

**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: City Clerk
City of San Leandro
835 E. 14th Street
San Leandro, CA 94577

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

TEMPORARY GRANT OF EASEMENT FOR ROADWAY CONSTRUCTION

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

WITNESSETH:

WHEREAS, the Grantor is the owner in fee of that certain real property located in the City of Oakland adjacent to where a public road will be improved by construction of Eden Road, which property is referred to herein as the Property; and

WHEREAS, the Grantee desires to temporarily utilize the Property during construction of Eden Road, with the understanding that the temporary use would extinguish automatically upon completion and acceptance of the Eden Road improvements, conditioned upon Grantor’s satisfaction with the restoration of the Property to pre-construction condition; and

WHEREAS, under the Charter of the City of Oakland, the Port is vested with the complete and exclusive power with respect to its Port Area, and the Property is located within the Port Area; and

WHEREAS, the City has determined that it may be necessary for the City to use, occupy, or temporarily alter the Property in order to facilitate the improvement and construction of Eden Road.

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 temporary construction easement upon, over, under, across and through the Property for the purpose of constructing Eden Road, including storing equipment and making temporary physical changes to the Property as necessary to facilitate the construction of Eden Road, as well as incidental uses and purposes.

Section 2. Term

Unless duly terminated earlier, the term of this Grant (the “Term”) shall commence upon the date (the “Commencement Date”) specified by the Grantee in written notice delivered to the Grantor not less than ten (10) days in advance of the Commencement Date, and shall extinguish automatically on the later of either the date that the City of San Leandro accepts the Eden Road construction as complete, as evidenced by recordation of a Notice of Completion at the Alameda County Recorder’s Office, or the settlement of any Stop Notices or further legal action related to the Eden Road construction. Grantee shall provide Grantor with written notice upon termination of the Grant pursuant to this section.

Section 3. Use and Maintenance of the Property

Grantee may use the Property for such purposes as are necessary to facilitate the construction of Eden Road, including making physical changes to the Property. 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. While performing activities 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.

Prior to the end of the Term, Grantee shall, at its sole cost and expense, repair any damage to the Property, and improvements and landscaping located thereon, caused by the Grantee or its employees, agents, or contractors during the course of using the Property, and shall restore the Property to the condition which it existed prior to the Commencement Date.

Section 4. Termination

All or any part of this Grant 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 may be terminated upon failure by Grantee to comply with any of the terms and conditions set forth in that certain Grant by Grantee for access to the airport perimeter dike, dated _____, 2019, granting to Grantor rights and responsibilities to construct and maintain a dike within the City of San Leandro’s Water Pollution Control Plant property.

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 negligence.

Section 6. Additional Terms & Conditions

A. Entire Easement. This Grant 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, and duly recorded after execution.

B. Severability. If any term, covenant, or condition of this Grant 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 Grantor 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 Grantee 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, 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, 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 has been fully and competently represented by counsel of its own choosing in the negotiation and drafting of this Grant. Accordingly, the parties agree that any rule of construction of contracts resolving any ambiguities against the drafting party shall be inapplicable to this Grant. 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 shall execute, acknowledge, and deliver such additional documents or instruments as may be necessary to carry out the intent of this Grant, including, but not limited to, those expressly referred to in this Grant.

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 upon Grantor and Grantee and their respective successors and assigns until terminated.

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 as of the date this Grant is signed as approved as to form and legality by the City Attorney.

GRANTOR:

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

Dated: _____

By: _____
Executive Director

(Print Name of Signer)

GRANTEE:

CITY OF SAN LEANDRO,
a California municipal corporation

Dated: _____

By: _____
Jeff Kay, City Manager

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

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

Richard Pio Roda, City Attorney

City Resolution No. _____

2910227.2

Exhibit "A"

Legal Description

Temporary Construction Easement From City of Oakland

All that certain real property situate in the "Port Area" of the City of Oakland, County of Alameda, State of California, Being a portion of the Rancho San Leandro, said easement being 5 feet in width, the southeast side of the this easement is described as follows:

Commencing at Station #11 per Record of Survey #575, recorded in Book 10 of Surveys at Pages 88-92, and as shown on the map of Record of Survey #840, recorded in Book 14 of Record of Surveys on page 55, Alameda County Records. Thence, along the centerline of Doolittle Road, North 45°04'00" West, 126.88 feet; thence South 44°56'00" West, 73.00 feet, to the **Point of Beginning**. A point on the Southerly right-of way of Doolittle Road.

Thence through a tangent curve, concave to the North-West, having a radius of 50.00 feet and a central angle of 114°39'17", with a curve length of 100.06 feet; Thence South 69°35'17" West, 1053.80 feet, to a point on the East line of that certain land described in the Grant Deed recorded August 31, 1938 in Book 3650 of Official Records at page 464, Alameda County Records; Thence along said East line of that parcel, North 20°24'43", 5.00 feet; Thence leaving said parcel line, North 69°35'17" West, 1053.80 feet; Thence through a tangent curve, concave to the North-West, having a radius of 45.00 feet and a central angle of 114°39'17", with a curve length of 90.05 feet; Thence North 44°56'00" East, 5.00 feet, to the Point of Beginning and being the end of said temporary construction easement.

Containing: 5,744 Square Feet +/-

A plat of the above described parcel of land is attached hereto and labeled Exhibit "B" and is made a part hereof.

Kier & Wright, Civil Engineers and Land Surveyors, Inc.

Seth H. Irish, LS 5922
License Expires: 12/31/2018

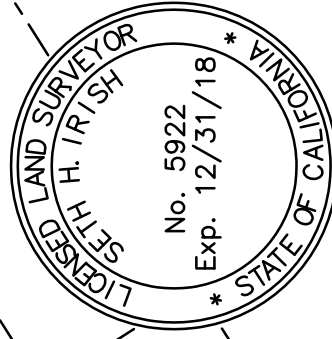
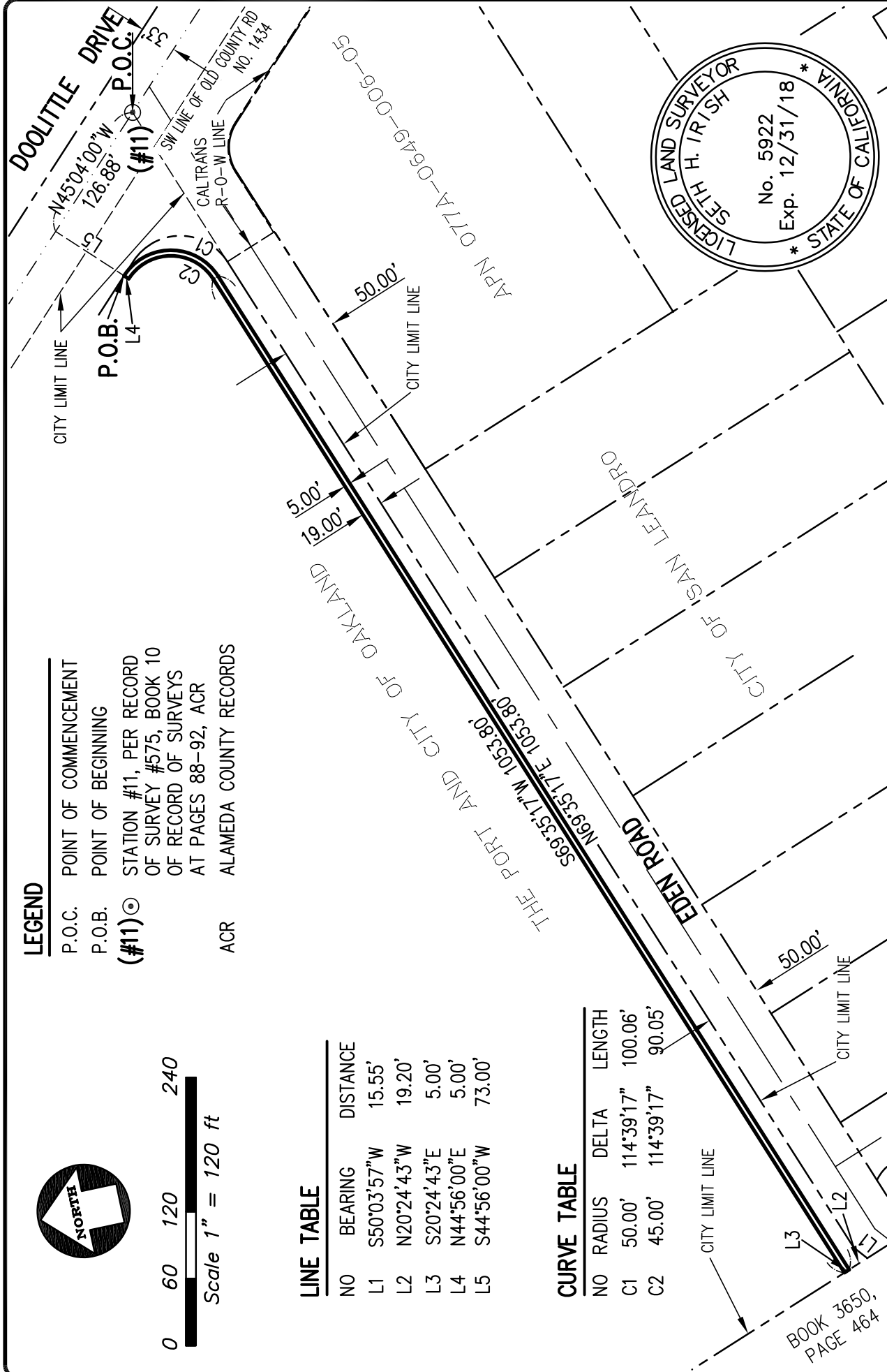
January 12, 2017
Date



P.O.C. POINT OF COMMENCEMENT
P.O.B. POINT OF BEGINNING
(#11)⊙ STATION #11, PER RECORD
OF SURVEY #575, BOOK 10
OF RECORD OF SURVEYS
AT PAGES 88-92, ACR
ACR ALAMEDA COUNTY RECORDS

LINE	TABLE	NO	BEARING	DISTANCE
L1			S50°03'57"W	15.55'
L2			N20°24'43"W	19.20'
L3			S20°24'43"E	5.00'
L4			N44°56'00"E	5.00'
L5			S44°56'00"W	73.00'

NO	RADIUS	DELTA	LENGTH
C1	50.00'	114°39'17"	100.06'
C2	45.00'	114°39'17"	90.05'



KIER & WRIGHT
CIVIL ENGINEERS & SURVEYORS, INC.
2850 Collier Canyon Road Phone (925) 245-8788
Livermore, California 94551 Fax (925) 245-8796

EXHIBIT "B"

**TEMPORARY CONSTRUCTION EASEMENT
CITY OF OAKLAND**

DATE	JANUARY, 2017
BY	SHI
JOB NO.	A08525-4
SCALE	1" = 120'
SHEET	1 OF 1

CERTIFICATE OF ACCEPTANCE

This is to certify that the interest in real property conveyed by the Temporary Grant of Easement for Roadway Construction, dated _____, 2019, from the City of Oakland, a California municipal corporation, acting by and through its Board of Port Commissioners to the City of San Leandro, a California municipal corporation, is hereby accepted on behalf of the City Council of the City of San Leandro, pursuant to authority conferred by Resolution No. 2005-143, adopted by the City Council of the City of San Leandro on October 17, 2005, and the grantee consents to recordation thereof by its duly authorized officer.

Dated: _____

Seal:

LETICIA MIGUEL
City Clerk of the City of San Leandro