

RECORDING REQUESTED BY  
CHICAGO TITLE COMPANY  
AND WHEN RECORDED MAIL TO

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

RECORDING INFORMATION  
DATE OF RECORDING 10-5-05  
SERIES NO. 2005-433091  
ALAMEDA COUNTY FOR  
RECORDING

13

Escrow No. 914038 - LE - OAK  
Order No. 914038 - SDC  
4-109-2, 4-109-3, 4-108-5, 4-108-6

SPACE ABOVE THIS LINE FOR RECORDER'S USE

COVENANT AND ENVIRONMENTAL RESTRICTION ON PROPERTY

THIS ORIGINAL DOCUMENT RECORDED ON 09/19/2005 AS SERIES NO. 2005400785. THIS CERTIFIED COPY IS BEING RE-RECORDED TO INCLUDE THE EXHIBIT "B" AND TO CORRECT THE DATE ON PAGE 7 FROM 9/5/2005 TO 9/15/2005.

Alameda County  
OCT 10 2005  
Environmental Health

THIS PAGE ADDED TO PROVIDE ADEQUATE SPACE FOR RECORDING INFORMATION  
(Additional recording fee applies)

RECORDING REQUESTED BY  
**CHICAGO TITLE COMPANY**



2005400785

09/19/2005 08:30 AM

OFFICIAL RECORDS OF ALAMEDA COUNTY  
PATRICK O'CONNELL  
RECORDING FEE: 59.00

**Recording Requested By:**

Oakland Housing Authority  
1619 Harrison Street  
Oakland, CA 94612



16 PGS

**When Recorded, Mail To:**

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

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Alameda County  
OCT 10 2005  
Environmental Health

**COVENANT AND ENVIRONMENTAL RESTRICTION  
ON PROPERTY**

MANDELA GATEWAY PROPERTY  
1350- 1400 7<sup>th</sup> St.,  
OAKLAND, CALIFORNIA 94607

(Re: Assessor Parcel Numbers: 004-0109-002, 004-0109-003, 004-0108-005, 004-0108-006)

This Covenant and Environmental Restriction on Property (this "Covenant") is made as of the 14<sup>th</sup> day of Sept., 2005 by the Housing Authority of the City of Oakland, California ("Covenantor"), who is the Owner of record of that certain property situated at 1350 and 1400 Seventh Street, 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 underlying Burdened Property contains hazardous materials.
  
- B. Contamination of the Burdened Property. Soil at the Burdened Property was contaminated by prior uses including the Westwood Gardens public housing complex and the former J&A Truck Repair. These operations resulted in contamination of soil with chemicals, including pesticides, lead and total petroleum hydrocarbon as motor oil which constitute hazardous materials

as that term is defined in Health & Safety Code Section 25260. The Burdened Property consists of a "West Block" parcel and an "East Block" parcel. The West Block parcel is located in the area now generally bounded by Seventh Street, Center Street, Eighth Street and Mandela Parkway. The East Block parcel is located in the area now generally bounded by Seventh Street, Mandela Parkway, Eighth Street and property boundary with AT Systems International, Inc. The West Block was previously occupied by the Covenantor's Westwood Gardens public housing apartment complex, which has been demolished. The western part of the East Block was occupied by the former J&A Truck Repair site. The rest of the site was formerly owned by Caltrans and used as a commuter park and ride lot. The lot was previously a part of the right-of-way located beneath a portion of the elevated Nimitz Freeway. The freeway, which was damaged during the Loma Prieta earthquake in 1989, was subsequently demolished and re-routed. Investigations of the Burdened Property have revealed the presence of lead, pesticides, and Total Petroleum Hydrocarbons, quantified as motor oil ("TPH-mo") in shallow soil at various locations. These contaminants constitute hazardous materials, as that term is defined in Health & Safety Code Section 25260.

To mitigate potential adverse health risks associated with exposure to soil containing lead, pesticides and TPH-mo at concentrations greater than risk-based levels, a Soil Management and Removal Plan ("SMRP") was prepared to manage and/or remove such impacted soil in connection with the development of the Burdened Property. In accordance with the SMRP, soil with residual chemicals has been removed to risk-based levels in several areas of the Burdened Property. In addition, the SMRP requires that the Burdened Property be capped by either building slabs, pavement or clean soil to preclude direct contact with any remaining soil containing chemicals above risk-based remedial levels. The County approved the SMRP, as set forth in its letters dated May 23 and June 6, 2003. It also determined that the implementation of the measures in the SMRP (subject to the restrictions of this Covenant and conditions in its approval letters of May 23 and June 6, 2003), would render the Burdened Property appropriate for high density residential use as described in the SMRP. As part of its approval of the SMRP, the County requires that a post-development Soil Management Plan be prepared and a deed restriction be recorded to provide for long-term maintenance and to prevent future uncontrolled disturbance of capped areas. A post-development Soil Management Plan, which was prepared by Treadwell & Rollo and dated 13 April 2004, is

attached hereto as Exhibit B and is incorporated herein by this reference.

C. Exposure Pathways. The contaminants addressed in this Covenant are present in soil on the Burdened Property. Without the mitigation measures which have been performed on the Burdened Property, exposure of site occupants to residual contaminants in the soil could take place via in-place contact, resulting in inhalation, ingestion, or dermal contact 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 residential and commercial purposes and is adjacent to other residential, commercial and industrial 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 by reference in 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 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.

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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 high density residential, commercial or office space.

b. No single family residences shall be permitted on the property.

c. No hospitals shall be permitted on the Burdened Property, unless site conditions are re-evaluated and expressly permitted in writing from the County.

d. No Owners or Occupants of the Burdened Property or any portion thereof shall conduct any excavation work on the Burdened Property, unless in compliance with the post-development Soil Management Plan (Exhibit B). 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.

e. All uses and development of the Burdened Property shall be consistent with the Site Management and Soil Management Plans, 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 on the Burdened Property pursuant to the requirements of the County, unless otherwise expressly permitted in writing by the County.

f. No Owners or Occupants of the Burdened 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.

g. 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.

h. 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.

i. 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 Burdened Property. Any such instrument shall contain the following statement:

The land described herein contains hazardous materials in soils under the property, and is subject to a deed restriction dated as of 9/5, 2005, and recorded on Sept 19, 2005, in the Official Records of Alameda County, California, as Document No. ~~2005400765~~ whose 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":*

Housing Authority of the City of Oakland, California  
1619 Harrison Street  
Oakland, CA 94612  
Attention: Executive Director

*With copies to:*

Goldfarb & Lipman  
1300 Clay Street, 9<sup>th</sup> Floor  
Oakland, CA 94612  
Attention: Michelle Brewer

Mandela Gateway Associates  
c/o BRIDGE Housing Corporation  
345 Spear Street, Suite 700  
San Francisco, CA 94105-1673  
Attention: President

*If To The "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.

5.8 Effect on Mortgage. Neither this Covenant, nor any enforcement action taken as a result of a breach of this Covenant, shall affect the status or priority of any lien and/or security interest encumbering the property. In addition, Civil Code Section 1471 and other applicable laws shall apply to any mortgage on the property.

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

Covenantor: Oakland Housing Authority

By:   
JON GRESLEY

Title: Executive Director

Date: September 13, 2005

Agency: Alameda County Environmental Health Services

By: Mee Ling Tung

Title: Director Mee Ling Tung

Date: 9/14/05

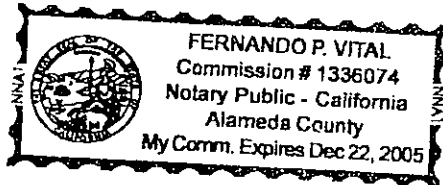
CERTIFICATE OF ACKNOWLEDGEMENT OF NOTARY PUBLIC

STATE OF CALIFORNIA )

COUNTY OF Alameda )

On September 13, 2005 before me, Fernando P. Vital,  
personally appeared Jon Gresley  
personally known to me (or 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/het/their authorized  
capacity(ies), and that by his/het/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.



Fernando P. Vital  
(Signature of Notary Public)

CERTIFICATE OF ACKNOWLEDGEMENT OF NOTARY PUBLIC

STATE OF CALIFORNIA    )  
                                  )  
COUNTY OF ALAMEDA    )

On September 14, 2005 before me, DEBORAH L. FELIX, personally appeared **MEE LING TUNG** personally known to me (or 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.

*Deborah L. Felix*

(Signature of Notary Public)



DR. ROHANI LEBLA  
KEMENTERIAN KESEHATAN  
REPUBLIC OF INDONESIA  
Jl. Pahlawan 44  
Jakarta Barat



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:Fernando P. Vital

COMMISSION NUMBER:1336074

NOTARY PUBLIC STATE:CA

COUNTY:Alameda

MY COMM. EXPIRES:Dec. 22, 2005

(DATE)

SIGNATURE OF DECLARANT: 

PRINT NAME OF DECLARANT:B. Zabrowski

CITY & STATE OF EXECUTION:Oakland, CA

DATE SIGNED:September 14, 2005

THE ABOVE INFORMATION MUST BE LEGIBLE FOR SCANNING

EXHIBIT A  
LEGAL DESCRIPTION OF PROPERTY

EAST BLOCK

Parcel A, as said parcel is shown on Parcel Map No. 8059, filed February 11, 2003, in Book 270, of Parcel Maps, Pages 12 through 13, inclusive, Alameda County Records.

WEST BLOCK

Parcel B and Parcel C of Parcel Map No. 8058, as said parcels are shown on Parcel Map No. 8058, filed February 11, 2003, in Book 270, of Parcel Maps, Pages 14 Through 17, inclusive, Alameda County Records.



EXHIBIT B  
POST-DEVELOPMENT SOIL MANAGEMENT PLAN

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.

5.8 Effect on Mortgage. Neither this Covenant, nor any enforcement action taken as a result of a breach of this Covenant, shall affect the status or priority of any lien and/or security interest encumbering the property. In addition, Civil Code Section 1471 and other applicable laws shall apply to any mortgage on the property.

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

Covenantor: Oakland Housing Authority

By:   
Title: Executive Director  
Date: 9/30/05

Agency: Alameda County Environmental Health Services

By: Mee Long Tung  
Title: Director MEE LONG TUNG  
Date: 10/4/05

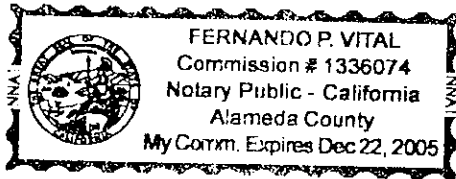
CERTIFICATE OF ACKNOWLEDGEMENT OF NOTARY PUBLIC

STATE OF CALIFORNIA )

COUNTY OF Alameda)

On Sept. 30, 2005 before me, Fernando P. Vital,  
personally appeared Jon Gresley  
personally known to me (or 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.



Fernando P. Vital  
(Signature of Notary Public)

CERTIFICATE OF ACKNOWLEDGEMENT OF NOTARY PUBLIC

STATE OF CALIFORNIA )

COUNTY OF Alameda )

On Oct 4, 2005 before me, Deborah L Felix,  
personally appeared MEE LING TUNG  
personally known to me (or 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.

Deborah L Felix  
(Signature of Notary Public)



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:Fernando P. Vital

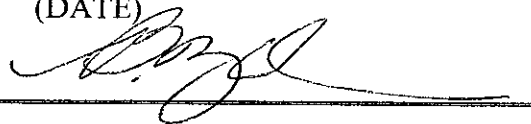
COMMISSION NUMBER:1336074

NOTARY PUBLIC STATE:CA

COUNTY:Alameda

MY COMM. EXPIRES:Dec. 22, 2005  
(DATE)

SIGNATURE OF DECLARANT: \_\_\_\_\_



PRINT NAME OF DECLARANT:B. Zabrowski

CITY & STATE OF EXECUTION:Oakland, CA

DATE SIGNED:October 4, 2005

THE ABOVE INFORMATION MUST BE LEGIBLE FOR SCANNING

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:Deborah L. Felix

COMMISSION NUMBER:1592147

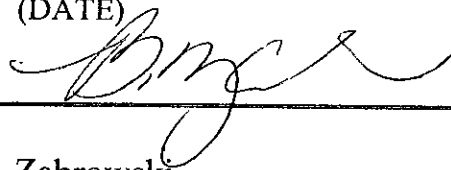
NOTARY PUBLIC STATE:CA

COUNTY:Alameda

MY COMM. EXPIRES:July 2, 2009

(DATE)

SIGNATURE OF DECLARANT: \_\_\_\_\_



PRINT NAME OF DECLARANT:B. Zabrowski

CITY & STATE OF EXECUTION:Oakland, CA

DATE SIGNED:October 4, 2005

THE ABOVE INFORMATION MUST BE LEGIBLE FOR SCANNING

**EXHIBIT B**  
**POST-DEVELOPMENT SOIL MANAGEMENT PLAN**



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**FINAL SOIL MANAGEMENT PLAN  
MANDELA GATEWAY  
1350 - 1400 SEVENTH STREET  
Oakland, California**

**Prepared For:  
Mandela Gateway Associates  
San Francisco, California**

**Submitted to:  
Alameda Health Care Services Agency  
Alameda, California**

**13 April 2004  
Project No. 3433.08**

# Treadwell&Rollo

13 April 2004  
Project No. 3433.08

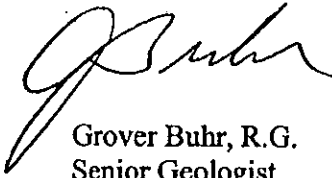
Mr. Barney Chan  
Alameda Health Care Services Agency  
1131 Harbor Bay Parkway, 2<sup>nd</sup> Floor  
Alameda, California 94502

Subject: Final Soil Management Plan  
Mandela Gateway  
1350-1400 Seventh Street  
Oakland, California

Dear Mr. Chan:

Enclosed is our revised *Final Soil Management Plan (FSMP)* for post-development activities at the Mandela Gateway site in Oakland, California. We appreciate the opportunity to work with you on this project. If you have any questions, please call.


Sincerely yours,  
TREADWELL & ROLLO, INC.



Grover Buhr, R.G.  
Senior Geologist

34330821.OAK

Attachment



Michael P. McGuire, P.E.,  
Principal Engineer

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**FINAL SOIL MANAGEMENT PLAN  
MANDELA GATEWAY  
1350 - 1400 SEVENTH STREET  
Oakland, California**

**Prepared For:  
Mandela Gateway Associates  
San Francisco, California**

**Submitted to:  
Alameda Health Care Services Agency  
Alameda, California**

**13 April 2004  
Project No. 3433.08**

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# Treadwell&Rollo

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**FINAL SOIL MANAGEMENT PLAN  
MANDELA GATEWAY  
1350-1400 SEVENTH STREET  
Oakland, California**

## **1.0 INTRODUCTION**

This Final Soil Management Plan (FSMP) presents the post-development measures to protect future workers and site users from risks associated with the presence of residual chemical compounds and metals in the soil at the Mandela Gateway property located at 1350-1400 Seventh Street in Oakland, California (Figure 1). This FSMP was prepared by Treadwell & Rollo for Mandela Gateway Associates. A separate Soil Management and Removal Documentation Report (SMRDR) dated 13 April 2004 (Treadwell & Rollo, 2004) documents the implementation of measures recommended by Treadwell & Rollo to protect construction workers and future site users from risks associated with the presence of chemical compounds and metals in the soil at the site. As reported in the SMRDR, considerable mitigation activities were performed during redevelopment of the site. As a result, soil containing residual chemicals at concentrations greater than site-specific remedial target levels remain in certain discrete, localized areas of the site. This FSMP is intended to ensure that capping of soils in these areas by means of either building slabs, pavement or clean fill soil (for landscaped areas) will remain undisturbed during the site's use and occupancy period. Section 2 of this FSMP summarizes the background information at the site and states the rationale for the FSMP. Section 3.0 describes the maintenance, inspection, and repair measures recommended to maintain the cap at the site and soil handling procedures for future activities.

## **2.0 BACKGROUND**

The site consists of approximately 4.7 acres of relatively flat land in two areas: the West Block bordered by Seventh Street, Center Street, Parcel A of Parcel Map 8058 and Mandela Parkway; and the East Block bordered by Seventh Street, Mandela Parkway, Eighth Street, and Parcel B of

Parcel Map 8059. The site was previously a combination of vacant and commercial properties and parking lots located in a mixed commercial and residential area in west Oakland, and is being redeveloped with multi-story at-grade structures that include parking garages, retail space, and residential units. A total of 55 and 113 residential units are planned for the West and East Blocks, respectively, with common areas, commercial buildings, and parking structures (see Figure 2).

The West Block was previously occupied by the Westwood Gardens apartment complex (owned by the Oakland Housing Authority), which has been demolished. The former apartment complex consisted of four 3-story, multi-unit residential buildings, a central partially-paved plaza area, a driveway/parking area, a paved basketball court and landscaped areas. The East Block was occupied in the western part by J&A Truck Repair (J&A). The rest of the site was formerly occupied by a CalTrans Park and Ride parking lot (CalTrans lot) and a portion of a parking lot owned by Armored Transport Systems, Inc. located on Parcel B of Parcel Map 8059. A portion of the Nimitz Freeway viaduct previously ran above the CalTrans lot, but was removed after the 1989 Loma Prieta earthquake. All subsurface structures associated with former site uses and pile caps associated with the former freeway that impacted the current building's foundation system have been substantially removed.

Sampling and analysis of soil in the West Block prior to site redevelopment indicated that lead and pesticides were present in the shallow soils. In samples collected prior to redevelopment in the East Block, lead and Total Petroleum Hydrocarbons quantified as motor oil (TPH-mo), were detected in shallow soils.

Site-specific, carcinogenic-based and noncancer-hazard-based soil remedial target levels were calculated for lead and pesticides in a site-specific risk assessment titled *Human Health Risk Assessment (HHRA), Mandela Gateway Redevelopment Site, Seventh Street and Mandela Parkway, Oakland, California*, prepared by Treadwell & Rollo, Inc. and dated 24 March 2003 (Treadwell & Rollo 2003a). Potentially exposed populations considered in the HHRA included

construction workers, residents, and commercial/industrial workers. Exposure pathways included inhalation, ingestion, and direct contact. The HHRA indicated that pesticides in soil in the West Block and lead in both the West and East Blocks were the primary contributors to risk for the residential receptors evaluated.

Lead and pesticides were found in some soil samples collected prior to redevelopment in the West Block at concentrations exceeding remedial target levels for future residential and commercial receptors calculated in the HHRA. Lead was detected in some soil samples collected prior to redevelopment in the East Block at concentrations exceeding the HHRA remedial target level. TPH-mo were also detected in several locations in the East Block at concentrations greater than the Shallow Soil Environmental Screening Level (ESL), where groundwater is not a current or potential source of drinking water, developed by the Regional Water Quality Control Board (RWQCB), San Francisco Bay Region (RWQCB, 2003).

Based on the occurrence of these residual chemicals and on the risk-based values calculated in the HHRA, remedial target levels were proposed in the Treadwell & Rollo *Soil Management and Removal Plan (SMRP), Mandela Gateway Redevelopment Site, Seventh Street and Mandela Parkway, Oakland, California*, dated 5 May 2003 (Treadwell & Rollo, 2003b). The SMRP proposed specific remedial target levels of 0.010, 0.5, and 0.011 milligrams per kilogram (mg/kg) for the pesticides Aldrin, DDT, and Dieldrin, respectively, and 255 mg/kg for lead. The remedial target levels for all other pesticides and for TPH-mo proposed in the SMRP were the respective ESLs for the respective chemicals (500 mg/kg in the case of TPH-mo). These remedial target levels were approved by the Alameda County Health Care Services Agency – Environmental Health (ACEH) in their letter dated 23 May 2003 (ACEH, 2003).

In addition, some chemical concentrations detected in soils in some areas of the West and East Blocks prior to site redevelopment indicated that if such soils were to be excavated, they would need to be managed as a California hazardous waste, as defined in the California Code of Regulations Title 22, Section 66261.24 and the California Health and Safety Code, Section



25157.8. These statutory chemical levels are not related to those associated with protection of human health or the environment at residential sites.

Soil management procedures for redevelopment activities were documented in the SMRP, which was approved by the ACEH in their 23 May 2003 letter (ACEH, 2003). The SMRP included soil management procedures that were to be conducted whenever soil was disturbed or exposed, such as during excavation and construction. As part of the redevelopment of the site, soil containing residual chemicals above remedial target levels was either removed, or alternatively, capped by building foundations and slabs, pavement, or by at least two feet of clean soil. These procedures were implemented to preclude direct contact of site occupants with subsurface soils that may contain residual chemicals. Excavated soil determined to contain residual chemicals above risk-based remedial target levels, but below hazardous waste criteria, was reused at the site only if such soil was capped beneath building foundations, paved areas, or at least two feet of clean soil.

The SMRDR (Treadwell & Rollo, 2004) documents the implementation of mitigation measures during site redevelopment. As a result of the mitigation measures, soil containing residual chemicals at concentrations exceeding the remedial target levels remains on site in four localized areas, which are shown in Figure 3. In the West Block, soil containing pesticides at concentrations greater than the remedial target levels was left in place in the northwest and north parts of the parking lot and in the area of excavation for the site buildings, which included the narrow landscaped area adjacent to Mandela Parkway. These areas were capped with building foundations, slabs, pavement, or more than two feet of clean fill (in landscaped areas). In the East Block, soil with lead exceeding the remedial target level was left in place only in one localized area: the central part of the Town Square. This area has also been capped with more than four feet of clean fill.

## **3.0 CAP MAINTENANCE AND MANAGEMENT PROCEDURES**

As a result of the redevelopment of the property, some areas at the site contain soil with residual chemicals above remedial target levels. As noted above, soil with pesticides or lead exceeding the remedial target levels was left on site only in areas that have been capped by pavement, building foundations and slabs, or by at least two feet of clean fill. These areas include three areas in the West Block and one area in the East Block, as shown in Figure 3. As the cap in these areas must be maintained indefinitely during the property's operation to prevent potential uncontrolled human contact, a cap maintenance plan specifying long-term maintenance protocols and soil management procedures must be defined.

### **3.1 Cap Maintenance Requirements**

The objective of these maintenance requirements is to ensure the cap's integrity during the site's use and occupancy period in those areas where underlying soil containing residual contamination exceeds remedial target levels. The site owner, or its designee, will maintain copies of this FSMP, the deed restriction, the SMRDR, maintenance work plans (Section 3.4), and maintenance records in a readily accessible on-site location and shall be responsible for informing any employee or contractor who will perform sub-cap construction work in these affected areas of the environmental conditions, soil management concerns, and health and safety requirements stipulated in the SMRP (Treadwell & Rollo, 2003b) and this FSMP.

### **3.2 Cap Maintenance and Inspection Schedule**

Visual cap inspection will be performed on an annual basis in readily-accessible areas where soil contains residual chemicals that exceed remedial target levels. The cap in these areas will be inspected for concrete or pavement cracks and holes, erosion of soil, and any other deterioration in these areas that may cause subsurface soil with residual concentrations of chemicals above remedial target levels to come in contact with site workers and users. Inspection logs will be kept, including written descriptions, photographs (if appropriate), and location plans, together

with the other site documents in a readily accessible on-site location. Appendix A includes a cap maintenance inspection form.

### **3.3 Minor Cap Repair**

Breaches of the cap will be repaired in a timely manner by applying new concrete, asphalt, sealant, clean fill (for landscaped areas) or other appropriate material. Such repairs will be logged, described, and records kept on site.

### **3.4 Soil Cap Maintenance and Soil Management Procedures During Future Construction Activities**

Cap maintenance measures will also be implemented during any post-development construction activities such as utility line repair, building expansion, and other activities that may disturb the underlying soil in those designated areas where residual chemical concentrations exceed remedial target levels. To maintain the integrity of the cap and to protect future site workers who may disturb the cap in these areas, the following procedures will be adhered to by the owner and/or operator of the site:

- Require the preparation of a specific work plan that includes a description of the proposed construction activities, soil management and removal plan, and health and safety plan.
- Direct any contractor or employee who disturbs the encapsulating layer (i.e., building foundations, slabs, pavement or clean fill) and is engaged in any excavation or earth movement in those designated areas where underlying soils contain residual contaminants exceeding remedial target levels to comply with the appropriate local, State, and Federal regulations.
- Direct any contractor or employee engaged in any activities that involve penetrating the encapsulating layer in these areas to repair the disturbed area to its original capped condition as soon as is practical.

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- Control dust by wetting and protect exposed or excavated soil from stormwater run-on and run-off during the period of excavation, soil movement, or exposure.
- Consistent with standard construction practice, determine by appropriate analytical testing whether any excess material removed from these areas is a hazardous waste pursuant to State or Federal hazardous waste criteria. This material must be managed in accordance with all appropriate regulations.
- Prepare a report that summarizes the maintenance activities implemented, including details regarding repair of the cap, excavation of soil, and disposal of soil, as necessary.

## REFERENCES

Alameda County Health Care Services Agency (ACEH), 2003, Letter to Mandela Gateway Associates from Barney Chan, Hazardous Materials Specialist, *Subject: Regarding Site #R00002517, Mandela Gateway Redevelopment Site, Seventh Street and Mandela Parkway, Oakland, California 94607*. 23 May 2003.

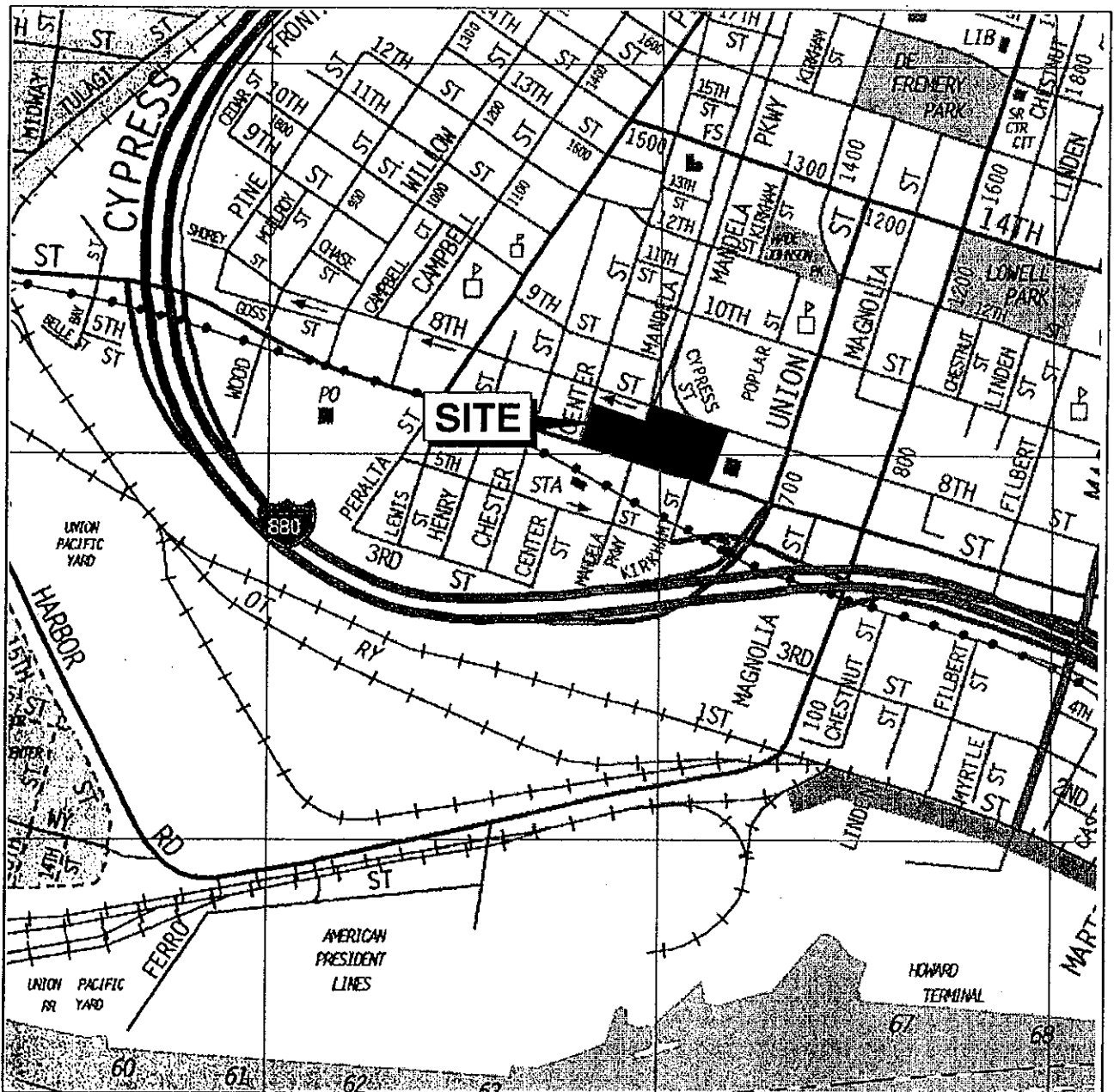
Treadwell & Rollo, 2003a, *Human Health Risk Assessment, Mandela Gateway Redevelopment Site, Seventh Street and Mandela Parkway, Oakland, California*, 24 March 2003

Treadwell & Rollo, 2003b, *Soil Management and Removal Plan, Mandela Gateway Redevelopment Site, Seventh Street and Mandela Parkway, Oakland, California*, 5 May 2003

Treadwell & Rollo, 2004, *Soil Management and Removal Documentation and Closure Report, Mandela Gateway Redevelopment Site, Seventh Street and Mandela Parkway, Oakland, California*, 12 April 2004.

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## FIGURES



Base map: The Thomas Guide  
Alameda County  
1999



No scale

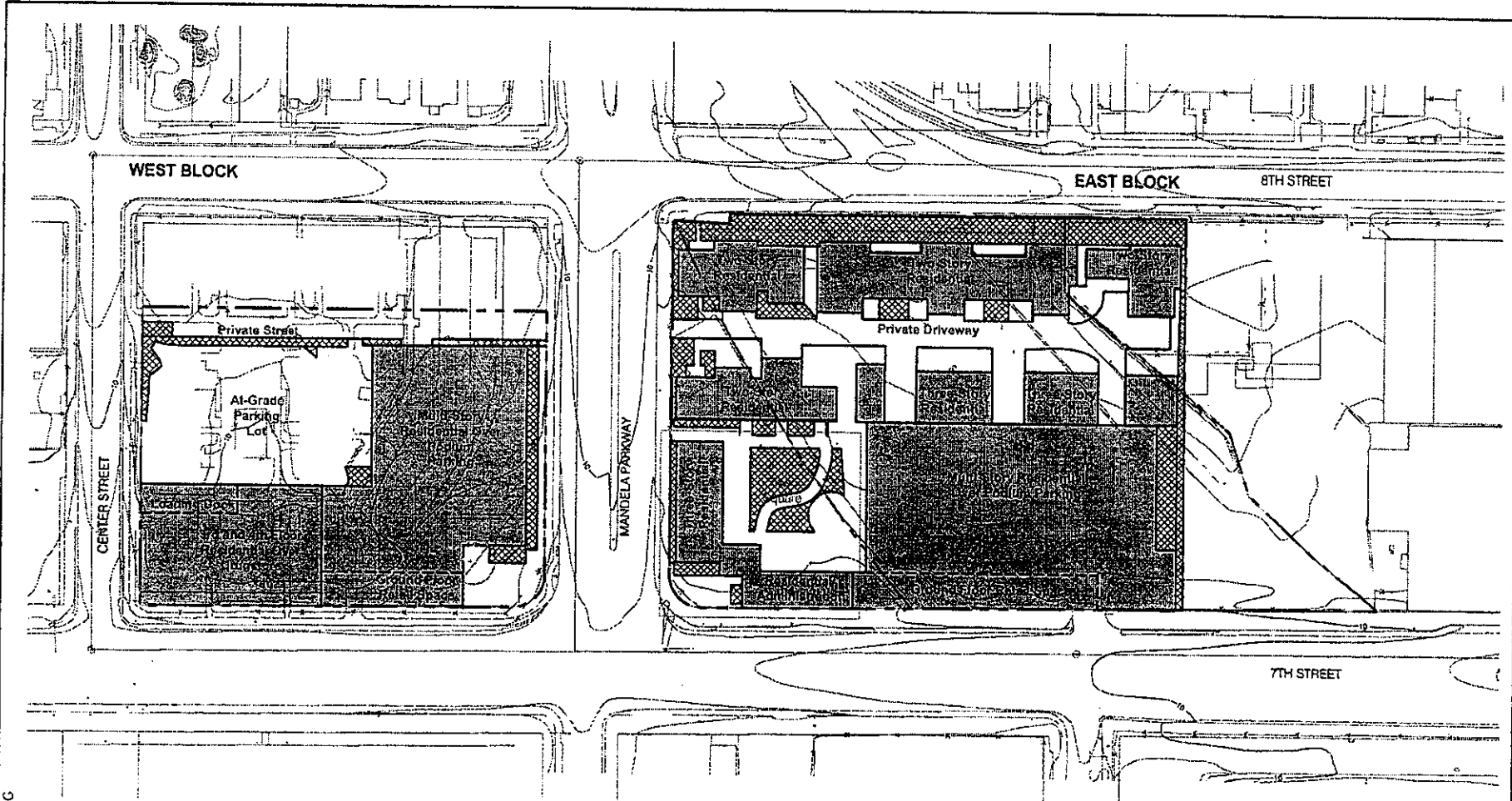
**MANDELA GATEWAY**  
1350 - 1400 Seventh Street  
Oakland, California

**SITE LOCATION MAP**

**Treadwell&Rollo**

Date 03/16/04 | Project No. 3433.08 | Figure 1

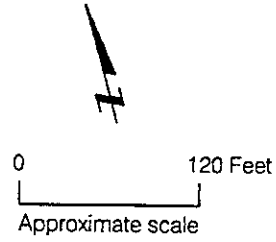
343308\_REDEVELOPMENT\_PLAN.DWG



**EXPLANATION**

- Existing site boundary
- - - Former property line
- Proposed building
- ▨ Landscaped Areas or Mixed Landscape and Walkways

Reference: 1. DK Associates, "Topographic Survey - Mandela Gateway", May 30, 2002.  
 2. Site plan prepared by Michael Willis Architects, dated 11 July 2002.



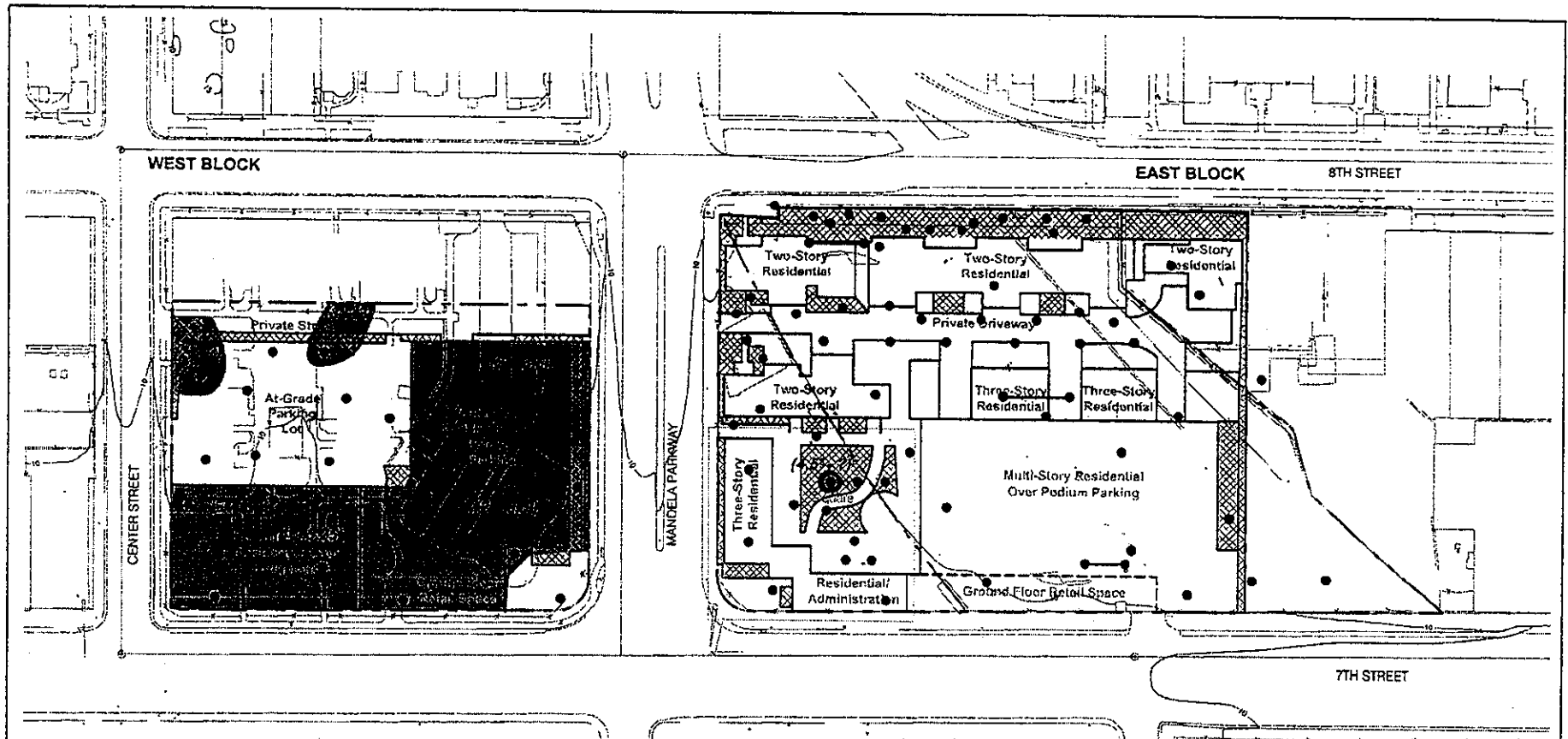
**MANDELA GATEWAY**  
**1350-1400 Seventh Street**  
 Oakland, California

**REDEVELOPMENT PLAN**



Date 4/01/04	Project No. 3433.08	Figure 2
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**EXPLANATION**

- Existing site boundary
- - - Former property line
-  Landscaped Areas or Mixed Landscape and Walkways
-  Areas where confirmed residual chemicals in soil exceed the remedial target levels.
- (2' - 4') Depth to top and bottom (if known) of soil with residual contaminants exceeding remedial target levels
- Approximate locations of soil samples

Note: Soil containing pesticides exceeding remedial target levels were reused beneath the building slabs and foundations in the West Block podium area

3433.08.08 - ResidualContaminant.dwg

Reference: 1. DK Associates, "Topographic Survey - Mandela Gateway", May 30, 2002.  
2. Site plan prepared by Michael Willis Architects, dated 11 July 2002.

**MANDELA GATEWAY**  
1350 - 1400 Seventh Street  
Oakland, California

**AREAS WHERE RESIDUAL CHEMICALS EXCEED  
REMEDIAL TARGET LEVELS AFTER DEVELOPMENT**

Date 04/01/04	Project No. 3433.08	Figure 3
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**APPENDIX A  
CAP INSPECTION FORM**

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 Burdened Property. Any such instrument shall contain the following statement:

The land described herein contains hazardous materials in soils under the property, and is subject to a deed restriction dated as of 9/5, 2005, and recorded on Sept 19, 2005, in the Official Records of Alameda County, California, as Document No. 2005400785, whose Covenants 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.

Subject: **CAP INSPECTION**  
Field Inspector: \_\_\_\_\_  
Weather: \_\_\_\_\_  
Reviewed by: \_\_\_\_\_

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

\_\_\_\_ Evidence of cracks in concrete or pavement? Please describe.

\_\_\_\_ Evidence of holes in concrete or pavement? Please describe.

\_\_\_\_ Evidence of cap deterioration (concrete, pavement or landscape soil)? Please describe.

\_\_\_\_ Subsurface soil exposed for potential uncontrolled human contact? Please describe.

Insert sketch of subject area and locations of potential cap issues.

Attachments: \_\_\_\_\_  
\_\_\_\_\_

Initials \_\_\_\_\_