

BLA

#24

OR 157

W. O. 4097

AGREEMENT FIXING LOCATION OF ORDINARY LOW
WATER MARK BETWEEN BROADWAY AND WASHINGTON
STREETS IN THE CITY OF OAKLAND AND APPLYING
LEGISLATIVE TRUST TERMS AND CONDITIONS OF
CHAPTER 720, STATUTES OF 1941, TO LAND
NORTHERLY OF THE ORDINARY LOW WATER MARK.

THIS AGREEMENT made and entered into this 23rd
day of April, 1962, by and between the STATE OF CALIFORNIA,
acting by and through its State Lands Commission, hereinafter
referred to as the "State", and the CITY OF OAKLAND, a muni-
cipal corporation, acting by and through its Board of Port
Commissioners, hereinafter referred to as the "City",

W I T N E S S E T H:

WHEREAS, the State is the owner of certain tide and
submerged lands between Broadway and Washington Streets in the
City of Oakland, County of Alameda, State of California, the
northerly boundary of which is the line of ordinary low tide
as said line may have come to rest under natural conditions;
and

WHEREAS, the City is the owner of certain real
property in the said City, County and State between Broadway
and Washington Streets, the southerly boundary of which is the
said line of ordinary low tide; and

WHEREAS, said low tide line between Broadway and
Washington Streets has never been located on the ground and
City and State desire to fix the location of the same by
agreement; and

WHEREAS, the State, acting through the State Lands
Commission, is authorized by Section 6357 of the Public
Resources Code to establish by agreement the ordinary high
water mark or the ordinary low water mark of the swamp,

overflowed, marsh, tide or submerged lands of this State, whenever it is deemed expedient or necessary; and

WHEREAS, the City is empowered by the Statutes of 1941, Chapter 720, to fix the location of the said low tide line by agreement with abutting owners or by other appropriate means; and

WHEREAS, the Board of Port Commissioners of said City is empowered by, and it is its duty for and on behalf of the City, under the law to make provision for the needs of commerce, shipping and navigation of the Port of Oakland and to take charge of, control and supervise the Port of Oakland, including all the waterfront properties, and lands adjacent thereto, or under water, structures thereon, approaches thereto, and all rights and interests belonging thereto, which are now or may hereafter be owned or possessed by the City, including all salt or marsh or tidelands and structures thereon granted to City in trust by State for the promotion and accommodation of commerce and navigation; and

WHEREAS, said Board of Port Commissioners is empowered by law to cooperate with State in carrying out its powers; and

WHEREAS, in the Matter of Southern Pacific Golden Gate Ferries, Ltd., a corporation, Bankrupt, No. 32664-G In Bankruptcy, in the Southern Division of the United States District Court for the Northern District of California, the Referee in Bankruptcy, in 1943, in passing upon disputed claims to rent of real property at that time owned by said Bankrupt and later acquired by City, held, in effect, that said line of ordinary low tide was located at the northerly

United States Government Pierhead Line of 1913 and accordingly decided adversely to the claim of the State that said low tide line was located at a point northerly thereof; and

WHEREAS, said holding was approved and affirmed on the 10th day of June, 1943 by the United States District Court on petition for review of said Referee's order; and

WHEREAS, thereafter by deed dated the 8th day of September, 1943 and recorded the 24th day of September, 1943 in Liber 4421 Official Records of Alameda County, at page 320, from the Trustee in Bankruptcy of said Bankrupt, the City acquired title to the real property lying northerly of the said Pierhead Line of 1913 between Broadway and Washington Streets; and

WHEREAS, the said Board of Port Commissioners, in carrying out its power and duty to make provision for the needs of commerce and navigation, used its funds to acquire said real property; and

WHEREAS, City proposes to lease said real property located northerly of said low tide line for the construction, establishment, maintenance and operation of a yacht harbor for the transient berthing of pleasure boats and for a hotel for the transient accommodation of persons mooring pleasure boats in the Port Area of said City; and

WHEREAS, the lands as described in the aforesaid Deed from the Trustee in Bankruptcy and the revenues to be derived by City therefrom will be devoted to the promotion and accommodation of commerce and navigation pursuant to and in compliance with the provisions of Statutes of 1941, Chapter 720; and

WHEREAS, the foregoing will carry out the directives set forth in said Statutes of 1941, Chapter 720;

NOW, THEREFORE:

IT IS HEREBY AGREED by and between State and City as follows:

I. To locate, describe and permanently establish the line of ordinary low tide between Broadway and Washington Streets in the City of Oakland, County of Alameda, State of California, as said line may have come to rest under natural conditions; that the true and correct location of said line of low tide is and shall be located at the northerly Pierhead Line of Oakland Harbor as established by the United States Government in 1913, as shown on Port of Oakland Drawing BB-774 entitled "Location of Low Tide Line Between Broadway and Washington Streets" hereto attached, marked Exhibit "A", and by this reference made a part hereof, and the same is hereby described as follows:

Commencing at the City Monument set in the intersection of Second and Washington Streets in the City of Oakland, County of Alameda, State of California; thence southerly along the monument line of Washington Street South $26^{\circ} 15' 30''$ West 308.25 feet to a point on the southerly boundary line of First Street; thence along said southerly boundary line South $63^{\circ} 44' 30''$ East 27.25 feet to a point on the easterly boundary line of Washington Street; thence southerly along the said easterly boundary line of Washington Street South $26^{\circ} 15' 30''$ West 521.46 feet to the TRUE POINT OF BEGINNING of a line agreed to be the low tide line, said line being also the United States Pierhead Line approved January 20, 1913; thence along said line South $64^{\circ} 47' 03''$ East 300.05 feet to a point on the westerly boundary line of Broadway said point being South $26^{\circ} 15' 30''$ West 516.00 feet southerly from the southwesterly boundary of First and Broadway Streets.

Property Description verified
JME

II. That City shall devote the lands and revenues therefrom, described in the Deed from the Trustee in Bankruptcy, dated September 8, 1943, and recorded September 24, 1943 in Liber 4421 Official Records of Alameda County, at page 320, to the purposes and uses and in compliance with the provisions of Statutes 1941, Chapter 720.

IN WITNESS WHEREOF, the parties hereto have caused these presents to be executed the day and year first above written.

STATE OF CALIFORNIA

State Lands Commission

By

[Signature]
Executive Officer

CITY OF OAKLAND, a municipal corporation, acting by and through its Board of Port Commissioners,

By

[Signature]
President

Attest

[Signature]
Secretary

Approved as to form and legality this 24th day of April, 1962

[Signature]
Port Attorney

Port Ordinance No. 477

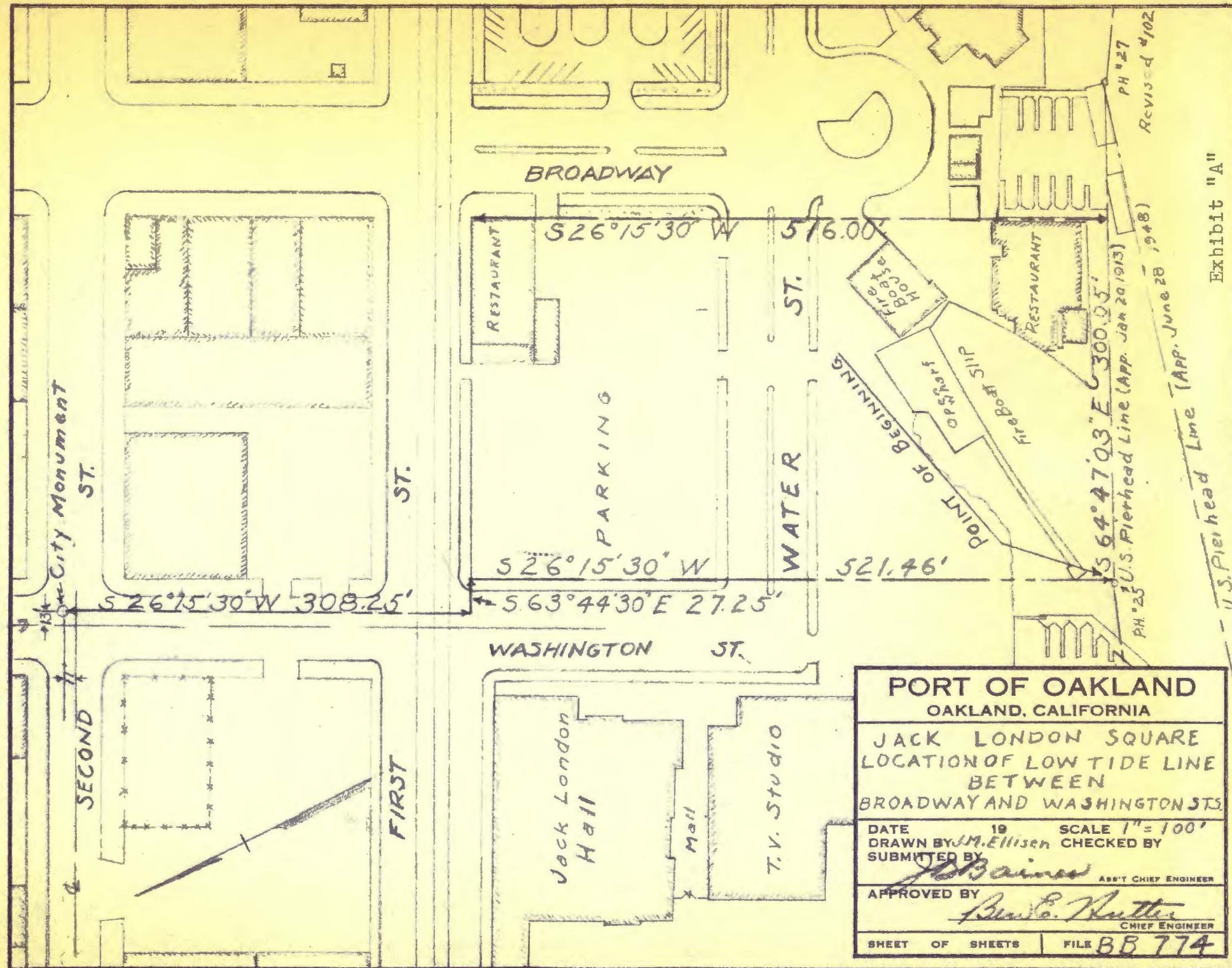


Exhibit "A"