

**Fidelity National Law Group**  
The Law Division of Fidelity National Title Group, Inc.  
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Walnut Creek, CA 94598

Alameda County  
FEB 25 2013  
Environmental Health

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Trial Counsel  
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***Via U.S. Mail***

February 20, 2013

Ms. Donna Drogos, P.E.  
Alameda County Environmental Health Services  
1131 Harbor Bay Parkway  
Alameda, CA 94502

Re: Covenant and Environmental Restriction on Property,  
3925 Alameda Avenue, Oakland, California  
ACEH Case No. RO0000418

*Julia Kim v. City of Oakland, et al.*,  
Alameda County Superior Court Case No. RG07-358758

Dear Ms. Drogos:

I represent 3925 Alameda Property, LLC, the owner of the property located at 3925 Alameda Avenue, Oakland, California. I also represent RIF-1 Alameda, LLC ("RIF"), a prior owner of the property. This letter follows my August 9, 2012, letter addressed to Ms. Barbara Jakub on this issue, and our telephone conversations last October.

I write concerning the Covenant and Environmental Restriction between RIF and Alameda County Environmental Health. (A copy of the Covenant is enclosed for your convenience.) As you will recall, Exhibit A to the Covenant describes two parcels. "Parcel One" is the property located at 3295 Alameda Avenue. "Parcel Two," on the other hand, describes what is merely a parking easement over a neighboring lot, 569 High Street, APN 033-2250-001-04. At the time the Covenant was entered into, the City of Oakland owned 569 High Street. Julia B. Kim is the current owner of 569 High Street.

Pursuant Section 4.2 of the Covenant, 3925 Alameda Property, LLC hereby formally applies for termination of the Covenant as it pertains to the "Parcel Two" parking easement over 569 High Street. *Please note:* 3925 Alameda Property, LLC is not seeking any termination or variance with respect to the "Parcel One" property at located 3925 Alameda Avenue.

Ms. Donna Drogos, P.E.

Re: 3925 Alameda Ave., Oakland - Covenant & Environmental Restriction

February 20, 2013

Page 2 of 3

3925 Alameda Property LLC's request for termination of the parking easement portion of the Covenant arises from the settlement of a long-running lawsuit relating to ownership of 569 High Street. The lawsuit is *Kim v. City of Oakland, et al.*, Alameda County Superior Court Case No. RG07-358758. The parties to the settlement include Ms. Kim, my clients, and prior owners of these properties, including the City of Oakland.

As part of the settlement, 3925 Alameda Property LLC will relinquish its parking easement over 569 High Street. Once that happens, the parking easement will be extinguished as a matter of law. However, because the Covenant was recorded, it might cloud title to 569 High Street despite the extinguishment of the parking easement.

Formal confirmation that the Covenant does not affect fee simple title to 569 High Street is one of the conditions of the settlement agreement. ACEH's refusal to formally terminate the parking easement portion of the Covenant is now the only major obstacle to completing the settlement. ACEH's continued refusal to terminate would also interfere with the contractual relations of the parties to the settlement.

I understood from our prior conversations that ACEH is reluctant or unwilling to terminate the parking easement portion of the Covenant. However, there appears to be no legal or factual basis for that position.

All parties to the lawsuit agree that the Covenant has never had any effect on the rights of the fee simple owner of the Kim Parcel. Here's why: When RIF entered into the Covenant with ACEH in April 2005, RIF owned 3925 Alameda Avenue. RIF did not own 569 High Street. The City of Oakland owned 569 High Street at the time. The only interest RIF had in 569 High Street was simply a parking easement.

As a result, RIF could not have covenanted anything that would restrict the City's use of 569 High Street. Simply put, RIF did not have the power or the right to make any agreement that affected the City's ownership of 569 High Street. Consequently, the City owned 569 High Street free and clear of the Covenant, and ACEH did not obtain any restrictions through the Covenant on the City's use of 569 High Street. The inclusion of the parking easement in the Covenant seems to have been a mistake.

The consequence of ACEH's refusal to terminate the parking easement portion of the Covenant will likely be a lawsuit against the county to quiet title to 569 High Street free of the Covenant, and for reformation of the Covenant to exclude the parking easement, declaratory relief, and possibly a slander of title claim.

Please let me know by Friday, March 1, 2013, what 3925 Alameda Property, LLC needs to do next to obtain a termination of the parking easement portion of the Covenant. If ACEH is unwilling to grant a termination of the Covenant as it pertains to the parking easement, I would like to set up a meeting with you and County Counsel to discuss the

Ms. Donna Drogos, P.E.

Re: 3925 Alameda Ave., Oakland - Covenant & Environmental Restriction

February 20, 2013

Page 3 of 3

basis and consequences of ACEH's position and possible solutions. I am available on February 28th and March 6th and 7th to meet at a location convenient to you.

Thank you for your attention to this matter. I look forward to hearing from you.

Sincerely,

A handwritten signature in black ink, appearing to read 'Carl Paganelli', written in a cursive style.

Carl Paganelli

CSP:sc

Enclosure

cc: Donna Ziegler, Esq., Alameda County Counsel  
Richard Wallace, Esq., counsel for Plaintiff, Julia B. Kim  
William E. Adams, Esq., counsel for the City of Oakland  
Mitchell Stein, Esq., counsel for Smooke & Sons Investment Co., LLC  
Duncan McDonald, Esq., counsel for Robert Lloyd Hamilton and Hamilton,  
Cohen, Thatcher & Associates

8

This instrument is filed for record by Chicago Title Company as an Accommodation only. It has not been examined as to its execution or as to its effect on the Title.



2005232708

06/08/2005 08:30 AM

OFFICIAL RECORDS OF ALAMEDA COUNTY  
PATRICK O'CONNELL  
RECORDING FEE: 62.00

**Recording Requested By:**

RIF I - ALAMEDA, LLC



17 PGS

A91  
A24  
17  
50

**When Recorded, Mail To:**

Mee Ling Tung, Director  
Alameda County Environmental Health Services  
1131 Harbor Bay Parkway  
Alameda, California 94502

**COVENANT AND ENVIRONMENTAL RESTRICTION  
ON PROPERTY**

**3925 ALAMEDA AVENUE, OAKLAND, CALIFORNIA**

This Covenant and Environmental Restriction on Property (this "Covenant") is made as of the 11<sup>th</sup> day of April, 2005 by RIF I - ALAMEDA LLC ("Covenantor") who is the Owner of record of that certain property situated at 3925 Alameda Avenue, in the City of Oakland, County of Alameda, State of California, which is more particularly described in Exhibit A attached hereto and incorporated herein by this reference (such portion hereinafter referred to as the "Burdened Property"), for the benefit of the Alameda County Environmental Health Services (the "County"), with reference to the following facts:

A. The Burdened Property and groundwater underlying the property contains hazardous materials.

B. Contamination of the Burdened Property. Soil at the Burdened Property was contaminated by petroleum hydrocarbons from underground storage tanks formerly located on the burdened property. These operations resulted in contamination of soil and groundwater with organic chemicals including petroleum gasoline, diesel, benzene, toluene, ethyl benzene and xylene, which constitute hazardous materials as that term is defined in Health & Safety Code Section 25260. Subsequent to the removal of the two underground storage tanks in 1988, approximately 700 gallons of petroleum impacted groundwater was removed and disposed from the tank pit. The site is covered with an asphalt cap. Multiple phases of investigation were performed, on and off-site. Two additional sources of petroleum releases were identified. An environmental and human health risk assessment was performed evaluating industrial use exposure at the site. Site is limited to industrial use by this deed restriction. The City of Oakland will include this site in its Permit Tracking System and has been notified of the other two identified

nearby release sites. A summary of residual soil and groundwater sampling results are provided in Exhibit B.

C. Exposure Pathways. The contaminants addressed in this Covenant are present in soil and groundwater on the Burdened Property. Without the mitigation measures which have been performed on the Burdened Property, exposure to these contaminants could take place via direct contact, inhalation and/or ingestion by humans. The risk of public exposure to the contaminants has been substantially lessened by the remediation and controls described herein.

D. Adjacent Land Uses and Population Potentially Affected. The Burdened Property is used for industrial uses and is adjacent to industrial and commercial land uses.

E. Full and voluntary disclosure to the County of the presence of hazardous materials on the Burdened Property has been made and extensive sampling of the Burdened Property has been conducted.

F. Covenantor desires and intends that in order to benefit the County, and to protect the present and future public health and safety, the Burdened Property shall be used in such a manner as to avoid potential harm to persons or property that may result from hazardous materials that may have been deposited on portions of the Burdened Property.

## ARTICLE I GENERAL PROVISIONS

1.1 Provisions to Run with the Land. This Covenant sets forth protective provisions, covenants, conditions and restrictions (collectively referred to as "Restrictions") upon and subject to which the Burdened Property and every portion thereof shall be improved, held, used, occupied, leased, sold, hypothecated, encumbered, and/or conveyed. The restrictions set forth in Article III are reasonably necessary to protect present and future human health and safety or the environment as a result of the presence on the land of hazardous materials. Each and all of the Restrictions shall run with the land, and pass with each and every portion of the Burdened Property, and shall apply to, inure to the benefit of, and bind the respective successors in interest thereof, for the benefit of the County and all Owners and Occupants. Each and all of the Restrictions are imposed upon the entire Burdened Property unless expressly stated as applicable to a specific portion of the Burdened Property. Each and all of the Restrictions run with the land pursuant to section 1471 of the Civil Code. Each and all of the Restrictions are enforceable by the County.

1.2 Concurrence of Owners and Lessees Presumed. All purchasers, lessees, or possessors of any portion of the Burdened Property shall be deemed by their purchase, leasing, or possession of such Burdened Property, to be in accord with the foregoing and to agree for and among themselves, their heirs, successors, and assignees, and the agents, employees, and lessees of such owners, heirs, successors, and assignees, that the Restrictions as herein established must be adhered to for the benefit of the County and the

Owners and Occupants of the Burdened Property and that the interest of the Owners and Occupants of the Burdened Property shall be subject to the Restrictions contained herein.

1.3 Incorporation into Deeds and Leases. Covenantor desires and covenants that the Restrictions set out herein shall be incorporated in and attached to each and all deeds and leases of any portion of the Burdened Property. Recordation of this Covenant shall be deemed binding on all successors, assigns, and lessees, regardless of whether a copy of this Covenant and Agreement has been attached to or incorporated into any given deed or lease.

1.4 Purpose. It is the purpose of this instrument to convey to the County real property rights, which will run with the land, to facilitate the remediation of past environmental contamination and to protect human health and the environment by reducing the risk of exposure to residual hazardous materials.

## ARTICLE II DEFINITIONS

2.1 County. "County" shall mean the Alameda County Environmental Health Services and shall include its successor agencies, if any.

2.2 Improvements. "Improvements" shall mean all buildings, roads, driveways, regradings, and paved parking areas, constructed or placed upon any portion of the Burdened Property.

2.3 Occupants. "Occupants" shall mean Owners and those persons entitled by ownership, leasehold, or other legal relationship to the exclusive right to use and/or occupy all or any portion of the Burdened Property.

2.4 Owner or Owners. "Owner" or "Owners" shall mean the Covenantor and/or its successors in interest, who hold title to all or any portion of the Burdened Property.

## ARTICLE III DEVELOPMENT, USE AND CONVEYANCE OF THE BURDENED PROPERTY

3.1 Restrictions on Development and Use. Covenantor promises to restrict the use of the Burdened Property as follows:

- a. Development of the Burdened Property shall be restricted to industrial;
- b. No residence for human habitation shall be permitted on the Burdened Property;
- c. No hospitals shall be permitted on the Burdened Property;

d. No schools for persons under 21 years of age shall be permitted on the Burdened Property;

e. No day care centers for children or day care centers for Senior Citizens shall be permitted on the Burdened Property;

f. No Owners or Occupants of the Property or any portion thereof shall conduct any excavation work on the Property, unless expressly permitted in writing by the County. Any contaminated soils brought to the surface by grading, excavation, trenching, or backfilling shall be managed by Covenantor or his agent in accordance with all applicable provisions of local, state and federal law;

g. All uses and development of the Burdened Property shall be consistent with any applicable County Cleanup Order or Risk Management Plan, each of which is hereby incorporated by reference including future amendments thereto. All uses and development shall preserve the integrity of any cap, any remedial measures taken or remedial equipment installed, and any groundwater monitoring system installed on the Burdened Property pursuant to the requirements of the County, unless otherwise expressly permitted in writing by the County.

h. No Owners or Occupants of the Property or any portion thereof shall drill, bore, otherwise construct, or use a well for the purpose of extracting water for any use, including but not limited to, domestic, potable, or industrial uses, unless expressly permitted in writing by the County.

i. The Owner shall notify the County of each of the following: (1) The type, cause, location and date of any disturbance to any cap, any remedial measures taken or remedial equipment installed, and of the groundwater monitoring system installed on the Burdened Property pursuant to the requirements of the County, which could affect the ability of such cap or remedial measures, remedial equipment, or monitoring system to perform their respective functions and (2) the type and date of repair of such disturbance. Notification to the County shall be made by registered mail within ten (10) working days of both the discovery of such disturbance and the completion of repairs;

j. The Covenantor agrees that the County, and/or any persons acting pursuant to County cleanup orders, shall have reasonable access to the Burdened Property for the purposes of inspection, surveillance, maintenance, or monitoring, as provided for in Division 7 of the Water Code.

k. No Owner or Occupant of the Burdened Property shall act in any manner that will aggravate or contribute to the existing environmental conditions of the Burdened Property. All use and development of the Burdened Property shall preserve the integrity of any capped areas.

3.2 Enforcement. Failure of an Owner or Occupant to comply with any of the restrictions, as set forth in paragraph 3.1, shall be grounds for the County, by reason of this Covenant, to have the authority to require that the Owner modify or remove any Improvements constructed in violation of that paragraph. Violation of the Covenant shall be grounds for the County to file civil actions against the Owner as provided by law.

3.3 Notice in Agreements. After the date of recordation hereof, all Owners and Occupants shall execute a written instrument which shall accompany all purchase agreements or leases relating to the property. Any such instrument shall contain the following statement:

The land described herein contains hazardous materials in soils and in the ground water under the property, and is subject to a deed restriction dated as of \_\_\_\_\_, 20\_\_, and recorded on \_\_\_\_\_, 20\_\_, in the Official Records of Alameda County, California, as Document No. \_\_\_\_\_, which Covenant and Restriction imposes certain covenants, conditions, and restrictions on usage of the property described herein. This statement is not a declaration that a hazard exists.

#### ARTICLE IV VARIANCE AND TERMINATION

4.1 Variance. Any Owner or, with the Owner's consent, any Occupant of the Burdened Property or any portion thereof may apply to the County for a written variance from the provisions of this Covenant.

4.2 Termination. Any Owner or, with the Owner's consent, any Occupant of the Burdened Property or a portion thereof may apply to the County for a termination of the Restrictions as they apply to all or any portion of the Burdened Property.

4.3 Term. Unless terminated in accordance with paragraph 4.2 above, by law or otherwise, this Covenant shall continue in effect in perpetuity.



ARTICLE V  
MISCELLANEOUS

5.1 No Dedication Intended. Nothing set forth herein shall be construed to be a gift or dedication, or offer of a gift or dedication, of the Burdened Property or any portion thereof to the general public.

5.2 Notices. Whenever any person gives or serves any notice, demand, or other communication with respect to this Covenant, each such notice, demand, or other communication shall be in writing and shall be deemed effective (1) when delivered, if personally delivered to the person being served or official of a government agency being served, or (2) three (3) business days after deposit in the mail if mailed by United States mail, postage paid certified, return receipt requested:

*If To: "Covenantor"*

RIF I – ALAMEDA, LLC  
11601 Wilshire Blvd., Suite 650  
Los Angeles, CA 90025

*If To: "County"*

Alameda County Environmental Health Services  
Attention: Director  
1131 Harbor Bay Parkway  
Alameda, California 94502

5.3 Partial Invalidity. If any portion of the Restrictions or terms set forth herein is determined to be invalid for any reason, the remaining portion shall remain in full force and effect as if such portion had not been included herein.

5.4 Article Headings. Headings at the beginning of each numbered article of this Covenant are solely for the convenience of the parties and are not a part of the Covenant.

5.5 Recordation. This instrument shall be executed by the Covenantor and by the Director of Environmental Health Services. This instrument shall be recorded by the Covenantor in the County of Alameda within ten (10) days of the date of execution.

5.6 References. All references to Code sections include successor provisions.

5.7 Construction. Any general rule of construction to the contrary notwithstanding, this instrument shall be liberally construed in favor of the Covenant to effect the purpose of this instrument and the policy and purpose of the Water Code. If any provision of this

instrument is found to be ambiguous, an interpretation consistent with the purpose of this instrument that would render the provision valid shall be favored over any interpretation that would render it invalid.

IN WITNESS WHEREOF, the parties execute this Covenant as of the date set forth above.

Covenantor:

RIF I - Alameda, LLC, a California  
limited liability company  
By: REXFORD INDUSTRIAL, LLC, a  
California limited liability company,  
Its Manager

By:

  
Howard Schwimmer

Title: Managing Member

Date:

4-11-05

Agency:

Alameda County  
Environmental Health Services

By:

  
Mee Ling Tung

Title: Director

Date:

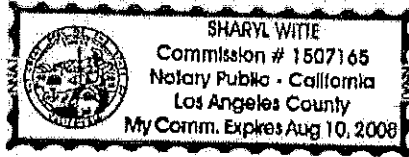
5/10/05

**CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**

State of California }  
County of Los Angeles } ss.

On April 11, 2005 before me, Sharyl Witte, Notary Public  
Date Name and Title of Officer (e.g., "Jane Doe, Notary Public")  
personally appeared Howard Schwimmer  
Name(s) of Signer(s)

personally known to me  
 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.

WITNESS my hand and official seal.  
Sharyl Witte  
Signature of Notary Public

**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.*

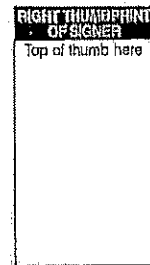
Description of Attached Document Covenant & Environmental Restriction on Property  
Title or Type of Document: Letter of Transmittal  
Document Date: April 11, 2005 Number of Pages: \_\_\_\_\_  
Signer(s) Other Than Named Above: \_\_\_\_\_

**Capacity(ies) Claimed by Signer**

Signer's Name: Howard Schwimmer

- Individual
- Corporate Officer — Title(s): \_\_\_\_\_
- Partner —  Limited  General
- Attorney-In-Fact
- Trustee
- Guardian or Conservator
- Other: \_\_\_\_\_

Signer is Representing: \_\_\_\_\_



ILLEGIBLE NOTARY SEAL DECLARATION

(GOVERNMENT CODE 27361.7)

I declare under penalty of perjury that the notary seal on the document to which this statement is attached, reads as follows:

NAME OF NOTARY PUBLIC: Sharyl White  
COMMISSION NUMBER: 150 7165  
NOTARY PUBLIC STATE: California  
COUNTY: Los Angeles  
MY COMM. EXPIRES: 8-10-08  
(DATE)  
SIGNATURE OF DECLARANT: Debbie Martinez  
PRINT NAME OF DECLARANT: Debbie Martinez  
CITY & STATE OF EXECUTION: Concord, California  
DATE SIGNED: 6-7-05

THE ABOVE INFORMATION MUST BE LEGIBLE FOR SCANNING

**CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**

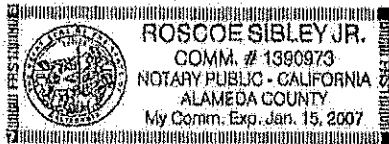
State of California }  
County of Alameda } ss.

On May 10, 2005 before me, Roscoe Sibley, Jr.  
Date Name and Title of Officer (e.g., "Judge", "Notary Public")

personally appeared Mee Ling Tung  
Name(s) of Signer(s)

personally known to me  
 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.



WITNESS my hand and official seal.

*[Signature]*  
Signature of Notary Public

**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 COVENANT AND ENVIRONMENTAL RESTRICTION ON PROPERTY

Title or Type of Document: LETTER OF TRANSMITTAL

Document Date: MAY 9, 2005 Number of Pages: 15

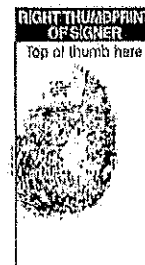
Signer(s) Other Than Named Above: N/A

**Capacity(ies) Claimed by Signer**

Signer's Name: Mee Ling Tung

- Individual
- Corporate Officer -- Title(s): \_\_\_\_\_
- Partner --  Limited  General
- Attorney-in-Fact
- Trustee
- Guardian or Conservator
- Other: \_\_\_\_\_

Signer is Representing: Alameda County Environmental Health SERVICES



ILLEGIBLE NOTARY SEAL DECLARATION

(GOVERNMENT CODE 27361.7)

I declare under penalty of perjury that the notary seal on the document to which this statement is attached, reads as follows:

NAME OF NOTARY PUBLIC: Roscoe Sibley Jr.

COMMISSION NUMBER: 1390923

NOTARY PUBLIC STATE: California

COUNTY: Alameda

MY COMM. EXPIRES: 1-15-07  
(DATE)

SIGNATURE OF DECLARANT: Debbie Martinez

PRINT NAME OF DECLARANT: Debbie Martinez

CITY & STATE OF EXECUTION: Concord, California

DATE SIGNED: 6-7-05

THE ABOVE INFORMATION MUST BE LEGIBLE FOR SCANNING

EXHIBIT A

LEGAL DESCRIPTION OF PROPERTY

**LEGAL DESCRIPTION**  
**EXHIBIT / SCHEDULE "A"**

**LEGAL DESCRIPTION**

CITY OF OAKLAND

PARCEL ONE:

BEGINNING AT A POINT ON THE NORTHWESTERN LINE OF HIGH STREET, DISTANT THEREON SOUTH 46° 05' WEST 875.98 FEET FROM THE POINT OF INTERSECTION THEREOF WITH THE SOUTHERN LINE OF LLOYD AVENUE, AS SAID AVENUE IS DELINEATED AND SO DESIGNATED ON THAT CERTAIN MAP ENTITLED, "MAP OF SUBDIVISION OF THE NORTHEAST PORTION OF THE SATHER TRACT," FILED DECEMBER 6, 1902 IN BOOK 19 OF MAPS AT PAGE 1, IN THE OFFICE OF THE COUNTY RECORDER OF ALAMEDA COUNTY, SAID POINT BEING THE MOST SOUTHERN CORNER OF THAT CERTAIN PARCEL OF LAND CONTAINING 11,506 SQUARE FEET, MORE OR LESS, CONVEYED BY PASQUALE BISCEGLIA, ET AL, TO CENTRAL PACIFIC RAILWAY COMPANY, A CORPORATION, BY DEED DATED MAY 27, 1929 AND RECORDED JUNE 6, 1929 IN BOOK 2141 OF OFFICIAL RECORDS OF ALAMEDA COUNTY, AT PAGE 262 AND THENCE RUNNING NORTH 44° WEST 110 FEET; THENCE ALONG THE SOUTHERN BOUNDARY LINE OF SAID PARCEL CONTAINING 11,506 SQUARE FEET, MORE OR LESS, CONVEYED TO CENTRAL PACIFIC RAILWAY COMPANY BY PASQUALE BISCEGLIA, ET AL., BY SAID DEED DATED MAY 27, 1929, NORTHWESTERLY ALONG THE ARC OF A CURVE TO THE LEFT, WITH A RADIUS OF 348.39 FEET, AN ARC DISTANCE OF 142 FEET TO THE TRUE POINT OF BEGINNING FOR THE PROPERTY CONVEYED HEREBY; THENCE ALONG SAID ARC OF SAID CURVE AND ALONG THE SOUTHERN BOUNDARY LINE OF SAID PARCEL CONTAINING 11,506 SQUARE FEET CONVEYED TO CENTRAL PACIFIC RAILWAY COMPANY, AN ARC DISTANCE OF 74.33 FEET TO A POINT; THENCE NORTH 89° 03' 30" WEST 237.71 FEET ALONG THE SOUTHERN RIGHT-OF-WAY LINE OF THE CENTRAL PACIFIC RAILWAY COMPANY, AS SAID RIGHT-OF-WAY LINE WAS ESTABLISHED BY THAT CERTAIN DECREE OF CONDEMNATION ENTITLED, "THE SAN FRANCISCO AND ALAMEDA RAILROAD COMPANY VS. FEDER SATHER, ET AL.," FILED NOVEMBER 23, 1874, IN CASE NO. 1578 OF THE THIRD JUDICIAL COURT OF ALAMEDA COUNTY, CALIFORNIA, THENCE SOUTH 46° 05' WEST 366.02 FEET TO A POINT; THENCE SOUTH 43° 55' EAST 222.27 FEET; THENCE AT A RIGHT ANGLE NORTHEAST 522 FEET TO A POINT; THENCE NORTHEASTERLY APPROXIMATELY 52 FEET TO THE PLACE OF BEGINNING, TOGETHER WITH THE BUILDING AND IMPROVEMENTS SITUATED THEREON, AND

BEGINNING AT A POINT ON THE NORTHWESTERLY LINE OF HIGH STREET, DISTANT THEREON SOUTH 46° 5' WEST 1075.98 FEET FROM THE SOUTHWESTERN LINE OF EAST EIGHTH STREET, FORMERLY LLOYD AVENUE, AS SAID AVENUE IS SHOWN ON THE "MAP OF SUBDIVISIONS OF THE NORTHEAST PORTION OF THE SATHER"--FILED DECEMBER 6, 1902, IN BOOK 19 OF MAPS, AT PAGE 1, IN THE OFFICE OF THE COUNTY RECORDER OF ALAMEDA COUNTY, SAID POINT OF BEGINNING BEING DISTANT ALONG SAID LINE OF HIGH STREET SOUTH 46° 5' WEST 200 FEET FROM THE MOST SOUTHERN CORNER OF THE PARCEL OF LAND CONTAINING 11,506 SQUARE FEET, MORE OR LESS, CONVEYED BY PASQUALE BISCEGLIA, ET AL., TO CENTRAL PACIFIC RAILWAY COMPANY, BY DEED DATED MAY 27, 1929 AND RECORDED JUNE 6, 1929, IN BOOK 2141 OF OFFICIAL RECORDS OF ALAMEDA COUNTY, AT PAGE 262; RUNNING THENCE ALONG SAID LINE OF HIGH STREET SOUTH 46° 5' WEST 400 FEET; THENCE NORTH 43° 55' WEST 258 FEET TO THE TRUE PLACE OF BEGINNING OF THE PROPERTY DEMISED HEREBY; THENCE FROM SAID TRUE PLACE OF BEGINNING NORTHEASTERLY IN A DIRECT LINE 400 FEET TO A POINT DISTANT NORTH 43° 55' WEST 258 FEET FROM THE NORTHEASTERLY LINE OF HIGH STREET; THENCE SOUTH 43° 55'

CONTINUED ON ATTACHED EXHIBIT



### Description Continued

EAST ONE FOOT; THENCE AT RIGHT ANGLES, PARALLEL WITH THE NORTHWESTERLY LINE OF HIGH STREET, A DISTANCE OF 400 FEET; THENCE NORTH 43° 55' WEST, ONE FOOT TO THE PLACE OF BEGINNING.

EXCEPTING THEREFROM: THAT PORTION GRANTED TO THE CITY OF OAKLAND, A MUNICIPAL CORPORATION, BY DEED RECORDED APRIL 10, 1992, SERIES NO. 92-109586, OFFICIAL RECORDS.

PARCEL TWO:

AN EXCLUSIVE EASEMENT FOR INGRESS, EGRESS, PARKING, FENCING, SECURITY, LIGHTING AND LANDSCAPING, AND RELATED PURPOSES, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE NORTHWESTERN LINE OF HIGH STREET, DISTANT THEREON SOUTH 45° 40' 00" WEST (THE BEARING OF SOUTH 45° 40' 00" WEST BEING ASSUMED FOR THE PURPOSE OF THIS DESCRIPTION), 875.98 FEET FROM THE POINT OF INTERSECTION THEREOF WITH THE SOUTHERN LINE OF EAST 8TH STREET, FORMERLY LLOYD AVENUE, AS SAID AVENUE IS SHOWN ON THE "MAP OF SUBDIVISION OF THE NORTHEAST PORTION OF THE SATHER TRACT", FILED DECEMBER 6, 1902, IN BOOK 19 OF MAPS, PAGE 1, IN THE OFFICE OF THE COUNTY RECORDER OF ALAMEDA COUNTY, SAID POINT BEING THE MOST SOUTHERN CORNER OF THAT CERTAIN PARCEL OF LAND CONTAINING 11,506 SQUARE FEET, MORE OR LESS, CONVEYED BY PASQUALE BISCEGLIA, ET AL, TO CENTRAL PACIFIC RAILWAY COMPANY, A CORPORATION, BY DEED DATED MAY 27, 1929, RECORDED JUNE 6, 1929, IN BOOK 2141 OF OFFICIAL RECORDS OF ALAMEDA COUNTY, PAGE 262; THENCE RUNNING ALONG SAID LINE OF HIGH STREET, SOUTH 45° 40' 00" WEST, 183 FEET; THENCE RUNNING ALONG SAID LINE OF HIGH STREET, SOUTH 45° 40' 00" WEST, 17 FEET; THENCE LEAVING SAID LINE OF HIGH STREET, NORTH 44° 20' 00" WEST, 163 FEET TO THE TRUE POINT OF BEGINNING; THENCE RUNNING ALONG SAID LINE, NORTH 44° 20' 00" WEST, 95 FEET TO THE SOUTHEASTERN LINE OF THE PARCEL OF LAND DESCRIBED IN THE DEED BY SAFEWAY STORES, INC., TO BRIDGE INVESTMENT CO., DATED AUGUST 20, 1941, RECORDED AUGUST 28, 1941, IN BOOK 4122 OF OFFICIAL RECORDS OF ALAMEDA COUNTY, PAGE 73; THENCE NORTH 45° 40' 00" EAST, 82.50 FEET, PARALLEL WITH THE NORTHWESTERLY LINE OF HIGH STREET; THENCE ALONG THE ARC OF A CURVE TO THE LEFT WITH A RADIUS OF 352 FEET, AN ARC DISTANCE OF 101.56 FEET TO A POINT; THENCE SOUTH 45° 40' 00" WEST, 47.58 FEET, PARALLEL WITH THE NORTHWESTERLY LINE OF HIGH STREET, TO THE TRUE POINT OF BEGINNING.

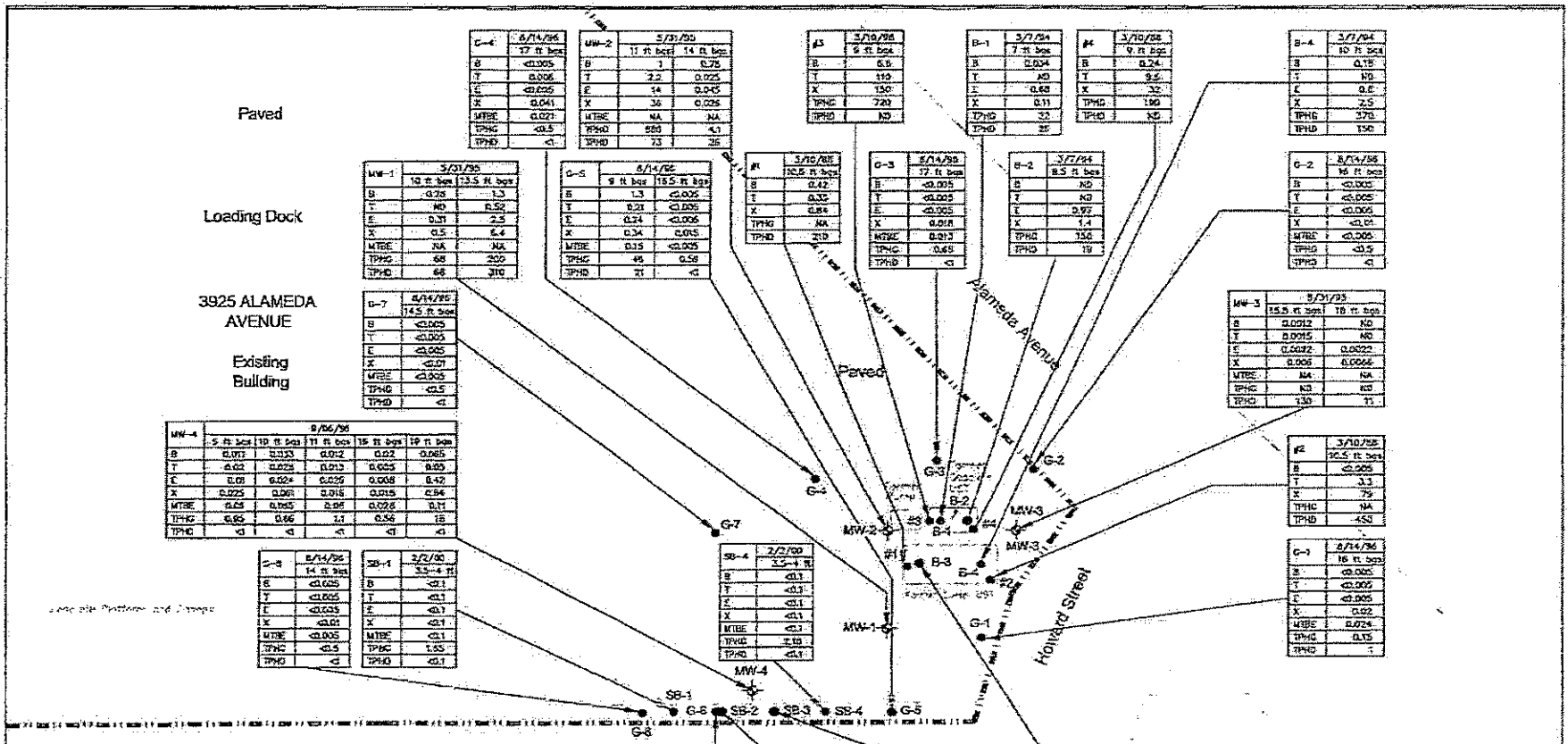
ASSESSOR'S PARCEL NO. 033-2250-009-02

EXHIBIT B

FIGURE B1 – SOIL SAMPLING LOCATIONS AND RESULTS

AND

FIGURE B2 – GROUNDWATER SAMPLING LOCATIONS AND RESULTS



Reference: Smith - Emery Geoservices Plot Plan Plate 2A, 1996.

**Legend:**

- Groundwater Monitoring Well Location
- Soil Sample Location
- Approximate Site Boundary
- Railroad Tracks

**Abbreviations:**

- B = Benzene
- T = Toluene
- E = Ethylbenzene
- X = Total xylenes
- MTBE = Methyl tertiary-butyl ether
- TPHG = Total petroleum hydrocarbons as gasoline
- TPHD = Total petroleum hydrocarbon diesel
- NA = Not Analyzed
- ND = Not Detected (Reporting Limit not Available)
- ft bgs = feet below ground surface

**Notes:**

1. Concentrations in milligrams/kilograms.
2. All locations are approximate.

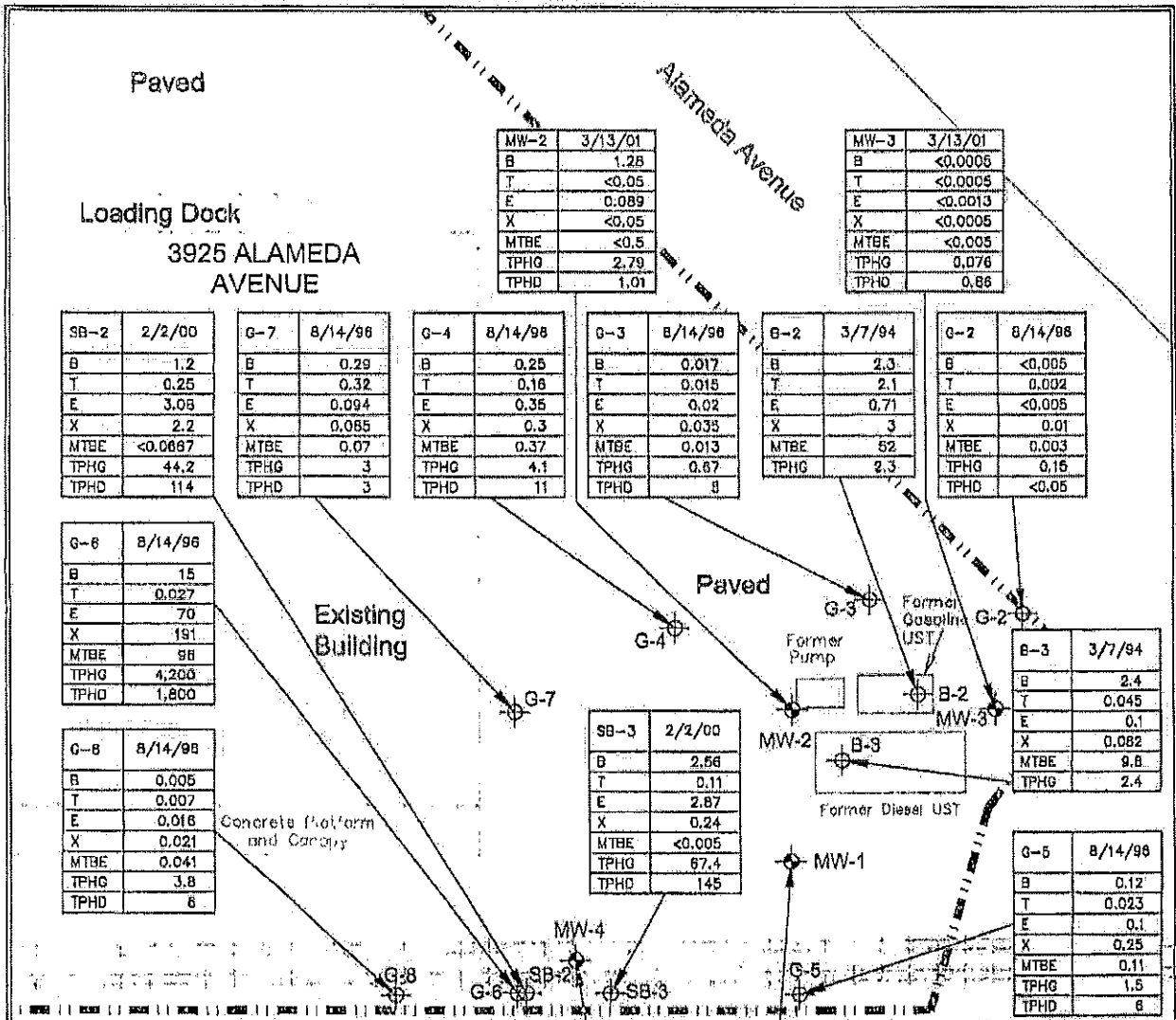


**Eler & Kalinowski, Inc.**

Soil Sampling Locations and Results

3925 Alameda Avenue  
Oakland, CA  
August 2003  
EKJ 990074.02

Figure B1



Reference: Smith - Emery Geoservices Plot Plan Plate 2A, 1996.

**Legend:**

- Groundwater Monitoring Well Location
- Grab Groundwater Sampling Location
- Approximate Site Boundary
- Railroad Tracks

MW-4	3/13/01
B	0.012
T	0.0023
E	0.04
X	0.0069
MTBE	0.0073
TPHG	2.37
TPHD	0.67

MW-1	3/13/01
B	4.76
T	<0.25
E	0.38
X	<0.25
MTBE	<2.5
TPHG	16
TPHD	1.85

**Abbreviations:**

- B = Benzene
- T = Toluene
- E = Ethylbenzene
- X = Total xylenes
- MTBE = Methyl tertiary-butyl ether
- TPHG = Total petroleum hydrocarbons as gasoline
- TPHD = Total petroleum hydrocarbon diesel
- NA = Not Analyzed
- ND = Not Detected (Reporting Limit not Available)

**Notes:**

1. Concentrations in milligrams/Liter.
2. All locations are approximate.

**Erler & Kalinowski, Inc.**

**Groundwater Sampling Locations and Results**

3925 Alameda Avenue  
Oakland, CA  
August 2003  
EKI 980074.02

Figure B2

