

RECORDING REQUESTED

BY:

City of Alameda

AND WHEN RECORDED MAIL

TO:

City of Alameda
2263 Santa Clara Avenue,
Room 280
Alameda, CA 94501
Attn: City Attorney

*(THIS SPACE FOR RECORDER'S USE
ONLY)*

APN: 69-109-152 & 69-109-153

The undersigned declares that this Easement Amendment is exempt from recording fees per Govt. Code §27383.

EASEMENT AMENDMENT

THIS EASEMENT AMENDMENT ("Amendment") is made as of _____, 2021, by and between _____ ("Owner A"), _____ ("Owner B") and the CITY OF ALAMEDA, a charter city and municipal corporation (the "City"), for the benefit of the City and the public.

RECITALS

A. Owner A is the owner of the certain parcel of real property located in Alameda, California, commonly known as 3227 Fernside Boulevard, designated by the Alameda County Assessor as Assessor's Parcel Number ("APN") 69-109-152, and more particularly described in Exhibit A, which is incorporated herein by reference ("Parcel A").

B. Owner B is the owner of the certain parcel of real property located in Alameda, California, commonly known as 3229 Fernside Boulevard, designated by the Alameda County Assessor as APN 69-109-153, and more particularly described in Exhibit B, which is incorporated herein by reference ("Parcel B").

C. The City owns an easement over a portion of Parcels A and B pursuant to that certain map entitled Waterside Terrace, filed August 30, 1912 in Map Book 27, Page 12, in the official records of Alameda County.

D. The location of the City's existing easement is depicted on **Exhibit C**, which is incorporated herein by reference.

E. The parties desire to revise the location of the existing easement and to modify the City's rights and obligations with respect to the relocated easement, as further described herein.

AGREEMENT

NOW, THEREFORE, incorporating and in consideration of the foregoing recitals and for other valuable considerable, the parties agree as follows:

1) **Revised Location of Easement**. The location of the easement is hereby revised such that, upon recordation of this Amendment, the easement shall be located as depicted on **Exhibit D**, and shall be designated herein as "the **Relocated Easement**."

2) **Character and Use of Relocated Easement**. The Relocated Easement shall be a perpetual non-exclusive easement appurtenant to be used as a public pedestrian pathway providing ingress and egress from Fernside Boulevard to the shoreline. The Relocated Easement shall also serve as a view corridor from Fernside Boulevard to the shoreline.

3) **Existing Pathway**. There is currently a pedestrian pathway ("the **Pathway**") located on a portion of the Relocated Easement. The Pathway is shown on Exhibit D.

4) **Resident Use Rights**. The residents of Parcel A and the invitees of the residents of Parcel A shall have the right to continue using the Pathway for pedestrian ingress and egress to Parcel A.

5) **Improvements**. The City shall have the right to erect, construct, maintain or permit such improvements across, through, within or under the Relocated Easement as the City deems necessary, in the City's sole discretion, for the safety, security and welfare of the public and/or to comply with any applicable governmental requirements, including, but not limited to, compliance with the Americans with Disabilities Act. Such improvements may include the expansion or relocation of the Pathway. Owner A and Owner B shall not erect, construct, maintain or permit, either temporarily or permanently, any improvements, including, but not limited to fences, barriers, structures, walls, signs, buildings, shrubbery, hedges, or other plantings, across, through, within or under the Relocated Easement without the prior written approval of the City, such approval not to be unreasonably withheld.

6) Maintenance, Repair and Restoration. The City shall, at its cost, maintain, repair and restore (as necessary) the Pathway in good condition and repair, as determined by the City, which could include removing certain existing structures within the Relocated Easement. In connection therewith, the City shall have the right to access the Relocated Easement from land or water. The City shall undertake such maintenance, repair and restoration obligations with respect to the Pathway consistent with City practices, as such may be amended from time to time.

7) Liability. The City shall be responsible for personal injury or property damage to the extent arising from use of the Pathway by a member of the public or an agent or employee of the City.

8) Insurance. The City shall cause the Pathway to be insured, pursuant to the City's standard insurance program, from personal injury and property damage to the extent arising from use of the Pathway by the public or a City agent or employee.

9) Emergency Access. The City shall have the right to access the Pathway in any manner appropriate and necessary, in the City's determination, in connection with an emergency or any exigent situation.

10) Effect of Invalidation. If any provision of this Amendment is held to be invalid by any court, the invalidity of such provision shall not affect the validity of the remaining provisions herein.

11) Binding Effect. The easement granted to the City is an easement appurtenant and the terms of this Amendment shall constitute covenants running with the land.

12) Governing Law. This Amendment shall be construed in accordance with and governed by the laws of the State of California.

IN WITNESS WHEREOF, the parties have executed this Amendment as of the date first set forth above.

/ / /
/ / /
/ / /

(Signatures on following page)

OWNER A:

By: _____
Name:_____

By: _____
Name:_____

OWNER B:

By: _____
Name:_____

By: _____
Name:_____

CITY:

City of Alameda,
A charter city and municipal corporation

By: _____
Eric J. Levitt
City Manager

Approved as to Form

By: _____
Elizabeth A. Mackenzie
Chief Assistant City Attorney

**NOTE: NOTARY ACKNOWLEDGMENTS FOR ALL SIGNATURES MUST BE
ATTACHED, PER CIVIL CODE SEC. 1180 ET SEQ.**

EXHIBIT A

Parcel A Legal Description

LOT 12, BLOCK F, WATERSIDE TERRACE, FILED AUGUST 30 1912, MAP BOOK 27, PAGE 23, ALAMEDA COUNTY RECORDS.

EXHIBIT B

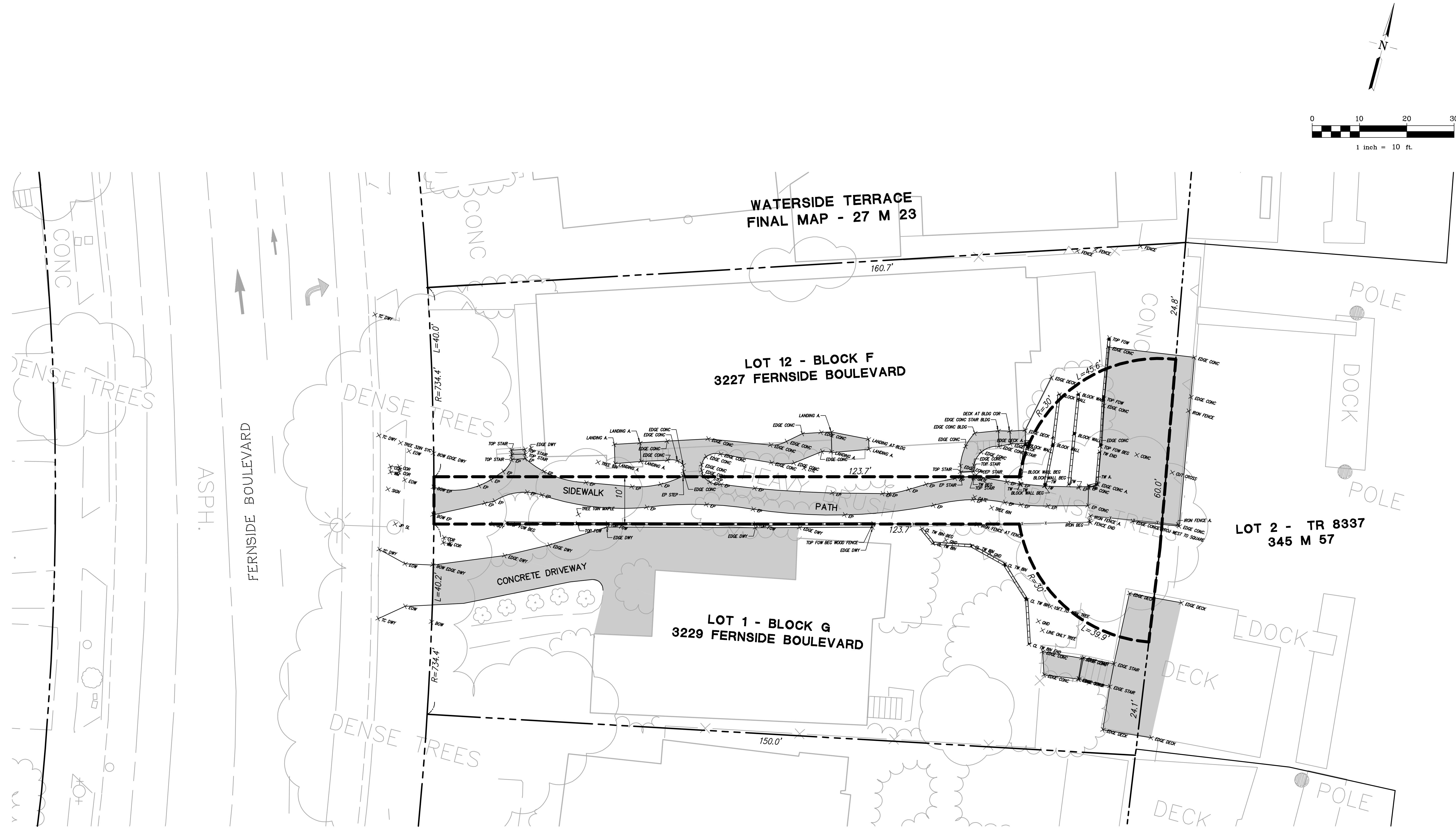
Parcel B Legal Description

LOT 1, BLOCK G, WATERSIDE TERRACE, FILED AUGUST 30, 1912, MAP BOOK 27, PAGE 12, ALAMEDA COUNTY RECORDS.

EXHIBIT C

Location of Existing Easement

(attached)



EXISTING EASEMENT

EXHIBIT D

Revised Location of Easement
(attached)

REVISED EASEMENT

0 10 20 30

1 inch = 10 ft.

1 inch = 10 ft.

I EGFND-

EASEMENT LIMITS