

RECORDING REQUESTED BY  
AND WHEN RECORDED RETURN TO:

City of San Mateo  
330 W. 20<sup>th</sup> Avenue  
San Mateo, California 94403

APN: 033-441-240 (portion)

[Space Above For Recorder's Use Only]

Recording Fee: Exempt pursuant to California  
Government Code Section 27383

### **TEMPORARY CONSTRUCTION EASEMENT DEED AND AGREEMENT**

THIS TEMPORARY CONSTRUCTION EASEMENT DEED AND AGREEMENT (the "Easement Deed") is made as of \_\_\_\_\_, 20\_\_, by and between ALL AMERICAN SELF STORAGE, a California limited partnership ("Grantor") and the CITY OF SAN MATEO, a municipal corporation ("Grantee").

#### **RECITALS**

A. Grantor is the owner of that certain real property located in the City of San Mateo, County of San Mateo, State of California, commonly known as 2000 E. 3<sup>rd</sup> Avenue, San Mateo designated by the San Mateo County Assessor as Assessor's Parcel No. 033-441-240, and more particularly described on Exhibit A attached hereto and incorporated herein in its entirety by this reference (the "Grantor's Land").

B. Pursuant to that certain Agreement Granting Easements and Escrow Instructions dated as of \_\_\_\_\_, 20\_\_ (the "Agreement"), Grantee is being granted an Easement over approximately  $\pm$  643 square feet portion of Grantor's Land for use as a temporary construction easement (the "Temporary Construction Easement"), as described on Exhibit B, attached hereto and incorporated herein, for purposes related to the construction of sanitary sewer pipelines. Hereinafter, the Temporary Construction Easement is referred to as the "Easement."

C. This Deed conveys to Grantee the Temporary Construction Easement, all in accordance with the terms and conditions more particularly described herein.

#### **AGREEMENT**

NOW THEREFORE, incorporating and in consideration of the foregoing recitals, in order to comply with the Agreement and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto hereby agree as follows.

1. **Temporary Construction Easement.** Grantor hereby grants to Grantee and its authorized agents, representatives, employees, officials, contractors, and subcontractors, a Temporary Construction Easement to enter the Grantor's Land for the purposes of staging activities related to the construction of sanitary sewer pipelines. Grantor agrees not to interfere with Grantee's access and use of the Temporary Construction Easement. The Temporary Construction Easement shall run for twelve (12) consecutive months commencing on February 1, 2021 and terminating on January 31, 2022. Upon termination of the Temporary Construction Easement, Grantee shall provide such evidence as necessary to clear the Temporary Construction Easement from title, including delivery of a quitclaim deed with respect to the Temporary Construction Easement. In the case of unpredictable delays in construction, upon written notification, and provided Grantor and Grantee agree to such an extension in a writing recorded against Grantor's Land, the terms of this Agreement may be extended. Grantor shall be compensated based on the fair market value of the Easement at the time of the extension. Grantee shall use the Temporary Construction Easement Area in accordance with the following:

(a) Grantee shall give Grantor at least 72-hour telephone notice prior to entering the Temporary Construction Easement Area, which notice requires that Grantee actually speak to Grantor and include the name of the company, the person and their purpose for accessing the Temporary Construction Easement Area.

(b) Once construction commences and is continuous, the 72-hour actual notice need not be given, but shall be given again if construction is discontinued so that Grantor has the knowledge of who will be on and using the Temporary Construction Easement Area at all times.

(c) Grantee shall provide Grantor with a copy of any soil, geological test and environmental site assessment of the Temporary Construction Easement Area.

(d) In the event that Grantor encounters any problems during the course of construction, Grantor shall be provided with work and cell phone contact numbers of City staff and the on-site construction supervisor.

(e) At the conclusion of construction, Grantee hereby covenants and agrees to restore said Temporary Construction Easement Area as near as possible to its original condition.

(f) The parties hereby agree that the compensation paid includes the value of Grantee's use of any and all existing improvements within the Temporary Construction Easement Area during the term of this Agreement.

2. **Remedies.** In the event of a violation of any of the terms of Section 1 above, Grantor and Grantee may each seek specific performance of this Agreement or any other remedy permitted by law or in equity against the other.

3. **Attorneys' Fees.** Should Grantor institute any action or proceeding to enforce this Deed, or for damages by reason of any alleged breach of this Deed, or for a declaration of rights hereunder, the prevailing party in any such action or proceeding shall be entitled to receive from the non-prevailing party all costs and expenses, including, without

limitation, reasonable attorneys' fees, incurred by the prevailing party in connection with such action or proceeding.

4. **Runs with the Land.** The easements, rights of way, covenants and restrictions provided herein shall be construed as covenants and not as conditions, and all such covenants shall run with, and be enforceable against, both Grantor and Grantor's Land.

5. **Severability.** If any provision of this Deed is determined by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Deed shall nonetheless remain in full force and effect, provided that the invalidity or unenforceability of such provision does not materially adversely affect the benefits accruing to any party hereunder.

6. **Entire Agreement.** This Deed, including the exhibits attached hereto, contains the entire agreement between the parties hereto pertaining to the subject matter hereof and fully supersedes all prior written or oral agreements and understandings between the parties hereto pertaining to such subject matter. Furthermore, this Deed cannot be changed orally, and no executory agreement shall be effective to waive, change, modify or discharge it in whole or in part unless such executory agreement is in writing and is signed by the party against whom enforcement of any waiver, change, modification or discharge is sought.

7. **Successors.** The terms and conditions of this instrument shall run with and bind Grantor's Land and shall inure to the benefit of and shall be binding upon Grantor and Grantee and their respective assignees and/or successors.

8. **Modification.** This instrument may only be modified by a written instrument that is recorded in the Official Records of San Mateo County, California.

9. **Waiver.** Waiver by any party of any portion of this instrument shall not constitute a waiver of the same or any other portion hereof.

10. **Counterparts.** This instrument may be executed in one or more counterparts, each of which shall be deemed an original, and all of which together shall constitute a single instrument.

11. **Warranty of Authority.** The signatories to this Agreement warrant and represent that each is authorized to execute this Agreement and that their respective signatures serve to legally obligate their respective representatives, agents, successors and assigns to comply with the provisions of this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Easement Deed as of the day and year set forth above.

**GRANTOR:**

**ALL AMERICAN SELF STORAGE**

a California limited partnership

By: \_\_\_\_\_  
William F. Kenney, General Partner

By: \_\_\_\_\_  
Susan E. Kenney, General Partner

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

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

By: \_\_\_\_\_  
EDBN Holdings LLC  
Kevin Nuckels, Manager

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

**GRANTEE:**

**CITY OF SAN MATEO**

a municipal corporation

By: \_\_\_\_\_  
Eric Rodriguez, Mayor

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

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
Shawn Mason, City Attorney

## ACKNOWLEDGMENT

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 \_\_\_\_\_ )

On \_\_\_\_\_ before me, \_\_\_\_\_,  
(insert name and title of the officer)

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)

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Signature \_\_\_\_\_ (Seal)



## **EXHIBIT A**

### **Legal Description of Grantor's Land**

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF SAN MATEO, IN THE COUNTY OF SAN MATEO, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

PARCEL A AS SHOWN AND DESIGNATED ON PARCEL MAP NO. 272, FILED FOR RECORD FEBRUARY 28, 1986, IN BOOK 57 OF PARCEL MAPS, PAGES 9 AND 10, SAN MATEO COUNTY RECORDS.

APN: 033-441-240

JPN: 033-044-441-12

033-044-441-12-01

033-044-441-12-02

035-012-122-1

035-012-122-1-01

## EXHIBIT A-2

### **Legal Description of the Temporary Construction Easement**

All that real property situated in the City of San Mateo, State of California, described as follows:

That portion of Parcel A, as shown that certain Parcel Map No. 272, filed February 28, 1986, in Book 57 of Parcel Maps at Pages 9 through 10, inclusive, in the Office of the Recorder of the County of San Mateo, State of California and being more particularly described as follows: **COMMENCING** at the easterly corner of said parcel, also being the intersection of the easterly line of said parcel and southwesterly line of Detroit Drive and a point in a non-tangent curve concave northeasterly having a radius of 213.36 feet, to which a radial bears South 55°43'29" West; thence, along said curve northwesterly 4.39 feet through a central angle of 01°10'45"; thence, leaving said curve South 01°11'55" West 92.82 feet to the **TRUE POINT OF BEGINNING**; thence, proceeding clockwise the following courses and distances: South 01°11'55"W 53.01 feet; thence, South 02°26'37"W 64.82 feet; thence, South 22°29'17"W 15.08 feet; thence, South 48°46'39"W 11.93 feet; thence, N17°07'35"E 22.30 feet; thence, North 05°49'04"E 118.86 feet to the **TRUE POINT OF BEGINNING**.

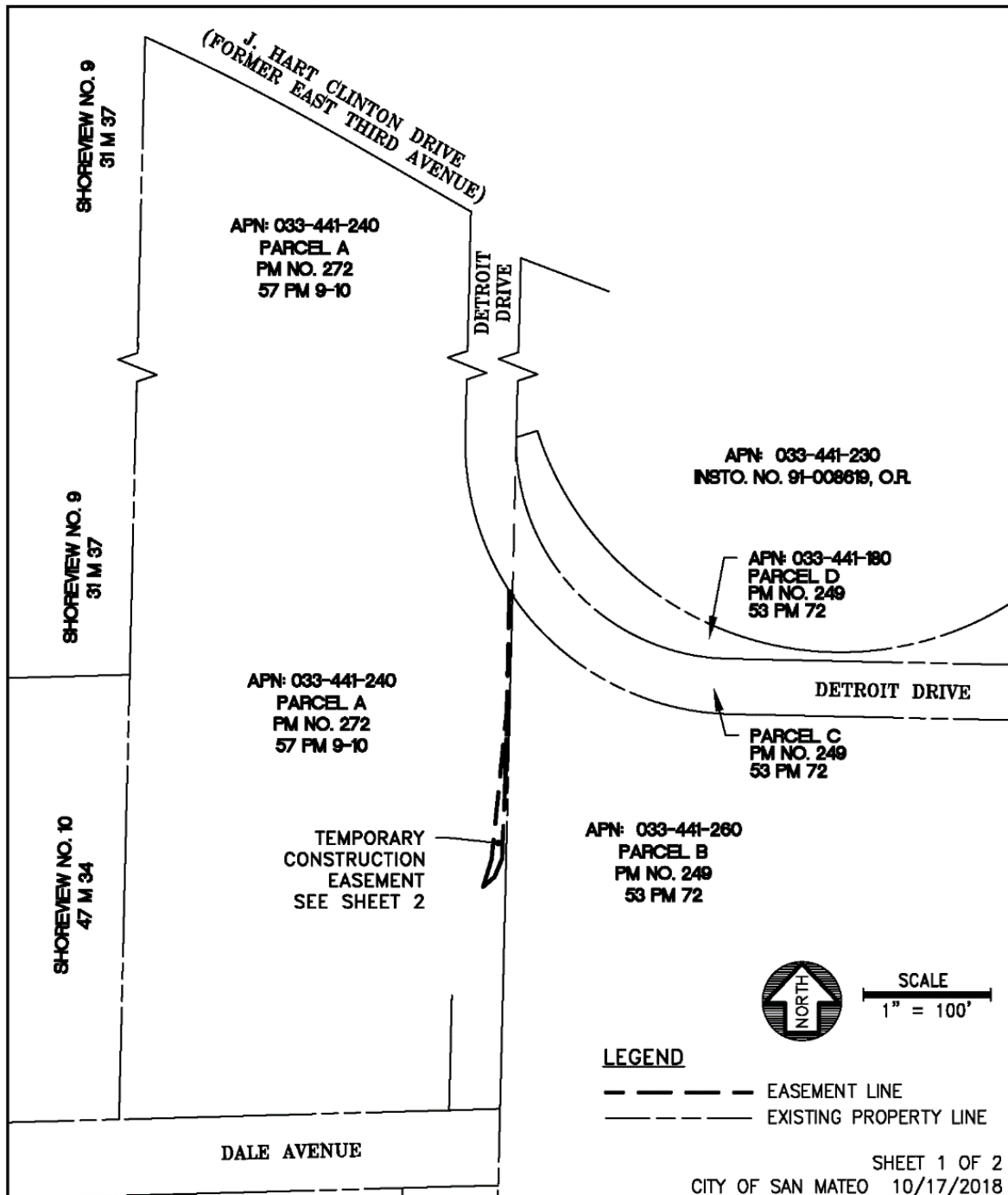
Containing 643 square feet (0.01 acres) more or less.



November 7, 2018

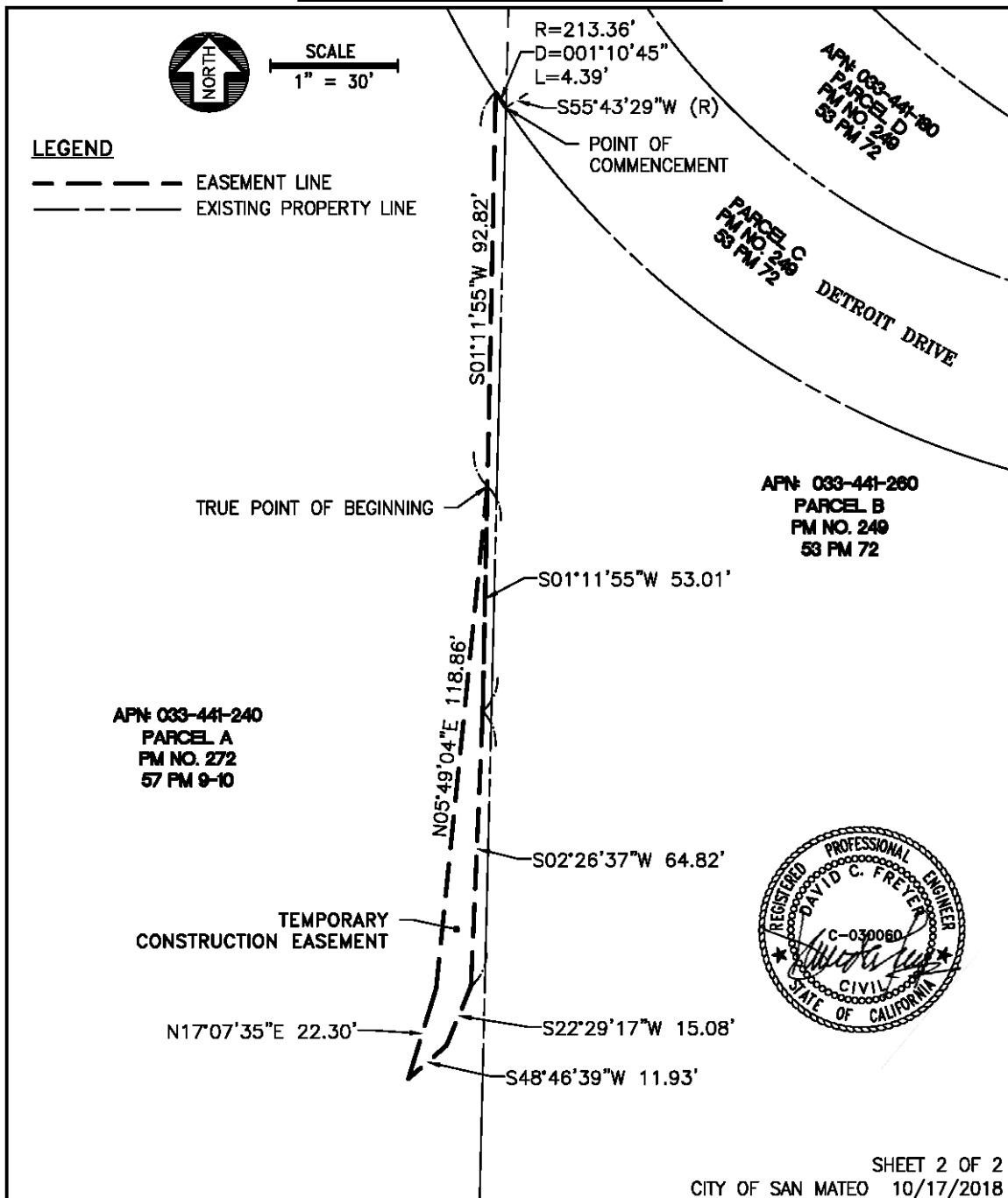
EXHIBIT A-2 (Continued)

Plat Map for the Temporary Construction Easement



# EXHIBIT A-2 (Continued)

## Plat Map for the Temporary Construction Easement



CIVIL ENGINEERS • SURVEYORS • CONSTRUCTION MANAGERS  
144 North San Mateo Drive • San Mateo, CA 94401  
(650)344-9901 • Fax (650)344-9920 • www.freyerlaureta.com

### EXHIBIT A-2

PLAT TO ACCOMPANY LEGAL DESCRIPTION

## CERTIFICATE OF ACCEPTANCE

This is to certify that the interest in real property conveyed by that certain Easement Deed dated as of \_\_\_\_\_, 20\_\_, from All American Self Storage, a California limited partnership to the CITY OF SAN MATEO, a municipal corporation, is hereby accepted by the undersigned officer on behalf of the City of San Mateo pursuant to the authority conferred by the City Council of the City of San Mateo on \_\_\_\_\_, 20\_\_, and the grantee consents to recordation thereof by its duly authorized officer.

Dated: \_\_\_\_\_, 20\_\_

By: \_\_\_\_\_  
Drew Corbett, City Manager

Relates to portion of APN: 033-441-240