

South Bayside System Authority RIGHT OF WAY CONTRACT

In consideration of the terms and conditions set forth in this Right of Way Contract (the "Contract") **The COUNTY OF SAN MATEO, a political subdivision of the State of California** ("GRANTOR") shall deposit in an escrow designated by the **South Bayside System Authority** ("SBSA") a Permanent Easement and Temporary Construction Easement Deed ("TCE") for recordation and conveying from GRANTOR to SBSA and/or its successors and assigns, the real property rights as indicated in Exhibit A: CP3 -1 and CP3 TCE 1 incorporated herein by this reference.

In consideration of which, and the other considerations hereinafter set forth, it is mutually agreed as of the date first written herein below as follows:

1. Entire Agreement

The parties have herein set forth the whole of their agreement. The performance of this Contract constitutes the entire consideration payable by SBSA to GRANTOR and shall relieve SBSA of all further obligations or claims on this account or on account of the location, grade, construction or operation of the proposed public improvement.

2. SBSA shall

- A. Pay the sum of FIFTEEN THOUSAND SEVEN HUNDRED DOLLARS (\$15,700.00) for the permanent easement and TCE area and improvements and any other consideration, identified in the Appraisal Summary Statement and Summary of the Basis for Just Compensation, delivered separately and by reference made a part of this Contract, to the following title company: First American Title Insurance Company (or any other title company selected by SBSA) for the account of the GRANTOR, conditioned upon the property vesting in SBSA free and clear of all liens, leases, encumbrances, (recorded or unrecorded), assessments and taxes except any exceptions to title which are acceptable to SBSA as said exceptions are identified in the title reports relating to the subject property issued by the above Title Company and dated May 15, 2013, and updates thereof. Clearing of any title exceptions not acceptable to SBSA is the responsibility of GRANTOR.
- B. Pay all escrow, recording and title insurance charges, if any, incurred in this transaction.
- C. Prior to the close of escrow, have the authority to deduct and pay from the amount shown in Paragraph 2A herein any amount necessary to satisfy any liens, bond demands and delinquent taxes due, together with penalties and interest thereon, and/or delinquent and unpaid non delinquent taxes and assessments, which may have become a lien at the close of escrow. Taxes for the tax year in which this escrow closes shall be cleared and paid in the manner required by Section 5086 of the Revenue and Taxation Code if unpaid at the close of escrow. Close of escrow for this transaction shall be contingent upon the title company receiving subordination agreement(s) from any deed of trust or mortgage holder trustees and beneficiaries.

3. Temporary Construction Easement

- A. In addition to the Permanent Easement area, GRANTOR hereby grants to SBSA a Temporary Construction Easement (TCE) for the use and storage of tools, machinery, materials and equipment by SBSA, over, across and upon that certain real property as shown on Exhibit A "CP3 TCE 1" attached hereto and made a part hereof, together with the right of ingress to and egress from said property and the right at all times to enter and use said real property and every part thereof for all purposes connected with the construction of the 48-inch Force Main Reliability Improvements Project for a period of one year and eight months. Said period to commence with first entry on GRANTOR's property by SBSA's contractor. At least 30-day's advance written notice will be given before any entry on GRANTOR's property. The amount set forth in Paragraph 2A herein includes full payment for the TCE.
- B. SBSA shall have the option to extend beyond the one year and eight months period referred to above. A 30-day written notice will be given to GRANTOR if SBSA elects to exercise its option for the additional term. SBSA shall pay GRANTOR an additional sum at the rate of \$665.00 per month for the term of the option period.
- C. It is understood that the TCE shall expire upon completion of construction.
- D. SBSA shall coordinate its operations on the subject property with GRANTOR, and shall take reasonable measures to minimize noise, dust, debris and other impacts to the property. Safety shall be paramount at all times. SBSA shall ensure that its operations and activities, and those of its agents and employees, comply with local, state and federal requirements and are in accordance with safe and acceptable practices and procedures. GRANTOR shall have the right to review SBSA's operations on the property and require reasonable modifications as necessary to meet the requirements of this section.
- E. SBSA shall exercise reasonable care to avoid damage to the subject property during said construction. SBSA shall be responsible for restoring or repairing any portions of the property that may be physically damaged by SBSA, its agents, or contractors in the act of performing work on the property. SBSA shall, upon completion of work, surrender the property to GRANTOR in the same condition as when work commenced.

4. Miscellaneous Realty Items Acquired

None

5. Payment of Deed of Trust

If this property is secured by a mortgage(s) or deed(s) of trust, GRANTOR is responsible for payment of any demand under authority of said mortgage or deed of trust out of GRANTOR's proceeds. Such amounts may include, but not be limited to, payments of unpaid principal and interest.

6. Escrow Instructions

GRANTOR hereby authorizes SBSA to prepare and file escrow instructions in accordance with this Contract on behalf of both parties.

7. Hazardous Wastes

GRANTOR hereby represents and warrants that during the period of GRANTOR's ownership of the property, there have been no disposals, releases or threatened releases of hazardous substances or hazardous waste on, from, or under the permanent easement and TCE area. GRANTOR further represents and warrants that GRANTOR has no knowledge of any disposal, release, or threatened release of hazardous substances or hazardous waste, on, from, or under the permanent easement and TCE area which may have occurred prior to GRANTOR taking title to the property.

The acquisition price of the property being acquired in this transaction reflects the fair market value of the permanent easement and TCE area without the presence of contamination. If the property being acquired is found to be contaminated by the presence of hazardous waste which requires mitigation under Federal or State law, SBSA may elect to recover its clean-up costs from those who caused or contributed to the contamination.

8. Right of Possession and Use

It is agreed and confirmed by the parties hereto that, notwithstanding the other provisions in this Contract, the right of possession and use of the permanent easement and TCE area by SBSA, and/or its designees or assignees including the right to remove and dispose of improvements, shall commence upon acceptance of this Contract by SBSA and deposit of funds in escrow controlling this transaction, and that the amount shown in Paragraph 2A herein includes, but is not limited to, full payment for such possession and use, including interest and damages if any, from said date.

9. Binding on Successors and Assigns

This Contract shall be binding on and inure to the benefit of the respective heirs, successors and assigns of the parties to this Contract.

10. No Leases

GRANTOR warrants that there are no oral or written leases on all or any portion of the permanent easement and TCE area proposed to be acquired exceeding a period of one month, and GRANTOR further agrees to hold SBSA harmless and reimburse SBSA for any and all of its losses and expenses occasioned by reason of any lease of said property held by any tenant of GRANTOR for a period exceeding one month.

11. Quitclaim Deeds

If any lessee interests are identified in Paragraph 9 herein, as a condition precedent to close of escrow, Quitclaim Deeds or similar releases sufficient to clear any possessory rights from the subject property will be required. It is the GRANTOR's primary responsibility to secure any Quitclaim Deeds or releases; however, SBSA agrees to reasonably assist GRANTOR in securing said Quitclaim Deeds or releases.

12. Approval of SBSA

GRANTOR understands that this Contract is subject to the approval of SBSA and availability of funding. Further, that this Contract shall have no force or effect unless and until said approval has been obtained and funding secured.

13. Release of All Claims

GRANTOR hereby acknowledges and agrees that the receipt and acceptance by GRANTOR for the payment set forth in Paragraph 2A of this Contract constitutes full and complete satisfaction of all claims, cost, expenses including demands, damages, compensation for acquisition of property as described herein, severance damages, loss of business goodwill, interest, litigation expenses, and attorney fees, and all claims, whether asserted or alleged by GRANTOR or not, for other losses or damages recognized under law which GRANTOR could assert or allege against SBSA, as a result of SBSA's acquisition of the property described herein. GRANTOR hereby waives and releases all rights, claims, costs, expenses, demands, damages or causes of action the GRANTOR has or may have in the future against SBSA as a result of or arising out of SBSA's acquisition of the permanent easement and TCE area described herein. In furtherance of the intentions set forth herein, GRANTOR acknowledges that it is familiar with Section 1542 of the Civil Code of the State of California, which provides:

“A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor.”

GRANTOR hereby waives and relinquishes any right or benefit which it has or may have under Section 1542 of the Civil Code of the State of California or any similar provision of statutory or nonstatutory law of any other applicable jurisdiction to the full extent that it may lawfully waive all such rights and benefits pertaining to the subject matter of this Paragraph 13.

14. Authority to Sign

GRANTOR and the signatories represent and warrant that the signatories to this Contract are authorized to enter into this Contract to convey real property and that no other authorizations are required to implement this Contract on behalf of GRANTOR.

15. Integrity of Permanent Easement and TCE

Except as otherwise provided herein or by express written permission granted by SBSA, GRANTOR shall not, after the date of execution of this Contract and the close of escrow, alienate, lien, encumber or other transfer the permanent easement and TCE area or any portion thereof or allow the same to occur, cause or allow any physical changes on the permanent easement and TCE, or enter into any lease or contract with respect to the permanent easement and TCE area or any portion thereof which would survive the close of escrow and impair SBSA's use of the permanent easement and TCE area. GRANTOR shall maintain the permanent easement and TCE area in its current condition and shall make, at GRANTOR's expense, all repairs necessary to maintain the permanent easement and TCE area in such condition.

16. Counterparts Signature

This Contract may be executed in counterparts, each of which shall be an original, but all counterparts shall constitute one Contract.

17. Specific Performance

In the event of a breach of this Contract by GRANTOR, SBSA shall be entitled to pursue any and all remedies available to it against GRANTOR, including, without limitation, claims for all damages attributable to GRANTOR's breach, and specific performance of this Contract.

(As used above, the term, "GRANTOR" shall include the plural as well as the singular number.)

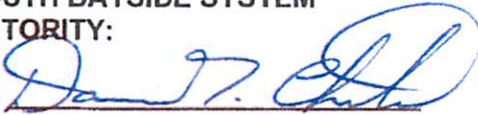
CONTINUED OF FOLLOWING PAGE

GRANTOR: County of San Mateo
PROJECT: 48-INCH FORCE MAIN RELIABILITY IMPROVEMENTS PROJECT

APN: 095-030-210 & 230

IN WITNESS WHEREOF, the parties have executed this Contract the day and year first written herein below.

**SOUTH BAYSIDE SYSTEM
AUTHORITY:**

By: 

Title: Manager

Date: 01-30-2014

**GRANTOR: THE COUNTY OF SAN MATEO,
a political subdivision of the State of California**

By: _____

Title: _____

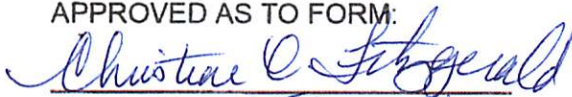
Date: _____

By: _____

Title: _____

Date: _____

APPROVED AS TO FORM:


Christine C. Fitzgerald
Attorney for SBSA

ATTEST:


Clerk of the Commission

NO OBLIGATION OTHER THAN SET FORTH HEREIN WILL BE RECOGNIZED

GRANTOR: County of San Mateo
PROJECT: 48-INCH FORCE MAIN RELIABILITY IMPROVEMENTS PROJECT

APN: 095-030-210 & 230

**EXHIBITS A: CP3-1 and CP3 TCE 1
(Legal Descriptions & Plat Maps)**

EXHIBIT A
DESCRIPTION OF EASEMENT CP3-1

A strip of land 30.00 wide, being a portion of that certain real property described in that certain document recorded in Book 6756 of Official Records of San Mateo County at Page 420, lying 15.00 feet on each side of the following described centerline:

Beginning at the most southerly corner of said parcel; thence northwesterly along the southwesterly boundary of said parcel North 42°00'00" West 463.04 feet, more or less, to a point which is 25.00 easterly of the centerline of the 20.00 foot wide easement as described in that certain document recorded in Book 6557 of Official Records of San Mateo County at Page 480; thence across said parcel 25.00 feet easterly of, and parallel to, the centerline of said 20.00 foot wide easement, North 27°00'08" West 421.62 feet; thence along the arc of a 325.00 foot radius tangent curve to the right, through a central angle of 14°34'14", a distance of 82.65 feet; thence leaving the course 25.00 feet easterly of, and parallel to, the centerline of the 20.00 wide easement as described in that certain document recorded in Book 6557 of Official Records of San Mateo County at Page 480, North 22°36'07" East 50.27 feet; thence North 82°23'53" West 286.64 feet, more or less, to the southwesterly boundary line of said parcel, said point being the **POINT OF TERMINUS** of this description. The sidelines of said strip of land shall be prolonged or shortened so as to begin and terminate on the southwesterly boundary line of said parcel.



2118 OR 664

97-119043
Parcel Two

6557 OR 480
20' WIDE

N82°23'53"W
286.64'±

N22°36'07"E 50.27'

R=325.00'
L=82.65'
Δ=14°34'14"

30' EASEMENT

25' CL TO CL

N27°00'08"W 421.62'

T.P.O.B.

6756 OR 420

N42°00'00"W
463.04'±

N48°00'00"E

P.O.B.

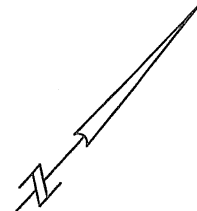


EXHIBIT A-1

EASEMENT CP3-1

**BOHLEY
CONSULTING**

3150 ALMADEN EXPRESSWAY, SUITE 150
SAN JOSE, CA 95118
(408) 265-1600 • FAX (408) 265-1604

DATE:	01/28/2013
SCALE:	1"=150'
DWG:	CP3 EASEMENTS
JOB No.	200816

EXHIBIT A
DESCRIPTION OF EASEMENT CP3 TCE I

All that certain real property situate in the City of Redwood City, County of San Mateo, State of California, being a portion of that certain real property described in that certain document recorded in Book 6756 of Official Records of San Mateo County at Page 420, and being more particularly described as follows:

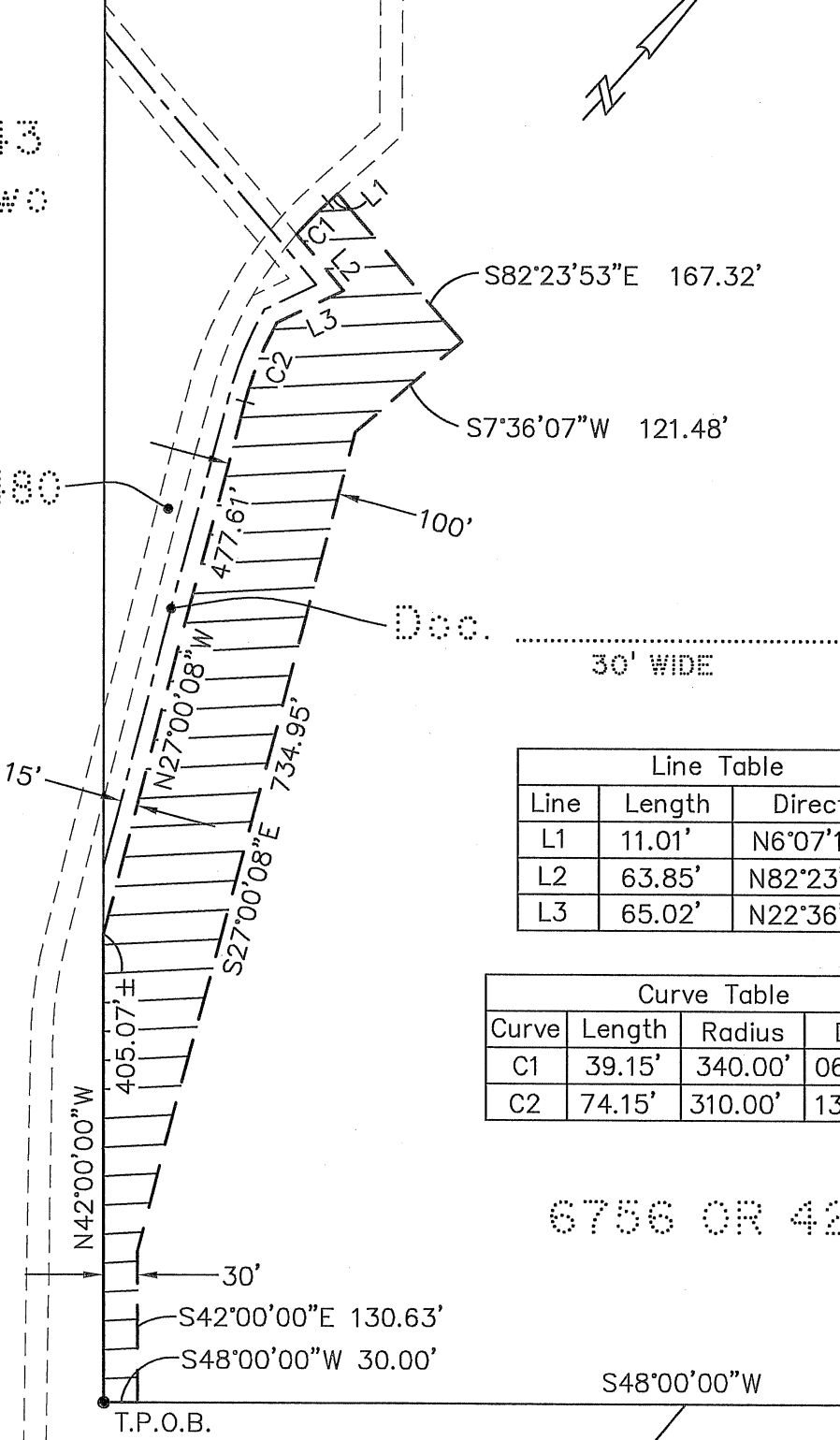
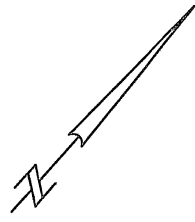
BEGINNING at the most southerly corner of said parcel; thence northwesterly along the southwesterly boundary of said parcel North 42°00'00" West 405.07 feet, more or less, to a point that is 15.00 feet easterly of the centerline of the 30.00 foot wide easement as shown in Document No. _____, San Mateo County Records; thence leaving said southwesterly boundary line and across said parcel along a line that is 15.00 feet easterly of, and parallel to, the centerline of said 30.00 foot wide easement, North 27°00'08" West 477.61 feet; thence along the arc of a 310.00 foot radius curve to the right, through a central angle of 13°42'17", a distance of 74.15 feet; thence North 22°36'07" East 65.02 feet; thence North 82°23'53" West 63.85 feet, more or less, to the easterly boundary of the 20.00 wide easement as shown in Book 6557 of Official Records of San Mateo County at Page 480; thence northerly along said easterly boundary of said easement, along a 340.00 foot radius non-tangent curve to the right, the center of which bears North 89°31'23" East, through a central angle of 6°35'50", a distance of 39.15 feet; thence North 6°07'13" East 11.01 feet; thence leaving the easterly line of the 20.00 wide easement as shown in Book 6557 of Official Records of San Mateo County at Page 480, South 82°23'53" East 167.32 feet; thence South 7°36'07" West 121.48 feet, more or less, to a point which is 115.00 feet easterly of the centerline of the 30.00 foot wide easement as shown in Document No. _____, San Mateo County Records; thence along a line which is 115.00 feet easterly of, and parallel to, the centerline of said 30.00 foot wide easement, South 27°00'08" East 734.95 feet, more or less, to a point which is 30.00 feet northeasterly of the southwesterly boundary line of said parcel; thence along a line which is 30.00 feet northeasterly of, and parallel to, the southwesterly boundary line of said parcel, South 42°00'00" East 130.63 feet, more or less, to the southeasterly boundary of said parcel; thence southwesterly along said southeasterly boundary, South 48°00'00" West 30.00 feet to the **POINT OF BEGINNING**.



2118 OR 664

97-119043
Parcel Two

6557 OR 480
20' WIDE



Line Table		
Line	Length	Direction
L1	11.01'	N6°07'13"E
L2	63.85'	N82°23'53"W
L3	65.02'	N22°36'07"E

Curve Table			
Curve	Length	Radius	Delta
C1	39.15'	340.00'	06°35'50"
C2	74.15'	310.00'	13°42'17"

6756 OR 420

EXHIBIT A-1
EASEMENT CP3 TCE I

**BOHLEY
CONSULTING**

3150 ALMADEN EXPRESSWAY, SUITE 150
SAN JOSE, CA 95118
(408) 265-1600 • FAX (408) 265-1604

DATE:	01/28/2013
SCALE:	1"=150'
DWG:	CP3 EASEMENTS
JOB No.	200816