

**AGREEMENT FOR CONVEYANCE AND  
ACCEPTANCE OF REAL PROPERTY**

This AGREEMENT FOR CONVEYANCE AND ACCEPTANCE OF REAL PROPERTY (this "**Agreement**"), dated for reference purposes as \_\_\_\_\_, 2017 ("**Reference Date**"), is made by and between the STATE OF CALIFORNIA, acting by and through the Director of the DEPARTMENT OF GENERAL SERVICES, with the approval of the MILITARY DEPARTMENT, (collectively the "**State**"), and the CITY and COUNTY OF SAN FRANCISCO, a municipal corporation ("**City**"), with reference to the following:

**RECITALS**

**A.** In accordance with that certain Deed For Ninety-Nine Years (as defined below), State owns certain property consisting of approximately  $\pm 7.689$  acres, and related improvements, located at 100 Armory Drive, San Francisco, County of San Francisco, State of California, with Assessor's Parcel Number(s) 7281-004, (collectively the "**Armory Property**").

**B.** On or about January 29, 1953, City granted the Armory Property to the State by way of a Deed For Ninety-Nine Years that was recorded in the Official Records of the City and County of San Francisco on August 19, 1953, in Book 6214, at Page 498 (the "**Deed For Ninety-Nine Years**").

**C.** In order for City to complete the development and construction of the Westside Recycled Water Project (the "**Project**"), City desires to purchase and accept the portion of the Armory Property legally described in and depicted on the attached **Exhibit B** (the "**Conveyance Property**"), and State desires to sell and convey to City the Conveyance Property, pursuant to a quitclaim deed in substantially the form attached as **Exhibit A** (the "**Quit Claim**").

**D.** In connection with City's planned development of the Conveyance Property, City also desires that State grant to City, and City desires to purchase and accept a permanent easement for subsurface tiebacks (the "**Tieback Easement**"), along with an easement for surface access and maintenance (the "**Maintenance Easement**"), over the portions of the Armory Property that are respectively legally described in, and depicted on, the attached **Exhibit D** and the attached **Exhibit E**. The parties contemplate that the Maintenance Easement and the Tieback Easement (sometimes collectively referred to in this Agreement as the "**Easement**") will be conveyed to City pursuant to an instrument in substantially the form attached as **Exhibit C**.

**E.** In connection with City's Project and the transactions contemplated herein, State and City have entered into a Right to Enter and Construct (the "**Right to Enter and Construct**") that authorizes City and its representatives to (1) gain access to the Conveyance Property and Easement property (collectively "**Property**") to undertake development and construction activities thereon, and (2) utilize the portion of the Armory Property legally described in, and depicted on the attached **Exhibit F** (the "**Staging Area**") for construction staging activities.

**F.** This Agreement contemplates that the Conveyance Property and the Easement is being sold by the State pursuant to the provisions Government Code section 14664 et seq., which among others, requires a 30-day Joint Legislative Budget Committee notice.

**G.** In connection with City's Project and the conveyances contemplated by this Agreement, City shall be solely responsible for compliance with all of its obligations under the California Environmental Quality Act ("CEQA").

**H.** The State shall not be responsible for providing, arranging, relocating, or constructing any utilities that may be required for City's Project.

**I.** The State shall not be responsible for any costs associated with City's planned utilization of the Conveyance Property or the portions of the Armory Property subject to the Easement, including City's costs necessary to comply with CEQA, due diligence, permits, utility costs, taxes, insurance, professional design and engineering services, and all other development expenses in connection with City's Project and the conveyances contemplated by this Agreement.

NOW THEREFORE, in consideration of the above recitals, all of which are expressly incorporated into this Agreement, and the mutual promises and covenants contained in this Agreement, the parties agree as follows:

### AGREEMENT

1. **Purchase and Sale.** State agrees to sell and convey to City, and City agrees to purchase from State, the Conveyance Property and the Easement on the terms and subject to the conditions set forth in this Agreement. For the purpose of this Agreement, the first date on which the mutual execution and delivery of this Agreement is completed shall be referred to as the "**Effective Date.**"
  
2. **Purchase Price and Administrative Costs.**
  - a. **Purchase Price.** The purchase price ("**Purchase Price**") for the Conveyance Property and the Easement shall be Two Thousand And No/100ths DOLLARS (\$2,000.00).
  
  - b. **Administrative Costs.** As additional consideration to the State, City shall reimburse applicable for State's administrative costs actually incurred in connection with its review of the proposed conveyance transactions contemplated by this Agreement (the "**Administrative Costs**"), in an amount not to exceed Fifteen Thousand Dollars (\$15,000). The Administrative Costs may include costs for time expended by State's employees and agents in project review/analysis, document preparation/coordination, confirmation of market value, and engineering review. City acknowledges that State's Department of General Services' ("**DGS**") assigned Transaction Review Unit's services are billed at a rate of \$130/hour and that other hourly rates may apply if support from other offices within the DGS is necessary. Payment of Administrative Costs will be dependent upon DGS providing an invoice for such costs, together with appropriate supporting documentation such as detailed accountings of the work hours expended and a description of the tasks completed in connection with the review of the proposed conveyance transactions contemplated by this Agreement.

3. **Payment of Purchase Price and Administrative Costs.** Before or concurrent with the execution and delivery by State of the Quit Claim and the Easement, City shall pay to State the Purchase Price and Administrative Costs in immediately available funds.
4. **Inspections and Studies/Costs.** For the period of time commencing on the Effective Date and ending at 5:00 p.m. (PST) on the thirtieth (30th) calendar day thereafter ("**Contingency Period**"), City may conduct any and all non-destructive inspections, investigations, tests, and studies (including, without limitation, investigations with regard to zoning, building codes, and other governmental regulations, architectural inspections, engineering tests, economic feasibility studies and soils, seismic and geologic reports, environmental testing and investigations ("**City Tests**") to determine if all needed entitlements can be procured in an acceptable form to support City's Project) with respect to the Property as City may elect to make or maintain. Nothing in this Agreement shall authorize any subsurface testing or drilling on the Property by City or its environmental consultants unless specifically approved in writing by State, which State may condition or deny at its sole and absolute discretion. The cost of any such inspections, tests, and/or studies shall be paid by City.
5. **Right to Enter; Indemnification.** During the Contingency Period, City and City's employees, agents, contractors, subcontractors, and consultants (collectively, "**City's Representatives**") shall have the right to enter upon the Property from City's adjacent property, at reasonable times during ordinary business hours, upon notice to State at least three (3) business days' prior to entry, to perform City Tests. When performing City Tests, City shall not unreasonably interfere with the operation of the Property or the Armory Property, and shall coordinate City Tests and related activities on the Property with State in advance to avoid any such interference. Following any City Tests, City shall promptly return any portions of the Property damaged or altered by City during any City Tests to substantially the same condition that existed prior to such City Tests. If City fails to promptly restore the Property in accordance with the preceding sentence, at State's sole and absolute discretion, State may restore the Property and all costs and expenses shall be paid promptly by City upon demand by State. If City desires to conduct invasive testing at the Property, City and State shall enter into State's invasive testing entry license to facilitate such testing. City shall indemnify, defend, and hold State, including its officers, agents, and employees, and the Property harmless from any and all claims, damages or liabilities (including liens) to the extent arising out of or resulting from the entry onto or activities upon the Property by City or City's Representatives. Prior to entry onto the Property by City or City's Representatives, City shall furnish State with a copy of City's or City's Representatives, as applicable, policy of commercial general liability insurance issued by a financially responsible insurance company (at least an A- VI rating in the most recent edition of *Best's Insurance Guide*), in form and substance acceptable to State and having limits of no less than \$1,000,000 per occurrence for bodily injury and property damage liability combined with a \$2,000,000 annual policy aggregate and naming State its officers, agents, and employees as additional insured, covering City's entry onto the Property, and City's obligations under this Section.

6. **Condition and Inspection of Property.** Notwithstanding any other provision of this Agreement to the contrary, State makes no representation or warranty whatsoever regarding the Property or its physical condition, past use, suitability for City's intended use, or compliance with applicable laws (including, without limitation, laws governing environmental matters, zoning, and land use). The Property is sold AS-IS, WHERE-IS, WITH ALL FAULTS, AND THERE IS NO WARRANTY, EXPRESS OR IMPLIED, REGARDING THE CONDITION OF THE CONVEYANCE PROPERTY AND EASEMENT PROPERTY. City hereby represents and warrants that City is relying solely upon City's due diligence, and prior to end of the Contingency Period will have conducted its own independent inspection, investigation, and analysis of the Property as it deems necessary or appropriate in so acquiring the Property from State, including, without limitation, any and all matters concerning the condition, use, sale, development, or suitability for development of the Property. State would not sell the Property to City without the foregoing provision and the waiver and release contained in Section 8 (State's Representations and Warranties) hereof.
7. **Property Condition Waiver.** Effective on the date (the "**Recording Date**") on which the recording of the Quitclaim and the Easement in City's Recorder's Office is completed, City waives its right to recover from State, and its directors, officers, employees, and agents (collectively, "**State's Representatives**"), and hereby releases State and State's Representatives from, any and all damages, losses, liabilities, costs, or expenses whatsoever (including attorneys' fees and costs) and claims therefor, whether direct or indirect, known or unknown, foreseen or unforeseen, which may arise on account of or in any way arising out of or connected with (a) the physical condition of the Property, (b) the failure of the Property to comply with any applicable law or regulation, and (c) the environmental condition of the Property. The foregoing waiver and release shall exclude only those losses, liabilities, damages, costs or expenses, and claims therefor, arising from or attributable to (i) a material matter actually known to State (excluding constructive notice) and (A) not disclosed to City and (B) not discovered by City prior to the Recording Date, and (ii) any breach by State of its express representations or warranties under this Agreement. In connection with foregoing waiver and release, City expressly waives the benefits of Section 1542 of the California Civil Code, which provides as follows:

"A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR."

\_\_\_\_\_  
City's Initials

8. **State's Representations and Warranties.** In consideration of City entering into this Agreement, State makes the representations and warranties set forth in this Section. For the purpose of this Agreement, without creating any personal liability on behalf of such

individual, usage of "**to State's actual knowledge**," or words to such effect, shall mean the current actual, not imputed, knowledge of Sam Cooper, Department of General Services, Real Estate Services Division, Asset Management Branch, excluding constructive knowledge or duty of inquiry or investigation, existing as of the Effective Date. State's representations and warranties set forth in this Section shall survive the Recording Date for a period of six (6) months.

- a. **State's Authority.** To State's actual knowledge, as stated above in **Recital A**, State is the sole owner of fee title to the Property. State has the legal power, right, and authority to enter into this Agreement and the instruments referenced herein, and to consummate the transactions contemplated hereby in the execution, delivery, and performance of this Agreement. Furthermore, the execution and delivery of this Agreement has been duly authorized and no other action by State is required in order to make it a valid and binding contractual obligation of State.
- b. **No Prior Transfers.** To State's actual knowledge, State has not previously sold, transferred or conveyed the Property, or granted to any other person or entity any right or interest in all or any part of the Property and State has not entered into any executory contracts for the sale of all or any part of the Property (other than this Agreement), nor do there exist any rights of first refusal or options to purchase the Property, other than this Agreement.
- c. **Legal Actions.** To State's actual knowledge, there is no pending lawsuit, threatened suit, action, arbitration, legal, administrative, or other proceeding, or governmental investigation, which affects the Property.

9. **City's Representations and Warranties.** In consideration of State entering into this Agreement and as an inducement to State to sell the Conveyance Property and the Easement to City, City makes the following representations and warranties, each of which is material and is being relied upon by State (the continued truth and accuracy of which constitutes a condition precedent to State's obligations hereunder). For the purpose of this Agreement, without creating any personal liability on behalf of such individual, usage of "**to City's actual knowledge**," or words to such effect, shall mean the current actual, not imputed, knowledge of Brian Morelli, San Francisco Public Utilities Commission, excluding constructive knowledge or duty of inquiry or investigation, existing as of the Effective Date. City's representations and warranties set forth in this Section shall survive the Recording Date for a period of six (6) months.

- a. **City's Authority.** City has received all approvals required by City's Charter or other applicable law to enter into this Agreement and to consummate the transactions contemplated hereby, and the execution, delivery, and performance of this Agreement and no other action by City is requisite to the valid and binding execution, delivery, and performance of this Agreement.
- b. **Conflicting Documents.** To City's actual knowledge, neither the execution and delivery of this Agreement, the Quitclaim, and the Easement, nor the occurrence of the obligations set forth in this Agreement, nor the consummation of the

transactions contemplated in this Agreement, nor compliance with the terms of this Agreement and the documents and instruments referenced herein conflict with or result in the material breach of any terms, conditions, or provisions of, or constitute a default under, any bond, note, or other evidence of indebtedness or any contract, indenture, mortgage, deed of trust, loan, partnership agreement, lease, or other agreement or instrument to which City is a party.

- c. **No Side Agreements or Representations.** City has entered into this Agreement based upon its rights and intentions to independently inspect the Property. In connection with the negotiation and entry into this Agreement, State has made no representation or warranty regarding the condition of the Property, its past use, or its suitability for City's intended use. City will be relying solely upon its own independent inspection, investigation, and analysis of the Property as it deems necessary or appropriate in so acquiring the Property from State, including, without limitation, any and all matters concerning the condition, use, sale, development, or suitability of the Property.
- d. **No Breaches.** To City's actual knowledge, this Agreement does not constitute a breach of the terms, conditions, restrictions, and reservations of those certain Deeds dated April 24, 1950 and January 29, 1953 and recorded May 24, 1950 at Book 5453, Page 277 and August 19, 1953 at Book 6214, Page 498 of Official Records of the County of San Francisco.

**10. Post-Closing Covenants Regarding Completion of Development and Reversion and Reconveyance.** In consideration of State entering into this Agreement and as an inducement to State to convey the Conveyance Property and Easement to City and City to have the Quitclaim and Easement concurrently recorded into Official Records of the County of San Francisco, within ten (10) days of receipt from State by overnight courier, in accordance with notice provisions herein, City and State hereby acknowledge and agree that the following covenants, conditions and restrictions set forth in this Section shall survive the date of recording with (the "**Post Closing Covenants**") and be binding upon City and State as follows:

- a. **Completion of Development.** City's planned development and construction of the Conveyance Property in connection with the Project shall be completed before the date ("**Completion Date**") that is Forty-eight (48) months following the Recording Date. Completion of City's planned development and construction of the Conveyance Property in connection with the Project shall be deemed satisfied upon City's final acceptance of the Project improvements. Unless the Completion Date is extended by mutual written agreement by City and the State, which extension shall not be unreasonably withheld, State shall have the power to terminate City's fee simple interest or otherwise in the Conveyance Property and reenter and take possession of the Conveyance Property if City fails to complete the Project on or before the Completion Date. In the event the Conveyance Property is to be reconveyed by City to State in accordance with terms of this Section, City agrees to take any and all steps necessary to effectuate the transfer of City's interest in the Conveyance Property back to State as provided in this

Agreement. City acknowledges and agrees that State's reversionary interests in the Conversion Property as set forth in this Section are intended by the parties to be, and shall be construed to be, powers of termination as defined in California Civil Code section 885.020.

- b. Successors and Assigns.** The Post Closing Covenants shall be binding upon City and its successors and assigns and every successor in interest of any portion of, or interest in, the Conveyance Property. The Post Closing Covenants are for the benefit of State personally and the right to enforce the Post Closing Covenants shall be granted only to State.
- c. Survival.** The Post Closing Covenants, which represent continuing obligations and duties of City, shall survive Recording Date and transfer of title to City and shall continue to be binding on the State and City in accordance with their terms.

**11. Notices.** All notices, demands, consents, requests, or other communications required to or permitted to be given pursuant to this Agreement shall be in writing, shall be given only in accordance with the provisions of this Section, shall be addressed to the parties in the manner set forth below, and shall be conclusively deemed to have been properly delivered: **(a)** upon receipt when hand delivered during normal business hours (provided that, notices which are hand delivered shall not be effective unless the sending party obtains a signature of a person at such address that the notice has been received); **(b)** upon receipt when sent electronic mail to the address set forth below (provided that, notices given by email shall not be effective unless the sending party delivers the notice also by one other method permitted under this Section); **(c)** upon the day of delivery if the notice has been deposited in an authorized receptacle of the United States Postal Service as first-class, registered, or certified mail, postage prepaid, with a return receipt requested (provided that, the sender has in its possession the return receipt to prove actual delivery); or **(d)** one (1) business day after the notice has been deposited with either Golden State Overnight, FedEx or United Parcel Service to be delivered by overnight delivery (provided that, the sending party receives a confirmation of actual delivery from the courier). The addresses of the parties to receive notices are as follows:

**TO STATE:**

Sam Cooper – Asset Management Branch  
Real Property Services Section  
Department of General Services, State of California  
707 Third Street, 5<sup>th</sup> Floor MS-501  
West Sacramento, CA 95605  
[Sam.Cooper@DGS.CA.GOV](mailto:Sam.Cooper@DGS.CA.GOV)

**WITH COPIES TO:**

CPT ALLISON HSIEH  
Bldg. 950 Camp Parks RFTA  
DUBLIN, CA 94568

Alex Holtz, Esq. – Office of Legal Services  
Department of General Services – State of California  
707 Third Street, 7<sup>th</sup> Floor  
West Sacramento, CA 95605  
Facsimile: (916) 376-5088

**TO CITY:**

City and County of San Francisco  
25 Van Ness Avenue, Suite 400  
San Francisco, CA 94102  
Attention: Real Estate Division

**WITH COPIES TO:**

Office of the City Attorney  
City Hall, Room 234  
1 Dr. Carlton B. Goodlett Pl.  
San Francisco, CA 94012  
Attention: Richard Handel, Deputy City Attorney

Each party shall make an ordinary, good faith effort to ensure that it will accept or receive notices that are given in accordance with this Section, and that any person to be given notice actually receives such notice. Any notice to a party that is required to be given to multiple addresses shall only be deemed to have been delivered when all of the notices to that party have been delivered pursuant to this Section. If any notice is refused, the notice shall be deemed to have been delivered upon such refusal. Any notice delivered after 5:00 p.m. (recipient's time) or on a non-business day shall be deemed delivered on the next business day. A party may change or supplement the addresses given above, or designate additional addressees, for purposes of this Section by delivering to the other party written notice in the manner set forth above.

**12. Assignment.** City shall not assign its right, title, or interest in this Agreement to any other party without State's prior written consent, which determination may be withheld at State's sole and absolute discretion.

**13. Miscellaneous.**

- a. **Partial Invalidity.** If any term or provision of this Agreement or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each such term and provision of this Agreement shall be valid and be enforced to the fullest extent permitted by law.

- b. **Waivers.** No waiver of any breach of any covenant or provision contained in this Agreement shall be deemed a waiver of any preceding or succeeding breach thereof, or of any other covenant or provision of this Agreement. No extension of time for performance of any obligation or act shall be deemed an extension of the time for performance of any other obligation or act except those of the waiving party, which shall be extended by a period of time equal to the period of the delay.
- c. **Survival.** All of City's and State's warranties, indemnities, representations, covenants, obligations, undertakings and agreements contained in this Agreement shall survive the Recording Date, and the execution and delivery of this Agreement and of any and all documents or instruments delivered in connection herewith; and no warranty, indemnity, covenant, obligation, undertaking or agreement herein shall be deemed to merge with the Quitclaim or the Easement.
- d. **Successors and Assigns.** This Agreement shall be binding upon and shall inure to the benefit of the grantees, transferees, successors, and permitted assigns of the parties to this Agreement.
- e. **Entire Agreement.** This Agreement (including all attached Recitals and Exhibits), is the final expression of, and contains the entire agreement between, the parties with respect to the subject matter hereof and supersedes all prior understandings with respect thereto. This Agreement may not be modified, changed, supplemented, superseded, canceled, or terminated, nor may any obligations hereunder be waived, except by written instrument signed by the party to be charged or by its agent duly authorized in writing or as otherwise expressly permitted herein. The parties do not intend to confer any benefit hereunder on any person, firm, or corporation other than the parties hereto.
- f. **Relationship of Parties.** Nothing contained in this Agreement shall be deemed or construed by the parties to create the relationship of principal and agent, a partnership, joint venture, or any other association between City and State.
- g. **Construction/Exhibits.** Headings at the beginning of each paragraph and subparagraph are solely for the convenience of the parties and are not a part of the Agreement. Whenever required by the context of this Agreement, the singular shall include the plural and the masculine shall include the feminine and vice versa. This Agreement shall not be construed as if it had been prepared by one of the parties, but rather as if both parties had prepared the same. Unless otherwise indicated, all references to paragraphs, Sections, subparagraphs and subsections are to this Agreement. All exhibits referred to in this Agreement are attached and incorporated herein by this reference.
- h. **Governing Law.** The parties hereto acknowledge that this Agreement has been negotiated and entered into in the State of California. The parties hereto expressly agree that this Agreement shall be governed by, interpreted under, and construed and enforced in accordance with the laws of the State of California.

- i. **Days of Week.** A "business day," as used herein, shall mean any day other than a Saturday, Sunday or holiday, as defined in Section 6700 of the California Government Code. If any date for performance herein falls on a day other than a business day, the time for such performance shall be extended to 5:00 p.m. on the next business day.
- j. **Possession of Property.** Immediately following the Recording Date, City shall be entitled to the possession of the Conveyance Property and the portions of the Property subject to the Easement.
- k. **Counterparts and Photocopies.** This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, but all of which, together, shall constitute one and the same instrument. The exchange of copies of this Agreement and of signature pages by electronic mail in "portable document format" ("pdf") form or by any other electronic means shall constitute effective execution and delivery of this document and shall have the same effect as copies executed and delivered with original signatures.
- l. **Nondiscrimination.** In the performance of this Agreement, State shall not discriminate against any employee, subcontractor, applicant for employment with District, or against any person seeking accommodations, advantages, facilities, privileges, services, or membership in all business, social, or other establishments or organizations, on the basis of the fact or perception of a person's race, color, creed, religion, national origin, ancestry, age, height, weight, sex, sexual orientation, gender identity, domestic partner status, marital status, disability or Acquired Immune Deficiency Syndrome or HIV status (AIDS/HIV status), or association with members of such protected classes, or in retaliation for opposition to discrimination against such classes.
- m. **Exhibits.** The following Exhibits are attached to this Agreement and incorporated by reference herein.

- Exhibit A:** Form of Quit Claim Deed
- Exhibit B:** Description and Map of Conveyance Property
- Exhibit C:** Form of Easement
- Exhibit D:** Description and Map of Maintenance Easement
- Exhibit E:** Description and Map of Tieback Area
- Exhibit F:** Map of Staging Area

**[SIGNATURES TO FOLLOW ON NEXT PAGE]**

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the dates set forth below.

THE STATE OF CALIFORNIA,  
Department of General Services  
Daniel C. Kim, Director

By: \_\_\_\_\_  
Michael P. Butler, Chief  
Real Property Services Section

Date: \_\_\_\_\_

Approved:  
  
Military Department

By: \_\_\_\_\_  
Thomas Clarke  
CW4 CA ARNG  
Chief, Procurement Branch

Date: \_\_\_\_\_

CITY AND COUNTY OF SAN FRANCISCO

By: \_\_\_\_\_  
John Updike  
Director of Property

Date: \_\_\_\_\_

Approved as to Form:

By: \_\_\_\_\_  
Richard Handel  
Deputy City Attorney

Date: \_\_\_\_\_

# EXHIBIT A

## Form of Quitclaim Deed

**RECORDING REQUESTED BY**

State of California – Official Business  
Department of General Services

Document entitled to free recordation  
Pursuant to Gov't. Code Sec. 6103

**WHEN RECORDED MAIL TO:**

Director of Property  
Real Estate Division  
City and County of San Francisco  
25 Van Ness Avenue, Suite 400  
San Francisco, California 94102

**WITH A COPY TO:**

State of California – Official Business  
Department of General Services  
707 3<sup>rd</sup> Street, MS-501  
West Sacramento, CA 95605  
Attention: Mike Butler

|          |                                 |
|----------|---------------------------------|
| AGENCY:  | Military Department             |
| PROJECT: | Westside Recycled Water Project |
| FILE:    | TR12015                         |
| FISCAL:  | DGS000000134695                 |

San Francisco County APN: 7281-004 (portion)  
100 Armory Drive, San Francisco

(Above Space for Recorder's Use Only)

### QUITCLAIM DEED

The State of California, acting by and through its Department of General Services, with the approval of the California Military Department, (the "STATE"), does hereby relinquish, abandon, abrogate, transfer, release, remise and quitclaim to the CITY and COUNTY OF SAN FRANCISCO, a consolidated public body, corporate and politic (the "CITY"), all of the STATE's right, title and interest in and to that certain real property situated in the City and County of San Francisco, State of California, described in Exhibit A and depicted on Exhibit B attached hereto and by this reference incorporated herein (collectively, the "Conveyance Property").

This Quitclaim Deed is made subject to those conditions, restrictions and reservations in those Deeds recorded May 24, 1950 at Book 5453 and Page 277 and August 19, 1953 at Book 6214 and Page 498 Official Records of City and County of San Francisco.

This Quitclaim Deed is made pursuant to that certain Agreement for Conveyance and Acceptance of Real Property for the Conveyance Property by and between STATE and CITY dated for reference purposes only as \_\_\_\_\_, 2017, (the "Agreement"). All capitalized terms used in this Quitclaim Deed shall have the meaning ascribed to them in the Agreement unless indicated to the contrary herein.

STATE and CITY agree as follows:

1

[Quitclaim Deed-Portion of SF Armory 7.10.17]

## EXHIBIT A

1. Post-Closing Covenants Regarding Completion of Development and Reversion and Reconveyance. In consideration of STATE entering into the Agreement and as an inducement to STATE to convey the Conveyance Property to CITY, CITY and STATE hereby acknowledge and agree that the following covenants, conditions and restrictions set forth in this Section shall survive the Close of Escrow (the "Post Closing Covenants") and be binding upon CITY and STATE as follows:

a. Completion of Development. CITY's planned development and construction of the Conveyance Property in connection with the Project shall be completed before the date ("Completion Date") that is Thirty-six (36) months following the Recording Date. Completion of CITY's planned development and construction of the Conveyance Property in connection with the Project shall be deemed satisfied upon CITY's final acceptance of the Project improvements. Unless the Completion Date is extended by mutual written agreement by CITY and the STATE, which extension shall not be unreasonably withheld, STATE shall have the power to terminate CITY's fee simple interest or otherwise in the Conveyance Property and reenter and take possession of the Conveyance Property if CITY fails to complete the Project on or before the Completion Date. In the event the Conveyance Property is to be reconveyed by CITY to STATE in accordance with terms of this Section, CITY agrees to take any and all steps necessary to effectuate the transfer of CITY's interest in the Conveyance Property back to STATE as provided in the Agreement. CITY acknowledges and agrees that STATE's reversionary interests in the Conveyance Property and Easement as set forth in this Section are intended by the parties to be, and shall be construed to be, powers of termination as defined in California Civil Code section 885.020.

2. Successors and Assigns. All obligations of CITY under this Quitclaim Deed (and all of the terms, covenants and conditions of this Quitclaim Deed) shall be binding upon CITY, its successors and assigns and every successor in interest of the Conveyance Property or any portion thereof or any interest therein, for the benefit and in favor of STATE, its successors and assigns.

a. This Quitclaim Deed shall not merge with any other agreement between the STATE and the CITY.

## EXHIBIT A

SAID CONVEYANCE PROPERTY IS CONVEYED SUBJECT TO all liens, encumbrances, easements, covenants, conditions and restrictions of record.

IN WITNESS WHEREOF, STATE has caused this instrument to be executed as of the date hereinafter written.

DATED: \_\_\_\_\_, 2017

**STATE:**

The State of California,  
Department of General Services  
Daniel C. Kim, Director

By: \_\_\_\_\_  
Michael P. Butler, Chief  
Real Property Services Section

Approved:

California Military Department

By: \_\_\_\_\_  
Thomas Clarke  
CW4 CA ARNG  
Chief, Procurement Branch

## EXHIBIT B

### Legal Description and Plat of Conveyance Property

February 13, 2015

Exhibit "A"  
LEGAL DESCRIPTION  
Conveyance Property

All that real property situate in the City and County of San Francisco, State of California, being a portion of that certain landscape easement described in that deed recorded June 20, 1990 in Reel F150 Official Records Image 625, Records of the City and County of San Francisco, and being more particularly described as follows:

**BEGINNING** at the westerly corner of said landscape easement, said westerly corner being also the westerly corner of that parcel of land described in deed to State of California recorded August 19, 1953 in Book 6214 of Official Records, Page 498, Records of City and County of San Francisco, State of California;

thence North  $19^{\circ}18'44.3''$  East, 170.11 feet along the westerly line of said landscape easement;

thence South  $67^{\circ}37'31.6''$  East, 22.90 feet;

thence South  $19^{\circ}11'44.5''$  West, 144.92 feet;

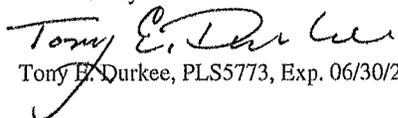
thence South  $43^{\circ}33'20.1''$  East, 39.18 feet;

thence North  $76^{\circ}41'15.7''$  West, 58.35 feet to the **POINT OF BEGINNING**.

Containing 4,252 square feet, more or less.

A plat showing the above-described parcel is attached herein and made a part hereof as Exhibit "B".

This description was prepared by me or under my direction in conformance with the Professional Land Surveyors' Act.

  
Tony E. Durkee, PLS5773, Exp. 06/30/2016

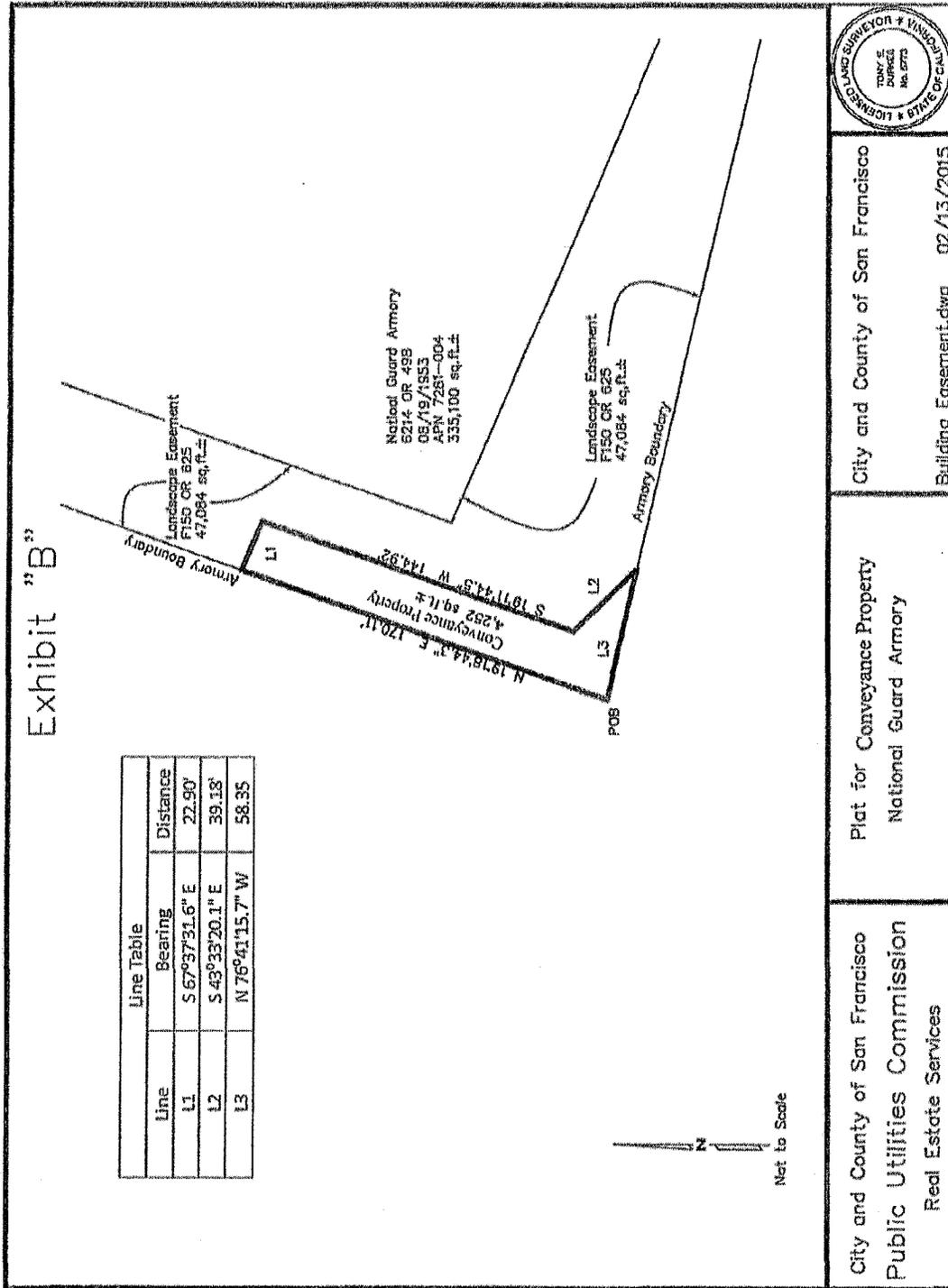


END OF DESCRIPTION

Page 1 of 1

B-1

EXHIBIT B



City and County of San Francisco  
Public Utilities Commission  
Real Estate Services

Plat for Conveyance Property  
National Guard Armory

City and County of San Francisco  
Building Easement.dwg 02/13/2015

[Quitclaim Deed-Portion of SF Armory]

# EXHIBIT C

## Form of Easement

RECORDING REQUESTED BY  
AND WHEN RECORDED RETURN TO:

WHEN RECORDED MAIL TO:

Director of Property  
Real Estate Division  
City and County of San Francisco  
25 Van Ness Avenue, Suite 400  
San Francisco, California 94102

The undersigned hereby declares this instrument to be exempt from Recording Fees (Govt. Code § 27383) and Documentary Transfer Tax (Rev. & Tax. Code §11922). SPACE ABOVE THIS LINE FOR RECORDER'S USE

|   |  |
|---|--|
| <b>AGREEMENT AND GRANT OF EASEMENT</b><br><br><b>SUBSURFACE TIEBACKS AND</b><br><br><b>MAINTENANCE ACCESS</b> | AGENCY: Military Department              |
|   | PROJECT: Westside Recycled Water Project |
|   | FILE: TR12015                            |
|   | FISCAL: DGS000000134695                  |

San Francisco County APN: 7281-004 (portion) — 100 Armory Drive, San Francisco

THIS AGREEMENT AND GRANT OF EASEMENT ("Agreement") is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2017, by and between the STATE OF CALIFORNIA, acting by and through its DEPARTMENT OF GENERAL SERVICES ("DGS") on behalf of the CALIFORNIA MILITARY DEPARTMENT ("CMD"), (hereinafter collectively referred to as "STATE") on one hand, and the CITY AND COUNTY OF SAN FRANCISCO, a consolidated public body, corporate and politic, on the other hand ("CITY"). The STATE and CITY are collectively referred to as the "PARTIES". Capitalized terms used in this Agreement shall have the meanings ascribed to them by the section in which such term is first defined. This Agreement includes all exhibits attached hereto.

### RECITALS

- A. STATE is the owner of certain property consisting of approximately ± 7.689 acres, and related improvements, located at 100 Armory Drive, San Francisco, County of San Francisco, State of California, with Assessor's Parcel Number 7281-004 (collectively the "Servient Parcel").
- B. CITY is the owner of certain property and related improvements, located at 3500 Great Highway, San Francisco, County of San Francisco, State of California, with Assessor's Parcel Number 7281-007 (the "Dominant Parcel").
- C. In order for CITY to complete the development and construction of the Westside Recycled Water Project (the "Project"), STATE quitclaimed a portion of the Servient Parcel to CITY, recorded on even date herewith (the "Conveyance Property") and CITY intends to develop and construct improvements on the Conveyance Property in connection with the Project.
- D. To carry out CITY's planned development of the Conveyance Property in connection with the Project, CITY requires an easement for subsurface tiebacks, as well as an easement for access and maintenance over a portion of the Servient Parcel.

## EXHIBIT C

E. STATE and CITY entered into this Agreement for the purpose of CITY receiving the easements for the purposes described below in this Agreement in that portion of the Servient Parcel referred to in this Agreement as the “**Maintenance Easement**” as more particularly described and depicted on the attached **Exhibits A and B**, along with an easement on, under, and across the “**Subsurface Tieback Area**” as more particularly described and depicted on the attached **Exhibits C and D**.

### AGREEMENT

NOW THEREFORE, in consideration of the above recitals, all of which are expressly incorporated into this Agreement, and the mutual promises and covenants contained in this Agreement, the PARTIES agree as follows:

Pursuant to the provisions of Section 14666 of the Government Code of the State of California, STATE, hereby grants unto CITY, its successors and assigns forever, a non-exclusive easement benefitting and appurtenant to the Dominant Parcel to use the Subsurface Tieback Area to install, locate, relocate, construct, reconstruct, alter, use, maintain, inspect, repair, and abandon in place subsurface tie-backs, at such locations and elevations greater than twenty five (25) feet below any structure, necessary for CITY’s development, along with the Maintenance Easement for the purposes of construction staging, surface inspection of earth support structures, and access to and maintenance of the Conveyance Property in connection with the Project in, upon, over, on, under, and across the Servient Parcel (the “**Permitted Uses**”), to carry out the Permitted Uses. CITY shall make reasonable efforts to avoid unreasonable interference with, or unreasonable burdening of, the Servient Parcel or STATE’s use thereof.

The benefits and burdens of the Agreement will benefit and burden the Dominant Parcel and the Servient Parcel and run with the land in accordance with California Civil code sections 1460-1471. Each covenant of either party to this Agreement to do or refrain from doing some act stated in this Agreement is expressly for the benefit of the land of the other party to this Agreement that is described in this Agreement. The successive owners of each of those properties owned by either party are bound by this Agreement for the benefit of the other property. Each covenant runs with both the land owned by or granted to the STATE and the land owned or granted to the CITY and will benefit or be binding on each successive owner, during his, her, or its ownership, of any portion of the land affected by this Agreement and on each person having any interest in it derived through any owner thereof. This Agreement shall be recorded on even date with the Quit Claim of the Conveyance Property in the Official Records of the City and County of San Francisco.

The Easements granted herein are subject to the terms, conditions, limitations, and covenants, consisting of one (1) page on the attached **Exhibit E**, which shall run with the Easements granted herein, and the CITY, successors and assigns, by acceptance of these Easements, agrees to abide by, perform and observe each and all of said terms, limitations, conditions, and covenants set forth therein.

The attached **Exhibits A, B, C, D, and E** are hereby made a part of and incorporated into this Agreement.

**EXHIBIT C**

IN WITNESS WHEREOF, STATE has caused its named to be affixed hereto and this instrument to be executed by its duly authorized officer.

**STATE**  
STATE OF CALIFORNIA  
Department of General Services  
Daniel C. Kim, Director

By: \_\_\_\_\_  
Michael P. Butler, Chief  
Real Property Services Section

Date: \_\_\_\_\_

Approved:  
California Military Department

By: \_\_\_\_\_  
Thomas Clarke  
CW4 CA ARNG  
Chief, Procurement Branch

Date: \_\_\_\_\_

**CITY**  
CITY AND COUNTY OF SAN FRANCISCO  
a consolidated public body, corporate and politic

By: \_\_\_\_\_  
John Updike  
Director of Property

Date: \_\_\_\_\_

Approved as to Form:

By: \_\_\_\_\_  
Richard Handel  
Deputy City Attorney

Date: \_\_\_\_\_

Mail Tax Statements to the Name and Address Stated Above

## EXHIBIT C

### EXHIBIT E

This Agreement and the Easement granted herein is subject to the following terms and conditions:

1. This Grant is subject to existing contracts, leases, licenses, easements, encumbrances, and claims that may affect said real property and the use of the word "Grant" herein shall not be construed as a covenant against the existence of any thereof.
2. CITY waives all claim against STATE, its officers, agents, and employees, for loss or damage caused by, arising out of, or in any way connected with the exercise of this Easement, except those arising out of the sole negligence or intentional misconduct of STATE, its officers, agents, and employees, and CITY agrees to protect, save harmless, indemnify, and defend STATE, its officers, agents and employees from any and all loss, damage or liability, including, without limitation, all legal fees, expert witness or consultant fees and expenses related to the response to, settlement of, or defense of any claims or liability which may be suffered or incurred by STATE, its officers, agents, and employees caused by, arising out of, or in any way connected with exercise by CITY of the rights hereby granted, except to the extent of those arising out of the sole negligence or intentional misconduct of STATE, its officers, agents and employees.
3. STATE reserves the right to use said real property in any manner, provided such use does not materially interfere with CITY's rights hereunder.
4. STATE reserves the right to require CITY, at STATE expense, to remove and relocate all improvements placed by CITY upon said real property, upon determination by STATE that the same interfere with future development of State's property. In the event of such removal or relocation, CITY shall forthwith, upon service of written demand and written confirmation of the new easement location, deliver to STATE a Quitclaim Deed, to its right, title and interest hereunder. Should CITY fail or refuse to deliver said Quitclaim Deed, STATE may record, in the Recorder's Office of the County in which said real property is located, a written notice reciting said failure, and such recordation shall, after ten (10) days from the date of recordation of said notice, be conclusive evidence of such termination against CITY. Within 180 days after STATE 's written notice and demand for removal and relocation of the improvements, CITY shall remove and relocate the improvements to a feasible location on the property of STATE, as designated by STATE, and STATE shall furnish CITY with an easement in such new location, on the same terms and conditions as herein stated, all without cost to CITY, and CITY thereupon shall re-convey to STATE the easement herein granted.
5. This Easement shall terminate in the event CITY fails for a continuous period of thirty-six (36) months to use this Easement for the purposes herein granted. Upon such termination, CITY shall forthwith upon service of written demand, deliver to STATE, at no cost to STATE, a Quitclaim Deed, to its right, title and interest hereunder. Should CITY fail or refuse to deliver said Quitclaim Deed, STATE may record, in the Recorder's Office of the County in which said real property is located, a written notice reciting said failure, and such recordation shall, after ten (10) days from the date of recordation of said notice, be conclusive evidence of such termination against CITY. CITY shall, upon STATE request, without cost to STATE, and within ninety (90) days from said STATE request, remove all property placed by or for CITY upon said real property and restore said premises as nearly as possible to the same condition as they were in prior to the execution of this Easement. In the event CITY should fail to restore said premises in accordance with such request, STATE may do so at the risk of CITY, and all costs of such removal and restoration shall be paid by CITY upon demand.
6. In performing any work, including any excavation, on said real property of STATE, CITY shall make the same in such manner as will cause the least injury to the surface of the ground around such excavation, and shall replace the earth so removed by it and restore the surface of the ground and any improvement thereon to as near the same condition as they were immediately prior to commencement of CITY's activities pursuant to this Easement as is practicable.

**THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK.**

## EXHIBIT D

### Description and Map of Tieback Easement

June 27, 2016

Exhibit "A"  
LEGAL DESCRIPTION  
Tieback Easement

All that real property situate in the City and County of San Francisco, State of California, being a portion of that certain Parcel described in that deed recorded August 19, 1953 in Vol. 6214 Official Records Page 498, Records of the City and County of San Francisco, and being more particularly described as follows:

**BEGINNING** at the westerly corner of said parcel;  
thence North  $19^{\circ}18'44.3''$  East, 170.11 feet along the westerly line of said parcel to the **TRUE POINT OF BEGINNING**;  
thence South  $67^{\circ}37'31.6''$  East, 22.90 feet;  
thence South  $19^{\circ}11'44.5''$  West, 144.92 feet;  
thence South  $43^{\circ}33'20.1''$  East, 39.18 feet;  
thence South  $76^{\circ}41'15.7''$  East, 52.51 feet;  
thence North  $46^{\circ}26'39.9''$  East, 61.30 feet;  
thence North  $43^{\circ}33'20.1''$  West, 33.97 feet;  
thence North  $46^{\circ}26'39.9''$  East, 11.08 feet;  
thence North  $19^{\circ}11'44.5''$  East, 168.85 feet;  
thence North  $70^{\circ}48'15.5''$  West, 112.68 feet;  
thence South  $19^{\circ}18'44.3''$  West, 90.00 feet to the **TRUE POINT OF BEGINNING**.

Containing 25,203 square feet, more or less.

A plat showing the above-described parcel is attached herein and made a part hereof as Exhibit "B".

This description was prepared by me or under my direction in conformance with the Professional Land Surveyors' Act.

*Tony E. Durkee*

Tony E. Durkee, PLS5773, Exp. 06/30/2016



END OF DESCRIPTION

Exhibit "B"

| Line Table |                 |          |
|------------|-----------------|----------|
| Line       | Bearing         | Distance |
| L1         | S 67°37'31.6" E | 22.90'   |
| L2         | S 43°33'20.1" E | 39.18'   |
| L3         | S 76°41'15.7" E | 52.51'   |
| L4         | N 46°26'39.9" E | 61.30'   |
| L5         | N 43°33'20.1" W | 33.97'   |
| L6         | N 46°26'39.9" E | 11.08'   |
| L7         | N 70°48'15.5" W | 112.68'  |
| L8         | S 19°18'44.3" W | 90.00'   |

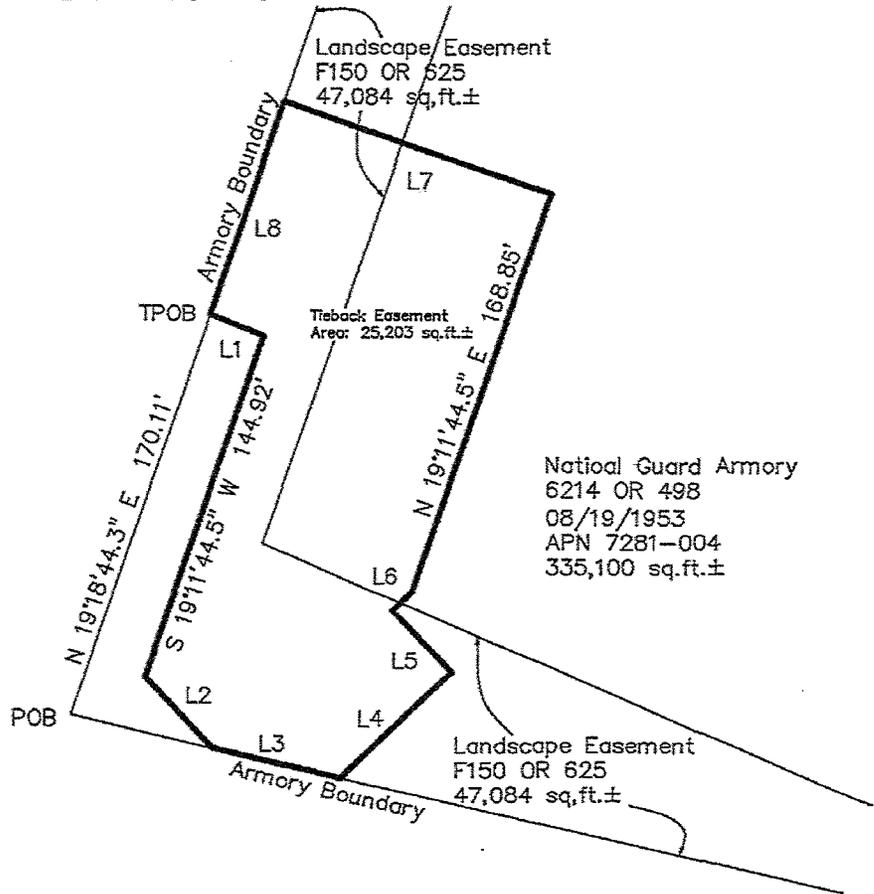


EXHIBIT D

|   |  |   |  |
|---|--|---|--|
| City and County of San Francisco<br>Public Utilities Commission<br>Real Estate Services | Plat for Tieback Easement<br>National Guard Armory | City and County of San Francisco<br>Tieback Easement.dwg 06/27/2016 |  |
|---|--|---|--|

**EXHIBIT E**

Description and Map of Maintenance Easement

February 13, 2015

Exhibit "A"  
LEGAL DESCRIPTION  
Maintenance Easement

All that real property situate in the City and County of San Francisco, State of California, being a portion of that certain landscape easement described in that deed recorded June 20, 1990 in Reel F150 Official Records Image 625, Records of the City and County of San Francisco, and being more particularly described as follows:

**BEGINNING** at the westerly corner of said landscape easement, said westerly corner being also the westerly corner of that parcel of land described in deed to State of California recorded August 19, 1953 in Book 6214 of Official Records, Page 498, Records of City and County of San Francisco, State of California;

**thence** southeasterly along the southerly line of said landscape easement South  $76^{\circ}41'15.7''$  East, 58.35 feet to the **TRUE POINT OF BEGINNING**;

**thence** North  $43^{\circ}33'20.1''$  West, 39.18 feet;

**thence** North  $19^{\circ}11'44.5''$  East, 144.92 feet;

**thence** South  $67^{\circ}37'31.6''$  East, 10.52 feet to the face of an existing concrete retaining wall;

**thence** continuing southerly along said wall the following bearings and distances:

**thence** South  $19^{\circ}25'26.5''$  West, 94.05 feet;

**thence** South  $69^{\circ}42'41.6''$  East, 5.14 feet;

**thence** South  $18^{\circ}22'14.3''$  West, 27.98 feet;

**thence** South  $46^{\circ}36'56.5''$  West, 21.08 feet;

**thence** South  $43^{\circ}06'41.4''$  East, 43.91 feet to the southerly line of said landscape easement;

**thence** leaving said retaining wall North  $76^{\circ}41'15.7''$  West, along said southerly line of the landscape easement 10.07 feet to the **TRUE POINT OF BEGINNING**.

Containing 1,857 square feet, more or less.

A plat showing the above-described parcel is attached herein and made a part hereof as Exhibit "B".

This description was prepared by me or under my direction in conformance with the Professional Land Surveyors' Act.

*Tony E. Durkee*

Tony E. Durkee, PLS5773, Exp. 06/30/2016



END OF DESCRIPTION

Exhibit "B"

| Line Table |                 |          |
|------------|-----------------|----------|
| Line       | Bearing         | Distance |
| L1         | N 43°33'20.1" W | 39.18'   |
| L2         | S 67°37'31.6" E | 10.52'   |
| L3         | S 69°42'41.6" E | 5.14'    |
| L4         | S 18°22'14.3" W | 27.98'   |
| L5         | S 46°36'56.5" W | 21.08'   |
| L6         | S 43°06'41.4" E | 43.91'   |

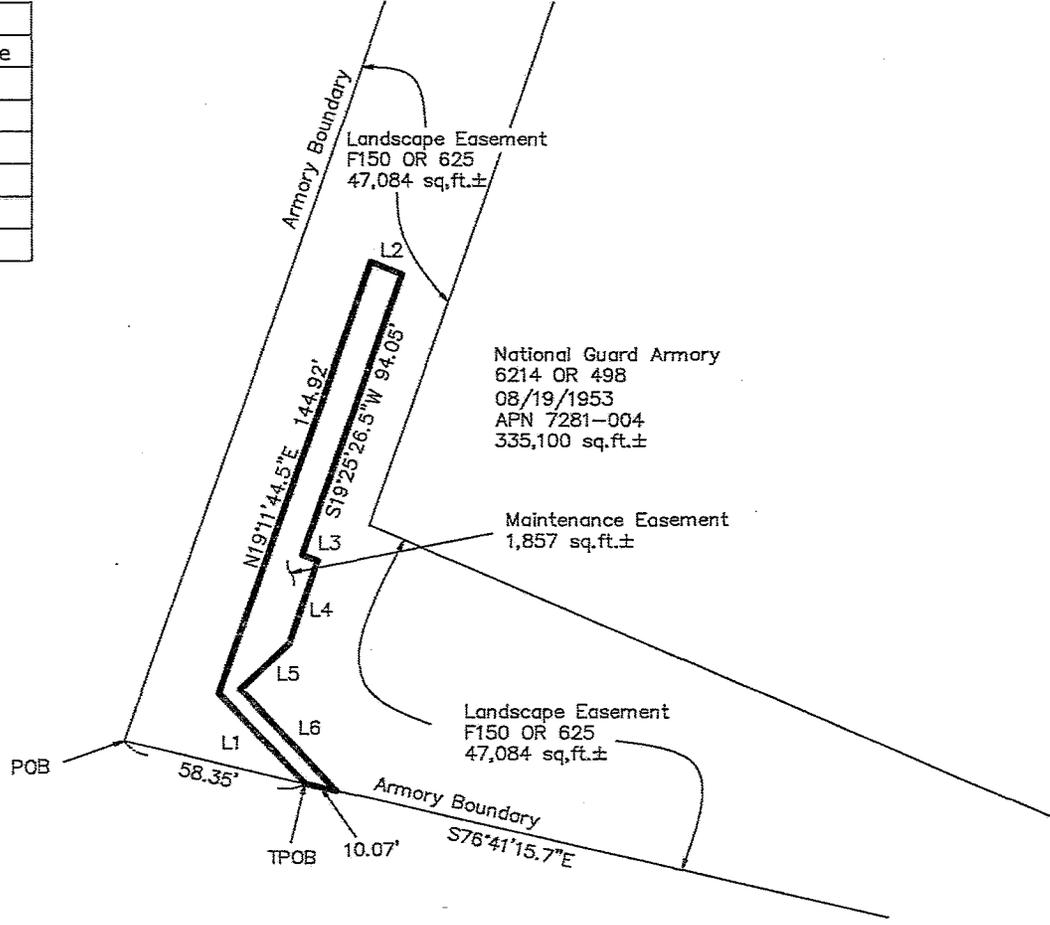
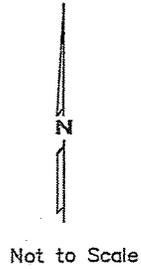


EXHIBIT E

|   |  |  |  |
|---|--|--|--|
| City and County of San Francisco<br>Public Utilities Commission<br>Real Estate Services | Plat for Maintenance Easement<br>National Guard Armory | City and County of San Francisco<br>Building Easement.dwg 02/13/2015 |  |
|---|--|--|--|

**EXHIBIT F**

Map of Staging Area

