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**OAKLAND CITY COUNCIL**

Approved as to form and legality

*Mark P. Wahl*  
Deputy City Attorney

**RESOLUTION No. 83931 C.M.S.**

**RESOLUTION AUTHORIZING THE CITY ADMINISTRATOR TO NEGOTIATE AND EXECUTE A MEMORANDUM OF AGREEMENT WITH THE EAST BAY MUNICIPAL UTILITY DISTRICT AND CCIG OAKLAND GLOBAL, LLC, A CALIFORNIA LIMITED LIABILITY COMPANY AND/OR OAKLAND BULK OVERSIZED TERMINAL, LLC, A CALIFORNIA LIMITED LIABILITY COMPANY (OR THEIR RELATED ENTITIES OR AFFILIATES) RELATING TO MUTUAL COOPERATION IN THE DEVELOPMENT OF THE FORMER OAKLAND ARMY BASE IN A FORM AND CONTENT SUBSTANTIALLY IN CONFORMANCE WITH THE ATTACHED DOCUMENTS, WITHOUT RETURNING TO THE CITY COUNCIL**

**WHEREAS**, EBMUD's Main Wastewater Treatment Plant ("MWWTP") is located at 2020 Wake Avenue in Oakland, California, and the only way to access the main gate of the MWWTP is via Wake Avenue, although there are other locations with access to the MWWTP, they provide more limited access than the Wake Avenue gate; and

**WHEREAS**, between 2000 and 2002, the Oakland Base Reuse Authority, the City of Oakland Redevelopment Agency, and the City adopted a Redevelopment Plan and a Base Reuse Plan for the Oakland Army Base Redevelopment Area; and

**WHEREAS**, to further implement the Redevelopment Plan and the Base Reuse Plan, the City (1) entered into an Exclusive Negotiating Agreement with Prologis Property, L.P. (as successor by merger to AMB Property, L.P.)/California Capital Group ("Master Developer") to develop a portion of the former Army Base and to develop a Master Plan for certain City-owned and Port-owned properties, including portions of the former Army Base that is further described in the California Environmental Quality Act (CEQA) Addendum as the 2012 Army Base Project ("2012 Army Base Project"); and (2) plans to redevelop the North Gateway Area of the former Oakland Army Base, adjacent to the MWWTP, for two recycling facilities, which is a component of the 2012 Army Base Project; and

**WHEREAS**, the City previously prepared and certified/adopted the 2002 Oakland Army Base ("OARB") Redevelopment Plan Environmental Impact Report, which was a "project level" EIR pursuant to CEQA Guidelines section 15180(b); the 2006 OARB Auto Mall Supplemental EIR and 2007 Addendum; and the 2009 Addendum for the Central Gateway Aggregate Recycling and Fill Project; while the Port prepared and adopted the Port's 2006 Maritime Street Addendum (collectively called "Previous CEQA Documents"); and

**WHEREAS**, the redevelopment plans for the North Gateway Area requires realigning

Wake Avenue and intensifying the usage of the rail lines between the MWWTP and the North Gateway Area; and

**WHEREAS**, CCIG Oakland Global, LLC and/or Oakland Bulk Oversized Terminal, LLC will be the developer of the break bulk marine terminal in the West Gateway Area of the OARB and the primary user of the rail lines between the MWWTP and the North Gateway Area; and

**WHEREAS**, EBMUD has expressed concerns regarding the impact that the realignment of Wake Avenue and intensified rail usage may have on access to the MWWTP; and

**WHEREAS**, EBMUD successfully challenged the City's 2006 Supplemental EIR and 2007 Addendum for an Auto Mall project which included the realignment of Wake Avenue; and

**WHEREAS**, the City, CCIG Oakland Global, LLC and/or Oakland Bulk Oversized Terminal, LLC, and EBMUD wish to ensure that the 2012 Army Base Project is successfully developed and that EBMUD's concerns are adequately addressed; and

**WHEREAS**, the City, CCIG Oakland Global, LLC and/or Oakland Bulk Oversized Terminal, LLC, and EBMUD have negotiated a Memorandum of Agreement to address EBMUD's concerns and assure that the 2012 Army Base Project's roadway and rail line improvements in the North Gateway Area will be constructed in accordance with generally acceptable engineering standards, meeting applicable design criteria, and mitigate impacts to EBMUD by providing EBMUD with safe and reasonable access to the MWWTP; and

**WHEREAS**, if the City cannot accomplish the successful relocation of Wake Avenue, then Wake Avenue will remain in its current location, but the negotiated rail restrictions would still apply, and in turn, EBMUD agrees not to challenge the 2012 OARB Project; now, therefore be it

**RESOLVED:** That the City Administrator is authorized to negotiate and execute a Memorandum of Agreement with CCIG Oakland Global, LLC and/or Oakland Bulk Oversized Terminal, LLC (or their related entities or affiliates) and the East Bay Municipal Utility District for the development of the 2012 OARB Project in a form and content substantially in conformance with Exhibit A, attached hereto and incorporated herein by reference without returning to City Council; and be it

**FURTHER RESOLVED:** That, the City Council, based upon its own independent review, consideration, and exercise of its independent judgment, hereby finds and determines, on the basis of substantial evidence in the entire record before the City, that none of the circumstances necessitating preparation of additional CEQA are present. Thus, prior to approving the 2012 OARB Project and the Memorandum of Agreement, the City can rely on the Previous CEQA Documents and the 2012 OARB Initial Study/Addendum; and be it

**FURTHER RESOLVED:** That, specifically, the City Council affirms and adopts as its own findings and determinations the June 12, 2012, City Council Agenda Report, including without limitation the discussion, findings, conclusions, specified conditions of approval (including the Standard Conditions of Approval/Mitigation Monitoring and Reporting Program

("SCA/MMRP"), and the CEQA findings contained in **Attachment C** of the Agenda Report, each of which is hereby separately and independently adopted by this Council in full, as if fully set forth herein; and be it

**FURTHER RESOLVED:** The City Council finds and determines that this action complies with CEQA and the Environmental Review Officer is directed to cause to be filed a Notice of Determination with the appropriate agencies; and be it

**FURTHER RESOLVED:** The record before this Council relating to this action, includes without limitation those items listed in **Attachment C** of the Agenda Report, as if fully set forth herein, which are available at the locations listed said Exhibit.

**FURTHER RESOLVED:** That the Environmental Review Officer shall cause to be filed appropriate Notices of Exemption/Determination; and be it

**FURTHER RESOLVED:** That the City Administrator and his or her designee is authorized to take whatever action is necessary with respect to negotiating and executing the Memorandum of Agreement consistent with this Resolution and its basic purposes.

**JUN 19 2012**

IN COUNCIL, OAKLAND, CALIFORNIA, \_\_\_\_\_

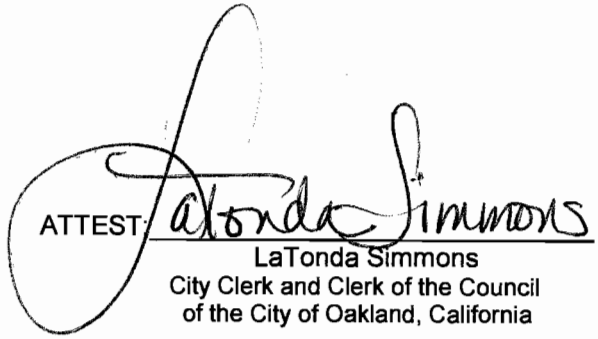
**PASSED BY THE FOLLOWING VOTE:**

AYES - ~~BRUNNER~~, BRUNNER, DE LA FUENTE, KAPLAN, KERNIGHAN, NADEL, SCHAAF and PRESIDENT REID - 7

NOES - 0

ABSENT - 0

ABSTENTION - Brooks - 1

ATTEST   
LaTonda Simmons  
City Clerk and Clerk of the Council  
of the City of Oakland, California

DATE OF ATTESTATION: \_\_\_\_\_

**EXHIBIT A**

**Proposed Memorandum of Agreement with  
East Bay Municipal Utility District**

**MEMORANDUM OF AGREEMENT BETWEEN  
THE CITY OF OAKLAND, THE EAST BAY MUNICIPAL UTILITY DISTRICT AND  
CCIG OAKLAND GLOBAL, LLC**

This Memorandum of Agreement (“Agreement”) is entered into this \_\_\_ day of \_\_\_\_\_, 2012 (the “Execution Date”) between the City of Oakland, a California Charter City (the “City”), and the East Bay Municipal Utility District, a Municipal Utility District created pursuant to Municipal Utility District Act (“EBMUD”), together called the “Parties.” CCIG Oakland Global, LLC (“CCIG”), the developer for the West Gateway area, as defined below, is also a party to this Agreement solely with respect to Section 1.e, “Limitations on Rail Traffic,” and Section 8, Miscellaneous.

**RECITALS**

- A. EBMUD’s Main Wastewater Treatment Plant (“MWWTP”) is located at 2020 Wake Avenue in Oakland, California. The only way to access the main gate to the MWWTP is via Wake Avenue, a public street that crosses real property owned by the City and an easement owned by Burlington Northern Santa Fe (“BNSF”), although there are other locations with more limited access to the MWWTP.
- B. Between 2000 and 2002, the Oakland Base Reuse Authority, the City of Oakland Redevelopment Agency, and the City adopted a Redevelopment Plan for the Oakland Army Base Redevelopment Area (“Redevelopment Plan”), adopted a Final Army Base Reuse Plan (“Reuse Plan”) and certified an Environmental Impact Report for the Redevelopment Plan and Reuse Plan. Subsequently, the City and Port of Oakland have taken numerous steps to implement the Redevelopment Plan and Reuse Plan.
- C. To further implement the Redevelopment Plan, the City (1) will enter into a Lease Disposition and Development Agreement (the “LDDA”) with Prologis and CCIG Oakland Global, LLC (“Master Developer”) to develop a portion of the former Army Base and to develop a Master Plan for certain City-owned and Port-owned properties, including portions of the former Army Base that is further described in the CEQA Addendum as the 2012 Army Base Project (“2012 Army Base Project”), (2) has performed further California Environmental Quality Act (CEQA) review of the 2012 Army Base Project, and (3) plans to redevelop the North Gateway Area of the former Oakland Army Base, adjacent to the MWWTP, for two recycling facilities (CASS and CWS; hereafter “Recycling Facilities” or “Recyclers”), which is a component of the 2012 Army Base Project. CCIG will develop the West Gateway area and the new Oakland Bulk Oversized Terminal. The Oakland Bulk Oversized Terminal, LLC (“OBOT”) is an affiliate of Master Developer and, upon the satisfaction of certain conditions precedent set forth in the LDDA, intends to enter into a ground lease for the West Gateway area as further set forth in the LDDA.

D. The Parties wish to ensure that:

1. The designs for the 2012 Army Base Project's roadway and rail line improvements in the North Gateway Area will be constructed in accordance with generally acceptable engineering standards, meeting applicable design criteria, and mitigate impacts to EBMUD by providing EBMUD with safe and reasonable access to the MWWTP; and
2. The 2012 Army Base Project (as shown in Exhibit A, attached hereto and incorporated herein by reference) is successfully developed.

### **TERMS**

**NOW, THEREFORE**, in consideration of the foregoing, and other valuable consideration, the receipt of which is hereby acknowledged by the Parties, the Parties agree as follows:

#### **1. Access to EBMUD's Main Wastewater Treatment Plant**

The Parties shall implement the following measures (as shown in Exhibits B-1 and B-2, attached hereto and incorporated herein by reference).

##### **a. Realignment of Wake Avenue**

- (1) **Realignment.** The City shall realign Wake Avenue and widen the realigned Wake Avenue from two to four lanes. The City shall obtain EBMUD's approval that the detailed design for the realigned Wake Avenue is consistent with the conceptual site plan solely with respect to access and safety-related issues. EBMUD shall have ten (10) Business Days after receiving the detailed design to provide written comments or approve such detailed design, which approval shall not be unreasonably withheld, conditioned or delayed. Failure to either approve the detailed design or provide written comments by the specified date means the documents are deemed approved, unless EBMUD notifies the City in writing within the 10-day review period that EBMUD requires an additional 10 Business Days for review. If EBMUD requests the extended review period, EBMUD's failure to provide written comments prior to the expiration of the extended period means the documents are deemed approved. The City shall review EBMUD's comments and incorporate such comments with which it agrees into a revised detailed design and provide EBMUD ten (10) Business Days for review and comment on the revised detailed design, or to approve the revised detailed design, which approval shall not be unreasonably withheld, conditioned or delayed. If City and EBMUD cannot agree on the final detailed design within ten (10) Business Days, then the Dispute Resolution Process contained in Section 8.1 shall be followed.
- (2) **Right of Way.** The new Wake Avenue alignment shall be a public street, which EBMUD, like all members of the public, would be entitled to use.

(3) **Quitclaim of Access Easement.** EBMUD shall, within 30 days of written notice from the City of the completion of the realignment of Wake Avenue pursuant to Section 1.a.(1), relocation of the existing rail line pursuant to Section 1.c.(1), execution of the rail traffic agreement pursuant to Section 1.e, and transfer of property rights for the Burma Road to Engineers Road connection pursuant to Section 1.f, execute and record a quitclaim deed quitclaiming to the City or its successor(s) any and all of its rights and interest in the access easement recorded as Document No. 2004-513852 in a form substantially similar to that shown in Exhibit ~~xxx~~ attached hereto and incorporated herein by reference.

**b. Provision of a New Railroad Crossing.**

The City shall design a new four-lane railroad crossing compliant with applicable California Public Utilities Commission and Class 1 Rail regulations and design safety requirements, at the proposed intersection between the realigned Wake Avenue and Engineers Road, as generally shown in Exhibit B. The City shall obtain EBMUD's approval that the detailed design for new railroad crossing is acceptable with respect to access and safety-related issues. EBMUD shall have ten (10) Business Days after receiving the detailed design to provide written comments or approve such detailed design, which approval shall not be unreasonably withheld, conditioned or delayed. Failure to either approve the detailed design or provide written comments by the specified date means the documents are deemed approved, unless EBMUD notifies the City in writing within the 10-day review period that EBMUD requires an additional 10 Business Days for review. If EBMUD requests the extended review period, EBMUD's failure to provide written comments prior to the expiration of the extended period means the documents are deemed approved. The City shall review EBMUD's comments and incorporate such comments with which it agrees into a revised detailed design and provide EBMUD ten (10) Business Days for review and comment on the revised detailed design, or to approve the revised detailed design, which approval shall not be unreasonably withheld, conditioned or delayed. If City and EBMUD cannot agree on the final detailed design within ten (10) Business Days, then the Dispute Resolution Process contained in Section 8.1 shall be followed.

The City shall submit the design as required for CPUC approval. EBMUD shall be copied on all communications to the CPUC regarding the design approval, and shall be provided with copies of all communications from the CPUC regarding the design approval. EBMUD shall also be given notice of any in-person or telephonic meetings with the CPUC regarding the design approval, and shall be given the opportunity to attend those meetings.

If CPUC rejects the design, the City shall design a crossing that addresses the specific reasons for rejection set forth by the CPUC. The City shall obtain EBMUD's approval that the detailed design for new railroad crossing is acceptable with respect to access and safety-related issues. EBMUD shall have ten (10) Business Days after receiving the detailed design to provide written comments or approve such detailed design, which approval shall not be unreasonably withheld, conditioned or delayed.

Failure to either approve the detailed design or provide written comments by the specified date means the documents are deemed approved. The City shall construct the crossing according to the final approved design.

The intent of this provision is to ensure that EBMUD will have safe and reasonable access to meet its operational needs by providing EBMUD with the widest railroad crossing that will be approved by the CPUC, not to exceed four lanes.

**c. Widening of Engineers Road**

- (1) **Relocation of existing rail line.** The City, or its designee, shall obtain an agreement from Union Pacific, BNSF and Oakland Terminal Rail (OTR) or their successors (collectively called "Rail Entities") for an easement to relocate the existing rail line twenty (20) feet south of the existing alignment along the length of Engineers Road to enable the widening of Engineers Road to 40 feet southward as measured from the current northern boundary of Engineers Road, in a form substantially similar to that shown in Exhibit ~~XXX~~ attached hereto and incorporated herein by reference. The design of the relocated rail line will involve a built up ballast rock structure which slopes toward the new northern property line (with the toe of the slope at the property line). The City, or its designee, shall relocate the existing railroad maintenance easement so as to overlay the relocated rail line property. No part of this relocated maintenance easement shall be on EBMUD's property.
- (2) **No stormwater impacts.** The City shall incorporate and implement design provisions for the relocated rail lines that will prevent any negative stormwater impacts to EBMUD along Engineers Road caused by the relocated rail lines.
- (3) **Construction of safety improvements.** EBMUD shall provide the property necessary for, and shall design and construct, improvements at the intersection of Engineers Road and the new rail crossing that are necessary to mitigate impacts to safety posed by requiring trucks to turn across the relocated rail line at a right or acute angle that is too close to the rail lines, as shown on Exhibit B.

EBMUD shall obtain the City's approval of the detailed design, schedule and budget ("Document Submittals") for these safety improvements. City shall have ten (10) Business Days after receiving the Document Submittals to provide written comments or approve such, which approval shall not be unreasonably withheld, conditioned or delayed. Failure to either approve the Document Submittals or provide written comments by the specified date means the Document Submittals are deemed approved, unless City notifies EBMUD in writing within the 10-day review period that City requires an additional 10 Business Days for review. If City requests the extended review period, City's failure to provide written comments prior to the expiration of the extended period means the Document Submittals are deemed approved. EBMUD shall review



City's comments and incorporate such comments with which it agrees into a revised Document Submittals and provide City (10) Business Days for review and comment on the revised Document Submittals, or to approve the revised Document Submittals, which approval shall not be unreasonably withheld, conditioned or delayed. If City and EBMUD cannot agree on the final Document Submittals within ten (10) Business Days, then the Dispute Resolution Process contained in Section 8.1 shall be followed.

- (4) **Construction of Engineers Road.** In conjunction with the safety improvements set forth in Section 1.c.(3), above, EBMUD shall design and construct the improvements necessary for the widening of Engineers Road.

EBMUD shall obtain the City's approval of the detailed design, schedule and budget ("Document Submittals") for these improvements. City shall have ten (10) Business Days after receiving the Document Submittals to provide written comments or approve such, which approval shall not be unreasonably withheld, conditioned or delayed. Failure to either approve the Document Submittals or provide written comments by the specified date means the Document Submittals are deemed approved, unless City notifies EBMUD in writing within the 10-day review period that City requires an additional 10 Business Days for review. If City requests the extended review period, City's failure to provide written comments prior to the expiration of the extended period means the Document Submittals are deemed approved. EBMUD shall review City's comments and incorporate such comments with which it agrees into a revised Document Submittals and provide City (10) Business Days for review and comment on the revised Document Submittals, or to approve the revised Document Submittals, which approval shall not be unreasonably withheld, conditioned or delayed. If City and EBMUD cannot agree on the final Document Submittals within ten (10) Business Days, then the Dispute Resolution Process contained in Section 8.1 shall be followed.

The City shall construct a new fence along the new property line along the length of Engineers Road to provide for safe traffic flow. The City shall relocate the existing rail line with a safe offset distance from fence and property line.

The City shall obtain EBMUD's approval that the detailed design for safety-related fence is acceptable with respect to aesthetics, access, and safety-related issues. EBMUD shall have ten (10) Business Days after receiving the detailed design to provide written comments or approve such detailed design, which approval shall not be unreasonably withheld, conditioned or delayed. Failure to either approve the detailed design or provide written comments by the specified date means the documents are deemed approved, unless EBMUD notifies the City in writing within the 10-day review period that EBMUD requires an additional 10 Business Days for review. If EBMUD requests the extended review period, EBMUD's failure to provide written comments prior to the expiration of the extended period means the documents are deemed approved. The City shall

review EBMUD's comments and incorporate such comments with which it agrees into a revised detailed design and provide EBMUD ten (10) Business Days for review and comment on the revised detailed design, or to approve the revised detailed design, which approval shall not be unreasonably withheld, conditioned or delayed. If City and EBMUD cannot agree on the final detailed design within ten (10) Business Days, then the Dispute Resolution Process contained in Section 8.1 shall be followed.

(5) **Timing of Construction.** EBMUD shall complete construction of the safety improvements set forth in Section 1.c.(3) and the widening of Engineers Road under Section 1.c.(4) in coordination with the City's completion of the construction associated with the realignment of Wake Avenue and completion of a new rail crossing under Sections 1.a.(1) and 1.b, above. Construction by EBMUD shall be timely completed so as not to cause any delay in the City's construction of the 2012 Army Base Project, nor use of the constructed infrastructure. Notwithstanding anything to the contrary in this Agreement, provided that the City has provided EBMUD with at least 180 (one hundred eighty) days prior notice of the City's intent to vacate existing Wake Avenue and use realigned Wake Avenue, EBMUD's failure to comply with this Section 1.c.(5) shall not delay the vacation of existing Wake Avenue and the commencement of use of the realigned Wake Avenue.

(6) **Property Rights.** Following the relocation of the existing rail line pursuant to Section 1.c.(1), and the extinguishment of any existing encroachments and easements on the current rail line site, the City shall execute and record a quitclaim deed quitclaiming to EBMUD its interests for the property area south of existing Engineers Road necessary to widen the entire length of Engineers Road to 40 feet from the existing northern boundary of Engineers Road at no cost to EBMUD, in a form substantially similar to that shown in Exhibit xxx attached hereto and incorporated herein by reference.

**d. No Changes to Wake Avenue**

The City agrees that the realigned Wake Avenue shall not be used and the existing Wake Avenue shall not be vacated under Section 1.a.(1) above unless and until the following occurs:

- Execution of the rail traffic agreement pursuant to Section 1.e;
- Relocation of the existing rail line pursuant to Section 1.c.(1);
- Quitclaim of City property pursuant to Section 1.c.(6);
- Construction of a new rail crossing pursuant to Section 1.b;
- Widening of Wake Avenue pursuant to Section 1.a.(1);
- Transfer of the Burma Road property rights pursuant to Section 1.f.

Should Wake Avenue not be realigned, (i) the City's rights and obligations under this Agreement are limited to Sections 1.e (Limitations on Rail Traffic), 3 (Disconnection

of Old Laterals), 6 (EBMUD Access During Construction), and 9 (Miscellaneous); and (ii) the Parties shall, if requested by the City, continue to negotiate in good faith to reach an agreement on an alternative site plan regarding access different from the existing Wake Avenue entrance.

**e. Limitations on Rail Traffic**

(1) For the purposes of this Section 1.e:

- (a) The term “Crossing” shall mean the time when the safety arms at the railroad crossing at the MWWTP’s main gate are down and preventing through traffic on Wake Avenue, during which time one train or Unit Train or two trains or Unit Trains may be making the crossing concurrently. The duration of a Crossing shall not exceed 540 seconds (9 minutes).
- (b) The term “Rail Operator” shall mean CCIG, the ground lessee of the West Gateway area (OBOT), or any entity, successor or assign that has control over the operation of rail traffic on the rail lines crossing EBMUD’s main gate to the MWWTP. At the time of execution of this Agreement the Rail Operator is CCIG.

(2) The Rail Operator shall prevent trains from parking, stopping and/or unreasonably blocking access to EBMUD’s main gate to the MWWTP via the railroad crossing at the existing or realigned Wake Avenue in accordance with the following terms:

- (a) Rail traffic for “Unit Trains” (defined as any train including more than 10 cars (excluding the locomotive(s)) shall be limited as follows:
  - (i) a maximum of six total Crossings, in either direction, between the hours of 6:00 a.m. and 6:00 p.m.;
  - (ii) a maximum of 12 total Crossings (in either direction) each 24-hour day;
  - (iii) prohibited from using the Wake Avenue crossing from 7:30 a.m. until 9:30 a.m. and from 2:30 p.m. until 4:30 p.m.;
  - (iv) there shall be a minimum 30-minute interval between the end of one crossing and the beginning of the next Crossing; and
  - (v) shall operate at speeds between 5 miles per hour and 10 miles per hour when using the Wake Avenue crossing.
- (b) Rail traffic for all other trains shall be limited as follows:
  - (i) shall be a minimum 20-minute interval between the end of one Crossing of Wake Avenue and the beginning of the next Crossing during the hours from 7:30 a.m. until 9:30 a.m. and from 2:30 p.m. until 4:30 p.m.; and

- (ii) shall operate at speeds between 5 miles per hour and 10 miles per hour when using the Wake Avenue crossing.
- (c) A Response Plan for addressing stalled trains that block access to the MWWTP shall be developed and implemented, and shall include (but not be limited to) the following items:
  - (i) All Unit Trains shall include two locomotives with one serving as a backup should the primary locomotive stall.
  - (ii) Backup locomotives shall be available within reasonable proximity to clear the Wake Avenue crossing if both locomotives fail.
- (d) The Rail Operator shall suspend rail operations during emergencies declared by EBMUD's Emergency Operations Team Incident Commander. An "emergency" for the purposes of this section shall include the actual or threatened existence of conditions of disaster or extreme peril to critical EBMUD functions and/or the health and safety of EBMUD staff or the public. Examples of what may cause such conditions include earthquakes, power outages, tsunami, sanitary sewer overflows, explosions, chemical spills, digester spills, or security incidents that necessitates the suspension of rail operations. EBMUD shall use best efforts to abate the emergency and enable expeditious renewal of rail operations. The Rail Operator and EBMUD shall work together cooperatively and with emergency response teams as appropriate.
- (e) The Rail Operator shall comply with the rail traffic limitation terms of this Agreement, including the payment of the specified liquidated damages related to the failure to comply with these terms and the implementation of any required corrective measures.
  - (i) EBMUD shall provide the Rail Operator (with a copy to the City) of any alleged violation of this Section and request a written response setting forth actions taken to address each violation within fifteen (15) Business Days of the receipt of notice from EBMUD.
  - (ii) If repeated violations (greater than five violations in any 30-day period) of the above terms occur, then:
    1. EBMUD shall notify the Rail Operator and the City of this condition in writing.
    2. In response, the Rail Operator shall develop a Corrective Action Plan addressing the specific Agreement term(s) violated.
    3. This Action Plan shall be submitted to EBMUD within fifteen (15) Business Days from receipt of EBMUD's notice. EBMUD shall review the Corrective Action Plan and provide comments to the Rail

Operator within five (5) Business Days. The Rail Operator shall then work to provide a revised Corrective Action Plan to EBMUD within ten (10) Business Days.

4. If the Rail Operator fails to provide the required original or revised (incorporating EBMUD's comments) Corrective Action Plan, the Rail Operator shall pay a liquidated damages penalty to EBMUD in the amount of ten thousand dollars (\$10,000.00) for each occurrence documented in EBMUD's written notification within 60 days of receipt of original written notification from EBMUD as compensation for access condition impacts at the EBMUD MWWTP.
- (iii) If, after development and implementation of the Corrective Action Plan, three additional violations of a specific Agreement term previously violated and included in the Corrective Action Plan occur within any 30-day period, EBMUD shall notify the Rail Operator (with a copy to the City) of this condition in writing. In response, the Rail Operator shall pay liquidated damages to EBMUD in the amount of ten thousand dollars (\$10,000.00) for each of the three occurrences documented by EBMUD and any subsequent occurrences (up to a total of ten violations) within 60 days of receipt of written notification from EBMUD.
  - (iv) If the total number of documented violations of a specific Agreement term exceeds ten violations in a calendar year, the Rail Operator shall pay a liquidated damages penalty to EBMUD in the amount of twenty thousand dollars (\$20,000.00) for each additional occurrence above the first ten violations within the calendar year within 60 days of receipt of written notification from EBMUD.
  - (v) If the total number of documented violations of a specific Agreement term exceeds twenty violations in a calendar year, the Rail Operator shall pay a liquidated damages penalty to EBMUD in the amount of forty thousand dollars (\$40,000.00) for each additional occurrence above the first twenty violations within the calendar year within 60 days of receipt of written notification from EBMUD.
  - (vi) At the start of each calendar year, the liquidated damages penalty amount shall reset to ten thousand dollars (\$10,000.00) per occurrence and be applied to any additional violations of this Agreement (up to a total of ten violations in a calendar year); the escalated damages penalty of twenty thousand dollars (\$20,000.00) for each additional occurrence thereafter; and then forty thousand dollars (\$40,000.00) for each occurrence above twenty occurrences during the calendar year.
- (f) The terms of this Agreement shall be binding on all successors and assigns of the ground lease for the West Gateway area. A Rail Operator shall have the

right to assign its rights and obligations under Section 1.e of this Agreement to the ground lessee of the West Gateway area.

- (g) The terms of this Section 1.e shall be incorporated into any lease or other document that anticipates the use of the rail line by any Rail Operator. The intent of this provision is to ensure that the City or City's lessee or other designee will maintain EBMUD's rights under Section 1.e in perpetuity, subject to the provisions of Section 1.e.(4). In the absence of a ground lease, the City will be responsible for the adherence of any Rail Operator to the limitations set forth in Section 1.e, and shall be responsible for the liquidated damages provisions of this Section 1.e should the City fail to include the terms of Section 1.e in any lease or other document that dictates the parameters of rail operations for any Rail Operator.

**(3) Emergency Vehicle Access and Emergency Response Plan.**

- (a) The City shall make reasonable good faith efforts to explore the feasibility of, and if determined feasible, obtain/secure alternate Emergency Vehicle Access to the MWWTP that would not be impacted by the 2012 Army Base rail traffic. The City shall coordinate its efforts with EBMUD.
- (b) The City shall develop, in consultation and coordination with adjacent property owners, including EBMUD, an Emergency Response Plan for the 2012 Army Base Project, which addresses emergency ingress/egress.
- (4) If requested by the City, the Rail Operator and/or EBMUD, the Parties shall meet and confer in good faith to explore potential amendments to this Agreement relating to this provision on Limitations on Rail Traffic.
- (5) The Rail Operator and EBMUD shall meet at reasonable intervals to discuss any mutual concerns relating to rail operations and access to the MWWTP.

**f. Provision of West Burma Road to Engineers Road Connection**

- (1) If Wake Avenue is realigned, prior to the abandonment of Wake Avenue the City (or Caltrans if Caltrans requires the use of its under freeway property) shall lease a 40-foot wide easement at no cost to EBMUD to allow construction of an extension of Engineers Road under the freeway overpass area along West Grand Avenue to the immediate vicinity of Burma Road, as generally shown in Exhibit B. Said lease is subject to approval by Caltrans and Federal Highway Administration as detailed in the City's under-freeway easement recorded in the Alameda County Recorder's Office as document # 2005-171016. The lease area shall avoid all existing column supports for the existing freeway overpass and provide for construction of a safe extension of Engineers Road.
- (2) If Wake Avenue is realigned, prior to the abandonment of Wake Avenue the City shall execute and record a quitclaim deed quitclaiming to EBMUD its interests at

no cost to EBMUD to allow construction of a new 40-foot wide extension of Engineers Road to the proposed realigned (or existing) Burma Road, immediately west of the freeway overpass area along West Grand Avenue, as generally shown in Exhibit B.

- (3) **Design and Construction of EBMUD Improvements.** EBMUD shall obtain the City's approval, and that of Caltrans if required, of the detailed design for the West Burma Road/Engineers Road intersection with respect to access and safety-related issues only. The City shall have ten (10) Business Days after receiving the detailed design to provide written comments or approve such documents, which approval shall not be unreasonably withheld. Failure to either approve the documents or provide written comments by the specified date means the document is deemed approved. EBMUD shall review the City's comments and incorporate such comments with which it agrees into a revised document and provide the City ten (10) Business Days for review and comment on the revised document, or to approve the revised document, which approval shall not be unreasonably withheld, conditioned or delayed. If City and EBMUD cannot agree on the final document within ten (10) Business Days, then the Dispute Resolution Process contained in Section 8.1 shall be followed.

- g. **Temporary Easement.** EBMUD shall grant a temporary ingress and egress easement over the existing Engineers Road [LOCATION TBD] for use by regular and construction traffic for a duration reasonably necessary to install the rail and West Burma Road improvements for the 2012 Army Base Project, but such temporary easement shall not unreasonably interfere with EBMUD's use of Engineers Road.

## 2. Utility Easements and Surveys

- a. The City shall quitclaim any rights and obligations it has to the portions of 34<sup>th</sup> Street within the EBMUD MWWTP property to EBMUD in a form substantially similar to that shown in Exhibit B.
- b. EBMUD shall quitclaim any and all of its rights contained in the overhead electrical easement recorded as Document 96-066993 to the City in a form substantially similar to that shown in Exhibit xxx attached hereto and incorporated herein by reference.

## 3. Disconnection of Old Lateral Lines

As they are discovered during the course of construction of the 2012 Army Base Project, the City shall, to the maximum feasible extent, identify, disconnect or plug in place (as determined by the City in its sole and absolute discretion), old lateral lines from vacant parcels, buildings, and/or areas in the former City-owned portions of the Oakland Army Base to reduce inflow and infiltration flows to the existing EBMUD 15-inch sewer line that runs along Engineers Road.

#### **4. Funding of Improvements**

- a. The City shall fund all of the capital costs including, but not limited to, planning, design, engineering, permits, project management, construction, construction management, design services during construction, and traffic control for the following:
  - (1) Realignment/Expansion of Wake Avenue, as described in Section 1.a;
  - (2) Relocation of the existing rail line to the south, as described in Section 1.c;
  - (3) Provision of new railroad crossing at realigned Wake Avenue, as described in Section 1.b.
  - (4) Widening of that portion of Engineers Road to the east of the new Wake Avenue entrance to Engineers Road as described in Section 1.c(4); and
  - (5) Improvements at the intersection of Engineers Road and the rail crossing, as described in Section 1.c.(3);
- b. EBMUD shall fund all of the capital costs including, but not limited to, planning, design, engineering, permits, project management, construction, construction management, design services during construction, and traffic control for the following:
  - (1) Construction of the connection of Engineers Road to Burma Road, as described in Section 1.f; and
  - (2) Widening of that portion of Engineers Road to the west of the new Wake Avenue entrance to Engineers Road as described in Section 1.c.(4);

#### **5. EBMUD Access During Construction**

The City shall stage construction of the roadways and improvements serving the 2012 Army Base Project in such a manner that allows vehicles to reasonably access the MWWTP via the existing EBMUD entrance at the EBMUD security kiosk. The City acknowledges that such reasonable access may require the City to install temporary pavement in some areas to accommodate the turning movements of the vehicles or develop some other temporary improvements. The City shall keep EBMUD informed of modified traffic patterns and routes during construction and shall provide adequate traffic control. The City shall provide EBMUD with proposed traffic routes at least five (5) Business Days in advance of any modification and shall allow EBMUD to provide input into any such modifications within said five (5) Business Days.

#### **6. Responsibility for Maintenance, Repair and Improvements**



EBMUD shall maintain, repair, improve at its own cost and expense all of the roadway improvements, walls, fences, and landscaping on EBMUD property. The City shall be responsible for maintenance of new, realigned Wake Avenue, West Burma Road, and the new rail crossing.

## 7. Agreement not to Litigate

EBMUD acknowledges that the terms of this Agreement adequately address EBMUD's concerns regarding environmental and access impacts of the 2012 Army Base Project. Therefore, EBMUD agrees that EBMUD and its representatives, employees, agents, and contractors ("EBMUD-related Groups") shall not, on behalf of EBMUD, publicly or privately oppose, or legally challenge the City's approval of the 2012 Army Base Project, in any way, including, but not limited to, file an administrative appeal/challenge/objection, lawsuit, action, cause of action and/or claim based on any government approvals, permits and/or actions necessary for adoption of the Addendum and the approval of the 2012 Army Base Project, nor implementation of such; nor shall EBMUD-related Groups assist or encourage others to do so.

EBMUD understands that there may be certain unknown or unstated claims relating to this Agreement Not to Litigate provision and EBMUD nevertheless expressly waives any rights or benefits available to it under section 1542 of the Civil Code of California which provides:

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

This waiver expressly excludes concerns of EBMUD that could arise in its service delivery area that are unrelated to the 2012 Army Base Project, such as new sub-basin allocations. It also expressly excludes any right that EBMUD may have to compensation for damages directly caused by construction activities related to the project, such as damages caused to EBMUD facilities.

## 8. Miscellaneous

### a. Amendments

Subject to applicable law, this Agreement may be amended only by an instrument in writing signed by authorized representatives of the party against whom enforcement is sought.

### b. Remedies

The Parties recognize that certain obligations under this Agreement are special, unique and of extraordinary character, and if any party fails to comply with the obligations and restrictions imposed upon it under this Agreement, the other parties will not have an adequate remedy at law. Under such circumstances, any party, in

addition to any other rights which it may have, will be entitled to injunctive relief to enforce any such restrictions and obligations, and in the event any actual proceedings are brought in equity to enforce any such provision, no party will raise as a defense that there is an adequate remedy at law. Nothing in this Agreement will be construed to prohibit any party from pursuing any other available remedies for any breach or threatened breach, including recovery of damages. However, prior to commencing any legal action to enforce any rights, restrictions and/or obligations under this Agreement, the Parties must first undertake and complete the Dispute Resolution process in Section 8.1.

**c. Severability**

If any phrase, clause, section, subsection, paragraph, subdivision, sentence, term, or provision of this Agreement, or the application of any term or provision of this Agreement to a particular situation, is finally found to be void, invalid, illegal, or unenforceable by a court of competent jurisdiction, then notwithstanding such determination, such term or provision will remain in force and effect to the extent allowed by such ruling and all other terms and provisions of this Agreement or the application of this Agreement to other situations will remain in full force and effect.

Notwithstanding the foregoing, if any material term or provision of this Agreement or the application of such material term or condition to a particular situation is finally found to be void, invalid, illegal, or unenforceable by a court of competent jurisdiction, then the Parties hereto agree to work in good faith and fully cooperate with each other to amend this Agreement to carry out its intent.

**d. Counterparts**

This Agreement may be executed in two or more counterparts, and in facsimile and/or electronic form, all of which will be deemed an original, but each of which will constitute one and the same agreement. Signature pages may be detached from the counterparts and attached to a single copy of the Agreement to physically form one document.

**e. Entire Agreement**

This Agreement, and the Exhibits ~~(xxx - xxx)~~ to it, constitute the entire agreement between the Parties pertaining to its subject matter, and supersede all prior and contemporaneous agreements and understandings of the Parties in connection with the same. If there is any inconsistency between the body of this Agreement and the Exhibits, the body of this Agreement shall govern.

**f. Participation of All Parties; Legal Review**

All Parties agree that they have participated in the formation of this Agreement, and that the rule of construction which provides that any ambiguity will be construed

against the drafter of an instrument will not apply to the interpretation of this Agreement. Each Party acknowledges that he, she, or it has had an opportunity to have, and did have, this Agreement reviewed by an attorney.

**g. No Waiver**

No failure by any party to insist on the strict performance of any obligation of another party under this Agreement or to exercise any right, power, or remedy arising out of a breach hereof, will constitute a waiver of such breach or of the enforcing party's right to demand strict compliance with any terms of this Agreement. No acts or admissions by any party or its employees, agents or contractors, will waive any or all of the enforcing party's rights under this Agreement.

**h. Headings**

The headings in this Agreement are for reference and convenience of the Parties and do not represent substantive provisions of this Agreement.

**i. Notices**

Any notice given pursuant to this Agreement will be given in writing, via facsimile or email, and concurrently by prepaid U.S. certified or registered postage, addressed to recipient as follows:

**To CCIG/Rail Operator**

Mr. Phil Tagami  
CCIG Oakland Global, LLC  
c/o California Capital & Investment Group, Inc.  
300 Frank H. Ogawa Plaza, Suite 340  
Oakland, CA 94612

**To EBMUD:**

Mr. David R. Williams  
Director of Wastewater Department  
East Bay Municipal Utility District  
375 Eleventh St.  
Oakland, CA 94607

**To City:**

Mr. Fred Blackwell  
Assistant City Administrator  
City of Oakland  
One Frank H. Ogawa Plaza, 3<sup>rd</sup> floor  
Oakland, CA 94612

And

Mr. Mark P. Wald  
Deputy City Attorney  
City of Oakland  
One Frank H. Ogawa Plaza, 6th floor  
Oakland, CA 94612

Any Party to this Agreement may change the name or address of representatives for purpose of this Notice section by providing written notice to all other Parties ten (10) Business Days before the change is effective. Notices shall be deemed effective upon receipt; provided, however, that any such notice or other communication is not received or cannot be delivered due to a change in the address of the receiving Party of which notice was not previously given to the sending Party or due to a refusal to accept by the receiving Party, such notice or other communication shall be effective on the date delivery is attempted.

**j. Authorization**

Each party to this Agreement represents and warrants that the execution, delivery and performance of this Agreement by it have been duly authorized by its governing body.

**k. No Requirement to Build; Termination; Void Agreement**

- (1) This agreement will be void if subsequent to a legal challenge or later business decision by the City, the City elects not to commence the 2012 Army Base Project, or portions of the Project relating to realignment of Wake Avenue and increased rail activity in the North Gateway area.
- (2) Notwithstanding anything in this Agreement to the contrary, the City shall have no responsibility to construct any of the improvements described herein or pay for any expenses until and unless it has approved, in its sole and absolute discretion, and executed binding agreements for the 2012 Army Base Project, including without limitation, the Transportation Corridor Improvement Funding Agreement with the California Transportation Commission, the Cost Sharing Agreement with the Port of Oakland, Lease Disposition and Development Agreement with the Master Developer, and Disposition and Development Agreements with the Recyclers.

- (3) This Agreement is not intended to, nor does, commit the City to approving the 2012 Army Base Project.
- (4) This Agreement shall terminate upon termination of the ground lease in the West Gateway area. Upon termination of the ground lease, the terms of Section 1.e of this Agreement shall be incorporated into any document that anticipates the use of the rail line by any Rail Operator, as defined in Section 1.e.(a). The intent of this provision is to ensure that the City or City's lessee or other designee will maintain EBMUD's rights under Section 1.e in perpetuity, subject to the provisions of Section 1.e.(4). In the absence of a ground lease, the City will be responsible for the adherence of any Rail Operator to the limitations set forth in Section 1.e.

#### **I. Dispute Resolution**

- (1) It is the intent of the City, EBMUD and the Rail Operator that conflicts regarding satisfaction of the Parties' rights and obligations under this Agreement be resolved through a dispute resolution method so that such Mediation Issues may be resolved as quickly as possible and at the lowest level possible so as not to adversely impact the Project schedule or course of work. Each utilization of this dispute resolution process shall involve the necessary parties to the dispute.
- (2) The necessary Parties to a dispute shall each designate senior-level representatives ("Senior Representatives") to meet and confer to address specific concerns and/or complaints as they arise. The meeting shall take place within 72 hours after determining that a concern/complaint raised by a Party, could not be resolved, after the concern/complaint is received by the other Party or Parties.
- (3) If the issues cannot be resolved by the senior-level representatives within five (5) Business Days, then the issue shall be forwarded to a Senior Management Committee comprised of – as necessary – the EBMUD Director of Wastewater Department, the Assistant City Administrator (or his/her designees) and/or a Senior Manager as designated by the Rail Operator.
- (4) If the issues cannot be resolved by the Senior Management Committee within five (5) Business Days, then the issue shall be forwarded to an Executive Steering Committee comprised of – as necessary – the City Administrator (or his/her designees), the EBMUD General Manager (or his/her designees) and/or an executive of the Rail Operator.
- (5) If any of the Parties believe the resolution of a recurring or significant problem is time sensitive, such that the Project schedule and/or course of work may be significantly adversely affected by a lack of resolution of the issue, then it may designate the issue to be a significant matter, whereby the time responses for each step (b) and (c) shall be shortened to 48 hours.

- (6) In addition to the provisions above, a mediation of disputes can occur at the written notice/election of one of the Parties if the issue is not resolved after good-faith consultation with the Executive Steering Committee as provided above:
1. The written notice invoking mediation shall contain a statement setting forth the nature of the dispute, the key issues to be resolved in the mediation, the amount of money involved, if any, third parties, if any, necessary for resolution, and the remedy sought.
  2. The mediator shall be appointed upon the mutual agreement of the Parties. In the event the Parties cannot agree on a person to act as the mediator within five (5) calendar days after the initiation of mediation process, then each Party will provide a list of 10 names of persons with at least five (5) years of experience in resolving disputes. The Parties shall select a mediator from this list, or alternate in striking names from the lists until one name remains. The Party initiating the striking of names will be chosen by random chance, such as a flipping of a coin.
  3. The fees and expenses of the mediator shall be shared equally among the Parties.
  4. The rules and procedures for the mediation shall be those set forth herein plus any supplemental rules and procedures established by the mediator that are not inconsistent with the rules and procedures set forth herein.
  5. All matter submitted to mediation and the results thereof shall be confidential, except if otherwise prohibited by law, or upon agreement of the Parties, or to the extent disclosure is necessary to carry out the terms of any resolution reached in mediation.
  6. The mediator shall schedule an initial meeting with the Parties on a mutually acceptable date within ten (10) calendar days after he or she has been appointed. At this meeting, the Parties shall discuss the dispute with the mediator in a good faith attempt to resolve the issues and reach a settlement. If the mediator believes the discussions are productive, the mediator may continue them for a period of time not to exceed fifteen (15) calendar days from the date of the initial meeting. If the dispute has not been resolved through an agreement in principle among the Parties within such fifteen (15) calendar day period, the mediation will cease, unless otherwise mutually agreed to by the Parties.
  7. Each Party agrees to provide as participants in the discussions one or more representatives with decision making and settlement authority sufficient to resolve the particular dispute, subject to approval of the Party's Governing Body, where required.

8. The mediator shall have the authority to request any information at any time from any Party as he or she shall deem reasonably necessary for resolution, excluding attorney-client or other privileged information.
    - (i) Each Party may provide to the mediator any information the Party deems reasonably necessary for resolution of the dispute, at any time.
    - (ii) The mediator shall be authorized to engage in ex parte contacts with any Party or other person with information relevant to dispute at any time until termination of discussions among the Parties and the mediator. All ex parte contacts shall remain confidential to the mediator, to the extent permitted by applicable law or unless otherwise agreed to by the Parties.
    - (iii) The mediation shall be held in such time and place within the City of Oakland as may be selected by the mediator, subject to the consent of the Parties, which consent shall not be unreasonably withheld.
- (7) Any applicable statute of limitations shall be tolled during the period of this dispute resolution process.

**m. Effective Date**

This Agreement is effective on the date indicated on page one, as the date the Parties entered into this Agreement, subject to Section 8.1.

**n. Governing Law**

This Agreement shall be interpreted in accordance with and governed in all respects by the laws of the State of California.

**o. Binding Effect**

This Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective successors and assigns.

**p. No Third Party Obligations**

Except as expressly set forth herein, nothing in this Agreement is intended to nor does create duties, obligations or rights in third parties not Parties to this Agreement.

**q. Cooperation**

The Parties will work together in the spirit of good faith and cooperation to successfully implement this Agreement, including without limitation any negotiations with third parties. Where the City is required to obtain property rights from the Rail Entities or other third parties, the City shall diligently pursue negotiations with those third parties in good faith. To the extent there are any disagreements among the

Parties, including alleged violations of the Agreement, the Parties will immediately raise those disagreements. Prior to initiating any legal action, the Parties will meet in good faith to attempt to resolve the disagreement, as provided in Section 8.1. However, any and all legal actions may be brought only if the preceding dispute resolution process has been completed.

**r. Recitals**

The recitals are true and correct and are an integral part of this Agreement.



In witness thereof, the Parties subscribed below have entered into this Memorandum of Agreement on the date first written above:

**CITY OF OAKLAND:**

By \_\_\_\_\_  
Deanna Santana, City Administrator Date

**Recommended for Approval:**

By \_\_\_\_\_  
Fred Blackwell, Assistant City Administrator

**Approved as to form and legality:**

\_\_\_\_\_  
Mark P. Wald, Deputy City Attorney Date

**EAST BAY MUNICIPAL UTILITY DISTRICT:**

By \_\_\_\_\_  
Alexander R. Coate, General Manager Date

**Approved as to form and legality:**

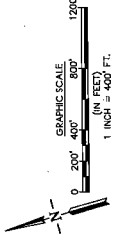
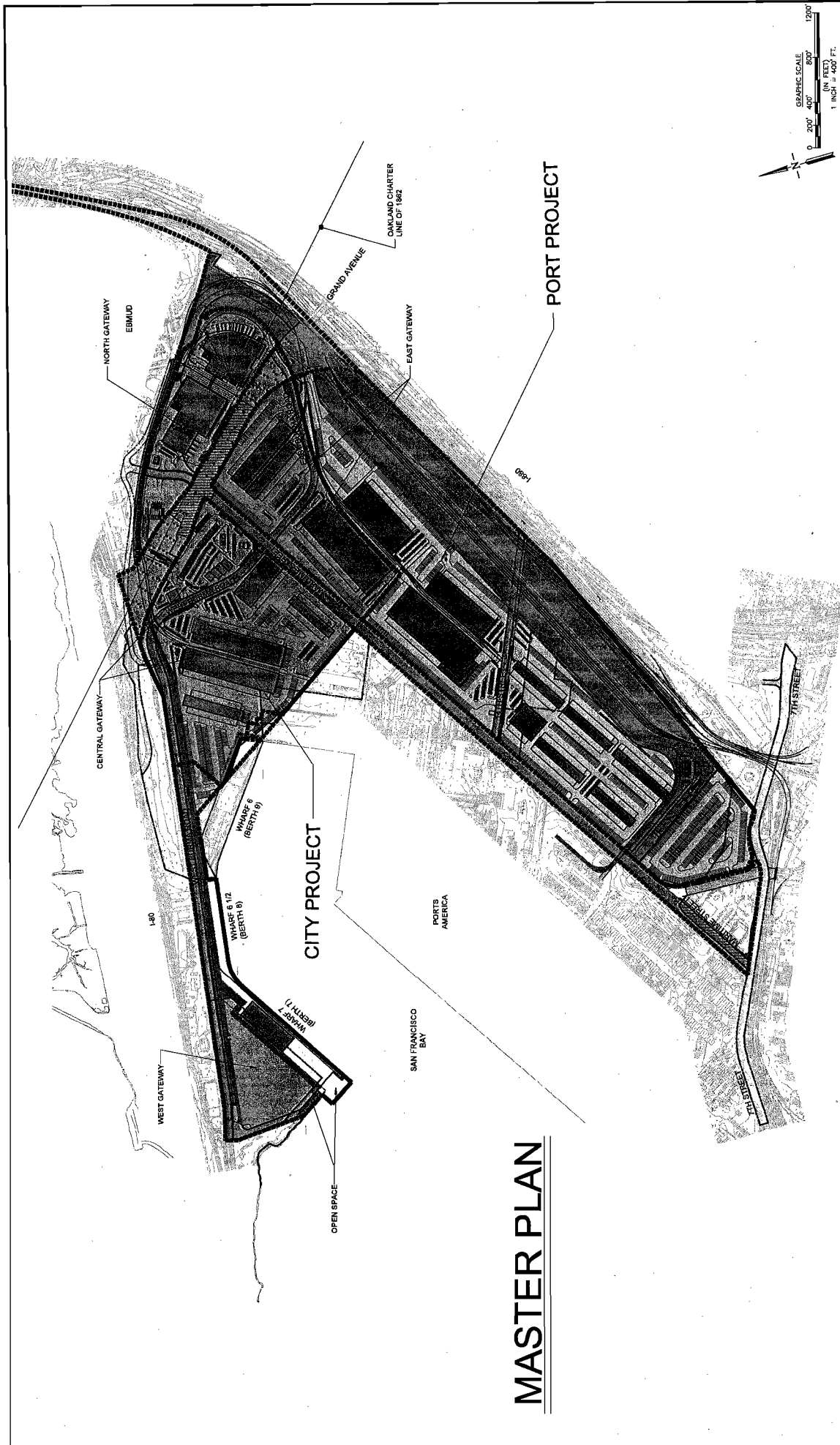
\_\_\_\_\_  
Craig Spencer, Assistant General Counsel Date

**CCIG OAKLAND GLOBAL, LLC (For Sections 1.e and 8 only):**

By \_\_\_\_\_  
Phil Tagami Date

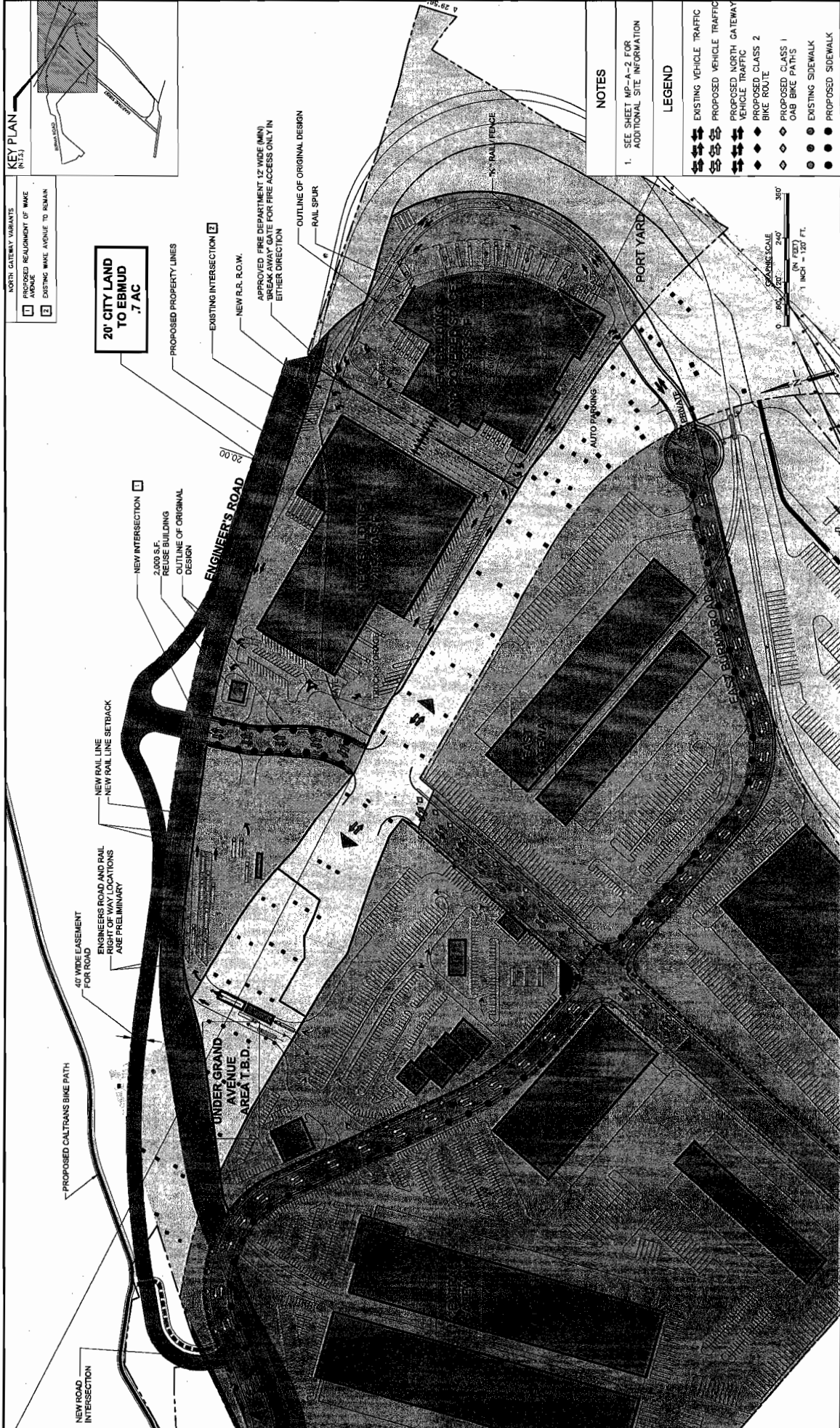
**Approved as to form and legality:**

\_\_\_\_\_  
Marc Stice, Esq. Date



# MASTER PLAN

<b>OAKLAND GLOBAL ARCHITECTURAL DIMENSIONS</b> <small>ARCHITECTURAL DIMENSIONS          MASTER PLAN TEAM          JAMES HILBERGNER          1555 32ND AVENUE, STE 205          WILMINGTON, CA 94792</small>	PROJECT INFO.	EXHIBIT A BUILDING PLAN CITY OF OAKLAND, ALAMEDA COUNTY, CALIFORNIA	JOB NO. CAD302 SCALE 1" = 400' DATE 5/29/2012 DRAWN BY K. CHAIOT CHECKED BY J. HILBERGNER	DRAWING NO. <b>X-201</b> SHEET 1 OF 1
			CAT. NO. AD-0138.02 INVOICE NO. 13977	



**KEY PLAN**  
 NORTH GATEWAY VARIANTS  
 PROPOSED REALIGNMENT OF WAKE  
 (N+V)  
 PROPOSED REALIGNMENT OF WAKE  
 (N+V)  
 EXISTING WAKE ANGLE TO REMAIN

**20' CITY LAND TO EBMUD .7 AC**

NEW INTERSECTION  
 2,000 S.F.  
 REUSE BUILDING  
 OUTLINE OF ORIGINAL  
 DESIGN

NEW RAIL LINE  
 NEW RAIL LINE SETBACK  
 NEW RAIL LINE SETBACK  
 ENGINEER'S ROAD AND RAIL  
 RIGHT OF WAY LOCATIONS  
 ARE PRELIMINARY

PROPOSED CALTRANS BIKE PATH  
 40' WIDE EASEMENT  
 FOR ROAD

EXISTING INTERSECTION  
 NEW R.R. R.O.W.  
 APPROVED FIRE DEPARTMENT 12' WIDE (MIN)  
 BREAKAWAY GATE FOR FIRE ACCESS ONLY IN  
 EITHER DIRECTION

OUTLINE OF ORIGINAL DESIGN  
 RAIL SPUR

PORT YARD

AUTO PARKING

GRAPHIC SCALE  
 0 50 100 200 300  
 (IN FEET)  
 1 INCH = 120 FT.

**NOTES**

- SEE SHEET MP-A-2 FOR ADDITIONAL SITE INFORMATION

**LEGEND**

- EXISTING VEHICLE TRAFFIC
- PROPOSED VEHICLE TRAFFIC
- PROPOSED NORTH GATEWAY VEHICLE TRAFFIC
- PROPOSED CLASS 2 BIKE ROUTE
- PROPOSED CLASS 1 OAB BIKE PATHS
- EXISTING SIDEWALK
- PROPOSED SIDEWALK

JOB NO.	04022	DRAWING NO.	X-196
SCALE	1" = 120'		
DATE	5/18/2012		
DRAWN BY	K. CHADOT		
CHECKED BY	J. HELMRENER		

REV	DATE	COMMENT

CAT. NO.	AD-0126.01
INVOICE NO.	13217

**EXHIBIT B**  
 NORTH GATEWAY AREA SITE PLAN  
 CITY OF OAKLAND, ALAMEDA COUNTY, CALIFORNIA

**PROJECT INFO:**

ARCHITECTURAL DIMENSIONS  
 MASTER PLAN TEAM  
 JAMES HELMRENER  
 PROJECT MANAGER  
 JAMES HELMRENER  
 ARCHITECT  
 WALNUT CREEK, CA 94598

**ARCHITECTURAL DIMENSIONS**



**DISCLAIMER:**  
THIS DRAWING IS PRELIMINARY AND NOT ACCURATE OR INCLUSIVE OF ALL DATA NOR IS IT ENGINEERED AS A FINAL SOLUTION

**LEGEND**

	CITY DEVELOPABLE LAND
	RAILROAD R.O.W. - CITY LAND
	NEW WAKE AVENUE (PUBLIC)
	EBMUD PROPERTY
	EBMUD ENGINEERS ROAD
	DEDICATED LAND TO EBMD

**EBMUD**

GATES & ASSOCIATED  
WORK BY CITY

DESIGN & CONSTRUCTION  
BY EBMD

DESIGN & CONSTRUCTION  
BY CITY

DESIGN & CONSTRUCTION  
BY CITY

DESIGN & CONSTRUCTION  
BY CITY

DESIGN & CONSTRUCTION  
BY CITY

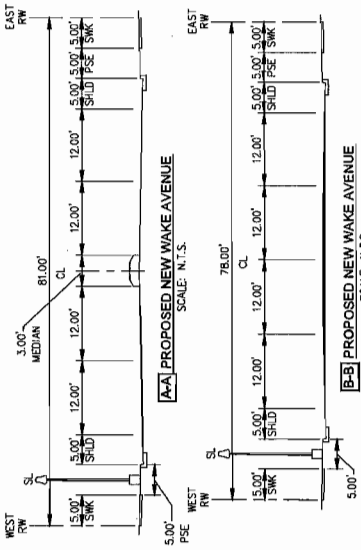
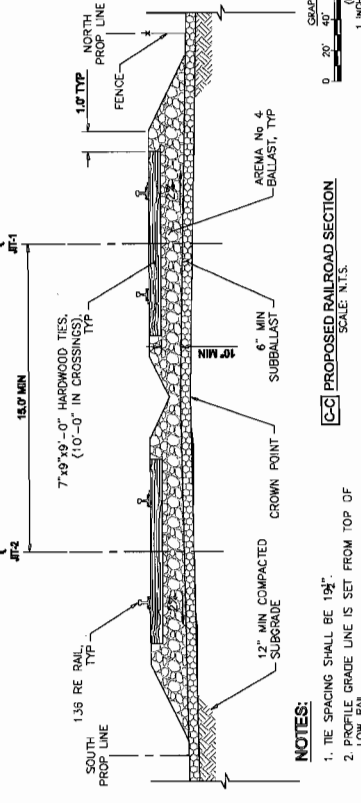
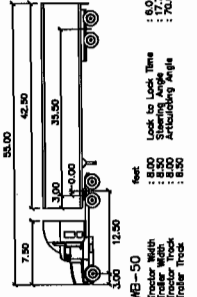
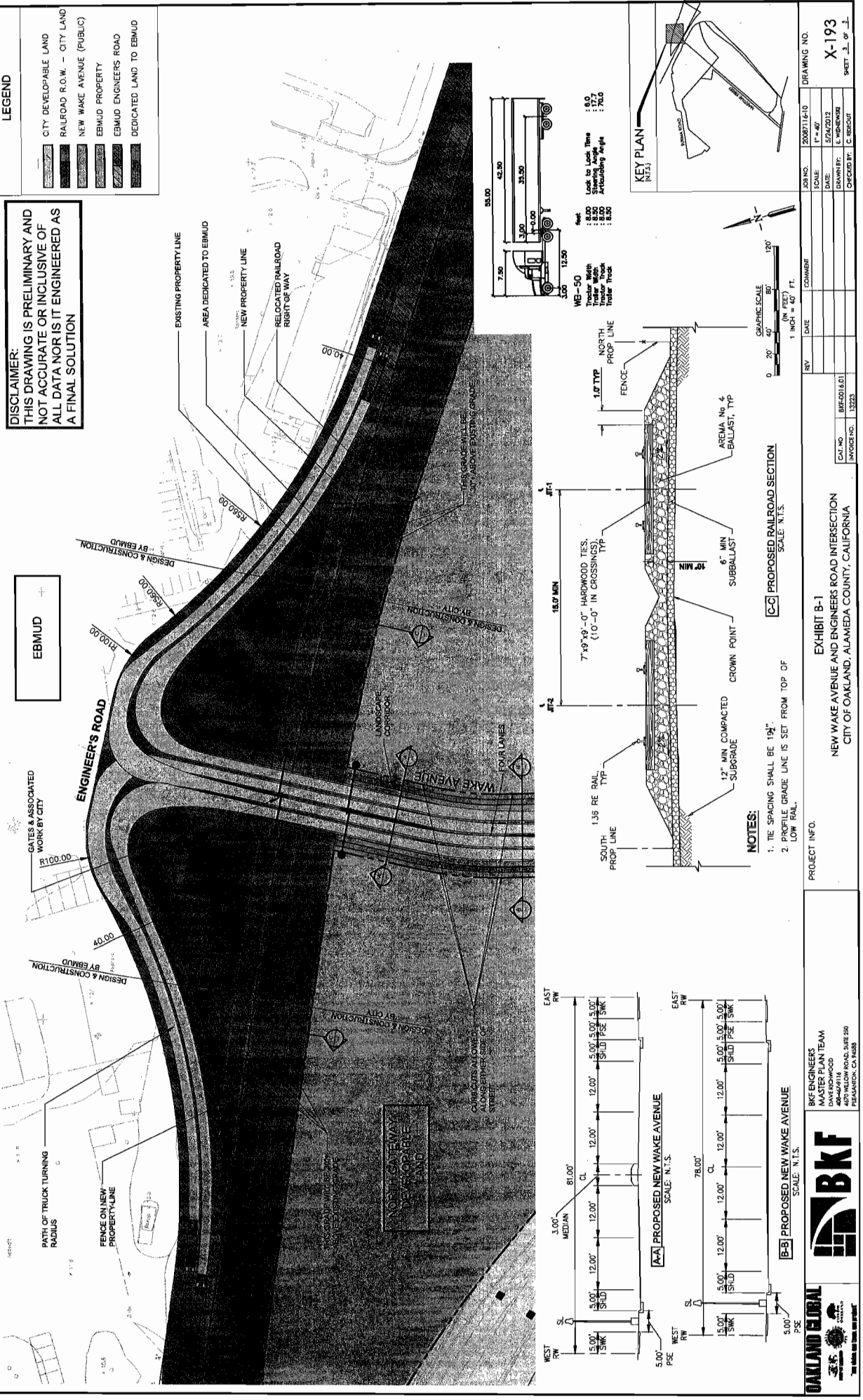
DESIGN & CONSTRUCTION  
BY CITY

DESIGN & CONSTRUCTION  
BY CITY

DESIGN & CONSTRUCTION  
BY CITY

DESIGN & CONSTRUCTION  
BY CITY

DESIGN & CONSTRUCTION  
BY CITY



- NOTES:**
1. THE SPACING SHALL BE 19\"/>
  - 2. PROFILE GRADE LINE IS SET FROM TOP OF LOW RAIL.

JOB NO.	20087112-10	DRAWING NO.	X-193
SCALE	1" = 40'	DATE	5/24/2012
DESIGNER	E. WOODWARD	CHECKED BY	E. WOODWARD
DATE	5/24/2012	DATE	5/24/2012
PROJECT	NEW WAKE AVENUE AND ENGINEERS ROAD INTERSECTION	CITY	OAKLAND, ALAMEDA COUNTY, CALIFORNIA
SHEET	3 OF 3		

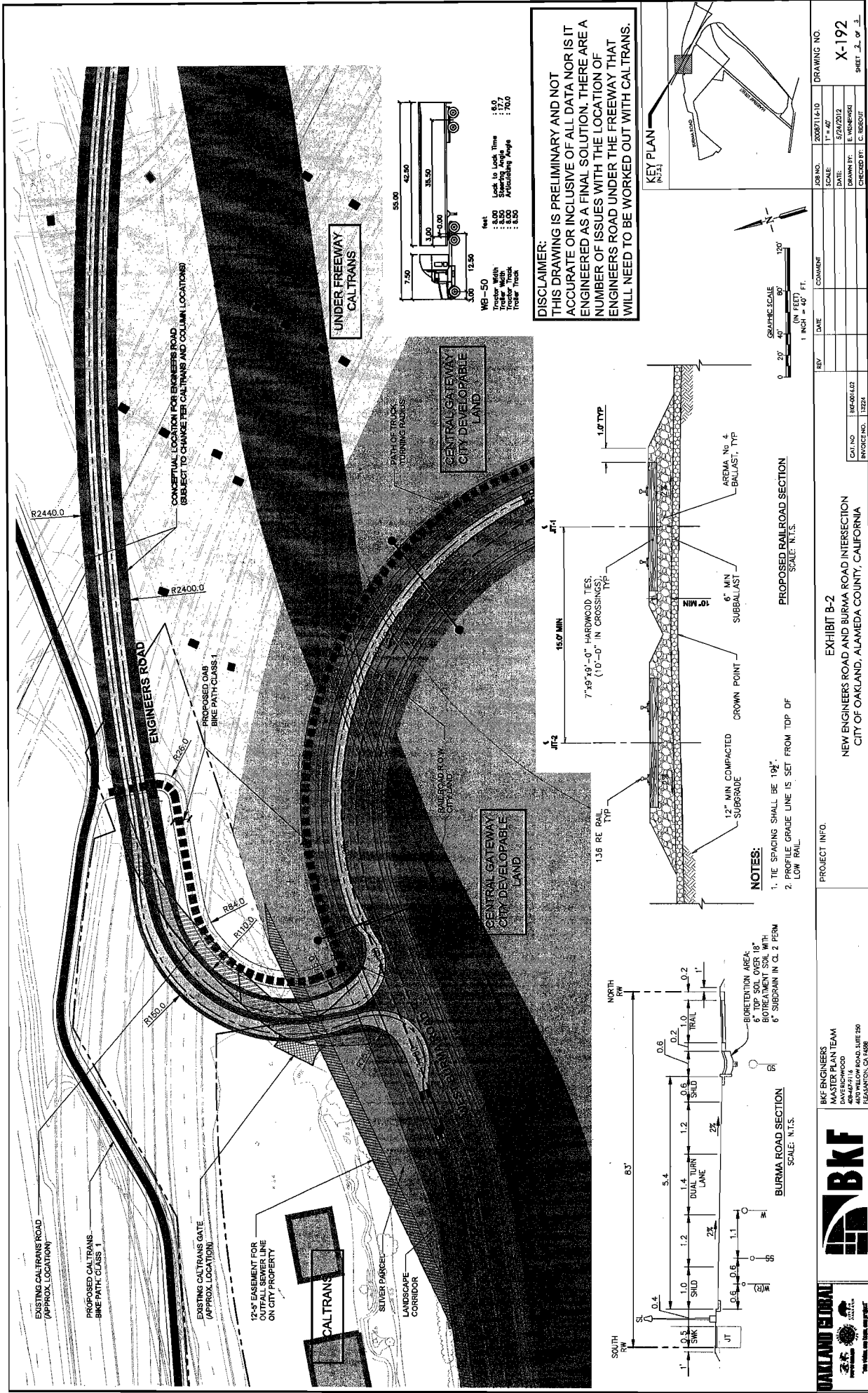
**PROJECT INFO:**

EXHIBIT B-1  
NEW WAKE AVENUE AND ENGINEERS ROAD INTERSECTION  
CITY OF OAKLAND, ALAMEDA COUNTY, CALIFORNIA

**BKF ENGINEERS**  
MASTER PLAN TEAM  
DAVE BROWNE  
400 WILLOW ROAD, SUITE 500  
PLEASANTON, CA 94588

**BKF**

**OAKLAND GLOBAL**



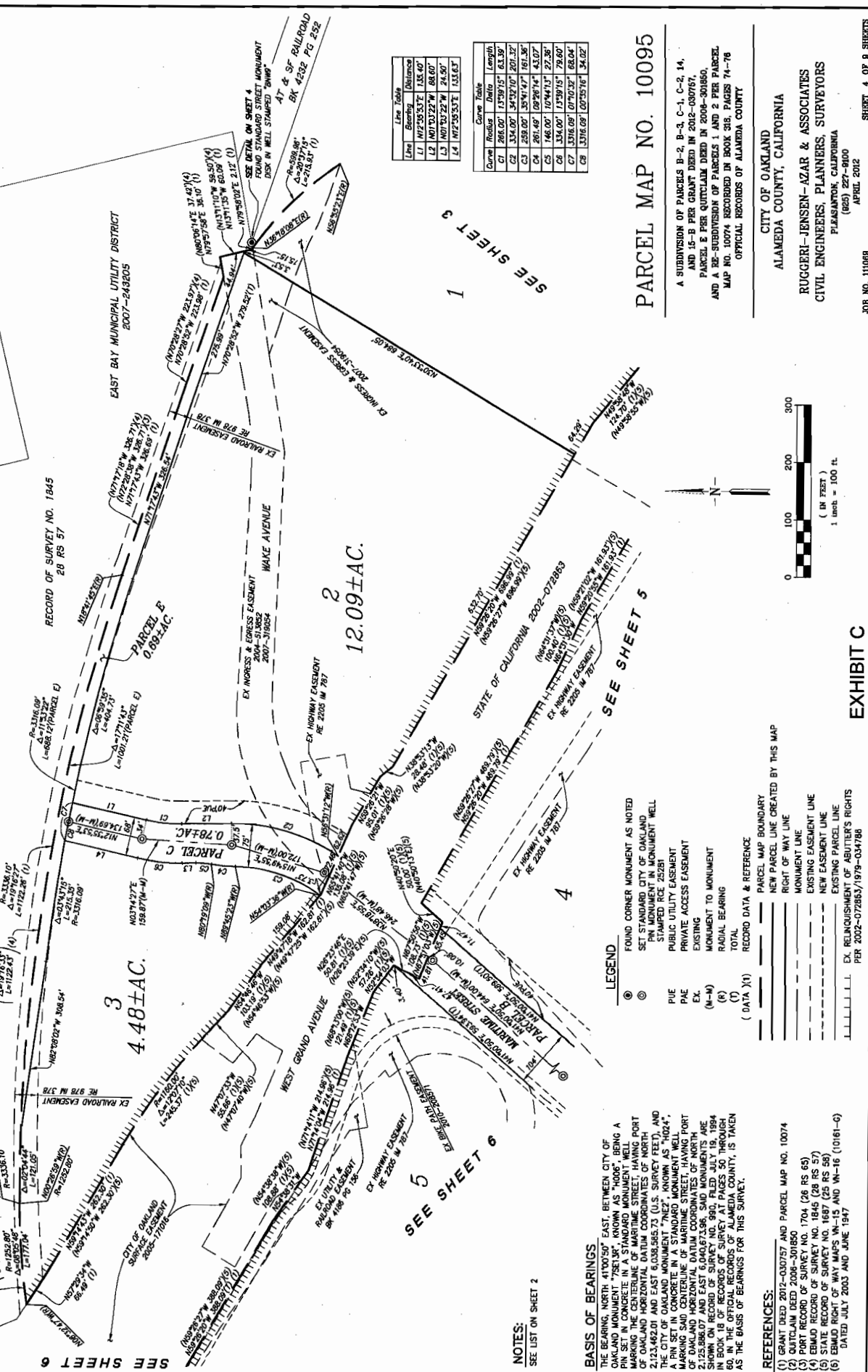
JOB NO. 2009714-10		DRAWING NO. X-192	
SCALE 1" = 40'		DATE 9/20/12	
DRAWN BY E. WILSON		CHECKED BY E. WILSON	
REV		DATE	COMMENT
CAT. NO. 86-MB-6.02		INVOICE NO. 12221	
PROJECT INFO			
EXHIBIT B-2			
NEW ENGINEERS ROAD AND BURMA ROAD INTERSECTION			
CITY OF OAKLAND, ALAMEDA COUNTY, CALIFORNIA			
BKF ENGINEERS			
MASTER PLAN TEAM			
DAVENPORT			
440 WILLOW ROAD, SUITE 200			
FREMONT, CA 94608			

**PRELIMINARY - NOT A RECORDED MAP**

RECORD OF SURVEY NO. 1845  
28 RS 57

SEE SHEET 6

SEE SHEET 2



3  
4.48±AC.

2  
12.09±AC.

4

SEE SHEET 6

SEE SHEET 2

SEE SHEET 5

SEE SHEET 6

SEE SHEET 3

SEE SHEET 2

SEE SHEET 5

SEE SHEET 6

SEE SHEET 6

SEE SHEET 6

SEE SHEET 6

SEE SHEET 6

SEE SHEET 6

Line	Bearing	Distance
L1	N17°35'53"E	135.40'
L2	N07°03'22"W	88.60'
L3	N07°03'22"W	24.50'
L4	N17°35'53"E	133.63'

Curve	Radius	Delta	Length
C1	206.00'	137°59'15"	63.39'
C2	334.00'	34°32'07"	201.32'
C3	238.00'	35°41'47"	161.36'
C4	261.40'	09°26'14"	43.07'
C5	146.00'	10°44'13"	27.38'
C6	334.00'	137°59'15"	78.60'
C7	3316.09'	07°00'37"	68.04'
C8	3316.09'	07°00'37"	34.02'

**PARCEL MAP NO. 10095**

A SUBDIVISION OF PARCELS B-2, B-3, C-1, C-2, 14,  
AND 15-B PER GRANT DEED IN 2012-030787,  
PARCEL E PER QUITCLAIM DEED IN 2008-301850,  
AND A RE-SUBDIVISION OF PARCELS 1 AND 2 PER PARCEL  
MAP NO. 10074 RECORDED IN BOOK 318, PAGES 74-78  
OFFICIAL RECORDS OF ALAMEDA COUNTY

CITY OF OAKLAND  
ALAMEDA COUNTY, CALIFORNIA  
RUGGERI-JENSEN-AZAR & ASSOCIATES  
CIVIL ENGINEERS, PLANNERS, SURVEYORS  
PLEASANTON, CALIFORNIA  
(925) 227-8100  
APRIL 2012

JOB NO. 111089 SHEET 4 OF 8 SHEETS

- LEGEND**
- FOUND CORNER MONUMENT AS NOTED
  - ⊙ SET STANDARD CITY OF OAKLAND PIN MONUMENT IN MONUMENT WELL
  - ▬ PUBLIC UTILITY EASEMENT
  - ▬ PRIVATE ACCESS EASEMENT
  - ▬ EXISTING
  - ▬ MONUMENT TO MONUMENT
  - ▬ RADIAL BEARING
  - (○) TOTAL
  - (○) DATA
  - (X) REFERENCE

**BASIS OF BEARINGS**  
THE BEARING, NORTH 41°00'50" EAST, BETWEEN CITY OF OAKLAND AND SEVEN-KNOWN AS "HUB", BEING A PIN SET IN CONCRETE IN STANBROOK STREET, HAVING PORT OF OAKLAND HORIZONTAL DATUM COORDINATES OF NORTH 2,123,462.01 AND EAST 6,038,565.73 (U.S. SURVEY FEET), AND THE CITY OF OAKLAND MONUMENT "NEZ", KNOWN AS "H024", MARKED BY SAN FRANCISCO STANDARD MONUMENT WELL OF OAKLAND HORIZONTAL DATUM COORDINATES OF NORTH 2,123,886.07 AND EAST 6,040,673.96, SAID MONUMENTS ARE SHOWN ON RECORD OF SURVEY NO. 980, FILED JULY 19, 1984 AND 80% OF RECORDS OF SURVEY AT PAGES 50 THROUGH 61 OF THE RECORDS OF SURVEY. THEREFORE, THE BEARING, IS TAKEN AS THE BASIS OF BEARINGS FOR THIS SURVEY.

**REFERENCES:**

- (1) GRANT DEED 2012-030787 AND PARCEL MAP NO. 10074
- (2) QUITCLAIM DEED 2008-301850
- (3) PORT RECORD OF SURVEY NO. 704 (26 RS 65)
- (4) ERMAD RECORD OF SURVEY NO. 1845 (28 RS 57)
- (5) ERMD RECORD OF SURVEY NO. 1687 (25 RS 55)
- (6) ERMD RECORD OF SURVEY NO. 1083 AND W-16 (10161-6) DATED JULY 2003 AND JUNE 1987



**EXHIBIT C**