

RECORDING REQUESTED BY
FIRST AMERICAN TITLE

0131-620157ala

NO FEE DOCUMENT
Government Code Section 27383

RECORDING REQUESTED BY:
The City of Oakland

City of Oakland
Department of Housing and Community Development
250 Frank Ogawa Plaza, 5th floor
Oakland, CA 94612
Attn: Brooklyn Basin Project Manager

FIRST AMERICAN TITLE COMPANY
HEREBY CERTIFIES THAT THIS IS A TRUE AND
CORRECT COPY OF THE ORIGINAL DOCUMENT

BY: D. Burtin

RECORDED: 8/28/2014

SERIES NO.: 2014 211182

FIRST ADMINISTRATIVE AMENDMENT TO DEVELOPMENT AGREEMENT
(Oak to Ninth/Brooklyn Basin)

THIS FIRST ADMINISTRATIVE AMENDMENT TO DEVELOPMENT AGREEMENT ("First Amendment") is made and entered into on August 28, 2014, by and between the CITY OF OAKLAND, a California charter city ("City"), and ZARSION-OHP I, LLC, a California limited liability company ("Developer") and successor-by-assignment to Oakland Harbor Partners, LLC ("OHP").

RECITALS

A. On or about August 24, 2006, the City, OHP, and the Redevelopment Agency of the City of Oakland (the "Redevelopment Agency") entered into that certain Development Agreement (the "Original Agreement") related to the development of the real property commonly referred to as "Oak to Ninth/Brooklyn Basin" and more particularly described in Schedule A, attached hereto (the "Property"). The Original Agreement was recorded in the Official Records of Alameda County on August 30, 2006, as Document No. 2006-331819.

B. The Original Agreement and related project entitlements were suspended by the California Superior Court during a legal challenge to the certification of the Project Environmental Impact Report, which suspension was removed on May 19, 2011 upon final resolution of such legal challenge.

C. The City Council of the City adopted Resolution No. 83680 C.M.S. on January 10, 2012, electing for the City to retain and assume the housing assets, obligations, and functions of the Redevelopment Agency pursuant to Health and Safety Code Section 34176 upon dissolution of the Redevelopment Agency. The Redevelopment Agency dissolved on February 1, 2012. All of the rights, interests, and obligations of the Redevelopment Agency under the Original Agreement are housing assets and obligations retained and assumed by, and transferred to, the City as housing successor. Effective upon the dissolution of the Redevelopment Agency on

February 1, 2012, all rights and responsibilities of the Redevelopment Agency under the Development Agreement were transferred to the City by operation of law.

D. On or about April 9, 2013, OHP assigned all of its right, title and interest in the Property, including its rights and obligations under the Original Agreement, to Developer, which assignment was conditioned up receipt of the City's consent as required by Section 10.3 of the Original Agreement. At a duly noticed public hearing held on April 22, 2014, the City Council reviewed Developer's request for and granted its consent to OHP's assignment of the Original Agreement to Developer.

E. The Parties desire to enter into this First Amendment to memorialize (1) the permitted delay caused by the prior litigation involving the Project and extension to the Term related to the same, (2) the transfer of the Redevelopment Agency's rights and obligations to the City and (3) the Parties' agreement on the implementation of certain requirements of Exhibits D and L of the Original Agreement, all as more particularly set forth herein.

F. Pursuant to Section 11.2 of the Original Agreement, the Parties may, after giving the required notice pursuant to Section 65867 of the Development Agreement Legislation, modify certain provisions of the Original Agreement that do not relate to the matters specified in Section 11.2.

AGREEMENT

Now, therefore, pursuant to the authority contained in the Development Agreement Legislation and the Development Agreement Ordinance, and in consideration of the foregoing Recitals and the mutual covenants and promises of the Parties herein contained, the Parties agree as follows:

1. Definitions. Capitalized terms not otherwise defined in this First Amendment shall have the same meaning set forth in the Original Agreement.
2. Permitted Delay; Extension of Term. Pursuant to Section 8.5 of the Original Agreement, the legal challenge to the Project Environmental Impact Report constituted permitted delay to Developer's performance and therefore, pursuant to Section 7.1 of the Original Agreement, the Term is extended until and shall expire on May 19, 2031 to account for such permitted delay.
3. Transfer of Redevelopment Agency Obligations to City. Effective as of February 1, 2012, all rights and responsibilities of the Redevelopment Agency under the Original Agreement were transferred to the City by operation of law. Developer hereby acknowledges and approves of such transfer. The Parties hereby acknowledge that the Redevelopment Agency is no longer a party to the Original Agreement.
4. Affordable Housing. The parties acknowledge that Exhibit L to the Original Agreement describes the "Affordable Housing Parcels" as Parcels F and G as shown on Exhibit E to the Original Agreement; however, the Project Approvals (a) do not require the property

designated as “7th Street” on Exhibit E to the Original Agreement and located between Parcels F and G (“Parcel T”) to be dedicated and improved as a public street and (b) provide flexibility regarding the incorporation of all or a portion of Parcel T into the development of Parcels F and G. As such, the parties hereby agree that the “Affordable Housing Parcels” shall include Parcels F, G and T as further described in Schedule 4.2.1.

4.1 Early Purchase.

4.1.1 City’s Exercise of Early Purchase Option. The City has exercised the Early Purchase option to acquire the Affordable Housing Parcels prior to the completion of the Site Improvement Work under the terms and conditions set forth in Exhibit L to the Original Agreement and this First Amendment. In connection with the City’s exercise of the Early Purchase option, the City and Developer have entered into a Put Agreement granting the City certain put option rights with respect to the Affordable Housing Parcels. The City’s exercise of the put right under the Put Agreement shall be subject to any City obligations in that Cooperation Agreement dated August 24, 2006, with the Oak to Ninth Community Benefits Coalition (the “Cooperation Agreement”), as such Cooperation Agreement may be amended from time to time, with respect to the Affordable Housing Parcels.

4.1.2 Initial Early Purchase Price. The Parties have implemented the procedure set forth in Section 3.3 of Exhibit L of the Original Agreement to determine the Fair Market Value of the Affordable Housing Parcels. Based on such determination, the Parties hereby agree upon the following initial early purchase price for the Affordable Housing Parcels (the “Initial Early Purchase Price”):

Parcel F:

Fair Market Value:	\$7,916,666
less the Early Purchase Discount of:	\$333,292
less Section 3.2 deduction:	\$1,000,000
Initial Early Purchase Price:	\$6,583,374

Parcel G:

Fair Market Value:	\$16,625,000
less the Early Purchase Discount of:	\$699,912
less Section 3.2 deduction:	\$1,000,000
Initial Early Purchase Price:	\$14,925,088

Total: \$21,508,462

The Parties agree that the subject appraisals did not allocate a separate value to Parcel T and assumed that Parcel T would be conveyed to the City for no additional consideration. As such, no additional/separate purchase price is required for Parcel T.

4.2 Finished Parcel Condition. Section 2 of Exhibit L requires Developer to render each Affordable Housing Parcel into a Finished Parcel as defined in Section 1.1 of the Original Agreement. The Parties hereby agree that this obligation shall be satisfied as follows:

4.2.1 Subdivision. The Affordable Housing Parcels shall be created as separate legal parcels by (a) the City's processing of a parcel map waiver pursuant to the California Subdivision Map Act and the Oakland Municipal Code (see that determination letter dated June 9, 2014, and that approval letter dated June 11, 2014, both from the City's Zoning Manager, re: CASE FILE NO. PLN14151, 845 Embarcadero), (b) Developer's execution and delivery of Grant Deeds for the Affordable Housing Parcels in the form approved by both parties and (c) the City's acceptance of the same by execution and delivery of a Certificate of Acceptance for the Affordable Housing Parcels in the form included in the Grant Deeds. The City's acceptance of the Affordable Housing Parcels shall be contingent on the issuance of an endorsement to the City's title insurance policy insuring that the Affordable Housing Parcels were lawfully created under the California Subdivision Map Act and local ordinances.

4.2.2 Demolition. Developer shall demolish the existing improvements located on the Affordable Housing Parcels pursuant to demolition permits approved by the City in its regulatory capacity rather than in its proprietary capacity.

4.2.3 Rough Grading. Developer shall rough grade the Affordable Housing Parcels pursuant to grading plans approved by the City in its regulatory capacity rather than in its proprietary capacity.

4.2.4 Adjacent Infrastructure. Developer shall install the required utility stubs and adjacent curbs, gutters, utilities and streets pursuant to improvement plans approved by the City in its regulatory capacity rather than in its proprietary capacity.

4.2.5 Site Improvement Work. Developer shall commence and complete the Site Improvement Work on Phase 1 of the Project, which includes without limitation the Site Improvement Work on the Affordable Housing Parcels, pursuant to the schedule attached hereto as Schedule 4.2.5 (the "Improvement Schedule"). Developer's obligations under this section, other than its obligation to Remediate Hazardous Materials affecting the Affordable Housing Parcels, the Public Open Space, and POS Access, as defined under Exhibit D to the Original Agreement, shall automatically terminate upon the execution of a Subdivision Improvement Agreement for Phase 1 of the Project and Developer's delivery to the City of the completion security required thereunder, and the obligations set forth by the Subdivision Improvement Agreement and related security, as well as the Original Agreement, shall then control Developer's obligations with respect to the Site Improvement Work other than the Remediation work.

4.2.6 Security for Site Improvement Work. In lieu of the completion security to secure the installation of the Site Improvement Work that would be required under the Subdivision Map Act in connection with subdivision map approvals, the Parties agree that the City may use funds set aside into escrow under the terms of the Put Agreement to cover the costs of the Site Improvement Work on the Affordable Housing Parcels, should Developer fail to

complete the Site Improvement Work in accordance with the Improvement Schedule, until such time as the completion security securing such work per the Subdivision Improvement Agreement is posted.

4.2.7 Rights and Obligations Under the Development Agreement.

Notwithstanding the subdivision and conveyance of the Affordable Housing Parcels to the City pursuant to this Agreement, including without limitation the processing or approval of the parcel map waiver, Developer shall retain all of the rights and obligations of “Developer” under the Development Agreement except those that are solely related to the construction of improvements on the Affordable Housing Parcels after Developer’s completion of the Site Improvement Work. Such rights and obligations retained by Developer include, without limitation, its obligations to (a) comply with all the Conditions of Approval and other legal requirements associated with the Project Approvals and (b) those legal requirements required prior to and at the time of submittal and/or approval of the first Final Map for the Project including the Final Map requirements that apply to the Affordable Housing Parcels (each excluding those rights and obligations transferred to the City pursuant to the immediately preceding sentence).

4.3 Remediation. Developer shall complete the Remediation of the Affordable Housing Parcels pursuant to the Original Agreement, as further detailed in Section 5 below.

4.4 Condition of Title.

4.4.1 Existing Title Exceptions. The Affordable Housing Parcels shall be transferred to the City subject to the title exceptions set forth in the Profoma CLTA Interim Binder prepared by the First American Title Company as Order No. 0131-620157ala and dated June 13, 2014. Developer shall be responsible for paying any property taxes accruing on the Affordable Housing Parcels prior to the transfer of the Affordable Housing Parcels to the City or transfer taxes arising out of the transfer of the Affordable Housing Parcels from the Port to Developer.

4.4.2 Future Title Exceptions. Further, the City hereby agrees that Developer may include the Affordable Housing Parcels in the CFD and any Project Homeowners Associations formed to provide some or all of the services set forth in Section 4.4.4.3 of the Original Agreement not otherwise provided by the CFD (each, a “Master Association”), although any portions of the Affordable Housing Parcels that are developed as affordable housing (i.e., housing that is restricted for rental or sale to households with low or moderate incomes) will be exempt from any special tax or assessment imposed under the CFD or a Master Association. From and after the City’s acquisition of the Affordable Housing Parcels and the Developer’s formation of the CFD or a Master Association, the City shall take such steps as are necessary to subject the applicable portions of the Affordable Housing Parcels to the CFD and Master Association, including but not limited to agreeing to record the Master Association’s Covenants, Conditions and Restrictions (which will be approved by the City in its regulatory capacity as required by the Project Conditions of Approval) against the Affordable Housing Parcels.

4.5 Affordable Housing Development Obligations. Subject to the provisions of the Put Agreement and any City obligations in the Cooperation Agreement with respect to the Affordable Housing Parcels:

(a) notwithstanding the provisions of the Original Agreement to the contrary, the City shall have the right, in its sole and absolute discretion, to elect not to convey either or both of the Affordable Housing Parcels for the development of affordable housing thereon; and

(b) if the City elects, in its sole and absolute discretion, not to convey either or both of the Affordable Housing Parcels for the development of affordable housing (i) the City may convey either or both such parcels to any third party selected by the City at the City's sole discretion at any time for any consideration and for any use, and (ii) the parties shall execute and deliver a DA Amendment (as defined in the Put Agreement) and the City shall process a COA Amendment (as defined in the Put Agreement) as a condition precedent to conveying either or both Affordable Housing Parcels to a third party for any purpose other than the development of affordable housing thereon.

Notwithstanding any term or provision of this First Amendment to the contrary, any termination of affordable housing development obligations pursuant to this subsection shall not restrict the City from imposing affordable housing development obligations on the purchaser of the sold parcel or recording affordability restrictions on the sold parcel as a term of the sale to the third party.

In the event that the DA Amendment and COA Amendment are executed/approved in conjunction with the City's conveyance of Parcel G to a third party, nothing in the DA Amendment or COA Amendment shall terminate, amend or affect the rights and obligations under Section 7 of Exhibit L to the Development Agreement, which rights and obligations shall run with the land (with Parcel G) in favor of any portion of the Project Property owned by Developer.

For purposes of this First Amendment, the reference to "the development of affordable housing" means the construction of residential units in which no fewer than 51% of the units are restricted for sale or rental at an affordable housing cost by households with low or moderate incomes.

4.6 Developer Contribution to Affordable Housing. In the case of a sale of either or both of the Affordable Housing Parcels by the City to a third party for a use other than the development of affordable housing thereon or to Developer pursuant to the Put Agreement, the obligation of Developer set forth in Section 9 of Exhibit L to the Original Agreement to contribute a minimum of \$2,000,000 in funds to the City to subsidize affordable housing shall continue, with such funds provided to subsidize the development of affordable housing either on the sold parcel (if the purchaser develops affordable housing on the sold parcel) or, at the City's election, offsite on any project or projects within the City of Oakland designated by the City in the City's sole discretion with a developer or developers of the City's choosing. Such payment shall be due to the City no later than the issuance of the building permit for the project or projects designated for the use of those funds; provided, however, if the subject project is not

located on one of the Affordable Housing Parcels, the completion of the DA Amendment and COA Amendment (each as defined in and required by the Put Agreement) for the corresponding Affordable Housing Parcel shall be a condition precedent to Developer's obligation to make such payment.

Notwithstanding the above, the required Developer contribution under Section 9 of Exhibit L to the Original Agreement in the case of a sale of either or both of the Affordable Housing Parcels by the City to a third party for a use other than the development of affordable housing thereon, or to Developer pursuant to the Put Agreement, shall be reduced by the amount by which (1) the City's net proceeds from the sale of the sold property exceeds (2) the applicable portion of the purchase price actually paid by the City for said property, adjusted for the applicable portion of any adjustment to the initial purchase price for said property pursuant to Section 3.9.3 of Exhibit L to the Original Agreement, and adjusted to include any fees, taxes, and title premiums paid by the City in connection with the City's purchase of the applicable portion of the property, but in no event shall the reduction pursuant to this sentence exceed \$1,000,000. By way of example only, if the final purchase price paid for the Affordable Housing Parcels by the City was \$23,000,000, the City paid an additional \$10,000 in transaction costs and the City sold the Affordable Housing Parcels to a third party for \$24,500,000, the reduction in affordable housing contribution would be \$1,000,000, calculated as follows:

$$\$24,500,000 - (\$23,000,000 + \$10,000) = \$1,490,000, \text{ subject to the } \$1,000,000 \text{ cap.}$$

5. Remediation of Public Open Space and Affordable Housing Parcels. Section 3 of Exhibit D and Sections 2 and 3.9.5 of Exhibit L to the Original Agreement requires Developer to Remediate Hazardous Materials at the Public Open Space, POS Access and the Affordable Housing Parcels, at Developer's sole expense.

5.1 Project RP/RAP. Developer has prepared the Final Response Plan/Remedial Action Plan for the Project, prepared by Erler & Kalinowski, Inc. and dated June 2010 (the "RP/RAP") which sets forth the overall Remediation approach for the Project, including the required clean-up levels for the various chemicals of concern. DTSC approved the RP/RAP on July 20, 2010.

5.2 Remediation Process Letter. Attached as Schedule 5.2 hereto is a letter from Developer to DTSC titled *Definition of the Environmental Process and Responsibilities* and dated June 9, 2014 (the "Process Letter"). The purpose of the Process Letter is to define the process by which Developer intends to address the contamination on the Brooklyn Basin property, including the Public Open Space, the POS Access, and the Affordable Housing Parcels. The Process Letter separates remediation and post-remediation reporting at the Property into three (3) general phases: Phase 1 – active remediation; Phase 2 – construction, including installation of institutional controls; and Phase 3 – long-term operation, maintenance, and monitoring, including without limitation groundwater monitoring, and site management, each of which is further described in the Process Letter. DTSC approved the Process Letter on June 9, 2014, which approval evidences DTSC's recognition and acceptance of the phased approach. The Parties are hereby structuring the Remediation obligations in reliance on DTSC's approval of the Process Letter.

5.3 Phase 2 Remediation and Phase 3 Activities for the Affordable Housing Parcels. Under the Original Agreement, Developer's obligations to Remediate the Affordable Housing Parcels include the Phase 1 remediation, Phase 2 remediation, and any groundwater monitoring and operation, maintenance, monitoring and reporting required by DTSC as a condition of Closure for the Project included in the Phase 3 activities. However, the Parties acknowledge that the design and construction of the institutional controls contemplated in the Phase 2 requirements outlined in the Process Letter and the F and G Implementation Plan are most efficiently completed during the construction of the vertical improvements to be located on the individual development parcels. Further, the operation, maintenance, monitoring and reporting requirements relating to the institutional controls contemplated in the Phase 3 requirements outlined in the Process Letter and the F and G Implementation Plan related to the Affordable Housing Parcels, are most effectively completed by the owner of the Affordable Housing Parcels. The City or its transferee will construct and own and operate the finished grading and vertical improvements for the Affordable Housing Parcels.

The Parties agree that the City or its transferee shall perform the work necessary to complete the requirements contemplated in Phase 2 and 3 outlined in the Process Letter and the F and G Implementation Plan, other than groundwater monitoring, with respect to Affordable Housing Parcels; however, consistent with the requirement in the Original Agreement that the Remediation of the Affordable Housing Parcels be completed at Developer's sole cost, Developer shall pay the third party costs associated with the satisfaction of (a) the Phase 2 requirements (which shall include the costs of designing and installing the institutional controls, regulatory oversight fees, and the costs to complete any required plans, reports or land use covenants) and the Phase 3 requirements, other than groundwater monitoring (including without limitation, operation, maintenance, monitoring, reporting and regulatory oversight costs), by depositing the applicable funds as Secured Remediation Funds pursuant to Section 5.7.2 below.

For the purpose of the Development Agreement with respect to all or a portion of the Affordable Housing Parcels only, the reference to a "No Further Action" letter in Section 1.B. of Exhibit L to the Development Agreement shall mean (a) final certificate of completion by DTSC under Health & Safety Code section 25395.97 for the Phase 1 and 2 Remediation work as outlined in the Process Letter and the F and G Implementation Plan (with no ongoing remediation, operation, maintenance or monitoring obligations other than those set forth in Health & Safety Code section 25395.97(b)) if the certificate of completion does not require further groundwater monitoring, and (b) Developer's release of the Phase 3 funds to the City pursuant to Section 5.7.2; or, if the certificate of completion under Health & Safety Code section 25395.97 for the Phase 1 and Phase 2 Remediation work does require further groundwater monitoring, "No Further Action" letter shall mean final certification by DTSC of completion of the Phase 1 and 2 Remediation work (with no ongoing remediation, operation, maintenance or monitoring obligations other than those set forth in Health & Safety Code section 25395.97(b)) as well as the completion of the required groundwater monitoring.

5.4 Remediation of Public Open Space and POS Access. Developer shall be responsible for completing all three (3) Phases of the Remediation process for the Public Open Space and the POS Access at its sole expense (inclusive of its right to submit applicable

expenses for payment pursuant to the Pollution Legal Liability Insurance policy(ies) purchased pursuant to Section 5.7.3 below).

Notwithstanding any term of the Agreement to the contrary, the Parties agree that Developer may assign the responsibility to perform the Phase 3 requirements for the Public Open Space and the POS Access to the CFD; subject to prior verification by the City in its reasonable judgment that the CFD has been adequately capitalized to take on such responsibilities. The City shall deem the CFD adequately capitalized, if the City is reasonably satisfied that funding is sufficient to cover the long term operation, maintenance and monitoring (“OM&M”) costs for the Public Open Space and the POS Access, including a reasonable contingency. Prior to forming the CFD, Developer shall provide the financial estimates and all supporting data for the OM&M costs to the City for review and approval. The availability of insurance coverage under the PLL policies obtained pursuant to Section 5.7.3 shall be taken into account in the preparation and approval of the CFD budget. Further, if DTSC or another Environmental Regulatory Agency issues a Remediation Order pertaining to the Public Open Space or the POS Access, and costs are incurred as a result, the parties agree that they will cooperate to submit any claim on the PLL policies obtained pursuant to Section 5.7.3 below.

5.5 Project-wide Documents. Developer intends to produce Project-wide documents including an Environmental Management Plan/Soil Management Plan, Operation, Maintenance and Monitoring Plan, a Vapor Control Plan, an Operation Maintenance and Monitoring Agreement, and Land Use Covenants. Per Section 2.E. of Exhibit D to the Original Agreement, Developer shall provide the draft of each such document to the City at least seven business days prior to submitting such document to any Environmental Regulatory Agency, including DTSC. If Developer submits more than one of these documents for review at any given time, the City review periods will be consecutive; by way of example, if Developer submits three documents simultaneously for City review, the City will have a total of 21 business days to review all three documents. The City will have the opportunity to comment on and make changes in any such plan or document as they may relate to Parcels F and G, the Public Open Space or the POS Access. Developer agrees either to incorporate all of the City’s comments and changes prior to submitting any plan or document to an Environmental Regulatory Agency for approval, or to include the City’s comments and changes separately when it submits the plan or document to the Environmental Regulatory Agency. Should Developer fail to include the City’s comments or changes in any of the plans or forward the City’s comments or changes separately prior to submitting the draft plans or final plans to DTSC, the City will not be obligated to follow the plans or enter into any agreement obligating the City to follow the plans or to place any restrictions on the parcels and all obligations relating to such plan or plans or associated restrictions will remain with Developer.

5.6 Remediation Work.

5.6.1 Implementation Plan for Parcels F and G. Developer has prepared the Implementation Plan for Parcels F, G1, G2 and T1, Brooklyn Basin Project, Oakland, California, dated April 30, 2014, 2014 (the “F and G Implementation Plan”). The F and G Implementation Plan sets forth the “Phase 1” Remediation work for the Affordable Housing Parcels to be completed by Developer pursuant to Section 5.2 above. DTSC approved the F and

G Implementation Plan on May 1, 2014. The City hereby approves the F and G Implementation Plan as supplemented by Schedule 5.6.2 attached hereto. Developer agrees that it will not make any changes to the F and G Implementation Plan without giving the City thirty (30) days' advance notice and the opportunity to comment on the changes and participate in the dialogue with DTSC about the proposed changes. Developer agrees to provide the City's comments to DTSC at the same time it provides a draft of the proposed changes to the Parcels F and G Implementation Plan to DTSC.

5.6.2 Additional Remediation Work. In addition to any Remediation required pursuant to Sections 5.6.1 and 5.6.3, Developer hereby agrees to perform the additional Remediation work set forth in Schedule 5.6.2 attached hereto, and otherwise comply with the provisions of Schedule 5.6.2 with respect to the performance and completion of the Remediation work.

The Remediation work required under Section 5.6.1 and 5.6.2 is collectively referred to herein as the "Parcel F and G Remediation Work." Developer shall perform the Parcel F and G Remediation Work, and such other Remediation required by DTSC or other applicable governmental agency (other than the City or the Port of Oakland) as is necessary to cause DTSC to issue an APC Letter (as defined in the Process Letter), for the Affordable Housing Parcels. The City shall have the right to conduct environmental observation of the Parcel F and G Remediation Work, to take split samples, and to engage its environmental consultant to perform such observation work at Developer's expense pursuant to Section 2.C. of Exhibit L to the Original Agreement.

5.6.3 Remediation Orders. If the City or ZOHP receives an order, directive, notice or instruction issued by an Environmental Regulatory Agency or court of competent jurisdiction requiring the Remediation of Hazardous Materials located at, on, under or emanating from the Affordable Housing Parcels prior to Closure which is related to the Remediation of Hazardous Materials (a) existing on the Affordable Housing Parcels as of the date they are transferred to the City or (b) subsequently introduced to the Affordable Housing Parcels as a result of Developer's (or its contractors' or agents') acts or omissions (each, a "Remediation Order"), the party in receipt shall provide the other party with written notice of the same within five (5) business days after receipt. Developer shall be obligated to perform the Remediation work required by the Remediation Order unless Developer causes the Remediation Order to be withdrawn by the Environmental Regulatory Agency or court within thirty (30) calendar days after Developer's receipt of the same.

5.7 Liability and Implementation Measures.

5.7.1 Remediation Estimate for Parcels F and G. Section 3(D)(2)(b) of Exhibit D and Section 3.9.5 of Exhibit L to the Original Agreement require that the Parties agree upon an estimate for the costs associated with the Remediation of the Affordable Housing Parcels.

(a) Phase 1 – Estimate for Parcel F and G Remediation Work. The Parties hereby approve the \$1,537,000 estimate for the completion of the Phase 1 Parcel F and G Remediation Work for the Affordable Housing Parcels attached hereto as Schedule 5.7.1(a).

(b) Phases 2 and 3 – Estimate for Work to be Completed by the City or its Transferee. The Parties hereby approve the \$1,080,000 estimate for the completion of the Phase 2 work and the \$308,730 agreed upon net present value of the estimated future Phase 3 inspection and reporting work and oversight costs for the Affordable Housing Parcels to be completed by the City or its transferee, attached hereto as Schedule 5.7.1(b).

The Parties agree that the “Approved Remediation Estimate” is \$2,925,730 (the sum of the amounts set forth in Sections 5.7.1(a) and (b)). In the event that DTSC requires or Developer voluntarily makes and DTSC approves any amendments to the Parcel F and G Implementation Plan, the Parties shall meet and confer in good faith to make any adjustments to the Approved Remediation Estimate that are necessary to incorporate the third party costs associated with such changes that affect the Developer’s Parcel F and G Remediation Work.

5.7.2 Financial Assurance for Completion of the Parcel F and G Remediation Work. The Parties have determined that the Cost Cap Insurance contemplated under Section 5(B) of Exhibit D to the Original Agreement is not commercially available under terms acceptable to the Parties. Therefore, Sections 3(D) and 5(C) of Exhibit D to the Original Agreement require Developer to provide Secured Remediation Funds in an amount equal to 125% of the Approved Remediation Estimate on or before the closing of the transfer of the Affordable Housing Parcels from Developer to the City pursuant to Exhibit L of the Original Agreement. The Parties agree that the Secured Remediation Funds in the amount of \$3,657,163 shall be deposited into an escrow account for the benefit of the City from funds otherwise accruing to Developer from the payment of the Initial Early Purchase Price and shall thereafter be subject to the terms and conditions of the escrow agreement attached hereto as Schedule 5.7.2 (the “Remediation Escrow Agreement”). The City may file financing statements or take other steps with respect to the deposited funds as reasonably necessary to secure and perfect payment of such funds to the City in the event of a default under Developer’s obligations hereunder or Developer’s filing for protection under the bankruptcy laws.

The parties agree that if Developer exercises its right under Section 4.1.2 of the Remediation Escrow Agreement to implement the soil cap alternative, the City shall, subject to the review and comment procedures of Section 5.5 and at no third party expense to the City, cooperate with Developer in the preparation, execution, delivery and recordation (as applicable) of the Environmental Management Plan/Soil Management Plan, Operation, Maintenance and Monitoring Plan, Vapor Control Plan, Operation Maintenance and Monitoring Agreement and Land Use Covenants (each consistent with the F and G Implementation Plan) to the extent required by DTSC to complete the soil cap alternative.

5.7.3 Pollution Legal Liability Insurance. As required by Section 5(A) of Exhibit B to the Original Agreement, Developer shall secure the following insurance policies on

or before the close of escrow on the transfer of the Affordable Housing Parcels from Developer to the City pursuant to Exhibit L of the Original Agreement:

a. Primary Policy. The first of the two (2), ten (10) year primary pollution legal liability insurance policies required by Section 5(A) of Exhibit D to the Original Agreement, which policy shall (1) have an indemnity amount equal to the greater of (A) \$20,000,000 or (B) the amount which can be obtained for \$750,000 (note: half of the \$1,500,000 required to be spent over 20 years), (2) have a deductible or self-insured retention that does not exceed \$250,000, (3) name Developer, the City, the Port, the State Lands Commission the CSD as named insureds, (4) be primary with respect to any other insurance coverage held by the City, including the Excess Policy, discussed below, (5) apply to the entire Property, and (6) be in a form reasonably agreed to by the Parties, to be manuscripted with City participation; and

b. Excess Policy. The first of the two (2), ten (10) year excess pollution legal liability insurance policies required by Section 5(A) of Exhibit D to the Original Agreement, which policy shall be in a form following to the policy required under Section 5.7.3(a) above; provided, however, (1) the indemnity amount shall be \$3,000,000, (2) the City shall be the sole named insured, (3) the deductible or self-insured retention shall not exceed \$50,000, (4) the policy shall apply only to the Public Open Space, the POS Access, and the Affordable Housing Parcels, (5) the policy must be a completely separate policy from the primary policy, not a secondary policy, (6) coverage must be freely transferable to City transferees, and (7) the form of the policy must be reasonably agreed to by the Parties, to be manuscripted with City participation.

The parties agree that the requirement set forth in Section 5.7.3(a) may be satisfied, with respect to each ten (10) year period by one or more policies which, in the aggregate total the required indemnity amount.

Further, an amount equal to the sum of (i) \$750,000 and (ii) an amount equal to 300% of the premium paid to purchase the excess policy set forth in Section 5.7.3(b) above, shall be deposited into an escrow account for the benefit of the City from funds otherwise accruing to Developer from the payment of the Initial Early Purchase Price and shall thereafter be subject to the terms and conditions of the escrow agreement attached hereto as Schedule 5.7.3. The City may file financing statements or take other steps with respect to the deposited funds as reasonably necessary to secure and perfect payment of such funds to the City in the event of a default under Developer's obligations hereunder or Developer's filing for protection under bankruptcy laws.

The Parties acknowledge that the policies required under this Section 5.7.3 shall satisfy the requirements of Section 5(A) of Exhibit D to the Original Agreement for the transfer of the Affordable Housing Parcels and any Public Open Space or POS Access to the City.

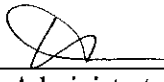

6. Effectiveness of Agreement. Except as set forth in this First Amendment, all provisions of the Original Agreement shall remain unchanged and in full force and effect.

7. Counterparts. This First Amendment may be executed in one or more counterparts by actual or facsimile signature. All counterparts so executed shall constitute one contract, binding on all parties, even though all parties are not signatory to the same counterpart.

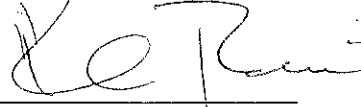
[Signature on next page]

IN WITNESS WHEREOF, the Parties have executed this First Amendment as of the day and year first above written.

CITY OF OAKLAND,
a California charter city

By:  
City Administrator
Donna Horn

APPROVED AS TO FORM AND LEGALITY:

By: 
Its: Deputy City Attorney
Daniel Rossi

ZARSION-OHP I, LLC,
a California limited liability company

By: **SIGNED IN COUNTERPART**
Its: Authorized Individual

IN WITNESS WHEREOF, the Parties have executed this First Amendment as of the day and year first above written.

CITY OF OAKLAND,
a California charter city

By: **SIGNED IN COUNTERPART**

City Administrator

APPROVED AS TO FORM AND LEGALITY:

By: **SIGNED IN COUNTERPART**

Its: Deputy City Attorney

ZARSION-OHP I, LLC,
a California limited liability company

By: _____
Its: Authorized Individual *Michael Ghielmetti*

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE § 1189

State of California

County of Alameda

On June 13, 2014 before me, Christia Katz Mulvey, Notary Public
Date Here Insert Name and Title of the Officer

personally appeared Donna Hom
Name(s) of Signer(s)

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: [Handwritten Signature]
Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: 1st Administrative Amendment to Development Agreement
(Oak to 9th/Brooklyn Basin)

Document Date: _____ Number of Pages: 14 + attach

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____

Corporate Officer -- Title(s): _____

Individual

Partner -- Limited General

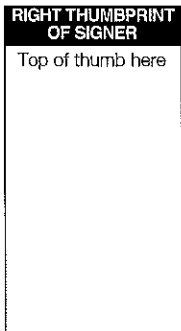
Attorney in Fact

Trustee

Guardian or Conservator

Other: _____

Signer Is Representing: _____



Signer's Name: _____

Corporate Officer -- Title(s): _____

Individual

Partner -- Limited General

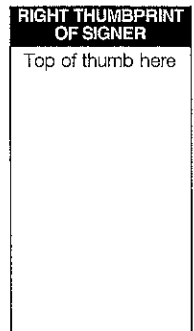
Attorney in Fact

Trustee

Guardian or Conservator

Other: _____

Signer Is Representing: _____



CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE § 1189

State of California

County of Alameda }

On Aug 7, 2014 before me, Kathy Kimura-Barnes, Notary Public,
Date Here Insert Name and Title of the Officer

personally appeared Michael Ghicimette
Name(s) of Signer(s)

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: Kathy Kimura-Barnes
Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: _____

Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____ Signer's Name: _____

Corporate Officer — Title(s): _____ Corporate Officer — Title(s): _____

Individual Individual

Partner — Limited General Partner — Limited General

Attorney in Fact Attorney in Fact

Trustee Trustee

Guardian or Conservator Guardian or Conservator

Other: _____ Other: _____

Signer Is Representing: _____ Signer Is Representing: _____

Schedule A
Legal Description of the Property

[See attached]

Those certain parcels of land situate in the City of Oakland, County of Alameda, State of California and being more particularly described as follows:

Parcel 1 (T/W)

A parcel of filled tide, tide and submerged land in the bed of San Antonio Estuary and a portion of land in Rancho San Antonio as located by the U.S. Surveyor General, approved October 1871 by the U.S. District Court said parcel situate in the City of Oakland, County of Alameda, State of California and being more particularly described as follows:

BEGINNING at Monument "H133" having California Coordinate System of 1983, CCS83, Zone III, coordinate of Northing = 2114243.395, Easting = 6055505.473, as shown on the Record of Survey of the port area of the City of Oakland, R/S No. 1847, filed for record on November 8, 2004 in Book 29 of Records of Survey at pages 23 through 26, Alameda County Records, State of California;

thence North 78°53'23" West, 366.53 feet to the intersection of the northwesterly line of Homewood Suites Lease Boundary, as said boundary is described in that certain lease between the Port of Oakland and JBN Lodging, recorded on January 2, 1997 as Document Number 97000487, Alameda County Records, with the southerly line of the Embarcadero, as said Embarcadero is shown on said record of survey;

thence along last said northwesterly line of Homewood Suites Lease Boundary, South 65°32'30" West, 36.61 feet to the **TRUE POINT OF BEGINNING**;

thence continuing along said line and its southwesterly prolongation, South 65°32'30" West, 328.52 feet;

thence South 26°30'11" West, 208.87 feet;

thence South 67°12'12" West, 242.09 feet;

thence South 65°40'44" West, 503.12 feet;

thence South 73°29'06" West, 317.84 feet;

thence South 88°11'55" West, 188.99 feet;

thence North 89°38'27" West, 218.96 feet;

thence North 61°40'04" West, 481.14 feet;

thence North 28°43'59" East, 173.04 feet;

thence North 40°49'41" West, 71.80 feet;

thence North 49°10'19" East, 673.87 feet;

thence North 40°49'41" West, 240.00 feet;

thence South 49°10'19" West, 675.00 feet;

thence South 65°54'30" West, 28.68 feet;

thence South 62°29'58" West, 20.70 feet;

thence South 55°10'57" West, 146.59 feet;

thence North 80°40'53" West, 76.80 feet to the beginning of a tangent curve to the left;

thence along said curve having a radius of 92.97 feet, through a central angle of 38°20'45" and an arc length of 62.22 feet;

thence South 60°58'22" West, 68.30 feet to the beginning of a tangent curve to the right;

thence along said curve having a radius of 146.77 feet, through a central angle of 117°22'03" and an arc length of 300.65 feet;

thence North 12°51'29" East, 69.26 feet;

thence North 9°08'32" West, 32.90 feet to the southwesterly line of the lands of Silveira, as said lands are described in that certain Grant Deed recorded on November 3, 1967 in Reel 2068 at image 141, Alameda County Records;

thence along last said southwesterly line, South 46°34'41" East, 90.57 feet to the most southerly corner of said lands described in last said deed;

thence along the southeasterly line of last said lands, North 49°10'19" East, 44.02 feet;

thence South 40°49'41" East, 53.00 feet to the beginning of a tangent curve to

the left;

thence along said curve having a radius of 51.00 feet, through a central angle of 180°00'00" and an arc length of 160.22 feet;

thence North 40°49'41" West, 1.00 feet;

thence North 49°10'19" East, 235.41 feet;

thence South 40°49'41" East, 196.00 feet;

thence North 49°10'19" East, 32.00 feet;

thence South 40°49'41" East, 50.00 feet;

thence North 49°10'19" East, 625.00 feet;

thence North 40°49'41" West, 248.00 feet;

thence North 49°10'19" East, 32.66 feet to the beginning of a tangent curve to the right;

thence along said curve having a radius of 15.00 feet, through a central angle of 69°05'43" and an arc length of 18.09 feet;

thence South 61°43'58" East, 68.53 feet to the beginning of a tangent curve to the left;

thence along said curve having a radius of 1,992.00 feet, through a central angle of 9°12'42" and an arc length of 320.26 feet to a point of reverse curvature;

thence along said curve having a radius of 15.00 feet, through a central angle of 88°43'49" and an arc length of 23.23 feet;

thence South 17°47'09" West, 48.55 feet to the beginning of a tangent curve to the left;

thence along said curve having a radius of 75.00 feet, through a central angle of 42°14'39" and an arc length of 55.30 feet;

thence South 24°27'30" East, 142.89 feet;

thence South 49°10'19" West, 690.00 feet;

thence South 40°49'41" East, 196.50 feet;

thence North 65°32'30" East, 142.44 feet;

thence South 24°27'30" East, 12.00 feet to the beginning of a non-tangent curve to the left, from which point a radial line, from the curve to the radius point, bears South 24°27'30" East;

thence along said curve having a radius of 73.00 feet, through a central angle of 128°00'00" and an arc length of 163.08 feet;

thence South 62°27'30" East, 351.97 feet;

thence North 65°32'30" East, 1,284.52 feet;

thence North 21°56'23" East, 127.14 feet to the beginning of a tangent curve to the right;

thence along said curve having a radius of 15.00 feet, through a central angle of 75°08'56" and an arc length of 19.67 feet to a point of reverse curvature;

thence along said curve having a radius of 545.00 feet, through a central angle of 11°30'02" and an arc length of 109.39 feet;

thence North 85°35'17" East, 149.96 feet to the beginning of a tangent curve to the right;

thence along said curve having a radius of 398.00 feet, through a central angle of 3°18'25" and an arc length of 22.97 feet to the **TRUE POINT OF BEGINNING**, containing an area of 564,525 square feet or 12.96 acres, more or less.

Parcel 2 (T/Y)

A parcel of filled tide, tide and submerged land in the bed of San Antonio Estuary and a portion of land in Rancho San Antonio as located by the U.S. Surveyor General, approved October 1871 by the U.S. District Court said parcel situate in the City of Oakland, County of Alameda, State of California and being more particularly described as follows:

BEGINNING at Monument "SHIP" having California Coordinate System of 1983, CCS83, Zone III, coordinate of Northing = 2115136.166, Easting = 6052732.398, as shown on the Record of Survey of the port area of the City of Oakland, R/S No. 1847, filed for record on November 8, 2004 in Book 29 of Records of Survey at pages 23 through 26, Alameda County Records, State of California;

thence North 82°51'11" West, 544.09 feet;

thence North 76°31'20" West, 258.45 feet to the beginning of a tangent curve to the right;

thence along said curve having a radius of 9,532.63 feet, through a central angle of 00°39'15" and an arc length of 108.84 feet to the **TRUE POINT OF BEGINNING**;

thence South 14°07'55" West, 18.98 feet;

thence North 88°42'49" West, 81.79 feet;

thence South 32°45'50" West, 50.04 feet;

thence South 35°54'12" West, 102.54 feet;

thence South 50°56'18" West, 176.73 feet;

thence South 72°16'27" West, 119.77 feet;

thence South 26°52'39" West, 28.71 feet;

thence North 62°36'54" West, 28.62 feet;

thence South 27°26'23" West, 102.54 feet;

thence North 62°34'50" West, 39.95 feet;

thence South 27°23'42" West, 304.64 feet;

thence North 73°21'04" West, 424.79 feet;

thence North 62°35'11" West, 62.33 feet to a point on the southwesterly prolongation of the southeasterly line of Tract 4391, as said tract is shown on that certain map entitled "TRACT 4391 FOR CONDOMINIUM PURPOSES", filed for record on October 30, 1980, in Book 122 of Maps at pages 60 and 61, Alameda County Records;

thence northeasterly along last said southwesterly prolongation and along last said southeasterly line, North 27°24'49" East, 435.62 feet;

thence South 62°35'11" East, 301.35 feet;

thence North 27°24'49" East, 427.29 feet to the beginning of a tangent curve to the left;

thence along said curve having a radius of 15.00 feet, through a central angle of 98°45'10" and an arc length of 25.85 feet;

thence South 71°20'21" East, 112.88 feet;

thence South 51°44'16" West, 14.03 feet to the beginning of a non-tangent curve to the left, from which point a radial line, from the curve to the radius point, bears North 16°36'09" East;

thence along said curve having a radius of 9,532.63 feet, through a central angle of 2°28'14" and an arc length of 411.04 feet to the **TRUE POINT OF BEGINNING**, containing an area of 359,584 square feet or 8.25 acres, more or less.

Parcel 3 (T/Z)

A parcel of filled tide, tide and submerged land in the bed of San Antonio Estuary and a portion of land in Rancho San Antonio as located by the U.S. Surveyor General, approved October 1871 by the U.S. District Court said parcel situate in the City of Oakland, County of Alameda, State of California and being more particularly described as follows:

BEGINNING at Monument "SHIP" having California Coordinate System of 1983, CCS83, Zone III, coordinate of Northing = 2115136.166, Easting = 6052732.398, as shown on the Record of Survey of the port area of the City of Oakland, R/S No. 1847, filed for record on November 8, 2004 in Book 29 of Records of Survey at pages 23 through 26, Alameda County Records, State of California;

thence North 82°51'11" West, 544.09 feet to the **TRUE POINT OF BEGINNING**;

thence South 76°31'20" East, 295.07 feet to the beginning of a non-tangent curve to the right, from which point a radial line, from the curve to the radius point, bears South 59°41'43" West;

thence along said curve having a radius of 30.00 feet, through a central angle of 56°28'55" and an arc length of 29.57 feet;

thence South 26°10'38" West, 35.39 feet;

thence South 49°10'19" West, 205.96 feet to the beginning of a non-tangent curve to the left, from which point a radial line, from the curve to the radius point, bears South 41°33'29" West;

thence along said curve having a radius of 40.00 feet, through a central angle of

262°23'10" and an arc length of 183.18 feet;

thence South 40°49'41" East, 23.30 feet;

thence South 49°10'19" West, 67.71 feet;

thence South 40°49'41" East, 208.00 feet;

thence North 49°10'19" East, 555.00 feet;

thence North 40°49'41" West, 39.73 feet to the beginning of a non-tangent curve to the right, from which point a radial line, from the curve to the radius point, bears South 15°57'47" West;

thence southeasterly along said curve having a radius of 512.00 feet, through a central angle of 08°54'37" and an arc length of 79.62 feet;

thence South 49°10'19" West, 655.33 feet;

thence South 40°49'41" East, 23.60 feet;

thence South 49°10'19" West, 268.67 feet;

thence North 9°08'32" West, 60.54 feet;

thence North 30°09'25" West, 129.33 feet;

thence North 34°14'40" East, 65.67 feet to the beginning of a non-tangent curve to the left, from which point a radial line, from the curve to the radius point, bears North 62°15'09" West;

thence along said curve having a radius of 119.81 feet, through a central angle of 124°39'57" and an arc length of 260.69 feet;

thence South 69°36'27" West, 91.23 feet;

thence South 59°44'47" West, 42.53 feet;

thence North 37°46'31" West, 142.15 feet;

thence North 22°49'03" East, 149.66 feet;

thence North 45°41'32" East, 191.87 feet;

thence North 44°32'05" East, 54.58 feet;

thence North 76°51'25" East, 109.64 feet;

thence North 80°40'23" East, 26.50 feet to the **TRUE POINT OF BEGINNING**, containing an area of 265,285 square feet or 6.09 acres, more or less.

Basis of Bearings: All bearings shown on this survey are based on upon the California Coordinate System of 1983 (CCS83), Epoch 1986, Zone III. Held record CCS83 coordinate Northing = 2115136.166, Easting = 6052732.398, at point "SHIP", and the calculated bearing South 72°09'16" East to point "H133" having CCS83 coordinate Northing = 2114243.395, Easting = 6055505.473. The two monuments, "SHIP" and "H133" are shown on the Record of Survey of the port area of the City of Oakland, R/S No. 1847, filed for record on November 8, 2004 in Book 29 of Records of Survey at pages 23 through 26, Alameda County Records, State of California. All distances ground distances. To obtain grid distances, multiply ground distances shown by 0.9999293.

This description was prepared by me or under my direction in conformance with the requirements of the Land Surveyor's Act.

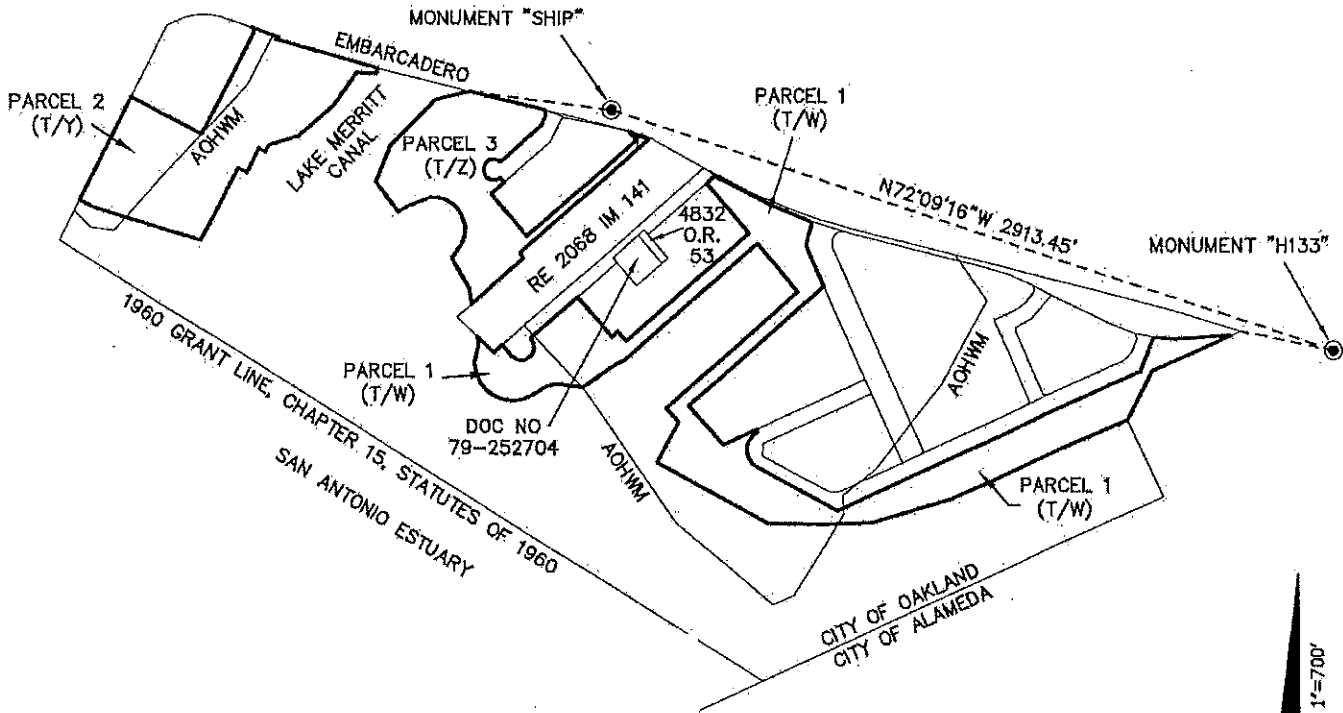


Raymond C Sullivan
Raymond C Sullivan, P.L.S. 8337

5/30/13
Dated

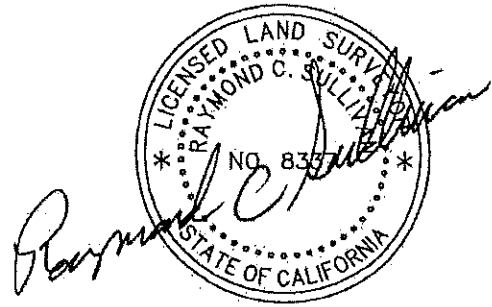
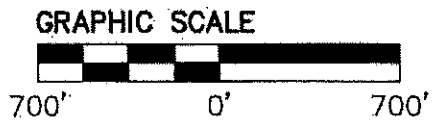
END OF DESCRIPTION

FINAL PUBLIC TRUST PARCELS
(UPLANDS)



LEGEND	
A.O.H.W.M.	AGREED ORDINARY HIGH WATER MARK
DOC NO	DOCUMENT NUMBER
IM	IMAGE
M	MAPS
O.R.	OFFICIAL RECORDS
RE	REEL

NOTE
THIS PLAT IS FOR GENERAL REFERENCE ONLY; SEE ACCOMPANYING
LAND DESCRIPTION FOR CONTROLLING BOUNDARY INFORMATION.



255 SHORELINE DR
SUITE 200
REDWOOD CITY, CA 94065
650-482-6300
650-482-6399 (FAX)

Nine parcels of land situate in the City of Oakland, County of Alameda, State of California and being more particularly described as follows:

Parcel 1 (S/A)

A parcel of filled tide and submerged land in the historic bed of San Antonio Estuary situate in the City of Oakland, County of Alameda, State of California and being more particularly described as follows:

BEGINNING at Monument "H133" having California Coordinate System of 1983, CCS83, Zone III, coordinate of Northing = 2114243.395, Easting = 6055505.473, as shown on the Record of Survey of the port area of the City of Oakland, R/S No. 1847, filed for record on November 8, 2004 in Book 29 of Records of Survey at pages 23 through 26, Alameda County Records, State of California;

thence North 78°53'23" West, 366.53 feet;

thence South 65°32'30" West, 36.61 feet to the beginning of a non-tangent curve to the left, from which point a radial line, from the curve to the radius point, bears South 1°06'18" East;

thence along said curve having a radius of 398.00 feet, through a central angle of 3°18'25" and an arc length of 22.97 feet;

thence South 85°35'17" West, 149.96 feet to the beginning of a tangent curve to the right;

thence along said curve having a radius of 545.00 feet, through a central angle of 20°47'36" and an arc length of 197.79 feet to the **TRUE POINT OF BEGINNING**;

thence continuing westerly along said curve having a radius of 545.00 feet, through a central angle of 9°17'09", and an arc length of 88.33 feet;

thence North 64°19'58" West, 237.98 feet to the beginning of a tangent curve to the left;

thence along said curve having a radius of 18.00 feet, through a central angle of 75°00'00" and an arc length of 23.56 feet;

thence South 40°40'02" West, 77.80 feet to the beginning of a tangent curve to the right;

thence along said curve having a radius of 130.00 feet, through a central angle of 24°52'28" and an arc length of 56.44 feet;

thence South 65°32'30" West, 35.11 feet to the beginning of a tangent curve to the left;

thence along said curve having a radius of 15.00 feet, through a central angle of 90°00'00" and an arc length of 23.56 feet;

thence South 24°27'30" East, 256.00 feet to the beginning of a tangent curve to the left;

thence along said curve having a radius of 15.00 feet, through a central angle of 90°00'00" and an arc length of 23.56 feet;

thence North 65°32'30" East, 312.34 feet to the beginning of a tangent curve to the left;

thence along said curve having a radius of 70.00 feet, through a central angle of 43°36'07" and an arc length of 53.27 feet;

thence North 21°56'23" East, 50.00 feet to the beginning of a tangent curve to the left;

thence along said curve having a radius of 18.00 feet, through a central angle of 95°33'30" and an arc length of 30.02 feet to the **TRUE POINT OF BEGINNING**, containing an area of 100,517 square feet or 2.31 acres, more or less.

Parcel 2 (S/B2)

A parcel of filled tide and submerged land in the historic bed of San Antonio Estuary situate in the City of Oakland, County of Alameda, State of California and being more particularly described as follows:

BEGINNING at Monument "H133" having California Coordinate System of 1983, CCS83, Zone III, coordinate of Northing = 2114243.395, Easting = 6055505.473, as shown on the Record of Survey of the port area of the City of Oakland, R/S No. 1847, filed for record on November 8, 2004 in Book 29 of Records of Survey at pages 23 through 26, Alameda County Records, State of California;

thence North 78°53'23" West, 366.53 feet;

thence South 65°32'30" West, 36.61 feet to the beginning of a non-tangent curve to the left, from which point a radial line, from the curve to the radius point, bears South 1°06'18" East;

thence along said curve having a radius of 398.00 feet, through a central angle of 3°18'25" and an arc length of 22.97 feet;

thence South 85°35'17" West, 149.96 feet to the beginning of a tangent curve to the right;

thence along said curve having a radius of 545.00 feet, through a central angle of 30°04'45" and an arc length of 286.11 feet;

thence North 64°19'58" West, 337.37 feet to the **TRUE POINT OF BEGINNING**;

thence North 64°19'58" West, 0.77 feet to the beginning of a tangent curve to the left;

thence along said curve having a radius of 972.00 feet, through a central angle of 12°11'41" and an arc length of 206.88 feet;

thence North 76°31'39" West, 90.54 feet to the common line between, filled tide and submerged land in the historic bed of San Antonio Estuary, and Rancho San Antonio as located by the U.S. Surveyor General, approved October 4, 1871 by the U.S. District Court;

thence along last said common line, South 34°33'22" East, 182.25 feet;

thence continuing along last said common line, South 28°56'38" West, 362.97 feet;

thence continuing along last said common line, South 38°26'38" West, 188.61 feet;

thence leaving last said common line, South 24°27'30" East, 120.28 feet;

thence North 65°32'30" East, 439.70 feet to the beginning of a tangent curve to the left;

thence along said curve having a radius of 15.00 feet, through a central angle of 90°00'00" and an arc length of 23.56 feet;

thence North 24°27'30" West, 331.00 feet;

thence North 65°32'30" East, 110.11 feet to the beginning of a tangent curve to the left;

thence along said curve having a radius of 70.00 feet, through a central angle of 24°52'28" and an arc length of 30.39 feet;

thence North 40°40'02" East, 52.07 feet to the beginning of a tangent curve to the left;

thence along said curve having a radius of 18.00 feet, through a central angle of 105°00'00" and an arc length of 32.99 feet to the **TRUE POINT OF BEGINNING**, containing an area of 147,230 square feet or 3.38 acres, more or less.

Parcel 3 (S/D2)

A parcel of filled tide and submerged land in the historic bed of San Antonio Estuary situate in the City of Oakland, County of Alameda, State of California and being more particularly described as follows:

BEGINNING at Monument "H133" having California Coordinate System of 1983, CCS83, Zone III, coordinate of Northing = 2114243.395, Easting = 6055505.473, as shown on the Record of Survey of the port area of the City of Oakland, R/S No. 1847, filed for record on November 8, 2004 in Book 29 of Records of Survey at pages 23 through 26, Alameda County Records, State of California;

thence North 78°53'23" West, 366.53 feet;

thence South 65°32'30" West, 36.61 feet to the beginning of a non-tangent curve to the left, from which point a radial line, from the curve to the radius point, bears South 1°06'18" East;

thence along said curve having a radius of 398.00 feet, through a central angle of 3°18'25" and an arc length of 22.97 feet;

thence South 85°35'17" West, 149.96 feet to the beginning of a tangent curve to the right;

thence along said curve having a radius of 545.00 feet, through a central angle of 20°47'36", and an arc length of 197.78 feet to a point of cusp with a curve to the right, from which point a radial line, from the curve to the radius point, bears South 16°22'53" West;

thence southeasterly along said curve having a radius of 18.00 feet, through a central angle of 95°33'30" and an arc length of 30.02 feet;

thence South 21°56'23" West, 50.00 feet to the beginning of a tangent curve to the right;

thence along said curve having a radius of 70.00 feet, through a central angle of 43°36'07" and an arc length of 53.27 feet;

thence South 65°32'30" West, 934.64 feet to the **TRUE POINT OF BEGINNING**;

thence South 65°32'30" West, 188.89 feet to the common line between, filled tide and submerged land in the historic bed of San Antonio Estuary, and Rancho San Antonio as located by the U.S. Surveyor General, approved October 4, 1871 by the U.S. District Court;

thence along last said common line, North 52°26'38" East, 87.42 feet;

thence continuing along last said common line, North 38°26'38" East, 116.54 feet;

thence leaving last said common line, South 24°27'30" East, 72.90 feet to the **TRUE POINT OF BEGINNING**, containing an area of 5,652 square feet or 0.13 acres, more or less.

Parcel 4 (S/M)

A parcel of filled tide and submerged land in the historic bed of San Antonio Estuary situate in the City of Oakland, County of Alameda, State of California and being more particularly described as follows:

BEGINNING at Monument "SHIP" having California Coordinate System of 1983, CCS83, Zone III, coordinate of Northing = 2115136.166, Easting = 6052732.398, as shown on the Record of Survey of the port area of the City of Oakland, R/S No. 1847, filed for record on November 8, 2004 in Book 29 of Records of Survey at pages 23 through 26, Alameda County Records, State of California;

thence North 82°51'11" West, 544.09 feet;

thence South 76°31'20" East, 295.07 feet;

thence South 69°13'14" East, 84.02 feet to the **TRUE POINT OF BEGINNING**;

thence South 78°26'43" East, 210.60 feet to the beginning of a tangent curve to the right;

thence along said curve having a radius of 512.00 feet, through a central angle of 4°24'30" and an arc length of 39.39 feet;

thence South 40°49'41" East, 39.73 feet;

thence South 49°10'19" West, 555.00 feet;

thence North 40°49'41" West, 208.00 feet;

thence North 49°10'19" East, 297.61 feet to the beginning of a tangent curve to the left;

thence along said curve having a radius of 25.00 feet, through a central angle of 22°59'41" and an arc length of 10.03 feet;

thence North 26°10'38" East, 85.29 feet to the beginning of a tangent curve to the right;

thence along said curve having a radius of 15.00 feet, through a central angle of 75°22'39" and an arc length of 19.73 feet to the **TRUE POINT OF BEGINNING**, containing an area of 107,288 square feet or 2.46 acres, more or less.

Parcel 5 (P/B1)

A parcel of land in Rancho San Antonio as located by the U.S. Surveyor General, approved October 4, 1871 by the U.S. District Court said parcel situate in the City of Oakland, County of Alameda, State of California and being more particularly described as follows:

BEGINNING at Monument "H133" having California Coordinate System of 1983, CCS83, Zone III, coordinate of Northing = 2114243.395, Easting = 6055505.473, as shown on the Record of Survey of the port area of the City of Oakland, R/S No. 1847, filed for record on November 8, 2004 in Book 29 of Records of Survey at pages 23 through 26, Alameda County Records, State of California;

thence North 78°53'23" West, 366.53 feet;

thence South 65°32'30" West, 36.61 feet to the beginning of a non-tangent curve to the left, from which point a radial line, from the curve to the radius point, bears South 1°06'18" East;

thence along said curve having a radius of 398.00 feet, through a central angle of 3°18'25" and an arc length of 22.97 feet;

thence South 85°35'17" West, 149.96 feet to the beginning of a tangent curve to the right;

thence along said curve having a radius of 545.00 feet, through a central angle of 30°04'45" and an arc length of 286.11 feet;

thence North 64°19'58" West, 338.14 feet to the beginning of a tangent curve to the left;

thence along said curve having a radius of 972.00 feet, through a central angle of 12°11'41" and an arc length of 206.88 feet;

thence North 76°31'39" West, 90.54 feet to the **TRUE POINT OF BEGINNING**, said point also being a point on the common line between, filled tide and submerged land in the historic bed of San Antonio Estuary, and Rancho San Antonio as located by the U.S. Surveyor General, approved October 4, 1871 by the U.S. District Court;

thence along last said common line, South 34°33'22" East, 182.25 feet;

thence continuing along last said common line, South 28°56'38" West, 362.97 feet;

thence continuing along last said common line, South 38°26'38" West, 188.61 feet;

thence leaving last said common line, North 24°27'30" West, 729.91 feet to the beginning of a tangent curve to the right;

thence along said curve having a radius of 15.00 feet, through a central angle of 28°14'39" and an arc length of 7.39 feet;

thence North 3°47'09" East, 20.39 feet to the beginning of a tangent curve to the right;

thence along said curve having a radius of 35.00 feet, through a central angle of 101°12'29" and an arc length of 61.82 feet to a point of reverse curvature;

thence along said curve having a radius of 1,992.00 feet, through a central angle of 1°31'17" and an arc length of 52.89 feet;

thence South 76°31'39" East, 407.69 feet to the **TRUE POINT OF BEGINNING**, containing an area of 224,208 square feet or 5.15 acres, more or less.

Parcel 6 (P/D1)

A parcel of land in Rancho San Antonio as located by the U.S. Surveyor General, approved October 4, 1871 by the U.S. District Court said parcel situate in the City of Oakland, County of Alameda, State of California and being more particularly described as follows:

BEGINNING at Monument "H133" having California Coordinate System of 1983, CCS83, Zone III, coordinate of Northing = 2114243.395, Easting = 6055505.473, as shown on the Record of Survey of the port area of the City of Oakland, R/S No. 1847, filed for record on November 8, 2004 in Book 29 of Records of Survey at pages 23 through 26, Alameda County Records, State of California;

thence North 78°53'23" West, 366.53 feet;

thence South 65°32'30" West, 36.61 feet to the beginning of a non-tangent curve to the left, from which point a radial line, from the curve to the radius point, bears South 1°06'18" East;

thence along said curve having a radius of 398.00 feet, through a central angle of 3°18'25" and an arc length of 22.97 feet;

thence South 85°35'17" West, 149.96 feet to the beginning of a tangent curve to the right;

thence along said curve having a radius of 545.00 feet, through a central angle of 20°47'36" and an arc length of 197.79 feet to a point of cusp with a curve to the right, from which point a radial line, from the curve to the radius point, bears South 16°22'53" West;

thence southeasterly along said curve having a radius of 18.00 feet, through a central angle of 95°33'30" and an arc length of 30.02 feet;

thence South 21°56'23" West, 50.00 feet to the beginning of a tangent curve to the right;

thence along said curve having a radius of 70.00 feet, through a central angle of 43°36'07" and an arc length of 53.27 feet;

thence South 65°32'30" West, 1,123.54 feet to the **TRUE POINT OF BEGINNING**, said point also being a point on the common line between, filled tide and submerged land in the historic bed of San Antonio Estuary, and Rancho San Antonio as located by the U.S. Surveyor General, approved October 4, 1871 by the U.S. District Court;

thence leaving last said common line, South 65°32'30" West, 68.99 feet to the beginning of a tangent curve to the right;

thence along said curve having a radius of 70.00 feet, through a central angle of 52°00'00" and an arc length of 63.53 feet;

thence North 62°27'30" West, 277.54 feet;

thence North 1°32'30" East, 44.94 feet;

thence North 65°32'30" East, 464.21 feet;

thence South 24°27'30" East, 213.10 feet to a point on the common line between, filled tide and submerged land in the historic bed of San Antonio Estuary, and Rancho San Antonio as located by the U.S. Surveyor General, approved October 4, 1871 by the U.S. District Court;

thence along last said common line, South 38°26'38" West, 116.54 feet;

thence continuing along last said common line, South 52°26'38" West, 87.42 feet to the **TRUE POINT OF BEGINNING**, containing an area of 108,617 square feet or 2.49 acres, more or less.

Parcel 7 (P/H)

A parcel of land in Rancho San Antonio as located by the U.S. Surveyor General, approved October 4, 1871 by the U.S. District Court said parcel situate in the City of Oakland, County of Alameda, State of California and being more particularly described as follows:

BEGINNING at Monument "H133" having California Coordinate System of 1983, CCS83, Zone III, coordinate of Northing = 2114243.395, Easting = 6055505.473, as shown on the Record of Survey of the port area of the City of Oakland, R/S No. 1847, filed for record on November 8, 2004 in Book 29 of Records of Survey at pages 23 through 26, Alameda County Records, State of California;

thence North 78°53'23" West, 366.53 feet;

thence South 65°32'30" West, 36.61 feet to the beginning of a non-tangent curve to the left, from which point a radial line, from the curve to the radius point, bears South 1°06'18" East;

thence along said curve having a radius of 398.00 feet, through a central angle of 3°18'25" and an arc length of 22.97 feet;

thence South 85°35'17" West, 149.96 feet to the beginning of a tangent curve to the right;

thence along said curve having a radius of 545.00 feet, through a central angle of 20°47'36" and an arc length of 197.79 feet to a point of cusp, with a curve to the right, from which point a radial line, from the curve to the radius point, bears South 16°22'53" West;

thence southeasterly along said curve having a radius of 18.00 feet, through a central angle of 95°33'30" and an arc length of 30.02 feet;

thence South 21°56'23" West, 50.00 feet to the beginning of a tangent curve to the right;

thence along said curve having a radius of 70.00 feet, through a central angle of 43°36'07" and an arc length of 53.27 feet;

thence South 65°32'30" West, 934.64 feet;

thence North 24°27'30" West, 346.00 feet to the **TRUE POINT OF BEGINNING**;

thence South 65°32'30" West, 606.65 feet;

thence North 40°49'41" West, 196.50 feet;

thence North 49°10'19" East, 690.00 feet;

thence South 24°27'30" East, 383.00 feet to the **TRUE POINT OF BEGINNING**, containing an area of 183,968 square feet or 4.22 acres, more or less.

Parcel 8 (P/K)

A parcel of land in Rancho San Antonio as located by the U.S. Surveyor General, approved October 4, 1871 by the U.S. District Court said parcel situate in the City of Oakland, County of Alameda, State of California and being more particularly described as follows:

BEGINNING at Monument "SHIP" having California Coordinate System of 1983, CCS83, Zone III, coordinate of Northing = 2115136.166, Easting = 6052732.398, as shown on the Record of Survey of the port area of the City of Oakland, R/S No. 1847, filed for record on November 8, 2004 in Book 29 of Records of Survey at pages 23 through 26, Alameda County Records, State of California;

thence North 82°51'11" West, 544.09 feet;

thence South 76°31'20" East, 683.45 feet;

thence South 61°43'52" East, 262.27 feet;

thence South 55°12'41" East, 61.58 feet to the beginning of a non-tangent curve to the left, from which point a radial line, from the curve to the radius point, bears South 28°16'02" West;

thence along said curve having a radius of 15.00 feet, through a central angle of 69°05'43" and an arc length of 18.09 feet;

thence South 49°10'19" West, 32.66 feet to the **TRUE POINT OF BEGINNING**;

thence South 40°49'41" East, 248.00 feet;

thence South 49°10'19" West, 625.00 feet;

thence North 40°49'41" West, 50.00 feet;

thence South 49°10'19" West, 32.00 feet;

thence North 40°49'41" West, 198.00 feet;

thence North 49°10'19" East, 200.00 feet to the southwesterly line of the land described in that certain Grant Deed recorded on December 13, 1979 as Document Number 79-252704, Official Records Alameda County;

thence along last said southwesterly line, South 40°49'41" East 116.56 feet, to the most southerly corner of said land described in said Document Number 79-252704;

thence along the southeasterly line of said land described in said Document Number 79-252704 and the southeasterly line of the parcel described as "(B)" in the Quitclaim Deed to Fred H. Slater and Virginia Slater, recorded on January 18, 1946 in Book 4832 of Official Records at page 53, Alameda County Records, North 49°10'19" East 160.00 feet to the most easterly corner of said parcel "(B)";

thence along the northeasterly line of said parcel "(B)", North 40°49'41" West, 116.56 feet;

thence North 49°10'19" East, 297.00 feet to the **TRUE POINT OF BEGINNING**, containing an area of 142,687 square feet or 3.28 acres, more or less.

Parcel 9 (P/N)

A parcel of land in Rancho San Antonio as located by the U.S. Surveyor General, approved October 4, 1871 by the U.S. District Court said parcel situate in the City of Oakland, County of Alameda, State of California and being more particularly described as follows:

BEGINNING at Monument "SHIP" having California Coordinate System of 1983, CCS83, Zone III, coordinate of Northing = 2115136.166, Easting = 6052732.398, as shown on the Record of Survey of the port area of the City of Oakland, R/S No. 1847, filed for record on November 8, 2004 in Book 29 of Records of Survey at pages 23 through 26, Alameda County Records, State of California;

thence North 82°51'11" West, 544.09 feet;

thence North 76°31'20" West, 258.45 feet to the beginning of a tangent curve to the right;

thence along said curve having a radius of 9,532.63 feet, through a central angle of 3°07'29" and an arc length of 519.88 feet;

thence North 51°44'16" East, 14.03 feet;

thence North 71°20'21" West, 112.88 feet to the **TRUE POINT OF BEGINNING**;

thence North 71°20'21" West, 122.15 feet to the beginning of a tangent curve to the left;

thence along said curve having a radius of 200.00 feet, through a central angle of 42°30'25" and an arc length of 148.38 feet;

thence South 66°09'14" West, 60.37 feet to the northeasterly projection of the southeasterly line of Tract 4391, as said tract is shown on that certain map entitled "TRACT 4391 FOR CONDOMINIUM PURPOSES", filed for record on October 30, 1980, in Book 122 of Maps at pages 60 and 61, Alameda County Records;

thence along said northeasterly projection and said line, South 27°24'49" West, 303.93 feet;

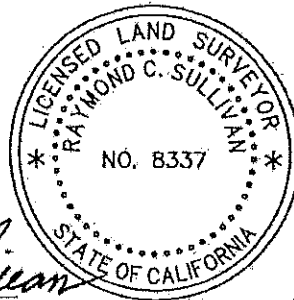
thence South 62°35'11" East, 301.35 feet;

thence North 27°24'49" East, 427.29 feet to the beginning of a tangent curve to the left;

thence along said curve having a radius of 15.00 feet, through a central angle of 98°45'10" and an arc length of 25.85 feet to the **TRUE POINT OF BEGINNING**, containing an area of 122,169 square feet or 2.80 acres, more or less.

Basis of Bearings: All bearings shown on this survey are based on upon the California Coordinate System of 1983 (CCS83), Epoch 1986, Zone III. Held record CCS83 coordinate Northing = 2115136.166, Easting = 6052732.398, at point "SHIP", and the calculated bearing South 72°09'16" East to point "H133" having CCS83 coordinate Northing = 2114243.395, Easting = 6055505.473. The two monuments, "SHIP" and "H133" are shown on the Record of Survey of the port area of the City of Oakland, R/S No. 1847, filed for record on November 8, 2004 in Book 29 of Records of Survey at pages 23 through 26, Alameda County Records, State of California. All distances are ground distances. To obtain grid distances, multiply ground distances shown by 0.9999293.

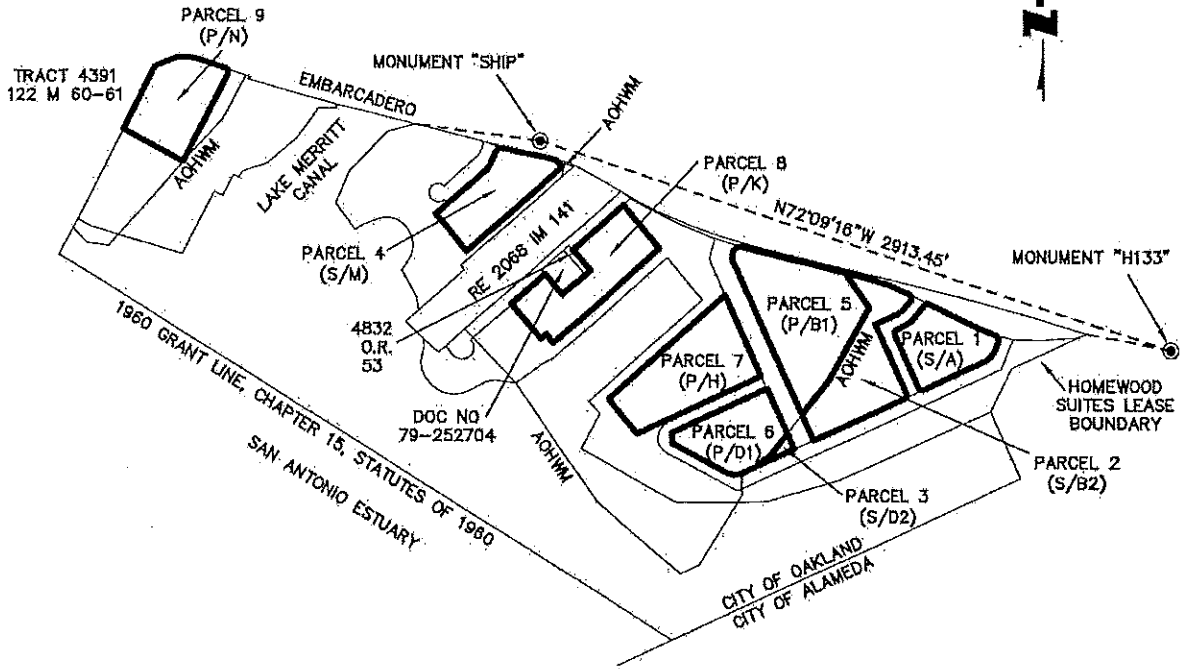
This description was prepared by me or under my direction in conformance with the requirements of the Land Surveyor's Act.



Raymond C. Sullivan
Raymond C Sullivan, P.L.S. 8337

6/03/13
Dated

END OF DESCRIPTION



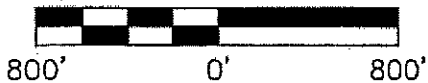
LEGEND

AOHWM	AGREED ORDINARY HIGH WATER MARK
DOC NO	DOCUMENT NUMBER
IM	IMAGE
M	MAPS
O.R.	OFFICIAL RECORDS
RE	REEL

NOTE

THIS PLAT IS FOR GENERAL REFERENCE ONLY; SEE ACCOMPANYING LAND DESCRIPTION FOR CONTROLLING BOUNDARY INFORMATION.

GRAPHIC SCALE



Raymond C. Sullivan



BKF

ENGINEERS | SURVEYORS | PLANNERS

255 SHORELINE DR
 SUITE 200
 REDWOOD CITY, CA 94065
 650-482-6300
 650-482-6399 (FAX)

Five parcels of land situate in the City of Oakland, County of Alameda, State of California and being more particularly described as follows:

Parcel 1 (T/R2)

A parcel of filled tide and submerged land in the historic bed of San Antonio Estuary situate in the City of Oakland, County of Alameda, State of California and being more particularly described as follows:

BEGINNING at Monument "H133" having California Coordinate System of 1983, CCS83, Zone III, coordinate of Northing = 2114243.395, Easting = 6055505.473, as shown on the Record of Survey of the port area of the City of Oakland, R/S No. 1847, filed for record on November 8, 2004 in Book 29 of Records of Survey at pages 23 through 26, Alameda County Records, State of California;

thence North 78°53'23" West, 366.53 feet to the intersection of the northwesterly line of Homewood Suites Lease Boundary, as said boundary is described in that certain lease between the Port of Oakland and JBN Lodging, recorded on January 2, 1997 as Document Number 97000487, Alameda County Records, with the southerly line of the Embarcadero, as said Embarcadero is shown on said record of survey, said intersection being the **TRUE POINT OF BEGINNING**;

thence along last said northwesterly line of Homewood Suites Lease Boundary, South 65°32'30" West, 36.61 feet to the beginning of a non-tangent curve to the left, from which point a radial line, from the curve to the radius point, bears South 1°06'18" East;

thence along said curve having a radius of 398.00 feet, through a central angle of 3°18'25" and an arc length of 22.97 feet;

thence South 85°35'17" West, 149.96 feet to the beginning of a tangent curve to the right;

thence along said curve having a radius of 545.00 feet, through a central angle of 30°04'45" and an arc length of 286.11 feet;

thence North 64°19'58" West, 338.14 feet to the beginning of a tangent curve to the left;

thence along said curve having a radius of 972.00 feet, through a central angle of 12°11'41" and an arc length of 206.88 feet;

thence North 76°31'39" West, 90.54 feet to the common line between, filled tide and submerged land in the historic bed of San Antonio Estuary, and Rancho San Antonio as located by the U.S. Surveyor General, approved October 4, 1871 by the U.S. District Court;

thence along last said common line, North 34°33'22" West, 25.91 feet to the southerly line of the Embarcadero, as said Embarcadero is shown on said record of survey;

thence along last said southerly line, South 76°29'52" East, 566.34 feet to the beginning of a tangent curve to the right;

thence continuing along last said southerly line, along said curve having a radius of 7,326.00 feet, through a central angle of 4°20'54" and an arc length of 555.99 feet to the **TRUE POINT OF BEGINNING**, containing an area of 72,657 square feet or 1.67 acres, more or less.

Parcel 2 (T/T2)

A parcel of filled tide and submerged land in the historic bed of San Antonio Estuary situate in the City of Oakland, County of Alameda, State of California and being more particularly described as follows:

BEGINNING at Monument "H133" having California Coordinate System of 1983, CCS83, Zone III, coordinate of Northing = 2114243.395, Easting = 6055505.473, as shown on the Record of Survey of the port area of the City of Oakland, R/S No. 1847, filed for record on November 8, 2004 in Book 29 of Records of Survey at pages 23 through 26, Alameda County Records, State of California;

thence North 78°53'23" West, 366.53 feet to the intersection of the northwesterly line of Homewood Suites Lease Boundary, as said boundary is described in that certain lease between the Port of Oakland and JBN Lodging, recorded on January 2, 1997 as Document Number 97000487, Alameda County Records, with the southerly line of the Embarcadero, as said Embarcadero is shown on said record of survey;

thence along last said northwesterly line of Homewood Suites Lease Boundary, South 65°32'30" West, 36.61 feet to the beginning of a non-tangent curve to the

Parcel 2 (T/T2) (continued)

left, from which point a radial line, from the curve to the radius point, bears South 1°06'18" East;

thence along said curve having a radius of 398.00 feet, through a central angle of 3°18'25" and an arc length of 22.97 feet;

thence South 85°35'17" West, 149.96 feet to the beginning of a tangent curve to the right;

thence along said curve having a radius of 545.00 feet, through a central angle of 11°30'02" and an arc length of 109.39 feet to the **TRUE POINT OF BEGINNING**, said point also being a point of reverse curvature;

thence along said curve having a radius of 15.00 feet, through a central angle of 75°08'56" and an arc length 19.67 feet;

thence South 21°56'23" West, 127.14 feet;

thence South 65°32'30" West, 1,261.28 feet to the common line between, filled tide and submerged land in the historic bed of San Antonio Estuary, and Rancho San Antonio as located by the U.S. Surveyor General, approved October 4, 1871 by the U.S. District Court;

thence along last said common line, North 2°48'22" West, 47.04 feet;

thence continuing along last said common line, North 52°26'38" East, 77.57 feet;

thence North 65°32'30" East, 188.89 feet;

thence North 24°27'30" West, 72.90 feet to the common line between, filled tide and submerged land in the historic bed of San Antonio Estuary, and Rancho San Antonio as located by the U.S. Surveyor General, approved October 4, 1871 by the U.S. District Court;

thence along last said common line, North 38°26'38" East, 104.02 feet;

thence South 24°27'30" East, 120.28 feet;

thence North 65°32'30" East, 439.70 feet to the beginning of a tangent curve to the left;

thence along said curve having a radius of 15.00 feet, through a central angle of 90°00'00" and an arc length of 23.56 feet;

Parcel 2 (T/T2) (continued)

thence North 24°27'30" West, 331.00 feet;

thence North 65°32'30" East, 110.11 feet to the beginning of a tangent curve to the left;

thence along said curve having a radius of 70.00 feet, through a central angle of 24°52'28" and an arc length of 30.39 feet;

thence North 40°40'02" East, 52.07 feet to the beginning of a tangent curve to the left;

thence along said curve having a radius of 18.00 feet, through a central angle of 105°00'00" and an arc length of 32.99 feet to a point of cusp;

thence South 64°19'58" East, 99.39 feet to a point of cusp with a curve to the left, from which point a radial line, from the curve to the radius point, bears South 25°40'02" West;

thence westerly along said curve having a radius of 18.00 feet, through a central angle of 75°00'00" and an arc length of 23.56 feet;

thence South 40°40'02" West, 77.80 feet to the beginning of a tangent curve to the right;

thence along said curve having a radius of 130.00 feet, through a central angle of 24°52'28" and an arc length of 56.44 feet;

thence South 65°32'30" West, 35.11 feet to the beginning of a tangent curve to the left;

thence along said curve having a radius of 15.00 feet, through a central angle of 90°00'00" and an arc length of 23.56 feet;

thence South 24°27'30" East, 256.00 feet to the beginning of a tangent curve to the left;

thence along said curve having a radius of 15.00 feet, through a central angle of 90°00'00" and an arc length of 23.56 feet;

thence North 65°32'30" East, 312.34 feet to the beginning of a tangent curve to the left;

thence along said curve having a radius of 70.00 feet, through a central angle of 43°36'07" and an arc length of 53.27 feet;

Parcel 2 (T/T2) (continued)

thence North 21°56'23" East, 50.00 feet to the beginning of a tangent curve to the left;

thence along said curve having a radius of 18.00 feet, through a central angle of 95°33'30" and an arc length of 30.02 feet to a point of cusp with a curve to the left, from which point a radial line, from the curve to the radius point, bears North 16°22'53" East;

thence easterly along said curve having a radius of 545.00 feet, through a central angle of 9°17'34" and an arc length of 88.39 feet to the **TRUE POINT OF BEGINNING**, containing an area of 122,907 square feet or 2.82 acres, more or less.

Parcel 3 (T/U2)

A parcel of filled tide and submerged land in the historic bed of San Antonio Estuary situate in the City of Oakland, County of Alameda, State of California and being more particularly described as follows:

BEGINNING at Monument "SHIP" having California Coordinate System of 1983, CCS83, Zone III, coordinate of Northing = 2115136.166, Easting = 6052732.398, as shown on the Record of Survey of the port area of the City of Oakland, R/S No. 1847, filed for record on November 8, 2004 in Book 29 of Records of Survey at pages 23 through 26, Alameda County Records, State of California;

thence North 82°51'11" West, 544.09 feet to the northwesterly prolongation of the southerly line of the Embarcadero, as said Embarcadero is shown on said record of survey;

thence along said northwesterly prolongation, along said line, South 76°31'20" East, 683.45 feet;

thence continuing along said southerly line, South 61°43'52" East, 262.27 feet to the southeasterly line of the lands of Silveira, as said lands are described in that certain Grant Deed recorded on November 3, 1967 in Reel 2068 at image 141, Alameda County Records;

thence along last said southeasterly line, South 49°10'19" West, 911.59 to the common line between, filled tide and submerged land in the historic bed of San Antonio Estuary, and Rancho San Antonio as located by the U.S. Surveyor General, approved October 4, 1871 by the U.S. District Court, and being the **TRUE POINT OF BEGINNING**;

thence along last said common line, South 43°18'22" East, 52.05 feet;

thence South 49°10'19" West, 14.45 feet;

thence South 40°49'41" East, 1.00 feet to the beginning of a tangent curve to the right;

thence along said curve having a radius of 51.00 feet, through a central angle of 180°00'00" and an arc length of 160.22 feet;

thence North 40°49'41" West, 53.00 to the southeasterly line of the lands of Silveira, as said lands are described in that certain Grant Deed recorded on November 3, 1967 in Reel 2068 at image 141, Alameda County Records;

thence along last said southeasterly line, North 49°10'19" East, 114.19 feet to the **TRUE POINT OF BEGINNING**, containing an area of 10,184 square feet or 0.23 acres, more or less.

Parcel 4 (T/V)

A parcel of filled tide and submerged land in the historic bed of San Antonio Estuary situate in the City of Oakland, County of Alameda, State of California and being more particularly described as follows:

BEGINNING at Monument "SHIP" having California Coordinate System of 1983, CCS83, Zone III, coordinate of Northing = 2115136.166, Easting = 6052732.398, as shown on the Record of Survey of the port area of the City of Oakland, R/S No. 1847, filed for record on November 8, 2004 in Book 29 of Records of Survey at pages 23 through 26, Alameda County Records, State of California;

thence North 82°51'11" West, 544.09 feet to the northwesterly prolongation of the southerly line of the Embarcadero, as said Embarcadero is shown on said record of survey;

thence along said northwesterly prolongation of the southerly line of said Embarcadero, South 76°31'20" East, 295.07 feet to the **TRUE POINT OF BEGINNING**;

thence South 69°13'14" East, 84.02 feet to a point of cusp with a curve to the left, from which point a radial line, from the curve to the radius point, bears South 11°33'17" West;

thence southwesterly along said curve having a radius of 15.00 feet, through a central angle of 75°22'39" and an arc length of 19.73 feet;

thence South 26°10'38" West, 85.29 feet to the beginning of a tangent curve to the right;

thence along said curve having a radius of 25.00 feet, through a central angle of 22°59'41" and an arc length of 10.03 feet;

thence South 49°10'19" West, 229.90 feet;

thence North 40°49'41" West, 23.30 feet to the beginning of a non-tangent curve to the right, from which point a radial line, from the curve to the radius point, bears North 40°49'41" West;

thence along said curve having a radius of 40.00 feet, through a central angle of 262°23'10" and an arc length of 183.18 feet;

thence North 49°10'19" East, 205.96 feet;

thence North 26°10'38" East, 35.39 feet to the beginning of a tangent curve to the left;

thence along said curve having a radius of 30.00 feet, through a central angle of 56°28'55" and an arc length of 29.57 feet to the **TRUE POINT OF BEGINNING**, containing an area of 25,068 square feet or 0.58 acres, more or less.

Parcel 5 (T/S1)

A parcel of filled tide and submerged land in the historic bed of San Antonio Estuary situate in the City of Oakland, County of Alameda, State of California and being more particularly described as follows:

BEGINNING at Monument "SHIP" having California Coordinate System of 1983, CCS83, Zone III, coordinate of Northing = 2115136.166, Easting = 6052732.398, as shown on the Record of Survey of the port area of the City of Oakland, R/S No. 1847, filed for record on November 8, 2004 in Book 29 of Records of Survey at pages 23 through 26, Alameda County Records, State of California;

thence North 82°51'11" West, 544.09 feet to the northwesterly prolongation of the southerly line of the Embarcadero, as said Embarcadero is shown on said record of survey;

thence along said northwesterly prolongation of the southerly line of said Embarcadero, South 76°31'20" East, 295.07 feet to the **TRUE POINT OF BEGINNING**;

thence continuing along last said northwesterly prolongation and along said southerly line of the Embarcadero, South 76°31'20" East, 373.23 feet to the common line between, filled tide and submerged land in the historic bed of San Antonio Estuary, and Rancho San Antonio as located by the U.S. Surveyor General, approved October 4, 1871 by the U.S. District Court;

thence along last said common line, South 12°41'38" West, 7.13 feet to the beginning of a non-tangent curve to the left, from which point a radial line, from the curve to the radius point, bears South 20°28'09" West;

thence northwesterly along said curve having a radius of 512.00 feet, through a central angle of 8°54'52" and an arc length of 79.66 feet;

thence North 78°26'43" West, 210.60 feet;

thence North 69°13'14" West, 84.02 feet to the **TRUE POINT OF BEGINNING**, containing an area of 2,293 square feet or 0.05 acres, more or less.

Basis of Bearings: All bearings shown on this survey are based on upon the California Coordinate System of 1983 (CCS83), Epoch 1986, Zone III. Held record CCS83 coordinate Northing = 2115136.166, Easting = 6052732.398, at point "SHIP", and the calculated bearing South 72°09'16" East to point "H133" having CCS83 coordinate Northing = 2114243.395, Easting = 6055505.473. The two monuments, "SHIP" and "H133" are shown on the Record of Survey of the port area of the City of Oakland, R/S No. 1847, filed for record on November 8, 2004 in Book 29 of Records of Survey at pages 23 through 26, Alameda County Records, State of California. All distances are ground distances. To obtain grid distances, multiply ground distances shown by 0.9999293.

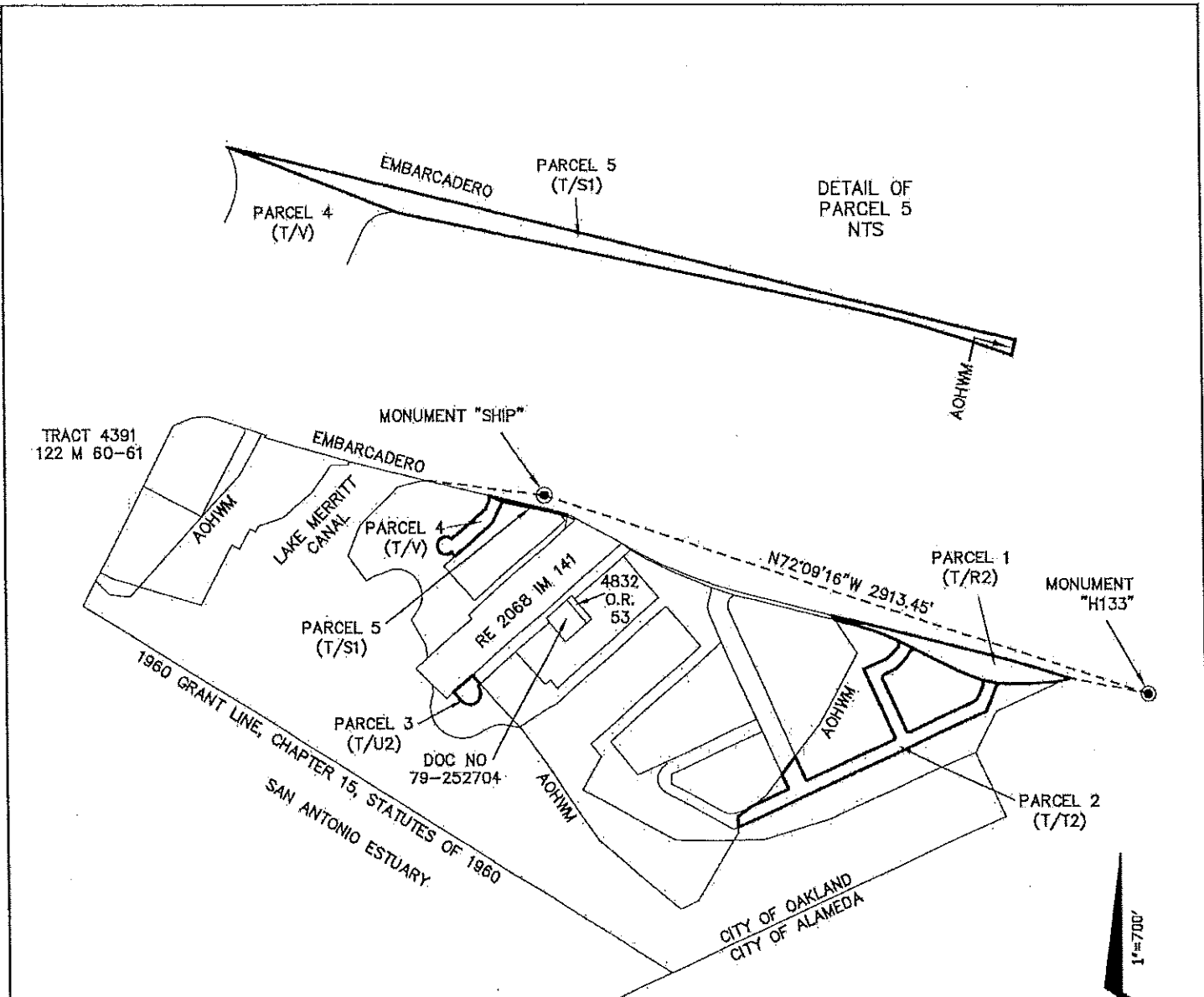
This description was prepared by me or under my direction in conformance with the requirements of the Land Surveyor's Act.



Raymond C Sullivan
Raymond C Sullivan, P.L.S. 8337

5/30/13
Dated

END OF DESCRIPTION

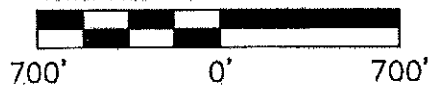


LEGEND

AOHWM	AGREED ORDINARY HIGH WATER MARK
DOC NO	DOCUMENT NUMBER
IM	IMAGE
M	MAP
NTS	NOT TO SCALE
O.R.	OFFICIAL RECORDS
RE	REEL

NOTE
 THIS PLAT IS FOR GENERAL REFERENCE ONLY; SEE ACCOMPANYING LAND DESCRIPTION FOR CONTROLLING BOUNDARY INFORMATION.

GRAPHIC SCALE



Raymond C. Sullivan
 LICENSED LAND SURVEYOR
 RAYMOND C. SULLIVAN
 No. 8337
 STATE OF CALIFORNIA



255 SHORELINE DR
 SUITE 200
 REDWOOD CITY, CA 94065
 650-482-6300
 650-482-6399 (FAX)

Four parcels of land situate in the City of Oakland, County of Alameda, State of California and being more particularly described as follows:

Parcel 1 (P/R1)

A parcel of land in Rancho San Antonio as located by the U.S. Surveyor General, approved October 4, 1871 by the U.S. District Court said parcel situate in the City of Oakland, County of Alameda, State of California and being more particularly described as follows:

BEGINNING at Monument "H133" having California Coordinate System of 1983, CCS83, Zone III, coordinate of Northing = 2114243.395, Easting = 6055505.473, as shown on the Record of Survey of the port area of the City of Oakland, R/S No. 1847, filed for record on November 8, 2004 in Book 29 of Records of Survey at pages 23 through 26, Alameda County Records, State of California;

thence North $78^{\circ}53'23''$ West, 366.53 feet to the intersection of the northwesterly line of Homewood Suites Lease Boundary, as said boundary is described in that certain lease between the Port of Oakland and JBN Lodging, recorded on January 2, 1997 as Document Number 97000487, Alameda County Records, with the southerly line of the Embarcadero, as said Embarcadero is shown on said record of survey;

thence along last said northwesterly line of Homewood Suites Lease boundary, South $65^{\circ}32'30''$ West, 36.61 feet to the beginning of a non-tangent curve to the left, from which point a radial line, from the curve to the radius point, bears South $1^{\circ}06'18''$ East;

thence along said curve having a radius of 398.00 feet, through a central angle of $3^{\circ}18'25''$ and an arc length of 22.97 feet;

thence South $85^{\circ}35'17''$ West, 149.96 feet to the beginning of a tangent curve to the right;

thence along said curve having a radius of 545.00 feet, through a central angle of $30^{\circ}04'45''$ and an arc length of 286.11 feet;

thence North $64^{\circ}19'58''$ West, 338.14 feet to the beginning of a tangent curve to

the left;

thence along said curve having a radius of 972.00 feet, through a central angle of $12^{\circ}11'41''$ and an arc length of 206.88 feet;

thence North $76^{\circ}31'39''$ West, 90.54 feet to the common line between, filled tide and submerged land in the historic bed of San Antonio Estuary, and Rancho San Antonio as located by the U.S. Surveyor General, approved October 4, 1871 by the U.S. District Court; and the **TRUE POINT OF BEGINNING**;

thence North $76^{\circ}31'39''$ West, 407.69 feet to the beginning of a tangent curve to the right;

thence along said curve having a radius of 1,992.00 feet, through a central angle of $14^{\circ}47'41''$ and an arc length of 514.37 feet;

thence North $61^{\circ}43'58''$ West, 68.53 feet;

thence North $55^{\circ}12'41''$ West, 61.58 feet to the southerly line of the Embarcadero, as said Embarcadero is shown on said record of survey;

thence along last said southerly line, South $61^{\circ}43'52''$ East, 63.81 feet to the beginning of a tangent curve to the left;

thence continuing along last said southerly line, along said curve having a radius of 2,174.00 feet, through a central angle of $14^{\circ}46'00''$ and an arc length of 560.30 feet;

thence continuing along last said southerly line, South $76^{\circ}29'52''$ East, 404.95 feet to the common line between, filled tide and submerged land in the historic bed of San Antonio Estuary, and Rancho San Antonio as located by the U.S. Surveyor General, approved October 4, 1871 by the U.S. District Court

thence along last said common line, South $34^{\circ}33'22''$ East, 25.91 feet to the **TRUE POINT OF BEGINNING**, containing an area of 14,716 square feet or 0.34 acres, more or less.

Parcel 2 (P/T1)

A parcel of land in Rancho San Antonio as located by the U.S. Surveyor General, approved October 4, 1871 by the U.S. District Court said parcel situate in the City of Oakland, County of Alameda, State of California and being more particularly described as follows:

BEGINNING at Monument "H133" having California Coordinate System of 1983, CCS83, Zone III, coordinate of Northing = 2114243.395, Easting = 6055505.473, as shown on the Record of Survey of the port area of the City of Oakland, R/S No. 1847, filed for record on November 8, 2004 in Book 29 of Records of Survey at pages 23 through 26, Alameda County Records, State of California;

thence North $78^{\circ}53'23''$ West, 366.53 feet to the intersection of the northwesterly line of Homewood Suites Lease Boundary, as said boundary is described in that certain lease between the Port of Oakland and JBN Lodging, recorded on January 2, 1997 as Document Number 97000487, Alameda County Records, with the southerly line of the Embarcadero, as said Embarcadero is shown on said record of survey;

thence along last said northwesterly line of Homewood Suites Lease boundary, South $65^{\circ}32'30''$ West, 36.61 feet to the beginning of a non-tangent curve to the left, from which point a radial line, from the curve to the radius point, bears South $1^{\circ}06'18''$ East;

thence along said curve having a radius of 398.00 feet, through a central angle of $3^{\circ}18'25''$ and an arc length of 22.97 feet;

thence South $85^{\circ}35'17''$ West, 149.96 feet to the beginning of a tangent curve to the right;

thence along said curve having a radius of 545.00 feet, through a central angle of $30^{\circ}04'45''$ and an arc length of 286.11 feet;

thence North $64^{\circ}19'58''$ West, 338.14 feet to the beginning of a tangent curve to the left;

thence along said curve having a radius of 972.00 feet, through a central angle of $12^{\circ}11'41''$ and an arc length of 206.88 feet;

Parcel 2 (P/T1) (continued).

thence North 76°31'39" West, 498.23 feet to the beginning of a tangent curve to the right;

thence along said curve having a radius of 1,992.00 feet, through a central angle of 1°31'17" and an arc length of 52.89 feet to the **TRUE POINT OF BEGINNING**, said point also being a point of reverse curvature;

thence along said curve having a radius of 35.00 feet, through a central angle of 101°12'29" and an arc length 61.82 feet;

thence South 3°47'09" West, 20.39 feet to the beginning of a tangent curve to the left;

thence along said curve having a radius of 15.00 feet, through a central angle of 28°14'39" and an arc length of 7.39 feet;

thence South 24°27'30" East, 729.91 feet to the common line between, filled tide and submerged land in the historic bed of San Antonio Estuary, and Rancho San Antonio as located by the U.S. Surveyor General, approved October 4, 1871 by the U.S. District Court;

thence along last said common line, South 38°26'38" West, 104.02 feet;

thence North 24°27'30" West, 213.10 feet;

thence South 65°32'30" West, 464.21 feet;

thence South 1°32'30" West, 44.94 feet;

thence South 62°27'30" East, 277.54 feet to the beginning of a tangent curve to the left;

thence along said curve having a radius of 70.00 feet, through a central angle of 52°00'00" and an arc length of 63.53 feet;

thence North 65°32'30" East, 68.99 feet to the common line between, filled tide and submerged land in the historic bed of San Antonio Estuary, and Rancho San Antonio as located by the U.S. Surveyor General, approved October 4, 1871 by the U.S. District Court;

thence along last said common line, South 52°26'38" West, 77.57 feet;

thence continuing along last said common line, South 2°48'22" East, 47.04 feet;

Parcel 2 (P/T1) (continued)

thence South 65°32'30" West, 23.24 feet;

thence North 62°27'30" West, 351.97 feet to the beginning of a tangent curve to the right;

thence along said curve having a radius of 73.00 feet, through a central angle of 128°00'00" and an arc length of 163.08 feet;

thence North 24°27'30" West, 12.00 feet;

thence North 65°32'30" East, 464.21 feet;

thence North 24°27'30" West, 525.89 feet to the beginning of a tangent curve to the right;

thence along said curve having a radius of 75.00 feet, through a central angle of 42°14'39" and an arc length of 55.30 feet;

thence North 17°47'09" East, 48.55 feet to the beginning of a tangent curve to the left;

thence along said curve having a radius of 15.00 feet, through a central angle of 88°43'49" and an arc length of 23.23 feet to a point of cusp with a curve to the left, from which point a radial line, from the curve to the radius point, bears North 19°03'20" East;

thence along said curve having a radius of 1,992.00 feet, through a central angle of 4°03'42" and an arc length of 141.21 feet to the **TRUE POINT OF BEGINNING**, containing an area of 132,026 square feet or 3.03 acres, more or less.

Parcel 3 (P/U1)

A parcel of land in Rancho San Antonio as located by the U.S. Surveyor General, approved October 4, 1871 by the U.S. District Court said parcel situate in the City of Oakland, County of Alameda, State of California and being more particularly described as follows:

BEGINNING at Monument "SHIP" having California Coordinate System of 1983, CCS83, Zone III, coordinate of Northing = 2115136.166, Easting = 6052732.398, as shown on the Record of Survey of the port area of the City of Oakland, R/S

Parcel 3 (P/U1) (continued)

No. 1847, filed for record on November 8, 2004 in Book 29 of Records of Survey at pages 23 through 26, Alameda County Records, State of California;

thence North 82°51'11" West, 544.09 feet to a point on the northwesterly prolongation of the southerly line of the Embarcadero, as said Embarcadero is shown on said record of survey;

thence along last said northwesterly prolongation, along said line, South 76°31'20" East, 683.45 feet;

thence continuing along last said southerly line, South 61°43'52" East, 262.27 feet to the southeasterly line of the lands of Silveira, as said lands are described in that certain Grant Deed recorded on November 3, 1967 in Reel 2068 at image 141, Alameda County Records, and the **TRUE POINT OF BEGINNING**;

thence South 55°12'41" East, 61.58 feet to a point of cusp with a curve to the left, from which point a radial line, from the curve to the radius point, bears South 28°16'02" West;

thence along said curve having a radius of 15.00 feet, through a central angle of 69°05'43" and an arc length of 18.09 feet;

thence South 49°10'19" West, 329.66 feet to the northeasterly line of the parcel described as "(B)" in the Quitclaim Deed to Fred H. Slater and Virginia Slater, recorded on January 18, 1946 in Book 4832 of Official Records at page 53, Alameda County Records;

thence along last said northeasterly line, North 40°49'41" West, 23.44 feet to the most northerly corner of said parcel "(B)";

thence along the northwesterly line of said parcel "(B)" and along the northwesterly line of the land described in that certain Grant Deed recorded on December 13, 1979 as Document Number 79-252704, Official Records Alameda County, South 49°10'19" West, 160.00 feet to the most westerly corner of said land described in said Document Number 79-252704;

thence along the southwesterly line of said land described in said Document Number 79-252704, South 40°49'41" East, 23.44 feet;

thence South 49°10'19" West, 200.00 feet;

thence South 40°49'41" East, 2.00 feet;

thence South 49°10'19" West, 220.97 feet to the common line between, filled tide

and submerged land in the historic bed of San Antonio Estuary, and Rancho San Antonio as located by the U.S. Surveyor General, approved October 4, 1871 by the U.S. District Court;

thence along last said common line, North 43°18'22" West, 52.05 feet to the southeasterly line of the lands of Silveira, as said lands are described in that certain Grant Deed recorded on November 3, 1967 in Reel 2068 at image 141, Alameda County Records;

thence along last said southeasterly line, North 49°10'19" East, 911.59 feet to the **TRUE POINT OF BEGINNING**, containing an area of 42,563 square feet or 0.98 acres, more or less.

Parcel 4 (P/S2)

A parcel of land in Rancho San Antonio as located by the U.S. Surveyor General, approved October 4, 1871 by the U.S. District Court said parcel situate in the City of Oakland, County of Alameda, State of California and being more particularly described as follows:

BEGINNING at Monument "SHIP" having California Coordinate System of 1983, CCS83, Zone III, coordinate of Northing = 2115136.166, Easting = 6052732.398, as shown on the Record of Survey of the port area of the City of Oakland, R/S No. 1847, filed for record on November 8, 2004 in Book 29 of Records of Survey at pages 23 through 26, Alameda County Records, State of California;

thence North 82°51'11" West, 544.09 feet to a point on the northwesterly prolongation of the southerly line of the Embarcadero, as said Embarcadero is shown on said record of survey;

thence along last said northwesterly prolongation, along said line, South 76°31'20" East, 668.30 feet to the common line between, filled tide and submerged land in the historic bed of San Antonio Estuary, and Rancho San Antonio as located by the U.S. Surveyor General, approved October 4, 1871 by the U.S. District Court and the **TRUE POINT OF BEGINNING**;

thence continuing along said southerly line of said Embarcadero, South 76°31'20" East, 15.15 feet;

thence continuing along last said line, South 61°43'52" East, 29.06 feet to the northwesterly line of the lands of Silveira, as said lands are described in that certain Grant Deed recorded on November 3, 1967 in Reel 2068 at image 141, Alameda County Records;

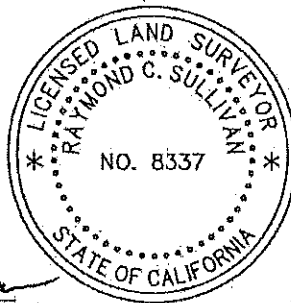
thence along last said northwesterly line, South 49°10'19" West, 7.38 feet to the beginning of a non-tangent curve to the left, from which point a radial line, from the curve to the radius point, bears South 24°52'24" West;

thence westerly along said curve having a radius of 512.00 feet, through a central angle of 4°24'15" and an arc length of 39.36 feet to the common line between, filled tide and submerged land in the historic bed of San Antonio Estuary, and Rancho San Antonio as located by the U.S. Surveyor General, approved October 4, 1871 by the U.S. District Court;

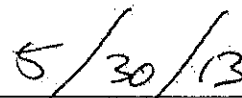
thence along last said common line, North 12°41'38" East, 7.13 feet to the **TRUE POINT OF BEGINNING**, containing an area of 330 square feet or 0.01 acres, more or less.

Basis of Bearings: All bearings shown on this survey are based on upon the California Coordinate System of 1983 (CCS83), Epoch 1986, Zone III. Held record CCS83 coordinate Northing = 2115136.166, Easting = 6052732.398; at point "SHIP", and the calculated bearing South 72°09'16" East to point "H133" having CCS83 coordinate Northing = 2114243.395, Easting = 6055505.473. The two monuments, "SHIP" and "H133" are shown on the Record of Survey of the port area of the City of Oakland, R/S No. 1847, filed for record on November 8, 2004 in Book 29 of Records of Survey at pages 23 through 26, Alameda County Records, State of California. All distances are ground distances. To obtain grid distances, multiply ground distances shown by 0.9999293.

This description was prepared by me or under my direction in conformance with the requirements of the Land Surveyor's Act.

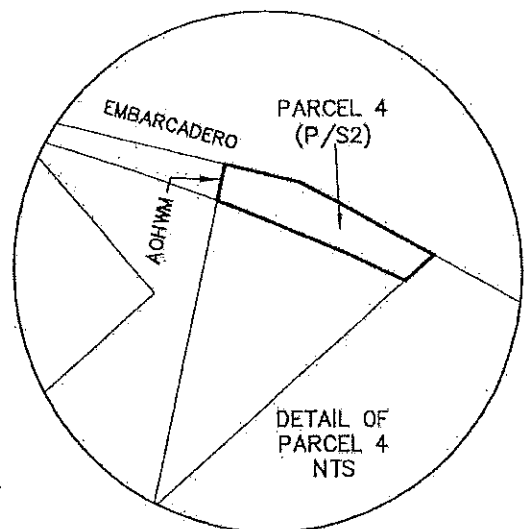
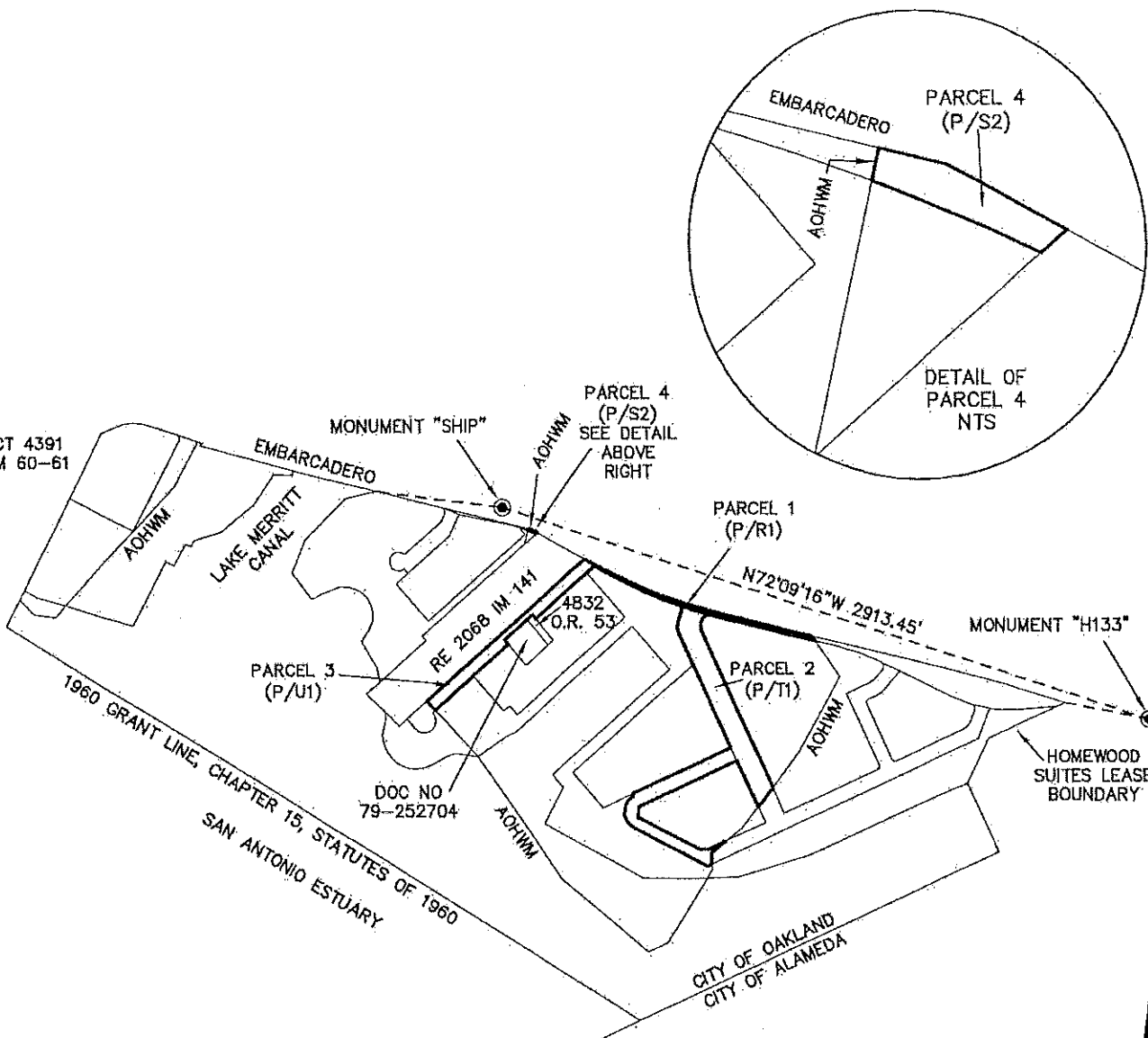



Raymond C Sullivan, P.L.S. 8337


Dated

END OF DESCRIPTION

TRACT 4391
122 M 60-61



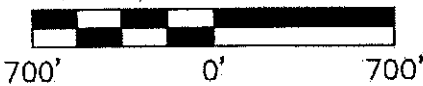
LEGEND

- A.O.H.W.M. AGREED ORDINARY HIGH WATER MARK
- DOC NO DOCUMENT NUMBER
- IM IMAGE
- M MAPS
- NTS NOT TO SCALE
- O.R. OFFICIAL RECORDS
- RE REEL

NOTE

THIS PLAT IS FOR GENERAL REFERENCE ONLY; SEE ACCOMPANYING LAND DESCRIPTION FOR CONTROLLING BOUNDARY INFORMATION.

GRAPHIC SCALE



Raymond C. Sullivan



255 SHORELINE DR
SUITE 200
REDWOOD CITY, CA 94065
650-482-6300
650-482-6399 (FAX)

Schedule 4.2.1
Legal Description of Affordable Housing Parcels



PARCEL F

All that land situate in the City of Oakland, County of Alameda, State of California being a portion of Parcel 3 (S/B2) as said parcel is described in that certain State of California Patent and Trust Termination recorded on June 10, 2013 as Document Number 2013203239, Official Records of Alameda County, and a portion of Parcel 4 (P/B1) as said parcel is described in that certain Grant Deed recorded on June 10, 2013 as Document Number 2013203240, Official Records of Alameda County, State of California and being more particularly described as follows:

BEGINNING at Monument "H133" having California Coordinate System of 1983, CCS83, Zone III, coordinate of Northing = 2114243.395, Easting = 6055505.473, as shown on the Record of Survey of the port area of the City of Oakland, R/S No. 1847, filed for record on November 8, 2004 in Book 29 of Records of Survey at pages 23 through 26, Alameda County Records, State of California;

thence North $78^{\circ}53'23''$ West, 366.53 feet;

thence South $65^{\circ}32'30''$ West, 36.61 feet to the beginning of a non-tangent curve to the left, from which point a radial line, from the curve to the radius point, bears South $1^{\circ}06'18''$ East;

thence along said curve having a radius of 398.00 feet, through a central angle of $3^{\circ}18'25''$ and an arc length of 22.97 feet;

thence South $85^{\circ}35'17''$ West, 149.96 feet to the beginning of a tangent curve to the right;

thence along said curve having a radius of 545.00 feet, through a central angle of $30^{\circ}04'45''$ and an arc length of 286.11 feet;

thence North $64^{\circ}19'58''$ West, 337.37 feet to a point on the northeasterly line of said Parcel 3 (S/B2) and the **TRUE POINT OF BEGINNING**;

thence along the northeasterly line of said Parcel 3 (S/B2), North $64^{\circ}19'58''$ West, 0.77 feet to the beginning of a tangent curve to the left;

thence continuing along last said line, along said curve having a radius of 972.00 feet, through a central angle of $12^{\circ}11'41''$ and an arc length of 206.88 feet;

thence continuing along the northerly line of said Parcel 3 (S/B2), North $76^{\circ}31'39''$ West, 90.54 feet to the common line between, filled tide and submerged land in the historic bed of San Antonio Estuary, and Rancho San Antonio as located by the U.S. Surveyor General, approved October 4, 1871 by the U.S. District Court, and the northwest corner of said Parcel 3 (S/B2) and the northeast corner of said Parcel 4



ENGINEERS
SURVEYORS
PLANNERS

(P/B1);

thence along the northerly line of said Parcel 4 (P/B1), North 76°31'39" West, 94.78 feet;

thence leaving last said northerly line, South 13°28'21" West, 215.97 feet;

thence South 24°27'30" East, 143.94 feet;

thence North 65°32'30" East, 136.33 feet to the common line between, filled tide and submerged land in the historic bed of San Antonio Estuary, and Rancho San Antonio as located by the U.S. Surveyor General, approved October 4, 1871 by the U.S. District Court, being the common line between said Parcel 3 (S/B2) and said Parcel 4 (P/B1);

thence leaving last said common line, North 65°32'30" East, 98.52 feet to an angle point in the easterly line of said Parcel 3 (S/B2);

thence along the easterly line of said Parcel 3 (S/B2), North 65°32'30" East, 110.11 feet; to the beginning of a tangent curve to the left;

thence continuing along last said easterly line, along said curve having a radius of 70.00 feet, through a central angle 24°52'28", and an arc length of 30.39 feet;

thence continuing along last said easterly line, North 40°40'02" East, 52.07 feet to the beginning of a tangent curve to the left;

thence continuing along last said easterly line and the northeasterly line of said Parcel 3 (S/B2), along said curve having a radius of 18.00 feet, through a central angle of 105°00'00", and an arc length of 32.99 feet to the **TRUE POINT OF BEGINNING**, containing an area of 1.99 acres or 86,900 square feet, more or less.

PARCEL G

All that land situate in the City of Oakland, County of Alameda, State of California being a portion of Parcel 4 (P/B1) as said parcel is described in that certain Grant Deed recorded on June 10, 2013 as Document Number 2013203240, Official Records of Alameda County, State of California and being more particularly described as follows:

BEGINNING at Monument "H133" having California Coordinate System of 1983, CCS83, Zone III, coordinate of Northing = 2114243.395, Easting = 6055505.473, as shown on the Record of Survey of the port area of the City of Oakland, R/S No. 1847, filed for record on November 8, 2004 in Book 29 of Records of Survey at



pages 23 through 26, Alameda County Records, State of California;

thence North $78^{\circ}53'23''$ West, 366.53 feet;

thence South $65^{\circ}32'30''$ West, 36.61 feet to the beginning of a non-tangent curve to the left, from which point a radial line, from the curve to the radius point, bears South $1^{\circ}06'18''$ East;

thence along said curve having a radius of 398.00 feet, through a central angle of $3^{\circ}18'25''$ and an arc length of 22.97 feet;

thence South $85^{\circ}35'17''$ West, 149.96 feet to the beginning of a tangent curve to the right;

thence along said curve having a radius of 545.00 feet, through a central angle of $30^{\circ}04'45''$ and an arc length of 286.11 feet;

thence North $64^{\circ}19'58''$ West, 337.37 feet to a point on the northeasterly line of said Parcel 3 (S/B2);

thence along the northeasterly line of said Parcel 3 (S/B2), North $64^{\circ}19'58''$ West, 0.77 feet to the beginning of a tangent curve to the left;

thence continuing along last said line, along said curve having a radius of 972.00 feet, through a central angle of $12^{\circ}11'41''$ and an arc length of 206.88 feet;

thence continuing along the northerly line of said Parcel 3 (S/B2), North $76^{\circ}31'39''$ West, 90.54 feet to the common line between, filled tide and submerged land in the historic bed of San Antonio Estuary, and Rancho San Antonio as located by the U.S. Surveyor General, approved October 4, 1871 by the U.S. District Court, and the northwest corner of said Parcel 3 (S/B2) and the northeast corner of said Parcel 4 (P/B1);

thence along the northerly line of said Parcel 4 (P/B1), North $76^{\circ}31'39''$ West, 94.78 feet to the **TRUE POINT OF BEGINNING**;

thence leaving last said northerly line, South $13^{\circ}28'21''$ West, 215.97 feet;

thence South $24^{\circ}27'30''$ East, 143.94 feet;

thence South $65^{\circ}32'30''$ West, 219.85 feet to the to southwest line of said Parcel 4 (P/B1);

thence along last said southwest line, North $24^{\circ}27'30''$ West, 504.18 feet to the beginning of a tangent curve to the right;

thence along the westerly line of said Parcel 4 (P/B1), along said curve having a radius of 15.00 feet, through a central angle of $28^{\circ}14'39''$, and an arc length of 7.39



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PLANNERS

feet;

thence continuing along last said line, North 3°47'09" East, 20.39 feet to the beginning of a tangent curve to the right;

thence along the northwesterly line of said Parcel 4 (P/B1), along said curve having a radius of 35.00 feet, through a central angle of 101°12'29" and an arc length of 61.82 feet to a point of reverse curvature;

thence along the northerly line of said Parcel 4 (P/B1), along said curve having a radius of 1,992.00 feet, through a central angle of 1°31'17", and an arc length of 52.89 feet;

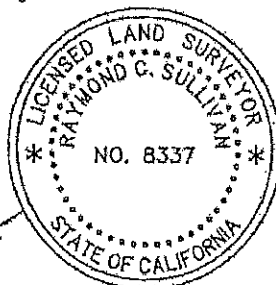
thence continuing along last said line, South 76°31'39" East, 312.91 feet to the **TRUE POINT OF BEGINNING**, containing 2.92 acres or 127,260 square feet, more or less.

Basis of Bearings: All bearings shown on this survey are based on upon the California Coordinate System of 1983 (CCS83), Epoch 1986, Zone III. Held record CCS83 coordinate Northing = 2115136.166, Easting = 6052732.398, at point "SHIP", and the calculated bearing South 72°09'16" East to point "H133" having CCS83 coordinate Northing = 2114243.395, Easting = 6055505.473. The two monuments, "SHIP" and "H133" are shown on the Record of Survey of the port area of the City of Oakland, R/S No. 1847, filed for record on November 8, 2004 in Book 29 of Records of Survey at pages 23 through 26, Alameda County Records, State of California. All distances are ground distances. To obtain grid distances, multiply ground distances shown by 0.9999293.

A plat showing the above-described parcels is attached hereto and made apart hereof as "Exhibit B".

This description was prepared by me or under my direction in conformance with the requirements of the Land Surveyor's Act.

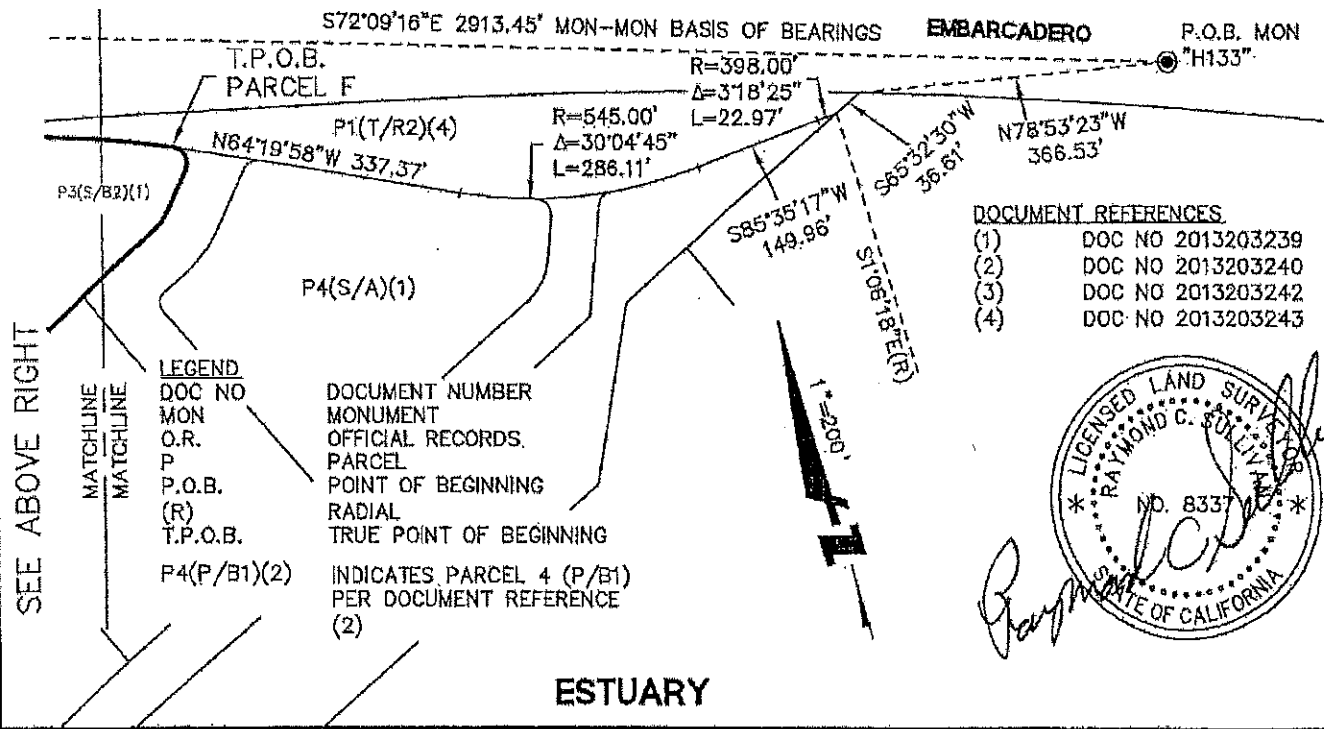
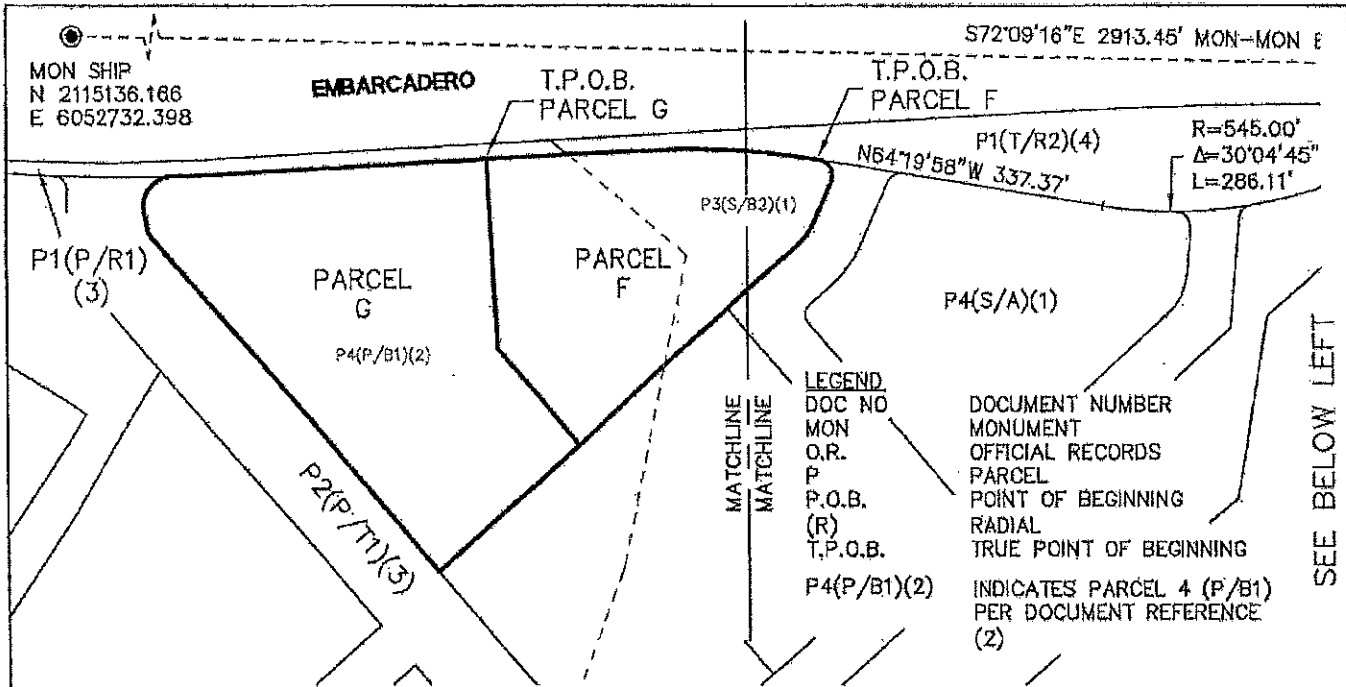
Raymond C Sullivan
P.L.S. 8337



3/18/14
Dated

END OF DESCRIPTION

J:\Sur13\130175\Plats\ (2014-03-18) Parcel F & G.docx



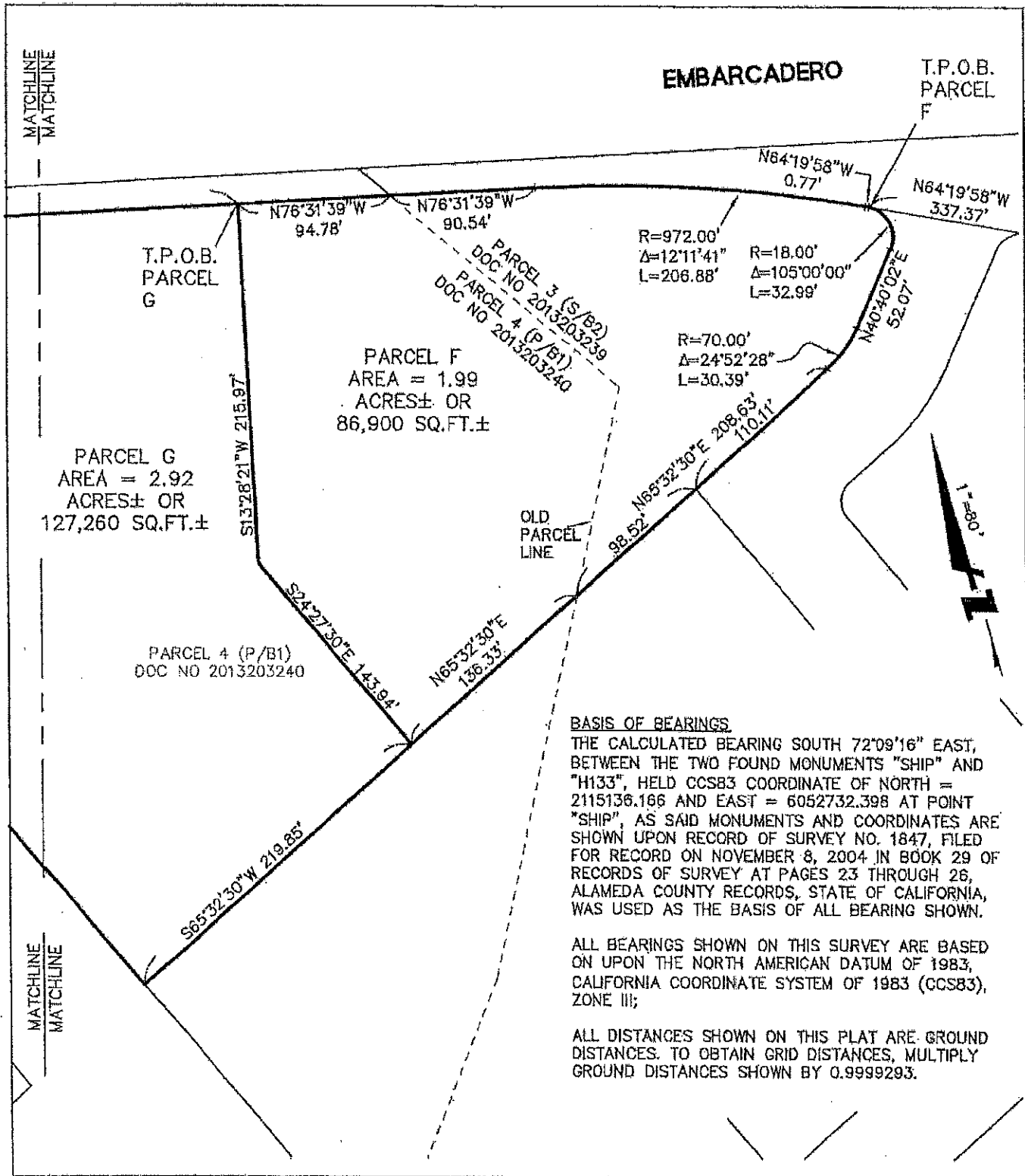
300 FRANK OGAWA PLAZA
SUITE 380
OAKLAND, CA 94612
510-227-3011

Subject _____
PARCELS

Job No. 2030175-10

By RCS Date 03/18/14 Chkd. _____

SHEET 1 OF 3



BASIS OF BEARINGS
 THE CALCULATED BEARING SOUTH 72°09'16" EAST, BETWEEN THE TWO FOUND MONUMENTS "SHIP" AND "H133", HELD CCS83 COORDINATE OF NORTH = 2115136.166 AND EAST = 6052732.398 AT POINT "SHIP", AS SAID MONUMENTS AND COORDINATES ARE SHOWN UPON RECORD OF SURVEY NO. 1847, FILED FOR RECORD ON NOVEMBER 8, 2004 IN BOOK 29 OF RECORDS OF SURVEY AT PAGES 23 THROUGH 26, ALAMEDA COUNTY RECORDS, STATE OF CALIFORNIA, WAS USED AS THE BASIS OF ALL BEARING SHOWN.

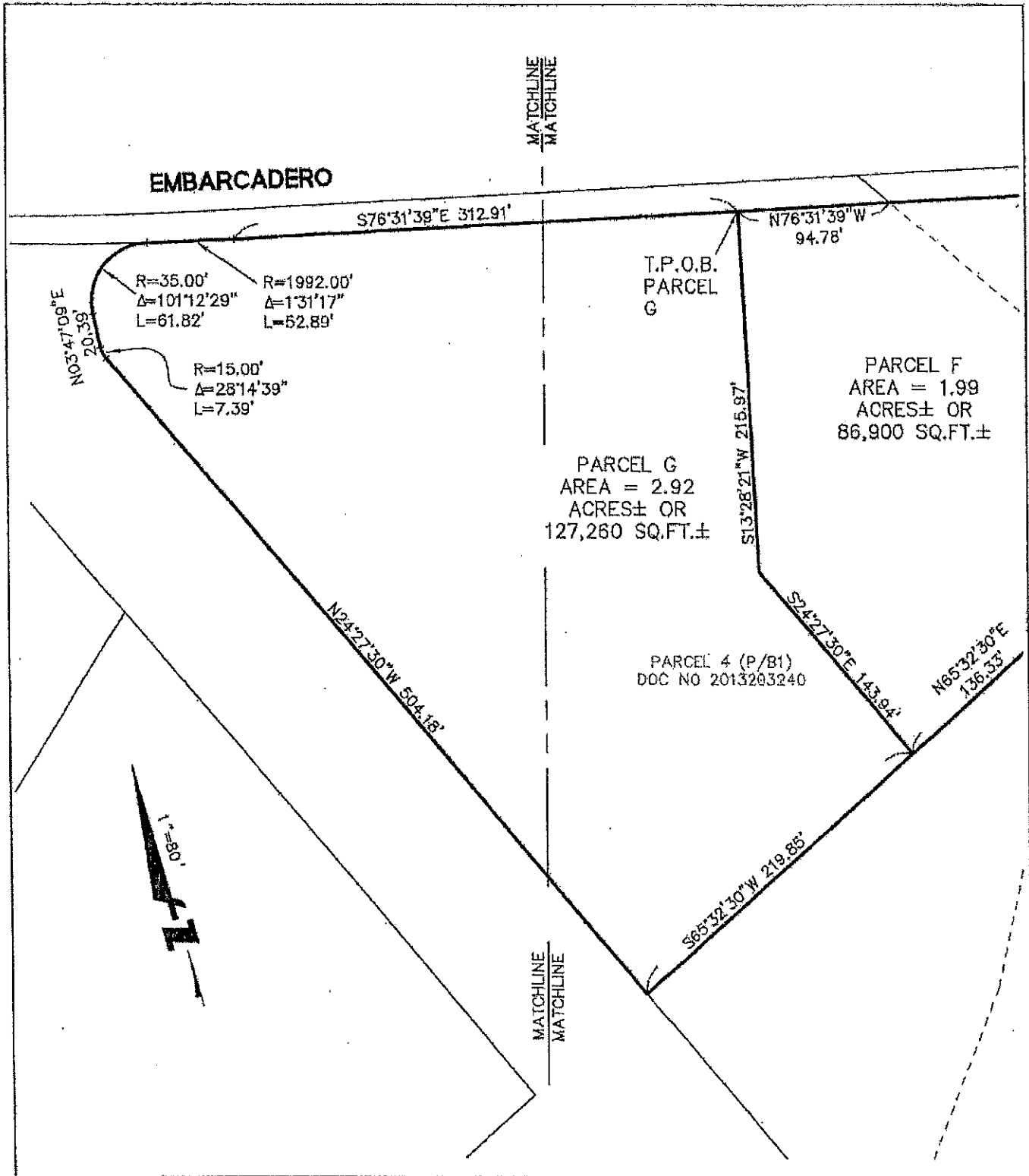
ALL BEARINGS SHOWN ON THIS SURVEY ARE BASED ON UPON THE NORTH AMERICAN DATUM OF 1983, CALIFORNIA COORDINATE SYSTEM OF 1983 (CCS83), ZONE III;

ALL DISTANCES SHOWN ON THIS PLAT ARE GROUND DISTANCES. TO OBTAIN GRID DISTANCES, MULTIPLY GROUND DISTANCES SHOWN BY 0.9999293.



300 FRANK OGAWA PLAZA
 SUITE 380
 OAKLAND, CA 94612
 510-227-3011

Job No. 2030175-10
 By RCS Date 03/18/14 Chkd.
 SHEET 2 OF 3



300 FRANK OGAWA PLAZA
SUITE 380
OAKLAND, CA 94612
510-227-3011

Job No. 2030175-10
By RCS Date 03/18/14 Chkd. _____
SHEET 3 OF 3

Schedule 4.2.5
Improvement Schedule

[See attached]

Brooklyn Basin
Phase I Site Improvements including Parcels F & G
Construction Schedule

<u>TASK</u>	<u>DATE</u>
Commence Phase I remediation efforts	06/23/2014
Close of Escrow Parcels F & G	06/24/2014
Complete Active Remediation of Parcels F & G	10/01/2014
Complete Phase I Active Remediation	10/15/2014
Commence public street & utility improvements	04/15/2015
Completion of street & utility improvements adjacent to F&G	10/01/2015
Completion of Phase I Street & Utility Improvements	10/15/2015

Schedule 5.2
Process Letter

[See attached]

Zarsion-OHP I, LLC

June 9, 2014

Ms. Karen M. Toth, P.E., Unit Chief
Department of Toxic Substances Control
Brownfields and Environmental Restoration Program
Berkeley Regional Office
700 Heinz Avenue
Berkeley, California 94710-2721

Re: Brooklyn Basin Project - Oakland, California
Definition of the Environmental Process and Responsibilities (Process Letter)

Dear Ms. Toth:

The purpose of this letter is to clarify for all parties the environmental process for the remediation and redevelopment of the Brooklyn Basin properties (formerly known as the Oak Street to Ninth Avenue properties) (the "Project Area"), including the various work plans, reports, comments and approvals to be exchanged between the developer, Zarsion-OHP I, LLC ("ZOHP") and the Department of Toxic Substances Control ("DTSC"). This letter follows the parties' multiple discussions on these issues over the past several months.

I. THREE PHASES

Environmental work at the Project Area will break down into three general phases:

Phase 1 – active remediation;

Phase 2 – construction, including implementation of site controls; and

Phase 3 – long-term monitoring and site management.

ZOHP anticipates that it will complete all active remediation (Phase 1) work at the Project Area.

Following completion of the Phase 1 work, ZOHP anticipates that: (a) third party developers will acquire the individual development parcels (each, a "Development Parcel") and construct all vertical improvements and (b) ZOHP will construct all infrastructure (streets and utilities) and park improvements within the public areas (rights-of-way and public parks) of the Project Area (each, a "Public Parcel"). As part of the construction of these Phase 2 improvements, the owner/developer (for the Development Parcels) or ZOHP (for the Public Parcels) will install required site controls, including site cover and required vapor mitigation measures.

Finally, during Phase 3, the owner/developer or ZOHP, as applicable, will conduct the required operation and maintenance of the installed mitigation measures. ZOHP anticipates performing all long term groundwater monitoring for the Project Area, subject to the right, with DTSC's approval, to transfer those obligations to an association or district, such as a Community Benefits District, a Community Services District or a Geologic Hazard and Abatement District, to assure a consistent operator and secure, long-term funding for required work.

II. ZOHP PROJECT AREA-WIDE MEASURES

Individual parcels within the Project Area will be addressed consistent with the three phases outlined above and in the balance of this letter. In addition, prior to completion of initial Phase 1 work to be performed by ZOHP in the Project Area, ZOHP will undertake certain additional measures that pertain to all Project Areas. These are set forth below.

A. Document Templates for Future Owner/Developers

ZOHP will develop and submit for DTSC's approval, the following documents that will serve as mandatory templates for key documents required of future owner/developers of the individual Development and Public Parcels. The individual owner/developers will then work with DTSC to modify each template as necessary to address any parcel-specific circumstances.¹

1. Soil Management Plan ("SMP"): The SMP template will establish soil handling procedures and protocols applicable to each Development and Public Parcel from completion of remediation at the parcel (Phase 1) through completion of redevelopment activities (Phase 2). The template will include procedures for the handling of soil and groundwater, air monitoring, dust control, noise control, traffic control and health and safety procedures to protect workers and the surrounding community.

2. Parcel Cap/Vapor Control O&M Plan: Following completion of Phase 2 work, future owner/developers of each Development Parcel will be responsible for performing all long-term O&M required in connection with the capping of the parcel and any installed vapor mitigation measures at the parcel. The Parcel Cap/Vapor Control O&M Plan template will establish, among other things, requirements for cap inspection and reporting and, where applicable, vapor mitigation and reporting.

¹ Based on agreements between ZOHP and the City of Oakland, ZOHP anticipates that it will develop and implement each of these documents for the Public Parcels, subject to any right by ZOHP to delegate these obligations, in whole or in part, to an agency, association or district, such as a Community Benefits District, a Community Services District or a Geologic Hazard and Abatement District.

3. Parcel Cap/Vapor Control O&M Agreement: DTSC will prepare a template agreement to be entered between the then-current parcel owner/developer and DTSC to assure implementation of the required Parcel Cap/Vapor Control O&M Plan.

B. Long-Term Groundwater Monitoring

To facilitate long-term access to groundwater monitoring wells, to the extent possible, all groundwater monitoring wells in the Project Area shall be installed in public streets, rights of way or open space. ZOHP will initially perform all long-term groundwater monitoring and reporting for the Project Area. Consistent with these obligations, once appropriate groundwater monitoring well locations are confirmed and approved, ZOHP will enter into a Groundwater Operation and Maintenance (“O&M”) Agreement with DTSC requiring ZOHP or its successor to perform long term O&M of the groundwater for the Project Area; however, the agreement will provide that these obligations may be delegated, in whole or in part, to an agency, association or district, such as a Community Facilities District, a Community Services District or a Geologic Hazard and Abatement District, upon execution of a suitable O&M Agreement between DTSC and such entity. The Active Remediation Completion Report (described below) will identify the locations of the groundwater monitoring wells for each parcel.

III. IMPLEMENTATION OF THE THREE PHASES

As indicated above, environmental work at the Project Area will break down into three general phases: active remediation (Phase 1), construction, including implementation of site controls (Phase 2) and long-term monitoring and site management (Phase 3). The following sections detail each of those categories.

A. Phase 1

1. Implementation of the Approved IP: Phase 1 includes all active remediation work, including implementation of the applicable DTSC-approved Implementation Plan (“IP”). The scope of the IPs is described in the Response Plan/Remedial Action Plan (“RP/RAP”). Phase 1 work for each parcel will include, at a minimum, all required remediation of “hot spot” areas identified in the RP/RAP and the performance of soil vapor sampling. The individual IPs will describe the specific activities to be performed as part of any active remediation as well as the post-remediation soil vapor sampling.

At the completion of Phase 1, the parcel or development area at issue will not be covered with imported fill or other building materials. Grading may be conducted to facilitate construction-phase storm water control and some fill soils may be placed as part of site preparation. A Phase I grading plan, including any planned fill activities, will be submitted to DTSC for review and approval. Post-remediation soil vapor sampling will

be performed even for those areas where no "hot spots" are identified. This sampling data will form the basis for any vapor mitigation proposed as part of the Pre-Construction Plan described in Phase 2.

In addition, as part of Phase 1, ZOHP will prepare and submit a site-specific SMP for the parcel based on the approved SMP template.

2. Approval to Proceed with Construction: Upon completion of active remediation work or confirmation that no active remediation is required for any given Development or Public Parcel, and completion of any soil vapor sampling described in the applicable IP, ZOHP will submit to DTSC an Active Remediation Completion report ("ARC") and a site-specific SMP. DTSC will review the SMP and DTSC's approval of the ARC and site-specific SMP will indicate DTSC's approval to proceed with construction ("APC") at the applicable Development or Public Parcel.

B. Phase 2

1. Construction: Phase 2 is the construction phase of the project and includes construction of the planned vertical and horizontal improvements. Currently, ZOHP plans to construct the public open space and the street and utility and improvements on all Public Parcels. ZOHP anticipates that future third party owner/developers will construct all vertical improvements at their respective Development Parcels. In each case, such construction work will include soil excavation for installation of piles, pile caps, grade beams and foundations; site grading; installation of hardscape and landscaping; and (where applicable) vertical construction. All construction activities, including all soil handling and the installation of any required mitigation systems, will be performed in accordance with the protocols identified in the approved SMP and the Pre-Construction Plan for the parcel, discussed below.

Each owner/developer or ZOHP, as applicable, will be required to submit a conceptual plan to DTSC for review and approval before initiating construction, which plan shall include detail regarding the final redevelopment and capping of the parcel (the "Pre-Construction Plan").

Phase 2 will include the installation of any required vapor mitigation controls and the capping of the entire parcel consistent with the approved Pre-Construction Plan. All areas not covered by buildings or hardscape will be covered with marker fabric prior to the placement of clean fill to distinguish the fill from native soils.

2. Two-Foot Cap Option: Alternatively, after obtaining the APC, ZOHP may elect, consistent with the RP/RAP, to install a two-foot thick, clean soil cap across the entire parcel. The cap would be installed in accordance with a Pre-Construction Plan submitted to DTSC for review and approval as described in Section III.B.1, above. Placement of the cap would include placing marker fabric at the base of the clean soil.

The cap, if installed, would be an interim measure that would be followed by construction of the development. In order to initiate the construction phase of the development, the owner/developer would need to present details regarding how the clean soil cap would be handled in the Pre-Construction Plan, discussed in Section III.B.1 above.

3. Construction Completion Report. Upon completion of construction work, the parcel owner/developer or ZOHP, as applicable, will submit to DTSC a Construction Completion Report/Remedial Action Completion Report ("CCR/RACR") documenting compliance with the approved Pre-Construction Plan, the installation of all required mitigation systems and the placement of all required site cover. The CCR/RACR will include figures and specifications as necessary to demonstrate compliance.

4. Certificate of Completion. Following DTSC's approval of the CCR/RACR, the parcel owner/developer or ZOHP, as applicable, will submit for DTSC approval a parcel-specific Parcel Cap/Vapor Control O&M Plan based on the approved template and record appropriate land use covenants ("LUCs") with site-specific completion details. Each owner/developer will also enter into a parcel-specific Parcel Cap/Vapor Control O&M Agreement (including appropriate financial assurances) based on the approved template. Following approval of the required parcel-specific Parcel Cap/Vapor Control O&M Plan, recording of any required parcel-specific LUC, and execution of the parcel-specific Parcel Cap/Vapor Control O&M Agreement, DTSC will issue a Certificate of Completion for the parcel.

In the event that ZOHP installs a two-foot thick clean soil cap as described in Section III.B.2 above, ZOHP will: submit to DTSC a Cap Installation Report documenting installation of the soil cap; submit for DTSC approval a parcel-specific Parcel Cap O&M Plan based on the approved template; record appropriate land use covenants ("LUCs") with site-specific completion details; and enter into a parcel-specific Parcel Cap O&M Agreement with DTSC (including appropriate financial assurances) based on the approved template. Following approval of the required parcel-specific Parcel Cap O&M Plan, recording of any required parcel-specific LUCs, and execution of the parcel-specific Parcel Cap/Vapor Control O&M Agreement, DTSC will issue a Certificate of Completion for the parcel.

C. Phase 3


1. Long-Term O&M. Phase 3 is long-term O&M. ZOHP will initially perform all long-term groundwater monitoring and reporting for the Project Area pursuant to the Groundwater O&M Agreement and will perform all required O&M for the Public Parcels. ZOHP anticipates that, with DTSC's approval, it will eventually transfer obligations for those activities to an association or district, such as a Community Benefits District, a Community Services District or a Geologic Hazard and Abatement District, to assure a consistent operator and secure, long-term funding for required work.

Ms. Karen Toth
June 9, 2014
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For each Development Parcel, O&M relating to the installed parcel cap as well as vapor mitigation equipment, including all required reporting, will be the responsibility of the parcel owner. The owner is uniquely positioned to promptly identify any issues or concerns and to maintain access to assure timely inspection and repair as necessary. Execution of a parcel-specific Parcel Cap/Vapor Control O&M Agreement between any future owner and DTSC to assure long-term oversight and maintenance will therefore be an important component of any transfer or all or any portion of each Development Parcel. DTSC can also make such execution a prerequisite to each future owner securing protections under the existing CLRRRA agreement.

We believe that having a common understanding regarding the remediation and redevelopment process for Brooklyn Basin is critical for the project, not only for ZOHP and DTSC but also for facilitating redevelopment by third-party developers. We very much appreciate you and your staff taking the time to confirm these critical elements and milestones. We look forward to continuing our work with you and your staff on the Brooklyn Basin project.

Very Truly Yours,



Patrick Van Ness

cc: Ms. Diane Heinze
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Oakland, California 94607

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City of Oakland
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Ms. Karen Toth
June 9, 2014
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Ms. Bonnie Wolstoncroft
Office of Legal Affairs
Department of Toxic Substances Control
P.O. Box 806
Sacramento, California 95812-0806

Schedule 5.6.2
Technical Addendum

[See attached]

Schedule 5.6.2

Technical Addendum to First Amendment to Development Agreement

This technical addendum (“Addendum”) describes certain work and protocols, in addition to the Remediation Work required under the Parcel F and G Implementation Plan, which Developer has agreed to perform for Parcels F and G. Capitalized terms not otherwise defined in this Addendum shall have the same meaning as set forth in the Parcel F and G Implementation Plan or RP/RAP.

1. Additional Site Characterization.

1.1 Cannery Line and Adjacent Storm Drain Line. The grading/demolition plan has been revised to require the removal of the entire portion of these lines located on Parcels F and G. Developer shall inspect the existing trench backfill adjacent to these lines for potential petroleum hydrocarbon (“TPH”) (full range) impacts concurrent with the removal of the lines. If TPH impacts are found in concentrations that exceed the remediation goals set forth in the Parcel F and G Implementation Plan, Developer shall Remediate the same pursuant to the Parcel F and G Implementation Plan and this Addendum.

1.2 KOT Area. Developer shall excavate a pothole at each of boring locations SCI-16 and SCI-20 and collect samples from the potholes at depths of 1’ and 5’ below ground surface (“bgs”) and at the capillary fringe (anticipated at a depth of approximately 8’ bgs) and analyze the same for potential TPH (full range) and metals impacts. If TPH or metals are found in concentrations that exceed the remediation goals set forth in the Parcel F and G Implementation Plan, Developer shall Remediate the same pursuant to the Parcel F and G Implementation Plan and this Addendum.

1.3 Area Southeast and Southwest of Proposed Excavation 48. Developer shall excavate potholes at three mutually agreed upon locations in the southeast/southwest vicinity of proposed Excavation 48. Developer shall inspect the excavations for potential TPH (full range) impacts. If TPH impacts are found in concentrations that exceed the remediation goals set forth in the Parcel F and G Implementation Plan, Developer shall Remediate the same pursuant to the Parcel F and G Implementation Plan and this Addendum.

1.4 SCI-33/50. Developer shall excavate potholes at two mutually agreed upon locations within the vicinity of SCI-33/50. Developer shall inspect the excavations for potential TPH (full range) impacts. If TPH impacts are found in concentrations that exceed the remediation goals set forth in the Parcel F and G Implementation Plan, Developer shall Remediate the same pursuant to the Parcel F and G Implementation Plan and this Addendum.

1.5 HF-19 UST Area/Lakeside Metals Facility. Developer shall remove visible ballast material in the railroad track area. Thereafter, Developer shall drill one boring every 50’ of railroad track and collect soil samples at 1’, 3’ and 5’ bgs from each boring.

Developer shall analyze the 1' and 3' samples for TPH (full range), metals, and pesticides. The 5' samples will be archived by the laboratory and will only be analyzed if the corresponding 3' sample determines contaminants of concern (COCs) are present at levels that exceed or are within one order of magnitude of the remediation goals set forth in the Parcel F and G Implementation Plan. If impacts are found in concentrations that exceed the remediation goals set forth in the Parcel F and G Implementation Plan, Developer shall Remediate the same pursuant to the Parcel F and G Implementation Plan and this Addendum.

1.6 Demolition of Structures. After the existing structures on Parcels F and G have been cleared out and prior to commencement of demolition of such structures, Developer shall conduct a walkthrough to inspect for evidence of chemical releases. Developer shall similarly inspect the interior of the existing structures during demolition once existing surface covers have been removed. Developer shall report applicable information to the City and consider the same pursuant to the Parcel F and G Implementation Plan and this Addendum for potential additional testing/action.

1.7 Chemical Plating Chamber. Developer shall excavate potholes at two mutually agreed upon locations within the vicinity of the Chemical Plating Chamber. Developer shall inspect the excavations for potential COC impacts. If COC impacts are found in concentrations that exceed the remediation goals set forth in the Parcel F and G Implementation Plan, Developer shall Remediate the same pursuant to the Parcel F and G Implementation Plan and this Addendum.

1.8 Stockpiling of Soils Excavated from Parcels F and G and Sampling prior to Reuse/Disposal.

a. Soils Excavated for Purposes of Remediation. Developer shall maintain separate stockpiles for each Remediation excavation from Parcels F and G. Soil from each excavation shall be segregated as follows as it is removed from the excavation: (i) soils that have olfactory or visual indicia of TPH impacts, (ii) soils that have indicia (staining, olfactory, PID, etc.) related to COCs other than TPH and (iii) soils that do not exhibit an indicia of impacts. Soils segregated pursuant to clause (i) are not eligible for reuse on Parcels F and G. If Developer proposes to reuse the soils segregated pursuant to clauses (ii) and (iii) on Parcels F and G, Developer shall separately sample such soils at a rate of one single point sample per 50 cubic yards and conduct laboratory analyses for the COCs identified for that area or considered appropriate based on observed indicia. Soils which contain COCs at levels that exceed the remediation goals set forth in the Parcel F and G Implementation Plan shall not be reused on Parcels F and G. Soils which contain COCs at levels above current residential Environmental Screening Levels ("ESLs") established by the Regional Water Quality Control Board, San Francisco Bay Region, or residential California Human Health Screening Levels ("CHHSLs") established by DTSC, but below the remedial goals set forth in the Parcel F and G

Implementation Plan may be reused on Parcels F and G only with written approval by the City. Soils which contain COCs at levels below residential ESLs or CHHSLs may be reused on Parcels F and G below the proposed marker fabric without restriction. Soils proposed for reuse above the marker fabric shall also meet the import guidelines proposed in the Parcel F and G Implementation Plan and this Addendum.

b. Soils Excavated for Grading or Construction Purposes. Soils excavated for grading and construction shall be segregated as follows as they are removed from the excavation: (i) soils that have indicia of TPH or other chemical impacts and (ii) soils that do not exhibit indicia of impacts. If Developer proposes to reuse the soils segregated pursuant to clause (i) on Parcels F and G, Developer shall separately sample such soils at a rate of one single point sample per 50 cubic yards. Soils which contain COCs at levels that exceed the remediation goals set forth in the Parcel F and G Implementation Plan shall not be reused on Parcels F and G. Soils which contain COCs at levels above existing ESLs or CHHSLs, but below the remedial goals set forth in the Parcel F and G Implementation Plan may be reused on Parcels F and G only with written approval by City. Soils which contain COCs at levels below residential ESLs or CHHSLs may be reused on Parcels F and G below the proposed marker fabric without restriction. Soils proposed for reuse above the marker fabric shall also meet the import guidelines proposed in the Parcel F and G Implementation Plan and this Addendum. The DTSC import fill characterization protocols will be followed for soils segregated pursuant to clause (ii). Soils which contain COCs at levels above existing ESLs or CHHSLs, but below the remedial goals set forth in the Parcel F and G Implementation Plan may be reused on Parcels F and G only with written approval by City. Soils which contain COCs at levels below residential ESLs or CHHSLs may be reused on Parcels F and G without restriction.

2. Soil Remediation Goals for VOCs. Confirmation samples shall be analyzed for VOCs where TPH or VOCs are identified in the Parcel F and G Implementation Plan as driving factors in proposed excavation areas. If VOC or TPH impacts are found in concentrations that exceed the remediation goals set forth in the Parcel F and G Implementation Plan, Developer shall Remediate the same pursuant to the Parcel F and G Implementation Plan and this Addendum.

3. Cyanide in Groundwater at Excavation Areas 62 through 64. Developer shall collect one filtered groundwater sample from each of Excavation Areas 62 through 64 where groundwater is encountered and analyze the same for potential cyanide impacts. If cyanide impacts are found in concentrations that exceed the remediation goals set forth in the Parcel F and G Implementation Plan, Developer shall Remediate the same pursuant to the Parcel F and G Implementation Plan and this Addendum.

4. Import Soil. Developer agrees that all import fill material used at the Property (all parcels) will at a minimum meet City of Oakland off-site importation requirements as

specifically defined in Section 211-5: Import Fill Material of the Oakland Standard Details for Public Works Construction, which provides specific materials acceptance controls including appropriate sampling data and analysis, monthly monitoring and reporting, and proper acceptance, removal and disposal standards. Material with chemical concentrations exceeding remediation goals or City Import Guidelines will not be imported to Parcels F and G unless allowed in writing by the City.

5. On-Site Containment. Developer shall not seek the right under the RP/RAP to contain soils impacted with COCs at levels that exceed the remediation goals set forth in the Parcel F and G Implementation Plan within the limits of Parcels F and G.

6. Utility Stubs. Utility corridors are not anticipated within the limits of Parcels F&G. However, Developer agrees to install clean utility corridors within the limits of Parcels F&G if any utilities are required during construction.

Developer will excavate laterally around each utility stub on Parcel F and G an area that measures 5' from the property line, 5' to the left of the utility stub and 5' to the right of the utility stub. Developer shall excavate vertically around each utility stub from the ground surface to a depth that is 1' below the utility stub. Developer shall backfill the excavation with eligible import material or Parcel F and G material that has been confirmed pursuant to the Parcel F and G Implementation Plan and this Addendum as eligible for on-site reuse above the proposed marker fabric.

7. Sampling at Excavations Extending to Groundwater. Where Developer encounters groundwater in excavations, Developer shall not be required to collect soil samples below the level of groundwater; however, Developer shall collect a grab groundwater sample and additional sidewall soil samples from the sidewall immediately above the top of groundwater in lieu of collecting bottom samples in excavations requiring dewatering. The number of additional sidewall samples will equal the number of bottom samples that would have been collected had the excavation not required dewatering. Soil and groundwater samples will be analyzed for the COCs driving the excavation.

8. Free Hydrocarbon Product. If groundwater impacted with free hydrocarbon product ("FHP") is encountered during excavation at Parcels F and G, Developer shall remove the FHP as set forth in the Parcel F and G Implementation Plan. Developer shall consult with the City before termination of FHP remediation activities; however, DTSC shall make the final determination regarding the termination of any FHP remediation.

9. Groundwater Wells. In addition to (or in lieu of) groundwater monitoring wells to be located in public streets, rights of way or open space, the parties agree to reasonably consider installation of one or more monitoring wells on Parcels F and G if doing so would reduce the

overall number of monitoring wells or reduce the duration of required monitoring relating to Parcels F and G.

10. Remediation During Construction. In the event that the City or its successors encounters materials at Parcels F and G prior to the issuance of the Construction Completion Report for such property, that contain COC impacts in concentrations that exceed the remediation goals set forth in the Parcel F and G Implementation Plan, such party shall provide Developer with immediate written notice of the same and Developer shall thereafter Remediate the same pursuant to the Parcel F and G Implementation Plan, the SMP and this Addendum. The owner of the applicable parcel shall provide Developer with access to complete the Remediation at no cost to Developer. Any soils Remediated by Developer pursuant to this Section 10 shall not reduce the amount of soil to be accepted by Developer pursuant to Section 11.

11. Acceptance of Construction Soils Export. In the event that the City or its successors determines that it is necessary to export soils from Parcels F or G during the initial construction of improvements thereon, Developer shall accept up to 500 cubic yards of soil from such party (in the aggregate for Parcels F and G), on a first-come, first-served basis. Developer may require such party to transport such material to any location within the Project Property at such party's cost. Thereafter, Developer shall pay all costs associated with the future handling of such material.

12. Groundwater Management and Disposal. In the event that the initial construction of improvements on Parcels F and G (i.e. prior to the issuance of the Construction Completion Report) requires the City or its successors to remove and discharge groundwater from beneath Parcels F and G and the removed groundwater contains COCs (a) existing at or under the Property as of the date Parcels F and G are transferred to the City or (b) subsequently introduced to Parcels F and G as a result of Developer's (or its contractor's or agents) acts or omissions, each in concentrations that require treatment prior to discharge or disposal at an off-site hazardous waste facility (collectively, Existing COCs), then the City or its successors shall provide Developer with immediate written notice of the same. Upon receipt of such notice, Developer shall, at its sole election, either (y) accept such impacted groundwater for management and disposal at its sole cost in compliance with all applicable laws or (z) reimburse the City or the City's successor (as appropriate) for all additional costs actually incurred by such party to manage and dispose of such impacted groundwater in compliance with applicable laws. Notwithstanding anything to the contrary in this Section 12, Developer shall not be responsible for any costs that the City or its successor would have incurred to manage or dispose of groundwater in the absence of Existing COCs, or for groundwater impacts or conditions other than Existing COCs, including, without limitation, salinity or turbidity.

Schedule 5.7.1(a)
F and G Remediation Estimate – Phase 1

[See attached]

TABLE 1 (REVISED)
Estimated Remedial Costs
 Parcels F, G1, & G2 of the Brooklyn Basin Project
 Oakland, California
 (EKI B'10040.01)

Parcels	Excavation Areas (a)	Proposed Excavation Depth (ft bgs)	Approximate Volume (bcy) (b)	Approximate Tonnage for Transport & Disposal (c)	Assumed Waste Disposal Class	Estimated Remedial Costs (d)				Unit Costs (\$/ton)		
						Contractor (Indirect Costs Included) (e)	Contractor (Indirect Costs Not Included)	Consultant (f)	Area Total	Contractor (Indirect Costs Included)	Contractor (Indirect Costs Not Included)	Consultant
G1/G2	1/3 of Area 41	4	221	380	Class II Cover	\$ 21,000	\$ 18,700			\$ 55.26	\$ 49.21	
	43	4	84	140	Class II Cover	\$ 8,000	\$ 7,200			\$ 57.14	\$ 51.43	
	44	6	151	260	Class II Non Cover	\$ 20,000	\$ 19,000			\$ 76.92	\$ 73.08	
	45	4	65	110	Class II Cover	\$ 8,000	\$ 5,000			\$ 54.55	\$ 45.45	
	46	5	81	140	Class II Non Cover	\$ 20,000	\$ 19,000	\$ 419,000	\$ 953,000	\$ 142.86	\$ 135.71	\$ 82.32
	47	8	39	70	Class II Non Cover	\$ 11,000	\$ 7,300			\$ 157.14	\$ 104.29	
F	48	8	1,150	1,950	Class II Non Cover	\$ 230,000	\$ 133,000			\$ 117.95	\$ 88.21	
	3/4 of Area 49	8	1,133	1,930	Class II Cover	\$ 201,000	\$ 106,000			\$ 104.15	\$ 54.92	
	1/2 of Area 51	3	62	110	Class II Cover	\$ 17,000	\$ 5,000			\$ 154.55	\$ 45.45	
	1/4 of Area 49	8	378	640	Class II Cover	\$ 67,000	\$ 36,000			\$ 104.89	\$ 56.25	
F	62	8	400	680	Class II Cover	\$ 117,000	\$ 41,000			\$ 172.06	\$ 60.29	
	63	6	209	360	Class II Cover	\$ 61,000	\$ 21,000	\$ 191,000	\$ 584,000	\$ 169.44	\$ 58.33	\$ 81.97
	64	6	136	230	Class II Cover	\$ 48,000	\$ 14,000			\$ 173.91	\$ 60.87	
	65	6	249	420	Class II Non Cover	\$ 108,000	\$ 81,000			\$ 257.14	\$ 145.24	
Totals						\$ 927,000	\$ 483,200	\$ 610,000	\$ 1,537,000	\$ 64.55 to \$ 173.91	\$ 45.45 to \$ 60.87	
						Unit Cost Range (Class II Cover)			\$ 64.55 to \$ 173.91	\$ 45.45 to \$ 60.87		
						Unit Cost Range (Class II Non Cover)			\$ 76.92 to \$ 257.14	\$ 68.21 to \$ 145.24		

Abbreviations:
 bcy = bank cubic yards
 ft bgs = feet below ground surface

Notes:
 (a) Excavation areas within Parcels F, G1, & G2 are shown on Figure 1.
 (b) Approximate excavation volumes based upon quantities from RP/RAP.
 (c) Assumed 1.7 tons per bcy.
 (d) Costs are rounded.
 (e) Estimated contractor costs for excavation and disposal based on Pacific States estimate, dated 20 February 2013, based upon assumed waste disposal classifications. Average cost of \$125 per ton for contractor related activities such as soil excavation, transport and disposal, dewatering (if needed), and excavation and handling of sloping soils.
 (f) Estimated consultant costs for excavation oversight, confirmation and waste characterization sampling, air monitoring, etc. includes 20% contingency. Estimated consultant costs also include \$35,000 for oversight by the Department of Toxic Substances Control.
 (g) Estimated contractor costs for import fill (including marker fabric, placement, and compaction) of \$15 per cubic yard based on Pacific States estimate, dated 14 October 2013. Import fill may be from various sources.

Schedule 5.7.1(b)
F and G Remediation Estimate – Phases 2 and 3

[See attached]



16 June 2014

MEMORANDUM

To: Eric Harrison - ZOHP
Patrick Van Ness - ZOHP

From: Jarad L. Champion, P.E. (EKI)
Michael J. Moes, P.E. (EKI)
Earl D. James, P.G. (EKI)

Subject: Summary of Preliminary Estimates of Phase 2 Capital Costs for
Preparation of Required Plans and Vapor Intrusion Mitigation Measures
Brooklyn Basin Parcels F and G
Oakland, California
(EKI B10040.00)

Erler & Kalinowski, Inc. (“EKI”) has prepared this memorandum on behalf of Zarsion-OHP I, LLC (“ZOHP”) to provide a summary of preliminary estimates of capital costs for preparing required reports for submittal to the Department of Toxic Substance Control (“DTSC”) and the design, construction, and startup of vapor intrusion mitigation measures at retail, residential, and parking buildings planned as part of Brooklyn Basin Parcels F and G (“Parcels F&G”) in Oakland, California (“Site”). These costs are for the tasks required during Phase 2 of the environmental process. Phase 2 is the construction phase of the project and includes construction of the planned vertical and horizontal improvements.

BACKGROUND

The Site was formerly used for a variety of businesses including cold storage, trucking facilities with underground storage tanks for petroleum fuel products, and metal plating where chlorinated volatile organic compounds (“VOC’s”) were utilized. Based on environmental investigations at the Site conducted in 2007 and before, soil, groundwater, and soil vapor at the Site was discovered to be impacted by VOC’s including benzene, trichloroethene, and tetrachloroethene; by semi-volatile organic compounds, and by petroleum hydrocarbons compounds (EKI, Response Plan/Remedial Action Plan, June 2010). Vapor intrusion mitigation measures are proposed to protect future building occupants from an exposure risk resulting from sub-slab vapors migrating into indoor air.

EKI received a layout of building footprints prepared by StudioT for Signature Development Group and dated 31 October 2013. Building footprints are summarized as follows:

- Parcel F – total 60,405 square feet with approximately 30,000 square feet of ground floor parking;



- Parcel G, Retail and residential – total 65,311 square feet with approximately 10,000 square feet of ground floor parking; and
- Parcel G, Parking – 44,946 square feet.

PHASE 2 TASKS

A general description of the tasks required in Phase 2 is presented below to support the cost estimates.

SOIL MANAGEMENT PLAN

The SMP will establish soil handling procedures and protocols applicable from completion of remediation at the parcel (Phase 1) through completion of redevelopment activities (Phase 2). The template will include procedures for the handling of soil and groundwater, air monitoring, dust control, noise control, traffic control and health and safety procedures to protect workers and the surrounding community.

PRE-CONSTRUCTION REPORT

Each owner/developer or ZOHP, as applicable, will be required to submit a conceptual plan to DTSC for review and approval before initiating the redevelopment construction, which plan shall include detail regarding the final redevelopment and capping of the parcel (the “Pre-Construction Plan”).

Phase 2 will include the installation of any required vapor mitigation controls and the capping of the entire parcel consistent with the approved Pre-Construction Plan. All areas not covered by buildings or hardscape will be covered with marker fabric prior to the placement of clean fill to distinguish the fill from native soils.

VAPOR INTRUSION MITIGATION MEASURES

EKI has developed a preliminary design that is conceptual in nature in order to estimate preliminary costs. As detailed architectural and engineering design documents were not available for review, this design does not fully consider interfaces between the vapor intrusion mitigation measures and other architectural and engineering elements of the planned buildings. These elements can be worked out by the contractor, Owner, Owner’s architect, and Owner’s consultants as the project progresses. However, the conceptual design and costs presented herein are for a robust vapor control system that would likely be more than adequate to mitigate any potential indoor air issues related to the known contamination at Parcels F&G.

EKI’s preliminary design for purposes of developing preliminary costs of vapor intrusion mitigation measures includes sub-slab depressurization (“SSD”) systems for Parcel Fa nd



Parcel G, Retail and Residential. No SSD system is proposed for Parcel G, Parking. The proposed SSD systems consist of the following primary elements:

- Perforated sub-slab collection vent pipes in a continuous permeable gravel layer beneath concrete building slabs;
- In areas of ground floor commercial or residential use, sub-slab liner (e.g., 60-mil Liquid Boot[®]) above the permeable gravel and beneath concrete building slabs; a sub-slab liner is not installed in areas of ground floor parking;
- One riser pipe from the sub-slab vent piping for each system to the SSD fan location on the building roof;
- An SSD fan (one per system) with instrumentation, located on the roof with discharge to ambient air above buildings; and
- Sub-slab monitoring probes routed to exterior ports for access.

The SSD system will require regulatory review by the Department of Toxic Substances Control (“DTSC”) prior to construction. DTSC may provide comments that will necessitate modifications to the preliminary design used for developing preliminary costs.

Approximately 60 percent of the estimated capital cost for the SSD systems is for the sub-slab liner (see Tables 2 through 3). The sub-slab liner may not be required for the mitigation system to be effective, but is often required by regulatory agencies for commercial and residential structures. The estimated capital costs assume that a sub-slab liner is not installed under ground floor parking. In the event that DTSC agrees, the liner could be entirely omitted from the SSD system, thus reducing project costs.

Installation and operation of the sub-slab depressurization fan will require approval from the Bay Area Air Quality Management District (“BAAQMD”). Based on soil vapor concentrations measured at the Site, treatment of soil vapors to remove VOCs prior to atmospheric discharge is not anticipated to be required by BAAQMD.

The SSD systems will incur long-term operation and maintenance costs, in addition to monitoring and reporting costs for BAAQMD and DTSC regulatory oversight. Long-term costs are not developed in this memorandum, which focuses exclusively on capital costs.

CONSTRUCTION COMPLETION REPORT AND OTHER DOCUMENTS

Upon completion of construction work, the parcel owner/developer or ZOHP, as applicable, will submit to DTSC a Construction Completion Report (“CCR”) documenting compliance with the approved Pre-Construction Plan, the installation of all required mitigation systems and the placement of all required site cover. The CCR will include figures and specifications as necessary to demonstrate compliance. The CCR and the ARC will together constitute the Remedial Action Completion Report (“RACR”) identified in the RP/RAP.



Following DTSC's approval of the CCR, the parcel owner/developer or ZOHP, as applicable, will submit for DTSC approval a parcel-specific Vapor Control O&M Plan and Cap O&M Plan, as appropriate, based on the approved template and record appropriate land use covenants ("LUCs") with site-specific completion details. Each owner/developer will also enter into a parcel-specific Vapor Control O&M Agreement and Soil Cap O&M Agreement (including appropriate financial assurances), as appropriate, based on the approved template. Following approval of the required parcel-specific Vapor Control O&M Plan and Soil Cap O&M Plan, recording of any required parcel-specific LUC, and execution of the parcel-specific Vapor Control O&M Agreement and Soil Cap O&M Agreement (where applicable), DTSC will issue a Certificate of Completion for the parcel.

PRELIMINARY ESTIMATE OF CAPITAL COSTS

The capital costs for the preparation of the DTSC required reports and legal documents and the vapor intrusion mitigation measures presented with this memorandum represent EKI's opinion of preliminary costs.

For the vapor control systems, multiple stakeholders, including DTSC, Owner's architect, and Owner's consultants, may provide input that results in modification to the preliminary design used for purposes of developing preliminary costs. Costs were developed on an item-by-item basis, where possible, using estimated quantities and relying on assembled unit cost factors. The unit cost factors were developed on the basis of contacts with local vendors and contractors, in some cases, and published cost information, as well as EKI's experience with similar vapor intrusion mitigation measures implemented in the San Francisco Bay Area. Thus, probable costs of each the items that comprise the vapor intrusion mitigation measures can be generated. The overall estimated cost is the sum of these specific estimates for items. Table 1 summarizes total capital costs for vapor intrusion mitigation for the three buildings planned for the Site.

For this level of cost estimate for the vapor control systems, EKI has identified only the major components and estimated quantities for each item in Tables 2 through 3 for the three buildings planned for the Site. There are numerous miscellaneous items that have not been identified because detailed plans and specifications for the vapor intrusion mitigation measures have not been identified. This preliminary estimate of capital costs may be refined when additional architectural and engineering design documents become available.

Attachments:

- Table 1 Summary of Preliminary Estimates of Capital Costs for DTSC Required Reports and Legal Documents and Vapor Intrusion Mitigation Measures
- Table 2 Preliminary Capital Cost Estimate for Parcel F
- Table 3 Preliminary Capital Cost Estimate for Parcel G Retail and Residential

Table 1
Summary of Preliminary Estimates of Capital Costs for
DTSC Required Documents and Vapor Intrusion Mitigation Measures (a)
Brooklyn Basin Parcels F and G, Oakland, California

Item	Preliminary Estimates of Capital Costs for SSD System With Sub-Slab Liner (excluding parking areas)					
	Parcel F		Parcel G Retail/Residential		Project-Wide Total	
	(\$)	(\$/sf)	(\$)	(\$/sf)	(\$)	(\$/sf)
Capital Costs						
SMP Pre-Construction Report	--	--	--	--	\$20,000	\$0.20
Vapor Engineering Design, Permitting (c)	\$28,000	\$0.50	\$28,000	\$0.43	\$56,000	\$0.40
Vapor Construction (incremental contractor costs)	\$349,000	\$5.80	\$539,000	\$8.25	\$888,000	\$7.10
Vapor Engineering Observation, During Construction	\$17,000	\$0.30	\$17,000	\$0.26	\$34,000	\$0.30
Vapor Post-Construction Sampling/Testing	\$6,000	\$0.10	\$6,000	\$0.09	\$12,000	\$0.10
Legal Documents (d)	--	--	--	--	\$25,000	\$0.20
Construction Completion Report (CCR)	\$10,000	\$0.20	\$10,000	\$0.15	\$20,000	\$0.20
DTSC Oversight	--	--	--	--	\$25,000	\$0.20
Estimated Total Capital Costs	\$410,000	\$6.90	\$600,000	\$9.18	\$1,080,000	\$8.70

Notes

- (a) For cost estimating, preliminary estimates are conceptual in nature as building foundation plans were not available. Preliminary estimates of costs may be refined when additional architectural and engineering plans become available. Dimensions for layout of piping are based on floor plan areas from the 31 October 2013 architectural plans. Buildings are assumed to have a maximum height of 75 feet on Parcel F and 100 feet on Parcel G.
- (b) The preliminary cost estimates are shown in Tables 2 through 3.
- (c) Incremental costs for additional structural engineering (if any) related to the sub-grade vapor vent piping penetrations through grade beams are not included. Incremental costs for additional geotechnical engineering (if any) related to the sub-slab permeable aggregate layer is not included.
- (d) Estimated cost is from S. Block at Stice/Block.
- (e) Estimated cost is from DTSC verbal communication with K. Toth on 28 April 2014.

Abbreviations

DTSC: California Environmental Protection Agency, Department of Toxic Substances Control
SSD: sub-slab depressurization
SMP: Soil Management Plan

Table 2
Preliminary Capital Cost Estimate for Parcel F
Sub-Slab Depressurization (SSD) System in New Slab-on-Grade Building, With Sub-Slab Liner
Brooklyn Basin Parcels F and G, Oakland, California

Item	Estimated Costs				
	Unit	Quantity	Unit Cost	Line Cost	Sub-Totals
Design Basis					
Slab-on-grade building, new construction					
Building length (maximum)	feet	360			
Building width (based on maximum length and total footprint)	feet	170			
Total building footprint (from 10/31/2013 architectural plan)	sf	60,405			
Ground floor parking footprint (estimated from 10/31/2013 plan)	sf	30,000			
Engineering Design, Permitting					
Plans and specifications for venting layer, piping, fan, liner, sample points [Design details for above-floor piping to roof left to architect]	ls	1	\$20,000	\$20,000	
Bidding, contracting [NOT INCLUDED; BY ARCHITECT]					
Assist in contractor bid walk; bid review	ls	1	\$1,500	\$1,500	
Air Permit					
Preparation of permit application	ls	1	\$2,500	\$2,500	
Permit fees	ls	1	\$3,500	\$3,500	
<i>Subtotal: Engineering Design:</i>					\$28,000
<i>\$/sf:</i>					\$0.50
Construction, Venting Layer and Sub-Slab Liner (incremental costs)					
Contractor mobilization / demobilization (incremental)	ls	1	\$2,000	\$2,000	
Grading (not included)					
Foundation construction (not included)					
Sub-slab piping					
Sub-slab sewer piping (not included)					
Vent system, sub-slab piping					
Materials					
4-inch HDPE perforated vent pipe, spans building width every 50 feet	feet	1,190	\$1.50	\$1,785	
10-inch HDPE non-perforated conveyance pipe spans building length	feet	360	\$8.30	\$2,988	
Nylon tubing for vacuum test points, 1/4-inch OD					
Tubing runs to four test points	feet	1060	\$0.40	\$424	
1-inch diameter PVC protective piping	feet	710	\$2.00	\$1,420	
Fittings	ls	1	\$500	\$500	
Installation	day	4	\$2,500	\$10,000	
Sub-slab permeable aggregate layer					
Materials					
3/4-inch drain rock, no fines, for 6-inch thick layer, delivered	ton	1,810	\$35	\$63,350	
Install/compact permeable aggregate	ton	1,810	\$10	\$18,100	
Sub-slab liner (60-mil Liquid Boot)					
Liner material and installation, w/ utility boots, by certified installer (Not installed under ground floor parking)	sf	30,405	\$7	\$212,835	
Liner smoke testing 3rd party observation / certification	ls	1	\$4,000	\$4,000	
Utility cutoff walls (scope uncertain) (incremental costs for low permeability backfill plug near building perimeter)	ls	1	\$1,500	\$1,500	
Vertical vent piping, to roof, from sub-slab piping					
Materials					
Piping					
Above grade, to roof, 10-story building, 10-inch diameter GS	feet	100	\$150	\$15,000	
SSD fan, installed on roof	ea	1	\$5,000	\$5,000	
Install vertical piping to roof, and fan	ls	1	\$10,000	\$10,000	
<i>Subtotal: Construction:</i>					\$349,000
<i>\$/sf:</i>					\$5.80

Table 2
Preliminary Capital Cost Estimate for Parcel F
Sub-Slab Depressurization (SSD) System in New Slab-on-Grade Building, With Sub-Slab Liner
Brooklyn Basin Parcels F and G, Oakland, California

Item	Estimated Costs				
	Unit	Quantity	Unit Cost	Line Cost	Sub-Totals
Engineering During Construction					
Construction observation					
Submittal reviews (aggregate; liner; piping, fan)	hr	20	\$160	\$3,200	
Engineering Observation:					
Venting layer installation	hr	16	\$160	\$2,560	
Liner testing; test report review	hr	12	\$160	\$1,920	
Concrete floor framing, rebar, and pour (observe for impacts to liner)	hr	32	\$160	\$5,120	
Above-grade vent piping (before interior finish)	hr	8	\$160	\$1,280	
SSD fan completion	hr	4	\$160	\$640	
Other	hr	16	\$160	\$2,560	
<i>Subtotal: Engineering During Construction:</i>					\$17,000
					<i>\$/sf: \$0.30</i>
Post-Construction Sampling/Testing					
Sub-slab soil gas sampling, pre-startup baseline					
Preparation/planning	hr	8	\$160	\$1,280	
Collect samples	hr	8	\$160	\$1,280	
Sample analyses (EPA Method TO-15)	sample	4	\$350	\$1,400	
Sub-slab vacuum measurements, post-startup	hr	1	\$160	\$160	
Data review with client	ls	1	\$1,500	\$1,500	
<i>Subtotal: Post-Construction Sampling/Testing:</i>					\$6,000
					<i>\$/sf: \$0.10</i>
Completion Report					
Prepare report documenting construction and testing	ls	1	\$10,000	\$10,000	
<i>Subtotal: Completion Report:</i>					\$10,000
					<i>\$/sf: \$0.20</i>
Estimated Total Capital Costs					\$409,000
					<i>Estimated capital costs, per square foot: \$6.80</i>

Notes

Refer to Table 1.

Abbreviations

ea: each

EPA: United States Environmental Protection Agency

GS: galvanized steel

HDPE: high-density polyethylene

hr: hour

lf: linear foot

ls: lump sum

OD: outer diameter

PVC: polyvinyl chloride

sf: square feet

SSD: sub-slab depressurization

Table 3
Preliminary Capital Cost Estimate for Parcel G Retail and Residential
Sub-Slab Depressurization (SSD) System in New Slab-on-Grade Building, With Sub-Slab Liner
Brooklyn Basin Parcels F and G, Oakland, California

Item	Estimated Costs				
	Unit	Quantity	Unit Cost	Line Cost	Sub-Totals
Design Basis					
Slab-on-grade building, new construction					
Building length (maximum)	feet	530			
Building width (based on maximum length and total footprint)	feet	120			
Total building footprint (from 10/31/2013 architectural plan)	sf	65,311			
Ground floor parking footprint (estimated from 10/31/2013 plan)	sf	10,000			
Engineering Design, Permitting					
Plans and specifications for venting layer, piping, fan, liner, sample points [Design details for above-floor piping to roof left to architect]	ls	1	\$20,000	\$20,000	
Bidding, contracting [NOT INCLUDED; BY ARCHITECT]					
Assist in contractor bid walk; bid review	ls	1	\$1,500	\$1,500	
Air Permit					
Preparation of permit application	ls	1	\$2,500	\$2,500	
Permit fees	ls	1	\$3,500	\$3,500	
<i>Subtotal: Engineering Design:</i>					\$28,000
					\$0.43
Construction, Venting Layer and Sub-Slab Liner (incremental costs)					
Contractor mobilization / demobilization (incremental)	ls	1	\$2,000	\$2,000	
Grading (not included)					
Foundation construction (not included)					
Sub-slab piping					
Sub-slab sewer piping (not included)					
Vent system, sub-slab piping					
Materials					
4-inch HDPE perforated vent pipe, spans building width every 50 feet	feet	1,320	\$1.50	\$1,980	
10-inch HDPE non-perforated conveyance pipe spans building length	feet	530	\$8.30	\$4,399	
Nylon tubing for vacuum test points, 1/4-inch OD					
Tubing runs to four test points	feet	1300	\$0.40	\$520	
1-inch diameter PVC protective piping	feet	920	\$2.00	\$1,840	
Fittings	ls	1	\$500	\$500	
Installation	day	5	\$2,500	\$12,500	
Sub-slab permeable aggregate layer					
Materials					
3/4-inch drain rock, no fines, for 6-inch thick layer, delivered	ton	1,960	\$35	\$68,600	
Install/compact permeable aggregate	ton	1,960	\$10	\$19,600	
Sub-slab liner (60-mil Liquid Boot)					
Liner material and installation, w/ utility boots, by certified installer (Not installed under ground floor parking)	sf	55,311	\$7	\$387,177	
Liner smoke testing 3rd party observation / certification	ls	1	\$4,000	\$4,000	
Utility cutoff walls (scope uncertain) (incremental costs for low permeability backfill plug near building perimeter)	ls	1	\$1,500	\$1,500	
Vertical vent piping, to roof, from sub-slab piping					
Materials					
Piping					
Above grade, to roof, 10-story building, 10-inch diameter GS	feet	120	\$150	\$18,000	
SSD fan, installed on roof	ea	1	\$5,000	\$5,000	
Install vertical piping to roof, and fan	ls	1	\$11,000	\$11,000	
<i>Subtotal: Construction:</i>					\$539,000
					\$8.25

Table 3
Preliminary Capital Cost Estimate for Parcel G Retail and Residential
Sub-Slab Depressurization (SSD) System in New Slab-on-Grade Building, With Sub-Slab Liner
Brooklyn Basin Parcels F and G, Oakland, California

Item	Estimated Costs				
	Unit	Quantity	Unit Cost	Line Cost	Sub-Totals
Engineering During Construction					
Construction observation					
Submittal reviews (aggregate; liner; piping, fan)	hr	20	\$160	\$3,200	
Engineering Observation:					
Venting layer installation	hr	16	\$160	\$2,560	
Liner testing; test report review	hr	12	\$160	\$1,920	
Concrete floor framing, rebar, and pour (observe for impacts to liner)	hr	32	\$160	\$5,120	
Above-grade vent piping (before interior finish)	hr	8	\$160	\$1,280	
SSD fan completion	hr	4	\$160	\$640	
Other	hr	16	\$160	\$2,560	
<i>Subtotal: Engineering During Construction:</i>					\$17,000
					<i>\$/sf:</i> \$0.26
Post-Construction Sampling/Testing					
Sub-slab soil gas sampling, pre-startup baseline					
Preparation/planning	hr	8	\$160	\$1,280	
Collect samples	hr	8	\$160	\$1,280	
Sample analyses (EPA Method TO-15)	sample	4	\$350	\$1,400	
Sub-slab vacuum measurements, post-startup	hr	1	\$160	\$160	
Data review with client	ls	1	\$1,500	\$1,500	
<i>Subtotal: Post-Construction Sampling/Testing:</i>					\$6,000
					<i>\$/sf:</i> \$0.09
Completion Report					
Prepare report documenting construction and testing	ls	1	\$10,000	\$10,000	
<i>Subtotal: Completion Report:</i>					\$10,000
					<i>\$/sf:</i> \$0.15
Estimated Total Capital Costs					\$599,000
					<i>Estimated capital costs, per square foot:</i> \$9.20

Notes

Refer to Table 1.

Abbreviations

ea: each

EPA: United States Environmental Protection Agency

GS: galvanized steel

HDPE: high-density polyethylene

hr: hour

lf: linear foot

ls: lump sum

OD: outer diameter

PVC: polyvinyl chloride

sf: square feet

SSD: sub-slab depressurization

Comments and Responses to Phase 2 Cost Estimates

Earl,

Our responses to your responses are provided below. We have inserted our original comments for clarification.

The following are responses to comments received from Mark Arniola of the City of Oakland on 29 May 2014. The assumptions in the cost estimates were based on the following:

1. ZOHP should verify with engineering/planning the assumptions that were made for the buildings to be constructed on F&G (based on Studio T layout dated 10/31/13). For Parcel F, ZOHP is assuming that 30,000 ft² of the 60,405 ft² total building footprint is ground floor parking that does not require sub slab vent/liner and for Parcel G they are assuming that 10,000 ft² of the 65,311 ft² total building footprint is ground floor parking that does not require sub slab vent/liner. This is ok if parking is open air. If there is not enough natural ventilation or if there are any enclosed spaces in the parking areas, some level of vapor mitigation may be required. Also, if occupied structures are proposed above parking than special design considerations/costs may be required to make sure vapors (toxic and methane) don't travel through building conduits like ventilation systems and elevators.

EKI Response to Comment No. 1

- a. *When building code provisions requires specific construction features that may be duplicative by the Oak to Ninth RP/RAP, the costs for the duplicative measures are not included in the Phase II estimate.*
- b. *The parking garage proposed in a podium design on Parcel F, approximately 30,000 square feet, is assumed to require mechanical ventilation as it is configured in a "wrapped" condition with less than 50% of the perimeter exposed. On Parcel G, a similar condition exists with an approximate 10,000 square foot parking garage that is "wrapped on all four sides and will require mechanical ventilation. Given that the building code requires mechanical ventilation of all parking garages that do not meet the minimum passive ventilation requirements, which is a typical condition in high density residential and/or mixed-use residential developments, extra ordinary costs associated with additional ventilation measures would not be incurred by the Parcel Developer.*
- c. *Fire codes require that all potential conduits, chases, etc. (penetrations) that travel from one building type to another, for an example a Type I parking garage to a Type III residential structure, to seal any such penetrations to prevent the spread of fire and smoke. The materials used to seal any penetrations are required to meet Flame, Temperature, Smoke and Water rating under extreme conditions.*

Pacific Edge Response: page 7-8 of the Response Plan states "The plans will address both potential migration through slabs and all potential vapor conduits to upper floors of the podium style building (particularly utility lines, elevator shafts, and ventilation systems). The plans will describe measures to engineer and seal such potential

Pacific Edge Response: Did the NPV calculation account for erosion of principle as the annual costs are incurred? Also, was inflation accounted for?

The Net Present Value "NPV" Calculation is based on 30 years of expenditures, either \$16,800 annually or \$24,300 every fifth year. The discount rate used is 4.15%. An escalator of the annually costs was not included in the NPV calculation as it is based on 2014. If inflation is assumed in the NPV calculation the discount rate it would need to be increased commensurately, which in most cases would negate any increase.

- 2a. The annual costs should also include provisions for a 5 Year review. This is a more detailed review of the overall remediation effectiveness than the proposed 1 year inspection reports.

EKI Response to Additional Comment No. 2

- a. Costs have been updated to reflect 5 Year reports.*

Pacific Edge Response: The annual costs decreased \$3,000 each for Vapor Controls at Parcels F and G and the Cap Inspection Report estimate did not change. Why did the costs decrease for Vapor Controls and where is the increase for the 5 Year reports?

The DTSC oversight was double counted and that has been removed from the tables. In the revised tables, the \$308,730 NPV total includes an additional \$7500 every five years to account for the five-year reports.



16 June 2014

MEMORANDUM

To: Eric Harrison - ZOHP
Patrick Van Ness - ZOHP

From: Jarad L. Champion, P.E. (EKI)
Michael J. Moes, P.E. (EKI)
Earl D. James, P.G. (EKI)

Subject: Preliminary Estimates of Phase 3 Long-Term Annual Costs for Vapor Intrusion Mitigation Measures and Cap Inspection and Reporting Brooklyn Basin Parcels F and G, Oakland, California (EKI B10040.00)

Erler & Kalinowski, Inc. ("EKI") has prepared this memorandum on behalf of Zarsion-OHP I, LLC ("ZOHP") to summarize our preliminary estimates of an annual cap inspection required by the Department of Toxic Substances Control ("DTSC") and long-term operating costs for vapor intrusion mitigation measures at retail, residential, and parking buildings on Brooklyn Basin Parcels F and G ("Parcels F&G") in Oakland, California ("Site"). These costs are for Phase 3, the post-redevelopment phase of the project.

BACKGROUND

The Site was formerly used for a variety of businesses including cold storage, trucking facilities with underground storage tanks for petroleum fuel products, and metal plating where chlorinated volatile organic compounds ("VOC's") were utilized. Based on environmental investigations at the Site conducted in 2007 and before, soil, groundwater, and soil vapor beneath portions of the Site was discovered to be impacted by VOC's including benzene, trichloroethene, and tetrachloroethene; by semi-volatile organic compounds, and by petroleum hydrocarbons compounds (EKI, RP/RAP, June 2010). Vapor intrusion mitigation measures are proposed to protect future building occupants from a potential exposure risk resulting from sub-slab vapors migrating into indoor air.

The vapor mitigation costs are based on building footprints shown in a StudioT study and are summarized as follows:

- Parcel F – total 60,405 square feet with approximately 30,000 square feet of ground floor parking;
- Parcel G, Retail and residential – total 65,311 square feet with approximately 10,000 square feet of ground floor parking; and
- Parcel G, Parking Condominium – 44,946 square feet.



PHASE 3 TASKS

The following describes the basis for the Phase 3 cost estimates.

ANNUAL CAP INSPECTION

The DTSC will require an annual cap inspection report for Parcels F and G after the completion of the redevelopment activities. The purpose of the inspection is to make observations to verify that the capping materials are in place over the native soils on the parcels. Given that the majority of the square footage of the parcel will be covered by structures, this will be a straightforward task to complete.

VAPOR INTRUSION MITIGATION OPERATIONS AND MAINTENANCE

EKI's preliminary design for purposes of developing preliminary costs of vapor intrusion mitigation measures includes sub-slab depressurization ("SSD") systems for Parcel F and the retail and residential portions of Parcel G. No SSD system is proposed for the required parking area on Parcel G. The proposed SSD systems consist of the following primary elements:

- Perforated sub-slab collection vent pipes in a continuous permeable gravel layer beneath concrete building slabs;
- In areas of ground floor commercial or residential use, sub-slab liner (e.g., 60-mil Liquid Boot[®]) above the permeable gravel and beneath concrete building slabs; a sub-slab liner is not installed in areas of ground floor parking;
- One riser pipe from the sub-slab vent piping for each system to the SSD fan location on the building roof;
- An SSD fan (one per system) with instrumentation, located on the roof with discharge to ambient air above buildings; and
- Sub-slab monitoring probes routed to exterior ports for access.

Installation and operation of the sub-slab depressurization fan will require approval from the Bay Area Air Quality Management District ("BAAQMD"). Based on soil vapor concentrations measured at the Site, treatment of soil vapors to remove VOCs prior to atmospheric discharge is not anticipated to be required.

Operations, maintenance, and monitoring of the SSD systems will require regular site visits from an operations contractor to be selected by Owner. EKI anticipates that semi-annual site visits will be necessary to maintain and monitor each SSD system. During site visits, samples of the soil vapor exhausted from each SSD fan would be collected, and flow rates and hours of operations would be recorded.

Long-term annual costs assume that DTSC regulatory oversight will continue during the long-term implementation of the SSD systems at Parcels F&G.



On an annual basis, a cap inspection of building floors and pavement at the Site will be conducted. Annual monitoring reports covering SSD system operation and cap inspection will be prepared and submitted to DTSC and BAAQMD, respectively.

Selection of an electrical power system for SSD fans will be provided as part of architectural and engineering design; however an estimate is included herein. SSD fans are assumed to be replaced every 10 years.

PRELIMINARY ESTIMATE OF LONG-TERM ANNUAL COSTS

EKI developed this preliminary cost estimate using an item-by-item approach, where possible, based on estimated quantities and assembled unit cost factors. The unit cost factors were developed on the basis of contacts with local vendors and contractors, in some cases, and published cost information, as well as EKI's experience with similar vapor intrusion mitigation measures implemented in the San Francisco Bay Area. Thus, probable costs of each the items that comprise the vapor intrusion mitigation measures can be generated. The overall estimated cost is the sum of these specific estimates for items. Table 1 summarizes total long-term annual costs for vapor intrusion mitigation for the three buildings planned for the Site.

For this level of cost estimate, EKI has itemized only the major components and estimated quantities for each item in Tables 2 through 3 for the three buildings planned for the Site. Within the specific design there may be numerous miscellaneous items that have not been listed; however, the estimate generally includes an allowance to accommodate reasonable operational requirements. This preliminary estimate of long-term annual costs may be refined when additional architectural and engineering design documents become available.

Attachments:

- Table 1 Summary of Preliminary Estimates of Long-Term Annual Costs for Cap Inspection and Vapor Intrusion Mitigation Measures
- Table 2 Preliminary Long-Term Annual Cost Estimate for Parcel F
- Table 3 Preliminary Long-Term Annual Cost Estimate for Parcel G Retail and Residential

Table 1
Summary of Preliminary Estimates of Long-Term Annual Costs for
DTSC Reporting and Vapor Intrusion Mitigation Measures (a)
Brooklyn Basin Parcels F and G, Oakland, California

Item	Preliminary Estimates of Annual Costs for SSD System With Sub-Slab Liner (excluding parking areas)					
	Parcel F		Parcel G Retail/Residential		Project-Wide Total	
	(\$)	(\$/sf)	(\$)	(\$/sf)	(\$)	(\$/sf)
Annual Costs						
Cap Inspection Report	--	--	--	--	\$3,000	\$0.02
Vapor Controls (b)(c)	\$5,400	\$0.09	\$5,400	\$0.08	\$10,800	\$0.09
DTSC Oversight (d)	--	--	--	--	\$3,000	\$0.02
Estimated Total Annual Costs	\$5,400	\$0.09	\$5,400	\$0.08	\$16,800	\$0.13
30 Year NPV (e)						\$308,730

Notes

- (a) For cost estimating, preliminary estimates are conceptual in nature as building foundation plans were not available. Preliminary estimates of costs may be refined when additional architectural and engineering plans become available.
- (b) The preliminary cost estimates for vapor controls are shown in Tables 2 through 3.
- (c) Annual costs for sub-slab liner repairs are not estimated; costs for repairing the liner will be incurred whenever facility renovations or repairs require work on sub-slab utilities.
- (d) Estimated cost is from DTSC verbal communication with K. Toth on 28 April 2014.
- (e) Discount rate of 4.15% which is equivalent the City's Muni rate for General Obligation bonds.

Abbreviations

DTSC: California Environmental Protection Agency, Department of Toxic Substances Control
 NPV: net present value
 SSD: sub-slab depressurization

Table 2
Preliminary Long-Term Annual Cost Estimate for Parcel F
Sub-Slab Depressurization (SSD) System in New Slab-on-Grade Building, With Sub-Slab Liner
Brooklyn Basin Parcels F and G, Oakland, California

Item	Estimated Costs				
	Unit	Quantity	Unit Cost	Line Cost	Sub-Totals
Design Basis					
Air district permitting with Bay Area Air Quality Management District					
Annual permit-to-operate					
Permit-to-operate includes semi-annual monitoring					
Regulatory oversight of long-term SSD activities by DTSC					
Total building footprint (from 10/31/2013 architectural plan)	sf	60,405			
Permitting and Fees					
Complete air district annual permit-to-operate form	yr	1	\$500	\$500	
Air district annual permit-to-operate fee	yr	1	\$1,500	\$1,500	
<i>Subtotal: Permitting and Fees:</i>					\$2,000
<i> \$/sf:</i>					\$0.03
Operation and Monitoring					
Electrical power for SSD fans	kW-hr	10,000	\$0.15	\$1,500	
SSD Semi-annual monitoring / recordkeeping	day	1	\$800	\$800	
SSD Semi-annual sample analysis (two samples per blower per year)	ea	2	\$300	\$600	
<i>Subtotal: Operation and Monitoring:</i>					\$2,900
<i> \$/sf:</i>					\$0.05
Maintenance					
Depreciation to account for replacement of fans every 10 years	%	10%	\$5,000	\$500	
<i>Subtotal: Completion Report:</i>					\$500
<i> \$/sf:</i>					\$0.01
Estimated Total Annual Costs					\$5,400
<i>Estimated capital costs, per square foot:</i>					\$0.09

Notes

Refer to Table 1.

Abbreviations

DTSC: California Environmental Protection Agency, Department of Toxic Substances Control

ea: each

kW-hr: kilowatt-hour

mo: month

sf: square feet

SSD: sub-slab depressurization

yr: year

Table 3
Preliminary Long-Term Annual Cost Estimate for Parcel G Retail and Residential
Sub-Slab Depressurization (SSD) System in New Slab-on-Grade Building, With Sub-Slab Liner
Brooklyn Basin Parcels F and G, Oakland, California

Item	Estimated Costs				
	Unit	Quantity	Unit Cost	Line Cost	Sub-Totals
Design Basis					
Air district permitting with Bay Area Air Quality Management District					
Annual permit-to-operate					
Permit-to-operate includes semi-annual monitoring					
Regulatory oversight of long-term SSD activities by DTSC					
Total building footprint (from 10/31/2013 architectural plan)	sf	65,311			
Permitting and Fees					
Complete air district annual permit-to-operate form	yr	1	\$500	\$500	
Air district annual permit-to-operate fee	yr	1	\$1,500	\$1,500	
<i>Subtotal: Permitting and Fees:</i>					\$2,000
<i>\$/sf:</i>					\$0.03
Operation and Monitoring					
Electrical power for SSD fans	kW-hr	10,000	\$0.15	\$1,500	
SSD Semi-annual monitoring / recordkeeping	day	1	\$800	\$800	
SSD Semi-annual sample analysis (two samples per blower per year)	ea	2	\$300	\$600	
<i>Subtotal: Operation and Monitoring:</i>					\$2,900
<i>\$/sf:</i>					\$0.04
Maintenance					
Depreciation to account for replacement of fans every 10 years	%	10%	\$5,000	\$500	
<i>Subtotal: Completion Report:</i>					\$500
<i>\$/sf:</i>					\$0.01
Estimated Total Annual Costs					\$5,400
<i>Estimated capital costs, per square foot:</i>					<i>\$0.08</i>

Notes

Refer to Table 1.

Abbreviations

DTSC: California Environmental Protection Agency, Department of Toxic Substances Control

ea: each

kW-hr: kilowatt-hour

mo: month

sf: square feet

SSD: sub-slab depressurization

yr: year

Comments and Responses to Phase 3 Cost Estimates

Earl,

Our responses to your responses are provided below. We have inserted our original comments for clarification.

The following are responses to comments received from Mark Arniola of the City of Oakland on 29 May 2014. The assumptions in the cost estimates were based on the following:

13. Our comments on the initial estimate also included the fact that the estimate for the annual DTSC oversight \$3,000 seems light. The annual DTSC oversight is the same in the revised estimate (\$3,000).

EKI Response to Comment No. 13

- a. *The DTSC oversight cost estimates were provided by Karen Toth of DTSC at a meeting held in May 2014.*

18. Response Plan design calls for monthly monitoring during the first 6 months and quarterly monitoring of vapor system thereafter. Phase 2 costs should include the 6 months of initial monitoring. Annual costs are provided for semi-annual monitoring only and should be revised to quarterly monitoring. Also, annual costs are based on one stack/parcel. As stated in item 3, to be conservative, design should be based on Tier 1 which requires a stack for every 2,500 ft² of building foundation (12+ stacks at Parcel F and 22+ stacks at Parcel G). Stack sampling included in the annual estimate should be revised to reflect the Tier 1 requirements.

EKI Response to Comment No. 18

- a. *As discussed above, the vapor mitigation plans in the Response Plan are not being used as the basis for the current cost estimate. The current cost estimate is based upon recent EKI experience with the governmental agencies that will be overseeing the Brooklyn Basin project. Stack sampling is not required for the system used as the basis for the cost estimate.*

Additional Comments Received 30 May 2014 via email from Mark Arniola

- 1a. I just noticed that a term for the Phase 3 annual costs has not been addressed in the cost estimate or the First Amendment. Assigning a term can be difficult since some of the monitoring (cap inspections, vapor barrier inspection/testing, etc.) will likely be a DTSC requirement for an unknown period of time. I would propose 30 years which I believe is a number used by DTSC for calculating financial assurance for O&M.

EKI Response to Additional Comment No. 1

- a. *The term has been changed to 30 years.*

conduits in a manner that reduces the risk of vapor intrusion. Such provisions may include construction of the elevator on an exterior wall of the building (rather than interior, central entrance), sealing the base of the elevator, and installing cutoff walls where utility lines enter buildings.” This implies that additional consideration, above and beyond standard building practices, are required to mitigate vapor movement. Please confirm that an additional effort at sealing will not be required by the design engineer. (SEE d. Below)

- d. *Since all parking garages require either natural or mechanical ventilation, we believe the ventilation will be adequate for VI mitigation for the overlying units. Enclosed occupied spaces in parking garages (e.g., occupied ticket booths) require separate ventilation by code. Consistent with this, page 77-11 of the RP indicates: “It is expected that some of the structures at the Project Area will include podium level parking garages that are open to ambient air. As these podium level spaces are not permanently occupied and are vented, VCS components are not required for these areas.” Nonetheless, the estimated costs assume that the permeable vented gravel layer and vent piping extend beneath the parking areas; thus, active mitigation is conservatively provided there beyond the requirements of the response Plan, just without a sub-slab liner. The gravel will extend beneath any elevator pits or other potential vertical conduits.*

2. Costs for utility cut-off walls should be included.

EKI Response to Comment No. 2

- a. *An additional \$3,000 (\$1,000 per building) has been included for the costs of constructing utility cut-off walls.*

Pacific Edge Response: It looks like you added \$3,000 for Parcel F Vapor Construction and \$10,000 for Parcel G Vapor Construction. Are these numbers correct?

See new tables – now \$1500 per parcel

3. Response plan breaks design into Tier 1, 2, and 3. To be conservative, costs should be based on Tier 1 which requires pipes 25 feet on center and a riser for every 2,500 ft² of building foundation. The costs provided are based on pipes 50 feet on center and one riser for 30,405 ft² of building foundation (Parcel F) and one riser for 55,311 ft² of building foundation (Parcel G). FYI, the design utilized for the cost estimate does not meet Tier 2 standards either – 40 feet on center, one riser every 7,000 ft² building.

EKI Response to Comment No. 3

- a. *Given the fact that the design and construction of vapor controls has progressed since the time of the preparation of the Response Plan, the costs are based on current EKI experience with similar systems reviewed and approved by DTSC for similar sites. The tiered systems described in the Response Plan are for passive venting*

systems; pipe spacing does not need to be as close for the proposed systems described in the cost estimate using motorized fan for depressurization.

4. Response plan calls for carrier fabric to overlap foundation members. Costs do not appear to include the carrier fabric.

EKI Response to Comment No. 4

a. The system proposed in the cost estimate includes this item.

5. Costs are provided for 6" aggregate layer. Our experience is 8" is standard with 4" pipe.

EKI Response to Comment No. 5

a. A thickened gravel layer (e.g., 8-inch) may be necessary in the immediate vicinity of the pipe for construction, but a 6-inch gravel layer is more than adequate for the permeable venting layer below the floor an active SSD system. The 6-inch layer is consistent with current EKI designs being installed on similar structures in the San Francisco Bay area.

6. \$4,000 for smoke testing 30,405 ft² of liner at Parcel F and \$4,000 for smoke testing 55,311 ft² of liner at Parcel G seems light.

EKI Response to Comment No. 6

a. With Liquid Boot/Geoseal liner, costs for smoke testing are included in the liner construction costs. The \$4,000 line item is for 3rd party certification of the smoke testing, and we believe is adequate for buildings this size. We'll edit the line item text to reflect this is just the 3rd party observation/certification.

Pacific Edge Response: Does the 3rd party certification include multiple mobilizations, oversight during installation of the SSD system and liner, thickness testing including passive tests and test patches, and reporting? Yes

7. \$10,000 for design seems light.

EKI Response to Comment No. 7

a. We anticipate design details and specifications will be similar to other EKI active sub-slab depressurization designs, limiting SSD design costs for this project. Nonetheless, we have increased this to \$20,000 per building to provide more capacity and more coordination with the architect and contractor, if needed.

8. Bidding is not included. Why?

EKI Response to Comment No. 8

a. A cost line item was not included for bidding a sub-slab vapor extraction system as it was assumed that the plans and specifications for the extraction system would be incorporated into the bid set. Furthermore it is assumed that the Parcel Developer

would request comprehensive bids from qualified General Contracting firms for the building in total and that item may or maybe not be a referenced cost item in the bid.

9. \$10,000 for the SMP Pre-Construction Report seems light. In the original cost estimate (April 11, 2014), this line item stated Pre-Construction Report only. Our comments to the original estimate included 1) that we thought the \$10,000 proposed for the Pre-Construction Report was light and 2) we asked that costs be included for the SMP. It looks like SMP was added to the Pre-Construction Report and the cost did not change. These are 2 separate documents.

EKI Response to Comment No. 9

- a. *These reports are based on established templates with DTSC and are really a repackaging of information generated for other purposes. We believe these costs are adequate.*

Pacific Edge Response: Per the Parcel F&G IP, it appears that ZOHP is preparing a SMP for the entire project and a separate SMP will not be prepared by the developer of Parcel F&G. Is this correct? If so, SMP should be removed from the line item to avoid confusion in the future. There is a site wide template, but there will need to be a specific plan for each parcel.

It is possible that Parcel F and G will be developed by different developers at different times. Therefore, separate Pre-Construction Reports may be required. The current estimate assumes one report. Also, depending on schedule, the Parcel F or G Pre-Construction Report may be the first and as a result there will be some back and forth with DTSC figuring out what they want, similar to the process for the F&G IP. Also, the developer's consultant will be the one "repackaging" EKI information and as a result there may be some extra costs to "re-create the wheel". A cost of \$20,000 per parcel would represent an appropriate estimate. EKI believes the costs in the estimate are adequate, however, to alleviate the concerns of the City, an additional \$10,000 has been allocated to this category.

10. Response Plan design calls for perimeter exterior grade beam vents. It does not appear that costs are included for these vents.

EKI Response to Comment No. 10

- a. *Exterior grade beam vents are not needed with the active SSD systems used for the cost estimate.*

11. Costs for Legal Documents and DTSC Oversight of \$25,000 each have been added to the most recent cost estimate (May 2, 2014). It appears that this has been added based on our preliminary comments on the initial estimates (April 11, 2014). There is no basis provided for these estimates. We discussed these costs with Leah and she indicated that based on her experience the costs appeared light.

EKI Response to Comment No. 11

a. *The DTSC oversight cost estimates were provided by Karen Toth of DTSC at a meeting held in May 2014.*

12. Our comments on the initial estimate also included the fact that there are no costs for cover soil or marker fabric. The revised estimate also does not have costs for cover soil or marker fabric.

EKI Response to Comment No. 12

a. *Cover soil and marker fabric will be in place at the perimeter of the site at the time the parcels are transferred from ZOHP to developer.*

Pacific Edge Response: Is this addressed in the DA Amendment? It is not in the latest version of the Technical Addendum. *This is described in the IP.*

14. Our comments on the initial estimate also included the observation that there is no line item for handling of impacted soil during during construction. In the Technical Amendment, ZOHP proposed to accept up to 500 yd³ of contaminated soil during Phase 2. A line item cost should be provided for this.

EKI Response to Comment No. 14

a. *Consistent with the obligations set forth in the Technical Addendum to First Amendment to Development Agreement in Section 13 Remediation During Construction, ZOHP retains the responsibility to handle impacted soil incurred during the course of construction.*

15. EKI should comment on whether the data from the proposed post-excavation soil gas survey is going to be sufficient as a basis for the design of the sub slab vapor barrier/vent.

EKI Response to Comment No. 15

a. *EKI believes that the post-active remediation soil gas survey will provide data that is sufficient for the design of vapor control systems. The scope of the survey will be approved by DTSC for this purpose.*

16. Phase 2 costs should include line item for dust/health and safety monitoring during construction.

EKI Response to Comment No. 16

Dust/health and safety monitoring are part of any normal construction work. There are no anticipated extra ordinary costs associated with environmental issues during the redevelopment construction on Parcels F and G.

17. Phase 2 costs should include line item for treatment of groundwater if dewatering is a reasonable component of construction.

EKI Response to Comment No. 17

- a. *Consistent with the obligations set forth in the Technical Addendum to First Amendment to Development Agreement in Section 13 Remediation During Construction, ZOHP retains the responsibility to handle impacted groundwater incurred during the course of construction.*

Pacific Edge Response: The TA only addresses contaminants in excess of remediation goals. The IP states that groundwater will only be remediated if FHP is encountered so contamination is likely in groundwater. Construction de-watering will likely have COCs (above or below remediation goals) that prevent discharge without treatment. It is recognized that a permit to discharge is required for normal construction; however, the treatment of groundwater (above or below remediation goals) is considered extraordinary and should be addressed in the TA or as a line item cost. ZOHP will take responsibility for the additional cost for disposing of groundwater generated during construction activities due to contamination from elevated hazardous chemical constituents that are a result of the releases at the site (not including silt, total dissolved solids and other physical parameters).

19. A factor should be applied to the sub-contracted work to address Davis-Bacon/prevaling wage requirements. This could be fairly significant for the liquid boot/vent system installation.

EKI Response to Comment No. 19

- a. *There is an existing Project Labor Agreement for the Brooklyn Basin project and the estimates of all costs are assumed to comply with prevailing wage. The Liquid Boot/Geoseal installers can be union and those costs are accounted for in the estimate.*

Pacific Edge Response: Please verify that the costs are based on prevailing wage. EKI contacted Liquid Boot and Geoseal. Both quoted per square foot costs in the \$5 to \$6 range assuming union labor. EKI has used \$7 psf in the estimate and considers this more than adequate both to cover the prevailing wage issue and as an additional buffer for other unforeseen construction issues.

Schedule 5.7.2
Form of Secured Remediation Funds Escrow Agreement

[See attached]

**AGREEMENT REGARDING REMEDIATION FUNDS ESCROW ACCOUNT
(Brooklyn Basin – Affordable Housing Parcels)**

This AGREEMENT REGARDING REMEDIATION FUNDS ESCROW ACCOUNT (this “Agreement”) is made and entered into on _____, 2014 (the “Effective Date”), by and among Zarsion-OHP I, LLC, a California limited liability company (“ZOHP”), the City of Oakland, a municipal corporation (the “City”), and the First American Title Insurance Company (“Escrow Agent”) with reference to the following facts and understandings.

RECITALS

A. The City and ZOHP (as successor-by-assignment to Oakland Harbor Partners, LLC) have entered into that certain Development Agreement for the real property commonly referred to as “Brooklyn Basin” (the “Original D.A.”), as amended by the terms of that certain First Administrative Amendment to Development Agreement entered into concurrently with the Effective Date (the “First Amendment to D.A.”). The Original D.A., as amended by the First Amendment to D.A. is referred to herein as the “Development Agreement”. Capitalized terms not defined herein shall have the meaning ascribed to them in the Development Agreement.

B. ZOHP has certain obligations under the Development Agreement with respect to the Remediation of the Affordable Housing Parcels, including, without limitation, (1) the completion of the Phase 1 Remediation work set forth in the Implementation Plan for Parcels F, G1 and G2, Brooklyn Basin Project, Oakland, California, dated April 30, 2014, as amended and supplemented by the terms of Schedule 5.6.2 to the First Amendment to D.A (collectively, the “Phase 1 Remediation Work”), (2) the payment of the costs associated with the Phase 2 Remediation work to be completed by the City or its transferee (the “Phase 2 Remediation Work”), and (3) the payment of the costs associated with the Phase 3 activities to be completed by the City or its transferee (the “Phase 3 Remediation Work”).

C. The City and ZOHP have approved estimates of \$1,537,000 for the Phase 1 Remediation Work (the “Phase 1 Remediation Estimate”), \$1,080,000 for the Phase 2 Remediation Work (the “Phase 2 Remediation Estimate”), and \$308,730 for the Phase 3 Remediation Work (the “Phase 3 Remediation Estimate”), respectively.

D. Exhibit D to the Original D.A. and Section 5.7.2 of the First Amendment to the D.A. require ZOHP to deposit funds in the amount of \$3,657,163 (calculated as 125% of the sum of the Phase 1 Remediation Estimate, the Phase 2 Remediation Estimate, and the Phase 3 Remediation Work) into an interest-bearing escrow account as security for ZOHP’s performance of the Phase 1 Remediation Work and the payment of the Phase 2 Remediation and Phase 3 Remediation costs (along with interest accrued thereon, the “Secured Remediation Funds”). The parties have previously opened Escrow Account No. 620157-REM (the “Escrow Account”) with Escrow Agent and ZOHP has deposited the Secured Remediation Funds into the Escrow Account. Section 3.D.3 of

Exhibit D to the Original D.A. requires ZOHP to increase the amount of Secured Remediation Funds each year per increases in certain indexes.

E. The parties have entered into this Agreement to provide for the maintenance of the Secured Remediation Funds and the terms on which they shall be released from the Escrow Account.

AGREEMENT

Now, therefore, for good and valuable consideration, the receipt and adequacy of which are acknowledged, the parties agree as follows:

1. Allocation and Purpose of the Secured Remediation Funds; Annual Increases. The Secured Remediation Funds are allocated (a) \$1,921,250 to the Phase 1 Remediation Work (the "Phase 1 Remediation Funds"), (b) \$1,350,000 to the Phase 2 Remediation Work (the "Phase 2 Remediation Funds"), and (c) \$385,913 to the Phase 3 Remediation Work (the "Phase 3 Remediation Funds"). The purpose of the Phase 1 Remediation Funds is to ensure that ZOHP completes Phase 1 Remediation Work on the Affordable Housing Parcels. The purpose of the Phase 2 Remediation Funds and Phase 3 Remediation Funds is to ensure payment of the costs associated with the Phase 2 Remediation Work and Phase 3 Remediation Work.

Pursuant to Section 3.D.3 of Exhibit D to the Original D.A., ZOHP will deposit additional Secured Remediation Funds into the Escrow Account on each annual anniversary of the Effective Date (which increases shall be based on the Remediation work not completed as of the anniversary date).

2. Term of this Agreement. Subject to the provisions of Sections 3, 4 and 5 below, Escrow Agent shall retain the Secured Remediation Funds in the Escrow Account until that date that is five (5) years after the Effective Date (the "Expiration Date").

3. Phase 1 Remediation Funds.

As used in this Agreement, the term "Remediation Costs" means costs incurred by ZOHP or costs incurred by the City, each in the performance of (a) the Phase 1 Remediation Work or (b) other work pursuant to Remediation Order as defined in the First Amendment to D.A.

3.1 Disbursement of Phase 1 Remediation Funds to City.

3.1.1 Phase 1 Remediation Costs Incurred by the City. The following procedures are for the sole purpose of establishing the City's right to utilize the Secured Remediation Funds and nothing in this Agreement shall affect or amend the parties' rights and obligations under the Development Agreement.

The City shall have the right to be reimbursed from the Phase 1 Remediation Funds for any Remediation Costs incurred by the City in performing the following Remediation work, if the City elects (in its sole and absolute discretion) to complete such Remediation work after ZOHP's failure to timely commence/complete the same ("Reimbursement Work"):

(a) any Remediation work required to be performed by ZOHP pursuant to 5.6.1 and 5.6.2 of the First Amendment to D.A. pursuant to the Improvement Schedule set forth in the First Amendment to D.A.;

(b) any Remediation work required by a Remediation Order (as defined in the First Amendment to D.A.).

3.1.2 City Monthly Accountings and Reimbursement of Phase 1 Remediation Funds. If the City has the right and has elected to perform Reimbursement Work as set forth above, the City shall provide ZOHP and Escrow Agent with monthly accountings of the Remediation Costs incurred by the City in performing such Reimbursement Work (each, a "City Monthly Accounting"). Each City Monthly Accounting shall be supported by reasonable back up, including an explanation of how the included costs qualify as Remediation Costs and copies of contracts, invoices, and proof of payment, if applicable. The City Monthly Accounting shall further instruct Escrow Agent to disburse Phase 1 Remediation Funds to the City in an amount equal to the Remediation Costs for that month as indicated on the City Monthly Accounting, subject to ZOHP's approval or deemed approval as further set forth below.

ZOHP shall review each City Monthly Accounting and provide the City and Escrow Agent with written notice of the ZOHP's approval or disapproval of such City Monthly Accounting within ten (10) business days after receipt thereof. If ZOHP approves the City Monthly Accounting, Escrow Agent shall disburse Phase 1 Remediation Funds to the City pursuant to the City's instructions within five (5) business days after Escrow Agent's receipt of ZOHP's approval. Any ZOHP disapproval shall be in a written notice delivered to the City and shall include a specific description of the basis of the disapproval and shall identify any included Remediation Costs which are not disputed (approved) by ZOHP. If ZOHP approves the City Monthly Accounting in part and disapproves the City Monthly Accounting in part, Escrow Agent shall disburse the undisputed portion of the Phase 1 Remediation Funds to the City pursuant to the City's instructions. If ZOHP fails to provide a written approval or disapproval of any City Monthly Accounting to the City and Escrow Agent within the ten-day review period, ZOHP shall be conclusively deemed to have approved such City Monthly Accounting, and Escrow Agent may rely on such deemed approval to disburse the Phase 1 Remediation Funds in accordance with the City's instructions. If ZOHP timely disapproves of any City Monthly Accounting, the parties shall meet and confer for a period not to exceed ten (10) business days in an effort to resolve ZOHP's disapproval. If the parties are able to timely resolve ZOHP's disapproval, the City shall, within ten (10) business days after such resolution, provide ZOHP with the approved City Monthly Accounting and instructions, modified as applicable to incorporate the parties' agreement

to address ZOHP's prior disapproval. If the parties are unable to resolve ZOHP's disapproval of any City Monthly Accounting within the meet and confer period, the parties agree to submit the matter to binding arbitration in accordance with the procedures in Section 9.

3.2 Interim Disbursements of Phase 1 Remediation Funds to ZOHP.

3.2.1 Annual Reimbursement Requests. Under the Development Agreement, ZOHP has the right to submit requests to the City for reimbursement no more than once each year in an amount equal to ninety percent (90%) of the Remediation Costs incurred by ZOHP for that scope of work or task as outlined in the Implementation Plan, Section 5.6.2 of the First Amendment to the D.A. and the approved cost estimate (which estimated amounts shall be increased pursuant to Section 1 and Section 3.D.3 of Exhibit D to the Original D.A.) (each, a "ZOHP Phase 1 Reimbursement Request"). Any ZOHP Phase 1 Reimbursement Request shall be supported by reasonable back up, including copies of any applicable Remediation Order, an explanation of how the included costs qualify as Remediation Costs and copies of contracts, invoices, proof of payment and lien releases. The ZOHP Phase 1 Reimbursement Request shall further instruct Escrow Agent to disburse Phase 1 Remediation Funds to ZOHP in an amount equal to the Remediation Costs indicated in the ZOHP Phase 1 Reimbursement Request, subject to City's approval or deemed approval as further set forth below.

The City shall have the right to approve, partially approve, or reject any such ZOHP Phase 1 Reimbursement Request in the City's sole and absolute discretion. In no event will ZOHP be entitled to Phase 1 Remediation Funds in excess of the funds budgeted for the task or scope of work completed, even if ZOHP's actual expenses or costs are in excess of those budgeted; and any such ZOHP Phase 1 Reimbursement Request shall account for the requirement to retain 25% of the total Phase 1 Remediation Funds deposited into the Escrow Account as Secured Remediation Funds after completion of the Phase 1 Remediation Work as set forth in Section 3.2.2 below. If the City elects to approve or partially approve any ZOHP Phase 1 Reimbursement Request, within five (5) business days after such approval, ZOHP and the City shall instruct Escrow Agent in writing to disburse Phase 1 Remediation Funds in an amount equal to the approved ZOHP Phase 1 Reimbursement Request to ZOHP. If the City disapproves of any portion of ZOHP's Phase 1 Reimbursement Request, the parties shall meet and confer for a period not to exceed ten (10) business days in an effort to resolve the City's disapproval. If the parties are able to timely resolve the City's disapproval, the City and ZOHP shall instruct Escrow Agent in writing to disburse Phase 1 Remediation Funds modified as applicable to incorporate the parties' agreement to address the City's prior disapproval. If the City fails to provide a written approval or disapproval of a ZOHP Phase 1 Reimbursement Request within ten (10) business days of ZOHP's submittal, the City shall be conclusively deemed to have approved the ZOHP Phase 1 Reimbursement Request, and Escrow Agent may rely on such deemed approval to disburse the Phase 1 Remediation Funds in accordance with the ZOHP Phase 1 Reimbursement Request.

3.2.2 Upon Completion of the Phase 1 Remediation Work.

ZOHP shall provide the City with copies of any approval to proceed with construction letter from DTSC (“APC Letter”), as defined in the Process Letter, applicable to the Affordable Housing Parcels. Within five (5) business days after ZOHP’s (a) completion of the Phase 1 Remediation Work, (b) delivery of copies of the final APC Letter for the Affordable Housing Parcels to the City, and (c) the satisfaction of any conditions precedent to the start of construction identified in said APC Letter (not otherwise included in the Phase 2 Remediation Work), ZOHP and the City shall instruct Escrow Agent in writing to disburse to ZOHP a portion of the remaining Phase 1 Remediation Funds equal to the remaining balance of the Phase 1 Remediation Funds less an amount equal to twenty-five percent (25%) of the total Phase 1 Remediation Funds deposited into the Escrow Account (including amounts deposited under the annual increases per Section 3.D.3 of Exhibit D to the Original D.A.). The retained 25% shall continue to secure ZOHP’s obligation to perform any Remediation work required under any Remediation Order following the completion of the Phase 1 Remediation Work.

3.3 Final Disbursement of Phase 1 Remediation Funds.

3.3.1 Upon Completion of the Phase 2 Remediation Work.

ZOHP and the City shall instruct Escrow Agent in writing to disburse the remaining Phase 1 Remediation Funds to ZOHP within five (5) business days after the disbursement of Phase 2 Remediation Funds pursuant to Section 4.

3.3.2 Expiration Prior to Closure. If Phase 1 Remediation Funds

remain in the Escrow Account as of the Expiration Date, ZOHP and the City shall instruct Escrow Agent in writing to disburse the remaining Phase 1 Remediation Funds as follows:

(a) to ZOHP, if ZOHP delivers a Substitute LOC (defined below) to the City prior to the Expiration Date; and otherwise

(b) to the City, to be held and distributed to ZOHP or the City pursuant to Sections 3.1, 3.2 and 3.3.1 above.

As used herein, the term “Substitute LOC” shall mean a stand-by letter of credit in an amount equal to the Phase 1 Remediation Funds remaining in Escrow as of the Expiration Date which is issued in favor of the City to secure ZOHP’s Phase 1 Remediation obligations for the Affordable Housing Parcels. The Substitute LOC shall be:

- i. For a period of at least one (1) year, which term may be renewed by ZOHP;
- ii. Issued by a bank reasonably approved by the City;
- iii. Provide that the guaranteed funds shall be paid to the City if ZOHP does not obtain Closure of the Affordable Housing Parcels prior to the expiration of the Substitute LOC;

- iv. Provide that the guaranteed funds shall be paid to the City or ZOHP pursuant to Section 3.1, 3.2 and 3.3.1;
- v. Terminate upon the later to occur of (A) the completion of the Phase 1 Remediation Work, or (B) the disbursement of the Phase 2 Remediation Funds; and
- vi. Be in a form otherwise reasonably acceptable to the City.

4. Phase 2 Remediation Funds.

4.1 Interim Disbursements.

4.1.1 To the City or Transferee. The City or any subsequent owner of one or more of the Affordable Housing Parcels may submit a demand to ZOHP for a reimbursement of costs incurred prior to the Expiration Date and associated with obtaining (a) DTSC's approval of a Pre-Construction Plan (as defined in the Process Letter) or (b) DTSC's issuance of a Certificate of Completion under Health & Safety Code sections 25398.15 and 25264, including without limitation costs of installing the institutional controls (each, a "Phase 2 Reimbursement Request"). Each Phase 2 Reimbursement Request shall be supported by reasonable back up, including copies of any applicable plans, an explanation of how the included costs are necessary for the completion of the Phase 2 Remediation Work and copies of contracts, invoices, proof of payment and lien releases. The Phase 2 Reimbursement Request shall further instruct Escrow Agent to disburse Phase 2 Remediation Funds to the requesting party in an amount equal to the request, subject to ZOHP's approval or deemed approval as further set forth below.

ZOHP shall review each Phase 2 Reimbursement Request and provide the requesting party and Escrow Agent with written notice of ZOHP's approval or disapproval of such Phase 2 Reimbursement Request within ten (10) business days after receipt thereof. If ZOHP approves the Phase 2 Reimbursement Request, Escrow Agent shall disburse Phase 2 Remediation Funds to the requesting party pursuant to the requesting party's instructions within five (5) business days after Escrow Agent's receipt of ZOHP's approval. Any ZOHP disapproval shall be in a written notice delivered to the requesting party and Escrow Agent, and shall include a specific description of the basis of the disapproval and shall identify any included costs which are not disputed (approved) by ZOHP. If ZOHP approves the Phase 2 Reimbursement Request in part and disapproves the Phase 2 Reimbursement Request in part, Escrow Agent shall disburse the undisputed portion of the Phase 2 Remediation Funds to the requesting party pursuant to the requesting party's instructions. If ZOHP fails to provide a written approval or disapproval of any Phase 2 Reimbursement Request to the requesting party and Escrow Agent within the ten-day review period, ZOHP shall be conclusively deemed to have approved such Phase 2 Reimbursement Request, and Escrow Agency may rely on such deemed approval to disburse the Phase 2 Remediation Funds in accordance with the requesting party's instructions. If ZOHP timely disapproves of any Phase 2 Reimbursement Request, the parties shall meet and confer for a period not to exceed ten (10) business days in an effort to resolve ZOHP's disapproval. If the parties are able to

timely resolve ZOHP's disapproval, the parties shall, within ten (10) business days after such resolution, provide Escrow Agent with the approved Phase 2 Reimbursement Request, modified as applicable to incorporate the parties' agreement to address ZOHP's prior disapproval. If the parties are unable to resolve ZOHP's disapproval of any Phase 2 Reimbursement Request within the meet and confer period, either party may submit the matter to binding arbitration in accordance with the provisions of Section 9 of this Agreement.

4.1.2 Soil Cap Disbursement to ZOHP. If the City or its transferees do not complete the following prior to the date that is six (6) months prior to the Expiration Date ("Commencement of Construction"):

(a) obtain DTSC's approval of a Pre-Construction Plan for all of the Affordable Housing Parcels; and

(b) commence construction on all of the Affordable Housing Parcels of the improvements shown within the approved Pre-Construction Plans,

then, on or before such the date that is six (6) months prior to the Expiration Date, ZOHP and the City shall instruct Escrow Agent in writing to disburse

(y) Phase 2 Remediation Funds to ZOHP in an amount equal to ZOHP's and the City's reasonable estimate (based on the lowest responsible bid submitted by at least three licensed contractors under competitive bidding) of the cost to complete the Two Foot Soil Cap option set forth in Section III(B)(2) of the Process Letter (including the preparation of the Pre-Construction Plan, the Cap Installation Report, and regulatory oversight fees); and

(z) the balance of the Phase 2 Remediation Funds to the City or its transferee(s).

ZOHP shall be required to use the funds disbursed pursuant to Section 4.1.2(y) to install the two foot cap on the portion of the Affordable Housing Parcels for which the City (or its transferees) have not achieved the Commencement of Construction, submit a Cap Installation Report regarding the same, and obtain a Certificate of Completion under sections 25398.15 and 25264 of the Health & Safety Code from DTSC.

4.2 Final Disbursement. If a No Further Action Letter has been obtained for either of the Affordable Housing Parcels prior to the Expiration Date, then within five (5) business days after the issuance of such No Further Action Letter, ZOHP and the City shall instruct Escrow Agent in writing to disburse the remaining Phase 2 Remediation Funds applicable to such Affordable Housing Parcel to ZOHP, along with any remaining Phase 1 Remediation Funds retained in the Escrow Account.

5. Phase 3 Remediation Funds. ZOHP and the City shall instruct Escrow Agent in writing to disburse the Phase 3 Remediation Funds to the City within three (3) business days after the Effective Date.

6. Disbursements. Escrow Agent's obligation to disburse any Secured Remediation Funds shall only arise upon Escrow Agent's receipt of either (a) escrow instructions from the City or ZOHP along with approvals or deemed approvals (i.e., expiration of the specified review period without a written approval or disapproval submitted by the other party) of the other party, (b) joint escrow instructions from ZOHP and the City, or (c) a final decision by an arbitrator or final judgment by a court of competent jurisdiction. Under no circumstances shall Escrow Agent be requested to exercise discretion about the propriety of disbursing any Secured Remediation Funds. If either ZOHP or the City fails to submit escrow instructions or approvals to Escrow Agent as required by Sections 3, 4 and 5 above, the City or ZOHP, as applicable, may initiate binding arbitration pursuant to the provisions of Section 9, below, to compel specific performance of the defaulting party's obligation to deliver such escrow instructions or approvals consistent with this Agreement and the Development Agreement.

7. Conflicting Instructions & Disputes. If Escrow Agent becomes aware of any conflicting demands or claims concerning the Escrow Account, Escrow Agent shall have the right to discontinue all further acts on Escrow Agent's part until the conflict is resolved to Escrow Agent's satisfaction. Escrow Agent has the right at its option to file an action in interpleader requiring the parties to resolve their claims/rights pursuant to Section 9 (if applicable) or litigation. If such an action is filed, ZOHP and the City hereby agree (a) to jointly and severally pay Escrow Agent's cancellation charges, costs and reasonable attorneys' fees associated with such action and (b) that Escrow Agent is fully released and discharged from all further obligations under the Escrow Account. If an action is brought against Escrow Agent involving the Escrow Account, ZOHP and the City agree to jointly and severally indemnify, defend, and hold Escrow Agent harmless against liabilities, damages and costs incurred by Escrow Agent (including reasonable attorneys' fees and costs) except to the extent that such liabilities, damages and costs were caused by the negligence or wilful misconduct of Escrow Agent. If ZOHP or the City is the prevailing party in such action involving this Escrow Account and/or Escrow Agent, in addition to all other remedies available to such prevailing party at law or in equity, the prevailing party shall be entitled to a reimbursement from ZOHP or the City (as applicable) of the expenses incurred pursuant to the preceding indemnity obligation.

Escrow Agent shall not be responsible or liable in any manner whatsoever for the sufficiency or correctness as to form, manner of execution or validity of any documents deposited in escrow, nor as to the identity, authority or rights of any person executing the same. Escrow Agent's duties hereunder shall be limited to the safe keeping of such money and documents received by Escrow Agent, and for the disposition of the same in accordance with the written instructions accepted by Escrow Agent. Escrow Agent shall not be required take any action in connection with the collection or maturity of any obligations deposited in this escrow, unless otherwise instructed. Escrow Agent shall not be liable for any act or omissions done in good faith, nor for any claims, demands, or

damages made, claimed or suffered by any party to this Agreement, excepting such as may arise through or be caused by Escrow Agent's negligence or wilful misconduct.

8. Escrow Agent's Fee. In consideration for the services rendered hereunder by Escrow Holder, ZOHP shall pay Escrow Agent an annual escrow fee of \$1,850,000. Such annual escrow fee shall be paid within three (3) business days after the Effective Date and each anniversary thereof during the term. If this Agreement terminates as a result of Escrow Agent's disbursement of the entirety of the Secured Remediation Funds pursuant to Sections 3, 4 and 5 above, the final annual fee shall be prorated based on a 360 day year and the portion of such fee applicable to the time period after the termination of this Agreement shall be remitted to ZOHP.

9. Binding Arbitration. Should the parties be unable or unwilling to resolve any dispute, any party may give written notice to the other parties and elect to have the matter resolved by final and binding arbitration in accordance with the rules and procedures of the arbitrator selected in accordance with this Section 9. The party seeking arbitration shall set forth in its notice the particulars of its claims and shall state with specificity the issue(s) to be submitted to arbitration and the relief sought. Within thirty (30) days of the date of the election to arbitrate, the parties shall select a single, mutually agreeable arbitrator. If the parties are unable to agree, they shall request that the Judicial Arbitration and Mediation Service, Inc. ("JAMS"), if such entity is then in existence, appoint an arbitrator in accordance with then current procedures. The arbitrator must be a retired judge of the Superior Court of California or the Court of Appeal of California, or a retired judge of the United States District Court sitting in California. If JAMS is not in existence, the Presiding Judge of the Alameda County Superior Court will appoint an arbitrator in accordance with its then current procedures.

9.1 The rules and procedures for arbitration shall be as follows:

9.1.2 The arbitrator must be selected and arbitration must be conducted within a reasonable time, but in no event later than ninety (90) days after the date upon which the demand for arbitration is filed.

9.1.3 The arbitration proceedings must be conducted in Alameda County, California, at a time and location as agreed to in writing by the parties, or in absence of an agreement, as designated by the arbitrator.

9.1.4 Subject to the same rules pertaining to privileged communications and attorney work product that would apply if the proceeding was filed in the courts of the State of California, the arbitrator shall have the authority to make all decisions regarding the relevance, materiality, and admissibility of all evidence offered at the arbitration. The California Evidence Code shall generally guide the arbitrator in making such decisions.

9.1.5 The arbitrator may issue any remedy or relief, whether provisional or permanent, including but not limited to a default judgment, which the

parties could have obtained under the law applicable in courts of the State of California under the same factual circumstances, and the arbitrator must follow and otherwise employ the standards for issuing such relief as defined by California law; provided, however, that the arbitrator will have no authority or jurisdiction to enter an award, order, or decision for consequential, special, exemplary or punitive damages. The arbitrator may also grant such ancillary relief as is necessary to make effective the award, order, or decision, including the issuance of declaratory relief, compelling specific performance, or any other relief or action permitted by California law.

9.1.6 Each party may conduct discovery as if the matter were pending before a Superior Court of the State of California and the arbitrator will have the full power of the State of California to issue and enforce subpoenas and to award sanctions. Each party will have the right to demand in writing that the other party(ies) provide a list of witnesses it intends to call at the hearing, designating which witnesses will be called as expert witnesses, and a list of documents it intends to introduce at the hearing. The responding party's list(s) must be served personally or by registered or certified mail on the requesting party, with a copy to the arbitrator, at least thirty (30) days before the hearing.

9.1.7 Each party may be represented by counsel.

9.1.8 No later than sixty (60) days following closing of the arbitration hearing, the arbitrator will make an award, order, or decision and issue a written opinion consisting of findings of fact and conclusions of law and setting forth the bases of the award, order, or decision. The arbitrator may include in his or her award, order, or decision pre-award interest and post-award interest at the legal rate where authorized by law. The party against whom the award, order, or decision is made or remedy or relief ordered will have thirty (30) days after receipt of the award, order, or decision to commence and thereafter diligently pursue to completion any action or proceeding in any court of the State of California of appropriate jurisdiction located in the County of Alameda to obtain judicial review of the award, order, or decision. If the award, order, or decision is mailed, it will be deemed to be received within five (5) days after deposit in the mail.

9.1.9 If no such action or proceeding is timely commenced, the award, order, or decision will thereupon immediately become final. The party against whom the award, order, or decision is made or remedy or relief ordered shall within thirty (30) days after the award, order, or decision becomes final make full payment and/or commence and thereafter diligently pursue to completion any other action required by the award, order, or decision. The party in whose favor the award, order, or decision is made may request and obtain from any court of the State of California of appropriate jurisdiction located in the County of Alameda a judgment upon the award, order, or decision rendered by the arbitrator, which may thereafter be entered in the records of said court.

9.1.10 If an action or proceeding is timely filed in any court of the State of California of appropriate jurisdiction located in the County of Alameda to obtain judicial review of the award, order, or decision, the parties will have the right to seek vacation or modification of any portion of the award, order, or decision according to the grounds provided by California law at the time for the vacation or modification of an award, order, or decision in a non-judicial arbitration. The findings of fact of the arbitrator will be binding on all parties and shall not be subject to further review except as allowed by the appeal provisions of this Section 9.1.10.

9.1.11 The arbitrator will be paid a per diem or hourly charge as established at the time of appointment. Each party will bear its own attorneys' fees and costs in presenting its case. All other actual costs of conducting the arbitration, including without limitation the administrative fee and the arbitrator's compensation, will be shared equally.

9.1.12 This arbitration clause shall be interpreted under the arbitration laws of the State of California and not the Federal Arbitration Act, 9 U.S.C. § 1. Except as otherwise provided in this Escrow Agreement or the Development Agreement, any motion, application, complaint or proceeding arising out of or relating to this arbitration clause shall be determined in accordance with the law of the State of California.

9.1.13 Unless otherwise provided in this Escrow Agreement or otherwise agreed in writing, the parties shall continue to perform their respective obligations under the Development Agreement during the pendency of arbitration proceedings.

9.1.14 Except as modified or stated to the contrary in this Section 9, the rules and procedures of the arbitrator in effect at the time of the arbitration will apply to the arbitration procedure.

10. Entire Agreement. This Agreement and the Development Agreement constitute the entire agreement among the parties hereto with respect to the subject matter hereof, and supersede all prior understandings or agreements. To the extent of any conflict between this Agreement and the Development Agreement, the Development Agreement shall control. This Agreement may be modified only by a writing signed by the parties.

11. Assignment and Transfer. The City may freely assign, convey, or otherwise transfer all or any part of the City's rights, benefits or interests under this Agreement, including without limitation any of its interests in all or any part of the Secured Remediation Funds, to any other entity in its sole and absolute discretion. Upon any such assignment, conveyance, or transfer, the City's transferee or assignee shall acquire the City's rights, benefits and interest under that portion of this Agreement and the Secured Remediation Funds assigned, conveyed or transferred by the City, and

thereafter references to the “City” in this Agreement shall refer to said transferee or assignee.

11. Partial Invalidity. If any provision of this Agreement is finally declared by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions of this Agreement shall continue in full force and effect, and to the extent possible, the invalid, void or unenforceable provision shall be replaced by a valid, enforceable provision which most closely achieves the intent of the invalid, void or unenforceable provision.

12. Choice of Law/Venue. This Agreement and each and every related document are to be governed by, and construed in accordance with the laws of the State of California, and any action to interpret or enforce this Agreement shall be submitted to binding arbitration pursuant to Section 9, above, and such arbitration shall occur in Alameda County, unless the parties mutually agree to another venue.

13. Waiver of Covenants, Conditions or Remedies. The waiver by one party of the performance of any covenant, condition or promise, or of the time for performing any act, under this Agreement shall not invalidate this Agreement nor shall it be considered a waiver by such party of any other covenant, condition or promise, or of the time for performing any other act required, under this Agreement.

14. Time of the Essence. Time shall be of the essence as to all dates and times of performance.

15. Attorneys’ Fees. In the event that ZOHP or the City institutes an action or proceeding (including arbitration) for a declaration of the rights of the parties under this Agreement, for injunctive relief, for an alleged breach or default of, or any other action arising out of this Agreement, or the transactions contemplated hereby, or in the event that ZOHP or the City is in default of its obligations pursuant thereto, whether or not suit is filed or prosecuted to final judgment, the nondefaulting party or prevailing party, as between ZOHP and the City, shall be entitled to its actual attorneys’ fees and to any court costs incurred in addition to any other damages or relief awarded.

16. Notices. All notices given pursuant to this Agreement shall be in writing and shall be given by personal delivery, or by United States mail (certified, return receipt requested), or by United States express mail or other established express delivery service (such as Federal Express, DHL and United Parcel Service) (all of the foregoing, a “Delivery Service”), postage or delivery charges prepaid, addressed to the person and address specified below. All notices shall be addressed as follows:

Initial addresses of the parties are:

If to City: City of Oakland
Department of Housing and Community Development
250 Frank Ogawa Plaza, 5th floor
Oakland, CA 94612
Attn: Brooklyn Basin Project Manager

with copy to: Oakland City Attorney's Office
One Frank Ogawa Plaza, 6th Floor
Oakland CA 94612
Attn: Brooklyn Basin attorney

If to ZOHP: Zarsion – OHP I, LLC
c/o Oakland Harbor Partners, LLC
2201 Broadway, Suite 604
Oakland, CA 94612
Attention: Michael Ghielmetti
Telephone: (510) 251-9270

With a Copy to: Stice & Block, LLP
2201 Broadway, Suite 604
Oakland, CA 94612
Attention: Marc Stice
Telephone: (510) 251-1030
Facsimile: (510) 832-2638

If to Escrow Agent: First American Title Company
6683 Owens Drive
Pleasanton, CA 94588
Attention: Diane Burton
Telephone: (925) 738-4050
Facsimile: (866) 6487806
E-mail: dburton@firstam.com

Notices by a party may be given by legal counsel to or the authorized agent of such party. Each party may change the person and address to which notices are to be given, upon written notice to the other party. All notices given pursuant to this Agreement shall be deemed given upon deposit with a Delivery Service, but shall not be deemed to have been received until actual receipt. For the purpose of this Agreement, the term "receipt" shall mean the earliest of any of the following: (i) the date of delivery to the address specified pursuant to this section as shown on the return receipt; (ii) the date of actual receipt by the person or entity specified pursuant to this section; or (iii) in the case of refusal to accept delivery or inability to deliver, the earlier of (A) the date of the first attempted delivery or refusal to accept delivery, (B) the date of the postmark on the

returned envelope, or (C) the date of receipt of notice of refusal or notice of non-delivery by the sending party.

17. Counterparts. This Agreement may be executed in two or more counterparts, with each counterpart being deemed an original and all counterparts, taken together, constituting one document.

[Remainder of this page intentionally left blank]

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first above written.

CITY OF OAKLAND, a municipal corporation

By: _____
City Administrator

Approved as to form and legality:

By: _____
Deputy City Attorney

ZARSION-OHP I, LLC,
a California limited liability company

By: _____

[Print Name and Title]

FIRST AMERICAN TITLE COMPANY,

By: _____

[Print Name and Title]

Schedule 5.7.3
Form of PLL Funds Escrow Agreement

[See attached]

**AGREEMENT REGARDING PLL INSURANCE ESCROW ACCOUNT
(Brooklyn Basin)**

This AGREEMENT REGARDING PLL INSURANCE ESCROW ACCOUNT (this "Agreement") is made and entered into on _____, 2014 (the "Effective Date"), by and among Zarsion-OHP I, LLC, a California limited liability company ("ZOHP"), the City of Oakland, a municipal corporation (the "City"), and the First American Title Insurance Company ("Escrow Agent") with reference to the following facts and understandings.

RECITALS

A. The City and ZOHP (as successor-in-interest to Oakland Harbor Partners, LLC, a California limited liability company) entered into that certain Development Agreement, dated August 24, 2006 for the real property commonly referred to as "Brooklyn Basin" (the "Original D.A.") as amended by the terms of that certain First Amendment to Development Agreement entered into concurrently with the Effective Date (the "First Amendment to D.A."). The Original D.A., as amended by the First Amendment to D.A. is referred to herein as the "Development Agreement". Capitalized terms not defined herein shall have the meaning ascribed to them in the Development Agreement.

B. ZOHP has certain obligations under the Development Agreement with respect to the Remediation of the Affordable Housing Parcels, the Public Open Space, and POS Access, including, without limitation, (1) the purchase of two (2), consecutive, ten (10) year primary and excess Pollution Legal Liability Policies required under Section 5.7.3 of the First Amendment to D.A (the "Primary PLL Policy" and "Excess PLL Policy," respectively), and (2) providing security for the purchase of the second 10-year terms of both the Primary PLL Policy and Excess PLL Policy. The second Primary PLL Policy and the second Excess PLL Policy are collectively referred to herein as the "Second PLL Policies."

C. Concurrently with the execution of this Agreement (1) ZOHP purchased the initial Primary PLL Policy and the initial Excess PLL Policy and (2) ZOHP deposited \$844,056.00 (the "PLL Funds") into Escrow No. 620157-PLL (the "Escrow Account").

(D) The parties have entered into this Agreement to provide for the security of the PLL Funds and the release of the PLL Funds in conjunction with ZOHP's purchase of the Second PLL Policies.

AGREEMENT

Now, therefore, for good and valuable consideration, the receipt and adequacy of which are acknowledged, the Parties agree as follows:

1. Certificates of Deposit. Escrow Agent shall deposit the PLL Funds into a five (5) year certificate of deposit account opened with First American Trust to be held in the name of Escrow Agent for the benefit of the City, Tax ID# 94-6000384 (the "First CD"). All interest earned on the First CD shall accrue for ZOHP's benefit. When the First CD matures, the principal amount of the PLL Funds and accrued interest shall be deposited into the Escrow Account and Escrow Agent shall provide written notice to ZOHP and the City. Within five (5) business days after receipt of such notice, the City shall deliver written instructions to Escrow Agent, with a copy to ZOHP, directing it to:

(a) Deposit the principal amount of the PLL Funds into a second, five (5) year certificate of deposit account opened with First American Trust to be held in the name of Escrow Agent for the benefit of the City (the "Second CD"); and

(b) Disburse the accrued interest to ZOHP.

When the Second CD matures, the principal amount of the PLL Funds and accrued interest shall be deposited into the Escrow Account and Escrow Agent shall provide written notice to ZOHP and the City. Within five (5) business days after receipt of such notice, the City shall deliver written instructions to Escrow Agent, with a copy to ZOHP, directing it to:

(x) Disburse the principal amount of the PLL Funds and accrued interest to ZOHP if ZOHP has previously provided evidence to the City that ZOHP has obtained the Second PLL Policies in accordance with the terms and conditions of the Development Agreement; or

(y) Pay the applicable amount of the principal amount of the PLL Funds to the applicable insurer if ZOHP is using the PLL Funds to obtain the Second PLL Policies and disburse the accrued interest to ZOHP; or

(z) Disburse the principal amount of the PLL Funds to the City if ZOHP has not provided evidence to the City that ZOHP has obtained the Second PLL Policies in accordance with the terms and conditions of the Development Agreement, which funds shall be held by the City in accordance with the Development Agreement.

ZOHP and the City shall execute any documents reasonably required by Escrow Agent to obtain the Second CD.

2. Disbursements; Requirement for Escrow Instructions. If Escrow Agent receives escrow instructions from the City pursuant to Section 1 above, Escrow Agent shall disburse the applicable PLL Funds (or portion thereof) and accrued interest to the

applicable party(ies) pursuant to such escrow instructions within five (5) business days after Escrow Agent's receipt of such escrow instructions.

Escrow Agent's obligation to disburse any PLL Funds or accrued interest shall only arise upon Escrow Agent's receipt of escrow instructions from the City. Under no circumstances shall Escrow Agent be requested to exercise discretion about the propriety of disbursing any PLL Funds or accrued interest. If the City fails to submit escrow instructions to Escrow Agent as required by Section 1 above, or if ZOHP objects to escrow instructions submitted by the City, the City or ZOHP, as applicable, may submit the matter to binding arbitration in accordance with the procedures in Section 9.

3. Conflicting Instructions & Disputes. If Escrow Agent becomes aware of any conflicting demands or claims concerning the Escrow Account, Escrow Agent shall have the right to discontinue all further acts on Escrow Agent's part until the conflict is resolved to Escrow Agent's satisfaction. Escrow Agent will have the right at its option to file an action in interpleader requiring the parties to resolve their claims/rights pursuant to Section 9 below (if applicable) or litigation. If such an action is filed, ZOHP and the City hereby agree (a) to jointly and severally pay Escrow Agent's cancellation charges, costs and reasonable attorneys' fees associated with such action and (b) that Escrow Agent is fully released and discharged from all further obligations under the Escrow Account. If an action is brought against Escrow Agent involving the Escrow Account, ZOHP and the City agree to jointly and severally indemnify, defend, and hold the Escrow Agent harmless against liabilities, damages and costs incurred by Escrow Agent (including reasonable attorneys' fees and costs) except to the extent that such liabilities, damages and costs were caused by the negligence or wilful misconduct of Escrow Agent. If ZOHP or the City is the prevailing party in such action involving this Escrow Account and/or Escrow Agent, in addition to all other remedies available to such prevailing party at law or in equity, the prevailing party shall be entitled to a reimbursement from ZOHP or the City (as applicable) of the expenses incurred pursuant to the preceding indemnity obligation.

Escrow Agent shall not be responsible or liable in any manner whatsoever for the sufficiency or correctness as to form, manner of execution or validity of any documents deposited in escrow, nor as to the identity, authority or rights of any person executing the same. Escrow Agent's duties hereunder shall be limited to the safe keeping of such money and documents received by Escrow Agent, and for the disposition of the same in accordance with the written instructions accepted by Escrow Agent. Escrow Agent shall not be required to take any action in connection with the collection or maturity of any obligations deposited in this escrow, unless otherwise instructed. Escrow Agent shall not be liable for any act or omissions done in good faith, nor for any claims, demands, or damages made, claimed or suffered by any party to this Agreement, excepting such as may arise through or be caused by Escrow Agent's negligence or wilful misconduct.

4. Escrow Agent's Fee. In consideration for the services rendered hereunder by Escrow Agent, ZOHP shall pay Escrow Agent a set up fee of \$1,250 and an interest

bearing account opening fee of \$50.00 concurrently with the delivery of this Agreement to Escrow Agent. There shall be no additional fees owing to Escrow Agent.

5. Entire Agreement. This Agreement and the Development Agreement constitute the entire agreement among the parties hereto with respect to the subject matter hereof, and supersede all prior understandings or agreements. To the extent of any conflict between this Agreement and the Development Agreement, the Development Agreement shall control. This Agreement may be modified only by a writing signed by the parties.

6. Assignment and Transfer. The City may freely assign, convey, or otherwise transfer all or any part of the City's rights, benefits or interests under this Agreement, including without limitation any of its interests in all or any part of the PLL Funds, to any other entity in its sole and absolute discretion. Upon any such assignment, conveyance, or transfer, the City's transferee or assignee shall acquire the City's rights, benefits and interest under that portion of this Agreement and the PLL Funds assigned, conveyed or transferred by the City, and thereafter references to the "City" in this Agreement shall refer to said transferee or assignee.

7. Partial Invalidity. If any provision of this Agreement is finally declared by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions of this Agreement shall continue in full force and effect, and to the extent possible, the invalid, void or unenforceable provision shall be replaced by a valid, enforceable provision which most closely achieves the intent of the invalid, void or unenforceable provision.

8. Choice of Law/Venue. This Agreement and each and every related document are to be governed by, and construed in accordance with the laws of the State of California, and any action to interpret or enforce this Agreement shall be submitted to binding arbitration pursuant to Section 9, below, and such arbitration shall occur in Alameda County, unless the parties mutually agree to another venue.

9. Binding Arbitration. Should the parties be unable or unwilling to resolve any dispute, any party may give written notice to the other parties and elect to have the matter resolved by final and binding arbitration in accordance with the rules and procedures of the arbitrator selected in accordance with this Section 9. The party seeking arbitration shall set forth in its notice the particulars of its claims and shall state with specificity the issue(s) to be submitted to arbitration and the relief sought. Within thirty (30) days of the date of the election to arbitrate, the parties shall select a single, mutually agreeable arbitrator. If the parties are unable to agree, they shall request that the Judicial Arbitration and Mediation Service, Inc. ("JAMS"), if such entity is then in existence, appoint an arbitrator in accordance with then current procedures. The arbitrator must be a retired judge of the Superior Court of California or the Court of Appeal of California, or a retired judge of the United States District Court sitting in California. If JAMS is not in existence, the Presiding Judge of the Alameda County Superior Court will appoint an arbitrator in accordance with its then current procedures.

9.1 The rules and procedures for arbitration shall be as follows:

9.1.2 The arbitrator must be selected and arbitration must be conducted within a reasonable time, but in no event later than ninety (90) days after the date upon which the demand for arbitration is filed.

9.1.3 The arbitration proceedings must be conducted in Alameda County, California, at a time and location as agreed to in writing by the parties, or in absence of an agreement, as designated by the arbitrator.

9.1.4 Subject to the same rules pertaining to privileged communications and attorney work product that would apply if the proceeding was filed in the courts of the State of California, the arbitrator shall have the authority to make all decisions regarding the relevance, materiality, and admissibility of all evidence offered at the arbitration. The California Evidence Code shall generally guide the arbitrator in making such decisions.

9.1.5 The arbitrator may issue any remedy or relief, whether provisional or permanent, including but not limited to a default judgment, which the parties could have obtained under the law applicable in courts of the State of California under the same factual circumstances, and the arbitrator must follow and otherwise employ the standards for issuing such relief as defined by California law; provided, however, that the arbitrator will have no authority or jurisdiction to enter an award, order, or decision for consequential, special, exemplary or punitive damages. The arbitrator may also grant such ancillary relief as is necessary to make effective the award, order, or decision, including the issuance of declaratory relief, compelling specific performance, or any other relief or action permitted by California law.

9.1.6 Each party may conduct discovery as if the matter were pending before a Superior Court of the State of California and the arbitrator will have the full power of the State of California to issue and enforce subpoenas and to award

sanctions. Each party will have the right to demand in writing that the other parties provide a list of witnesses it intends to call at the hearing, designating which witnesses will be called as expert witnesses, and a list of documents it intends to introduce at the hearing. The responding party's list(s) must be served personally or by registered or certified mail on the requesting party, with a copy to the arbitrator, at least thirty (30) days before the hearing.

9.1.7 Each party may be represented by counsel.

9.1.8 No later than sixty (60) days following closing of the arbitration hearing, the arbitrator will make an award, order, or decision and issue a written opinion consisting of findings of fact and conclusions of law and setting forth the bases of the award, order, or decision. The arbitrator may include in his or her award, order, or decision pre-award interest and post-award interest at the legal rate where authorized by law. The party against whom the award, order, or decision is made or remedy or relief ordered will have thirty (30) days after receipt of the award, order, or decision to commence and thereafter diligently pursue to completion any action or proceeding in any court of the State of California of appropriate jurisdiction located in the County of Alameda to obtain judicial review of the award, order, or decision. If the award, order, or decision is mailed, it will be deemed to be received within five (5) days after deposit in the mail.

9.1.9 If no such action or proceeding is timely commenced, the award, order, or decision will thereupon immediately become final. The party against whom the award, order, or decision is made or remedy or relief ordered shall within thirty (30) days after the award, order, or decision becomes final make full payment and/or commence and thereafter diligently pursue to completion any other action required by the award, order, or decision. The party in whose favor the award, order, or decision is made may request and obtain from any court of the State of California of appropriate jurisdiction located in the County of Alameda a judgment upon the award, order, or decision rendered by the arbitrator, which may thereafter be entered in the records of said court.

9.1.10 If an action or proceeding is timely filed in any court of the State of California of appropriate jurisdiction located in the County of Alameda to obtain judicial review of the award, order, or decision, the parties will have the right to seek vacation or modification of any portion of the award, order, or decision according to the grounds provided by California law at the time for the vacation or modification of an award, order, or decision in a non-judicial arbitration. The findings of fact of the arbitrator will be binding on all parties and shall not be subject to further review except as allowed by the appeal provisions of this Section 9.1.10.

9.1.11 The arbitrator will be paid a per diem or hourly charge as established at the time of appointment. Each party will bear its own attorneys' fees and costs in presenting its case. All other actual costs of conducting the arbitration, including

without limitation the administrative fee and the arbitrator's compensation, will be shared equally.

9.1.12 This arbitration clause shall be interpreted under the arbitration laws of the State of California and not the Federal Arbitration Act, 9 U.S.C. § 1. Except as otherwise provided in this Escrow Agreement or the Development Agreement, any motion, application, complaint or proceeding arising out of or relating to this arbitration clause shall be determined in accordance with the law of the State of California.

9.1.13 Unless otherwise provided in this Escrow Agreement or otherwise agreed in writing, the parties shall continue to perform their respective obligations under the Development Agreement during the pendency of arbitration proceedings.

9.1.14 Except as modified or stated to the contrary in this Section 9, the rules and procedures of the arbitrator in effect at the time of the arbitration will apply to the arbitration procedure.

9. Waiver of Covenants, Conditions or Remedies. The waiver by one party of the performance of any covenant, condition or promise, or of the time for performing any act, under this Agreement shall not invalidate this Agreement nor shall it be considered a waiver by such party of any other covenant, condition or promise, or of the time for performing any other act required, under this Agreement.

10. Time of the Essence. Time shall be of the essence as to all dates and times of performance.

11. Attorneys' Fees. In the event that ZOHP or the City institutes an action or proceeding for a declaration of the rights of the parties under this Agreement, for injunctive relief, for an alleged breach or default of, or any other action arising out of this Agreement, or the transactions contemplated hereby, or in the event that ZOHP or the City is in default of its obligations pursuant thereto, whether or not suit is filed or prosecuted to final judgment, the nondefaulting party or prevailing party, as between ZOHP and the City, shall be entitled to its actual attorneys' fees and to any court costs incurred in addition to any other damages or relief awarded.

12. Notices. All notices given pursuant to this Agreement shall be in writing and shall be given by personal delivery, or by United States mail (certified, return receipt requested), or by United States express mail or other established express delivery service (such as Federal Express, DHL and United Parcel Service) (all of the foregoing, a "Delivery Service"), postage or delivery charges prepaid, addressed to the person and address specified below or, in the absence of such designation, to the person and address shown on the then current Alameda County real property tax rolls. All notices shall be addressed as follows:

Initial addresses of the parties are:

If to City: City of Oakland
Department of Housing and Community Development
250 Frank Ogawa Plaza, 5th floor
Oakland, CA 94612
Attn: Brooklyn Basin Project Manager

with copy to: Oakland City Attorney's Office
One Frank Ogawa Plaza, 6th Floor
Oakland CA 94612
Attn: Brooklyn Basin attorney

If to ZOHP: Zarsion – OHP I, LLC
c/o Oakland Harbor Partners, LLC
2201 Broadway, Suite 604
Oakland, CA 94612
Attention: Michael J. Ghielmetti
Telephone: (510) 251-9270

With a Copy to: Stice & Block, LLP
2201 Broadway, Suite 604
Oakland, CA 94612
Telephone: (510) 251-1030

If to Escrow Agent: First American Title Company
6683 Owens Drive
Pleasanton, CA 94588
Attention: Diane Burton
Telephone: (925) 738-4050
Facsimile: (866) 6487806
E-mail: dburton@firstam.com

Notices by a party may be given by legal counsel to or the authorized agent of such party. Each party may change the person and address to which notices are to be given, upon written notice to the other party. All notices given pursuant to this Agreement shall be deemed given upon deposit with a Delivery Service, but shall not be deemed to have been received until actual receipt. For the purpose of this Agreement, the term "receipt" shall mean the earliest of any of the following: (i) the date of delivery to the address specified pursuant to this section as shown on the return receipt; (ii) the date of actual receipt by the person or entity specified pursuant to this section; or (iii) in the case of refusal to accept delivery or inability to deliver, the earlier of (A) the date of the first attempted delivery or refusal to accept delivery, (B) the date of the postmark on the returned envelope, or (C) the date of receipt of notice of refusal or notice of non-delivery by the sending party.

13. Counterparts. This Agreement may be executed in two or more counterparts, with each counterpart being deemed an original and all counterparts, taken together, constituting one document.

[Remainder of this page intentionally left blank]

IN WITNESS WHEREOF, the parties have executed this Agreement as of the Effective Date.

CITY OF OAKLAND, a municipal corporation

By: _____
City Administrator

Approved as to form and legality:

By: _____
Deputy City Attorney

ZARSION-OHP I, LLC,
a California limited liability company

By: _____

[Print Name and Title]

FIRST AMERICAN TITLE COMPANY,

By: _____

[Print Name and Title]