____
Executive Director

(Print Name of Signer)

**THIS GRANT OF EASEMENT SHALL
NOT BE VALID OR EFFECTIVE FOR
ANY PURPOSE UNLESS AND UNTIL IT IS
SIGNED BY THE PORT ATTORNEY.**

Approved as to form and legality this ____ day
of _____, 2019.

Port Attorney

Port Ordinance No. _____

P.A. # _____

2910197.2

EXHIBIT A

LEGAL DESCRIPTION PERIMETER LEVEE EASEMENT

ALL THAT REAL PROPERTY SITUATE IN THE CITY OF SAN LEANDRO, COUNTY OF ALAMEDA, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

BEING A PORTION OF PARCELS 1 AND 2 AS SHOWN ON THAT CERTAIN PARCEL MAP NO. 10036, FILED APRIL 5, 2012, IN BOOK 320 OF PARCEL MAPS, PAGES 17-19, OFFICIAL RECORDS IN THE OFFICE OF THE RECORDER OF ALAMEDA COUNTY, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A CITY OF SAN LEANDRO CITY MONUMENT BRASS DISK LOCATED ON DAVIS STREET, FROM WHICH A CITY OF SAN LEANDRO CITY MONUMENT BRASS DISK LOCATED ON DAVIS STREET BEARS, NORTH 70°58'59" EAST 66.00 FEET (NORTH 69°35'17" EAST PER SAID PARCEL MAP); THENCE FROM SAID MONUMENT, **NORTH 62°56'56" WEST 1,151.43 FEET** TO AN ANGLE POINT IN THE NORTHERLY BOUNDARY LINE OF SAID PARCEL ONE, BEING THE CITY LIMIT LINE BETWEEN THE CITY OF SAN LEANDRO AND THE CITY OF OAKLAND, SAID POINT BEING THE NORTHERLY TERMINUS OF LINE AS SHOWN ON SAID PARCEL MAP AS, NORTH 54°55'21" EAST 1,943.60 FEET; THENCE ALONG SAID NORTHERLY BOUNDARY LINE, **SOUTH 56°19'03" WEST 704.62 FEET** TO THE **POINT OF BEGINNING** OF THIS DESCRIPTION; THENCE LEAVING SAID NORTHERLY BOUNDARY LINE, AT A RIGHT ANGLE, **SOUTH 33°40'57" EAST 50.00 FEET**; THENCE SOUTHWESTERLY PARALLEL TO AND 50.00 FEET SOUTHEASTERLY OF SAID NORTHERLY BOUNDARY LINE, **SOUTH 56°19'03" WEST 634.13 FEET**; THENCE **SOUTH 17°06'53" EAST 75.28 FEET** TO A POINT, FROM WHICH THE ABOVE DESCRIBED POINT OF COMMENCEMENT LIES, **NORTH 80°57'45" EAST 2,115.85 FEET**; THENCE **SOUTH 74°01'00" WEST 401.81 FEET** TO SAID NORTHERLY BOUNDARY LINE; THENCE ALONG SAID NORTHERLY LINE, **NORTH 56°19'03" EAST 1,038.39 FEET** TO THE **POINT OF BEGINNING** FOR THIS DESCRIPTION.

CONTAINING AN AREA OF **56,935 SQUARE FEET (1.3070 ACRES)**, MORE OR LESS.

BEARINGS AND DISTANCES IN THE ABOVE DESCRIPTION ARE BASED ON THE CALIFORNIA COORDINATE SYSTEM OF 1983, ZONE III, EPOCH 2007.0. MULTIPLY DISTANCE BY 1.0000703 TO OBTAIN GROUND DISTANCE.

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

END OF DESCRIPTION

6/12/2018

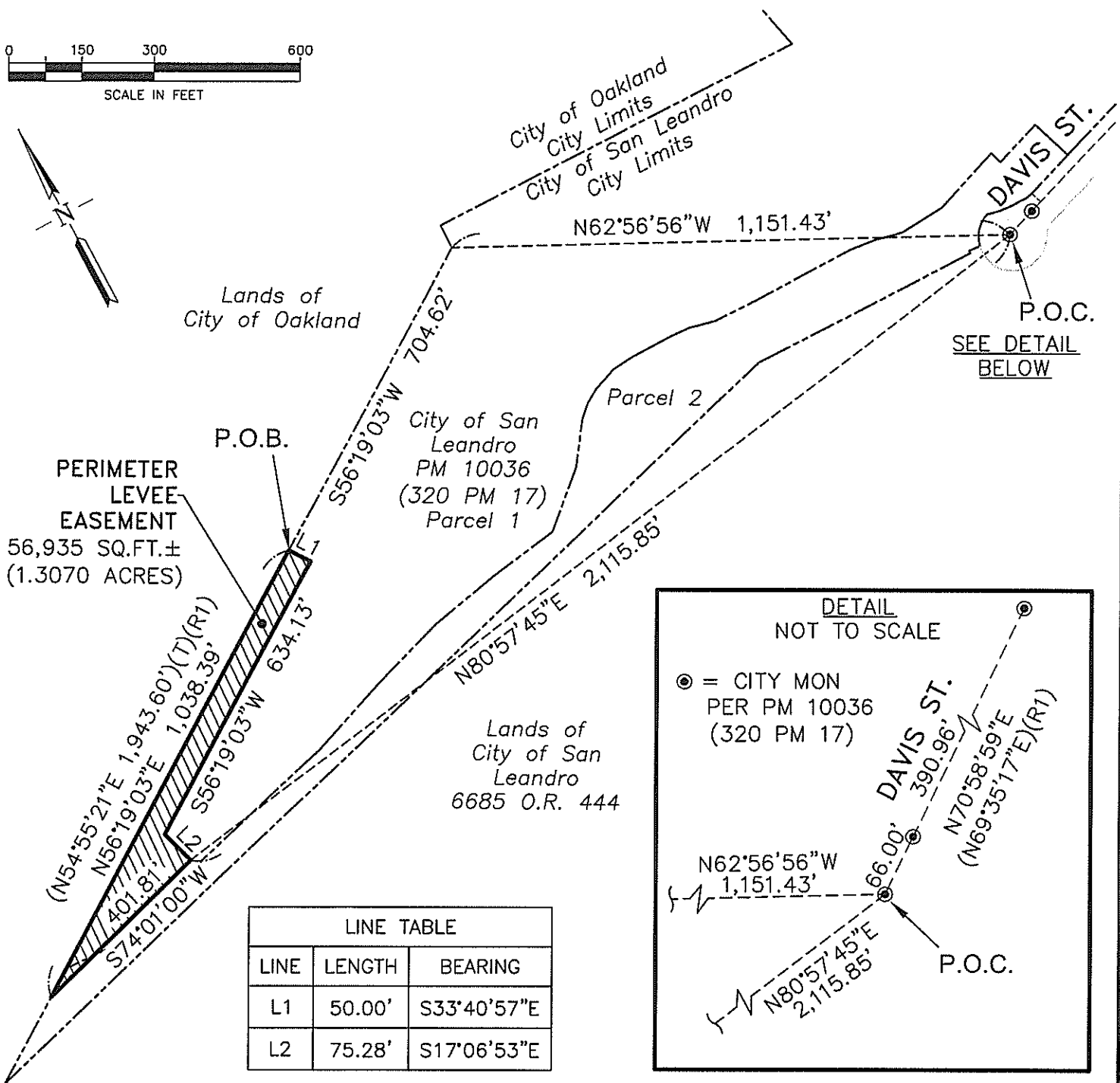
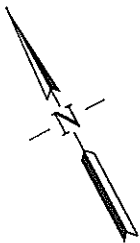
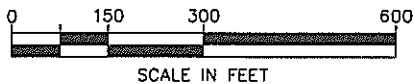
THIS DESCRIPTION WAS PREPARED BY ME OR UNDER MY DIRECTION IN
CONFORMANCE WITH THE PROFESSIONAL LAND SURVEYORS' ACT OF 2018.



FRANK A. BORGES, PLS #7922
LICENSE EXPIRES: 12/31/2019

Date: 8/10/2018





LEGEND

P.O.C. POINT OF COMMENCEMENT
P.O.B. POINT OF BEGINNING

CITY OF SAN LEANDRO
COUNTY OF ALAMEDA
STATE OF CALIFORNIA

REFERENCES:

(R1) PM 10036, (320 PM 17)

NOTE:

BEARINGS AND DISTANCES SHOWN HEREON ARE
BASED ON THE CALIFORNIA COORDINATE SYSTEM OF
1983, ZONE III, EPOCH 2007.0. MULTIPLY DISTANCE
BY 1.0000703 TO OBTAIN GROUND DISTANCE.

PORT OF OAKLAND

LAND SURVEYS AND MAPPING



530 Water Street
Oakland, California
(510) 627-1100

EXHIBIT A

PLAT TO ACCOMPANY LEGAL DESCRIPTION
PERIMETER LEVEE EASEMENT

FILENAME: 11085-060_TSO#203_Levee Esmt.dwg

DRAWN BY: RAB

CHECKED BY: FAB

WO#: TSO #203

DATE: 06/12/2018

SCALE: 1" = 300'

PAGE 3 OF 3