

RESOLUTION NO. SA01-19

Resolution Of The City Of Emeryville As Successor Agency To The Emeryville Redevelopment Agency Approving And Authorizing The City Manager To Enter Into An Environmental Oversight Agreement With The California Environmental Protection Agency, Department Of Toxic Substances Control, In An Amount Not To Exceed \$150,000.00 For The Term Of July 1, 2019 Through June 30, 2021, For Oversight Of Groundwater Remediation And Monitoring At South Bayfront Site B Pursuant To California Health And Safety Code Section 34177.3(A)

WHEREAS, the California state legislature enacted Assembly Bill x1 26 to dissolve redevelopment agencies formed under the Community Redevelopment Law (California Health and Safety Code Section 33000 et seq.) (the "Dissolution Act"); and

WHEREAS, on January 17, 2012, pursuant to California Health and Safety Code Section 34173, the City Council of the City of the City of Emeryville elected to have the City of Emeryville ("City") serve as successor agency ("Successor Agency") for the dissolved Emeryville Redevelopment Agency ("Redevelopment Agency") effective February 1, 2012; and

WHEREAS, on February 1, 2012, the former Redevelopment Agency was dissolved pursuant to California Health and Safety Code Section 34172; and

WHEREAS, the Successor Agency is responsible for implementing the Dissolution Act, including winding down the affairs of the former Redevelopment Agency under the direction of an Oversight Board; and

WHEREAS, on July 23, 2010, in the matter of Emeryville Redevelopment Agency v. Howard F. Robinson and Jeanne C. Robinson, PG&E, Wilson Associates, Chevron Corporation, Union Oil, Sherwin-Williams Company, Mary Lou Adam as Trustee, Christopher D. Adam, Hilary A. Jackson; Bank of America, trustee of Koeckritz Trust, Alameda County Superior Court, Consolidated Case Nos. RG-06-267600, RG-06-267594, RG-07-332012, the Alameda County Superior Court approved an Order On Joint Motion For Good Faith Determination Of Settlement and Settlement Allocations ("Settlement Order") approving settlement agreements with several defendants and approving the allocation of \$22.4 million in settlement proceeds paid to the Redevelopment Agency, conditioned on the Redevelopment Agency completing the soil and groundwater remediation at South Bayfront Site B in accordance with the FS/RAP and Final RDIP; and

WHEREAS, as provided by California Health and Safety Code Sections 34171(d)(1)(D) and 34171(d)(1)(E) of the Dissolution Act, the settlement agreements approved by the Settlement Order are an enforceable obligation of the Successor Agency; and

WHEREAS, completion of the remediation of groundwater at South Bayfront Site B is an obligation of the Successor Agency pursuant to the terms of the settlement agreements approved by the Settlement Order and necessarily requires the regulatory oversight of the California Environmental Protection Agency, Department of Toxic Substances Control ("DTSC"); and



WHEREAS, the environmental oversight agreement entered into between the former Redevelopment Agency and DTSC on June 27, 2011, inadvertently expired and the Successor Agency and DTSC desire to enter into a new environmental oversight agreement for the initial term of July 1, 2019 through June 30, 2021, in order to provide the necessary regulatory oversight services required to complete the remediation of groundwater at South Bayfront Site B; and

WHEREAS, California Health and Safety Code Section 34177.3(a) provides that the Successor Agency “shall lack the authority to, and shall not, create new enforceable obligations or begin redevelopment work, except in compliance with an enforceable obligation, as defined in subdivision (d) of Section 34171, that existed prior to June 28, 2011”; and

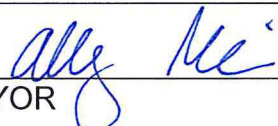
WHEREAS, DTSC’s services are necessary in order for the Successor Agency to complete the remediation of groundwater at South Bayfront Site B, which is an enforceable obligation of the Successor Agency pursuant to the terms of the settlement agreements approved by the Settlement Order of the Alameda County Superior Court on July 23, 2010, which date is prior to June 28, 2011, and accordingly the Successor Agency has the authority to create a new enforceable obligation with DTSC; and

WHEREAS, the Successor Agency has reviewed and duly considered the staff report dated December 18, 2018, the documentation provided in support of the staff report, the testimony provided during the public meeting, and the Environmental Oversight Agreement between the Successor Agency and DTSC, in an amount not to exceed \$150,000.00 for the initial term of July 1, 2019 through June 30, 2021, in the form attached hereto as Exhibit A, to provide regulatory oversight of groundwater remediation and monitoring at South Bayfront Site B; now, therefore, be it

RESOLVED, pursuant to authority provided by Section 34177.3(a), the Successor Agency hereby approves and authorizes the City Manager to enter into an Environmental Oversight Agreement with the California Environmental Protection Agency, Department Of Toxic Substances Control, in an amount not to exceed \$150,000.00 for the term of July 1, 2019 through June 30, 2021, in the form attached hereto as Exhibit A, subject to such non-substantive changes as may be agreed to by the City Manager and City Attorney.

ADOPTED, by the City of Emeryville as Successor Agency to the Emeryville Redevelopment Agency at a regular meeting held Tuesday, January 15, 2019, by the following vote:

AYES:	<u>5</u>	Mayor Medina, Vice Mayor Patz, and Council Members Bauters, Donahue, and Martinez
NOES:	<u>0</u>	
ABSTAIN:	<u>0</u>	
ABSENT:	<u>0</u>	


MAYOR

ATTEST:


CITY CLERK

APPROVED AS TO FORM:


CITY ATTORNEY

ATTACHMENTS

- Exhibit A - Environmental Oversight Agreement with the California Environmental Protection Agency, Department of Toxic Substances Control

In the Matter of:

**Environmental Oversight Agreement for the
City of Emeryville Successor Agency
Agreement No.**

City of Emeryville Successor Agency
Emeryville, California 94608

This Environmental Oversight Agreement (Oversight Agreement) is made between the City of Emeryville as Successor Agency to the former Emeryville Redevelopment Agency (Successor Agency) and the California Environmental Protection Agency, Department of Toxic Substances Control (DTSC). The Parties intend by this Oversight Agreement to continue a mutually beneficial working relationship and to cooperatively address Brownfields properties in the City of Emeryville. The Successor Agency and DTSC both share the mission to revitalize and reuse Brownfields properties to address known or perceived environmental contamination in order to provide significant benefits to the economy and health of surrounding communities. DTSC is committed to working in partnership with communities to restore contaminated properties to productive use, while ensuring that cleanups are protective of public health and the environment. The Successor Agency intends to alleviate the causes and effects of blight through removing or alleviating the negative effects of hazardous substances .

The Oversight Agreement outlines a scope of work for DTSC to provide technical consultation, site investigation and remediation activity support. The intent of the Oversight Agreement is to establish a collaborative process that (1) provides a flexible process based upon the Successor Agency's needs for the project; (2) ensures the investigation and cleanup are conducted in an environmentally sound manner; (3) requires a cleanup that results in a property that is safe for redevelopment; and (4) can provide liability relief for redevelopment agencies that complete the site characterization and cleanup process. Under this Program, DTSC can also provide consultative services to an Successor Agency.

The Successor Agency will develop documents described in the Scope of Work (Exhibit C) that it believes addresses its particular needs, such that the Successor Agency is seeking DTSC assistance, response and remediation oversight as determined appropriate by DTSC.

Under this Oversight Agreement, the Successor Agency may request (and pay for) services, and may request early consultation with DTSC, where desirable.

1.1. Purpose of Agreement. The purpose of this Oversight Agreement is to specify the process that will be used to evaluate Brownfields properties within the Successor Agency's and DTSC's jurisdiction under this Oversight Agreement; to identify the properties that will be addressed under this Oversight Agreement; to facilitate the remediation of Brownfields properties and to provide a framework for the reimbursement of DTSC's oversight costs, and to assist the Successor Agency and others in meeting the environmental requirements to obtain the immunities and protections under the Polanco Redevelopment Act set forth in Health and Safety Code §§ 33459-33459.8 (Polanco Act), and such other California and federal statutes as may be appropriate.

1.2. Parties. DTSC and the Successor Agency are collectively the "Parties" to this Oversight Agreement.

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1.3. Jurisdiction.

1.3.1. Successor Agency Jurisdiction. The Successor Agency has general delegated authority from the State Legislature to eliminate blight pursuant to the California Health and Safety Code. In addition, Health and Safety Code section 33459.1, subdivision (a)(l) of the Polanco Act authorizes the Successor Agency to take any actions that the Successor Agency determines are necessary and that are consistent with state and federal laws to remedy or remove a release of hazardous substances, as defined in California Health and Safety Code section 33459, subdivision (c), on, under, or from a property located in a "Redevelopment Project Area," as defined in California Health and Safety Code section 33320.1 (Project Area), whether the Successor Agency owns the property or not, if any one of the conditions in California Health and Safety Code section 33459.1, subdivision (b) is met. Pursuant to California Health and Safety Code section 33459.1, subdivision (c), even if the conditions in California Health and Safety Code section 33459.1, subdivision (b) are not met, the Successor Agency may take actions to investigate or conduct feasibility studies or, if the Successor Agency determines that the environmental condition of a property requires immediate action, the Successor Agency may take actions to remedy or remove a release of hazardous substances. The Successor Agency shall submit satisfactory evidence demonstrating its authority to enter into this agreement to contract with DTSC. Such evidence should include a resolution, motion or order confirming its authority.

1.3.2. DTSC Jurisdiction. Health and Safety Code section 25201.9 authorizes DTSC to enter into agreements to perform consultative services for the purposes of providing assistance in complying with chapter 6.8 of division 20 of the Health and Safety Code. Health and Safety Code sections 33459-33459.8 and section 58009 authorize DTSC to take proper and necessary actions for the protection and preservation of the public health as required for the efficient exercise of DTSC's activities under the Polanco Act.

1.4. Properties. The property or group of properties that will be the subject of this Oversight Agreement are within Redevelopment Project Areas of concern to the Successor Agency. A map of the Redevelopment Project Areas located within the Successor Agency's jurisdiction is attached as Exhibit A entitled "Map of Redevelopment Project Area(s) Within Agency's Jurisdiction." The specific properties to be included in this Oversight Agreement ("Property" or "group of Properties") are identified in Exhibit B, B-1 and B-2, attached to this Oversight Agreement.

2. AGREEMENT

THE PARTIES HEREBY AGREE THAT,

2.0. Activities to be Conducted. DTSC and the Successor Agency will undertake activities as specified in this Oversight Agreement to provide for Technical Consultation by DTSC related to site investigation, assessment, remediation, mitigation, operations and maintenance or services related to activities to assess hazardous substances releases as may be necessary or helpful for redevelopment. For each particular Property or group of Properties, the Parties acknowledge and agree that all work performed pursuant to this Oversight Agreement is intended to be consistent with Health and Safety Code sections 33459-33459.8, or Health and Safety Code sections 25300-25395.45, as appropriate.

2.0.1. Site-Specific Property Oversight. For each Property or group of Properties subject to this Oversight Agreement, DTSC will provide review and oversight of the activities conducted by the Successor Agency, as appropriate, in accordance with the Scope of Work contained in Exhibit C attached to this Oversight Agreement that is developed by DTSC in consultation with the Successor Agency pursuant to this Section 2.0.1. Tasks identified for which DTSC will provide oversight will not be implemented until DTSC provides an approval. The Scope of Work applies to a Property or group of Properties being addressed under the Polanco Act or other state and federal laws as determined appropriate by DTSC. The Successor Agency will conduct activities in the manner specified in this Oversight Agreement in accordance with a mutually agreed upon schedule. The Successor Agency may direct or arrange for a third party to conduct those activities in the same manner and in accordance with the same schedule. DTSC will review and provide the Successor Agency with written comments on all Successor Agency deliverables. For each Property or group of Properties, DTSC will provide oversight, as appropriate, of field activities, including but not limited to observation of sampling activities and

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implementation of Cleanup Plans. DTSC's completion of the activities for each Property or group of Properties shall constitute DTSC's complete performance under this Oversight Agreement for that Property or group of Properties.

2.1. Additional Activities. Additional activities to the agreed upon Scope of Work may be conducted and DTSC oversight provided by amendment to an Exhibit in accordance with this Oversight Agreement. Exhibit D is a schedule and cost estimate hereby incorporated into this agreement entitled "Schedule and Cost Estimate." If DTSC expects additional oversight costs to be incurred related to these additional activities, DTSC will provide an estimate of the additional oversight cost to the Successor Agency as an amendment to Exhibit D as applicable, as provided in section 2.5.

2.2. Oversight Agreement Managers and Project Managers. Tom Price is designated by DTSC as its Manager for this Oversight Agreement. Michael A. Guina is designated by the Successor Agency as Manager for this Oversight Agreement. Each Party to this Oversight Agreement will provide at least ten (10) days advance written notice to the other of any change in its designated Oversight Agreement Manager.

2.3. Notices and Submittals.

2.3.1. All notices, documents and communications that are to be given under this Oversight Agreement, unless otherwise specified herein, shall be sent to the respective Parties at the following addresses:

To DTSC:

Tom Price
Department of Toxic Substances Control
700 Heinz Avenue
Berkeley, California 94710
Telephone: (510) 540-3834
Facsimile: (510) 540-3819

To the Successor Agency:

Michael A. Guina, Agency General Counsel
1333 Park Avenue
Emeryville, California 94608
Telephone: (510) 596-4380
Facsimile: (510) 596-3724

All reports shall be submitted in one hard (paper) copy and one electronic copy on a compact disc in searchable portable document format (PDF).

2.3.2. The parties will give such notices to known property owners and other parties as required by applicable law. (See Exhibits B and B-1, and B-2 for known property owners for each Property or group of Properties.)

2.4. DTSC Document Review and Approval. If DTSC determines that any report, plan, schedule or other document submitted for approval pursuant to this Oversight Agreement does not meet the conditions in this Oversight Agreement or fails to protect public health or safety or the environment, DTSC will consult with the Successor Agency and either (1) return comments to the Successor Agency with recommended changes or (2) modify the document, with Successor Agency concurrence, as deemed necessary and approve the document as modified.

2.5. Payment. An estimate of DTSC's remediation oversight costs are contained in Exhibit D (as applicable) and an estimate of DTSC's oversight costs for each Property or group of Properties with respect to the Scope of Work described in Exhibit C. All Parties understand that a Cost Estimate will be prepared for each Property or group of Properties and incorporated into this Oversight Agreement per Section 2.1. Such Cost Estimates shall include all labor, materials and expenses incurred by DTSC in performing the services contemplated by this Oversight Agreement and specified in the Scope of Work for such Property or group of Properties. The Parties understand that the Cost Estimates set forth in

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Exhibit D are estimates and cannot be relied upon as the final cost figure. The Successor Agency agrees to pay (1) all costs incurred by DTSC and in association with preparation of this Oversight Agreement and for review of documents submitted by the Successor Agency prior to the effective date of the Oversight Agreement; and (2) all costs incurred by DTSC in implementing and providing oversight or conducting other activities pursuant to this Oversight Agreement. Costs incurred include interest on unpaid amounts that are billed and outstanding more than 60 days from the date of DTSC's quarterly invoice. DTSC will notify the Successor Agency in writing when it approaches charges of sixty-five percent (65%) of the total Cost Estimate prepared for a Property or group of Properties. The parties agree to evaluate the budget to determine if either a revised estimate or scope of work is needed at the time of the written notice or whether the Successor Agency wishes to terminate as provided in Section 24 of the Standard Provisions, attached hereto as Exhibit E. If DTSC or the Successor Agency anticipates a change in the Scope of Work or the need for revision of the Cost Estimate, DTSC will provide a revised estimate in advance of exceeding the total cost estimate. Successor Agency shall pay any and all DTSC oversight costs associated with its work in the Property or Group of Properties.

2.5.1. In anticipation of the services to be rendered under this Oversight Agreement, the Successor Agency will make an advance payment of \$10,000 to DTSC no later than thirty (30) days after the effective date of this Oversight Agreement. If the Successor Agency's advance payment does not cover all costs payable to DTSC under this subsection, DTSC will invoice the Successor Agency quarterly. The Successor Agency agrees to pay the additional costs within sixty (60) days of receipt of DTSC's quarterly invoice.

2.5.2. All payments made by the Successor Agency for activities performed for a Property or group of Properties pursuant to this Oversight Agreement will be by check made payable to the "Department of Toxic Substances Control," and bearing on its face the project code for the Property or group of Properties (See Exhibit B) and the Contract Number of this Oversight Agreement. All payments made by the Successor Agency for DTSC activities performed pursuant to this Oversight Agreement, but not applicable to a Property or group of Properties will be by check made payable to the "Department of Toxic Substances Control" and bearing on its face the project code for this Oversight Agreement, CalStars Code 201634, and the Contract Number of this Oversight Agreement. Payments should be sent to:

Department of Toxic Substances Control
Accounting/Cashier
1001 1 Street, 21st Floor
P.O. Box 806
Sacramento, California 95812-0806

2.6. Exhibits. Standard provisions of this Oversight Agreement are contained in Exhibit E (Oversight Agreement Standard Provisions), which is attached to this Oversight Agreement. All exhibits attached to this Oversight Agreement, including Exhibit E, are incorporated into this Oversight Agreement by reference.

2.7. Effective Date. Once the Oversight Agreement is fully executed, the effective date of this Oversight Agreement is July 1, 2019.

2.8. Representative Authority. Each undersigned representative of the Parties to this Oversight Agreement certifies that she or he is fully authorized to enter into the terms and conditions of this Oversight Agreement and to execute and legally bind the Parties to this Oversight Agreement.

2.9. Counterparts. This Oversight Agreement may be executed and delivered in any number of counterparts, each of which when executed and delivered shall be deemed to be an original, but such counterparts shall together constitute one and the same document.

Name: Sandra Poindexter
Title: Staff Services Manager
Contracts and Business Management Service
Administrative Services
Department of Toxic Substances Control

Date:

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Name: Christine Daniel
Title: Executive Director
City of Emeryville Successor Agency

Date:

Approved as to form:

Michael A. Guina
Agency General Counsel

EXHIBITS

- A MAP OF CITY THAT IDENTIFIES THE REDEVELOPMENT PROJECT AREA (S) WITHIN AGENCY'S JURISDICTION
- B PROPERTY DESCRIPTION FOR EACH INCLUDED PROPERTY
- B-1 LEGAL DESCRIPTIONS FOR EACH INCLUDED PROPERTY
- B-2 PROPERTY OWNERS
- C SCOPE OF WORK
- D SCHEDULE AND COST ESTIMATE
- E OVERSIGHT AGREEMENT STANDARD PROVISIONS

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EXHIBIT A

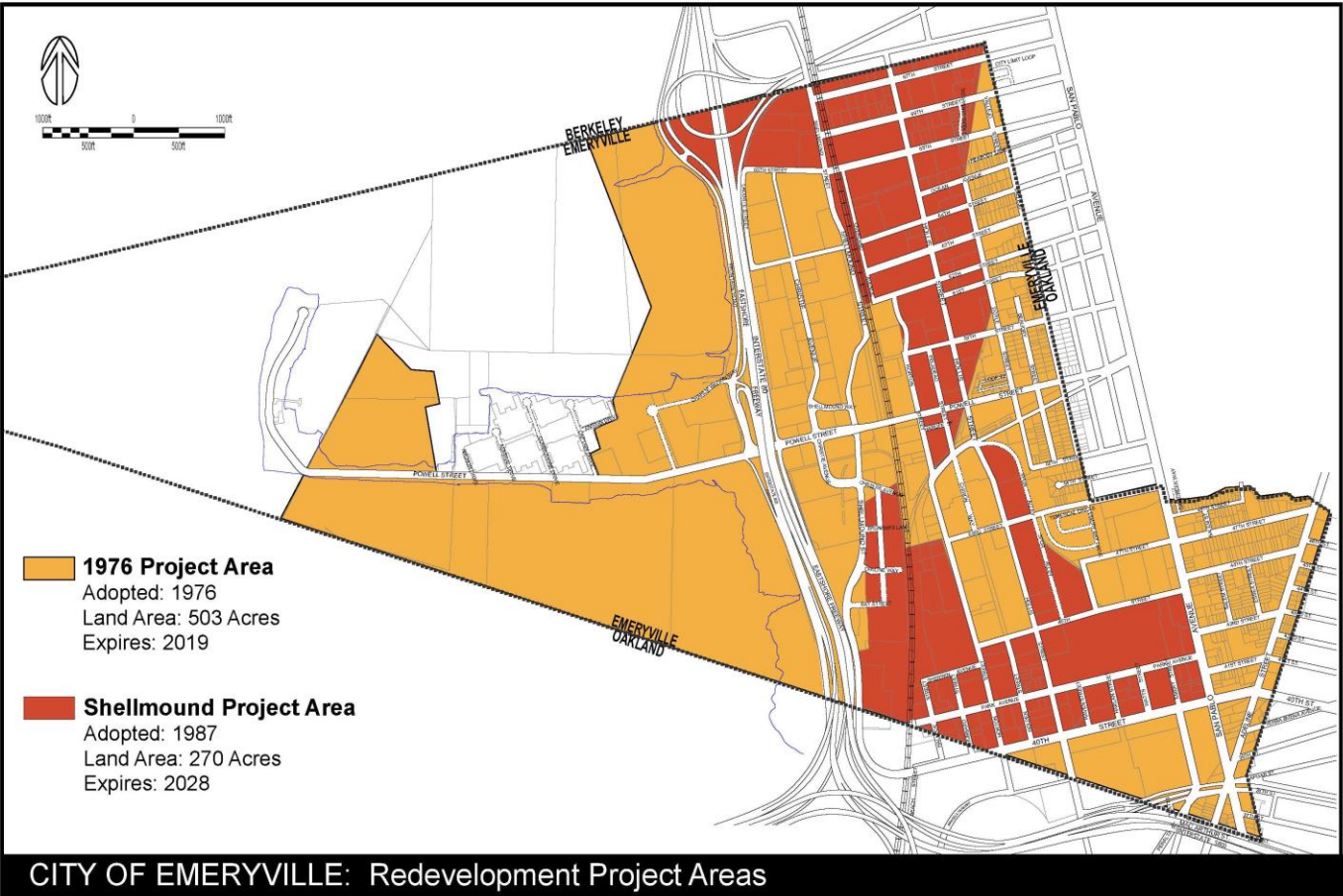


EXHIBIT B

EXHIBIT B

PROPERTY DESCRIPTION FOR EACH INCLUDED PROPERTY

Property Name, Location	Site Description	Site History	Advance Payment
<p>Site B Project Area</p> <p>APNs: 049-1321-005-00 (1525 Powell); 049-1321-003-02 (1525-1533 Powell); 049-1321-001-02 (1535 Powell); 049-1321-004-04 (5760 Shellmound); 049-1321-001-04 (5770 Shellmound);</p> <p>Legal Description: See Exhibit B-1.</p> <p>Project Code: 201634</p> <p>Property Owners and addresses: See Exhibit B-2.</p>	<p>The locations of the properties that make up Site B include 1525 Powell Street and Former Rail Spur, the 1535 Powell Street property, the 5760 Shellmound Street Property, and the 5770 Shellmound Street property. The site is bound by Shellmound Street to the west; Powell Street to the north; Union Pacific Railroad property to the east, and the Bay Street mixed use development to the south.</p>	<p>The site has a history of mixed industrial use, including use as and by the Western Carbonic Acid Company, Union Oil Company of California, a radiator hose facility, industrial equipment storage, a rail spur, machine shops, a dental material warehouse, a lumber yard, an electronic equipment warehouse and a plaster mix factory. The site is contaminated with, among other things, VOCs (including PCE, TCE and cis-1,2-DCE), metals (including arsenic, lead, cadmium and mercury) and TPH.</p>	<p><u>\$10,000</u></p>

EXHIBIT B-1

5770 Shellmound Street (Koeckritz)

APN: 049-1321-001-04

Description:

The land referred to herein is situated in the State of California, County of Alameda, City of Emeryville, and is described as follows:

PARCEL ONE:

COMMENCING AT A POINT ON THE SOUTHERN LINE OF POWELL STREET DISTANT THEREON SOUTH 75° 44' 45" WEST 172.63 FEET FROM THE WESTERN LINE OF THE 100-FOOT RIGHT OF WAY OF THE SOUTHERN PACIFIC COMPANY, SHOWN AS "NORTHERN RAILROAD", ON THE "MAP OF THE PROPERTY OF L.M. BEAUDRY AND G. PELADEAU, BEING PLOT NO. 41 ON J. KELLERSBURGER'S MAP", FILED NOVEMBER 7, 1876 IN BOOK 6 OF MAPS, AT PAGE 14, IN THE OFFICE OF THE COUNTY RECORDER OF ALAMEDA COUNTY; THENCE LEAVING SAID LINE OF POWELL STREET AND RUNNING SOUTH 14° 15' 15" EAST 90 FEET TO THE ACTUAL POINT OF BEGINNING OF THIS DESCRIPTION, RUNNING THENCE SOUTH 75° 44' 45" WEST 20 FEET TO A POINT ON THE NORTHEASTERN LINE OF THE PROPERTY DESCRIBED IN THE DEED TO ROYCE A. KELLEY, RECORDED JANUARY 25, 1962, REEL 501, IMAGE 738, OFFICIAL RECORDS, INSTRUMENT NO. AT-11275; THENCE ALONG SAID LINE SOUTH 14° 15' 15" EAST 40.08 FEET; THENCE SOUTH 75° 44' 45" WEST 143.31 FEET TO THE EASTERN LINE OF SHELLMOUND STREET, AS ESTABLISHED BY DEED TO TOWN OF EMERYVILLE, RECORDED NOVEMBER 6, 1940, IN BOOK 4013, PAGE 26, OFFICIAL RECORDS OF ALAMEDA COUNTY; THENCE SOUTH 4° 15' 15" EAST ALONG SAID EASTERN LINE OF SHELLMOUND STREET AND A POINT ON THE NORTHERN LINE OF THE 20 FOOT WIDE STRIP OF LAND DESCRIBED IN THE DEED TO SOUTHERN PACIFIC RAILROAD COMPANY, RECORDED JUNE 23, 1947, IN BOOK 3441, PAGE 419; OFFICIAL RECORDS OF ALAMEDA COUNTY; THENCE ALONG SAID NORTHERN LINE NORTH 75° 44' 45" EAST 85.57 FEET; THENCE SOUTHEASTERLY ON THE ARC OF A CURVE TO THE RIGHT, HAVING A RADIUS OF 328.637 FEET, A DISTANCE OF 94.231 FEET TO THE SOUTHWESTERN CORNER OF THAT CERTAIN PARCEL OF LAND DESCRIBED IN THE DEED TO MC CULLOUGH EQUIPMENT CO., INC., A CALIFORNIA CORPORATION, RECORDED AUGUST 1, 1963, REEL 952, IMAGE 878, OFFICIAL RECORDS, INSTRUMENT NO. AU-127459; THENCE ALONG THE SOUTHWESTERN LINE OF SAID MC CULLOUGH PARCEL NORTH 14° 15' 15" WEST 139.91 FEET TO THE POINT OF BEGINNING.

PARCEL TWO:

A NON-EXCLUSIVE EASEMENT, APPURTENANT TO PARCEL 1 ABOVE BEING THAT CERTAIN NON-EXCLUSIVE EASEMENT AND RIGHT OF WAY 20 FEET WIDE, FOR INGRESS AND EGRESS, GRANTED BY UNION OIL COMPANY OF CALIFORNIA TO BELLA CATUCCI BY INSTRUMENT DATED AUGUST 31, 1945, RECORDED OCTOBER 10, 1945, UNDER INSTRUMENT NO. SS-67210, ALAMEDA COUNTY RECORDS, OVER AND ALONG THE FOLLOWING DESCRIBED PROPERTY:

PORTION OF 2ND STREET (ABANDONED), AS SAID STREET IS SHOWN ON THE "MAP OF THE PROPERTY OF L.M. BEAUDRY & G. PELADEAU, BEING PLOT NO. (41) ON J. KELLERSBERGER'S MAP", FILED NOVEMBER 6, 1876, IN BOOK 6 OF MAPS, PAGE 14, IN THE OFFICE OF THE COUNTY RECORDER OF ALAMEDA COUNTY, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE SOUTHERN LINE OF POWELL STREET, DISTANT THEREON SOUTH 75° 44' 45" WEST 172.63 FEET FROM THE WESTERN LINE OF THE 100 FOOT RIGHT OF WAY OF THE SOUTHERN PACIFIC RAILROAD COMPANY, AS SHOWN ON SAID MAP OF "NORTHERN RAILROAD", AS SAID STREET AND RIGHT OF WAY ARE SHOWN ON SAID MAP; RUNNING THENCE ALONG AID LINE OF POWELL STREET, SOUTH 75° 44' 45" WEST 20 FEET; THENCE SOUTH 14° 15' 15" EAST 90 FEET; THENCE NORTH 75° 44' 45" EAST 20 FEET; AND THENCE NORTH 14° 15' 15" WEST 90 FEET TO THE POINT OF BEGINNING.

APN: 049-1321-001-04

5760 Shellmound Street (Robinson)

APN 049-1321-004-04

Description:

The land referred to herein is situated in the State of California, County of Alameda, City of Emeryville, and is described as follows:

PARCEL ONE:

PORTION OF BLOCKS 38 AND 39 AND 2ND STREET (ABANDONED), AS SAID BLOCKS AND STREET ARE SHOWN ON THE MAP OF THE PROPERTY OF L. M. BEAUDRY AND G. PELADEAU, BEING PLOT NO. 41 ON J. KELLERSBERGER'S MAP, FILED NOVEMBER 6, 1876, IN BOOK 6 OF MAPS, PAGE 14, IN THE OFFICE OF THE COUNTY RECORDER OF ALAMEDA COUNTY, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE WESTERN LINE OF THE 100 FOOT RIGHT OF WAY OF THE SOUTHERN PACIFIC RAILROAD COMPANY, SHOWN ON SAID MAP AS NORTHERN RAILROAD, DISTANT THEREON SOUTHERLY 215.17 FEET FROM THE SOUTHERN LINE OF POWELL STREET, AS SAID RIGHT OF WAY AND STREET ARE SHOWN ON SAID MAP; RUNNING THENCE ALONG THE WESTERN LINE OF SAID 100 FOOT RIGHT OF WAY, SOUTHERLY 197.83 FEET TO THE SOUTHERN LINE OF PLOT 41, AS SAID PLOT IS SHOWN ON THE MAP OF RANCHOS VICENTE & DOMINGO PERALTA, FIELD JANUARY 21, 1857, IN BOOK 17 OF MAPS, PAGE 12, IN THE OFFICE OF THE COUNTY RECORDER OF ALAMEDA COUNTY; THENCE ALONG THE LAST NAMED LINE, SOUTH 75° 43' 45" WEST, 355.55 FEET TO THE EASTERN LINE OF SHELLMOUND STREET, 80 FEET WIDE, AS SAID STREET IS DESCRIBED IN THE DEED BY J. CATUCCI, ALSO KNOWN AS JOSEPH CATUCCI, AND BELLA CATUCCI, TO CITY OF EMERYVILLE, DATED DECEMBER 7, 1938, RECORDED NOVEMBER 8, 1940, IN BOOK 3979 OF OFFICIAL RECORDS OF ALAMEDA COUNTY, PAGE 275, INSTRUMENT NO. MM/60251; THENCE ALONG THENCE ALONG THE LAST NAMED LINE, NORTH 4° 16' 15" WEST, 214 FEET TO THE NORTHERN LINE OF PARCEL OF LAND DESCRIBED IN THE DEED BY FRED W. FRY AND EVA A. FRY, TO CALIFORNIA MAGNESIA COMPANY, DATED JUNE 4, 1921, RECORDED JUNE 5, 1921, IN BOOK 13 OF OFFICIAL RECORDS OF ALAMEDA COUNTY, PAGE 336, INSTRUMENT NO. S-141916; THENCE ALONG THE LAST NAMED LINE, AND THE DIRECT EXTENSION EASTERLY THEREOF, NORTH 75° 44' 45" EAST, 175.84 FEET TO A POINT DISTANT NORTH 75° 44' 45" EAST, 20.75 FEET FROM THE NORTHEASTERN CORNER OF THE LAST MENTIONED PARCEL; THENCE NORTH 80° 35' 50" EAST, 159.04 FEET TO THE POINT OF BEGINNING.

EXCEPTING THEREFROM, THAT PORTION THEREOF DESCRIBED AS:

BEGINNING AT A SOUTHWEST CORNER OF THE SAID LANDS OF ROBINSON, SAME CORNER COMMON WITH THE NORTHWEST CORNER OF PARCEL "A", AS CREATED BY PARCEL MAP 1356, FILED MAY 13, 1975, IN BOOK 87 OF PARCEL MAPS, AT PAGE 52, OFFICIAL RECORDS OF SAID COUNTY, AND SAID CORNER BEING ON THE EASTERLY RIGHT-OF-WAY LINE OF SHELLMOUND STREET;

THENCE, ALONG THE EASTERLY RIGHT-OF-WAY LINE OF SHELLMOUND STREET AND THE WEST LINE OF THE LANDS OF ROBINSON, NORTH 03° 07' 14" WEST, 177.93 FEET TO THE NORTHWEST CORNER OF THE LANDS OF ROBINSON.

THENCE, LEAVING THE AFORESAID LINE AND CROSSING THROUGH THE SAID LANDS OF ROBINSON FOR THE FOLLOWING TWO (2) COURSES:

1. SOUTH 05° 14' 00" EAST, 15.08 FEET; AND
2. SOUTH 06° 36' 32" EAST, 161.33 FEET, MORE OR LESS, TO THE POINT OF INTERSECTION WITH THE SOUTH LINE OF THE LANDS OF ROBINSON, SAME BEING THE NORTH LINE OF SAID PARCEL "A";

THENCE, ALONG THE AFORESAID COMMON LINE BETWEEN THE LANDS OF ROBINSON AND
PARCEL "A", SOUTH 76° 52' 46" WEST, 10.53 FEET TO THE POINT OF BEGINNING.

ALSO EXCEPTING THEREFROM:

THAT PORTION THEREOF LYING NORTHERLY AND NORTHEASTERLY OF THE SOUTHERN AND
SOUTHWESTERN LINE OF THAT CERTAIN STRIP OF LAND, 20 FEET WIDE, DESCRIBED IN DEED
FROM JOSEPH CATUCCI AND WIFE TO SOUTHERN PACIFIC RAILROAD CO., A CORPORATION,
DATED JUNE 1, 1937, RECORDED JUNE 23, 1937, IN BOOK 3441 OF OFFICIAL RECORDS OF
ALAMEDA COUNTY, PAGE 419.

PARCEL TWO:

THE RIGHTS TO CROSS THAT CERTAIN 20 FOOT STRIP OF LAND DESCRIBED IN THE DEED
FROM JOSEPH CATUCCI AND BELLA CATUCCI, HIS WIFE, TO SOUTHERN PACIFIC RAILROAD
COMPANY, A CORPORATION, DATED JUNE 1, 1937, RECORDED JUNE 23, 1937, IN BOOK 3441 OF
OFFICIAL RECORDS OF ALAMEDA COUNTY, PAGE 419, AS RESERVED IN SAID DEED.

APN: 049-1321-004-04

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Order No.: 56901-54990324-PRT

B-1-4

1525 Powell Street (Adam Family)

APN:

049-1321-005-00

049-1321-005-00:

Description:

The land referred to herein is situated in the State of California, County of Alameda, City of Emeryville, and is described as follows:

BEGINNING AT A POINT ON THE SOUTHWESTERN LINE OF THE 100-FOOT RIGHT OF WAY OF THE SOUTHERN PACIFIC RAILROAD COMPANY'S OAKLAND TO MARTINEZ LINE, DISTANT 2,070 FEET NORTHWESTERLY FROM THE CONCRETE MONUMENT WHICH MARKS THE INTERSECTION OF THE SAID SOUTHWESTERLY RIGHT OF WAY LINE WITH THE SOUTHERLY BOUNDARY LINE OF PLOT 41, AS SAID PLOT IS SHOWN ON THAT CERTAIN MAP ENTITLED MAP OF THE RANCHOS OF VINCENTE & DOMINGO PERALTA SURVEYED BY JULIUS KELLERSBURGER, FILED JANUARY 21, 1857 IN BOOK 17, PAGE 12, OF MAPS, RECORDS OF ALAMEDA COUNTY, CALIFORNIA, FROM WHICH POINT OF BEGINNING AN IRON PIPE LOCATED AT THE INTERSECTION OF THE NORTHEASTERLY LINE OF SAID 100-FOOT RIGHT OF WAY AND THE NORTHWESTERLY LINE OF POWELL STREET, AS SAID STREET NOW EXISTS, BEARS NORTH 1° 19' 53" EAST A DISTANCE OF 468.19 FEET; THENCE NORTHWESTERLY UPON THE ARC OF A CURVE CONCAVE TO THE SOUTHWEST AND HAVING A RADIUS OF 181.122 FEET (RADIUS OF SAID CURVE AT THE POINT OF BEGINNING BEARS SOUTH 69° 12' 57" WEST) AN ARC DISTANCE OF 181.876 FEET TO A POINT; THENCE ON THE ARC OF A CURVE TANGENT TO THE LAST DESCRIBED CURVE AT THE LAST MENTIONED POINT AND HAVING A RADIUS OF 308.637 FEET (RADIUS OF SAID CURVE AT THE LAST DESCRIBED POINT BEARS SOUTH 11° 40' 54" WEST) AN ARC DISTANCE OF 139.71 FEET TO A POINT DISTANT 271.5 FEET SOUTHEASTERLY FROM THE CENTER LINE OF SAID POWELL STREET, MEASURED AT RIGHT ANGLES THERETO; THENCE SOUTH 75° 44' 45" WEST ON A LINE PARALLEL TO AND DISTANT 271.5 FEET SOUTHEASTERLY FROM THE CENTER LINE OF SAID POWELL STREET MEASURED AT RIGHT ANGLES THERETO (SAID COURSE BEING TANGENT TO THE LAST DESCRIBED CURVE AT THE LAST MENTIONED POINT) A DISTANCE OF 907.32 FEET TO A POINT ON THE NORTHEASTERLY LINE OF THE 120.00 FOOT RIGHT OF WAY OF STATE HIGHWAY NUMBER IV, ALAMEDA ROUTE 89; THENCE NORTHWESTERLY ALONG THE SAID RIGHT OF WAY LINE OF SAID HIGHWAY, UPON THE ARC OF A CURVE CONCAVE TO THE NORTHEAST AND HAVING A RADIUS OF 7443 FEET (RADIUS OF SAID CURVE AT THE LAST MENTIONED POINT BEARS NORTH 73° 55' 55" EAST) AN ARC DISTANCE OF 20.027 FEET TO A POINT; THENCE NORTH 75° 44' 45" EAST UPON A LINE PARALLEL TO AND DISTANT 251.5 FEET SOUTHEASTERLY FROM THE CENTER LINE OF POWELL STREET, MEASURED AT RIGHT ANGLES THERETO, A DISTANCE OF 907.927 FEET TO A POINT; THENCE ALONG THE ARC OF A CURVE CONCAVE TO THE SOUTH AND HAVING A RADIUS OF 328.637 FEET (SAID CURVE BEING TANGENT TO THE LAST DESCRIBED COURSE AT THE LAST MENTIONED POINT) AN ARC DISTANCE OF 146.763 FEET TO A POINT; THENCE ON AN ARC OF A CURVE CONCAVE TO THE SOUTHWEST AND TANGENT TO THE LAST DESCRIBED CURVE AT THE LAST MENTIONED POINT AND HAVING A RADIUS OF 201.122 FEET (RADIUS OF SAID CURVE AT THE LAST MENTIONED POINT BEARS SOUTH 11° 40' 54" WEST) AN ARC DISTANCE OF 143.694 FEET TO A POINT ON THE SAID SOUTHWESTERLY RIGHT OF WAY LINE OF SAID RAILROAD; THENCE SOUTHEASTERLY ALONG THE SAID SOUTHWESTERLY RIGHT OF WAY LINE UPON THE ARC OF A CURVE CONCAVE TO THE SOUTHWEST AND HAVING A RADIUS OF 14273.77 FEET (RADIUS OF SAID CURVE AT THE LAST MENTIONED POINT BEARS SOUTH 80° 29' 28" WEST) AN ARC DISTANCE OF 58.61 FEET, MORE OR LESS, TO THE POINT OF BEGINNING, BEING A STRIP OR PARCEL OF LAND WITH A UNIFORM WIDTH OF 20 FEET.

EXCEPTING THEREFROM, THAT PORTION LYING WESTERLY OF THE EASTERLY LINE OF SHELLMOUND STREET 60 FEET WIDE.

ALSO EXCEPTING THEREFROM, FOREVER, ALL MINERALS AND ALL MINERAL RIGHTS OF EVERY KIND AND CHARACTER NOW KNOWN TO EXIST OR HEREAFTER DISCOVERED UNDERLYING THE PROPERTY, INCLUDING WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, OIL AND GAS AND RIGHTS THERETO, TOGETHER WITH THE SOLE, EXCLUSIVE AND PERPETUAL RIGHT TO EXPLORE FOR, REMOVE AND DISPOSE OF SAID MINERALS BY ANY

MEANS OR METHODS SUITABLE TO THE GRANTOR, ITS SUCCESSORS AND ASSIGNS, BUT WITHOUT ENTERING UPON OR USING THE SURFACE OF THE PROPERTY, AND IN SUCH MANNER AS NOT TO DAMAGE THE SURFACE OF THE PROPERTY, OR TO INTERFERE WITH THE USE THEREOF BY THE GRANTEEES, AND THEIR HEIRS, SUCCESSORS AND ASSIGNS, AS RESERVED IN THE QUITCLAIM DEED BY UNION PACIFIC RAILROAD COMPANY, A DELAWARE CORPORATION RECORDED APRIL 8, 1998, 98-117353, OF OFFICIAL RECORDS AND BY CORRECTIVE QUITCLAIM DEED RECORDED OCTOBER 21, 1998, 98-368618, OF OFFICIAL RECORDS.

APN: 049-1321-005

Page 4

Order No.: 56901-54990323-PRT

B-1-6

1525-1533 Powell Street (Adam Family)

APN: 049-1321-003-02

049-1321-003-02:

Description:

The land referred to herein is situated in the State of California, County of Alameda, City of Emeryville, and is described as follows:

PARCEL ONE:

BEGINNING AT THE POINT OF INTERSECTION OF THE SOUTHERN LINE OF POWELL STREET, WITH THE WESTERN LINE OF THE 100 FOOT RIGHT OF WAY OF THE SOUTHERN PACIFIC COMPANY, SHOWN AS "NORTHERN RAILROAD", ON THE "MAP OF THE PROPERTY OF L.M. BEAUDRY AND G. PELADEAU, BEING PLOT NO. 41 ON J. KELLERSBERGER'S MAP", FILED NOVEMBER 6, 1876, IN BOOK 6 OF MAPS, PAGE 14, IN THE OFFICE OF THE COUNTY RECORDER OF ALAMEDA COUNTY; RUNNING THENCE ALONG THE SAID SOUTHERN LINE OF POWELL STREET, SOUTH 75° 44' 45" WEST, 172.63 FEET; THENCE SOUTH 14° 15' 15" EAST, 90 FEET; THENCE NORTH 75° 44' 45" EAST, 167.09 FEET TO A POINT ON THE SAID WESTERN LINE OF THE 100 FOOT RIGHT OF WAY OF THE SOUTHERN PACIFIC COMPANY; THENCE NORTHERLY ALONG THE SAID LAST MENTIONED LINE ALONG THE ARC OF A CIRCLE TO THE LEFT, HAVING A RADIUS OF 14,273.77 FEET, A DISTANCE OF 90.17 FEET TO THE POINT OF BEGINNING.

PARCEL TWO:

PORTION OF BLOCK 58 AND 2ND STREET (ABANDONED) OF THE "MAP OF THE PROPERTY OF L.M. BEAUDRY AND G. PELADEAU, BEING PLOT NO. (41) ON J. KELLERSBERGER'S MAP", FILED NOVEMBER 6, 1876, IN BOOK 6 OF MAPS, PAGE 14, IN THE OFFICE OF THE COUNTY RECORDER OF ALAMEDA COUNTY, DESCRIBED AS FOLLOWS:

BEGINNING A POINT ON THE WESTERN LINE OF THE 100 FOOT WIDE RIGHT OF WAY OF THE SOUTHERN PACIFIC COMPANY, SHOWN ON SAID MAP AS "NORTHERN RAILROAD", DISTANT THEREON SOUTHERLY 90.17 FEET FROM THE SOUTHERN LINE OF POWELL STREET, AS SHOWN ON SAID MAP, THEN PARALLEL WITH THE LAST NAMED LINE, SOUTH 75° 44' 45" WEST 167.09 FEET, THEN SOUTH 14° 15' 15" EAST 139.91 FEET TO THE NORTHERN LINE OF THE 20 FOOT WIDE STRIP OF LAND DESCRIBED IN THE DEED FROM JOSEPH CATUCCI, ET UX, TO SOUTHERN PACIFIC RAILROAD COMPANY, DATED JUNE 1, 1937, RECORDED JUNE 23, 1937 IN BOOK 3441 OF OFFICIAL RECORDS OF ALAMEDA COUNTY, PAGE 419, INSTRUMENT NO. HH/34381, THEN ON THE LAST NAMED LINE, SOUTHEASTERLY 198.226 FEET TO SAID WESTERN LINE OF SAID SOUTHERN PACIFIC RIGHT OF WAY; AND THEN ON THE LAST NAMED LINE, NORTHERLY 262.17 FEET TO THE POINT OF BEGINNING.

PARCEL THREE:

A NON-EXCLUSIVE EASEMENT, APPURTENANT TO PARCEL 1 ABOVE, BEING THAT CERTAIN NON-EXCLUSIVE EASEMENT AND RIGHT OF WAY, 20 FEET WIDE, FOR INGRESS, EGRESS, AND UTILITY PURPOSES GRANTED BY UNION OIL COMPANY OF CALIFORNIA, TO BELLA CATUCCI BY INSTRUMENT DATED AUGUST 31, 1945, RECORDED OCTOBER 10, 1945, UNDER RECORDER'S INSTRUMENT NO. SS/67210, BOOK 4779 PAGE 477 ALAMEDA COUNTY RECORDS, OVER AND ALONG THE FOLLOWING DESCRIBED PROPERTY:

PORTION OF 2ND STREET (ABANDONED), AS SAID STREET IS SHOWN ON THE "MAP OF THE PROPERTY OF L.M. BEAUDRY AND G. PELADEAU, BEING PLOT NO. (41) ON J. KELLERSBERGER'S MAP", FILED NOVEMBER 6, 1876 IN BOOK 6 OF MAPS, PAGE 14, IN THE OFFICE OF THE COUNTY RECORDER OF ALAMEDA COUNTY, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE SOUTHERN LINE OF POWELL STREET, DISTANT THEREON SOUTH 75° 44' 45" WEST 172.63 FEET FROM THE WESTERN LINE OF THE 100 FOOT RIGHT OF WAY OF THE SOUTHERN PACIFIC RAILROAD COMPANY, AS SHOWN ON SAID MAP OF "NORTHERN RAILROAD", AS SAID STREET AND RIGHT OF WAY ARE SHOWN ON SAID MAP,

THEN RUN ON SAID LINE OF POWELL STREET, SOUTH 75° 44' 45" WEST 20 FEET THENCE
ALONG SAID LINE OF POWELL STREET, SOUTH 75° 44' 45" WEST 20 FEET; THENCE SOUTH 14°
15' 55" EAST 90 FEET; THENCE NORTH 75° 44' 45" EAST 20 FEET; AND THENCE NORTH 14° 15'
15" WEST 90 FEET TO THE POINT OF BEGINNING.

PARCEL FOUR:

A NON-EXCLUSIVE EASEMENT, APPURTENANT TO PARCEL 1 ABOVE, BEING THAT CERTAIN
EASEMENT FOR INGRESS AND EGRESS, AS RESERVED IN THE DEED BY JOSEPH CATUCCI AND
BELLA CATUCCI TO JOHN FREDERICK STACHNICK AND MABEL MARGARET STACHNICK, DATED
JULY 12, 1939, RECORDED JULY 26, 1939, IN BOOK 3798 OF OFFICIAL RECORDS OF ALAMEDA
COUNTY, PAGE 188, INSTRUMENT NO. KK/35795, OVER AND ALONG THE WESTERN 20 FEET OF
THE PARCEL OF LAND FIRSTLY DESCRIBED IN SAID DEED.

PARCEL FIVE:

A NON-EXCLUSIVE EASEMENT, APPURTENANT TO PARCEL 1 ABOVE, FOR INGRESS AND
EGRESS, AND ALL PUBLIC UTILITY PURPOSES, OVER THE FOLLOWING DESCRIBED LAND:

PORTION OF BLOCKS 38 AND 39, AND A PORTION OF 2ND STREET (ABANDONED), AS SAID
BLOCKS AND STREET ARE SHOWN ON THE "MAP OF THE PROPERTY OF L.M. BEAUDRY AND G.
PELADEAU, BEING PLOT NO. 41 ON J. KELLERSBERGER'S MAP", FILED NOVEMBER 6, 1876, IN
BOOK 6 OF MAPS, PAGE 14, IN THE OFFICE OF THE COUNTY RECORDER OF ALAMEDA
COUNTY, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE WESTERN LINE OF THE 100 FOOT RIGHT OF WAY OF THE
SOUTHERN PACIFIC RAILROAD COMPANY, SHOWN ON SAID MAP AS "NORTHERN RAILROAD",
DISTANT THEREON SOUTHERLY 215.17 FEET FROM THE SOUTHERN LINE OF POWELL STREET,
AS SAID RIGHT OF WAY AND STREET ARE SHOWN ON SAID MAP; RUNNING THENCE ALONG
THE WESTERN LINE OF SAID 100 FOOT RIGHT OF WAY, SOUTHERLY 137.17 FEET TO THE
NORTHERN LINE OF THE STRIP OF LAND, 20 FEET WIDE, DESCRIBED IN THE DEED BY JOSEPH
CATUCCI AND BELLA CATUCCI TO SOUTHERN PACIFIC RAILROAD COMPANY, DATED JUNE 1,
1937 RECORDED JUNE 23, 1937, IN BOOK 3441 OF OFFICIAL RECORDS OF ALAMEDA COUNTY,
PAGE 419, INSTRUMENT NO. HH/34381; THENCE ALONG THE LAST NAMED LINE, FROM A
TANGENT BEARING NORTH 37° 22' 58" WEST, ON THE ARC OF A CURVE TO THE LEFT, HAVING A
RADIUS OF 201.122 FEET, A DISTANCE OF 143.494 FEET; THENCE CONTINUING ALONG THE
LAST NAMED LINE, WESTERN ON A COMPOUND CURVE TO THE LEFT, HAVING A RADIUS OF
328.637 FEET, A DISTANCE OF 148.763 FEET; THENCE CONTINUING ALONG THE LAST NAMED
LINE, TANGENT WITH THE LAST SAID, CURVE, SOUTH 75° 44' 45" WEST 85.57 FEET TO THE
EASTERN LINE OF SHELL MOUND STREET, 60 FEET WIDE, AS SAID STREET NOW EXISTS SINCE
DECEMBER 7, 1938; THENCE ALONG THE LAST NAMED LINE, NORTH 4° 18' 15" WEST 15.47 FEET
TO THE NORTHERN LINE OF THE PARCEL OF LAND DESCRIBED IN THE DEED BY FRED W. FRY
AND EVA A. FRY TO CALIFORNIA MAGNESIA COMPANY, DATED JUNE 4, 1921, RECORDED JUNE
6, 1921, IN BOOK 13 OF SAID OFFICIAL RECORDS, PAGE 336, INSTRUMENT NO. S/141916;
THENCE ALONG THE LAST NAMED LINE, AND ALONG THE DIRECT EXTENSION THEREOF,
NORTH 74° 44' 45" EAST 175.84 FEET TO A POINT DISTANT THEREON, NORTH 75° 44' 45" EAST
20.75 FEET FROM THE NORTHEASTERN CORNER OF SAID PARCEL OF LAND DESCRIBED IN
SAID LAST MENTIONED DEED; AND THENCE NORTH 30° 35' 50" EAST 159.04 FEET TO THE POINT
OF BEGINNING.

EXCEPTING THAT PORTION LYING WITHIN THE LINES OF PARCEL 1 ABOVE DESCRIBED.

APN: 049-1321-003-02

1535 Powell Street (C&S Enterprises)

APN: 049-1321-001-02

'EXHIBIT "A"'

The land referred to herein is situated in the State of California, County of Alameda, City of Emeryville, described as follows:

PARCEL ONE:

BEGINNING AT A POINT ON THE SOUTHERN LINE OF POWELL STREET, DISTANT THEREON SOUTH 75° 44' 45" WEST 172.63 FEET FROM THE WESTERN LINE OF THE 100 FOOT RIGHT OF WAY OF THE SOUTHERN PACIFIC COMPANY, SHOWN AS "NORTHERN RAILROAD" ON THE "MAP OF THE PROPERTY OF L. M. BEAUDRY & G. PELADEAU, BEING PLOT NO. 41 ON J. KELLERSBERGER'S MAP", FILED NOVEMBER 6, 1876, IN BOOK 6 OF MAPS, AT PAGES 14, IN THE OFFICE OF THE COUNTY RECORDER OF ALAMEDA COUNTY; THENCE LEAVING SAID LINE OF POWELL STREET AND RUNNING SOUTH 14° 15' 15" EAST 90 FEET; THENCE SOUTH 75° 44' 45" WEST 20 FEET; THENCE SOUTH 14° 15' 15" EAST 40.08 FEET; THENCE SOUTH 75° 44' 45" WEST 143.31 FEET TO THE EASTERN LINE OF SHELLMOUND STREET, AS DEFINED BY THE DEED TO TOWN OF EMERYVILLE, DATED FEBRUARY 12, 1940, AND RECORDED NOVEMBER 6, 1940, IN BOOK 4013 OF OFFICIAL RECORDS OF ALAMEDA COUNTY, AT PAGE 26; THENCE NORTH 4° 16' 15" WEST ALONG SAID LINE OF SHELLMOUND STREET, AS DEFINED IN THE LAST SAID DEED AND IN THE DEED TO CITY OF EMERYVILLE, DATED SEPTEMBER 19, 1938, RECORDED NOVEMBER 6, 1940, IN BOOK 4001 OF OFFICIAL RECORDS OF ALAMEDA COUNTY, AT PAGE 52, A DISTANCE OF 132.08 FEET TO SAID SOUTHERN LINE OF POWELL STREET; AND THENCE ALONG THE LAST NAMED LINE, NORTH 75° 44' 45" EAST 140.41 FEET TO THE POINT OF BEGINNING.

PARCEL TWO:

A NON-EXCLUSIVE, PERPETUAL EASEMENT AND RIGHT OF WAY, APPURTENANT TO AND FOR THE BENEFIT OF PARCEL 1 ABOVE DESCRIBED, FOR USE AS A ROADWAY FOR VEHICLES OF ALL KINDS, PEDESTRIANS AND ANIMALS, FOR WATER, GAS, OIL AND SEWER PIPE LINES, AND FOR TELEPHONE, ELECTRIC LIGHT AND POWER LINES, TOGETHER WITH THE NECESSARY POLES OR CONDUITS TO CARRY SAID LINES OVER A STRIP OF LAND 20 FEET WIDE, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE SOUTHERN LINE OF POWELL STREET, DISTANT THEREON SOUTH 75° 44' 45" WEST 172.63 FEET FROM THE WESTERN LINE OF THE 100 FOOT RIGHT OF WAY OF THE SOUTHERN PACIFIC COMPANY, SHOWN AS "NORTHERN RAILROAD" ON THE "MAP OF THE PROPERTY OF L. M. BEAUDRY & G. PELADEAU, BEING PLOT NO. 41 ON J. KELLERSBERGER'S MAP", FILED NOVEMBER 6, 1876, IN BOOK 6 OF MAPS, AT PAGES 14, IN THE OFFICE OF THE COUNTY RECORDER OF ALAMEDA COUNTY; THENCE LEAVING SAID LINE OF POWELL STREET AND RUNNING SOUTH 14° 15' 15" EAST 90 FEET; THENCE SOUTH 75° 44' 45" WEST 20 FEET; THENCE SOUTH 14° 15' 15" EAST 40.08 FEET; THENCE SOUTH 75° 44' 45" WEST 143.31 FEET TO THE EASTERN LINE OF SHELLMOUND STREET, AS DEFINED BY THE DEED TO TOWN OF EMERYVILLE, DATED FEBRUARY 12, 1940, AND RECORDED NOVEMBER 6, 1940, IN BOOK 4013 OF OFFICIAL RECORDS OF ALAMEDA COUNTY, AT PAGE 26; THENCE NORTH 4° 16' 15" WEST ALONG SAID LINE OF SHELLMOUND STREET, AS DEFINED IN THE LAST SAID DEED AND IN THE DEED TO CITY OF EMERYVILLE, DATED SEPTEMBER 19, 1938, RECORDED NOVEMBER 6, 1940, IN BOOK 4001 OF OFFICIAL RECORDS OF ALAMEDA COUNTY, AT PAGE 52, A DISTANCE OF 132.08 FEET TO SAID SOUTHERN LINE OF POWELL STREET; AND THENCE ALONG THE LAST NAMED LINE, NORTH 75° 44' 45" EAST 140.41 FEET TO THE POINT OF BEGINNING

PARCEL THREE:

North American Title Company, Inc.

Guarantee No.: H 195793

Order No.: 56901-54990534-PRT

A NON-EXCLUSIVE EASEMENT, APPURTENANT TO PARCEL 1 ABOVE, BEING THAT CERTAIN EASEMENT FOR INGRESS AND EGRESS, AS RESERVED IN THE DEED BY JOSEPH CATUCCI AND BELLA CATUCCI TO JOHN FREDERICK STACHNICK AND MABEL MARGARET STACHNICK, DATED JULY 12, 1939, RECORDED JULY 26, 1939, IN BOOK 3798 OF OFFICIAL RECORDS OF ALAMEDA COUNTY, PAGE 188, INSTRUMENT NO. KK-35795, OVER AND ALONG THE WESTERN 20 FEET OF THE PARCEL OF LAND FIRSTLY DESCRIBED IN SAID DEED.

SAID EASEMENT IS ALSO FOR RAILROAD PURPOSES.

EXCEPTING THEREFROM, THAT PORTION THEREOF WHICH LIES WITHIN THE LINES OF PARCEL 2 ABOVE DESCRIBED.

PARCEL FOUR:

A NON-EXCLUSIVE EASEMENT FOR RAILROAD PURPOSES, OVER THE FOLLOWING DESCRIBED LAND;

COMMENCE AT A POINT ON THE WESTERN LINE OF THE 100 FOOT WIDE RIGHT OF WAY OF THE SOUTHERN PACIFIC COMPANY, SHOWN ON SAID MAP AS "NORTHERN RAILROAD", DISTANT THEREON SOUTHERLY 90.17 FEET FROM THE SOUTHERN LINE OF POWELL STREET, AS SHOWN ON SAID MAP; THEN PARALLEL WITH THE LAST NAMED LINE, SOUTH 75° 44' 45" WEST 167.09 FEET; THENCE SOUTH 14° 15' 15" EAST 21.43 FEET TO THE ACTUAL POINT OF BEGINNING; THEN SOUTH 14° 15' 15" EAST 118.48 FEET TO THE NORTHERN LINE OF THE 20 FOOT WIDE STRIP OF LAND DESCRIBED IN THE DEED FROM JOSEPH CATACCI, ET UX, TO SOUTHERN PACIFIC RAILROAD COMPANY, DATED JUNE 1, 1937, RECORDED JUNE 23, 1937, IN BOOK 3441, PAGE 419, OFFICIAL RECORDS OF ALAMEDA COUNTY, INSTRUMENT NO. HH/34381; THEN ON THE LAST NAMED LINE, SOUTHEASTERLY 115.699 FEET; THEN NORTH 60° 53' 35" WEST 48.02, AND ON A TANGENT CURVE TO THE RIGHT WITH A 181.12 FOOT RADIUS, AND A 50° 32' 10" ANGLE NORTHWESTERLY 159.75 FEET TO THE ACTUAL POINT OF BEGINNING, AS RESERVED IN THE DEED FROM FREDA KOECKRITZ, A WIDOW, TO MC CULLOUGH EQUIPMENT CO., INC., A CALIFORNIA CORPORATION, BY DEED RECORDED AUGUST 1, 1963, ON REEL 952, IMAGE 878, OFFICIAL RECORDS, INSTRUMENT NO. AU/127459.

APN: 049-1321-001-02

North American Title Company, Inc.

Guarantee No.: H 195793

Order No.: 56901-54990534-PRT

EXHIBIT B-2

Exhibit B-2

PROPERTY OWNERS

1525 POWELL ST.:	<i>Property Owner:</i> City of Emeryville Successor Agency 1333 Park Avenue Emeryville, CA 94608	<i>Attorneys representing City:</i> Office of the City Attorney 1333 Park Avenue Emeryville, CA 94608 (510) 596-4380 (Phone) (510) 596-3724 (Facsimile) City_Attorney@emeryville.org
1535 POWELL ST.:	<i>Property Owner:</i> City of Emeryville Successor Agency 1333 Park Avenue Emeryville, CA 94608	<i>Attorneys representing City:</i> Office of the City Attorney 1333 Park Avenue Emeryville, CA 94608 (510) 596-4380 (Phone) (510) 596-3724 (Facsimile) City_Attorney@emeryville.org
5760-5764 SHELLMOUND ST.:	<i>Property Owner:</i> City of Emeryville Successor Agency 1333 Park Avenue Emeryville, CA 94608	<i>Attorneys representing City:</i> Office of the City Attorney 1333 Park Avenue Emeryville, CA 94608 (510) 596-4380 (Phone) (510) 596-3724 (Facsimile) City_Attorney@emeryville.org
5770 SHELLMOUND ST.:	<i>Property Owner:</i> City of Emeryville Successor Agency 1333 Park Avenue Emeryville, CA 94608	<i>Attorneys representing City:</i> Office of the City Attorney 1333 Park Avenue Emeryville, CA 94608 (510) 596-4380 (Phone) (510) 596-3724 (Facsimile) City_Attorney@emeryville.org

OAK #4818-9271-1290 v1
05610-2001

EXHIBIT C SCOPE OF WORK

The following Tasks will be completed as part of this Agreement:

TASK 1.

Implementation Report for Supplemental Shallow Groundwater Remediation and Deeper Groundwater Remediation. On March 21, 2018, the Successor Agency submitted to DTSC a report to document implementation of supplemental shallow groundwater remediation and deeper groundwater remediation. The Successor Agency shall prepare and submit to DTSC for its review and approval the final report based upon any comments received from DTSC.

TASK 2.

First 2018 Semiannual Groundwater Monitoring Report. On November 15, 2018, the Successor Agency submitted to DTSC a report to document the first semi annual groundwater monitoring event of 2018. The Successor Agency shall prepare and submit to DTSC for its review and approval the final report based upon any comments received from DTSC.

TASK 3.

Groundwater Monitoring Reports. The Successor Agency shall implement groundwater monitoring and submit groundwater monitoring reports to DTSC for its review and approval on a semi-annual basis as required by the RDIP/RAP Amendment for the groundwater remedy. The frequency, timing, and scope of groundwater monitoring events is subject to change based on results of additional evaluations (see Task 4) and ongoing groundwater monitoring and DTSC review and approval.

TASK 4.

Additional Groundwater Remediation Evaluations with Soil Vapor Assessment. Additional groundwater remediation evaluations will be conducted to assist with the preparation of the Operation and Maintenance Agreement. The Successor Agency shall evaluate post-injection baseline soil vapor conditions to determine whether long-term injections will be required since data indicates the primary ongoing source of CVOCs in shallow groundwater are upgradient off-site sources. The Successor Agency shall submit a workplan.

TASK 5.

Implement Additional Groundwater Remediation Evaluations with Soil Vapor Assessment Workplan. Upon DTSC'S approval of the Additional Groundwater Remediation Evaluations with Soil Vapor Assessment Workplan, the Successor Agency shall implement the workplan as approved.

TASK 6.

Operation and Maintenance (O&M). The Successor Agency shall prepare and submit to DTSC for its review and approval an O&M Plan that complies with any and all

O&M requirements in accordance with the final RAP for the soil remedy and the RDIP/RAP Amendment for the groundwater remedy and the results of the Additional Groundwater Remediation Evaluations with Soil Vapor Assessment Workplan. The Successor Agency shall comply with any and all requirements in accordance with the O&M Plan. If deemed necessary, DTSC may require Successor Agency to enter into an O&M Agreement with DTSC.

TASK 7.

Soil Management Plan. The Successor Agency shall prepare and submit to DTSC for its review and approval a soil management plan (SMP), describing health and safety and soil handling protocols during site redevelopment activities. The SMP shall be included as an appendix to the O&M Plan. The Successor Agency shall comply with any and all requirements in accordance with the SMP.

TASK 8.

Land Use Covenant. The parties agree that a land use covenant (LUC) pursuant to California Code of Regulations, title 22, section 67391.1 may be necessary to ensure full protection of the environment and human health. DTSC may require such LUC in the RAP or RAP Amendment. The Successor Agency agrees to sign and record the LUC approved by DTSC within ten (10) days of receipt of a fully executed original.

TASK 9.

Discontinuation of Remedial Technology. Any remedial technology employed in implementation of the RAP Amendment shall be left in place and operated by the Successor Agency until DTSC authorizes the Successor Agency in writing to discontinue, move or modify some or all of the remedial technology because the Successor Agency has met the criteria specified in the RAP Amendment for its discontinuance, or because the modifications would better achieve the goals of the RAP Amendment.

EXHIBIT D – SCHEDULE AND COST ESTIMATE

Successor Agency to submit Supplemental Shallow Groundwater Remediation and Deeper Groundwater Remediation Completion Report	Submitted March 21, 2018
DTSC to review Supplemental Shallow Groundwater Remediation and Deeper Groundwater Remediation Completion Report	Within 45 days of Effective Date of Agreement
Successor Agency to submit First 2018 Semi Annual Groundwater Monitoring Report	Submitted November 15, 2018
DTSC to review First 2018 Semi Annual	Within 45 days of Effective Date of Agreement
Successor Agency to submit Additional Groundwater Remediation Evaluations with Soil Vapor Assessment Workplan	Within 60 days of Effective Date of Agreement
DTSC to review Additional Groundwater Remediation Evaluations with Soil Vapor Assessment Workplan	Within 45 days of submittal
Successor Agency to submit Second 2018 Semiannual Groundwater Monitoring Report	Within 90 days of Effective Date of Agreement
DTSC to review Second 2018 Semiannual Groundwater Monitoring Report	Within 45 days of submittal
Successor Agency to implement Additional Groundwater Remediation Evaluations with Soil Vapor Assessment Workplan	Within 60 days of DTSC approval
Successor Agency to submit Additional Groundwater Remediation Evaluations with Soil Vapor Assessment Workplan Completion Report	Within 60 days following completion of implementation of workplan.
DTSC to review Additional Groundwater Remediation Evaluations with Soil Vapor Assessment Workplan Completion Report	Within 45 days of submittal
Successor Agency to submit Operation and Maintenance Plan which includes a Soil Management Plan; Cost Estimate	Within 60 days of DTSC approval of Additional Groundwater Remediation Evaluations with Soil Vapor Assessment Workplan Completion Report
DTSC to review Operation and Maintenance Plan	Within 45 days of submittal
Successor Agency to submit Operation and Maintenance Agreement (if required)	Within 60 days of DTSC approval of Operations and Maintenance Plan
DTSC to review Operation and Maintenance Agreement	Within 45 days of submittal
Successor Agency to sign Operation and Maintenance	Within 15 days of DTSC approval of

Agreement with DTSC	Operations and Maintenance Agreement
DTSC to Draft/Review Land Use Covenant	Within 60 days of DTSC approval of Operations and Maintenance Agreement
Successor Agency to sign and record Land Use Covenant with Alameda County	Within 15 days of DTSC approval of Land Use Covenant
Successor Agency to Submit Semi Annual Groundwater Monitoring Reports (2019 & 2020)	June and December 2019 and 2020
DTSC to Review GW Monitoring Report	Within 45 days of submittal
DTSC to draft Certification in accordance with Polanco Redevelopment Act	Within 15 days of recording of Land Use Covenant

Initial Estimate not to exceed \$150,000.00 based on applicable hourly rates for costs of labor of all DTSC personnel required to perform services outlined in schedule above, and reimbursement for any materials or expenses incurred.

EXHIBIT E

EXHIBIT E

OVERSIGHT AGREEMENT STANDARD PROVISIONS

1. The Standard Provisions in this Exhibit E are incorporated by reference into and are a part of the Oversight Agreement. The Standard Provisions have been placed in this Exhibit E for reasons of administrative efficiency.

2. Payment Provisions. Subject to Section 2.7 of the Oversight Agreement, if any bill is not paid by the Agency within sixty (60) days after it is sent by DTSC, the Agency may be deemed to be in material default of this Oversight Agreement.

If the advance payment submitted under Section 2.7.1 of this Oversight Agreement exceeds DTSC's actual costs for Oversight Agreement preparation, consultation, review, approval, oversight and other activities conducted under this Oversight Agreement, DTSC will provide an accounting for expenses and refund the difference within one hundred-twenty (120) days after termination of this Oversight Agreement in accordance with Section 24 of this Exhibit. In no other case will the Agency be entitled to a refund from DTSC or to assert a claim against DTSC for any amount paid or expended under this Oversight Agreement.

3. Billing Dispute Resolution. If the Agency disputes a DTSC billing, or any part of a DTSC billing, the Agency will notify DTSC's designated Oversight Agreement Manager and attempt to informally resolve the dispute. If the Agency desires to formally request dispute resolution with regard to the billing, the Agency will file a request for dispute resolution in writing within 45 days of the date of receiving the bill in dispute. The written request will describe all issues in dispute and will set forth the reasons for the dispute, both factual and legal. The Agency will send the written request to:

Special Assistant for Cost Recovery and Reimbursement Policy
Department of Toxic Substances Control
P.O. Box 806
Sacramento, CA 95812-0806

The Agency will also send a copy of the written request for dispute resolution to the person designated in subsection 2.5.1 of this Oversight Agreement to receive submittals. A decision on the billing dispute will be rendered by the person designated above or other DTSC designee. The existence of a dispute shall not excuse, stay or suspend any other compliance obligation or deadline required pursuant to this Oversight Agreement.

4. Communications. All DTSC approvals and decisions made regarding submittals and notifications will be communicated to the Agency in writing by DTSC's Oversight Agreement Manager or his/her designee. No informal advice, guidance, or suggestions or comments by DTSC regarding reports, plans, specifications, schedules or any other writings by the Agency shall be construed to relieve the Agency of the obligation to obtain such written approvals.

5. Endangerment During Implementation. In the event DTSC determines that any activity or operations caused by or on behalf of the Agency or its agents (whether or not pursued in compliance with this Oversight Agreement) may pose an imminent or substantial endangerment to the health and safety of people on any Property or group of Properties or in the surrounding area or to the environment: i) the Agency will take the necessary actions to abate the endangerment it created for such period of time as may be needed to abate the endangerment; or ii) if DTSC determines that conditions require DTSC to exercise its authority to abate the endangerment, the Agency may stop further implementation of this Oversight Agreement as it applies to a Property or group of Properties. However, if the Agency stops implementation, the Agency must meet the conditions under Section 12 of this Exhibit (Notification of Environmental Condition) and, if necessary, must revise the applicable Scope of Work and meet the stop-work conditions as provided in Section 23 of this Exhibit (Amendments). If DTSC determines that an endangerment is the result of Agency actions that have caused a release of hazardous substances or

substantially worsened the endangerment, the Agency will take those reasonable steps DTSC determines are necessary to mitigate the condition that the Agency caused or substantially worsened and to secure the Property or group of Properties in order to avoid endangerment to the community. These steps may include installing a protective cover, constructing fencing and signage or other appropriate means to protect public health and the environment. The Agency will not be compelled to fully assess or mitigate a release of hazardous substances if DTSC determines that the Agency did not cause or substantially worsen the release.

6. Condition Precedent. It is expressly understood and agreed that DTSC's receipt of the advance payment described in subsection 2.7.1 of this Oversight Agreement is a condition precedent to any obligation of DTSC to provide consultation, oversight, review and/or comment on documents or to provide any work or perform any activity pursuant to this Oversight Agreement.

7. Record Retention. DTSC will retain all cost records associated with the work performed under this Oversight Agreement for such time periods as may be required by applicable state law. The Agency may request to inspect all documents that support DTSC's cost determination in accordance with the Public Records Act, Government Code section 6250 et seq.

8. Project Coordinator. The work performed for each Property or group of Properties pursuant to this Oversight Agreement will be under the direction and supervision of a qualified Project Coordinator, with expertise in hazardous substance and hazardous waste site cleanup. For each Property or group of Properties, the Agency will submit: a) the name and address of the Project Coordinator; and b) in order to demonstrate expertise in hazardous substance and hazardous waste site cleanup, the resume of the Project Coordinator. The Agency will promptly notify DTSC of any change in the identity of the Project Coordinator. All engineering and geological work shall be conducted in conformance with applicable state law, including but not limited to, Business and Professions Code sections 6735 and 7835.

9. Access. If DTSC determines access is necessary in order to perform any of the tasks contained in Exhibit C (Technical Consultation), the Agency will exercise its best efforts to provide access for DTSC and its representatives to the Property or group of Properties subject to this Oversight Agreement for which access is needed. In the event that such access is not provided, it is understood that the implementation of tasks identified in this agreement for the Property or group of Properties for which access cannot be obtained may not proceed. The Agency will also exercise its best efforts to provide access for DTSC and its representatives access and/or obtain access to any area beyond the boundaries of the Property or group of Properties subject to this Oversight Agreement to which access is necessary to implement this Oversight Agreement. To the extent such access is obtained by the Agency, such access will be provided to DTSC's employees, contractors, and consultants at all reasonable times. Nothing in this section is intended or shall be construed to limit in any way the right of entry or inspection that DTSC or any other agency may otherwise have by operation of any law. To the extent such access can be legally obtained by DTSC or the Agency, DTSC and its authorized representatives shall have the authority to enter and move freely about all of the property at each Property or group of Properties at all reasonable times for purposes including, but not limited to: inspecting records and operating logs, sampling activities, administering any other aspects of this Oversight Agreement relating to the Property or group of Properties, reviewing the progress of the Agency in carrying out the terms of this Oversight Agreement, conducting such tests as DTSC may determine are necessary, and verifying the data submitted to DTSC by the Agency.

10. Sampling, Data and Document Availability. The Agency will submit to DTSC a listing of all known reports in its possession, including sample analysis results, environmental assessment reports, and any other information in its possession pertinent to the hazardous substance and hazardous waste management and/or release, characterization and cleanup of a Property or group of Properties. The Agency will provide copies of any non-privileged reports or information requested by DTSC and will identify privileged or other confidential documents that the Agency is not providing. The Agency will also inform DTSC of any other known reports and documents, not in its possession, pertinent to the hazardous substance and hazardous waste management and/or release, characterization and cleanup of a Property

or group of Properties, including the name of the document (if known) and the identity and address of the person/entity with possession of the document (if known).

11. Notification of Field Activities. The Agency will inform DTSC at least seven (7) days in advance of all field activities which the Agency undertakes, including activities the Agency directs a third party to undertake, pursuant to this Oversight Agreement at each Property or group of Properties and will allow DTSC and its authorized representatives to take duplicates of any samples collected by the Agency pursuant to this Oversight Agreement.

12. Notification of Environmental Condition. The Agency shall notify DTSC's Agreement Manager immediately upon learning of any condition posing an immediate threat to public health or safety or the environment. Within seven (7) days of the Agency's discovery of such a condition, the Agency shall submit a brief report to DTSC, setting forth the events that occurred and the measures taken, if any, in response to those events.

13. Preservation of Documentation. The Agency will maintain a central repository of the data, reports, other documents that it prepares pursuant to this Oversight Agreement and other documents relevant to the activities conducted under this Oversight Agreement. All such data, reports and other documents regarding a specific Property or group of Properties will be preserved by the Agency for a minimum of six (6) years after the conclusion of all activities carried out under this Oversight Agreement with respect to that Property or group of Properties. If DTSC requests that some or all of these documents be preserved for a longer period of time, the Agency will either: (i) comply with that request, (ii) deliver the documents to DTSC, or (iii) permit DTSC to copy the documents prior to destruction. Following the expiration of the six-year minimum retention period for documents regarding a Property or group of Properties, the Agency will notify DTSC in writing at least ninety (90) days before destroying any documents prepared pursuant to this Oversight Agreement with respect to that Property or group of Properties. If any litigation, claim, negotiation, audit or other action involving the records has been started before the expiration of the six year period with respect to a Property or group of Properties, the related records will be retained until the completion and resolution of all issues arising from that action or until the end of the six-year period, whichever is later.

14. Time Periods. Unless otherwise specified, time periods begin from the date this Oversight Agreement is fully executed, and "days" means calendar days. "Business days" means all calendar days that are not weekends or official State holidays.

15. Agency Liabilities. This Oversight Agreement shall not be construed in any manner as an admission by the Agency of any fact or liability of any kind, nor shall this Oversight Agreement be considered or interpreted as an admission or an assumption by the Agency of any liability or acknowledgment of liability or responsibility for the investigation or assessment of, response or remediation to any environmental condition on any Property or group of Properties or the costs of such activities, for which the Agency is not otherwise liable or responsible. Nothing in this Oversight Agreement shall constitute or be considered a satisfaction or release from liability for any condition or claim arising as a result of Agency's past, current, or future operations. Nothing in this Oversight Agreement is intended or shall be construed to limit the rights of any of the Parties with respect to claims arising out of or relating to the release, discharge, deposit or disposal of hazardous substances or hazardous wastes at the Property or group of Properties or at any other location, if such hazardous substances or hazardous wastes are removed from a Property or group of Properties.

16. State Government Liabilities. The State of California (State) shall not be liable for any injuries or damages to persons or property resulting from acts or omissions by the Agency or its directors, officers, employees, agents, representatives, successors, assigns, contractors or consultants in carrying out any action or activity pursuant to this Oversight Agreement. Neither DTSC nor the State may be deemed to be a party to any contract entered into by the Agency or its directors, officers, employees, agents, successors, assigns, contractors or consultants in carrying out any action or activity pursuant to this Oversight Agreement.

17. Third Party Actions. In the event that the Agency is a party to any suit or claim for damages or contribution to which DTSC is not a party, relating to a Property or group of Properties subject to this Agreement, the Agency will notify DTSC in writing within ten (10) days after service of the complaint in the third-party action. However, failure to give such notice within 10 days will not be a material breach of this agreement, and this requirement confers no rights on any third parties not party to this Agreement.

18. Reservation of Rights. DTSC and the Agency each reserve the following rights.

a. DTSC reserves its right to pursue cost recovery under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended, California Health and Safety Code sections 25201.9, 25343, 25360, 33459.3, subdivision (m) and any other law. The Agency reserves its rights to pursue cost recovery under the California Health and Safety Code section 33459-33459.8 (Polanco Act) and any other applicable section of the law.

b. Nothing in this Oversight Agreement is intended or shall be construed to limit, preclude or affect the authority of DTSC to pursue any legal, equitable or administrative remedies pursuant to state or federal law or to take any action authorized by law or equity to protect public health and safety or the environment and recovering the costs thereof, including DTSC's authority to take action, or require other persons to take action, under chapter 6.5 or chapter 6.8 of division 20 of the Health and Safety Code or under the Polanco Act and to recover DTSC's costs for those actions.

c. Nothing in this Oversight Agreement shall constitute or be construed as a waiver, defense to, or limitation on of the Agency's rights (including any covenant not to sue or release), with respect to any claim, cause of action, or demand in law or equity that the Agency may have against any person, as defined in section 101(21) of CERCLA, or Health and Safety Code section 25319, who is not a signatory to this Oversight Agreement.

19. Compliance with Applicable Laws. Nothing in this Oversight Agreement relieves the Agency from complying with all applicable laws and regulations, and the Agency will conform to all actions required by this Oversight Agreement to all applicable federal, state and local laws and regulations.

20. California Law. This Oversight Agreement shall be governed, performed and interpreted under the laws of the State of California.

21. Parties Bound. This Oversight Agreement applies to and is binding, jointly and severally, upon each signatory and upon any successor agency of either the Agency or the State of California that may have responsibility for and jurisdiction over the subject matter of this Oversight Agreement. No change in the ownership or corporate or business status of a Property or group of Properties or any owner of a Property or group of Properties shall alter any signatory's responsibilities under this Oversight Agreement.

22. Severability. If any portion of this Oversight Agreement is ultimately determined not to be enforceable, that portion will be severed from the Oversight Agreement and the severability shall not affect the enforceability of the remaining terms of the Oversight Agreement.

23. Amendments. Except as otherwise specified in this section and in section 2.2 of this Oversight Agreement, this Oversight Agreement may be amended as specified in this section to withdraw any Property or group of Properties from this Oversight Agreement. The Agency may withdraw a Property or group of Properties from this Oversight Agreement by giving written notice to DTSC that the Agency will stop work on that Property or group of Properties within the next thirty (30) days. DTSC may withdraw a Property or group of Properties by giving written notice to the Agency that DTSC will stop work on that Property or group of Properties within the next thirty (30) days. The effective date of withdrawal is the end of the 30 day notice period. Prior to stopping work on a Property or group of Properties, the Agency must ensure that the Property or group of Properties will pose no greater public health or environmental risk than it posed prior to the Agency's activities on the Property or group of Properties. In the event that the Agency withdraws a Property or group of Properties from this Oversight Agreement, the Agency will

be responsible for DTSC's costs through the effective date of withdrawal. The Scope of Work may be amended by mutual written agreement of the parties. Such amendments or modifications are effective on the third business day following the day the last Party signing the amendment or modification sends its notification of signing to the other Party. The Parties may agree to a different effective date. An amendment to incorporate a Property or group of Properties into this Oversight Agreement and to incorporate by reference site-specific Exhibits for that Property or group of Properties shall be made as specified in subsections 2.1, 2.2, and 2.3 of this Oversight Agreement.

24. Termination for Convenience. Except as otherwise provided in this Section, each Party to this Oversight Agreement reserves the right to unilaterally terminate this Oversight Agreement for any reason. Termination requires that either Party give a thirty (30) day advance written notice of the election to terminate this Oversight Agreement to the other Party. Prior to termination the Agency must ensure that the Property or group of Properties will pose no greater public health or environmental risk as a result of the Agency activities than it posed prior to the Agency's activities at the Property or group of Properties. In the event that this Oversight Agreement is terminated under this section and subject to Section 2.7 of the Oversight Agreement, the Agency will be responsible for DTSC's costs through the effective date of termination.

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