

File No. 240039

Committee Item No. 1

Board Item No. 8

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: Land Use and Transportation

Date: May 13, 2024

Board of Supervisors Meeting:

Date: May 21, 2024

Cmte Board

<input type="checkbox"/>	<input type="checkbox"/>	Motion
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Resolution
<input type="checkbox"/>	<input type="checkbox"/>	Ordinance
<input type="checkbox"/>	<input type="checkbox"/>	Legislative Digest
<input type="checkbox"/>	<input type="checkbox"/>	Budget and Legislative Analyst Report
<input type="checkbox"/>	<input type="checkbox"/>	Youth Commission Report
<input type="checkbox"/>	<input type="checkbox"/>	Introduction Form
<input type="checkbox"/>	<input type="checkbox"/>	Department/Agency Cover Letter and/or Report
<input type="checkbox"/>	<input type="checkbox"/>	MOU
<input type="checkbox"/>	<input type="checkbox"/>	Grant Information Form
<input type="checkbox"/>	<input type="checkbox"/>	Grant Budget
<input type="checkbox"/>	<input type="checkbox"/>	Subcontract Budget
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	DRAFT Easement Agreement and Quitclaim
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Form 126 – Ethics Commission
<input type="checkbox"/>	<input type="checkbox"/>	Award Letter
<input type="checkbox"/>	<input type="checkbox"/>	Application
<input type="checkbox"/>	<input type="checkbox"/>	Public Correspondence

OTHER

<input type="checkbox"/>	<input checked="" type="checkbox"/>	<u>RED Presentation – May 13, 2024</u>
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<u>Planning General Plan Referral – April 28, 2023</u>
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<u>Rec Park Commission Resolution No. 2307-004 – July 20, 2023</u>
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<u>CEQA Determination – July 8, 2021</u>
<input type="checkbox"/>	<input type="checkbox"/>	<u> </u>
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Prepared by: John Carroll

Date: May 9, 2024

Prepared by: John Carroll

Date: May 17, 2024

Prepared by:

Date:

1 [Grant of Non-Exclusive Easement - Midtown Lands LLC - Assessor's Parcel Block No. 2781,
2 Lot No. 022]

3 **Resolution approving and authorizing an Easement Agreement and Quitclaim between**
4 **the City and Midtown Lands LLC, fixing and perfecting the location and terms of an**
5 **easement reserved in a 1957 subdivision instrument, for vehicular and pedestrian**
6 **access and subsurface utilities within Assessor's Parcel Block No. 2781, Lot No. 022, a**
7 **City parcel located in the Twin Peaks neighborhood; adopting findings of consistency**
8 **with the General Plan, and the eight priority policies of Planning Code, Section 101.1;**
9 **affirming the Planning Department's determination under the California Environmental**
10 **Quality Act; and to authorize the Director of Property to enter into amendments or**
11 **modifications to the Easement Agreement that do not materially increase the**
12 **obligations or liabilities to the City and are necessary to effectuate the purposes of the**
13 **Easement Agreement or this Resolution.**

14
15 WHEREAS, The City owns and the Recreation and Parks Department ("RPD") has
16 jurisdiction over 19 acres of undeveloped land across four parcels in the Twin Peaks
17 neighborhood (Supervisor District 7), commonly known as the "Interior Greenbelt;" the Interior
18 Greenbelt includes approximately 6,947 square feet of land located generally southeast of the
19 intersection of Palo Alto and Dellbrook Avenues in the Twin Peaks neighborhood; and

20 WHEREAS, The original subdivider of the area conveyed a portion of the Interior
21 Greenbelt to the City in 1957, and reserved a blanket access easement along and within the
22 Interior Greenbelt, from a parcel adjacent to the Interior Greenbelt identified as Assessor's
23 Parcel Block No. 2724, Lot No. 002 (the "Parcel") to Clarendon Avenue, which was the closest
24 street access point at that time; the 1957 deed contemplated that a more precise location of
25 the easement would be fixed at a later date, but the Parcel was never developed and the

1 precise easement location was not fixed; currently, the entire section of the Interior Greenbelt
2 from the Parcel to Clarendon Avenue is encumbered by the reservation of easement; the
3 Parcel does not have direct access to a public right-of-way without the existing easement over
4 the Interior Greenbelt; and

5 WHEREAS, The City staff and the Parcel owner have agreed to fix the location of the
6 easement as contemplated in the original deed, and to fully describe the rights and obligations
7 of the parties; the proposed easement agreement allows for vehicular and pedestrian access
8 as well as subsurface utilities, and imposes significant stewardship covenants on the Parcel
9 owner; a copy of the easement agreement is on file with the Clerk of the Board of Supervisors
10 in File No. 240039 (the "Easement Agreement"); and

11 WHEREAS, Since 1957, La Avanzada Street has been built, which can provide access
12 from La Avanzada Street straight across the Interior Greenbelt to the Parcel rather than all the
13 way through and down the Interior Greenbelt to Clarendon Avenue; the City and the Parcel
14 owner desire to fix and perfect the location of the easement to provide access from the Parcel
15 directly across the Interior Greenbelt to La Avanzada Street; as specified in the Easement
16 Agreement, the easement will encumber 2,500 square feet of the Interior Greenbelt rather
17 than 6,947 square feet, and the Parcel owner will quitclaim its interest in the remainder of the
18 Interior Greenbelt; and

19 WHEREAS, The Easement Agreement benefits the City by preserving far more of the
20 Interior Greenbelt as open space in its natural condition, eliminating the encumbrance of the
21 1957 deed over the Interior Greenbelt, and providing stewardship over a portion of the Interior
22 Greenbelt; this agreement also benefits the Parcel owner, by providing more direct and
23 efficient access to the Parcel from the street system, and more certainty with respect to the
24 terms and conditions of the easement; and

1 WHEREAS, The Parcel owner has agreed to significant perpetual open space
2 stewardship covenants for the Interior Greenbelt area within and adjacent to the easement
3 area, including complying with a certified arborist's findings regarding necessary removal of
4 any dangerous and/or invasive trees within 150 feet of the easement area, replacing such
5 trees with RPD approved species, and maintaining newly planted trees; in addition, the Parcel
6 owner is required to remove dangerous and invasive plant species and underbrush within 50
7 feet of the easement area, replace such plants with RPD approved species, and maintain
8 newly planted plants; and

9 WHEREAS, On July 8, 2021, the Planning Department determined the project to be
10 exempt from the California Environmental Quality Act ("CEQA", Pub. Resources, Code
11 Sections 21000 et seq.) pursuant to CEQA Guidelines, Section 15061(b)(3) and Chapter 31 of
12 the City's Administrative Code (Planning Case No. 2021-006620 ENV), which determination is
13 on file with the Clerk of the Board of Supervisors in File No. 240039, and incorporated herein
14 by reference; by letter dated April 28, 2023, the Planning Department found that the project is
15 consistent with the General Plan, and the eight priority policies of Planning Code,
16 Section 101.1 (Planning Case No. 2021-006620GPR), which letter is on file with the Clerk of
17 the Board of Supervisors in File No. 240039, and incorporated herein by reference; now,
18 therefore, be it

19 RESOLVED, This Board affirms the Planning Department's determination under CEQA
20 and finds that the proposed project is consistent with the General Plan, and with Planning
21 Code, Section 101.1 for the reasons set forth in the General Plan Referral letter; and, be it

22 FURTHER RESOLVED, That the Board of Supervisors finds that 1) the public interest
23 or necessity demands, or will not be inconvenienced by the transactions contemplated in the
24 Easement Agreement, 2) competitive bidding is impractical or impossible given that the
25 Easement Agreement is clarifying property rights as contemplated in the 1957 deed, and 3)

1 the Easement Agreement will further a proper public purpose by ensuring a larger parcel of
2 open space owned by the City, and providing valuable environmental stewardship; and, be it

3 FURTHER RESOLVED, That an appraisal isn't required by Administrative Code,
4 Section 23.3 because the Easement Agreement clarifies the terms of the 1957 reserved
5 easement, and is not a Conveyance as defined in Administrative Code, Section 23.2; and, be
6 it

7 FURTHER RESOLVED, That, in accordance with the recommendation of the General
8 Manager of RPD and the Director of Property, the Board of Supervisors approves the
9 Easement Agreement and the transactions contemplated thereby in substantially the form
10 presented to the Board, and authorizes the Director of Property to execute the Easement
11 Agreement and to accept the quitclaim deed of the remainder of the Interior Greenbelt upon
12 the closing in accordance with the terms and conditions of the Easement Agreement, and to
13 take any and all steps (including, but not limited to, the execution and delivery of any and all
14 certificates, agreements, notices, consents, escrow instructions, closing documents and other
15 instruments or documents) as the Director of Property, in consultation with the City Attorney,
16 deems necessary or appropriate in order to consummate the conveyances described in the
17 Easement Agreement, or otherwise to effectuate the purpose and intent of this Resolution,
18 such determination to be conclusively evidenced by the execution and delivery by the Director
19 of Property of any such documents; and, be it

20 FURTHER RESOLVED, That the Board of Supervisors authorizes the Director of
21 Property to enter into any amendments or modifications to the Easement Agreement that the
22 Director of Property determines, in consultation with the City Attorney and the General
23 Manager of the Recreation and Parks Department, are in the best interest of the City, do not
24 otherwise materially diminish the benefits to the City or materially increase the obligations or
25 liabilities of the City, are necessary or advisable to effectuate the purposes of the Easement

Agreement, and are in compliance with all applicable laws, including the City Charter; and, be it

FURTHER RESOLVED, That within thirty (30) days of the execution and recordation of the Easement Agreement, the Director of Property shall provide a copy of the recorded Easement Agreement to the Clerk of the Board of Supervisors for inclusion into the official file.

RECOMMENDED:

REAL ESTATE DEPARTMENT

/S/
Andrico Q. Penick,
Director of Property

RECREATION & PARKS DEPARTMENT

/S/
Phil Ginsburg,
General Manager



Midtown Terrace/ Interior Greenbelt

EASEMENT AGREEMENT AND QUITCLAIM

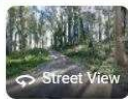
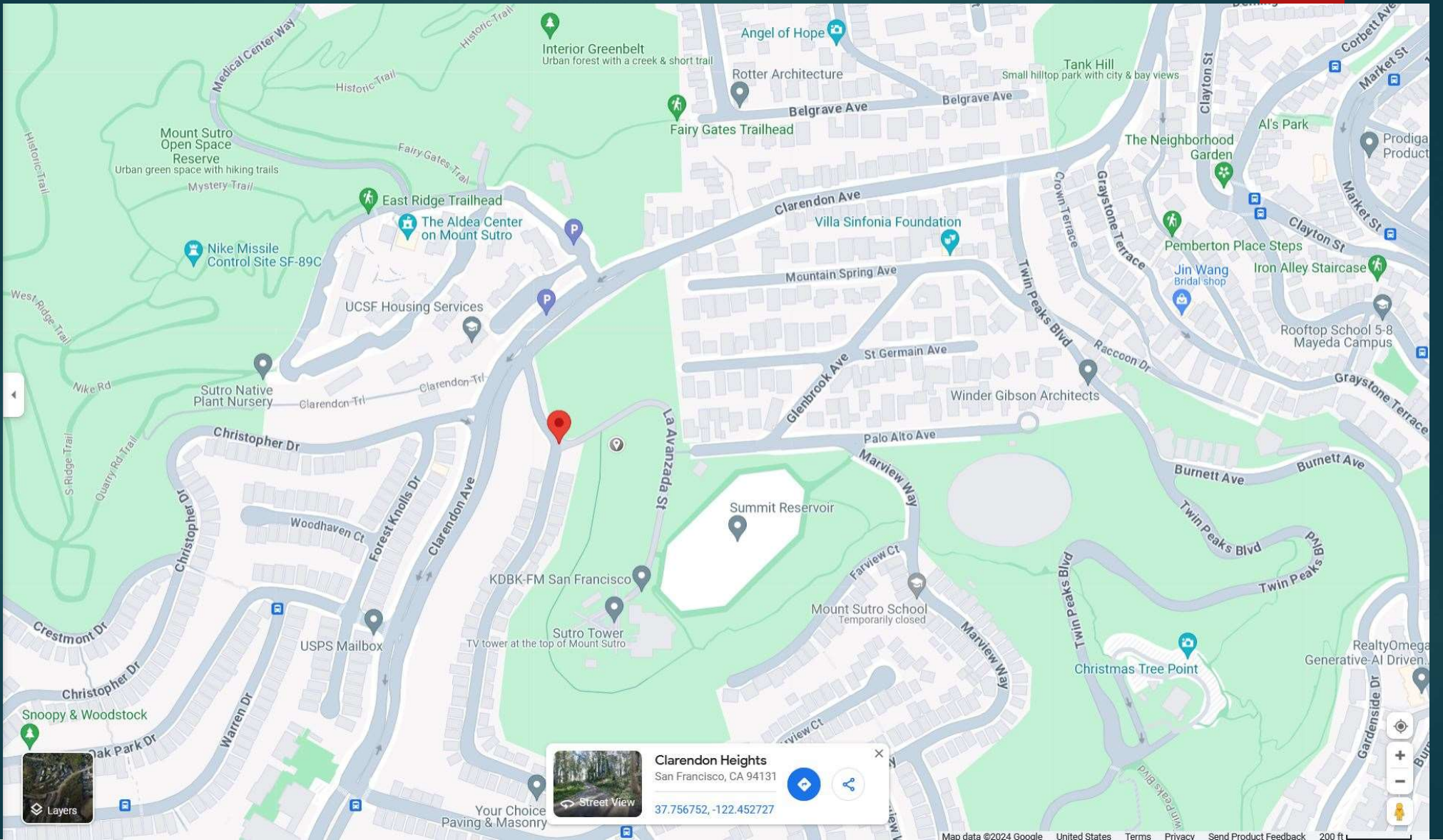
LAND USE & TRANSPORTATION COMMITTEE - 5/13/2024

Background

- Recreation and Parks has jurisdiction over 19 acres of undeveloped land between Twin Peaks and Mt. Sutro – the Interior Greenbelt - adjacent to the Midtown Terrace neighborhood in District 7.
- In 1957, a portion of Interior Greenbelt was deeded to City and a blanket easement - running from an undeveloped parcel, through and down Greenbelt to Clarendon Street – was reserved.
- After 1957, La Avanzada street was built, creating a right of way closer to parcel owner. City and parcel owner negotiated terms for access easement traversing a much smaller portion of Greenbelt.
- By 4-0 vote, Recreation and Parks Commission passed a resolution on July 20, 2023 recommending Board approval of the easement.

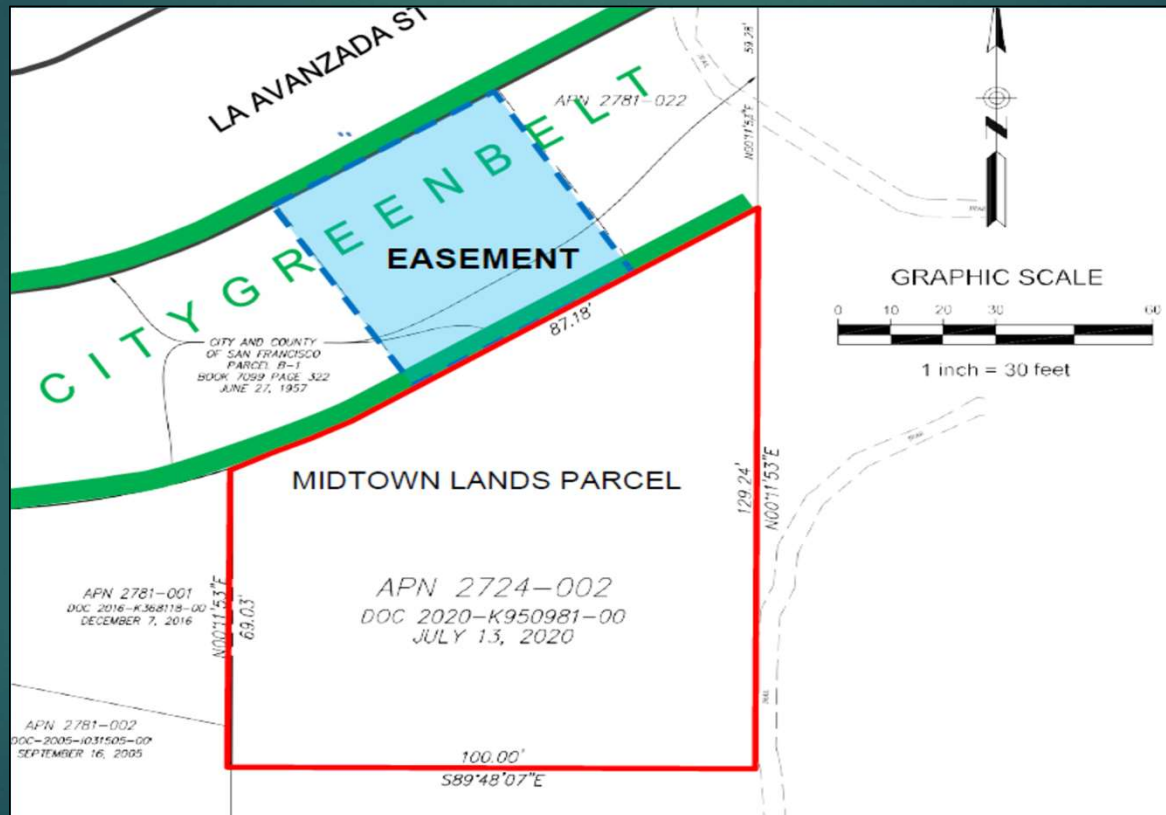
Terms of Agreement:

- ▶ Fixes and perfects access easement for private property owner, through 2,500 SF portion of Greenbelt, to La Avanzada St.
- ▶ Establishes quitclaim to remainder of original blanket easement area, thereby preserving greater portion of Greenbelt.
- ▶ Property owner accepts stewardship role, taking on maintenance responsibilities within Greenbelt.
- ▶ Indemnifies City against potential claims related to property owner's maintenance responsibilities.
- ▶ Allows property owner to run subsurface utilities through easement area to service parcel if and when developed.



Clarendon Heights
San Francisco, CA 94131
37.756752, -122.452727

Midtown Terrace/Interior Greenbelt





Questions?

RECORDING REQUESTED BY, AND
WHEN RECORDED RETURN TO:

Midtown Lands LLC
1888 Geneva Avenue, #407
San Francisco, CA 94134

Assessor's Block ("A.B.") _____

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

EASEMENT AGREEMENT AND QUITCLAIM
Access and Utility Easement

This Easement Agreement and Quitclaim ("**Agreement**") is made on _____, 2022 by and between the CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation ("**City**") acting by and through the Recreation and Park Department ("**SFRPD**"), and Midtown Lands LLC, a California limited liability company ("**Grantee**").

RECITALS

A. City owns that certain real property in San Francisco, California, as more particularly described in attached Exhibit A and depicted on Exhibit D (the "**City Property**") which is managed by City's Recreation and Park Department.

B. Grantee owns that certain real property adjacent to the City Property, as more particularly described in attached Exhibit B and depicted on Exhibit D (the "**Benefitted Property**").

C. Grantee currently has certain access rights over the City Property pursuant to that certain deed dated June 19, 1957 and recorded on June 27, 1957 in Book 7099, Page 322 of the Official Records of San Francisco County (the "**1957 Deed**"). Grantee and City desire to fix and perfect the location of Grantee's access as contemplated in the 1957 Deed over the City Property on the terms and conditions contained herein. Grantee and City also desire to confirm that, other than the rights and privileges granted in this Agreement, Grantee has no remaining right, title or interest in or to the City Property.

AGREEMENT

NOW, THEREFORE, City and Grantee agree as follows:

1. **Grant and Purpose of Easement.** City grants to Grantee a non-exclusive, perpetual, and appurtenant easement to construct, reconstruct, install, operate, maintain, repair, remove, replace, improve and renew (a) a gravel or paved surface road for vehicular and

pedestrian access to the Benefitted Property from La Avandaza Street (collectively, "**Roadway Facilities**"); and (b) one or more subsurface, underground pipes or conduits with suitable service pipes and connections for the conveyance of gas, electricity, water, sewer, cable television, internet, telephone service and/or other customary utilities necessary for no more than two (2) residential units (unless otherwise permitted by the San Francisco Planning Department or applicable State laws) plus any accessory dwelling units permitted by applicable laws (the "**Utility Facilities**"); and for no other purpose whatsoever (collectively, the "**Easement**"), over, across, in, under, and through the portion of the City Property described in attached Exhibit C and depicted in Exhibit D (the "**Easement Area**"). The Easement Area is a portion of the City Property. The conditions and covenants contained in this Agreement will run with the land, burden the Easement Area and be binding on and benefit City and Grantee and their respective agents, successors and assigns unless terminated, provided that the obligations of each of Grantee's successor and assign pursuant to this Agreement will be joint and several. The Easement is subject to all liens, encumbrances, covenants, conditions, restrictions, reservations, contracts, leases and licenses, easements, and rights of way pertaining to the City Property, whether or not of record. The use of the word "grant" will not imply any warranty on the part of City with respect to the Easement or the Easement Area.

2. **Easement Area Condition.** Grantee will, at its sole cost, operate, maintain, repair, and replace the Roadway Facilities in the Easement Area (a) in a first-class manner and in accordance with all laws, regulations, and regulatory requirements including, but not limited to, the Significant Natural Resource Areas Management Plan – Interior Greenbelt section, as such Greenbelt Plan may be updated, modified, or replaced (the "**Greenbelt Plan**,"), RPD's Standard Construction Measures (the "**SCM**") and RPD's Project Standards & Design Guidelines (the "**Standards & Guidelines**") and (b) in a good, clean, safe, secure, and sanitary condition. Grantee acknowledges that the City Property is public open space and will minimize interference with the public's enjoyment of the City Property. City will not be responsible for and Grantee releases City and its Agents (as defined in Section 7(c)) from responsibility for any damage to Grantee's Roadway Facilities and Utility Facilities resulting from (a) the weight of regular maintenance vehicles or by members of the public, (ii) subsurface Utility Facilities that are not clearly marked, or (iii) caused by City or any City contractor's, machinery, equipment, excavation, grading, or other ground disturbance, excluding only to the extent caused by City or its contractor's active negligence or willful misconduct.

3. **Grantee's Open Space Stewardship Covenants.** In conjunction with Grantee's use of the Easement Area, Grantee covenants to do the following:

a. After consultation with and upon approval of the SFRPD Natural Areas Manager, and prior to commencement of construction on the Benefitted Property: (1) obtain a certified arborist's report assessing tree health and possible need for removal of any dangerous and/or invasive trees on the City Property that are within 150 feet of the Easement Area; (2) remove all such dangerous and/or invasive trees; (3) replace such trees with a species approved by SFRPD; and (4) maintain such newly planted trees through an establishment period for a minimum of three (3) years; all in accordance with the Greenbelt Plan, SCM, and Standards & Guidelines.

b. After consultation with and upon approval of the SFRPD Natural Areas Manager: (1) remove all dangerous and invasive plant species and under-brush in the area adjacent to the Easement Area (i.e., within 50 feet) as reasonably identified by SFRPD; (2) replace such plants with a species approved by SFRPD; and (3) maintain newly planted plants in such fifty (50) foot area through an establishment period for a minimum of three (3) years; all in accordance with the Greenbelt Plan, the SCM and the Standards & Guidelines.

c. Trim and remove dead, diseased, or dangerous lateral tree branches of those trees on the City Property that are reasonably likely to fall on the Easement Area if they were to fall, including the removal of such trees if necessary, with the prior written approval of SFRPD Natural Resources Manager pursuant to an SFRPD permit, and in keeping with the Greenbelt Plan, the SCM and the Standards & Guidelines.

d. Maintain the installed landscaping described in Sections 3(a) and 3(b) in good and healthy condition at Grantee's expense, including replacement of dead or diseased tree limbs, trees, and plantings, as determined in good faith by a certified arborist delivering a copy of the report to RPD's Natural Areas Manager and in accordance with the Greenbelt Plan and other maintenance guidance from the SFRPD Natural Resources Manager.

e. Consult with and obtain the approval of the Natural Areas Manager of SFRPD before any significant changes to landscaping of the Easement Area or immediately adjacent to the Easement Area on the Benefitted Property are made.

f. The road surface materials of the driveway must be approved by SFRPD, subject to the requirements of the San Francisco Fire Department. The boundary line of the Easement Area must be clearly demarcated by means approved by the SFRPD Natural Resources Manager. Any surface materials or improvements that border or affect City right of way must also be approved by City's Public Works Department.

g. Maintain the grade of the Easement Area to efficiently access the Benefitted Property, subject to the prior approval of the SFRPD Natural Areas Manager. Grantee will obtain prior approval of SFRPD for any subsequent changes to the surface, grading and grade of the Easement Area.

h. Maintain all landscaping on the Benefitted Property in a manner that will not impede public access or use of, or create any hazardous condition to, the adjacent trail that runs alongside the north boundary of the Benefitted Property and is depicted on Exhibit D. Such obligation includes the removal of diseased or dead tree limbs and trees if originating from the Benefitted Property.

4. **Restrictions on Use.** Grantee agrees that, by way of example only and without limitation, the following uses of the Easement Area by Grantee, or any other person claiming by or through Grantee, are inconsistent with the limited purpose of this Agreement and are strictly prohibited as provided below:

a. Improvements. Except as otherwise expressly provided herein, Grantee will not construct or place any temporary or permanent structures or improvements in, on, under or about the Easement Area, nor will Grantee make any alterations or additions to any existing structures or improvements on the Easement Area, unless Grantee first obtains City's prior written consent, which City may condition or withhold in its sole discretion. Grantee will not use the Easement Area for construction staging or storage of any kind.

b. Future Plantings or Changes to Vegetation. Following initial City approval of the plantings in the City Property pursuant to Sections 3(a) and 3(b), any changes Grantee proposes to make to such plantings will be in accordance with the Natural Resources Management Plan and subject to prior City approval at City's sole discretion. Grantee will not plant or propose to plant any invasive or water intensive species in the City Property.

c. Surface Facilities. Grantee's use of the surface of the Easement Area for improvements or facilities (rather than Grantee's use during work in the Easement Area by or for Grantee) is prohibited without City's prior approval at its sole discretion. All Utility Facilities, including any appurtenances thereto, must be located below the surface of the Roadway Facilities.

d. Dumping. Grantee will not cause or permit the dumping or other disposal on, under or about the Easement Area of landfill, refuse, Hazardous Material (as defined below) or any other materials that are unsightly or could pose a hazard to the human health or safety, native vegetation or wildlife, or the environment.

e. Nuisances. Grantee will not conduct any activities on or about the Easement Area that constitute waste, nuisance or unreasonable annoyance or that are not consistent with residential uses (including, without limitation, emission of objectionable odors, noises or lights) to City, to the owners or occupants of neighboring property or to the public.

f. Use of Adjoining Land. Grantee acknowledges that the privilege given under this Agreement will be limited strictly to the Easement Area. Grantee will not use any adjoining lands owned by City except as may be permitted under other agreements.

g. Ponding; Water Courses. Grantee will not cause any ponding on the Easement Area or any flooding on adjacent land. Grantee will not engage in any activity that causes any change, disturbance, fill, alteration or impairment to the bed, bank or channel of any natural water course, wetland, or other body of water on, in, under or about the Easement Area, nor will Grantee engage in any activity that could pollute or degrade any surface or subsurface waters or result in the diminution or drainage of such waters.

5. Rights Reserved to City. Notwithstanding anything to the contrary in this Agreement, City reserves and retains all of the following rights relating to the Easement Area: (i) all water, timber, mineral and oil rights of any kind; (ii) the right to grant future easements and rights of way over, across, under, in and on the Easement Area as City determines, provided the easements and rights of way do not interfere with Grantee's rights; (iii) the right to allow public access in and around the Easement Area as part of a public open space, and (v) the right to

use the Easement Area in any way that is not inconsistent with Grantee's rights under the Easement and this Agreement.

6. **Grantee's Quitclaim.** This Agreement perfects Grantee's access rights to the Benefitted Property that were reserved to Grantee in the 1957 Deed. Therefore, Grantee hereby RELEASES, REMISES AND QUITCLAIMS TO THE CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation, any and all right, title and interest Grantor may have in and to the City Property, excluding the right, title and interest granted to Grantee in the Easement Area pursuant to this Agreement.

7. **Work by Grantee in the Easement Area.**

a. **SFRPD Approval.** Permittee will install the Roadway Facilities and any other improvements in the Easement Area in accordance with plans and specifications approved in advance and in writing by SFRPD, such approval not to be unreasonably withheld or delayed. Elements of the plans and specifications addressing any Roadway Facilities that border or affect City right of way must also be approved in advance and in writing by City's Department of Public Works.

b. **Regulatory Permits and Approvals.** Before beginning any work in the Easement Area, Grantee will obtain all permits, licenses and approvals of all regulatory agencies and other third parties that are required to complete the work (collectively, "approvals"). Promptly on receipt of such approvals, Grantee will deliver copies of them to City. Grantee recognizes and agrees that no approval by City for purposes of Grantee's work under this Agreement will be deemed to constitute an approval of any federal, state or local regulatory authority with jurisdiction (including the San Francisco Public Utilities Commission or the Department of Building Inspection or the Recreation and Park Department), and nothing in this Agreement will limit Grantee's obligation to obtain all necessary regulatory approvals, at Grantee's sole cost.

c. **Exercise of Due Care.** Grantee will use, and will cause its agents, employees, officers, contractors, subcontractors, and representatives ("Agents," and when used in reference to City, the term "Agents" includes City's commissions, departments, boards and members), to use, due care at all times to avoid any damage or harm to City's property, including but not limited to pathways and vegetation. Under no circumstances will Grantee damage, harm, or take any rare, threatened, or endangered species on or about the Easement Area.

d. **Notice of Planned and Emergency Work.**

i. **Planned Work.** For planned work in the Easement Area that goes beyond routine maintenance and inspection Grantee will provide City at least thirty (30) days' notice. The notice will include plans and specifications or a work plan, as applicable. City's consent will be required prior to Grantee commencing work in the Easement Area that is not immediately necessary or routine maintenance and repair work.

without lapse, for a period of three (3) years beyond the Agreement expiration or termination, to the effect that should any occurrences during the Agreement term give rise to claims made after expiration or termination of the Agreement, such claims will be covered by such claims-made policies.

(h) Upon City's request, Grantee and City will periodically review the limits and types of insurance carried pursuant to this Section. If the general commercial practice in the City and County of San Francisco is to carry liability insurance in an amount or coverage materially greater than the amount or coverage then being carried by Grantee for risks comparable to those associated with the Easement Area, then, at its sole discretion, City may require Grantee to increase the amounts or coverage carried by Grantee hereunder to conform to such general commercial practice.

(i) Grantee's compliance with the provisions of this Section will in no way relieve or decrease Grantee's indemnification or other obligations under this Agreement. At its expense, Grantee will be responsible for separately insuring Grantee's personal property.

12. Encroachments.

(a) In the event Grantee or its Agents uses or occupies space outside the Easement Area (an "**Encroachment Area**"), other than for purposes consistent with public use, without the prior written consent of City, then upon written notice from City ("**Notice to Vacate**"), Grantee shall immediately vacate such Encroachment Area and pay rent for each day Grantee used, occupied, such Encroachment Area, an amount equal to the rentable square footage of the Encroachment Area, multiplied by the higher of (a) the customary rental rate then approved by the City, or (b) then current fair market rent for such Encroachment Area, as reasonably determined by City (the "**Encroachment Area Charge**"). In no event shall acceptance by City of the Encroachment Area Charge be deemed a consent by City to the use or occupancy of the Encroachment Area by Grantee, its Agents, or constitute a waiver by City of any and all other rights and remedies of City (including Grantee's obligation to indemnify, defend and hold City harmless as set forth in this Section, at law or in equity).

(b) In addition to the foregoing amount, Grantee shall pay to City an amount equaling Two Hundred Dollars (\$200.00) upon delivery of the initial Notice to Vacate plus the actual cost associated with a topographical survey of the Encroachment Area. In the event City determines during subsequent inspection(s) that Grantee has failed to vacate the Encroachment Area, then Grantee shall pay to City an amount equaling Three Hundred Dollars (\$300.00) for each additional Notice to Vacate delivered by City to Grantee following each inspection. The amounts set forth in this Section shall be due within three (3) business days following the applicable Notice to Vacate and/or separate invoice relating to the actual cost associated with a survey of the Encroachment Area.

(c) In addition to the rights and remedies of City as set forth in the foregoing paragraphs of this Section, the terms and conditions of the indemnity and exculpation provision set forth in Section 17 shall also apply to Grantee's and its Agents' use and occupancy of the Encroachment Area as if the Easement Area originally included the Encroachment Area.

ii. **Emergency Work.** Grantee will notify the Recreation and Park Department's Director of Operations of Emergency Work in the Easement Area as soon as possible, and prior to commencing work unless an immediate response is required to prevent physical harm to persons entering the City Property (in which case Grantee will notify as soon as reasonably practicable under the circumstances). In case of an emergency requiring an immediate response, Grantee will provide notice via telephone or email. "Emergency Work" means any work that must be completed on less than thirty (30) days' prior notice to (1) prevent damage to persons or the City Property, (2) prevent flooding upstream or within the City Property, or (3) maintain compliance with this Agreement and any laws due to unforeseen circumstances.

8. **Dangerous Conditions.** If Grantee's use of the Easement Area creates or exacerbates a dangerous condition on the City Property, Grantee will cure the dangerous condition within one (1) day after notice from the City (which notice may be verbal) or Grantee's actual knowledge of the dangerous condition, whichever is sooner; provided, however, if the nature of the dangerous condition will require more than one (1) day to remedy, Grantee will have secured the area or taken such other measures as necessary to protect the public from harm within one (1) day and commenced and prosecuted to completion a cure immediately thereafter. Unless it is an Emergency Work under Section 7, if Grantee has not (a) completed the work within one (1) day (if possible, in accordance with this section), (b) secured the area and taken measures to protect the public within one (1) day (if the work will take longer than one day to complete) and commenced a cure within two (2) days, or (c) otherwise diligently prosecuted the work, City has the right (but not the obligation) to cure the condition at Grantee's expense. Grantee will reimburse City for its costs within thirty (30) days after receipt of an invoice.

9. **Utility Facility Removal.** Within thirty (30) days after any replacement of any Utility Facilities or cessation of use of any Utility Facilities, Grantee will decommission or remove such Utility Facilities in accordance with standard utility practice. At such time, Grantee will repair, at its cost, any damage to the Easement Area caused by the decommissioning or removal. Grantee's obligations under this Section will survive any termination of the Easement.

10. **Termination.** The Easement, rights and privileges conferred to Grantee pursuant to this Agreement will continue in perpetuity unless a substantially similar alternative roadway access to a public street, along with utility access, is provided to or obtained by the Benefitted Property. On termination of the Easement, the Easement, together with the rights and privileges evidenced by this Agreement, will terminate immediately. Grantee will execute and deliver a quitclaim deed to City within thirty (30) days following City's request.

11. **Insurance.**

(a) Except during the period that a Grantee maintains the insurance required pursuant to Section 11(b), Grantee will procure at its expense and keep in effect at all times, in form and from an insurer reasonably accept to City, as follows:

(i) Commercial general liability insurance with limits not less than \$2,000,000 each occurrence, combined single limit for bodily injury and property damage, including coverage for contractual liability, personal injury, broad form

property damage, products, and completed operations. Any deductible under such policy will not exceed \$25,000 for each occurrence.

(b) During the period of any Construction Activity and any tree removal or trimming on or about the Easement Area or the City Property, in lieu of the insurance required by Section 11(a), Grantee will procure and keep in effect insurance required by this Section 11(b). As used in this Agreement, "**Construction Activity**" commences upon Grantee's first site permit, first demolition permit, first building permit relating to the Easement Area, or any commencement of work on the Roadway Facilities, and continues until the Roadway Facilities have had their final inspection and approval.

(i) Commercial general liability insurance with limits not less than \$5,000,000 each occurrence, combined single limit for bodily injury and property damage, including coverage for contractual liability, personal injury, broad form property damage, products, and completed operations. Any deductible under such policy will not exceed \$100,000 for each occurrence.

(ii) Business automobile liability insurance with limits not less than \$2,000,000 for each occurrence combined single limit for bodily injury and property damage, including coverage for owned, non-owned, and hired automobiles, as applicable.

(iii) Workers' Compensation Insurance, including Employers' Liability, with limits not less than \$1,000,000 for each accident, covering all employees employed in or about the Easement Area to provide statutory benefits as required by the laws of the State of California.

(iv) Pollution legal liability and environmental remediation liability, including coverage for bodily injury, sickness, or disease, sustained by any person, including death; Environmental Damages; property damage including physical injury to or destruction of tangible property including the resulting loss of use thereof, clean-up costs, defense costs, charges, and expenses incurred in the investigation, adjustment of defense claims for such compensatory damages; sudden and non-sudden pollution conditions including the discharge, dispersal, release, or escape of Hazardous Materials into or upon City's property, the atmosphere, or watercourse or body of water, which results in Environmental Damages; transportation coverage for the hauling of any Hazardous Materials by Grantee or its Agents, from the City's real property to the final disposal location; and first party environmental remediation that pays for the cost of cleanup and remediation of the City's real property required to comply with all applicable Laws. Such insurance must be endorsed to provide third-party disposal site coverage that covers third-party bodily injury, property damage, and cleanup coverage for pollution conditions emanating from a disposal site or landfill used by Grantee or its Agents. Grantee will maintain limits no less than: Two Million Dollars (\$2,000,000) per accident and Four Million Dollars (\$4,000,000) policy aggregate for bodily injury and property damage. City and its

Agents must be included as additional insureds under the Pollution Legal Liability Insurance Policy.

(c) All policies required by this Agreement will provide for the following: (i) be issued by one or more companies of recognized responsibility authorized to do business in the State of California with financial rating of at least a Class A- VIII (or its equivalent successor) status, as rated in the most recent edition of A.M. Best's "Best's Insurance Reports;" (ii) name as additional insureds the City and County of San Francisco and its Agents; (iii) specify that such policies are primary insurance to any other insurance available to the additional insureds, with respect to any claims arising out of this Agreement and that insurance applies separately to each insured against whom claim is made or suit is brought, except with respect to the insurer's limit of liability; and (iv) include a waiver of subrogation endorsement or provision wherein the insurer acknowledges acceptance of Grantee's waiver of claims against City. Such policies will also provide for severability of interests and that an act or omission of one of the named insureds which would void or otherwise reduce coverage will not reduce or void the coverage as to any insured, and will afford coverage for all claims based on acts, omissions, injury, or damage that occurred or arose (or the onset of which occurred or arose) in whole or in part during the policy period.

(d) If generally commercially available in the insurance industry, Grantee will provide thirty (30) days' advance written notice to City of cancellation, intended non-renewal, or reduction in coverages, except for non-payment for which no less than ten (10) days' notice will be provided to City. Within one (1) business day of receiving any notice from its insurance provider or broker of intent to cancel or materially reduce, or cancellation, material reduction, or depletion of, its required coverage, Grantee will provide a copy of such notice to City and take prompt action to prevent cancellation, material reduction, or depletion of coverage, reinstate or replenish the cancelled, reduced, or depleted coverage, or obtain the full coverage required by this Section 10 (Insurance) from a different insurer meeting the qualifications of this Section. Notice to City will be mailed to the address(es) for City set forth in Section 21 (Notices).

(e) Prior to commencement of work on the Roadway Facilities, Grantee will deliver to City certificates of insurance and additional insured policy endorsements from insurers in a form reasonably satisfactory to City, evidencing the coverages required by this Agreement, together with complete copies of the policies at City's request. Grantee and its contractors will submit or cause their respective insurance brokers to submit requested information through the Exigis insurance verification program or other management system designated by City or any successor program used by City for verification of Grantee and contractor insurance coverage. If Grantee fails to procure such insurance, or to deliver such policies or certificates, at its option, City may procure the same for the account of Grantee, and Grantee will reimburse City for any costs so paid by City within five (5) business days after delivery to Grantee of bills therefor.

(f) Should any of the required insurance be provided under a form of coverage that includes a general annual aggregate limit or provides that claims investigation or legal defense costs be included in such general annual aggregate limit, such general aggregate limit will double the occurrence or claims limits specified above.

(g) Should any of the required insurance be provided under a claims-made form, Grantee will maintain such coverage continuously throughout the term of this Agreement and,

13. **Liens.** Grantee will keep the Easement Area and all of City's property free from any liens or claims arising out of any work performed, material furnished, or obligations incurred by or for Grantee. If Grantee does not, within five (5) days following the imposition of any such lien or the making of such claim, cause the lien to be released of record by payment or posting of a proper bond or causing the claim to be withdrawn, City will have in addition to all other remedies provided herein and by law or equity the right, but not the obligation, to cause the same to be released by such means as it deems proper, including, but not limited to, payment of the claim giving rise to such lien. All such sums paid by City and all expenses it incurs in connection therewith (including, without limitation, reasonable attorneys' fees) will be payable to City by Grantee on demand. City will have the right at all times to post and keep posted on the Easement Area any notices permitted or required by law or that City deems proper for its protection and protection of the Easement Area and City's property, from mechanics' and materialmen's liens. Notwithstanding the foregoing, Grantee will have the right, on posting of an adequate bond or other security acceptable to City, to contest any such lien, and in such case City will not seek to satisfy or discharge such lien unless Grantee has failed to do so within ten (10) days after final determination of the validity thereof. Grantee will indemnify City and its Agents against any and all Claims arising out of any such contest.

14. **Repair of Damage.** If any portion of the Easement Area or any property of City located on or about the Easement Area is damaged by any of the activities conducted by or for Grantee, Grantee will immediately, at no cost to City, repair any and all such damage and restore the Easement Area or property to its previous condition.

15. **City's Right to Cure Defaults by Grantee.** If Grantee fails to perform any of its obligations under this Agreement, then City may, at its sole option, remedy such failure for Grantee's account and at Grantee's expense by providing Grantee with three (3) days' prior written or verbal notice of City's intention to cure such default (except that no such prior notice will be required in the event of an emergency as determined by City). Such action by City will not be construed as a waiver of any rights or remedies of City under this Agreement, and nothing in this Agreement implies any duty of City to do any act that Grantee is obligated to perform. Grantee will pay to City on demand, all costs, damages, expenses or liabilities incurred by City, including, without limitation, reasonable attorneys' fees, in remedying or attempting to remedy such default. Grantee's obligations under this Section will survive the termination of this Agreement.

16. **No Costs to City.** Grantee will bear all costs or expenses of any kind or nature in connection with its use of the Easement Area, and will keep the Easement Area free and clear of any liens or claims of lien arising out of or in any way connected with its use of the Easement Area.

17. **Grantee's Indemnity.** Grantee will indemnify, defend, and hold harmless ("Indemnify") City, including all of its boards, commissions, departments, agencies, and other subdivisions, and all of its and their Agents, and their respective heirs, legal representatives, successors, and assigns (individually and collectively, the "Indemnified Parties"), and each of them, from and against all liabilities, losses, costs, claims, judgments, settlements, damages, liens, fines, penalties, and expenses, including direct and vicarious liability of every kind (collectively, "Claims"), incurred in connection with or arising in whole or in part from: (a) any accident, injury to or death of a person (including Grantee's employees), or loss of or damage to

property occurring in or about the Easement Area arising out of the acts, omissions or negligence of Grantee, its Agents or its clients, customers, invitees, guests, licensees, assignees, or tenants ("Invitees"); (b) any failure or default by Grantee in the observation or performance of any of the terms, covenants, or conditions of this Agreement to be observed or performed on Grantee's part; (c) the use or occupancy or manner of use or occupancy of the Easement Area by Grantee, its Agents, Invitees, or any person or entity claiming through or under any of them; (d) any construction or other work undertaken by Grantee on the Easement Area whether before or during the term of this Agreement; or (e) any acts, omissions, or negligence of Grantee, its Agents, or its Invitees, in, on, or about the Easement Area or the City Property, all regardless of the active or passive negligence of, and regardless of whether liability without fault is imposed or sought to be imposed on, the Indemnified Parties, except to the extent that the foregoing indemnity is void or otherwise unenforceable under applicable law and further except only those Claims as are caused exclusively by the willful misconduct or gross negligence of the Indemnified Parties, and subject to the limitations provided for in Section 2 of this Agreement. The foregoing indemnity includes reasonable fees of attorneys, consultants, and experts and related costs and City's costs of investigating any Claim, but shall exclude alleged lost profits. Grantee expressly acknowledges that Grantee has an immediate and independent obligation to defend City from any Claim that actually or potentially falls within this indemnity provision even if the allegation is or may be groundless, fraudulent, or false, which obligation arises at the time the Claim is tendered to Grantee by City and continues at all times thereafter. Grantee's obligations under this Section shall terminate upon conveyance of the Benefitted Property only as to the portion of the Benefitted Property conveyed and only with regard to Claims arising after the date of such conveyance, but the obligations of this Section shall be and remain binding on Grantee's successors and assigns.

18. Hazardous Material Acknowledgement and Indemnification.

a. Hazardous Material Acknowledgement: Grantee recognizes that, in entering upon the Easement Area and performing the uses permitted under the Easement, its Agents and Invitees may be working with or be exposed to substances or conditions that are toxic or otherwise hazardous. Grantee acknowledges that the City is relying on the Grantee to identify and evaluate the potential risks involved and to take all appropriate precautions to avoid risks to its Agents and Invitees, contractors, and subcontractors. Grantee agrees that it is assuming full responsibility for ascertaining the existence of all risks, evaluating their significance, implementing appropriate safety precautions for its Agents and Invitees, and making the decision on how (and whether) to enter upon the Easement Area and carry out the uses permitted under the Easement, with due regard to the risks and appropriate safety precautions.

b. Proper Disposal of Hazardous Materials: Grantee assumes sole responsibility for managing, removing, and properly disposing of any waste produced during or in connection with Grantee's entry and/or use of the Easement Area including, without limitation, preparing and executing any manifest or other documentation required for or associated with the removal, transportation, and disposal of Hazardous Substances to the extent required in connection with the Grantee's activities.

c. Toxics Indemnification: Grantee will defend, hold harmless, and indemnify the City and its Agents from and against any and all claims, demands, actions, causes of action or suits (actual or threatened), losses, costs, expenses, obligations, liabilities, or damages, including interest, penalties, engineering consultant and attorneys' fees resulting from any Release or threatened Release of a hazardous substance, pollutant, or contaminant, or any condition of pollution or contamination, or nuisance in the Easement Area or in ground or surface waters associated with and in the vicinity of the Easement Area to the extent that the Release or threatened Release, or condition is directly created or aggravated by the use undertaken by Grantee under this Agreement or by any breach of or failure to duly perform or observe any term, covenant, or agreement in this Agreement to be performed or observed by the Grantee, including but not limited to any violation of any Environmental Law (as defined in Section 18(e) below); provided, however, that Grantee will have no liability, nor any obligation to defend, hold harmless, or indemnify any person or entity for any claim, action, loss, cost, liability, expense, or damage resulting from (i) the willful misconduct or gross negligence of the person or entity seeking to be defended, indemnified, or held harmless, or (ii) the mere discovery or disclosure of any pre-existing condition on or in the vicinity of the Easement Area.

d. Hazardous Substances: For purposes of this Agreement, the term "**Hazardous Substance**" has the meaning set forth in the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U. S. C. Section 9601(14), and also includes, without limitation, petroleum, (including crude oil or any fraction thereof), asbestos, asbestos-containing materials, polychlorinated biphenyls ("**PCBs**" or "**PCB**"), PCB-containing materials, all hazardous substances identified at California Health & Safety Code Sections 25316 and 25281(h), all chemicals listed under California Health & Safety Code Section 25249.8, and any substance deemed a hazardous substance, hazardous material, hazardous waste, pollutant, or contaminant under applicable state or local law.

e. Environmental Laws: For purposes of this Agreement, the term "**Environmental Laws**" includes but is not limited to all laws dealing with or pertaining to solid or hazardous waste, wastewater discharges, drinking water, air emissions, Hazardous Substance Releases or reporting requirements, Hazardous Substance use or storage, and employee and community right-to-know requirements, related to Grantee's use under the Easement.

f. Release: For purposes of this Agreement, the term "**Release**" means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment (including the abandonment or discarding of barrels, containers, and other closed receptacles containing any Hazardous Substance or pollutant or contaminant).

g. Soils Investigation: For any soils investigations, Grantee warrants as follows:

i. If any soils investigation involves drilling holes with a diameter that could create a safety hazard for persons, the holes during any drilling operations must be carefully safeguarded and be refilled on the completion of the drilling operations (and compacted to the extent necessary) to the level of the original surface penetrated by the drilling.

ii. The City has no responsibility or liability of any kind or character with respect to any utilities that may be located in or on the Easement Area. Grantee has the sole responsibility to locate the same and to protect them from damage. Grantee will be solely responsible for any damage to utilities or damage resulting from any damaged utilities. Before the start of any work under this Agreement, the Permittee is advised to contact Underground Services Alert for assistance in locating existing utilities at (800) 642-2444. Any utility conduit or pipe encountered in excavations not identified by Underground Services Alert must be brought to the attention of the City immediately.

iii. All soils test data and resulting reports obtained from these activities must be provided to the City upon request and the City may use the data for whatever purposes it deems appropriate, including making it available to others for use in connection with any development. The data, reports, and City use will be without any charge to the City.

iv. Any hole drilled (if not refilled and compacted at the end of each day's operation) and the drilling work area and any equipment left on the Easement Area must be carefully safeguarded and secured after the completion of each day's work.

19. **Survival of Indemnities.** Termination of this Agreement will not affect the right of either party to enforce any and all indemnities and representations and warranties given or made to the other party under this Agreement, nor will it affect any provision of this Agreement that expressly states it will survive termination hereof.

20. **Waiver of Claims.**

a. Neither City nor any of its Agents will be liable for any damage to the property of Grantee or its Agents, or for any bodily injury or death to such persons, resulting or arising from the condition of the Easement Area or its use by Grantee.

b. Grantee fully RELEASES, WAIVES AND DISCHARGES forever any and all claims, demands, rights, and causes of action against, and covenants not to sue, the Indemnified Parties under any present or future laws, statutes, or regulations, with respect to Claims arising out of: (i) the physical or environmental condition of the Easement Area or any law or regulation applicable thereto or the suitability of the Easement Area for Grantee's intended use; (ii) any and all Claims for relocation benefits or assistance from City under federal and state relocation assistance laws, (iii) any and all Claims for consequential and incidental damages (including without limitation, lost profits), and covenants not to sue for such damages, and (iv) any and all Claims for any interference with the uses conducted by Grantee pursuant to this Agreement, regardless of the cause, except to the extent caused by the willful misconduct or gross negligence of City, or caused solely and directly by City's material breach of this Agreement.

c. In connection with the foregoing releases, Grantee acknowledges that it is familiar with Section 1542 of the California Civil Code, which reads:

A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor

at the time of executing the release and that, if known by him or her, would have materially affected his or her settlement with the debtor or released party.

Grantee acknowledges that the releases contained herein includes all known and unknown, direct and indirect, disclosed and undisclosed, and anticipated and unanticipated claims. Grantee realizes and acknowledges that it has entered into this Agreement in light of this realization and, being fully aware of this situation, it nevertheless intends to waive the benefit of Civil Code Section 1542, or any statute or other similar law now or later in effect. The releases contained in this Agreement will survive any termination of this Agreement.

21. **As Is Condition of Easement Area; Disclaimer of Representations.** Grantee accepts the Easement Area in its "AS IS" condition, without representation or warranty of any kind by City or its Agents and subject to all applicable laws, rules and ordinances governing the use of the Easement Area. Without limiting the foregoing, this Agreement is made subject to any and all covenants, conditions, restrictions, easements, encumbrances and other title matters affecting the Easement Area, whether foreseen or unforeseen, and whether such matters are of record or would be disclosed by an accurate inspection or survey.

22. **Notices, Demands and Communications.** Whenever any notice or any other communication is required or permitted to be given under any provision of this Agreement (as, for example, where a party is permitted or required to "notify" the other party), such notice or other communication will be in writing, signed by or on behalf of the party giving the notice or other communication, and will be deemed to have been given on the earliest to occur of (i) the date of the actual delivery, or (ii) if mailed, on the delivery date shown on the return receipt, in each case to the respective address(es) of the party to whom such notice is to be given as set forth below, or at such other address of which such party will have given notice to the other party as provided in this Section. Legal counsel for any party may give notice on behalf of the represented party.

If to City, to:

Recreation and Park Department
City and County of San Francisco
Attn: Director of Real Estate
Re: _____
501 Stanyan Street
San Francisco, CA 94117

with copies to

Office of the City Attorney
Attn: Real Estate/Finance Team
City Hall, Room 234
1 Dr. Carlton R. Goodlett Place
San Francisco, California 94102

If to Grantee, to:

Midtown Lands LLC
1888 Geneva Avenue, #407
San Francisco, California 94134

with a copy to:

Reuben, Junius & Rose, LLP
One Bush Street, Suite 600
San Francisco, California 94104
Attn: Kevin H. Rose

23. **No Joint Ventur or Partnership; No Authorization.** This Agreement does not create a partnership or joint venture between City and Grantee as to any activity conducted by Grantee on, in or relating to the Easement Area. Grantee is not a State actor with respect to any activity conducted by Grantee on, in, or under the Easement Area. The giving of this Easement by City does not constitute authorization or approval by City of any activity conducted by Grantee on, in or relating to the Easement Area.

24. **MacBride Principles - Northern Ireland.** The provisions of San Francisco Administrative Code Section 12F are incorporated by this reference and made part of this Agreement. By signing this Agreement, Grantee confirms that Grantee has read and understood that City urges companies doing business in Northern Ireland to resolve employment inequities and to abide by the MacBride Principles, and urges San Francisco companies to do business with corporations that abide by the MacBride Principles.

25. **Non-Discrimination.** Grantee will not, in the operation and use of the Easement Area, discriminate against any employee of, any City employee working with Grantee, or applicant for employment with Grantee, 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 those protected classes, or in retaliation for opposition to discrimination against those classes. Grantee does not as of the date of this Agreement and will not, in any of its operations in San Francisco, on real property owned by City, or where the work is being performed for the City or elsewhere within the United States, discriminate in the provision of bereavement leave, family medical leave, health benefits, membership or membership discounts, moving expenses, pension and retirement benefits, or travel benefits, as well as any benefits other than the benefits specified above, between employees with domestic partners and employees with spouses, and/or between the domestic partners and spouses of the employees, where the domestic partnership has been registered with a governmental entity under state or local law authorizing the registration, subject to the conditions set forth in Section 12B.2(b) of the San Francisco Administrative Code..

26. **Public Records.** Grantee understands and agrees that under City's Sunshine Ordinance (San Francisco Administrative Code Chapter 67) and the State Public Records Law (Gov't Code Section 6250 et seq.), apply to this Agreement and any and all records, information, and materials submitted to City in connection with this Agreement. Accordingly, any and all such records, information, and materials may be subject to public disclosure in accordance with City's Sunshine Ordinance and the State Public Records Law. Grantee authorizes City to

disclose any records, information, and materials submitted to City in connection with this Agreement.

27. **Tropical Hardwood and Virgin Redwood Ban; Preservative-Treated Wood Containing Arsenic.** City urges companies not to import, purchase, obtain, or use for any purpose, any tropical hardwood, tropical hardwood wood product, virgin redwood or virgin redwood wood product. Except as expressly permitted by the application of Sections 802(b) and 803(b) of the San Francisco Environment Code, Grantee will not provide any items to the construction of any improvements, or otherwise in the performance of this Agreement, that are tropical hardwoods, tropical hardwood wood products, virgin redwood, or virgin redwood wood products. Grantee may not purchase preservative-treated wood products containing arsenic in the performance of this Agreement unless an exemption from the requirements of Environment Code Chapter 13 is obtained from the Department of Environment.

28. **Taxes.**

a. Grantee recognizes and understands that the Easement may create a possessory interest subject to property taxation and that Grantee may be subject to the payment of property taxes levied on such interest under applicable law. Grantee further recognizes and understands that any transfer or assignment permitted under this Agreement may constitute a change in ownership for purposes of property taxation and therefore may result in a revaluation of any possessory interest created hereunder.

b. Grantee agrees to pay taxes of any kind, including possessory interest taxes, if any, that may be lawfully assessed on the interest created by the Easement and to pay any other taxes (including transfer taxes), excises, licenses, permit charges or assessments based on Grantee's usage of the Easement Area that may be imposed on Grantee by applicable law. Grantee will pay all of such charges when they become due and payable and before delinquency.

c. Grantee agrees not to allow or suffer a lien for any such taxes to be imposed on the Easement Area or on any equipment or property located thereon without promptly discharging the same, provided that Grantee, if so desiring, may have reasonable opportunity to contest the validity of the same.

d. **No Tobacco or Alcoholic Beverage Advertising.** Grantee acknowledges and agrees that no advertising of cigarettes or tobacco products is allowed on the Easement Area. This advertising prohibition includes the placement of the name of a company producing cigarettes or tobacco products or the name of any cigarette or tobacco product in any promotion of any event or product. In addition, Grantee acknowledges and agrees that no Sales, Manufacture, or Distribution of Tobacco Products (as such capitalized terms are defined in San Francisco Health Code Section 19K.1) is allowed on the Easement Area and such prohibition must be included in all subleases or other agreements allowing use of the Easement Area. The prohibition against Sales, Manufacture, or Distribution of Tobacco Products does not apply to persons who are affiliated with an accredited academic institution where the Sale, Manufacture, and/or Distribution of Tobacco Products is conducted as part of academic research. Grantee acknowledges and agrees that no advertising of alcoholic beverages is allowed on the Easement Area. This advertising prohibition

includes the placement of the name of a company producing alcoholic beverages or the name of any alcoholic beverage in any promotion of any event or product.

29. **Restrictions on the Use of Pesticides.**

a. Chapter 3 of the San Francisco Environment Code (the Integrated Pest Management Program Ordinance or "**IPM Ordinance**") describes an integrated pest management ("**IPM**") policy to be implemented by all City departments. Grantee may not use or apply or allow the use or application of any pesticides on the Easement Area or contract with any party to provide pest abatement or control services to the Easement Area without first receiving City's written approval of an IPM plan that (i) lists, to the extent reasonably possible, the types and estimated quantities of pesticides that Grantee may need to apply to the Easement Area during the Term, (ii) describes the steps Grantee will take to meet City's IPM Policy described in Section 300 of the IPM Ordinance, and (iii) identifies, by name, title, address, and telephone number, an individual to act as the Grantee's primary IPM contact person with City. Grantee will comply, and will require all of Grantee's contractors to comply, with the IPM plan approved by City and will comply with the requirements of Sections 300(d), 302, 304, 305(f), 305(g), and 306 of the IPM Ordinance, as if Grantee were a City department. Among other matters, the provisions of the IPM Ordinance: (i) provide for the use of pesticides only as a last resort, (ii) prohibit the use or application of pesticides on City property, except for pesticides granted an exemption under Section 303 of the IPM Ordinance (including pesticides included on the most current Reduced Risk Pesticide List compiled by City's Department of the Environment), (iii) impose certain notice requirements, and (iv) require Grantee to keep certain records and to report to City all pesticide use at the Easement Area by Grantee's staff or contractors.

b. If Grantee or Grantee's contractor would apply pesticides to outdoor areas at the Easement Area, Grantee will first obtain a written recommendation from a person holding a valid Agricultural Pest Control Advisor license issued by the California Department of Pesticide Regulation ("**CDPR**") and the pesticide application will be made only by or under the supervision of a person holding a valid, CDPR-issued Qualified Applicator certificate or Qualified Applicator license. City's current Reduced Risk Pesticide List and additional details about pest management on City property can be found at the San Francisco Department of the Environment website, <http://sfenvironment.org/ipm>.

30. **Conflicts of Interest.** Through its execution of this Agreement, Grantee acknowledges that it is familiar with the provisions of Article III, Chapter 2 of City's Campaign and Governmental Conduct Code, and Section 87100 et seq. and Section 1090 et seq. of the Government Code of the State of California, and certifies that it does not know of any facts which constitute a violation of said provisions and agrees that if it becomes aware of any such fact during the term of this Agreement, Grantee will immediately notify the City.

31. **Notification of Prohibition on Contributions.** Through its execution of this Agreement, Grantee acknowledges that it is familiar with Section 1.126 of the San Francisco Campaign and Governmental Conduct Code, which prohibits any person who contracts with City for the selling or leasing of any land or building to or from any department of City from making any campaign contribution whenever such transaction would require the approval by a City elective officer, the board on which that City elective officer serves, or a board on which an

appointee of that individual serves, to (1) the City elective officer, (2) a candidate for the office held by such individual, or (3) a committee controlled by such individual or candidate, at any time from the commencement of negotiations for the contract until the later of either the termination of negotiations for such contract or twelve (12) months after the date the contract is approved, if the contract or a combination or series of contracts approved by the same individual or board in a fiscal year have a total anticipated or actual value of \$100,000 or more. Grantee acknowledges that (i) the prohibition on contributions applies to Grantee; each member of Grantee's board of directors, and Grantee's chief executive officer, chief financial officer and chief operating officer; any person with an ownership interest of more than ten percent (10%) in Grantee; any subcontractor listed in the contract; and any committee that is sponsored or controlled by Grantee; and (ii) within thirty (30) days of the submission of a proposal for the contract, the City department with whom Grantee is contracting is obligated to submit to the Ethics Commission the names of the parties to the contract and any subcontractor. Additionally, Grantee certifies that it has informed each of the persons described in Section 1.126 of the limitation on contributions imposed by Section 1.126, and has provided the names of the persons required to be informed to the City department with whom it is contracting.

32. **General Provisions.** (a) This Agreement may be amended or modified only by a writing signed by City and Grantee. (b) No waiver by any party of any of the provisions of this Agreement will be effective unless in writing and signed by an officer or other authorized representative, and only to the extent expressly provided in such written waiver. (c) Unless otherwise stated, all approvals and determinations of City requested, required, or permitted hereunder may be made in the sole discretion of the general manager of the San Francisco Recreation and Park Department or other authorized City official. (d) This instrument (including the exhibit(s) hereto) contains the entire agreement between the parties and all prior written or oral negotiations, discussions, understandings and agreements are merged herein. The words "include" or "including" or similar words will not be construed to limit any general term, statement, or other matter in this Lease or any of its attached exhibits, whether or not language of non-limitation, such as "without limitation" or similar words, are used. (e) The section and other headings of this Agreement are for convenience of reference only and will be disregarded in the interpretation of this Agreement. (f) Time is of the essence in each and every provision hereof. (g) This Agreement will be governed by California law and City's Charter. (h) If Grantee consists of more than one person then the obligations of each person will be joint and several. (i) If any provision of this Agreement is invalid or unenforceable, the remainder of this Agreement will not be affected and will be valid and be enforceable to the fullest extent permitted by law, except to the extent that enforcement of this Agreement without the invalidated provision would be unreasonable or inequitable under all the circumstances or would frustrate a fundamental purpose of this Agreement. (j) All exhibits attached to this Permit are incorporated by reference.

NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS AGREEMENT, GRANTEE ACKNOWLEDGES AND AGREES THAT NO OFFICER OR EMPLOYEE OF CITY HAS AUTHORITY TO COMMIT CITY TO THIS AGREEMENT UNLESS AND UNTIL RESOLUTIONS OF CITY'S RECREATION AND PARK COMMISSION AND CITY'S BOARD OF SUPERVISORS WILL HAVE BEEN DULY ADOPTED APPROVING THIS AGREEMENT AND AUTHORIZING THE TRANSACTION CONTEMPLATED HEREBY. THEREFORE, ANY OBLIGATIONS OR LIABILITIES OF CITY HEREUNDER ARE

CONTINGENT UPON ENACTMENT OF SUCH RESOLUTIONS, AND THIS AGREEMENT WILL BE NULL AND VOID IF THE SAN FRANCISCO RECREATION AND PARK COMMISSION, BOARD OF SUPERVISORS AND MAYOR DO NOT APPROVE THIS AGREEMENT, EACH IN THEIR RESPECTIVE SOLE DISCRETION.

[Continued]

Accepted and Agreed:

Midtown Lands LLC,
a California company

By: James Keith
Name: James Keith
Title: Managing Member

CITY:

CITY AND COUNTY OF SAN
FRANCISCO,
a municipal corporation

By: _____
Andrico Q. Penick
Director of Property

RECOMMENDED:

By: _____
Philip Ginsburg
General Manager
Recreation and Park Department

APPROVED AS TO FORM:

DAVID CHIU
City Attorney

By: _____
Elizabeth A. Dietrich
Deputy City Attorney

NOTARY ACKNOWLEDGMENT

CERTIFICATE OF ACKNOWLEDGMENT OF NOTARY PUBLIC

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)

County of San Francisco)

On DEC. 12 / 2023, before me, ELIEM LIU-LAM, a Notary Public, personally appeared JAMES KEITH, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature:  (Seal)

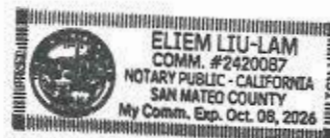


EXHIBIT A

Legal Description of City Property
(Larger RPD Greenbelt Area)

EXHIBIT A

LEGAL DESCRIPTION

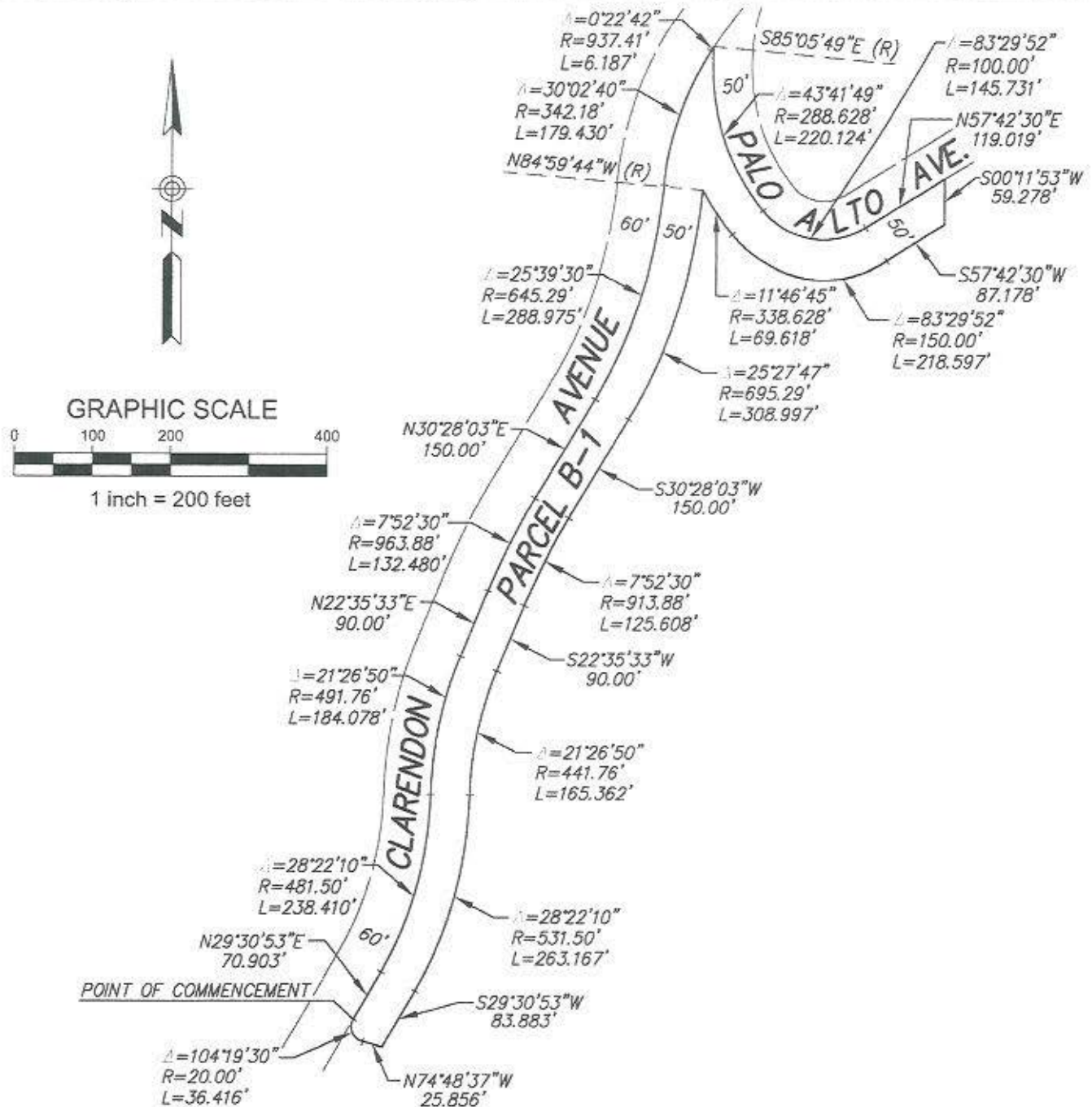
PARCEL B-1:

COMMENCING at a point on the southeasterly line of Clarendon Avenue, as said Avenue is shown on that certain map entitled "Map of Clarendon Avenue Showing the Widening etc.", filed in the office of the Recorder of the City and County of San Francisco, State of California, July 17, 1946, in Map Book "P" at pages 34 and 35, distant thereon South 29°30'53" West 70.903 feet from the northerly terminus of that certain course, having a distance of 229.630 feet, which forms a portion of the said southeasterly line of Clarendon Avenue and which is terminated on the Southwest by a curve having a radius of 670 feet and on the Northeast by a curve having a radius of 481.50 feet; thence from said point of commencement along the said southeasterly line of Clarendon Avenue the following courses and distances: North 29°30'53" East 70.903 feet, northeasterly on the arc of a curve to the left, tangent to the preceding course with a radius of 481.50 feet, a central angle of 28°22'10", a distance of 238.410 feet, on an arc of a reverse curve to the right, tangent to the preceding curve with a radius of 491.76 feet, a central angle 21°26'50", a distance of 184.078 feet, North 22°35'33" East, tangent to the preceding curve 90.00 feet, on an arc of a curve to the right, tangent to the preceding course with a radius of 963.88 feet, a central angle of 7°52'30", a distance of 132.480 feet, North 30°28'03" East tangent to the preceding curve 150.00 feet, on an arc of a curve to the left, tangent to the preceding course with a radius of 645.29 feet, a central angle of 25°39'30", a distance of 288.975 feet, on an arc of a reverse curve to the right, tangent to the preceding curve with a radius of 342.18 feet, a central angle of 30°02'40", a distance of 179.430 feet, and on arc of a curve to the right, tangent to the preceding curve with a radius of 937.41 feet, a central angle of 0°22'42", a distance of 6.187 feet to the southwesterly line of the parcel of land described as Parcel 2 in the deed from Adolph G. Sutro to American Broadcasting Company, Inc., a corporation, dated April 12, 1948, recorded April 19, 1948 in Book 4882 of Official Records page 63, thence leaving the southeasterly line of said Clarendon Avenue and running along the southwesterly, southerly, and southeasterly line of said parcel of land the following courses and distances; southeasterly on an arc of a curve to the left, the center of which bears South 85°05'49" East 288.628 feet from the last mentioned point with a radius of 288.628 feet, a central angle of 43°41'49", a distance of 220.124 feet, southeasterly, easterly and northeasterly on an arc of a curve to the left tangent to the preceding curve with a radius of 100 feet, a central angle of 83°29'52", a distance of 145.731 feet, and North 57°42'30" East tangent to the preceding curve 119.019 feet, to the westerly boundary line of the parcel of land described as Parcel 1 in the deed from Adolph G. Sutro to American Broadcasting Company, Inc., a corporation, dated April 12, 1948, recorded April 19, 1948, in Book 4882 official records page 63, thence along said westerly line South 0°11'53" West 59.278 feet; thence

southwesterly parallel with and perpendicularly distant 50 feet southeasterly from the southeasterly line of the above said parcel the following courses and distances; South $57^{\circ}42'30''$ West 87.178 feet, southwesterly, westerly and northwesterly on arc of a curve to the right, tangent to the preceding course with a radius of 150 feet, a central angle of $83^{\circ}29'52''$, a distance of 218.597 feet and on an arc of a curve to the right, tangent to the preceding curve with a radius of 338.628 feet, a central angle of $11^{\circ}46'45''$, a distance of 69.618 feet to a point, said point being radially and perpendicularly distant 50 feet easterly from the southeasterly line of said Clarendon Avenue; thence parallel with and radially and perpendicularly distant 50 feet southeasterly from the southeasterly line of said Clarendon Avenue the following courses and distances: on an arc of a curve to the right, the center of which bears North $84^{\circ}59'44''$ West 695.29 feet from the last mentioned point with a radius of 695.29 feet, a central angle of $25^{\circ}27'47''$, a distance of 308.997 feet, South $30^{\circ}28'03''$ West tangent to the preceding curve 150 feet, on an arc of a curve to the left, tangent to the preceding course with a radius of 913.88 feet, a central angle of $7^{\circ}52'30''$, a distance of 125.608 feet, South $22^{\circ}35'33''$ West tangent to the preceding curve 90.00 feet, on an arc of a curve to the left, tangent to the preceding course with a radius of 441.76 feet, a central angle of $21^{\circ}26'50''$, a distance of 165.362 feet, on an arc of a reverse curve to the right, tangent to the preceding curve with a radius of 531.50 feet, a central angle of $28^{\circ}22'10''$, a distance of 263.167 feet and South $29^{\circ}30'53''$ West tangent to the preceding curve 83.883 feet to a point; thence North $74^{\circ}48'37''$ West 25.856 feet; thence northwesterly, northerly and northeasterly on an arc of a curve to the right, tangent to the preceding course with a radius of 20 feet, a central angle of $104^{\circ}19'30''$, a distance of 36.416 feet to tangency with the southeasterly line of said Clarendon Avenue and the point of commencement.

Excepting and reserving to Pacific Coast Construction Company an easement for roadway purposes for access from its remaining and adjoining real property across said Parcel B-1 to Clarendon Avenue, within a strip of land 50 feet wide, the actual location of said proposed roadway to be determined by said Company and the second party in cooperation with the City Planning Commission within three years from the date of this conveyance.

Recorded June 27, 1957 in Book 7099 Page 322, Official Records



ABBREVIATIONS

R RADIUS
 (R) RADIAL
 Δ DELTA
 L LENGTH

LEGEND

————— PARCEL B-1 LINE
 - - - - - RIGHT OF WAY LINE

NOTES

1. ALL DEFLECTION ANGLES HEREON ARE 90 OR 45 DEGREES UNLESS EXPRESSLY OTHERWISE INDICATED.
2. ALL MEASURED DISTANCES ARE SHOWN HEREON IN FEET AND DECIMALS THEREOF. ALL OTHERS ARE SHOWN AS PER RECORDS AND NOTED AS SUCH.

Approved by:



TRANSAMERICAN ENGINEERS

1390 Market Street, Suite 201 San Francisco, CA. 94102
 Tel: 415-553-4099 Fax: 415-553-4071 Email: info@transamericanengineers.com

EXHIBIT "A"

PLAT TO ACCOMPANY LEGAL DESCRIPTION
 PARCEL B-1

BOOK 7099, PAGE 322, OFFICIAL RECORDS

SAN FRANCISCO

CALIFORNIA

Job No. 6965

Date: MAY 2023

Surveyed by: DP/MM

Drawn by: LF

Checked by: BP

Scale: AS SHOWN

Sheet No. 1 OF 1

EXHIBIT B

Legal Description of Benefitted Property

EXHIBIT "B"

LEGAL DESCRIPTION

(APN: AB 2724, Lot 002)

All that certain real property situated in the City and County of San Francisco, State of California, described as follows:

Beginning at the intersection of the easterly line of Block 2781 of Midtown Terrace Subdivision No. 7, as per map thereof filed August 20, 1958 in Book "S" of Maps, at pages 21 and 22, in the office of the Recorder of said County, and the southeasterly line of "Parcel B-1" as described in that deed to the City and County of San Francisco recorded June 27, 1957 in Book 7099, Page 322 of Official Records, in the office of the Recorder of said County, said intersection being the northeasterly corner of said Block 2781;

Thence along the easterly line of said Block 2781 South $0^{\circ}11'53''$ West 69.03 feet to an angle point of "Parcel X" as described in that deed from Emma L. Merritt to Adolph G. Sutro recorded December 18, 1929 in Book 1959, Page 194 of Official Records, in the office of Recorder of said County;

Thence along the line of said "Parcel X" South $89^{\circ}48'07''$ East 100 feet
(cited as South $89^{\circ}45'01''$ East 100 feet in said description of said "Parcel X");

Thence North $0^{\circ}11'53''$ East (cited as North $0^{\circ}14'59''$ East in said description of said "Parcel X") 129.24 feet to the southeasterly corner of said "Parcel B-1";

Thence along the southeasterly line of said "Parcel B-1" South $57^{\circ}42'30''$ West 87.18 feet to the beginning of a curve to the right in said southeasterly line having a radius of 150 feet;

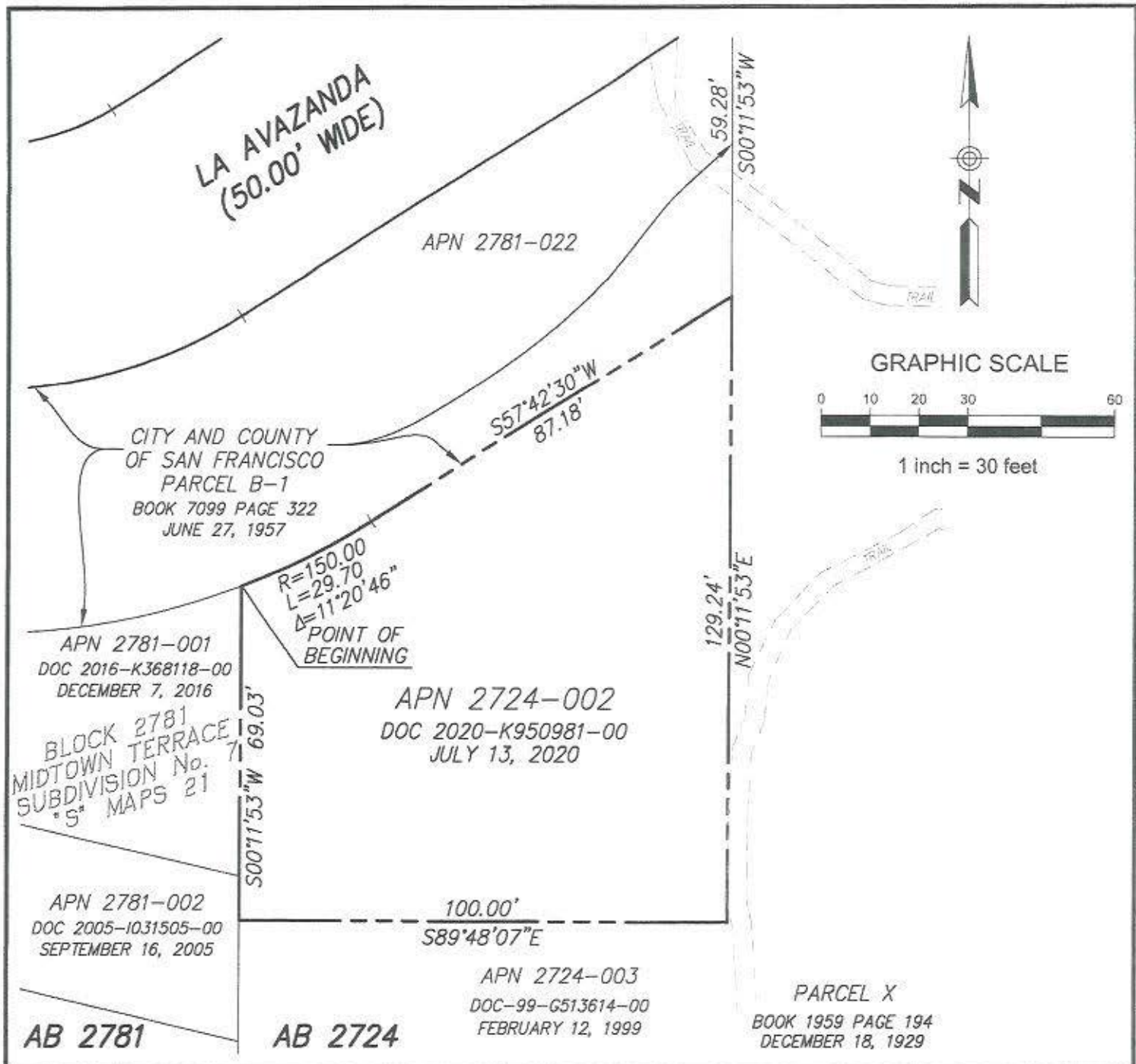
Thence southwesterly along said curve through a central angle of $11^{\circ}20'46''$, a distance of 29.70 feet to the easterly line of said block 2781 and the Point of Beginning.

Containing 0.22 acres, more or less.

TRANSAMERICAN ENGINEERS & ASSOCIATES


Barry A. Pierce, PLS 6975



**ABBREVIATIONS**

AB ASSESSOR'S BLOCK
APN ASSESSOR'S PARCEL NUMBER
DOC DOCUMENT

LEGEND

----- PARCEL IN QUESTION
----- RIGHT OF WAY LINE
----- ADJACENT LOT LINE
----- TRAIL

NOTES

1. ALL DEFLECTION ANGLES HEREON ARE 90 OR 45 DEGREES UNLESS EXPRESSLY OTHERWISE INDICATED.
2. ALL MEASURED DISTANCES ARE SHOWN HEREON IN FEET AND DECIMALS THEREOF. ALL OTHERS ARE SHOWN AS PER RECORDS AND NOTED AS SUCH.

Approved by:

**TRANSAMERICAN ENGINEERS**

1390 Market Street, Suite 201 San Francisco, CA. 94102
Tel: 415-553-4099 Fax: 415-553-4071 Email: info@transamericanengineers.com

EXHIBIT "B"
PLAT TO ACCOMPANY
LEGAL DESCRIPTION
APN 2724-002

SAN FRANCISCO

CALIFORNIA

Job No.	6965
Date:	MAY 2023
Surveyed by:	DP/MM
Drawn by:	LF
Checked by:	BP
Scale:	AS SHOWN
Sheet No.	1 OF 1

EXHIBIT C

Legal Description of Easement Area

EXHIBIT "C"

LEGAL DESCRIPTION

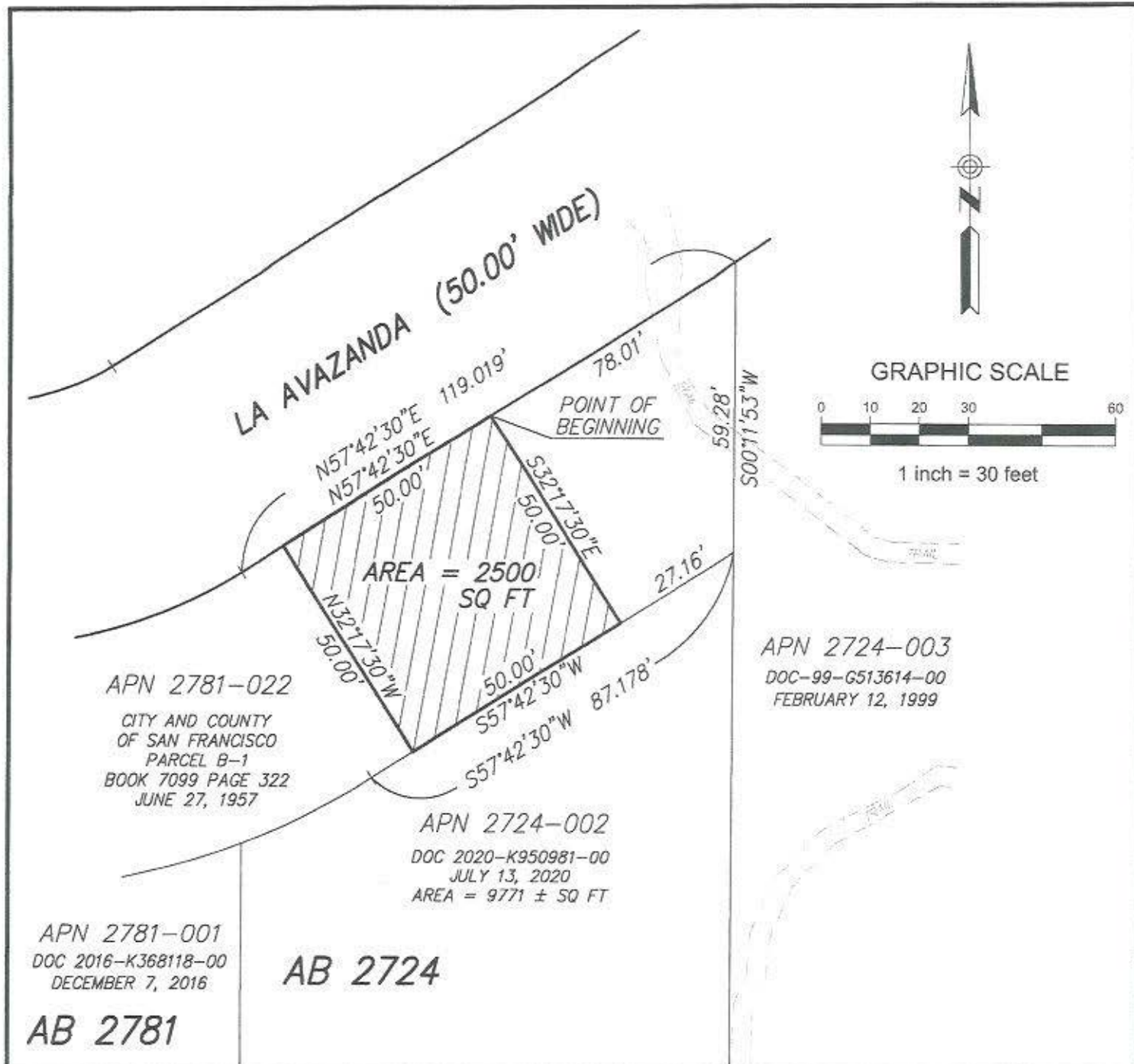
All that certain real property situated in the City and County of San Francisco, State of California, described as follows:

Being a portion of Parcel B-1 as said parcel is described in that certain deed recorded June 27, 1957 in Book 7099 at page 322, office of the Recorder of the City and County of San Francisco, State of California.

Beginning at a point on the line described as North 57°42' 30" East tangent to the preceding curve 119.019 feet in said deed, said point being South 57°42' 30" West 78.01 feet from the northeasterly terminus of said line; thence leaving said line South 32°17'30" East 50.00 feet to a point on the line described as South 57°42' 30" West 87.178 feet in said deed, said point being South 57°42' 30" West 27.16 feet from the northeasterly terminus of last said line; thence along last said line South 57°42' 30" West 50.00 feet; thence leaving last said line North 32°17'30" West 50.00 feet to a point on said line described as North 57°42' 30" East tangent to the preceding curve 119.019 feet in said deed; thence along last said line North 57°42' 30" East 50.00 feet to the Point of Beginning.

Containing 2,500 square feet (0.06 acre), more or less.



**ABBREVIATIONS**

AB ASSESSOR'S BLOCK
APN ASSESSOR'S PARCEL NUMBER
DOC DOCUMENT

LEGEND

————— PARCEL IN QUESTION
————— RIGHT OF WAY LINE
————— ADJACENT LOT LINE
- - - - - TRAIL

NOTES

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2. ALL MEASURED DISTANCES ARE SHOWN HEREON IN FEET AND DECIMALS THEREOF. ALL OTHERS ARE SHOWN AS PER RECORDS AND NOTED AS SUCH.

Approved by:

**TRANSAMERICAN ENGINEERS**

1390 Market Street, Suite 201 San Francisco, CA. 94102
Tel: 415-553-4099 Fax: 415-553-4071 Email: info@transamericanengineers.com

EXHIBIT "C"
PLAT TO ACCOMPANY
LEGAL DESCRIPTION
APN 2781-022

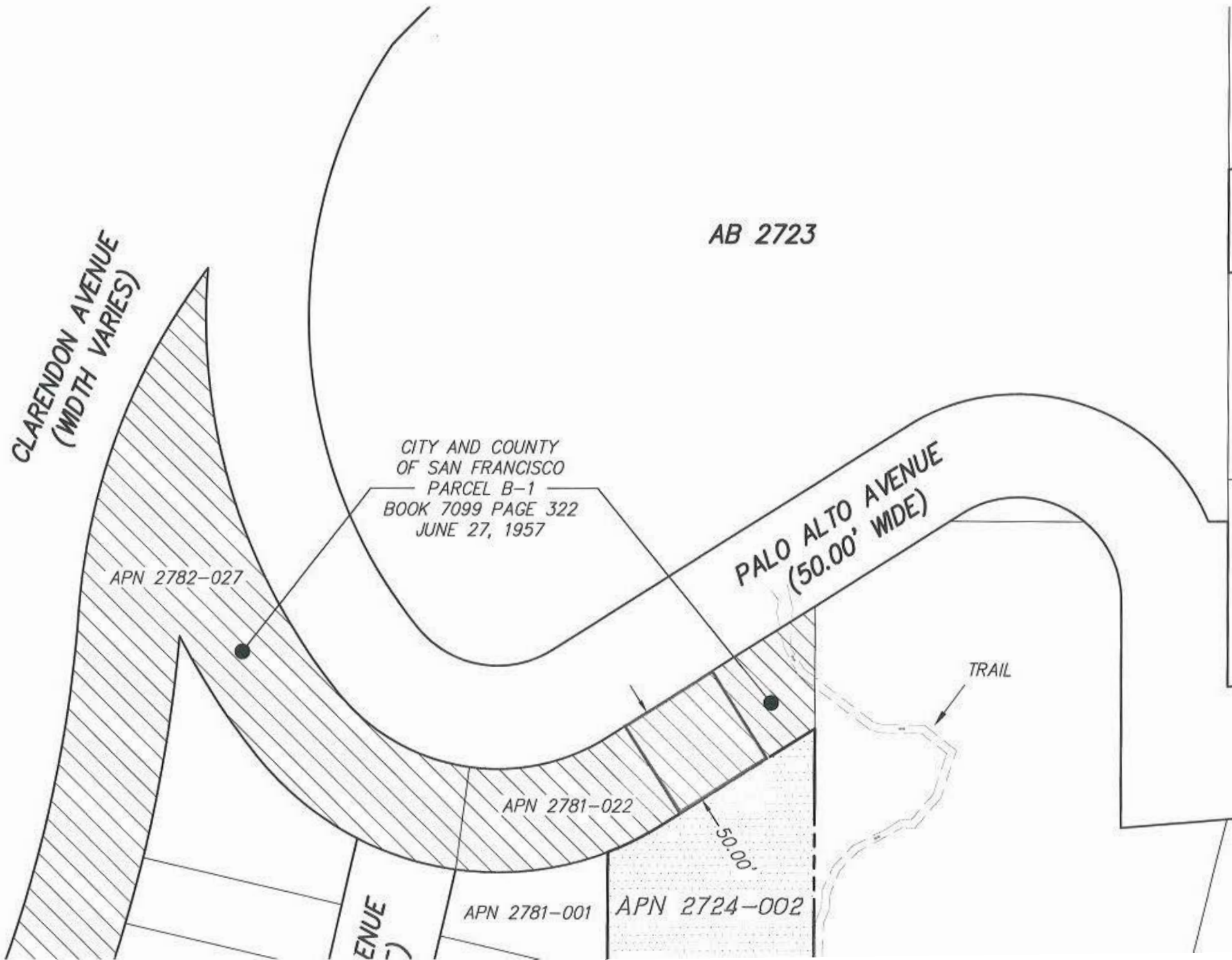
SAN FRANCISCO

CALIFORNIA

Job No.	6965
Date:	MAY 2023
Surveyed by:	DP/MM
Drawn by:	LF
Checked by:	BP
Scale:	AS SHOWN
Sheet No.	1 OF 1

EXHIBIT D

Depiction of Easement Area,
Benefitted Property, City Property, and Trail





GENERAL PLAN REFERRAL

April 28, 2023

Case No.: 2021-006620GPR
Block/Lot No.: Easement Across Lot 022 in Assessor's Block 2781 to serve Lot 002 in Assessor's Block 2724
Project Sponsor: Midtown Lands, LLC
c/o Justin A. Zucker
Reuben, Junius & Rose, LLP
jzucker@reubenlaw.com
(415) 567-9000
Applicant: Real Estate Division
25 Van Ness Avenue, Suite 400
San Francisco, CA 94103
c/o Burt Hirschfeld
Staff Contact: Mat Snyder 628-652-7460
mathew.snyder@sfgov.org
Recommended By: 
AnMarie Rodgers, Director of Citywide Policy for
Rich Hillis, Director of Planning

Finding: The project, on balance, is **in conformity** with the General Plan.

Project Description

The proposal is to establish an access and utility easement ("Easement") across Lot 022 in Assessor's Block 2781 ("RPD Lot"), a 50-foot-deep parcel owned by the San Francisco Recreation and Parks Department ("RPD"). The RPD Lot is one of several that serve as buffers between Clarendon Avenue and Palo Alto Avenue (shown on some maps as La Avandanza Street) and private residential lots. These buffer lots are adjacent to a larger network of RPD natural areas in and around Twin Peaks and Mount Sutro, referred to as the Interior Green Built. The location of the Easement is on the south side of Palo Alto Avenue east of Delbrooke Avenue. The easement would serve a private lot (Lot 002 in Assessor's Block 2724, "Development Lot"), a vacant landlocked parcel zoned RH-1(D) (Residential One-House, Detached).¹ The proposed easement would enable access from the Development Lot to Palo Alto Avenue and measure 50-feet along the street by 50-feet deep. A 1957 Conveyance

¹ The Development Lot, previously referred to as "0 Palo Alto Avenue" was recently approved to be subdivided into two separate lots under case no. 2021-006620SUB.

Agreement provided the owner of the Development Lot with a right to a 50-foot-wide easement across the RPD lot, but without specifics to its location or design.

There are currently no applications for actual buildings or other improvements for the Development Lot nor for the Easement. Design for such improvements will be subject to its own review when such entitlement and/or building applications are submitted.

Establishing the subject easement requires an Easement Agreement approval by the Recreation and Parks Commission and the Board of Supervisors, which in turn, requires this General Plan Referral.

Environmental Review

The project was determined to be exempt under CEQA Guidelines Section 15061(b)(3) on 7/8/2021 (Planning Case No. 2021-006620ENV)

General Plan Compliance and Basis for Recommendation

As described below, the proposed ballot box installation is consistent with the Eight Priority Policies of Planning Code Section 101.1 and is, on balance, in conformity with the General Plan.

Note: General Plan Objectives are shown in **BOLD UPPER CASE** font; Policies are in **Bold** font; staff comments are in *italic* font.

HOUSING ELEMENT

OBJECTIVE 4.C.

EXPAND AND DIVERSIFY HOUSING TYPES FOR ALL.

Policy 33

Prevent the outmigration of families with children and support the needs of families to grow.

Policy 36

Maximize the use of existing housing stock for residential use by discouraging vacancy, short-term use, and speculative resale.

Establishing the roadway and utility easement for the Development Lot would enable the lot to be developed for residential use suitable for families. It would enable an unused residential parcel to be developed for much needed housing by enabling access to it.

The City has recently updated its Housing Element through which it is targeting the creation of 82,000 units within the next eight years. As a first step to creating these units, the Planning Department identified all underutilized parcels, including the subject parcel, as a potential source for new residential development. By creating an easement for the Development Lot, the parcel can be developed for much needed housing and help the City to meet its housing production target.

RECREATION AND OPEN SPACE ELEMENT

OBJECTIVE 1

ENSURE A WELL-MAINTAINED, HIGHLY UTILIZED, AND INTEGRATED OPEN SPACE SYSTEM

POLICY 1.3

Preserve existing open space by restricting its conversion to other uses and limiting encroachment from other uses, assuring no loss of quantity or quality of open space.

The proposed easement would encroach onto the RPD lot, which is designated as natural open space. To assure that the easement will not unduly impact that natural characteristic of the RPD lot, the Project Sponsor will enter into an Easement Agreement with the City for which RPD will be a signatory; Recreation and Park Commission and Board of Supervisors approval is also required. The easement, among other provisions, will include assurances that improvements on the easement will meet RPD design standards for the natural area's setting and that vegetation on the easement and nearby will be properly maintained on an ongoing basis.

TRANSPORTATION ELEMENT

OBJECTIVE 1

MEET THE NEEDS OF ALL RESIDENTS AND VISITORS FOR SAFE, CONVENIENT AND INEXPENSIVE TRAVEL WITHIN SAN FRANCISCO AND BETWEEN THE CITY AND OTHER PARTS OF THE REGION WHILE MAINTAINING THE HIGH QUALITY LIVING ENVIRONMENT OF THE BAY AREA.

By creating the easement across the RPD Lot, the Development Lot will be accessible to and from the City's right-of-way network of streets and transportation amenities.

URBAN DESIGN ELEMENT

OBJECTIVE 2

CONSERVATION OF RESOURCES WHICH PROVIDE A SENSE OF NATURE, CONTINUITY WITH THE PAST, AND FREEDOM FROM OVERCROWDING.

POLICY 2.1

Preserve in their natural state the few remaining areas that have not been developed by man.

POLICY 2.2

Limit improvements in other open spaces having an established sense of nature to those that are necessary, and unlikely to detract from the primary values of the open space.

As described above, the RPD Lot is part of a network of natural open space areas in and around Twin Peaks and Mount Sutro. The Development Lot, however, is a privately owned lot zoned for residential development and is not public land. To assure the natural open space quality of the RPD Lot is maintained, the Project Sponsor will be

required to enter into an Easement Agreement with the Recreation and Parks Department that will, among other provisions, assure that the area of the easement and surrounding area will be designed and maintained pursuant to RPD natural areas standards.

OBJECTIVE 4

IMPROVEMENT OF THE NEIGHBORHOOD ENVIRONMENT TO INCREASE PERSONAL SAFETY, COMFORT, PRIDE AND OPPORTUNITY.

POLICY 4.5

Provide adequate maintenance for public areas.

As noted above, the draft Easement Agreement would require the Project Sponsor to manage the easement and adjacent land according to Recreation and Parks Department's policies and procedures, thereby assuring the area's ongoing natural characteristic.

RESILIENCE AND COMMUNITY SAFETY ELEMENT

OBJECTIVE 3.2.

NEW BUILDINGS. MAXIMIZE THE SAFETY, ENVIRONMENTAL PERFORMANCE, AND CLIMATE ADAPTABILITY OF ALL NEW DEVELOPMENT.

New development on the Development Lot -- along with roadway and utility access between it and Palo Alto Avenue -- will be constructed pursuant to City codes, including those that address safety, resilience, and sustainability. Construction of improvements on the easement will enable residents to egress from the property in cases of emergency.

Planning Code Section 101 Findings

Planning Code Section 101.1 establishes Eight Priority Policies and requires review of discretionary approvals and permits for consistency with said policies. The Project is found to be consistent with the Eight Priority Policies as set forth in Planning Code Section 101.1 for the following reasons:

1. That existing neighborhood-serving retail uses be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses enhanced;

Residential development on the Development Lot and the subject easement would not have an adverse effect on existing neighborhood-serving retail uses and will not have a negative effect on opportunities for resident employment in and ownership of neighborhood-serving retail.

2. That existing housing and neighborhood character be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods;

The Project would not have a negative effect on existing housing or neighborhood character in San Francisco. At least two additional units could be constructed that would positively add to the City's housing

stock.

3. That the City's supply of affordable housing be preserved and enhanced;

The Project would not have an adverse effect on the City's supply of affordable housing. The proposed easement would enable new residential development on vacant land and would not have any adverse effect on existing affordable housing.

4. That commuter traffic not impede MUNI transit service or overburden our streets or neighborhood parking;

The Project would not result in commuter traffic impeding MUNI transit service or overburdening the streets or neighborhood parking in San Francisco.

5. That a diverse economic base be maintained by protecting our industrial and service sectors from displacement due to commercial office development, and that future opportunities for resident employment and ownership in these sectors be enhanced;

The project would enable residential development in a residential context and thereby would not cause displacement of the industrial or service sectors due to office development, and future opportunities for resident employment or ownership in these sectors would not be impaired for San Francisco.

6. That the City achieve the greatest possible preparedness to protect against injury and loss of life in an earthquake;

The Project would not have an adverse effect on City's preparedness against injury and loss of life in an earthquake. Improvements to the Development Lot and the subject easement would require to be constructed to current seismic standards, among other safety standards.

7. That the landmarks and historic buildings be preserved;

The project would enable residential development on a vacant lot, which does not contain a City Landmark or historic building. The Project would not have an adverse effect on the City's Landmarks and historic buildings.

8. That our parks and open space and their access to sunlight and vistas be protected from development;

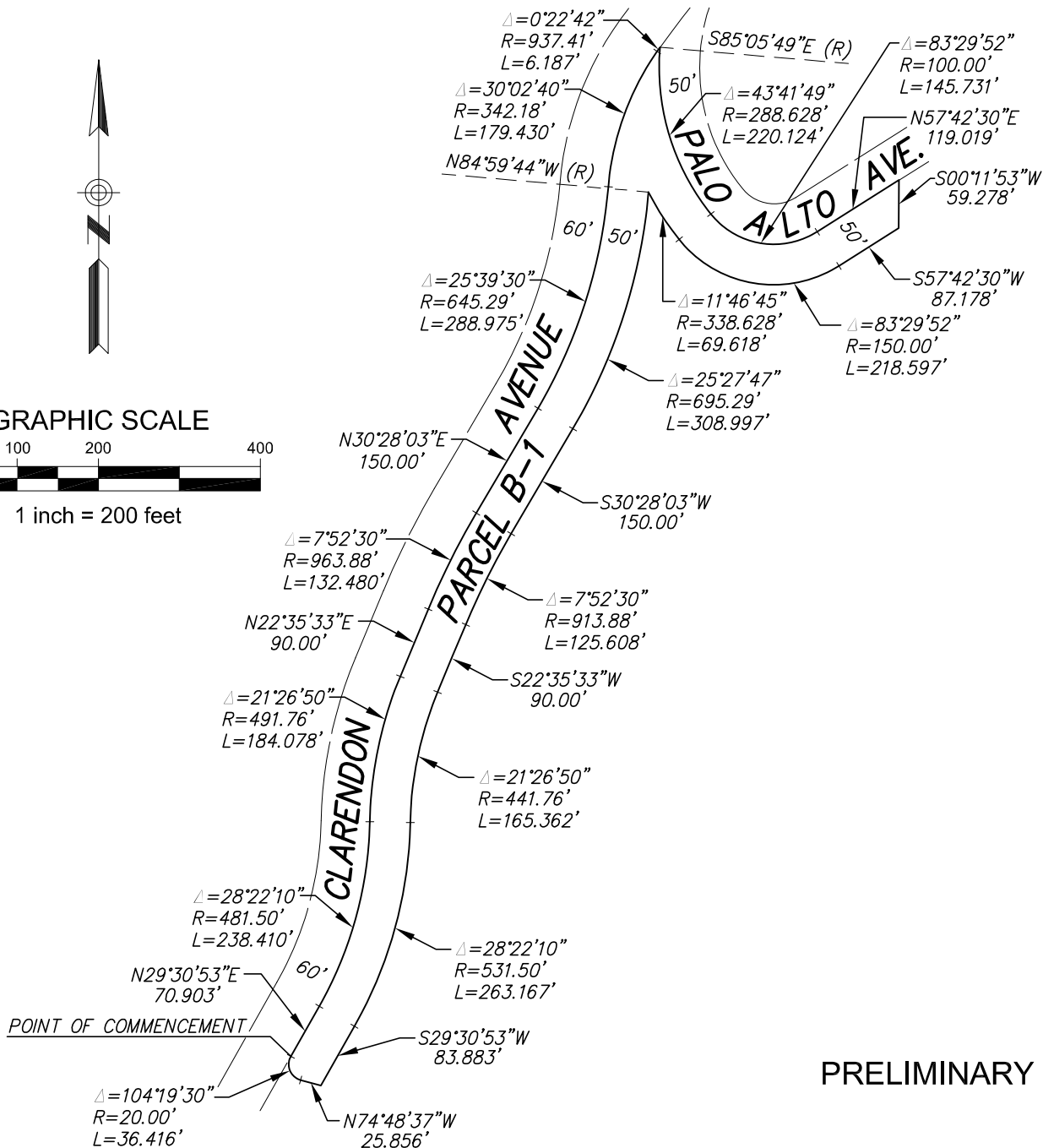
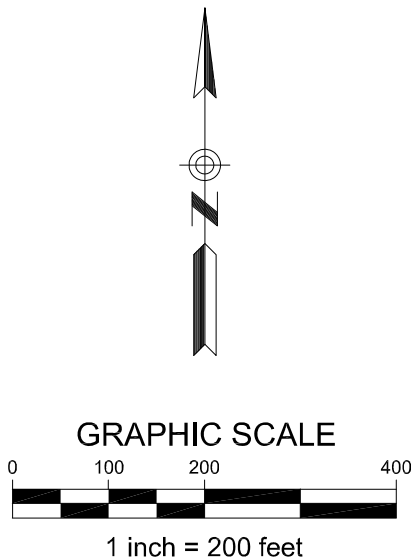
The Project would not have an adverse effect on the City's parks and open space and their access to sunlight and vistas. While the land for which the easement is proposed is a designated natural area owned by RPD, the required Easement Agreement would assure that the easement area and area nearby would be maintained pursuant to Recreation and Parks Department policy and would retain its public open

space nature.

Finding: The project, on balance, is **in conformity** with the General Plan.

Attachments:

Plat Maps of RPD and Development Lots



PRELIMINARY

ABBREVIATIONS

R RADIUS
(R) RADIAL
Δ DELTA
L LENGTH

LEGEND

————— PARCEL B-1 LINE
————— RIGHT OF WAY LINE

NOTES

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Approved by:



TRANSAMERICAN ENGINEERS

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Tel: 415-553-4099 Fax: 415-553-4071 Email: info@transamericanengineers.com

EXHIBIT "B"

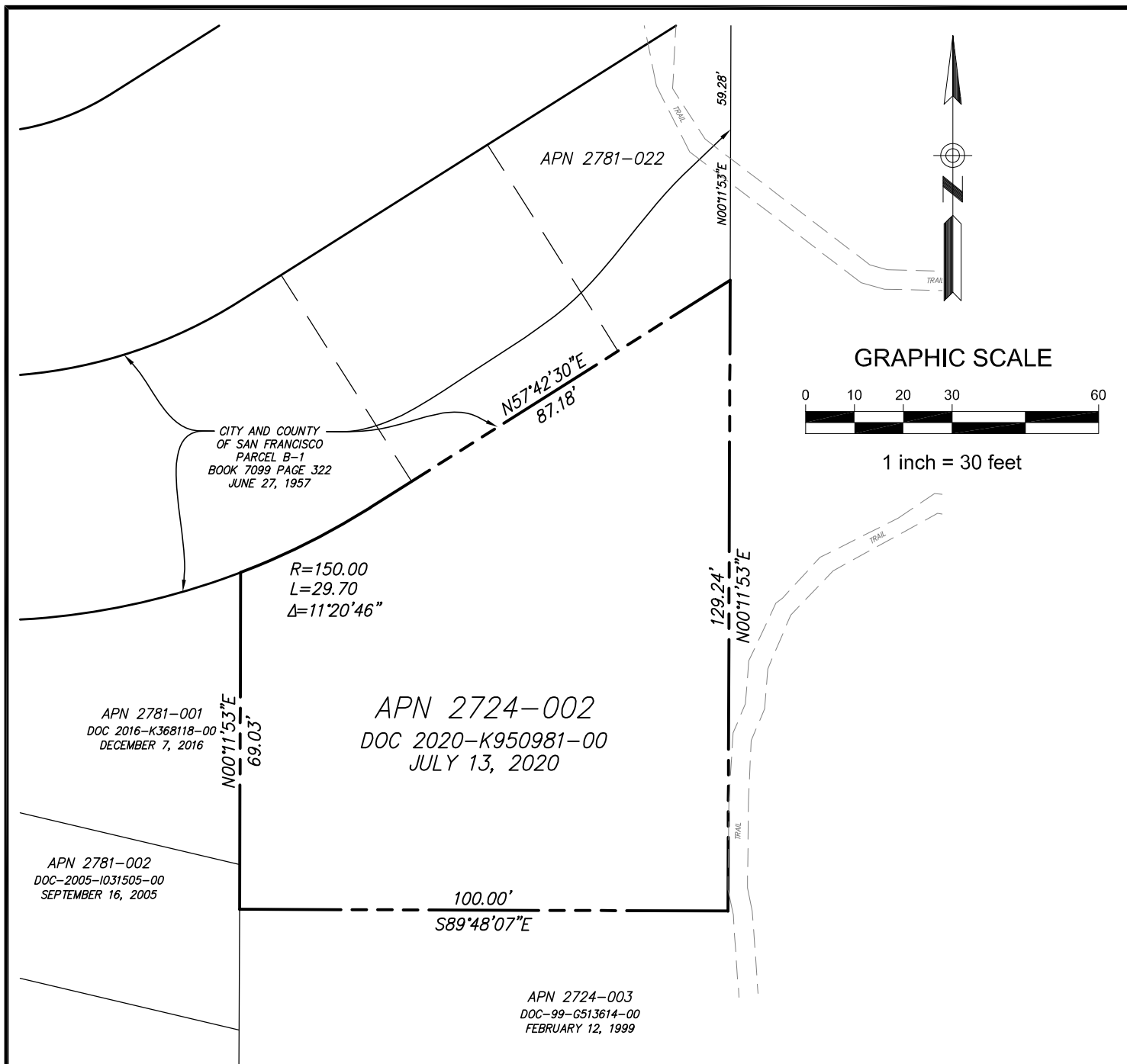
PLAT TO ACCOMPANY LEGAL DESCRIPTION PARCEL B-1

BOOK 7099, PAGE 322, OFFICIAL RECORDS

SAN FRANCISCO

CALIFORNIA

Job No.	6965
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ABBREVIATIONS

AB ASSESSOR'S BLOCK
APN ASSESSOR'S PARCEL NUMBER
DOC DOCUMENT

LEGEND

———— RIGHT OF WAY LINE
———— ADJACENT LOT LINE

NOTES

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Approved by:



TRANSAMERICAN ENGINEERS

1390 Market Street, Suite 201 San Francisco, CA. 94102
Tel: 415-553-4099 Fax: 415-553-4071 Email: info@transamericanengineers.com

EXHIBIT "B"

PLAT TO ACCOMPANY LEGAL DESCRIPTION

APN 2724-002

SAN FRANCISCO

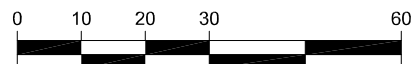
CALIFORNIA

Job No.	6965
Date:	OCTOBER 2022
Surveyed by:	DP/MM
Drawn by:	LF
Checked by:	BP
Scale:	AS SHOWN
Sheet No.	1 OF 1

PALO ALTO AVENUE (50.00' WIDE)



GRAPHIC SCALE



1 inch = 30 feet

APN 2781-022

CITY AND COUNTY
OF SAN FRANCISCO
PARCEL B-1
BOOK 7099 PAGE 322
JUNE 27, 1957

APN 2724-003

DOC-99-G513614-00
FEBRUARY 12, 1999

APN 2724-002

DOC 2020-K950981-00
JULY 13, 2020
AREA = 9771 ± SQ FT

APN 2781-001
DOC 2016-K368118-00
DECEMBER 7, 2016

AB 2724

AB 2781

ABBREVIATIONS

AB ASSESSOR'S BLOCK
APN ASSESSOR'S PARCEL NUMBER
DOC DOCUMENT

LEGEND

RIGHT OF WAY LINE
ADJACENT LOT LINE

NOTES

1. ALL DEFLECTION ANGLES HEREON ARE 90 OR 45 DEGREES UNLESS EXPRESSLY OTHERWISE INDICATED.
2. ALL MEASURED DISTANCES ARE SHOWN HEREON IN FEET AND DECIMALS THEREOF. ALL OTHERS ARE SHOWN AS PER RECORDS AND NOTED AS SUCH.

Approved by:



TRANSAMERICAN ENGINEERS

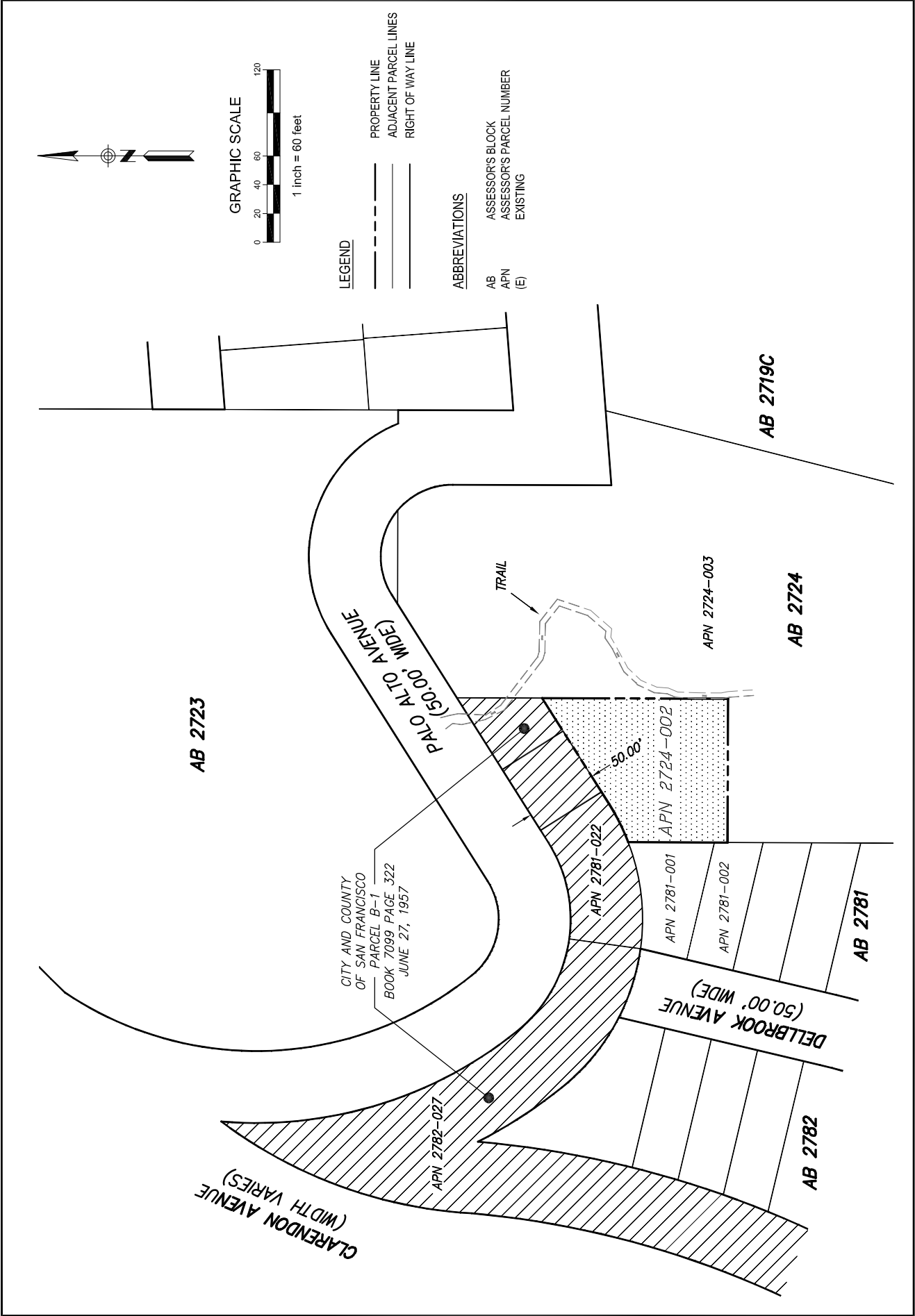
1390 Market Street, Suite 201 San Francisco, CA. 94102
Tel: 415-553-4099 Fax: 415-553-4071 Email: info@transamericanengineers.com

EXHIBIT "C" PLAT TO ACCOMPANY LEGAL DESCRIPTION APN 2781-022

SAN FRANCISCO

CALIFORNIA

Job No.	6965
Date:	OCTOBER 2022
Surveyed by:	DP/MM
Drawn by:	LF
Checked by:	BP
Scale:	AS SHOWN
Sheet No.	1 OF 1



City & County of San Francisco
London N. Breed, Mayor



Office of the City Administrator
Carmen Chu, City Administrator
Andrico Q. Penick, Director of Real Estate

December 26, 2023

Honorable Board of Supervisors
City and County of San Francisco
City Hall, Room 244
1 Carlton B. Goodlett Place
San Francisco, CA 94102

RE: Midtown Terrace/Greenbelt Easement

Dear Board Members:

Attached for your consideration is a proposed Resolution, adopted by the Recreation and Park Commission on July 20, 2023, approving and authorizing an Easement Agreement and Quitclaim between the City and Midtown Lands LLC.

Background:

The Recreation and Park Department ("RPD") has jurisdiction over approximately 19 acres spanning four parcels (commonly referred to as the "Greenbelt") in the Midtown Terrace section of the Twin Peaks area. When the original subdivision was created, in 1957, a blanket easement encumbered 6,970 sq. ft. of land south east of the intersection of Pal Alto and Dellbrook Avenues. The 1957 deed contemplated that a more precise location of the easement would be identified fixed at a future date.

The proposed easement agreement will:

- reduce and define the boundaries of 2,500 square feet of the of the original 6,970 sq. ft to create access to La Avanzada Street for the adjacent parcel, currently owned by Midtown Lands, LLC;
- allow surface improvements, such as gravel, to facilitate pedestrian and vehicular access through the Greenbelt to La Avandaza Street.
- allow for subsurface utilities to run through the easement area and support future residential development of the Midtown Lands parcel;
- require Midtown Lands (or future property owner) to assume a stewardship role in preserving and maintaining the natural state of the remaining and larger portion of the Greenbelt.

The Planning Department has confirmed that this project is exempt under CEQA and is consistent with the City's General Plan and the eight priority policies of City Planning Code Section 101.1.

On July 20, 2023, the Recreation and Park Commission adopted Resolution Number 2307-004 (the "Interior Greenbelt Easement"), by a vote of 4 ayes, 0 noes (with 2 absences), recommending that the Board of Supervisors approve the Easement Agreement and Quitclaim.

Should you have any questions regarding this matter, please contact Claudia Gorham, Deputy Managing Director at (415) 554-9871 or Burt Hirschfeld, Senior Real Property Officer in our office at (415) 554-9862.

Respectfully,



Andrico Q. Penick
Director of Property

Attachments

- Recreation and Park Commission Resolution
- Easement Context Map
- Easement Detailed Map

RECREATION AND PARK COMMISSION
City and County of San Francisco
Resolution Number 2307-004

INTERIOR GREENBELT EASEMENT

RESOLVED, This Commission does recommend that the Board of Supervisors approve the fixing and perfection of the location and terms of an access and utility easement that is currently reserved across a parcel owned by the Recreation and Park Department near the Interior Greenbelt Natural Area, located at La Avanzada Street (Lot 022 in Assessor's Block 2781).

Adopted by the following vote:

Ayes	4
Noes	0
Absent	2

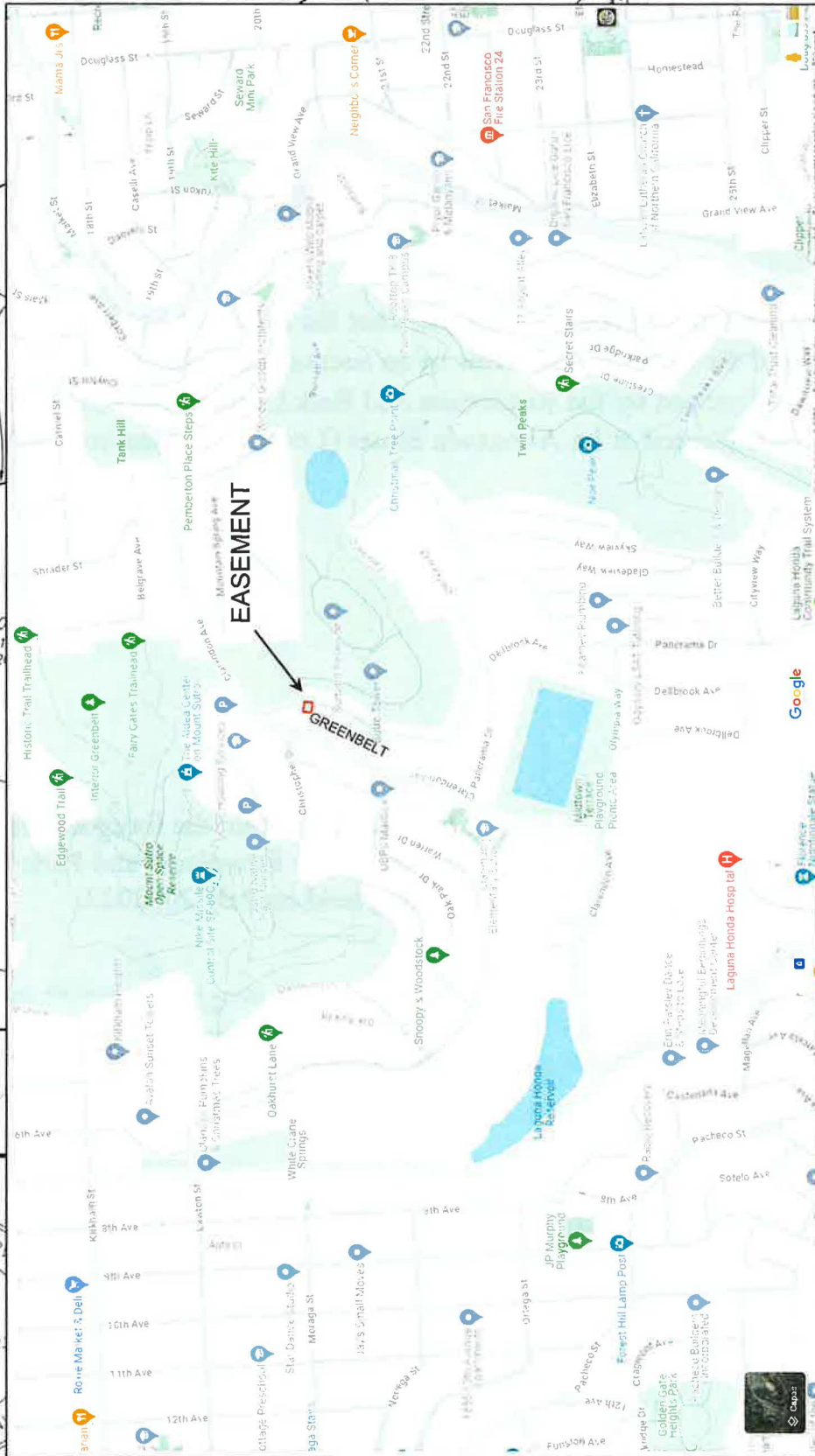
I hereby certify that the foregoing resolution was adopted at the Recreation and Park Commission meeting held on July 20, 2023.



Ashley Summers, Commission Liaison

EASEMENT AREA CONTEXT MAP

APN 2781-022



GRAPHIC SCALE



1 inch = 30 feet

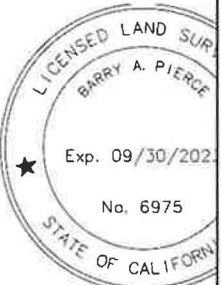
APN 2781-022
DOC 2016-K36811
DECEMBER 7, 2016

APN 2781-002
DOC-2005-1031505-00
SEPTEMBER 16, 2005

ABBREVIATIONS

AB ASSESSOR'S BLOCK
APN ASSESSOR'S PARCEL NUMBER
DOC DOCUMENT

Approved by:



OR 45 DEGREES UNLESS EXPRESSLY
HEREON IN FEET AND DECIMALS THEREOF
AND NOTED AS SUCH

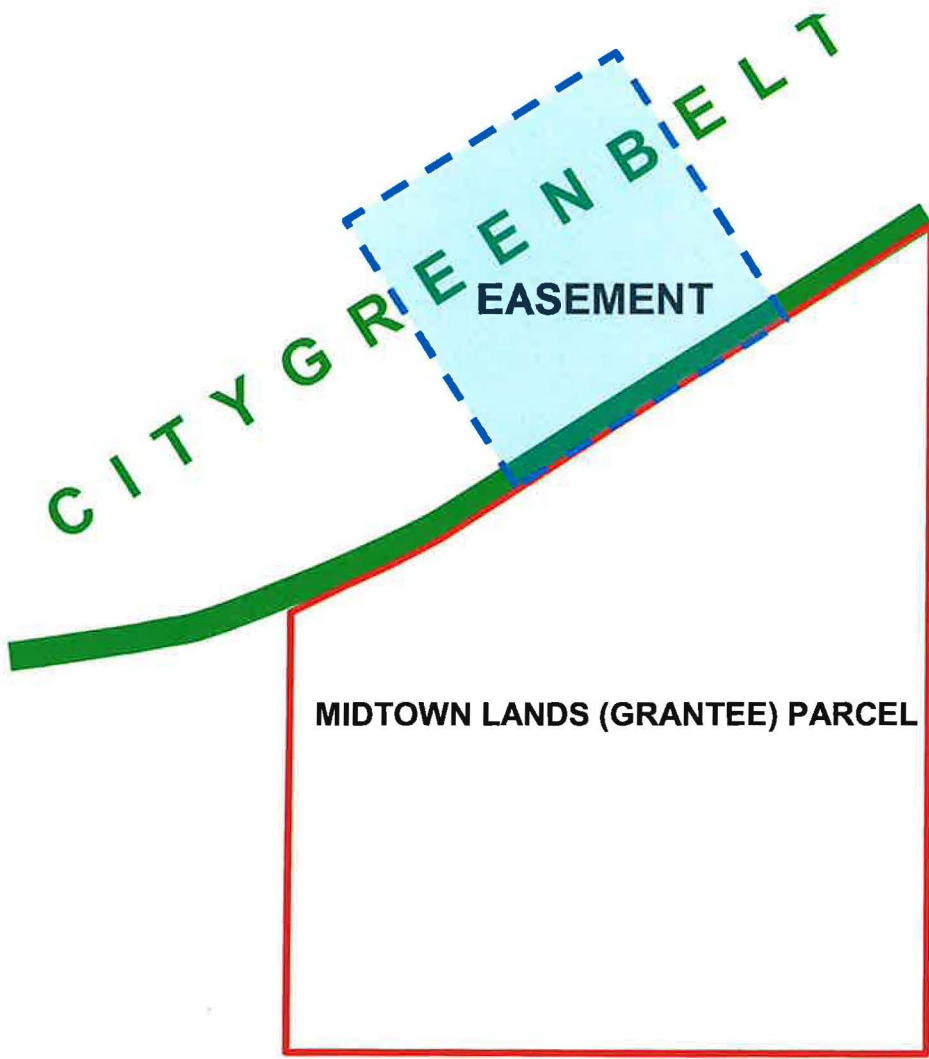
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SAN FRANCISCO

CALIFORNIA

Sheet No. 1 OF 1

AVANZADA ST



MIDTOWN TERRACE/GREENBELT EASEMENT - DETAILED MAP



CEQA Exemption Determination

PROPERTY INFORMATION/PROJECT DESCRIPTION

Project Address		Block/Lot(s)
0 Palo Alto Ave		2724002
Case No.		Permit No.
2021-006620ENV		
<input type="checkbox"/> Addition/ Alteration	<input type="checkbox"/> Demolition (requires HRE for Category B Building)	<input type="checkbox"/> New Construction
Project description for Planning Department approval. Split a single lot (2724/002) into two lots. Development is not proposed.		

STEP 1: EXEMPTION TYPE

The project has been determined to be exempt under the California Environmental Quality Act (CEQA).	
<input type="checkbox"/>	Class 1 - Existing Facilities. Interior and exterior alterations; additions under 10,000 sq. ft.
<input type="checkbox"/>	Class 3 - New Construction. Up to three new single-family residences or six dwelling units in one building; commercial/office structures; utility extensions; change of use under 10,000 sq. ft. if principally permitted or with a CU.
<input type="checkbox"/>	Class 32 - In-Fill Development. New Construction of seven or more units or additions greater than 10,000 sq. ft. and meets the conditions described below: (a) The project is consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations. (b) The proposed development occurs within city limits on a project site of no more than 5 acres substantially surrounded by urban uses. (c) The project site has no value as habitat for endangered rare or threatened species. (d) Approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality. (e) The site can be adequately served by all required utilities and public services. FOR ENVIRONMENTAL PLANNING USE ONLY
<input type="checkbox"/>	Other ____
<input checked="" type="checkbox"/>	Common Sense Exemption (CEQA Guidelines section 15061(b)(3)). It can be seen with certainty that there is no possibility of a significant effect on the environment.

STEP 2: ENVIRONMENTAL SCREENING ASSESSMENT

TO BE COMPLETED BY PROJECT PLANNER

<input type="checkbox"/>	Air Quality: Would the project add new sensitive receptors (specifically, schools, day care facilities, hospitals, residential dwellings, and senior-care facilities within an Air Pollution Exposure Zone? Does the project have the potential to emit substantial pollutant concentrations (e.g. use of diesel construction equipment, backup diesel generators, heavy industry, diesel trucks, etc.)? <i>(refer to the Environmental Information tab on https://sfplanninggis.org/PIM/)</i>
<input type="checkbox"/>	Hazardous Materials: <input type="checkbox"/> Maher or <input type="checkbox"/> Cortese Is the project site located within the Maher area or on a site containing potential subsurface soil or groundwater contamination and would it involve ground disturbance of at least 50 cubic yards or a change of use from an industrial use to a residential or institutional use? Is the project site located on a Cortese site or would the project involve work on a site with an existing or former gas station, parking lot, auto repair, dry cleaners, or heavy manufacturing use, or a site with current or former underground storage tanks? <i>if Maher box is checked, note below whether the applicant has enrolled in or received a waiver from the San Francisco Department of Public Health (DPH) Maher program, or if Environmental Planning staff has determined that hazardous material effects would be less than significant.</i>
<input type="checkbox"/>	Transportation: Does the project involve a child care facility or school with 30 or more students, or a location 1,500 sq. ft. or greater? Does the project have the potential to adversely affect transit, pedestrian and/or bicycle safety (hazards) or the adequacy of nearby transit, pedestrian and/or bicycle facilities? Would the project involve the intensification of or a substantial increase in vehicle trips at the project site or elsewhere in the region due to autonomous vehicle or for-hire vehicle fleet maintenance, operations or charging?
<input type="checkbox"/>	Archeological Resources: Would the project result in soil disturbance/modification greater than two (2) feet below grade in an archeological sensitive area or eight (8) feet in a non-archeological sensitive area? If yes, archeology review is required.
<input checked="" type="checkbox"/>	Subdivision/Lot Line Adjustment: Does the project site involve a subdivision or lot line adjustment on a lot with a slope average of 20% or more? <i>(refer to the Environmental Information tab on https://sfplanninggis.org/PIM/)</i> If box is checked, Environmental Planning must issue the exemption.
<input type="checkbox"/>	Average Slope of Parcel = or > 25%, or site is in Edgehill Slope Protection Area or Northwest Mt. Sutro Slope Protection Area: Does the project involve any of the following: (1) New building construction, except one-story storage or utility occupancy, (2) horizontal additions, if the footprint area increases more than 50%, or (3) horizontal and vertical additions increase more than 500 square feet of new projected roof area? <i>(refer to the Environmental Information tab on https://sfplanninggis.org/PIM/)</i> If box is checked, a geotechnical report is likely required and Environmental Planning must issue the exemption.
<input type="checkbox"/>	Seismic Hazard: <input type="checkbox"/> Landslide or <input type="checkbox"/> Liquefaction Hazard Zone: Does the project involve any of the following: (1) New building construction, except one-story storage or utility occupancy, (2) horizontal additions, if the footprint area increases more than 50%, (3) horizontal and vertical additions increase more than 500 square feet of new projected roof area, or (4) grading performed at a site in the landslide hazard zone? <i>(refer to the Environmental Information tab on https://sfplanninggis.org/PIM/)</i> If box is checked, a geotechnical report is required and Environmental Planning must issue the exemption.
Comments and Planner Signature (optional): Don Lewis	

STEP 3: PROPERTY STATUS - HISTORIC RESOURCE
TO BE COMPLETED BY PROJECT PLANNER

PROPERTY IS ONE OF THE FOLLOWING: <i>(refer to Property Information Map)</i>	
<input type="checkbox"/>	Category A: Known Historical Resource. GO TO STEP 5.
<input checked="" type="checkbox"/>	Category B: Potential Historical Resource (over 45 years of age). GO TO STEP 4.
<input type="checkbox"/>	Category C: Not a Historical Resource or Not Age Eligible (under 45 years of age). GO TO STEP 6.

STEP 4: PROPOSED WORK CHECKLIST
TO BE COMPLETED BY PROJECT PLANNER

Check all that apply to the project.	
<input type="checkbox"/>	1. Change of use and new construction. Tenant improvements not included.
<input type="checkbox"/>	2. Regular maintenance or repair to correct or repair deterioration, decay, or damage to building.
<input type="checkbox"/>	3. Window replacement that meets the Department's <i>Window Replacement Standards</i> . Does not include storefront window alterations.
<input type="checkbox"/>	4. Garage work. A new opening that meets the <i>Guidelines for Adding Garages and Curb Cuts</i> , and/or replacement of a garage door in an existing opening that meets the Residential Design Guidelines.
<input type="checkbox"/>	5. Deck, terrace construction, or fences not visible from any immediately adjacent public right-of-way.
<input type="checkbox"/>	6. Mechanical equipment installation that is not visible from any immediately adjacent public right-of-way.
<input type="checkbox"/>	7. Dormer installation that meets the requirements for exemption from public notification under <i>Zoning Administrator Bulletin No. 3: Dormer Windows</i> .
<input type="checkbox"/>	8. Addition(s) that are not visible from any immediately adjacent public right-of-way for 150 feet in each direction; does not extend vertically beyond the floor level of the top story of the structure or is only a single story in height; does not have a footprint that is more than 50% larger than that of the original building; and does not cause the removal of architectural significant roofing features.
Note: Project Planner must check box below before proceeding.	
<input checked="" type="checkbox"/>	Project is not listed. GO TO STEP 5.
<input type="checkbox"/>	Project does not conform to the scopes of work. GO TO STEP 5.
<input type="checkbox"/>	Project involves four or more work descriptions. GO TO STEP 5.
<input type="checkbox"/>	Project involves less than four work descriptions. GO TO STEP 6.

STEP 5: ADVANCED HISTORICAL REVIEW
TO BE COMPLETED BY PRESERVATION PLANNER

Check all that apply to the project.	
<input type="checkbox"/>	1. Reclassification of property status. <i>(Attach HRER Part I)</i> <div style="display: flex; justify-content: space-between; align-items: flex-start; margin-top: 10px;"> <div style="width: 45%;"> <input type="checkbox"/> Reclassify to Category A a. Per HRER b. Other <i>(specify)</i>: </div> <div style="width: 45%;"> <input type="checkbox"/> Reclassify to Category C <i>(No further historic review)</i> </div> </div>
<input type="checkbox"/>	2. Project involves a known historical resource (CEQA Category A) as determined by Step 3 and conforms entirely to proposed work checklist in Step 4.
<input type="checkbox"/>	3. Interior alterations to publicly accessible spaces that do not remove, alter, or obscure character defining features.
<input type="checkbox"/>	4. Window replacement of original/historic windows that are not "in-kind" but are consistent with existing historic character.
<input type="checkbox"/>	5. Façade/storefront alterations that do not remove, alter, or obscure character-defining features.

<input type="checkbox"/>	6. Raising the building in a manner that does not remove, alter, or obscure character-defining features.
<input type="checkbox"/>	7. Restoration based upon documented evidence of a building's historic condition, such as historic photographs, plans, physical evidence, or similar buildings.
<input type="checkbox"/>	8. Work consistent with the <i>Secretary of the Interior Standards for the Treatment of Historic Properties</i> (Analysis required):
<input type="checkbox"/>	9. Work compatible with a historic district (Analysis required):
<input type="checkbox"/>	10. Work that would not materially impair a historic resource (Attach HRER Part II).
Note: If ANY box in STEP 5 above is checked, a Preservation Planner MUST sign below.	
<input type="checkbox"/>	Project can proceed with exemption review. The project has been reviewed by the Preservation Planner and can proceed with exemption review. GO TO STEP 6.
Comments (optional):	
Preservation Planner Signature: Don Lewis	

STEP 6: EXEMPTION DETERMINATION
TO BE COMPLETED BY PROJECT PLANNER

	Common Sense Exemption: Department staff reviewed the project and determined that there is no possibility of a significant effect on the environment. No further environmental review is required. The project is exempt under CEQA.	
	Project Approval Action: Public Works Approval of Subdivision	Signature: Don Lewis
		07/08/2021
<p>Supporting documents are available for review on the San Francisco Property Information Map, which can be accessed at https://sfplanninggis.org/PIM/. Individual files can be viewed by clicking on the Planning Applications link, clicking the "More Details" link under the project's environmental record number (ENV) and then clicking on the "Related Documents" link. Once signed or stamped and dated, this document constitutes an exemption pursuant to CEQA Guidelines and Chapter 31 of the Administrative Code.</p> <p>In accordance with Chapter 31 of the San Francisco Administrative Code, an appeal of an exemption determination to the Board of Supervisors can only be filed within 30 days of the project receiving the approval action.</p> <p>Please note that other approval actions may be required for the project. Please contact the assigned planner for these approvals.</p>		

STEP 7: MODIFICATION OF A CEQA EXEMPT PROJECT

TO BE COMPLETED BY PROJECT PLANNER

In accordance with Chapter 31 of the San Francisco Administrative Code, when a California Environmental Quality Act (CEQA) exempt project changes after the Approval Action and requires a subsequent approval, the Environmental Review Officer (or his or her designee) must determine whether the proposed change constitutes a substantial modification of that project. This checklist shall be used to determine whether the proposed changes to the approved project would constitute a "substantial modification" and, therefore, be subject to additional environmental review pursuant to CEQA.

MODIFIED PROJECT DESCRIPTION

Modified Project Description:

DETERMINATION IF PROJECT CONSTITUTES SUBSTANTIAL MODIFICATION

Compared to the approved project, would the modified project:

- | | |
|--------------------------|--|
| <input type="checkbox"/> | Result in expansion of the building envelope, as defined in the Planning Code; |
| <input type="checkbox"/> | Result in the change of use that would require public notice under Planning Code Sections 311 or 312; |
| <input type="checkbox"/> | Result in demolition as defined under Planning Code Section 317 or 19005(f)? |
| <input type="checkbox"/> | Is any information being presented that was not known and could not have been known at the time of the original determination, that shows the originally approved project may no longer qualify for the exemption? |

If at least one of the above boxes is checked, further environmental review is required.

DETERMINATION OF NO SUBSTANTIAL MODIFICATION

- | | |
|--------------------------|---|
| <input type="checkbox"/> | The proposed modification would not result in any of the above changes. |
|--------------------------|---|

If this box is checked, the proposed modifications are exempt under CEQA, in accordance with prior project approval and no additional environmental review is required. This determination shall be posted on the Planning Department website and office and mailed to the applicant, City approving entities, and anyone requesting written notice. In accordance with Chapter 31, Sec 31.08j of the San Francisco Administrative Code, an appeal of this determination can be filed to the Environmental Review Officer within 10 days of posting of this determination.

Planner Name:

Date:

BOARD of SUPERVISORS



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. (415) 554-5184
Fax No. (415) 554-5163
TDD/TTY No. (415) 554-5227

MEMORANDUM

Date: January 31, 2024
To: Planning Department/Planning Commission
From: John Carroll, Assistant Clerk, Land Use and Transportation Committee
Subject: Board of Supervisors Legislation Referral - File No. 240039
Grant of Non-Exclusive Easement - Midtown Lands LLC - Assessor's Parcel Block No. 2781, Lot No. 022

- ☒ California Environmental Quality Act (CEQA) Determination
(*California Public Resources Code, Sections 21000 et seq.*)
 - ☒ Ordinance / Resolution
 - ☐ Ballot Measure
- ☐ Amendment to the Planning Code, including the following Findings:
(*Planning Code, Section 302(b): 90 days for Planning Commission review*)
 - ☐ General Plan ☐ Planning Code, Section 101.1 ☐ Planning Code, Section 302
- ☐ Amendment to the Administrative Code, involving Land Use/Planning
(*Board Rule 3.23: 30 days for possible Planning Department review*)
- ☐ General Plan Referral for Non-Planning Code Amendments
(*Charter, Section 4.105, and Administrative Code, Section 2A.53*)
(Required for legislation concerning the acquisition, vacation, sale, or change in use of City property; subdivision of land; construction, improvement, extension, widening, narrowing, removal, or relocation of public ways, transportation routes, ground, open space, buildings, or structures; plans for public housing and publicly-assisted private housing; redevelopment plans; development agreements; the annual capital expenditure plan and six-year capital improvement program; and any capital improvement project or long-term financing proposal such as general obligation or revenue bonds.)
- ☐ Historic Preservation Commission
 - ☐ Landmark (*Planning Code, Section 1004.3*)
 - ☐ Cultural Districts (*Charter, Section 4.135 & Board Rule 3.23*)
 - ☐ Mills Act Contract (*Government Code, Section 50280*)
 - ☐ Designation for Significant/Contributory Buildings (*Planning Code, Article 11*)

Please send the Planning Department/Commission recommendation/determination to John Carroll at john.carroll@sfgov.org.



San Francisco Ethics Commission

25 Van Ness Avenue, Suite 220, San Francisco, CA 94102

Phone: 415.252.3100 . Fax: 415.252.3112

ethics.commission@sfgov.org . www.sfethics.org

Received On:

File #: 240039

Bid/RFP #:

Notification of Contract Approval

SFEC Form 126(f)4

(S.F. Campaign and Governmental Conduct Code § 1.126(f)4)

A Public Document

Each City elective officer who approves a contract that has a total anticipated or actual value of \$100,000 or more must file this form with the Ethics Commission within five business days of approval by: (a) the City elective officer, (b) any board on which the City elective officer serves, or (c) the board of any state agency on which an appointee of the City elective officer serves. For more information, see: <https://sfethics.org/compliance/city-officers/contract-approval-city-officers>

1. FILING INFORMATION

TYPE OF FILING	DATE OF ORIGINAL FILING (for amendment only)
original	
AMENDMENT DESCRIPTION – Explain reason for amendment	

2. CITY ELECTIVE OFFICE OR BOARD

OFFICE OR BOARD	NAME OF CITY ELECTIVE OFFICER
Board of Supervisors	Members

3. FILER'S CONTACT

NAME OF FILER'S CONTACT	TELEPHONE NUMBER
Angela Calvillo	415-554-5184
FULL DEPARTMENT NAME	EMAIL
office of the clerk of the Board	Board.of.Supervisors@sfgov.org

4. CONTRACTING DEPARTMENT CONTACT

NAME OF DEPARTMENTAL CONTACT	DEPARTMENT CONTACT TELEPHONE NUMBER
Burt	Hirschfeld
FULL DEPARTMENT NAME	DEPARTMENT CONTACT EMAIL
ADM RED	realestateadmin@sfgov.org

5. CONTRACTOR	
NAME OF CONTRACTOR James Keith, Midtown Lands LLC	TELEPHONE NUMBER 415-317-2039
STREET ADDRESS (including City, State and Zip Code) 650 Panorama Drive SF CA 94131	EMAIL jimkeith132@yahoo.com

6. CONTRACT		
DATE CONTRACT WAS APPROVED BY THE CITY ELECTIVE OFFICER(S)	ORIGINAL BID/RFP NUMBER	FILE NUMBER (If applicable) 240039
DESCRIPTION OF AMOUNT OF CONTRACT Access Easement		
NATURE OF THE CONTRACT (Please describe) Easement to provide access by land-locked, unimproved property to street constructed after 1957 conveyance.		

7. COMMENTS
Easement runs through "greenbelt" under administrative jurisdiction of Recreation and Parks Department.

8. CONTRACT APPROVAL	
This contract was approved by:	
<input type="checkbox"/>	THE CITY ELECTIVE OFFICER(S) IDENTIFIED ON THIS FORM
<input checked="" type="checkbox"/>	A BOARD ON WHICH THE CITY ELECTIVE OFFICER(S) SERVES Board of Supervisors
<input type="checkbox"/>	THE BOARD OF A STATE AGENCY ON WHICH AN APPOINTEE OF THE CITY ELECTIVE OFFICER(S) IDENTIFIED ON THIS FORM SITS

9. AFFILIATES AND SUBCONTRACTORS

List the names of (A) members of the contractor's board of directors; (B) the contractor's principal officers, including chief executive officer, chief financial officer, chief operating officer, or other persons with similar titles; (C) any individual or entity who has an ownership interest of 10 percent or more in the contractor; and (D) any subcontractor listed in the bid or contract.

#	LAST NAME/ENTITY/SUBCONTRACTOR	FIRST NAME	TYPE
1	Keith	James	Other Principal Officer
2	Keith	Julie	Other Principal Officer
3	Keith	Conrad	Other Principal Officer
4	Keith	Harrison	Other Principal Officer
5	McKenzie	Charlie	Other Principal Officer
6			
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17			
18			
19			

9. AFFILIATES AND SUBCONTRACTORS

List the names of (A) members of the contractor's board of directors; (B) the contractor's principal officers, including chief executive officer, chief financial officer, chief operating officer, or other persons with similar titles; (C) any individual or entity who has an ownership interest of 10 percent or more in the contractor; and (D) any subcontractor listed in the bid or contract.

#	LAST NAME/ENTITY/SUBCONTRACTOR	FIRST NAME	TYPE
20			
21			
22			
23			
24			
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26			
27			
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31			
32			
33			
34			
35			
36			
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38			

9. AFFILIATES AND SUBCONTRACTORS

List the names of (A) members of the contractor's board of directors; (B) the contractor's principal officers, including chief executive officer, chief financial officer, chief operating officer, or other persons with similar titles; (C) any individual or entity who has an ownership interest of 10 percent or more in the contractor; and (D) any subcontractor listed in the bid or contract.

#	LAST NAME/ENTITY/SUBCONTRACTOR	FIRST NAME	TYPE
39			
40			
41			
42			
43			
44			
45			
46			
47			
48			
49			
50			

☐ Check this box if you need to include additional names. Please submit a separate form with complete information. Select "Supplemental" for filing type.

10. VERIFICATION

I have used all reasonable diligence in preparing this statement. I have reviewed this statement and to the best of my knowledge the information I have provided here is true and complete.

I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

SIGNATURE OF CITY ELECTIVE OFFICER OR BOARD SECRETARY OR CLERK	DATE SIGNED
BOS Clerk of the Board	