

EXHIBIT C

EASEMENT AGREEMENT

RECORDING REQUESTED BY,
AND WHEN RECORDED RETURN TO:

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

WITH A CONFORMED COPY TO:

San Francisco Public Utilities Commission
Real Estate Services Division
Attn: Real Estate Director
525 Golden Gate Avenue, 10th Floor
San Francisco, California 94102

The undersigned hereby declares this instrument to be exempt from Recording Fees (CA Govt. Code § 27383) and Documentary Transfer Tax (CA Rev. & Tax Code § 11922)

Portions of APN 096-0100-028

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

**EASEMENT AGREEMENT
for Public Roadway and Slope Purposes**

THIS EASEMENT AGREEMENT (this "**Agreement**") dated _____, 2018, is by and between the CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation ("**Grantor**" or "**City**"), acting through its San Francisco Public Utilities Commission ("**SFPUC**"), and the COUNTY OF ALAMEDA, a political subdivision of the State of California ("**Grantee**" or "**Alameda County**").

RECITALS

A. City owns in fee the property described in the attached Exhibit A pursuant to that certain deed dated and recorded on March 3, 1930, in Liber 2350 at Page 1 of the Alameda County Official Records (the "**Property**").

B. Alameda County maintains a portion of Calaveras Road on a 50-foot-wide easement on the Property pursuant to that certain Indenture between City's predecessor-in-interest, Spring Valley Water Company, and Alameda County dated November 16, 1921, and recorded on January 30, 1922, in Book 148, at page 80 of the Alameda County Official Records (the "**1921 Easement**").

C. In 2011, the SFPUC began building a replacement dam and spillway for the existing Calaveras Dam (the "**Project**") located on the Property. Calaveras Road is the main access road for the Project construction contractor to transport large equipment and materials to and from the Project site.

D. On January 10, 2017, a landslide occurred on the downslope edge of an approximately 100-foot section of Calaveras Road that Alameda County maintains on the Property pursuant to the 1921 Easement, resulting in damage to Calaveras Road and making the road impassible. In consultation with Alameda County, the SFPUC made road and slope improvements in and around the landslide area on Calaveras Road (the “**New Road Alignment**”) to avoid prolonged construction delays that would have delayed completion of the Project.

E. Alameda County has agreed to accept the New Road Alignment and desires to acquire an easement over a portion of the Property where a portion of the New Road Alignment exceeds the boundary of the 1921 Easement. The proposed new easement consists of two areas: one (1) approximately 5,484-square-foot road area (“**Road Area**”) and one (1) approximately 22,548-square-foot slope area (“**Slope Area**”) more particularly described and shown on attached Exhibit B (collectively, the “**Easement Area**”).

F. Grantor and Grantee desire to enter into this Agreement for the purpose of establishing a roadway and slope/retaining easement in favor of Grantee over the Easement Area, and for the purposes of setting forth the covenants and conditions pertaining to the construction and maintenance of roadway, slope, and retaining improvements and related improvements on the Easement Area (collectively, the “**Improvements**”).

AGREEMENT

NOW, THEREFORE, for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, and with reference to the foregoing recitals, Grantor and Grantee hereby agree as follows:

1. Grant of Easement. Grantor, pursuant to Resolution No. [REDACTED], adopted by the Board of Supervisors on [REDACTED], 20[REDACTED] and approved by the Mayor on [REDACTED], 20[REDACTED], grants to Grantee, a permanent, nonexclusive easement for roadway, slope, and retaining purposes subject to the terms, conditions, restrictions, and reservations set forth herein as further described below (the “**Easement**”) over, across, along, and upon the Easement Area.

2. Nature of Easement Area.

a. Road Area. Grantee may construct, use, maintain, repair, and replace a roadway and necessary appurtenances over and across the Road Area, described and shown as Parcel B on attached Exhibit B, for the sole purpose of a public highway and county road over the Property.

b. Slope Area. Grantee shall maintain, monitor, and repair the slope and any future retaining walls and necessary appurtenances, including those providing subjacent support of Grantor’s upslope property, in, under, along and across the Slope Area, described and shown as Parcel A on attached Exhibit B. Grantee may replace or reconstruct the slope or install a retaining wall in accordance with this Easement Agreement.

3. Maintenance. Grantee shall, at its sole expense, repair and maintain the Improvements and Easement Area in good order and repair, ordinary wear and tear and casualty excepted; provided that any damage caused to the Improvements or Easement Area by members of the public, by Grantee, or by Grantee’s agents, contractors, subcontractors, suppliers, consultants, employees, licensees, invitees, or representatives, or by other authorized persons acting for or on behalf of Grantee (“**Grantee’s Agents**”).

4. Construction. Grantee shall have the right to construct Improvements and perform all repairs in accordance with the specifications and other requirements approved or

imposed by Grantor and applicable government entities. All construction work shall be performed by or on behalf of Grantee, its employees, or its contractors in a good and workmanlike manner in compliance with all applicable laws. All such work shall be performed so as to reasonably minimize disruption to Grantor or of Grantor's use of the Property. During the period of Grantee's construction, Grantee shall provide for the safety of all persons and property in and around the area where any excavation, grading, or other construction work is being performed.

5. Use of Easement. Grantee, in its use of the Easement Area, shall comply with all laws, regulations, and requirements of all governmental bodies and authorities and shall observe all safety standards and guidelines applicable to the use and occupancy of the Easement Area and the construction, maintenance, repair, and replacement of the Improvements.

6. Insurance. Prior to Grantee's or Grantee's Agents' entry on the Easement Area for purposes of construction of, or any repairs to, the Improvements or the Easement Area, such entering parties shall obtain insurance coverage of types and in amounts required by Grantor. To the extent Grantee or Grantee's Agents use insurance policies to satisfy Grantor's requirements, such insurance policies shall name the City and County of San Francisco, its officers, agents, and employees as additional insureds. Such insurance shall be maintained throughout the entering parties' construction or repair activities on the Easement Area.

7. No Liens. Grantee shall not permit any claim, lien, or other encumbrance arising from its construction, use, maintenance, operation, or removal of the Improvements to accrue against, or attach to, the Easement Area or Grantor's interest in the Property.

8. Run with the Land. The provisions of this Easement Deed shall run with the land, burden the Easement Area, and bind and inure to the benefit of the respective successors and assigns of Grantee and Grantor. In the event Grantor sells, conveys, or assigns any property interest encumbered by this Easement Deed, Grantor shall notify the successor or assignee of the rights and obligations of both parties as stated in this Easement Deed.

9. Subject to Existing Agreements. This Easement is subject to existing contracts, leases, licenses, easements, encumbrances, and claims which may affect the Easement Area.

10. Notices. Any notice, consent, or approval required or permitted to be given under this Easement Deed shall be in writing and shall be given by (a) hand delivery, against receipt, (b) reliable next-business-day courier service that provides confirmation of delivery, or (c) United States registered or certified mail, postage prepaid, return receipt required, and addressed as follows (or to such other address as either party may from time to time specify in writing to the other upon five (5) days' prior, written notice in the manner provided above):

To Grantor:

San Francisco Public Utilities Commission
Attn: Real Estate Director
Re: Calaveras Road Easement;
Alameda County
525 Golden Gate Avenue, 10th Floor
San Francisco, California 94102

With a copy to:

Office of the City Attorney
Real Estate and Finance Team
Re: Calaveras Road Easement;
Alameda County
City Hall, Room 234
1 Dr. Carlton B. Goodlett Place

San Francisco, California 94102
Facsimile No.: (415) 554-4755

To Grantee:

County of Alameda

[Redacted]

With a copy to:

[Redacted]

A properly addressed notice transmitted by one of the foregoing methods shall be deemed received upon the confirmed date of delivery, attempted delivery, or rejected delivery, whichever occurs first. Any e-mail addresses, telephone numbers, or facsimile numbers provided by one party to the other shall be for convenience of communication only; neither party may give official or binding notice orally or by e-mail or facsimile. The effective time of a notice shall not be affected by the receipt, prior to receipt of the original, of an oral notice or an e-mail or telefacsimile copy of the notice.

11. Indemnity. Grantee shall indemnify, defend (with counsel reasonably approved by Grantor and Grantor’s agents), and hold Grantor harmless from and against any cost, expense, liability, damage or injury to property or persons to the extent caused by Grantee’s negligence or willful misconduct (or that of Grantee’s Agents) in the exercise of the rights granted to, or reserved by, Grantee hereunder. This Section shall survive the expiration and termination of the Easement.

12. Non-Waiver. No waiver by either party of any default in performance on the part of the other party, or of any breach or series of breaches of this Agreement, will constitute a waiver of any subsequent breach or a waiver of any term, covenant, or condition.

13. Severability. If any provision of this Agreement, or the application of any such provision to any person or circumstance, is held by any court of competent jurisdiction to be invalid or unenforceable, the remainder of this Agreement, or the application of such provision to persons or circumstances other than those to which it is held invalid, will be construed as if the void or unenforceable provision were not included in this Agreement.

14. Exhibits. The Exhibits referenced in the Easement Deed are attached to and made a part of this Easement Deed.

15. Counterparts. This Easement Deed may be executed in counterparts, each of which shall be an original, but all counterparts shall constitute one instrument.

Executed as of this _____ day of _____, 20__.

CITY AND COUNTY OF SAN FRANCISCO,
a municipal corporation

By: _____
ANDRICO PENICK
Director of Property

APPROVED AS TO FORM:

DENNIS J. HERRERA
City Attorney

By: _____
Shari Geller Diamant
Deputy City Attorney

ACCEPTED AND AGREED:

COUNTY OF ALAMEDA,
a political subdivision of the State of
California

By: _____
[NAME]

Its: _____

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)
) ss
County of San Francisco)

On _____, before me, _____, a notary public in and for said State, personally appeared _____, 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 Grantor's Property

Exhibit B

Depiction of Easement Area

[see attached]