

PROPERTY USE AGREEMENT

BY AND BETWEEN

THE CITY OF OCEANSIDE

AND

OTOMI & STONE LLC

FOR USE OF PROPERTY

LOCATED AT

**1300 LEE DRIVE
OCEANSIDE, CA**

DATED

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PROPERTY USE AGREEMENT

THIS PROPERTY USE AGREEMENT ("Agreement"), dated _____, 20____, solely for identification purposes, is made and entered into by and between the **CITY OF OCEANSIDE**, a California municipal corporation ("City"), and Otomi & Stone LLC ("Permittee"). The effective date of this Agreement shall be the date that this Agreement is approved by the Oceanside City Council (the "Effective Date").

RECITALS

WHEREAS, City, subject to a reversionary interest in an undivided one-half interest in favor of the City of Vista, successor in interest to the Vista Sanitation District, is the legal and equitable owner of that certain real property situated in the City of Oceanside, County of San Diego, State of California, commonly referred to as French Field, located in the 1300 block of Lee Drive, Oceanside, California, as more particularly described in a legal description thereof marked as Attachment "1" and shown on a plat thereof marked as Attachment "2", attached hereto and incorporated herein by reference (hereinafter referred to as the "Property" , "Premises" or "French Field"); and

WHEREAS, the Property was formerly a landfill and burn dump operated by the County of San Diego from 1944 to 1967; and

WHEREAS, over the years, the Property has been used for youth softball and baseball and most recently until September 2023, as the home field for Vista American Little League ("VALL"); and

WHEREAS, on March 3, 1993, the City of Vista, California ("Vista"), and City entered into a Joint Use Agreement (the "Joint Use Agreement") setting forth the terms and conditions for use of French Field by VALL, however, this Joint Use Agreement was terminated effective December 31, 2024 due to the termination of the Property Use Agreement with VALL prior to that date; and

WHEREAS, for historical reference, in January 2005, use of the Property by VALL was suspended due to contaminants present on the site resulting from its former use as a burn dump and to allow City, Vista and the County of San Diego to take such measures to remediate and restore the Property to a condition safe for public recreational use; and

WHEREAS, City, as lead agency, together with Vista and the County of San Diego have remediated the Property and capped the former landfill and burn dump in accordance with regulatory agency edicts and permits and is in the process of restoring ball fields and constructing appurtenant works to the Property; and

WHEREAS, City is willing to allow priority and exclusive use of French Field to Permittee under the terms and conditions set forth in this Agreement, in exchange for Permittee's undertaking certain rental obligations along with maintenance and improvement obligations as described herein.

NOW THEREFORE, in consideration whereof and other consideration set forth herein, the value and sufficiency of which is hereby acknowledged, the parties mutually agree as follows:

AGREEMENT

SECTION 1: PREMISES AND USES

1.01 DESCRIPTION OF PROPERTY/PREMISES AND FACILITIES. The property with respect to which Permittee is to perform facilities maintenance services and responsibilities is that certain real property, commonly known as French Field, as more particularly described in a legal description thereof marked Attachment "1", attached hereto and incorporated herein by reference, together with those improvements and facilities as may be constructed and appurtenant thereto, including but not limited to, concession and restroom buildings, baseball diamonds and fields, dugouts, backstops, fencing, field lighting, scoreboards, bleachers, storage structures, outdoor dining and seating areas, drinking fountains, parking lot, walkways and hardscape, landscaping, including turf, shrubs, bushes, trees, planters, drainage and irrigation, sewer and water laterals, electrical, and natural gas systems, whether such improvements or facilities were constructed and placed upon the Property by the City or a former user or Permittee. The term "Property" and or "Premises", as used herein shall include the land described in said Attachment "1", improvements and facilities appurtenant thereto.

1.02 DESCRIPTION OF RELATIONSHIP OF THE PARTIES. Permittee's relationship with City shall be that of permittee/permitter of the Property and shall not be deemed a partnership, joint venture or any other similar entity. Permittee shall have no authority, expressed or implied, to act on behalf of City as an agent, or to bind City to any obligation whatsoever, unless specifically authorized in writing by City. Permittee shall be solely responsible for the performance of all its employees, agents, contractors and subcontractors, volunteers and other persons working under Permittee's direction. In no event shall Permittee's use and occupation of the Property ripen into a fee interest.

1.03 USE OF PROPERTY. Permittee's use of the Property under this Agreement shall be solely for purposes of youth baseball/softball and appurtenant activities and for no other purpose whatsoever. For the purpose of this Agreement, "appurtenant activities" shall be defined to include the following activities so long as they are conducted in compliance with the terms and conditions of this Agreement, all applicable laws, rules and regulations: youth baseball/softball and tee ball games, tournaments and practices; concessionaire activities at youth baseball/softball games or tournaments; and construction of improvements and field maintenance activities. Permittee's use of the Property shall be in strict compliance with the provisions and requirements of the Environmental Documents (as said term is defined in Subsection 6.10b, hereinbelow). Any failure to so comply with the Environmental Documents shall be deemed a default of the conditions, covenants, provisions and terms of this Agreement. Regardless of the Effective Date hereof, Permittee shall not enter upon the Property for any of the activities and uses stated herein until such time that City provides Permittee with written permission to enter the property to conduct the activities allowed under this Agreement.

1.04 QUIET ENJOYMENT. Permittee, performing the covenants and agreements herein, shall at all times during the term hereof peaceably and quietly have,

hold and enjoy the Property. Permittee shall not use the Property in any manner which disrupts the quiet enjoyment of surrounding owners' or occupants' use of their property.

1.05 RESERVATION OF RIGHTS. City shall not unreasonably interfere with Permittee's use of the Premises while Permittee is in possession of the Premises; however, the City specifically retains the following rights:

- A. Subsurface Rights.** City hereby reserves all rights, title and interest in any and all subsurface natural gas, oil, minerals and water on or within the PREMISES.
- B. Easements.** City reserves the right to grant and use easements or to establish and use rights-of-way over, under, along and across the leased Premises for utilities, thoroughfares, or access as it deems advisable for the public good.
- C. Right to Enter.** City has the right to enter the Premises for the purpose of performing maintenance, inspections, repairs or improvements, or developing municipal resources and services.

1.06 RELATED DISCRETIONARY ACTIONS. By the granting of this Agreement, neither City nor the City Council is obligating itself to any other governmental agent, board, commission, or agency with regard to any other discretionary action relating to development or operation of the Premises. Discretionary action includes, but is not limited to rezoning, variances, conditional use permits, environmental clearances or any other governmental agency approvals which may be required for the development and operation of the Premises.

SECTION 2: TERM

2.01 COMMENCEMENT. The term of this Agreement shall be for a period of ten (10) years commencing on the date the Agreement is approved by Council ("Commencement Date" and "Effective Date"), and shall terminate on the last day of the one hundred and twentieth month of the term. As long as Permittee is not in default under this Agreement, Permittee shall be entitled to use of the Property for ten (10) consecutive years.

2.02 EXTENSION OF TERM. The Permittee has the option to extend the term of this Agreement for the Premises for **one (1) additional five (5) year extension term** under the same terms and conditions of this Agreement, except that the Annual Rent for each extension term shall be at the City's then calculated fair market rental rate of similar businesses.

Provided that the Permittee is not in default or breach of any term, condition, or covenant of this Agreement (following receipt of notice of such default or breach in accordance with Section 4.02, below), the Permittee may exercise such option for **one (5) year extension term** by providing the City with its written notice of such exercise no later than **ninety (90) days** prior to the expiration of the initial term or first extension term

of this Agreement, as applicable. The City shall notify the Permittee not later than **sixty (60) days** after receipt of each such notice of the City's calculated fair market value and the Annual Rent amount which the City is willing to accept for Permittee's use and occupation of the Premises during the applicable extension term. In no event shall the Annual Rent be less than that required during the preceding annual period of the initial term or respective extension term. City's failure to provide the new Annual Rent amount within said timeframe shall not defeat City's ability to make such adjustment to the Annual Rent for the applicable extension term. No later than **thirty (30) days** after the City provides Permittee with the City's determination of its acceptable fair market rental value and the Annual Rent for the applicable extension term, Permittee shall provide City with its written acceptance or rejection of the recalculated fair market rental value and such Annual Rent amount. In the event that the term of this Agreement is extended for one **five (5) year extension term**, City and Permittee shall document such extension by a written amendment to this Agreement modifying the Expiration Date and incorporating the rental amount payable during the applicable extension term accordingly shall require City Council approval.

In no event shall the term of this Agreement be extended in excess of **five (5) years** beyond the expiration of the initial term of this Agreement without the mutual agreement of the parties and prior approval of the City Council. All references in this Agreement to the term of this Agreement shall mean the initial term of this Agreement as extended by one extension term, to the extent that the Permittee exercises its option rights set forth in this Section 2.02.

2.03 SURRENDER OF PROPERTY/PREMISES. At the expiration or early termination of this Agreement, Permittee shall surrender the Property to City free and clear of all liens and encumbrances created by Permittee. The Property when surrendered by Permittee, shall be in a safe and sanitary condition and shall be in as good or better condition as the condition at commencement of this Agreement, absent normal wear and tear. When the Property is surrendered by Permittee, the concession stand, restrooms, and equipment storage areas shall be cleaned and swept, left in a safe, secured, decent and sanitary condition and shall be turned over to City in good condition.

2.04 TIME IS OF THE ESSENCE. Time is of the essence of all of the terms, covenants, conditions and provisions of this Agreement.

2.05 HOLDOVER. Any holding over by Permittee after expiration or termination shall not be considered as a renewal or extension of this Agreement. The occupancy of the Premises by Permittee or by Permittee's property after the expiration or termination of this Agreement constitutes a month-to-month tenancy, and all other terms and conditions of this Agreement, including rental adjustments, shall continue in full force and effect. In the event of any holding over, Permittee shall pay the sum of: 1) the monthly rent for the preceding annual period, and 2) a prorated amount of percentage rent for the extent of the holdover period. In addition to the monthly/annual rent and percentage rent, Permittee shall, in the event of any holding over beyond **ninety (90) days**, pay an

increase in the monthly/annual rent of 105% of the rent then in effect, and the percentage rent pursuant to the terms of the Agreement, to the Expiration Date or termination date of the Agreement.

2.06 ABANDONMENT BY PERMITTEE. Even if Permittee breaches the Agreement and/or abandons the Premises, this Agreement shall continue in effect for so long as the City does not terminate this Agreement, and City may enforce all its rights and remedies hereunder, including but not limited to the right to recover Rent as it becomes due, plus damages.

SECTION 3: CONSIDERATION / RENT

3.01 NON-CASH CONSIDERATION. In exchange for the exclusive use of the Property as provided herein, Permittee does hereby agree to (i) complete construction and installation of certain improvements as further described in this Phase I Remediation Plans and the City of Oceanside Landscape Improvement Plans, CIP-00061; (ii) perform year-round and ongoing maintenance, upkeep and repair of the Property; and (iii) administer and supervise personnel necessary to carry out the duties required of Permittee under this Agreement, all as more particularly described in Attachment "3", attached hereto and incorporated herein by reference (the "Duties"). Permittee shall furnish all supplies, tools and equipment necessary to properly carry out the Duties under this Agreement. Permittee acknowledges and agrees that the performance of the Duties for the improvement, maintenance and upkeep of the Property, in an attractive, good, neat, and orderly condition, and in strict accordance with the provisions and requirements of the Environmental Documents, by Permittee during the term of this Agreement is a material consideration of City entering into this Agreement. City agrees that the establishment, operation and maintenance of recreational programs, services and activities provided by Permittee to the public on a public non-discrimination basis (except for reasonable admission fees and service charges that are usual and customary for similar recreational activities) at the Property and the improvement, maintenance and upkeep of the Property by Permittee are valuable consideration received from Permittee in addition to paying for the costs related to maintenance (Section 6.12); utilities (Section 6.04); taxes (Section 6.05) and rodent control, for its use and occupancy of the Property.

a. The Duties performed by Permittee at French Field under this Agreement are done so and are a portion of the consideration to City allowing Permittee the use of the Property according to the terms and conditions of this Agreement. Neither Permittee nor its employees, agents, contractors, subcontractors, volunteers or other persons working under Permittee's direction, shall be entitled to receive from City any salary, hourly wage, overtime pay, paid vacation, accrual of vacation leave, sick time accrual or any other benefit or compensation by reason or on account of Permittee's performance of the Duties under this Agreement.

b. On or before the Commencement Date (as defined in Subsection 2.01), City shall deliver to Permittee a copy of the Phase I Remediation Plans and the City of Oceanside Landscape Improvement Plans, CIP-00061 (the "Plans"), which identify how the property was remediated and all locations that have been or are to be constructed and improvements existing on the Property as of the Commencement Date.

c. City and Permittee mutually agree that the performance of Duties and the provision of youth recreation programs, services and activities shall constitute only a portion of the property use payment to be paid by Permittee for its use of French Field in accordance with the terms, covenants, conditions and provisions of this Agreement (including the Environmental Documents). **In addition to the non-cash consideration provided by Permittee, as set forth in this Section 3, Permittee will be responsible for paying monthly cash rent to the City, as well as tournament percentage rent.**

3.02 TIME AND PLACE OF PAYMENT. The Permittee shall make all monthly/annual rent payments ("Monthly Rent"), as further defined in Section 3.03, in advance on or before the **first (1st) day** of each new month.

Tournament Percentage Rent ("Percentage Rent") payments shall be due to City and payable by Permittee in arrears on or before the **fifteenth (15th) day** of the month following the month for which the Percentage Rent is calculated. In addition, Permittee shall provide City with Percentage Rent reports on or before the fifteenth (15th) day of the month showing how the Percentage Rent was calculated. Permittee shall, concurrently with the filing of its quarterly State Board of Equalization Tax Statement, provide City with a copy of said statement. The requirements of this section shall survive the expiration or sooner termination of this Agreement.

Check payments should be made payable to the City of Oceanside and delivered to: City of Oceanside, Central Cashiering, 300 N. Coast Highway, Oceanside, CA 92054. The place and time of payment may be changed at any time by City upon **thirty (30) days** written notice to Permittee. Permittee assumes all risk of loss and responsibility for late payment charges. Permittee agrees to pay City an additional **Thirty and No/100 Dollars (\$30.00)** for any returned check which is not honored by the financial institution from which the check is drawn.

3.03 RENT AMOUNTS.

a. **General.** The Monthly Rent (as defined by Subsection 3.03.b through 3.03.d), together with the Percentage Rent (as defined by Subsections 3.03.e through 3.03.f), shall hereinafter be referred to as "Total Rent".

b. **Initial Annual Rent Amount.** The Rent amount for the **first (1st) year** of this Agreement shall be **Forty-Eight Thousand and No/100 Dollars (\$48,000.00)**, which shall be payable monthly in advance at the rate of **Four Thousand and No/100 Dollars (\$4,000.00)**, on or before the **first (1st) day** of each new month.

1) **Rent Abatement.** Notwithstanding anything to the contrary contained in this Section 3, Permittee shall not be required to pay the Rent for the first twelve (12) months of the first year of this Agreement. Further, Permittee shall not be required to pay Percentage Rent for the first twelve (12) months of the first year of the term of this Agreement.

c. Annual Rent Adjustment Date. During the initial term of this Agreement, the Annual Rent Adjustment Date shall first occur on the first day of the month that is the third (3rd)-year anniversary of the date of commencement (as defined in Section 2.01) of this Agreement, and then annually thereafter as set forth in Section 3.03.d below.

d. Annual Rent Adjustment Computation. On the Annual Rent Adjustment Date, the Annual Rent shall be increased by three and one-half percent (3.5%) of the previous rent then in effect and payable to Permittee. The Annual Rent shall be payable to City in monthly installments over the following year.

e. Tournament Percentage Rent. The monthly Percentage Rent during the term of this Agreement shall be equal to:

- 1) **Twelve percent (12%)** during term of this Agreement multiplied by the gross income (as defined in Subsection 3.03.f).

The monthly Percentage Rent shall be payable to City monthly in arrears as required in Section 3.02 hereinabove and is in addition to the Monthly Rent paid by Permittee, with no offset against Percentage Rent, except as provided in Section 3.03.f below.

f. Gross Income. Except as provided herein, gross income, as used in this Agreement, shall mean all revenue and sales income received by Permittee from the sale of goods or services on or from the Premises or any other income received by Permittee as a result of occupancy and/or use of the Premises, related to a tournament that is held at the Premises, including but not limited to the use of the internet or by other electronic means, unless excluded as set forth below. Gross income shall include the amount of any manufacturer or importer's excise tax included in the price of any property or material sold, even though the manufacturer or importer is also the retailer thereof, and it is immaterial whether the amount of such excise tax is stated as a separate charge. Gross income shall also include income received by Permittee or by any sublessee, permittee or licensee, or their agents, and all gross income received by any sublessee, permittee, licensee, or other party as a result of occupancy of said Premises.

- 1) Gross income shall not include: donations; grants; membership fees; credit card service fees or charges; federal, state or municipal taxes collected from the consumer regardless of whether the amount thereof is stated to the consumer as a separate charge and paid periodically by Permittee to a governmental agency accompanied by a tax return or statement as required by law (the amount of such taxes and refunds shall be clearly shown on the books and records of Permittee); refunds for goods returned for resale on the Premises or refunds of deposits (Permittee shall not deduct possessory interest taxes or other property taxes in computing gross income); and the sale of food concessions from the Premises, nor any revenue paid to Permittee from children participating in the program

related to their ongoing monthly dues/fees to be part of the club team or organization.

2) Gross income report: The monthly gross income shall be calculated at the end of each month of the term of this Agreement. The first monthly gross income calculation shall be made beginning the thirteenth (13th) month after the Commencement Date of this Agreement. If Permittee has income in the first year of the Agreement, Permittee is required to provide the City with reports associated therewith; however, no income is due to the City in the first year of the term of the Agreement.

3.04 INSPECTION OF RECORDS. Permittee shall maintain accurate financial books and records for the operation of its business provided at, or from, the Premises. Said books and records shall be maintained on an accrual basis in accordance with normal business standards and good accounting practice. Permittee agrees to make any and all records and accounts available to City for inspection at all reasonable times, so that City can determine Permittee's compliance with this Agreement. These records and accounts will be made available by Permittee at the Premises or City's offices, at City's sole discretion, and will be complete and accurate showing all income and receipts from Permittee's use of the Premises. Permittee's failure to keep and maintain such records and make them available for inspection by City, shall be deemed a default of this Agreement. These records include but are not limited to federal quarterly and annual income tax statements, the California State Board of Equalization income statements, and all other generally accepted business books, documents, and records. Permittee shall maintain all such books, records and accounts for the term of this Agreement. This provision shall survive the expiration or sooner termination of this Agreement.

3.05 DELINQUENT RENT. If Permittee fails to pay any rent when due, Permittee will pay in addition to the unpaid rent, **five percent (5%)** of the delinquent rent. If the rent is still unpaid at the end of **ten (10) days**, Permittee shall pay an additional **five percent (5%)** [being a total of **ten percent (10%)**]. Any unpaid rent still not paid when due shall bear interest at the maximum legal rate of interest that City can charge from and after its due date until paid, which is hereby mutually agreed by the parties to be appropriate to compensate City for loss resulting from rental delinquency, including lost interest, opportunities, legal costs, and the cost of servicing the delinquent account. Acceptance of late charges, interest and/or any portion of the late payment by City shall in no event constitute a waiver by City of Permittee's default with respect to the late payment, nor prevent City from exercising any of the other rights and remedies granted in this Agreement.

3.06 SECURITY DEPOSIT. Prior to the Commencement Date of this Agreement, Permittee shall pay to City the sum of **Four Thousand and NO/100 Dollars (\$4,000.00)** as a security deposit to insure against damages to the Premises or non-payment of Rent as set forth in the Agreement. City may use therefrom such amount as

are reasonably necessary to remedy Permittee's defaults in the payment of rents, to repair damages caused by Permittee, and to clean the Premises, if necessary, upon termination of tenancy. Any interest earned from said security deposit shall belong to the City. If the security deposit is used toward rent or damages during the term of this Agreement, Permittee agrees to reinstate said total security deposit upon **ten (10) days** written notice delivered to Permittee. The security deposit or balance thereof, if any, together with an itemized accounting, shall be mailed to Permittee at last known address within **fourteen (14) days** of surrender of the Premises.

SECTION 4: TERMINATION & DEFAULT PROVISIONS

4.01 TERMINATION PROVISIONS. No special termination options are available except those described in this Section 4 or elsewhere in this Agreement.

a. Involuntary Termination.

(i) Permittee's failure to perform any obligations under this Agreement, including without limitation, the construction and installation of the improvements to the Property that are required to be completed within the **first (1st) year from the Commencement Date** as required within Attachment 3, then failure shall be deemed complete under this provision if: (a) Permittee fails to respond in writing within fifteen (15) days following notice of default from City regarding the obligation in question; or, (b) if after Permittee responds to the notice of default and after Permittee has met and conferred to discuss the notice of default, Permittee fails to complete the mutually agreed upon corrective action within the mutually agreed upon timeframe;

(ii) Permittee's abandonment of the Property while in default of any provision of this Agreement;

(iii) Permittee's committing of waste on the Property, including but not limited to, disturbing the cap and uncovering the former burn dump or any other violation of the provisions and requirements of the Environmental Documents; or

(iv) Permittee making any unauthorized improvements to the Property.

b. Disposition of Personal Property. In the event this Agreement is terminated pursuant to Section 4.01.a, Permittee shall have the sole discretion at its own expense to remove those items of personal property, whether permanently affixed or not, paid for by Permittee. Such personal property shall be limited to equipment, tools, appliances, scoreboard, and concession stand equipment, not including the building or structure used as the concession stand. Any damage caused by removal of personal property shall be repaired at Permittee's expense. The existing bleachers and the two (2) storage Conex boxes and contents remain the property of City and may not be removed by Permittee per Attachment "7", which lists the "City-Owned Inventory for Property at Commencement".

4.02 DEFAULTS AND OTHER TERMINATION RIGHTS. It is mutually understood and agreed that if any default be made in the payment of rental herein provided or in the performance of the covenants, conditions, or Agreements herein (any covenant or Agreement shall be construed and considered as a condition); or should Permittee fail to fulfill in any manner the uses and purposes for which the Premises are leased as stated in this Agreement, and such default is not cured within **five (5) days** after written notice thereof if default is in the submittal of rent as required in this Agreement; or **ten (10) days** after written notice thereof if default is in the performance of the failure to use provisions pursuant to Section 1.03 of this Agreement; or **thirty (30) days** after written notice thereof if default is in the performance of any other covenant, condition and Agreements (any covenant or Agreement shall be construed and considered as a condition), City shall have the right to immediately terminate this Agreement; and that in the event of such termination, Permittee shall have no further rights hereunder and Permittee shall thereupon forthwith remove from the Premises and shall have no further right to claim thereto, and City shall immediately thereupon, without recourse to the courts, have the right to reenter and take possession of the Premises. City shall further have all other rights and remedies as provided by law, including without limitation the right to recover damages from Permittee in the amount necessary to compensate City for all the detriment proximately caused by the Permittee's failure to perform its obligations under the Agreement or which in the ordinary course of things would be likely to result therefrom.

In the event of the termination of this Agreement pursuant to the provisions of this section, City shall have any rights to which it would be entitled in the event of the expiration or sooner termination of this Agreement under the provisions of Section 4.01 of this Agreement.

SECTION 5: INDEMNITY AND INSURANCE

5.01 INDEMNITY. Permittee, on behalf of itself and any of its agents, shall indemnify, defend and hold harmless City, its City Council, boards and commissions, officers, directors, employees, agents and volunteers (collectively, the "Indemnified Parties") from and against any and all claims (including, without limitation, claims for bodily injury, death or damage to property), demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorneys' fees, disbursements and court costs) of every kind and nature whatsoever (individually, a "Claim", collectively "Claims"), which may arise from or in any manner related (directly or indirectly) to any breach of the terms and conditions of this Agreement by Permittee or its agents, any work performed or services provided under this Agreement by Permittee or its agents, including, without limitations, defects in workmanship or materials or Permittee's or its agents' presence or activities conducted that relate in any way to this Agreement (including the negligent and/or willful

acts, errors and/or omissions of Permittee, its employees, vendors, agents, suppliers, and anyone employed directly or indirectly by any of them or for whose acts they may be liable or any or all of them). Notwithstanding the foregoing, nothing herein shall be construed to require Permittee to indemnify the Indemnified Parties from any Claim arising from the sole negligence or willful misconduct of the Indemnified Parties. Nothing in this indemnity shall be construed as authorizing any award of attorneys' fees in any action on or to enforce the terms of this Agreement. This indemnity shall apply to all claims and liability regardless of whether any insurance policies are applicable. The policy limits do not act as a limitation upon the amount of indemnification to be provided by the Permittee.

5.02 INSURANCE. Without limiting Permittee's indemnification of the Indemnified Parties provided for herein, and prior to commencement of this Agreement, Permittee shall obtain, provide and maintain at its own expense during the term of this Agreement, policies of insurance with the endorsements of the type, amounts, terms and conditions described in the **Insurance Requirements** attached hereto as **Attachment "4"** and incorporated herein by reference.

5.03 ACCIDENT REPORTS. Permittee shall promptly (within 24 hours of occurrence) report to City any accident causing any property damage or any serious injury to persons on the Property. This report shall contain the names and addresses of the parties involved, a statement of circumstances, the date and hour of the accident, the names and addresses of any witnesses and other pertinent information.

SECTION 6: TERMS AND CONDITIONS OF OCCUPANCY

6.01 FORM OF AGREEMENT. This Agreement is a property use agreement that provides for occupancy and use of the real property according to the terms and conditions set forth herein.

6.02 ACCEPTANCE OF THE PROPERTY. Permittee represents and warrants that it has independently inspected the Property and is relying on the previous environmental tests submitted to and confirmed by the California Department of Toxic Substances Control previously to satisfy itself that the condition of the Property is safe for athletic activities. Permittee acknowledges it is relying solely on such independent inspection, tests, investigations, and observations in making this Agreement. Permittee further acknowledges that the Property is in the condition called for by this Agreement and that Permittee does not hold City responsible for any defects in the Property based on the prior environmental tests. Prior to turning the Property over to Permittee for the purpose of performing its Duties, City and Permittee shall perform an initial walk-through to document the condition of the Property.

6.03 RIGHT TO OCCUPY. Permittee's right to occupy and use French Field and the Property may be terminated by City at any time if Permittee fails to satisfactorily perform its Duties and allow French Field and the Property to fall into a state of disrepair.

City also reserves the right to terminate this Agreement as may be provided elsewhere herein.

6.04 UTILITIES AND SPECIAL SERVICES. Permittee agrees to order, obtain, and pay for all refuse disposal, water, sewage, gas, electric, telephone, cable services and pest control/rodent control services provided to and used at the Property. As of the Commencement Date of this Agreement, Permittee shall transfer all service contracts and meters for utilities and services at the Property to the name of Permittee.

6.05 TAXES. Permittee shall pay, before delinquency, all taxes, assessments, and fees assessed or levied upon Permittee or the Property, including, any buildings, structures, machines, equipment, appliances, or other improvements or property of any nature whatsoever erected, installed, or maintained on the Property or levied by reason of Permittee's business or other activities related to the Property, including any licenses or permits. Permittee recognizes and agrees that this Agreement may create a possessory interest subject to property taxation, and that Permittee may be subject to the payment of taxes levied on such interest, and that Permittee shall pay all such possessory interest taxes prior to delinquency.

6.06 PERFORMANCE OF DUTIES. In entering this Agreement, Permittee warrants to City that it has the capability, financial and otherwise, to properly carry out the Duties and financial obligations to pay Rent as set forth herein. Permittee shall maintain an adequate level of staff to effectively carry out and perform the Duties in every particular. Permittee shall provide adequate and competent adult supervision at all times when minor children are using the Property.

a. All work performed by Permittee upon or about the Property shall be in compliance with all applicable federal, state, and local laws, codes, ordinances, rules and regulations. The use of chemicals for the control of weeds and pests shall be discouraged and held to a minimum and applied and stored in strict compliance with manufacturers' directions and recommendations for use, and all containers shall be properly labeled for the identification of the contents. Permittee is required to comply with the City's Integrated Pest Management Program. This document is available on the City's website.

b. All machinery and equipment used in carrying out the Duties shall be in good working order and operated in a safe manner to avoid injury to the operator and persons in close proximity. Proper eye and ear protection and other necessary protective clothing shall be worn while operating machinery and equipment.

6.07 FOOD SERVICES. Permittee may use the concession stand, which exists or may exist in the future at the Property, for the purpose of fundraising through the sale of food, non-alcoholic beverages and league items, such as pins, shirts, hats and other souvenir items. Edible items shall be in the form of commercially packaged foods only, and no preparation of food shall take place on the Property without a proper food facility permit obtained from the County of San Diego, Department of Environmental Health or other applicable authority. If food is prepared at the concession stand, or if any food types served require a health department permit, Permittee shall maintain an "A" rating health inspection certificate. Permittee shall be solely responsible for the maintenance and servicing of the exhaust hood, air exchange, filter and fire suppression systems, if any, related to the cooking area. The concession stand and all appliances, equipment,

fixtures, and furniture shall be maintained in good working order and in a safe, clean, decent and sanitary condition to protect the public health and safety and so as not to attract rodents and/or pests. All electrical and gas appliances used in the concession stand shall be clean and in proper working order and turned off and/or unplugged when not in use to avoid electrical shorts and fire. A properly rated and serviced fire extinguisher shall be maintained in the concession stand.

6.08 RIGHT TO INSPECT PROPERTY. City reserves the right to enter upon the Property at any time to perform inspections, tests and other activities to insure the Property is being reasonably and adequately maintained. Throughout the term of this Agreement, Permittee shall answer directly to **Real Estate Manager of the City's Property Management Division** (or such other representative as City may designate in writing) regarding the performance of the Duties.

6.09 PERMITTEE'S PROPERTY AND EQUIPMENT. Storage of Permittee's property and equipment shall be limited to the concession stand and equipment storage area. Outdoor storage shall not be permitted. Permittee's personal property shall include league items only such as sports gear and equipment, banners, concession stand equipment and supplies, maintenance equipment and tools. All items must be clean and sanitary so as not to attract rodents and/or pests. No perishables shall be stored over the non-season period, if applicable. Properly rated and serviced fire extinguishers shall be maintained in the concession stand and equipment storage area. All maintenance equipment and tools used by Permittee shall be clean and in good working order. Gasoline and other flammable liquids and items shall only be stored in proper containers and shall be properly labeled for the identification of the contents. Appropriate hazardous chemical/material placards shall be posted on the outside of the equipment storage area or as directed by the Oceanside Fire Department, if the equipment storage area is used for the storage of such items.

6.10 IMPROVEMENTS/ALTERATIONS/REPAIRS.

a. Permittee shall not dig any holes or trenches in the Property, nor make any structural changes, alterations, additions or improvements to the Property without the express prior written approval of City. All structural changes, alterations, additions or improvements to the Property shall be in accordance with plans and specifications approved by City, made in a good workmanlike manner and in accordance with the provisions and requirements of the Environmental Documents, all applicable federal, state, and local laws, codes, ordinances and regulations.

b. Permittee understands and acknowledges that the Property is subject to a Covenant to Restrict Use of Property (Environmental Restriction) between the City of Oceanside and the California Department of Toxic Substances Control, an Operation and Maintenance Agreement between the City of Oceanside and the California Department of Toxic Substances Control (which incorporates an Operation and Maintenance Plan/Post Closure Monitoring and Maintenance Plan) Said documents are hereinafter collectively referred to as the "Environmental Documents", copies of which are attached hereto as Attachments 5 and 6, respectively, made a part hereof and incorporated herein by reference. Permittee agrees that any and all repairs, alterations, additions, or improvements to the Property shall be in full compliance with the terms of the Environmental Documents. Permittee further agrees that it has read all of the terms and

conditions of the Environmental Documents and covenants that it shall comply with all the terms, conditions and provisions of the Environmental Documents in its performance of construction and installation of the improvements to be made to the Property by Permittee and the maintenance Duties hereunder.

c. In the event City finds that Permittee has failed or refuses to complete the improvements to the Property as required under this Agreement, Oceanside shall have the right, upon written notice to Permittee, to have any unfinished improvements completed at the expense of Permittee and may use the proceeds of any and all bonds or other security instruments posted with the City Engineer to fund the completion of said improvements. Notwithstanding the foregoing, in the event City waived the posting of security for the completion of the improvements at the Property to be made by Permittee, City shall provide Permittee a detailed invoice describing the costs of the improvements made or caused to be made by City to the Property pursuant to this Subsection 6.10.c, and Permittee shall promptly pay all such costs incurred by Oceanside in having such improvements done.

6.11 WASTE, DAMAGE OR DESTRUCTION. Permittee shall give notice to City of any fire or other damage that occurs on the Premises within **seventy-two (72) hours** of such fire or damage. Permittee shall not commit or suffer to be committed any waste or injury or any public or private nuisance, agrees to keep the Premises clean and clear of refuse and obstructions, and to dispose of all garbage, trash, and rubbish in a manner satisfactory to City. If the Premises shall be damaged by any cause which puts the Premises into a condition which is not decent, safe, healthy and sanitary, Permittee agrees to make or cause to be made full repair of said damage and to restore the Premises to the condition which existed prior to said damage; or, at City's option, and upon receipt of written demand thereof, Permittee agrees to clear and remove from the Premises all debris resulting from said damage and rebuild the Premises in accordance with plans and specifications previously submitted to City and approved in writing in order to replace in kind and scope the operation which existed prior to such damage. Permittee shall be responsible for all costs incurred in the repair and restoration, or rebuilding of the Premises.

6.12 MAINTENANCE. For the purpose of keeping the Property in good, safe, healthy and sanitary condition, City shall always have the right, but not the duty, to enter, view, inspect, determine the condition of, and protect its interests in, the Property and ascertain whether or not the Property is being used and maintained in compliance with the provisions and requirements of the Environmental Documents. In the event that City finds that the Property is not in a decent, safe, healthy, and sanitary condition because of Permittee's failure to perform the tasks and Duties detailed in Attachment "3", City shall direct Permittee to perform the necessary maintenance or repair work within **ten (10) days** after written notice from City. In the event Permittee fails to perform such work, City shall have the right, upon written notice to Permittee, to have any necessary maintenance work done at the sole expense of Permittee, and Permittee shall promptly pay any and all costs incurred by City in having such necessary maintenance work done, in order to keep said Property in a decent, safe, healthy, and sanitary condition. In the event the security deposit is insufficient to pay for the cost of repairs, Permittee shall pay any amount in excess of the security deposit within **ten (10) days** of receiving written notice

from City and Permittee shall replenish the security deposit as required under Subsection 3.06, hereinabove. City shall not be required at any time to perform maintenance or to make any improvements or repairs whatsoever, on or for the benefit of the Property. The rights reserved in this Section 6.12 shall not create any obligations or increase obligations for City elsewhere in this Agreement.

6.13 INSPECTION OF RECORDS.

a. Permittee agrees to make any and all records and accounts of improvements, alterations, maintenance and repairs available to City for inspection at all reasonable times, so that they can determine Permittee's compliance with this Agreement. These records and accounts shall be complete and accurate as to Permittee's use and maintenance of the Property and any improvements thereto. Permittee's failure to keep and maintain such records and make them available for inspection by City shall be deemed a default of this Agreement.

b. Permittee agrees to maintain records of all improvements, alterations, maintenance and repairs for the Property for five (5) years.

6.14 DISPUTE RESOLUTION.

a. If any legal action or other proceeding, including arbitration or an action for declaratory relief, is brought to enforce this Agreement or because of a dispute, breach, default, or misrepresentation in connection with this Agreement, the prevailing party shall be entitled to recover reasonable attorney fees and other costs in addition to any other relief. Venue for enforcement of this Agreement shall be in the Superior Court of San Diego County. The parties agree that before either party commences any legal or equitable action, action for declaratory relief, suit, proceeding, or arbitration that the parties shall first submit the dispute to mediation through a mutually acceptable professional mediator in San Diego County, or if a mediator cannot be agreed upon, by a mediator appointed by the JAMS in San Diego County. The cost of mediation shall be shared equally by the parties.

b. No suit shall be brought on this Agreement unless all statutory claims filing requirements have been met. In the event a suit is commenced by City against Permittee to enforce amounts due, or to enforce any of the terms and conditions hereof, or in case City shall commence summary action under the laws of the State of California relating to unlawful detention of property, for forfeit of this Agreement, and the possession of the Property, provided City effects a recovery, Permittee shall pay City all reasonable costs expended in any action, together with a reasonable attorney's fee to be fixed by the court.

6.15 NOTICES. All notices, demands, requests, consents or other communications which this Agreement contemplates or authorizes, or requires or permits any party to give to the other, shall be in writing and shall be personally delivered or mailed to the respective party as follows:

To CITY: City of Oceanside
Property Management
300 North Coast Highway
Oceanside, CA 92054
Attention: Real Estate Manager
(760) 435-5014

To PERMITTEE: Otomi & Stone LLC
Attention: Jerry Perrault
947 Chumash Trail
Vista, CA 92084
(760) 801-0339
jprecycle@yahoo.com

a. Any party may change its address by notice to the other parties as provided herein. Rejection or other refusal to accept or the inability to deliver because of changed address of which no notice was given shall be deemed to constitute receipt of the notice, demand, request or communication sent.

b. All notices or other communications required or permitted hereunder shall be in writing, and shall be personally delivered, sent by overnight mail (Federal Express or the like) or sent by certified mail, postage prepaid, return receipt requested, delivered or sent by email and shall be deemed received upon the earlier of (i) if personally delivered, the date of delivery to the address of the person to receive such notice, (ii) if sent by overnight mail, the business day following its deposit in such overnight mail facility, (iii) if mailed, four (4) business days after the date of posting by the United States post office with postage prepaid, and (iv) if given by email, when sent to recipient providing a return confirmation email from recipient is received with date and time shown within email. Any notice, request, demand, direction or other communication sent by email must be confirmed within forty-eight (48) hours by letter mailed or delivered in accordance with the foregoing.

6.16 SIGNAGE. Permittee shall not erect or display any banners, pennants, flags, posters, signs, decorations, marquees, awnings, or similar devices or advertising without the prior written consent of the City Manager and any such device(s) shall conform to all City ordinances and regulations. If any such unauthorized item is found on the Premises, Permittee shall remove the item at its expense within **twenty-four (24) hours** of written notice thereof by City, or City may thereupon remove the item at Permittee's cost.

6.17 ASSIGNMENT AND SUBLETTING – NO ENCUMBRANCE. This Agreement and any portion thereof shall not be assigned, transferred, or sublet, nor shall any of the Permittee's duties be delegated, without the express written consent of City. Any attempt to assign or delegate this Agreement without the express written consent of City shall be void and of no force or effect. Consent by City to one assignment, transfer, sublease, or delegation shall not be deemed to be consent to any subsequent assignment, transfer, sublease, or delegation shall not be deemed to be consent to any subsequent assignment, transfer, sublease or delegation. Notwithstanding the foregoing,

Permittee may, upon notice to City but without City's prior written consent, assign this Agreement or sublet a portion of the Premises to (i) a subsidiary, affiliate, division, corporation joint venture or other entity controlling, controlled by or under common control with Permittee, or their respective successors and assigns as Permittee, or (ii) a successor entity resulting from a merger, consolidation, or non-bankruptcy reorganization of Permittee, or any of their respective successors or assigns (each of the foregoing assignments hereinafter referred to as a "Permitted Assignment" and each such assignee or subtenant, a "Permitted Assignee"); provided that (a) any Permitted Assignee who is assigned the entire interest of Permittee (or of any Permitted Assignee) shall assume in writing, for the benefit of City, this Agreement and all of the obligations of the person or entity assigning its interest herein, (b) in the case of a Permitted Assignment pursuant to clause (ii), the Permitted Assignee has a net worth equal to or greater than that of the person or entity assigning its interest in this Agreement pursuant to such Permitted Assignment, with such net worth to be determined as of the effective date of such Permitted Assignment, and (c) in the event of any Permitted Assignment by Permittee, or any successor or assign of its interest in this Agreement, the use of a substantial portion of the Premises shall not be eliminated as a result of such Permitted Assignment.

6.18 HAZARDOUS SUBSTANCES. No goods, merchandise or material shall be kept, stored or sold in or on the Premises that are in any way explosive or hazardous; and no offensive or dangerous trade, business or occupation shall be carried on therein or thereon, and nothing shall be done on said Premises that will cause an increase in the rate of or cause a suspension or cancellation of the insurance upon said or other Premises and the improvements thereon.

No machinery or apparatus shall be used or operated on or about the Premises that will in any way injure the Premises or improvements thereon, or adjacent or other Premises, or improvements thereon, or persons; provided, however, that nothing contained in this section shall preclude Permittee from bringing, keeping or using on or about the Premises such materials, supplies, equipment and machinery as are appropriate or customary in carrying on its said business, or from carrying on its business in all usual respects.

Open flame burning, gasoline, or other fuel storage is expressly prohibited without prior written consent of the Permittee.

SECTION 7: MISCELLANEOUS PROVISIONS

7.01 ENTIRE AGREEMENT. This Agreement, and all attachments and exhibits hereto constitute the entire agreement of the parties. There are no oral or written agreements which are not expressly set forth in the Agreement or the related documents being executed in connection with this Agreement.

7.02 INTERPRETATION OF AGREEMENT AND COMPLIANCE WITH LAWS. The interpretation, validity and enforcement of this Agreement shall be governed by and construed under the laws of the State of California. This Agreement does not limit any rights or remedies available to the City. The venue of any judicial action brought to enforce any condition, covenant or provision of this Agreement shall be in San Diego

County, California. The Agreement does not limit any other rights or remedies available to the City.

a. Permittee shall be responsible for complying with all Local, State and Federal laws, code, regulations or ordinances (including without limitation the provisions and requirements of the Environmental Documents) whether or not said laws are expressly stated or referred to herein.

b. Should any provision herein be found to be invalid, this Agreement shall be construed as not containing such provision and all other provisions which are otherwise lawful shall remain in full force and effect, and to this end the provisions of this Agreement are severable.

7.03 AGREEMENT MODIFICATION. This Agreement may not be modified orally or in any manner other than by an agreement in writing signed by the parties hereto.

7.04 PUBLIC BENEFIT. This Agreement is for the benefit of the public and is in furtherance of the public purposes of City. The provision of the organized recreational activities, programs, and services to the youth of Oceanside, and the surrounding cities, and the fulfillment generally of this Agreement, are in the vital and best interests of City and the health, safety, morals and welfare of their residents, and in accord with the public purpose of City.

7.05 SECTION HEADINGS. The section headings contained herein are for convenience in reference and are not intended to define or limit the scope of any provision thereof.

7.06 GENDER / SINGULAR / PLURAL. The neuter gender includes the feminine and masculine, the masculine includes the feminine and neuter, and the feminine includes the masculine and neuter, and includes corporation, partnership, or other legal entity when the context so requires. The singular number includes the plural whenever the context so requires.

7.07 NONDISCRIMINATION. Permittee covenants by and for itself and any successors that there shall be no discrimination against or segregation of any person or group of persons on account of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, age, or sexual orientation in Permittee's use of the Property.

7.08 ENFORCED DELAY- EXTENSIONS OF TIMES OF PERFORMANCE. In addition to specific provisions of this Agreement, performance by either party hereunder shall not be deemed to be in default, and all performance and other dates specified in this Agreement shall be extended, where delays or defaults are due to: war; insurrection; strikes; lockouts; riots; floods; earthquakes; fires; casualties; acts of Nature; acts of public enemy; epidemics; quarantine restrictions; freight embargos; lack of transportation; governmental restrictions or priority; litigation; unusually severe weather; inability to secure necessary financing, labor, material or tools; delays of a contractor, subcontractor or supplier, acts or omissions of the other party; acts or failures to act of any other public or governmental commission, board, agency or entity (other than the

acts or failures to act of City which shall not excuse performance by such party); or any other cause(s) beyond the control or without the fault of the party claiming an extension of time to perform. Notwithstanding anything to the contrary in this Agreement, an extension of time for any such cause shall be for the period of the enforced delay and shall commence to run from the time of the commencement of the cause, if notice by the party claiming such extension is sent to the other party within thirty (30) days of the commencement of the cause. Times of performance under this Agreement may also be extended in writing by the mutual agreement of City and Permittee.

7.09 MERCHANDISE AND EQUIPMENT. City retains the right to require the Permittee to discontinue the sale or use of those items that are of a quality reasonably unacceptable to the City. Display of merchandise inside the Premises shall be done in a neat and orderly manner. Permittee hereby acknowledges and agrees that the display of merchandise, on the sidewalks, grassy and hardscape areas or within the Common Areas is strictly prohibited under this Agreement.

7.10 NONLIABILITY OF OFFICIALS.

a. No member, official or employee of City shall be personally liable to Permittee, its assigns or successors in interest, in the event of any default or breach this Agreement, for any amount which may become due to Permittee, its assigns or successors, or for any obligations under the terms of this Agreement.

b. No member, official or employee of Permittee shall be personally liable to City, or any successor in interest, in the event of any default or breach by Permittee, for any amount which may become due to City, or for any obligations under the terms of this Agreement.

7.11 CONTINUED OCCUPANCY. Permittee covenants and agrees to, and it is the intent of this Agreement that Permittee shall, continuously and uninterruptedly during the term of the Agreement, occupy and use the Property for the purposes hereinabove specified, except while the Property is untenable by reason of fire, flood, or other unavoidable casualty, and, in that event, Oceanside shall be promptly notified by Permittee.

7.12 EXECUTION OF AGREEMENT. This Agreement is executed in two (2) duplicate copies, each of which is deemed to be an original. This Agreement includes pages 1 through 25, and Attachment 1 through Attachment 7, which constitutes the entire understanding and agreement of the parties.

7.13 COUNTERPARTS. This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, but all of which, together, shall constitute one and the same instrument.

7.14 ADVICE OF LEGAL COUNSEL. The parties have had the opportunity to seek the advice of independent legal counsel prior to executing this Agreement. The parties acknowledge that no party, agent or attorney of any party has made a promise, representation or warranty whatsoever, express or implied, not contained herein concerning the subject matter of this Agreement to induce the other party to execute this

Agreement. Each party acknowledges that it has not executed this Agreement in reliance upon any promise, representation or warranty not contained herein.

7.15 DRAFTING AMBIGUITIES. Each party to this Agreement and its counsel has reviewed and revised this Agreement. The rule of construction that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement or of any amendments, attachments or exhibits to this Agreement.

7.16 CITY APPROVAL. The City Manager shall be the City's authorized representative in the interpretation and enforcement of this Agreement, including but not limited to approving proposed improvements, structures, alterations and installations provided in this Agreement. For the purposes of directing Permittee in accordance with this Agreement, which does not result in a change to this Agreement, the City Manager delegates authority to the City Real Estate Manager. The Real Estate Manager may delegate authority in connection with this Agreement to the Real Estate Manager's designee(s).

SECTION 8: SIGNATURES

8.01 SIGNATURES. The individuals executing this Agreement represent and warrant that they have the right, power, legal capacity and authority to enter into and to execute this Agreement on behalf of the respective legal entities of the City of Oceanside, and Permittee.

THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK

IN WITNESS WHEREOF the parties hereto for themselves, their heirs, executors, administrator, successors, and assigns do hereby agree to the full performance of the covenants herein contained and have caused this Property Use Agreement to be executed by setting hereunto their signatures written hereinbelow.

CITY

THE CITY OF OCEANSIDE

By: _____

Jonathan Borrego

City Manager

APPROVED AS TO FORM

By: 

City Attorney

Date: _____

PERMITTEE

OTOMI & STONE LLC

By: 

Name: Gerald Perrault

Title: VP

Date: 5-6-25

By: 

Name: Kory Sarno

Title: President

Date: 5-6-25

NOTARY ACKNOWLEDGMENTS OF LESSEE'S SIGNATURE(S) MUST BE ATTACHED

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California
County of San Diego

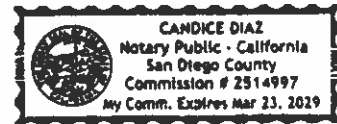
On May 6, 2025 before me, Candice Diaz, Notary Public
(insert name and title of the officer)

personally appeared Kory Smith and Gerald Perrault,
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) ~~is~~/are
subscribed to the within instrument and acknowledged to me that ~~he~~/she/they executed the same in
~~his~~/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the
person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature Candice Diaz (Seal)



ATTACHMENT 1

LEGAL DESCRIPTION

That certain real property situated in the City of Oceanside, County of San Diego, State of California, being all that portion of the Northeast Quarter of the Southeast Quarter of Section 14, Township 11 South, Range 4 West, San Bernardino Meridian, described as follows:

Beginning at a point in the East line of said Section 14, from which the Section Corner common to Sections 13, 14, 23 and 24 bears South $0^{\circ}06'$ East 1,724.43 feet; thence West 1,034.48 feet to a point in the Southeasterly right-of-way of the Escondido Branch of the Atchison Topeka & Sant Fe Railway; thence, following said right-of-way the following courses and distances; North $49^{\circ}46'$ East 725.00 feet; thence, along the tangent curve concave to the Southeast, radius 1,096.28 feet; central angle equals $25^{\circ}32'$ a distance of 448.55 feet; thence, North $75^{\circ}18'$ East 37.06 feet to a point on the East line of said Section 14 from which the Section Corner common to Sections 13, 14, 23 and 24 bears South $0^{\circ}06'$ East 2,461.03 feet; thence, leaving said right-away line South $0^{\circ}06'$ East along the East line of said Section 14, 718.60 feet to the Point of Beginning.

Assessor Parcel Numbers: 161-501-09 and 161-501-10

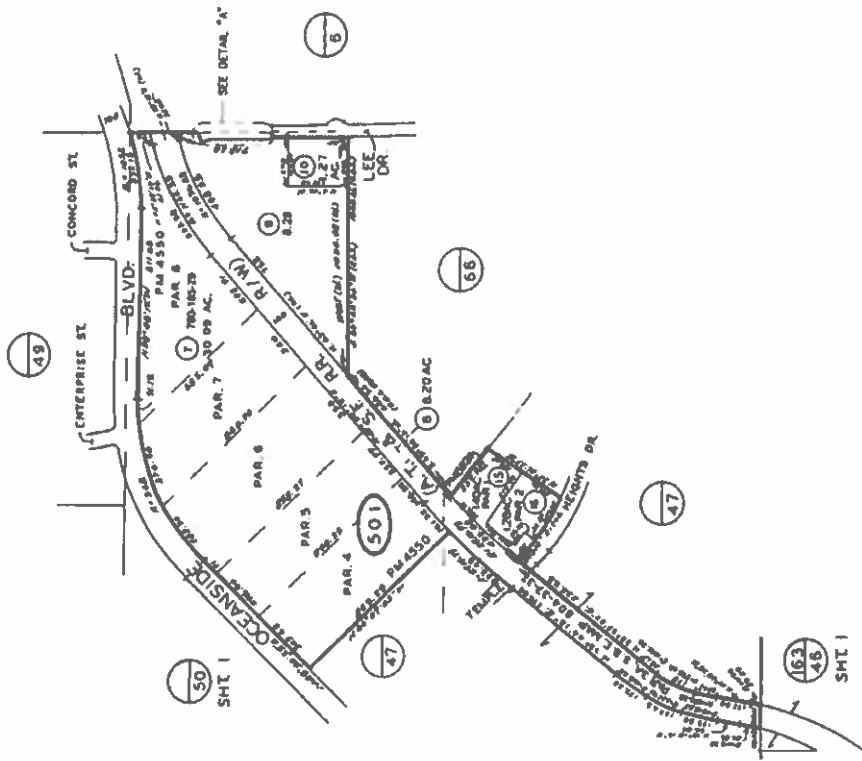
ATTACHMENT 2

ASSESSOR'S PARCEL MAP 161-50 SHEET 2 OF 2

161-50
SHT 2 OF 2
1"=400'
N

08/14/2014 D.S.

CHANGES	
1	REMOVED NEW CUT
2	1/1/12 1/1/12 1/1/12
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MAP 10475 - OCEAN VISTA BUSINESS PARK UNIT NO 2
SEC 14 - T11S - R4W - POR, SE 1/4
R05 8065,

THIS MAP WAS PREPARED FOR ASSESSOR'S PURPOSES ONLY AND IS NOT A LEGAL DOCUMENT. IT IS NOT TO BE USED FOR ANY OTHER PURPOSES. THE USER ASSUMES ALL LIABILITY FOR ANY ERRORS OR OMISSIONS.

SUN BECK COUNTY
ASSESSOR'S MAP
BOOK 161 PAGE 20 SHT 2 OF 2

ATTACHMENT 3

TASKS & DUTIES

A. PERMITTEE TASKS AND DUTIES

1. Permittee's Improvement of Property. Permittee shall complete construction and installation of those certain improvements to the Property described in (but not completed as of the Commencement Date) in the Phase I Remediation Plans, and City of Oceanside Landscape Improvement Plans, Drawing No. CIP-00061. Said improvements shall be made in accordance with approved plans and specifications, constructed in a good workmanlike manner and in accordance with all applicable codes, rules, regulations, ordinances and laws (including the provisions and requirements of the Environmental Documents). All electrical, plumbing and similar specialty trades work shall be performed by a licensed and bonded professional for such trade.

2. Permittee's Maintenance of the Property. As of the Commencement Date and upon the completion of the improvements to the Property in whole or any part thereof, Permittee shall be responsible for maintenance of the buildings, structures and grounds around and upon the Property including, but not limited to, the following:

a. Maintain, water, fertilize and prune all bushes, hedges, and shrubs; maintain, fertilize, water, mow, edge, aerate and top dress turf areas; and remove weeds from all turf, bare ground areas and planter beds.

b. Make all drainage and irrigation repairs, including, but not limited to, the cleanout and maintenance of any drainage structures, including replacement of grates, repair or replacement of sprinkler heads, breaks and leaks in irrigation lines and valves, irrigation controller setting and other irrigation repairs as necessary. Replacement of worn or damaged irrigation sprinklers shall be matched by brand and model type. City will provide keys to all irrigation enclosures and give instruction for the operation of controllers, as needed.

c. Maintain the interior and exterior of all buildings and structures on the Property, including, but not limited to, painting as necessary in order to maintain a neat appearance. Paint color must be approved in writing by City.

d. Any and all chemicals, unhealthful substances, and pesticides used in and during maintenance activities shall be applied in strict accordance with all governing regulations, environmental or otherwise, and in accordance with the manufacturer's directions for their use. Precautionary measures shall be employed recognizing that all areas are open to public access.

e. Clean-up of trash and rubbish from and about the Property and empty trash cans located on the Property on a regular basis. Trash and debris shall be collected in secured receptacles (dumpsters). Comply with the Oceanside Code and AB 939 (California Integrated Waste Management Act) regarding the proper solid waste disposal and recycling by the separation and collection of identified recyclable materials (aluminum, plastic and glass beverage containers). Containers for recyclables may be obtained from City's Recycling Specialist by calling (760) 435-5861 or Permittee may

choose to subscribe to the recycling services provided by Waste Management of North County by calling (877) 884-9935.

f. Be responsible for making any and all repairs for the buildings, structures, and signs, including, but not limited to, plumbing, heating, roofing and electrical.

g. Be responsible for the eradication of any graffiti on the Property. Graffiti shall be removed within 24 hours of being noted or detected.

h. Raking and screening of base paths, infield and warning tracks, and all other bare ground within the Property.

i. Field setup for game play, including, baseline, foul line, batter box, and coaching box mark out, pregame outfield and infield inspection.

j. Install and maintain dugout benches, bleachers, grandstands and other seating areas and walkways in good and clean order, absent of splinters and rough or burred edges, and secured handrails and backseats.

k. Maintain and mend or replace all fencing, backstops, bullpens, dugouts and foul posts, all netting, screens and shade structures.

l. Maintain interior, exterior lighting and field lighting, including replacement of burned-out bulbs, and worn or damaged components. All electrical repairs made on the Property shall be performed pursuant to all applicable codes by a licensed and bonded electrician or electrical technician.

m. Maintain and repair scoreboards, press/scoring boxes and public announcement systems.

n. Maintain, repair and replace tire stops and restripe the parking lot as needed. Reseal or resurface the parking lot and service drive off of Lee Drive as needed to prevent cracking and deterioration of the pavement.

o. PERMITTEE shall be responsible for stocking and replacement of paper products and hand soap, and the clearing of stoppages and backups of restroom fixtures. Restroom fixtures shall be in good working order at all times, broken or worn fixtures shall be repaired and replaced as needed.

p. All maintenance work shall conform to all applicable federal, state or local environmental standards, regulations or ordinances, including without limitation to the Occupational Safety and Health Act.

3. Special Provisions.

a. No motor vehicles shall be driven and/or parked on the Property, except in designated parking areas (lots), unless required to complete maintenance obligations.

b. No digging or trenching shall take place at the Property without prior written permission from City. This strict prohibition against unauthorized digging or trenching includes but is not limited to any and all work associated with the construction, installation, maintenance, repair or replacement of any aspect of the baseball fields and/or the portions of the Property surrounding the baseball fields, the irrigation system, plumbing system, concession stand, restroom fixtures, parking lot, fencing, backstops, bullpens, dugouts, foul posts and/or exterior lighting.

c. PERMITTEE shall identify riparian boundary line on the Property and shall prohibit anyone from entering the riparian boundary for any reason, except for maintenance of the riparian area as provided in the Environmental Documents.

4. Property Security.

a. Property Security. Permittee shall be responsible for the security of all buildings and structures. Permittee shall report any vandalism, break-ins, or any other similar activities to the Oceanside Police Department and Oceanside's Real Estate Manager within twenty-four (24) hours from when the incident took place.

5. Required Capital Improvements.

The following improvements are to be completed by Permittee within the first (1st) year from approval of the Agreement by City Council:

- 1) Renovation of the existing baseball diamonds, and fields
- 2) Completion of the dugouts and required fencing related to the two fields.
- 3) Installation of Backstops
- 4) Repair and improvements to the existing parking lot and pathways within the Property
- 5) Facilities and improvements appurtenant to the Property use to include, but not to be limited to, adding the following:
 - A modular concession stand (to remain with Premises at termination of Agreement),
 - Modular restroom building(s) (to remain with Premises at termination of Agreement),
 - Scoreboards, bleachers,
 - Storage structures, outdoor dining and seating areas,
 - Hardscape, landscaping, including turf, shrubs, bushes, trees, planters, sewer, sewer laterals, and
 - Electrical improvements and electrical panel as needed
- 6) Permittee shall install field lighting within the first twenty-four (24) months of execution of this Agreement.

ATTACHMENT 4
INSURANCE REQUIREMENTS

1. **Provision of Insurance.** Without limiting Permittee's indemnification of the Indemnified Parties, and prior to commencement of this Agreement, Permittee shall obtain, provide and maintain at its own expense during the term of this Agreement, policies of insurance with the endorsements of the type, amounts, terms and conditions described below, and in a form satisfactory to City. Permittee agrees to provide insurance in accordance with the requirements set forth herein. If Permittee uses existing coverage to comply and that coverage does not meet these requirements, Permittee agrees to amend, supplement or endorse the existing coverage.
2. **Acceptable Insurers.** All insurance policies shall be issued by an insurance company currently admitted by the Insurance Commissioner to transact business of insurance in the State of California, or with an assigned policyholders' rating of A- (or higher) and Financial Size Category Class VII (or larger) in accordance with the latest edition of Best's Key Rating Guide, unless otherwise approved by the City Attorneys' Office.
3. **Insurance Coverage Requirements.**

A. General Liability Insurance.

Combined Single Limit Per Occurrence	\$2,000,000
General Aggregate	\$4,000,000

Permittee shall maintain general liability insurance, and if necessary, umbrella liability insurance, with coverage at least as broad as provided by Insurance Services Office form CG 00 01, in an amount not less than two million dollars (\$2,000,000) per occurrence, four million dollars (\$4,000,000) general aggregate. The policy shall cover liability arising from premises, operations, personal and advertising injury, and liability assumed under an insured contract (including the tort liability of another assumed in a business contract) with no endorsement or modification limiting the scope of coverage for liability assumed under a contract.

B. Property Insurance.

Permittee shall maintain property insurance covering all risk of loss to the Premises, including modular buildings, structures, improvements, and contents on the Premises, including coverage against vandalism, theft, fire, flood, & mechanical breakdown at full replacement cost with no coinsurance penalty provision.

Permittee shall maintain not less than two hundred fifty thousand dollars (\$250,000) in value of all property being leased, including improvements and betterments owned by the City, and shall name the City as a Loss Payee.

**ATTACHMENT 4
INSURANCE REQUIREMENTS
CONTINUED**

Permittee shall also provide property insurance covering all personal property and activities of Permittee and its invitees, in connection with its occupation and use of the Premises under this Agreement, and covering all betterments and improvements contained within or on the leased Premises. The policy must be written on an "all risks" replacement cost basis, excluding earthquake and flood, with no coinsurance requirement, and Permittee shall name the City as a Loss Payee for its interest in the property.

C. Automobile Liability Insurance.

Combined Single Limit	\$1,000,000
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Permittee shall maintain automobile insurance at least as broad as Insurance Services Office form CA 00 01 covering bodily injury and property damage for all activities of Permittee arising out of Permittee's use of the Premises under this Agreement or in connection with work to be performed under this Agreement, including coverage for any owned, hired, non-owned or rental vehicles, in an amount not less than one million dollars (\$1,000,000) combined single limit each accident.

D. Workers' Compensation Insurance.

Statutory Limits

E. Sexual Abuse & Molestation Liability Insurance.

Per Occurrence	\$1,000,000
General Aggregate	\$2,000,000

4. Endorsements Required To Be Provided to City.

a. Additional Insured Status. All liability policies including general liability, excess liability, umbrella coverage, and automobile liability, if required, but not including professional liability, shall provide or be endorsed to provide that City and its officers, officials, directors, employees, agents and volunteers shall be included as additional insureds under such policies.

b. Waiver of Subrogation. All insurance coverage maintained or procured pursuant to this Agreement shall be endorsed to waive subrogation against City, its elected and appointed officers, officials, agents, directors, employees and volunteers. Permittee hereby waives its own right of recovery against City, and shall require similar written express waivers from each of its subcontractors and/or sublessee's, if applicable.

c. Primary and Non-Contributory. All liability coverage shall apply on a

**ATTACHMENT 4
INSURANCE REQUIREMENTS
CONTINUED**

primary basis and shall not require contribution from any insurance or self-insurance maintained by City.

d. **Notice of Cancellation.** All policies shall provide City with thirty (30) calendar days' notice of cancellation (except for nonpayment for which ten (10) calendar days' notice is required) or nonrenewal of coverage for each required coverage.

5. **Additional Provisions.**

a. **Evidence of Insurance.** Permittee shall provide certificates of insurance to City as evidence of the insurance coverage required herein, along with the other required endorsements specified above. Insurance certificates and endorsements must be approved by the City Attorneys' Office (or City's Risk Manager) prior to commencement of performance. Current certification of insurance and endorsements shall be kept on file with City at all times during the term of this Agreement. City reserves the right to require complete, certified copies of all required insurance policies, at any time.

b. **City's Right to Revise Requirements.** City reserves the right at any time during the term of this Agreement to change the amounts and types of insurance required by giving Permittee sixty (60) calendar days advance written notice of such change.

c. **Requirements Not Limiting.** Requirements of specific coverage features or limits contained in this **Attachment "4"** are not intended as a limitation on coverage, limits or other requirements, or a waiver of any coverage normally provided by any insurance. Specific reference to a given coverage feature is for purposes of clarification only as it pertains to a given issue and is not intended by any party or insured to be all inclusive, or to the exclusion of other coverage, or a waiver of any type.

d. **Self-Insured Retentions.** Any self-insured retentions must be declared to and approved by City. City reserves the right to require that self-insured retentions be eliminated, lowered, or replaced by a deductible. Self-insurance will not be considered to comply with these requirements unless approved by the City.

e. **City Remedies for Non-Compliance.** If Permittee or any subcontractor and or sublessee fails to provide and maintain insurance as required herein, then City shall have the right but not the obligation, to purchase such insurance, at Permittee's expense, to terminate this Agreement, or to suspend Permittee's right to proceed until proper evidence of insurance is provided.

ATTACHMENT 4
INSURANCE REQUIREMENTS
CONTINUED

f. **Timely Notice of Claims.** Permittee shall give City prompt and timely notice of claims made or instituted that arise out of or result from Permittee's operations or performance under this Agreement, and that involve or may involve

coverage under any of the required liability policies. City assumes no obligation or liability by such notice, and has the right (but not the duty) to monitor the handling of any such claim or claims if they are likely to involve City.

g. **Permittee's Insurance.** Permittee may also procure and maintain, at its own cost and expense, any additional kinds of insurance which, in its own judgment, may be necessary for its proper protection and prosecution of its operations and work.

h. **Accident Reporting.** Permittee shall, within **seventy-two (72) hours** after occurrence, report to City any accident causing property damage or any serious injury to persons on the Premises. This report shall contain the names and addresses of the parties involved, a statement of the circumstances, the date and hour, the names and addresses of any witnesses and other pertinent information.

i. **Enforcement of Agreement Provisions.** Permittee acknowledges and agrees that any actual or alleged failure on the part of City to inform Permittee on non-compliance with any requirement imposes no additional obligations on City nor does it waive any rights hereunder.

ATTACHMENT 5
COVENANT TO RESTRICT USE OF PROPERTY

PLEASE COMPLETE THIS INFORMATION.

RECORDING REQUESTED BY:

Peter Weiss, City Manager
City of Oceanside
300 North Coast Highway, Oceanside, CA 92054

AND WHEN RECORDED MAIL TO:

5796 Corporate Avenue
Cypress, CA 90630
Attention: Emad Yemut, Unit Chief

ATTACHMENT 5

THE ORIGINAL OF THIS DOCUMENT
WAS RECORDED ON SEP 24, 2013
DOCUMENT NUMBER 2013-0582402
Ernest J. Dronenburg, Jr., COUNTY RECORDER
SAN DIEGO COUNTY RECORDER'S OFFICE
TIME: 1:57 PM

THIS SPACE FOR RECORDERS USE ONLY

NO FEES DUE - FOR BENEFIT OF PUBLIC AGENCY (Gov't Code 27383)
City Document No. 13-D0308-4

Covenant to Restrict Use of Property - Environmental Restriction

(Please fill in document title(s) on this line)

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

RECORDING REQUESTED BY:
Peter Weiss
City Manager
City of Oceanside
300 North Coast Highway
Oceanside CA, 92054

WHEN RECORDED, MAIL TO:

5796 Corporate Avenue
Cypress, California 90630
Attention: Emad Yemut, Unit Chief

SPACE ABOVE THIS LINE RESERVED FOR RECORDER'S USE

City Document No. 13-D0308-4

COVENANT TO RESTRICT USE OF PROPERTY

ENVIRONMENTAL RESTRICTION

Re: County of San Diego APNs 161-501-09 and 161-501-10, Vista Burn Dump Site,
DTSC Site Code 401292.

This Covenant and Agreement ("Covenant") is made by and between the City of Oceanside. (the "Covenantor"), the current owner of property situated in Oceanside, County of San Diego, State of California, described in Exhibit "A" and depicted in Exhibit "B," attached, (the "Property"), and the Department of Toxic Substances Control (the "Department"). Pursuant to Civil Code section 1471, the Department has determined that this Covenant is reasonably necessary to protect present or future human health or safety or the environment as a result of the presence on the land of hazardous materials as defined in Health and Safety Code section 25260. The Covenantor and Department, collectively referred to as the "Parties," hereby agree, pursuant to Civil Code section 1471, and Health and Safety Code section 25355.5 that the use of the Property be restricted as set forth in this Covenant; and the Parties further agree that the Covenant shall conform with the requirements of California Code of Regulations, title 22, section 67391.1.

ARTICLE I
STATEMENT OF FACTS

1.01. The Property, totaling approximately 9.88 acres, is more particularly described and depicted in the attached Exhibits "A" and "B". The Property is located in the City of Oceanside in the area of the subject parcel now generally bounded by Lee Drive to the east, commercial property to the south, and Loma Alta Creek to the north and west, as shown in the Cap Certification Exhibit, dated September 2, 2011, attached hereto as Exhibit "C". The Property is also generally described as San Diego County Assessor's Parcel Nos.: 161-501-09 and 161-501-10.

1.02. The City of Oceanside is remediating the Property under the supervision and authority of the Department. The Property was historically used as a disposal site for the Vista Sanitary District. Starting from the late 1930s to 1967 disposal waste was burned at the Property for the Vista community. Between 1967 and 1974, the disposal site was a closed. In 1962, the San Diego County Department of Public Works issued a permit to allow burning of auto wrecking waste at the Property. Starting from 1974, the Property was used as a baseball field by the Vista Bobby Sox Little League and Softball League. It was later used by the Vista American Little League from 1993 to 2005 until it was closed for investigation and cleanup.

1.03. The Vista Burn Dump has been remediated pursuant to a Removal Action Workplan (RAW) developed in accordance with Health and Safety Code, division 20, chapter 6.8 under the oversight of the Department. The RAW and Notice of Exemption pursuant to the California Environmental Quality Act, Public Resources Code section 21000 et seq., were released for public review and comment and subsequently approved by the Department on January 26, 2011. The Removal Action Workplan, including a Health Risk Assessment, requires a Land Use Covenant as part of the site remediation because hazardous substances as defined in Health and Safety Code section 25316, and hazardous materials as defined in Health and Safety Code section 25260 remain above cleanup goals for unrestricted use at the Property. The hazardous

materials were found in burn ash at the Property at levels above residential California Human Health Screening Levels for metals between 0.5 and 5.5 feet below ground surface (bgs) and polycyclic aromatic hydrocarbons (PAHs) at 5 feet bgs. Dioxins and furans are also present at the site, as a result of past burning activities, at varying levels within 5 feet bgs. Chemicals of concern in soil, along with their respective CHHSLs are as follows:

Contaminant in Soil	Concentration in milligram/kilogram (mg/kg)	CHHSL (mg/kg)
arsenic	73.3 mg/kg (5.5 feet bgs)	0.07 mg/kg ⁺
cadmium	11.8 mg/kg (5.5 feet bgs)	1.7 mg/kg
lead	2,680 mg/kg (0.5 feet bgs)	150 mg/kg
benzo(a)pyrene	2.9 mg/kg	0.038 mg/kg
benzo(a)anthracene	5 mg/kg	0.62 mg/kg [*]
benzo(b)fluoranthene	3.5 mg/kg	0.62 mg/kg [*]
benzo(k)fluoranthene	1.5 mg/kg	0.38 mg/kg ^{**}
chrysene	5.8 mg/kg	4 mg/kg ^{**}
indeno (1,2,3-c,d)pyrene	2 mg/kg	0.62 mg/kg [*]
naphthalene	9.2 mg/kg	2 mg/kg ^{**}

⁺ Value reflects the U.S. Environmental Protection Agency, Region 9 residential Remedial Screening Levels (RSL). No CHHSL available.

^{**} Value reflects the California modified residential (RSL). No CHHSL available.

^{*} Naturally-occurring background concentrations for arsenic in soil commonly exceed the CHHSL values.

Contaminants in soil gas that exceed the CHHSL values included volatile organic compounds (VOCs) and dioxins/furans as follows:

Contaminant in Soil Gas	Concentration in microgram/liter (µg/l)	CHHSL (µg/l)
benzene	0.16 µg/l (15 feet bgs)	0.0362 µg/l
trichloroethylene	0.83 µg/l (15 feet bgs)	0.528 µg/l
tetrachloroethylene	11 µg/l (10 feet bgs)	0.180 µg/l

Groundwater at the Property is at approximately 5 to 10 feet below ground surface and contains low levels of volatile organic compounds (VOCs) in well MW-4 that may be from offsite sources. Barium was also detected in MW-9 above the Maximum Contaminant Levels for drinking water. The concentration of VOCs and metals in groundwater with their corresponding MCL values for drinking water are as follows:

Contaminant in Groundwater	Concentration (microgram/liter)	MCL (microgram/liter)
1,2,3 Trichloropropane	24 µg/L	0.006 µg/L*
1,2 Dichloropropane	0.40 µg/L	0.005 µg/L
Acetone	5.9 µg/L	5500 µg/L*
Chloroform	0.85 µg/L	0.53 µg/L*
Barium	2.1 µg/L	0.001 µg/L

* Value reflects the U.S. Environmental Protection Agency, Region 9 Tap Water Remedial Screening Level (RSL). No MCL available.

Five wells have been preserved on and around the Property to use for monitoring purposes. Based on findings during the investigation phase of the project, the Department concluded that the groundwater should be monitored to track any potential changes in contaminant levels from offsite sources. Groundwater will be monitored annually until the Department determines that groundwater monitoring is no longer needed.

1.04. Remediation includes installing and maintaining a soil ("Cap") over the entire 9.8 acre Property. The Cap consists of imported clean soil fill material which has been tested and approved by DTSC to be in accordance with the DTSC Clean Fill Guidance. The design of the Cap is shown in the engineering drawing attached as Exhibit "C" hereto. The depth of the Cap throughout the Property is 1.24 and 14.67 feet. Orange colored markers that extend to the minimum 1 foot cap depth have been installed at the Property to indicate when soil maintenance is needed to restore the

minimum Cap depth. If during inspection, the orange markers are observed, maintenance of the soil Cap will be conducted as outlined in the Operation and Maintenance Plan.

The response action also includes the maintenance of groundwater monitoring wells ("Monitoring Wells") that remain on and around the Property (see Exhibit "D" for figure). The operation and maintenance of the Cap, and Monitoring Wells is pursuant to an Operation and Maintenance Plan incorporated into the Operation and Maintenance Agreement between the City of Oceanside and the Department dated July 20, 2012.

1.05. As detailed in the Risk Assessment in the Preliminary Endangerment Assessment (PEA) approved by the Department on July 7, 2008, some surface and shallow subsurface soils at the Property contain hazardous substances within burn ash that are defined in Health and Safety Code section 25316. The Risk Assessment calculated risk levels against the acceptable residential risk of 1×10^{-6} . The overall risk throughout the Property ranged between 7×10^{-3} and 3×10^{-6} which exceeds the 1×10^{-6} level. Based on the above findings, the Department concluded that a soil Cap at a minimum depth of 1 foot would be required to allow the Property to be used for recreational purposes and eliminate exposure to the existing surface and subsurface soils. The Department further concluded that the entire Property, once remediated with the soil Cap, and subject to the restrictions of this Covenant, does not present an unacceptable threat to human health or safety or the environment when used for a recreational field.

ARTICLE II

DEFINITIONS

2.01. Department. "Department" means the California Department of Toxic Substances Control and includes its successor agencies, if any.

2.02. Environmental Restrictions. "Environmental Restrictions" means all

protective provisions, covenants, restrictions, prohibitions, and terms and conditions as set forth in any section of this Covenant.

2.03. Improvements. "Improvements" includes, but is not limited to: buildings, structures, roads, driveways, improved parking areas, wells, pipelines, or other utilities.

2.04. Lease. "Lease" means lease, rental agreement, or any other document that creates a right to use or occupy any portion of the Property.

2.05. Occupant. "Occupant" means Owners and any person or entity entitled by ownership, leasehold, or other legal relationship to the right to occupy any portion of the Property.

2.06. Owner. "Owner" means the Covenantor, and all successors in interest including heirs and assigns, who at any time hold title to all or any portion of the Property.

ARTICLE III GENERAL PROVISIONS

3.01. Runs with the Land. This Covenant sets forth Environmental Restrictions that apply to and encumber the Property and every portion thereof no matter how it is improved, held, used, occupied, leased, sold, hypothecated, encumbered, or conveyed. This Covenant: (a) runs with the land pursuant to Health and Safety Code section 25355.5 and Civil Code section 1471; (b) inures to the benefit of and passes with each and every portion of the Property, (c) is for the benefit of, and is enforceable by the Department, and (d) is imposed upon the entire Property unless expressly stated as applicable only to a specific portion thereof.

3.02. Binding upon Owners/Occupants. Pursuant to the Health and Safety Code, this Covenant binds all owners of the Property, their heirs, successors, and

assignees, and the agents, employees, and lessees of the owners, heirs, successors, and assignees. Pursuant to Civil Code section 1471, all successive owners of the Property are expressly bound hereby for the benefit of the Department.

3.03. Incorporation into Deeds and Leases. This Covenant shall be incorporated by reference in each and every deed and Lease for any portion of the Property.

3.04. Conveyance of Property. The Owner shall provide written notice to the Department not later than thirty (30) days after any conveyance of any ownership interest in the Property (excluding Leases, and mortgages, liens, and other non-possessory encumbrances). The written notice shall include the name and mailing address of the new owner of the Property and shall reference the site name and site code as listed on page one of this Covenant. The notice shall also include the Assessor's Parcel Number (APN) noted on page one. If the new owner's property has been assigned a different APN, each such APN that covers the Property must be provided. The Department shall not, by reason of this Covenant, have authority to approve, disapprove, or otherwise affect proposed conveyance, except as otherwise provided by law or by administrative order.

3.05. Costs of Administering the Covenant to be paid by Owner. The Department has already incurred and will in the future incur costs associated with the administration of this Covenant. Therefore, the Covenantor hereby covenants for the Covenantor and for all subsequent Owners that, pursuant to California Code of Regulations, title 22, section 67391.1(h), the Owner agrees to pay the Department's costs in administering the Covenant.

ARTICLE IV

RESTRICTIONS AND REQUIREMENTS

4.01. Soil Management

- (a) The minimum 1 foot cap shall be maintained at all times per provisions outlined in the approved Operation and Maintenance Plan. No activities that disturb soil below the Cap shall be done without prior DTSC notification and approval (e.g., excavation, grading, removal, trenching, filling, earth movement, mining, or drilling). Orange markers have been inserted within the Cap as an indicator to show when the 1 foot mark for the Cap has been reached and when maintenance is needed to fulfill the 1 foot Cap minimum thickness requirement.
- (b) Any contaminated soils brought to the surface by grading, excavation, trenching or backfilling shall be managed in accordance with all applicable provisions of state and federal law.
- (c) Soils brought to the Property for maintaining the soil Cap must be certified clean fill and come from a Department approved borrow site.

4.02. Prohibited Activities. The following activities shall not be conducted at the Property:

- (a) Drilling for water, oil, or gas without prior written approval by the Department.
- (b) Residential uses, day care, schools, or hospitals.

4.03. Access for Department. The Department shall have reasonable right of entry and access to the Property for inspection, monitoring, and other activities consistent with the purposes of this Covenant as deemed necessary by the Department

in order to protect the public health or safety, or the environment.

4.04. Access for Implementing Operation and Maintenance. The entity responsible for implementing the Operation and Maintenance Plan shall have reasonable right of entry and access to the Property for the purpose of implementing the Operation and Maintenance Plan until the Department determines that no further Operation and Maintenance is required.

4.05. Inspection and Reporting Requirements. The Owner will conduct, at minimum, an annual inspection of the Property verifying compliance with this Covenant, and shall submit each inspection report to report to the Department. The inspection report must include the dates, times, and names of those who conducted the inspection and reviewed the inspection report. It also shall describe how the observations were performed that were the basis for the statements and conclusions in the inspection report (e.g., drive by, fly over, walk in, etc.). If violations are noted, the inspection report must detail the steps taken to return to compliance. If the Owner identifies any violations of this Covenant during the quarterly inspections or at any other time, the Owner must within 10 days of identifying the violation: determine the identity of the party in violation, send a letter advising the party of the violation of the Covenant, and demand that the violation ceases immediately. Additionally, copies of any correspondence related to the violation of this Covenant shall be sent to the Department within 10 days of its original transmission.

ARTICLE V ENFORCEMENT

5.01. Enforcement. Failure of the Owner or Occupant to comply with this Covenant shall be grounds for the Department to require modification or removal of any Improvements constructed or placed upon any portion of the Property in violation of this Covenant. Violation of this Covenant, including but not limited to, failure to submit, or the submission of any false statement, record or report to the Department, shall be

grounds for the Department to pursue administrative, civil, or criminal actions, as provided by law.

ARTICLE VI

VARIANCE, TERMINATION, AND TERM

6.01. Variance. Owner, or any other aggrieved person, may apply to the Department for a written variance from the provisions of this Covenant. Such application shall be made in accordance with Health and Safety Code section 25233.

6.02. Termination or Partial Termination. Owner, or any other aggrieved person, may apply to the Department for a termination or partial termination of one or more terms of this Covenant as they apply to all or any portion of the Property. Such application shall be made in accordance with Health and Safety Code section 25234.

6.03. Term. Unless ended in accordance with paragraph 6.02, by law, or by the Department in the exercise of its discretion, this Covenant shall continue in effect in perpetuity.

ARTICLE VII

MISCELLANEOUS

7.01. No Dedication Intended. Nothing set forth in this Covenant shall be construed to be a gift or dedication, or offer of a gift or dedication, of the Property, or any portion thereof to the general public or anyone else for any purpose whatsoever.

7.02. Recordation. The Covenantor shall record this Covenant, with all referenced Exhibits, in the County of San Diego within ten (10) days of the Covenantor's receipt of a fully executed original.

7.03. Notices. Whenever any person gives or serves any Notice ("Notice" as

used herein includes any demand or other communication with respect to this Covenant), each such Notice shall be in writing and shall be deemed effective: (1) when delivered, if personally delivered to the person being served or to an officer of a corporate party 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:

To Owner: City of Oceanside
300 North Coast Highway
Oceanside, CA 92054

and

To Department: Mr. Emad Yemut, Unit Chief
5796 Corporate Avenue
Cypress, California 90630

Any party may change its address or the individual to whose attention a Notice is to be sent by giving written Notice in compliance with this paragraph.

7.04. Partial Invalidity. If this Covenant or any of its terms are determined by a court of competent jurisdiction to be invalid for any reason, the surviving portions of this Covenant shall remain in full force and effect as if such portion found invalid had not been included herein.

7.05. Statutory References. All statutory references include successor provisions.

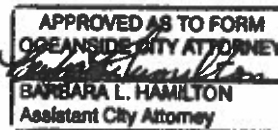
7.06. Incorporation of Attachments. All attachments and exhibits to this Covenant are incorporated herein by reference.

IN WITNESS WHEREOF, the Parties execute this Covenant.

Covenantor:

Peter Weiss
City Manager
City of Oceanside
300 North Coast Highway
Oceanside CA, 92054

By: Peter Weiss
Title: City Manager
Date: 4-2-13



Department of Toxic Substances Control:

By: Mac Ernest
Title: Unit Chief
Date: 4/18/2013

ACKNOWLEDGMENT

State of California

County of Orange

On April 17, 2013 before me, Lisa Twarog, Notary Public
(insert name and title of the officer)

personally appeared Emad Badrdine Yemut,
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are
subscribed to the within instrument and acknowledged to me that he/she/they executed the same
in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument
the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the
foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature Lisa Twarog (Seal)



(this area for official notarial seal)

Government Code 27361.7

I certify under penalty of perjury that the Notary Seal on the document to which this statement is
attached reads as follows:

Name of the Notary: Lisa Twarog

Date Commission Expires: May 1 2013

County Where Bond is Filed: Orange

Commission Number: 1847105

Manufacturer/Vendor Number: OCT1

Place of Execution: Cypress, CA Date: 4/17/2013

Signature: Lisa Twarog

I certify under penalty of perjury and the laws of the State of California that the illegible portion
of this document to which this statement is attached reads as follows:

Place Execution: _____ Date: _____

Signature: _____

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of

San Diego

On

April 2, 2013

Date

before me,

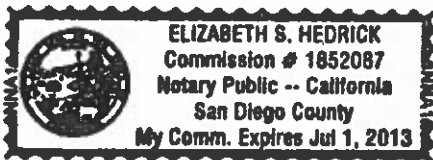
Elizabeth S. Hedrick, Notary Public

Here Insert Name and Title of the Officer

personally appeared

Peter Weiss

Name(s) of Signer(s)



who proved to me on the basis of satisfactory evidence to be the person~~(s)~~ whose name~~(s)~~ is/~~are~~ subscribed to the within instrument and acknowledged to me that he/~~she/they~~ executed the same in his/~~her/their~~ authorized capacity~~(ies)~~, and that by his/~~her/their~~ signature~~(s)~~ on the instrument the person~~(s)~~; or the entity upon behalf of which the person~~(s)~~ acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature

Elizabeth S. Hedrick

Signature of Notary Public

Place Notary Seal Above

OPTIONAL

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

Description of Attached Document

Title or Type of Document: _____

Document Date: _____

Number of Pages: _____

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____

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

Signer Is Representing: _____

RIGHT THUMBPRINT
OF SIGNER
Top of thumb here

Signer's Name: _____

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

Signer Is Representing: _____

RIGHT THUMBPRINT
OF SIGNER
Top of thumb here

Exhibit A

EXHIBIT A

LEGAL DESCRIPTION

That certain real property situated in the City of Oceanside, County of San Diego, State of California, being all that portion of the Northeast Quarter of the Southeast Quarter of Section 14, Township 11 South, Range 4 West, San Bernardino Meridian, described as follows:

Beginning at a point in the East line of said Section 14, from which the Section Corner common to Sections 13, 14, 23 and 24 bears South 0°06' East 1,724.43 feet; thence, West 1,034.48 feet to a point in the Southeasterly right-of-way of the Escondido Branch of the Atchison Topeka & Santa Fe Railway; thence, following said right-of-way the following courses and distances: North 49°46' East 725.00 feet; thence, along the tangent curve concave to the Southeast, radius 1,096.28 feet; central angle equals 25°32' a distance of 448.55 feet; thence, North 75°18' East 37.06 feet to a point on the East line of said Section 14 from which the Section Corner common to Sections 13, 14, 23 and 24 bears South 0°06' East 2,461.03 feet; thence, leaving said right-of-way line South 0°06' East along the East line of said Section 14, 718.60 feet to the Point of Beginning.

Assessor Parcel Numbers: 161-501-09 and 161-501-10

Exhibit B

EXHIBIT B
PROPERTY DEPICTION

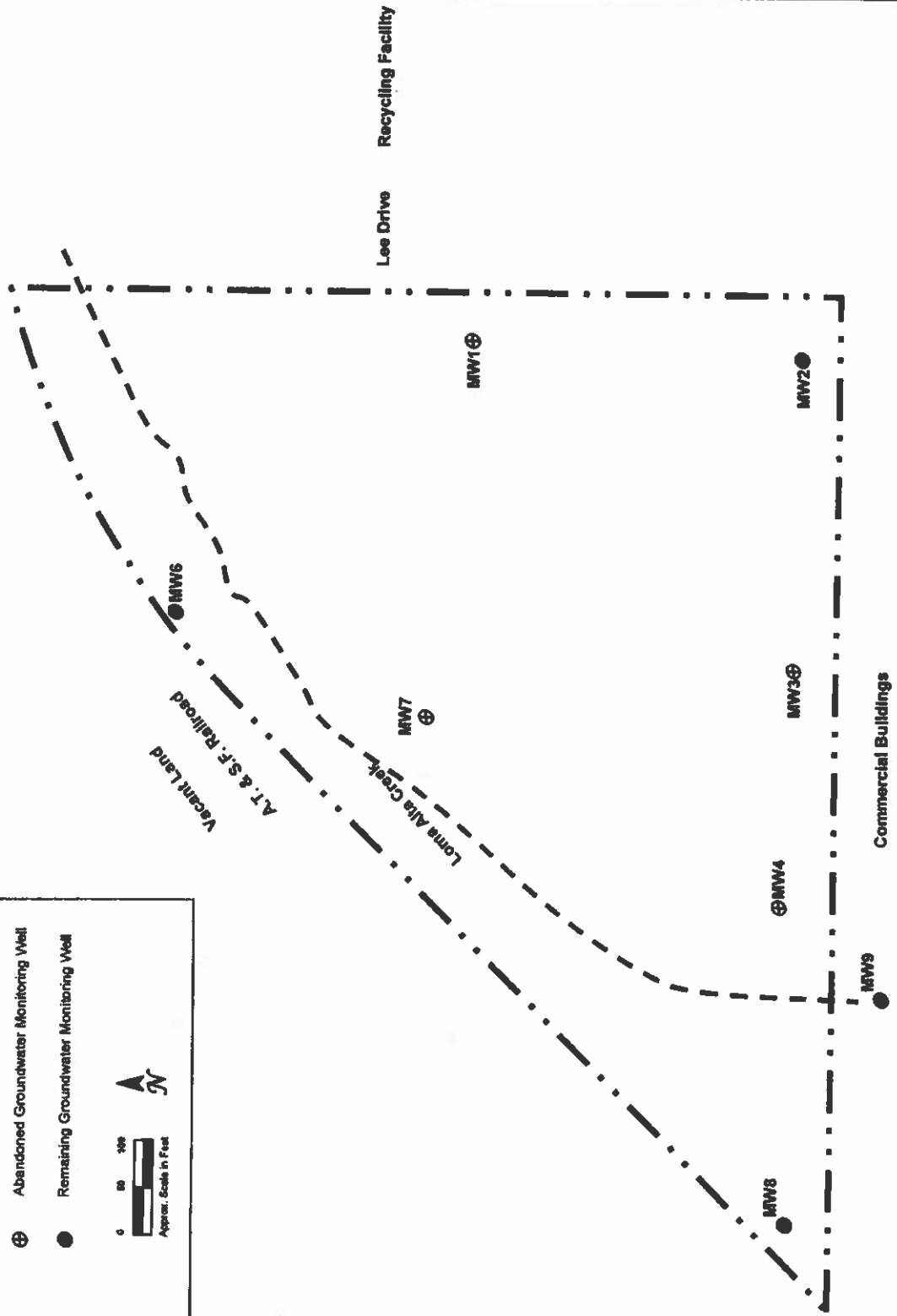
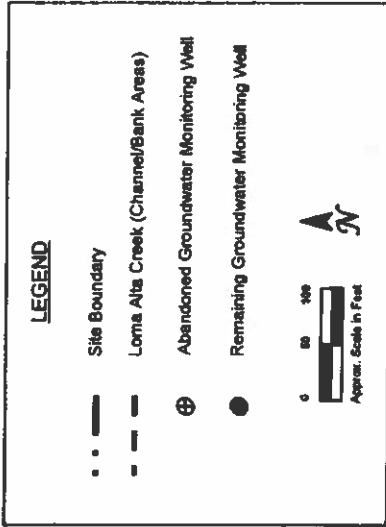


Exhibit C

FRENCH FIELD
SOIL CAP CERTIFICATION EXHIBIT

SITE INFORMATION

ADDRESS: 1900 LEE ROAD
MCKINNEY, TX

DATE: 05/20/00
05/20/00

VICINITY MAP



NOTE

THE 45-FOOT BRIDGE BEGAN WORKING AGAIN AFTER THE COMPLETION OF
REPAIR OPERATIONS AT AN EXTENDED LOCATION ON A 30-MIN. BRIDGE.
THE BRIDGE BEGAN TO OPERATE AFTER THE SITE OPERATIONS AFTER THE
COMPLETION OF THE REPAIRS AND THE BRIDGE WAS OPENED TO THE SITE OF
OPERATIONS. ALL AREA, BEFORE THE BRIDGE WAS OPENED, WAS IMPROVED
ON THE BRIDGE LOCATION.

DATE OF ASSESSMENT: 3-23-2011

BENCHMARK

[illegible]

LEGEND

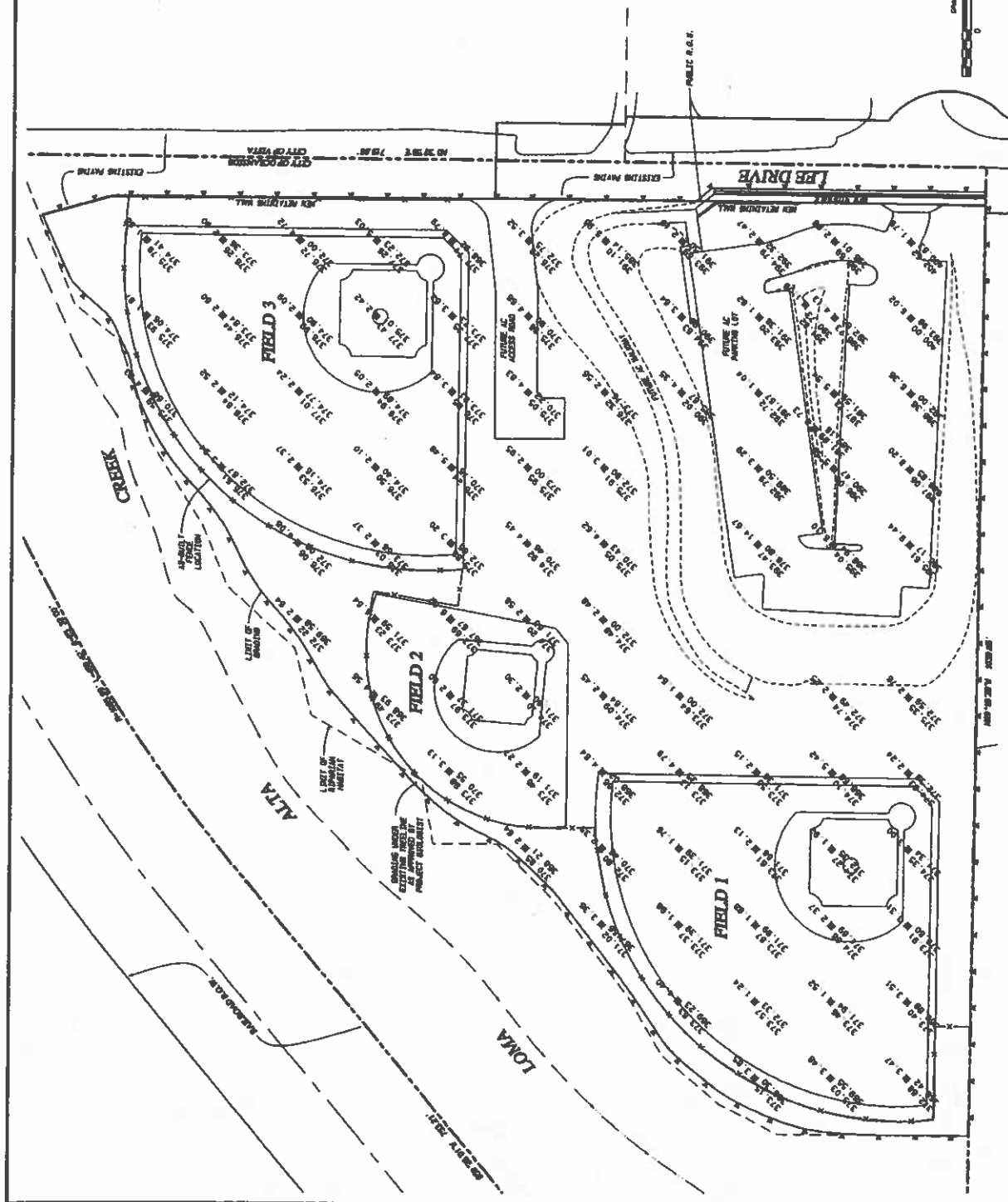
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11-8111/88 \$5.00

06-09-2007

PASCO LARET SUTER
CONSULTANTS & ASSOCIATES
CONSULTANTS • LAURENCE • LARSEN • LARSEN
2300 Alameda Highway SE, Ste 4, Auburn, WA, WA 98001
PH: 206.326.0415 | FAX: 206.326.0412 | info@pasco-laret.com

DATE RECEIVED: 03-20-11



TRUE COPY CERTIFICATION

(Government Code 27361.7)

SAN MARCOS, CALIFORNIA

Place of Execution

I certify under penalty of perjury that this material is a true copy of the original material contained in this document.

09 / 09 / 2013

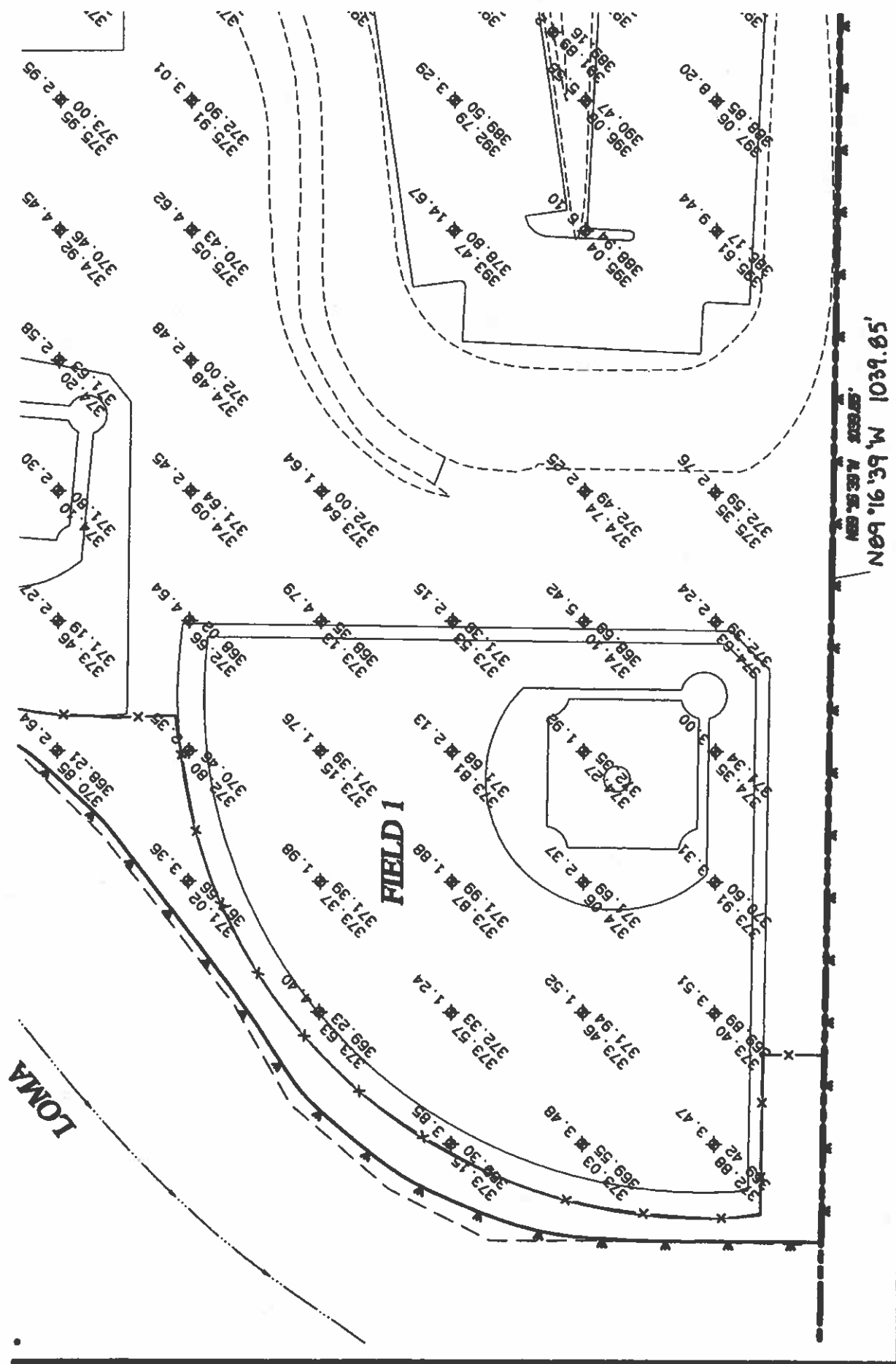
Date

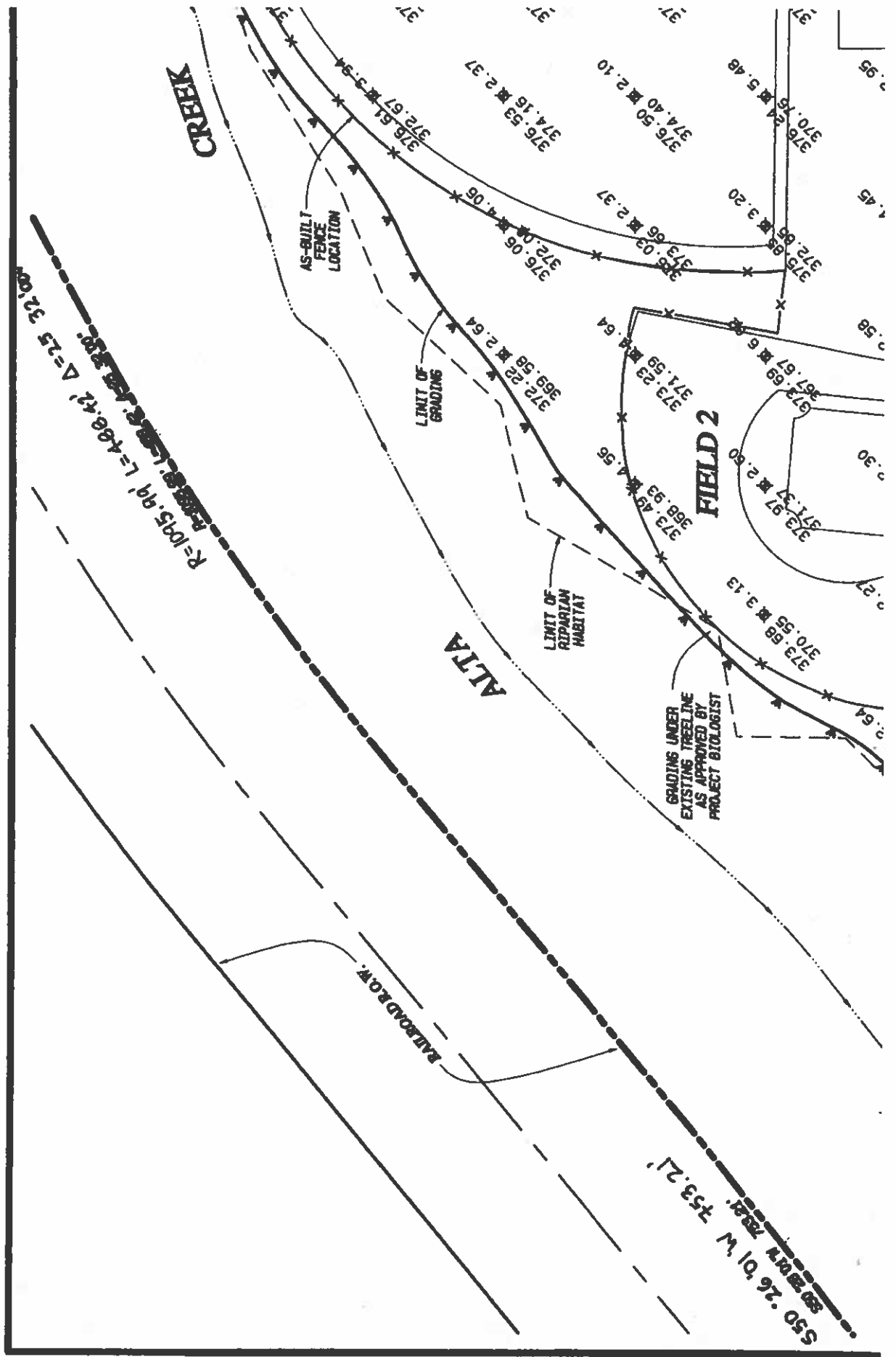


Signature of Declarant

BARBARA L. HAMILTON

Type or Print Name



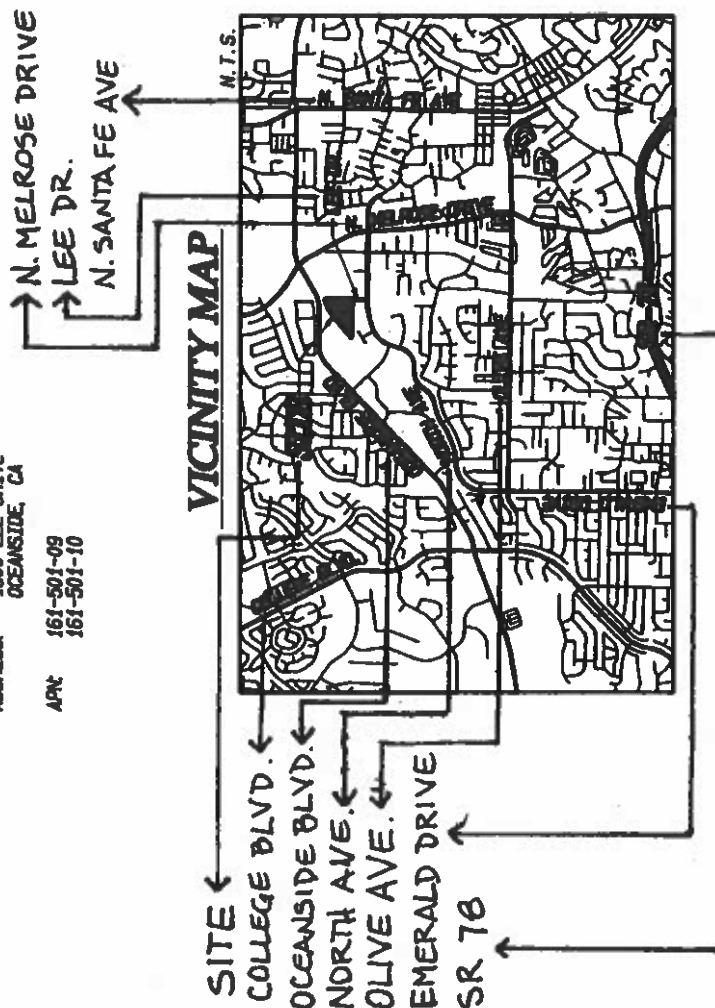


SOIL CAP CERTIFICATION EXHIBIT

SITE INFORMATION

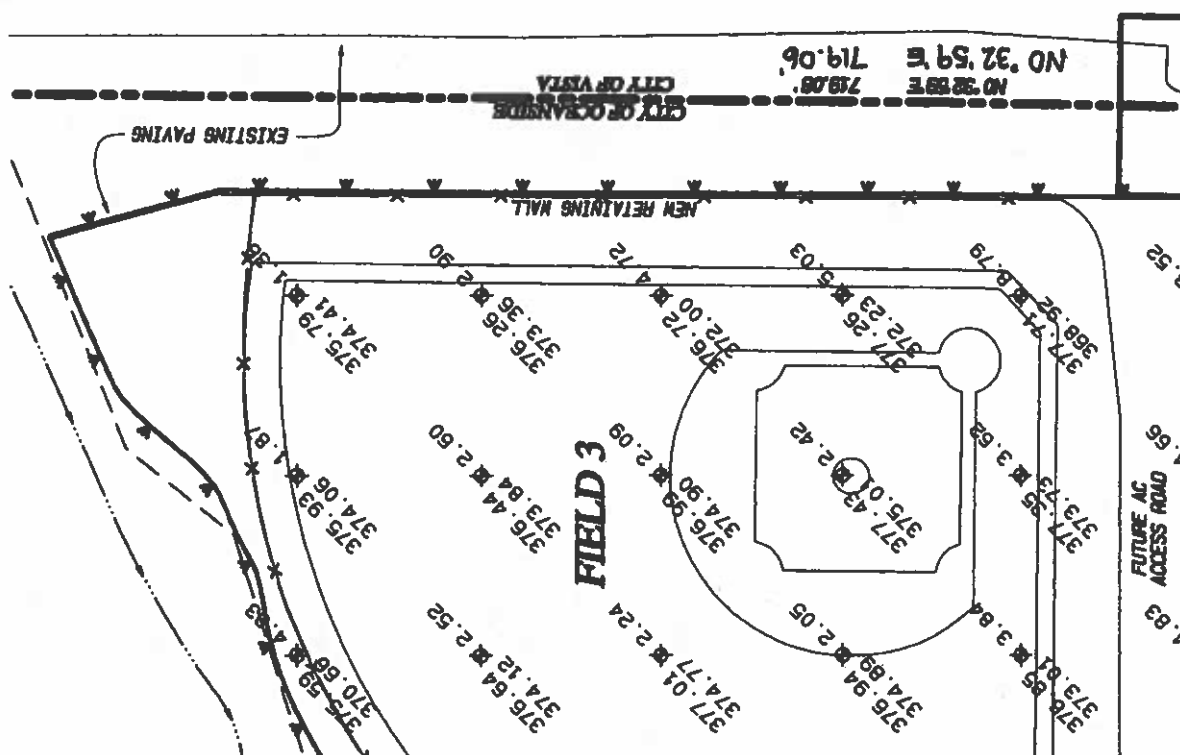
ADDRESS: 1300 LEE DRIVE
OCEANSIDE, CA

APR 161-501-09
161-501-10



NOTE

THE AS-BUILT GRADES SHOWN WERE MEASURED AFTER THE COMPLETION OF SPREADING OPERATIONS AT PRE-DETERMINED LOCATIONS ON A 50'X50' GRID. THE GRADES PRIOR TO IMPORT REFLECT THE SITE CONDITIONS AFTER THE EXISTING SOILS WERE OVEREXCAVATED AND SPREAD OVER THE SITE IN



EXISTING SOILS WERE OVEREXCAVATED AND SPREAD OVER THE SITE IN DESIGNATED FILL AREAS. BEFORE CLEAN SOIL CAP MATERIAL WAS IMPORTED FROM OFFSITE LOCATION.

DATE OF AS-BUILT SURVEY: 8-25-2011

BENCHMARK

2.5" BRASS DISK STAMPED "NCTD CP33 RCE 27648" ON TOPO OF SOUTHERLY CURB OF OCEANSIDE BOULEVARD, 1200' +/- SOUTHWESTERLY OF MELROSE DRIVE, AS SHOWN ON RDS 16709.

ELEVATION: 402.68
DATUM: NAVD83

LEGEND

- PROPERTY BOUNDARY
- RIGHT-OF-WAY LINE
- AS-BUILT FENCE LOCATION
- TOP/TOE OF FILL SLOPE
- LIMIT OF GRADING
- LIMIT OF RIPARIAN HABITAT

AS-BUILT GRADE CHECK POINT
PASCO LARET SUTTER & ASSOCIATES
CIVIL ENGINEERING + LAND PLANNING
+ LAND SURVEYING
535 NORTH HIGHWAY 101, STE A,
SOLANA BEACH, CA 92075
ph 858.259.0212 | fr 858.259.4612
plscengineering.com
PREPARED BY:



DATE PREPARED: 9-02-2011

PASCO LARET SUTTER & ASSOCIATES
CIVIL ENGINEERING + LAND PLANNING + LAND SURVEYING
535 North Highway 101, Ste A, Solana Beach, CA 92075
ph 858.259.0212 | fr 858.259.4612 | plscengineering.com

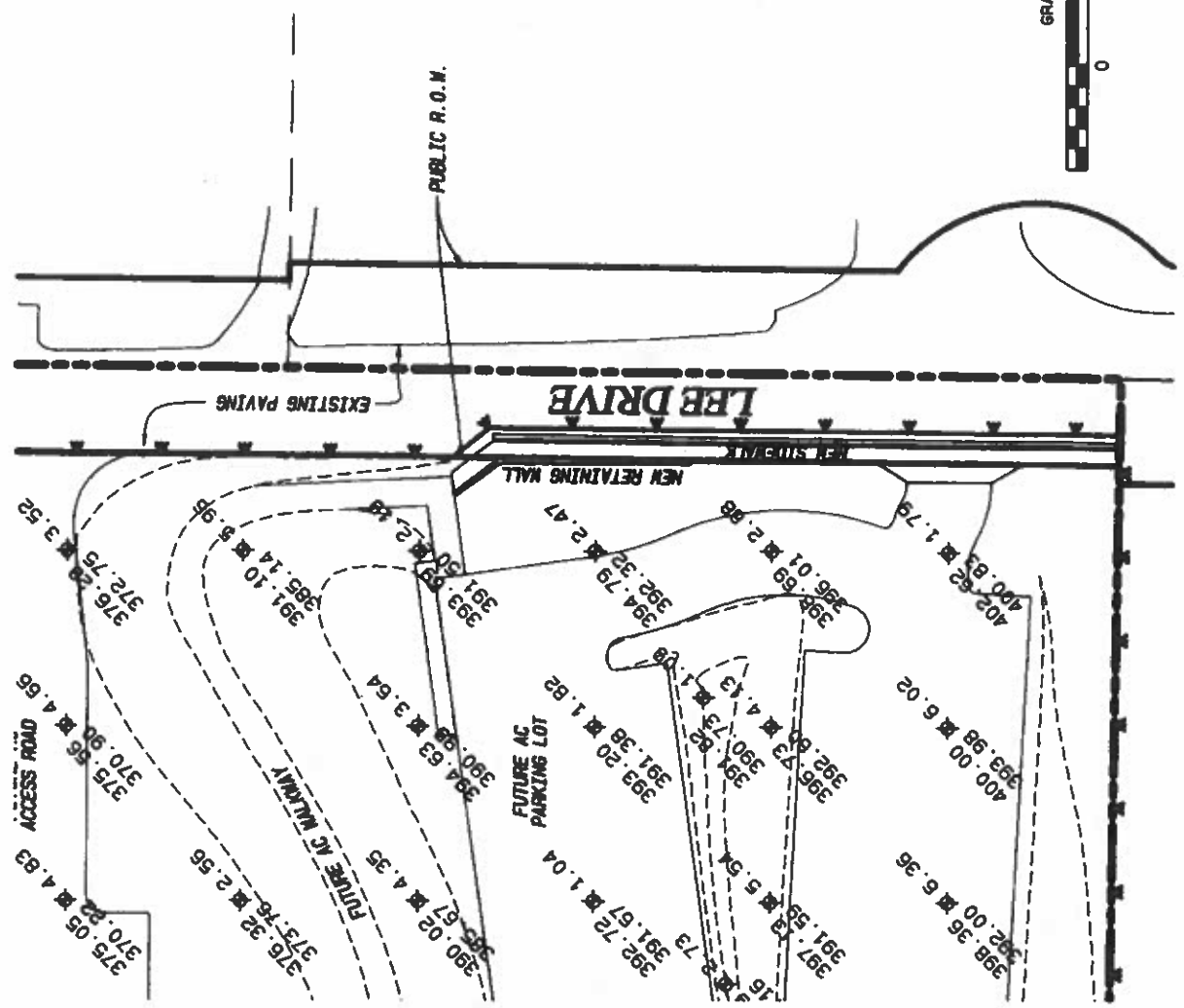


Exhibit D

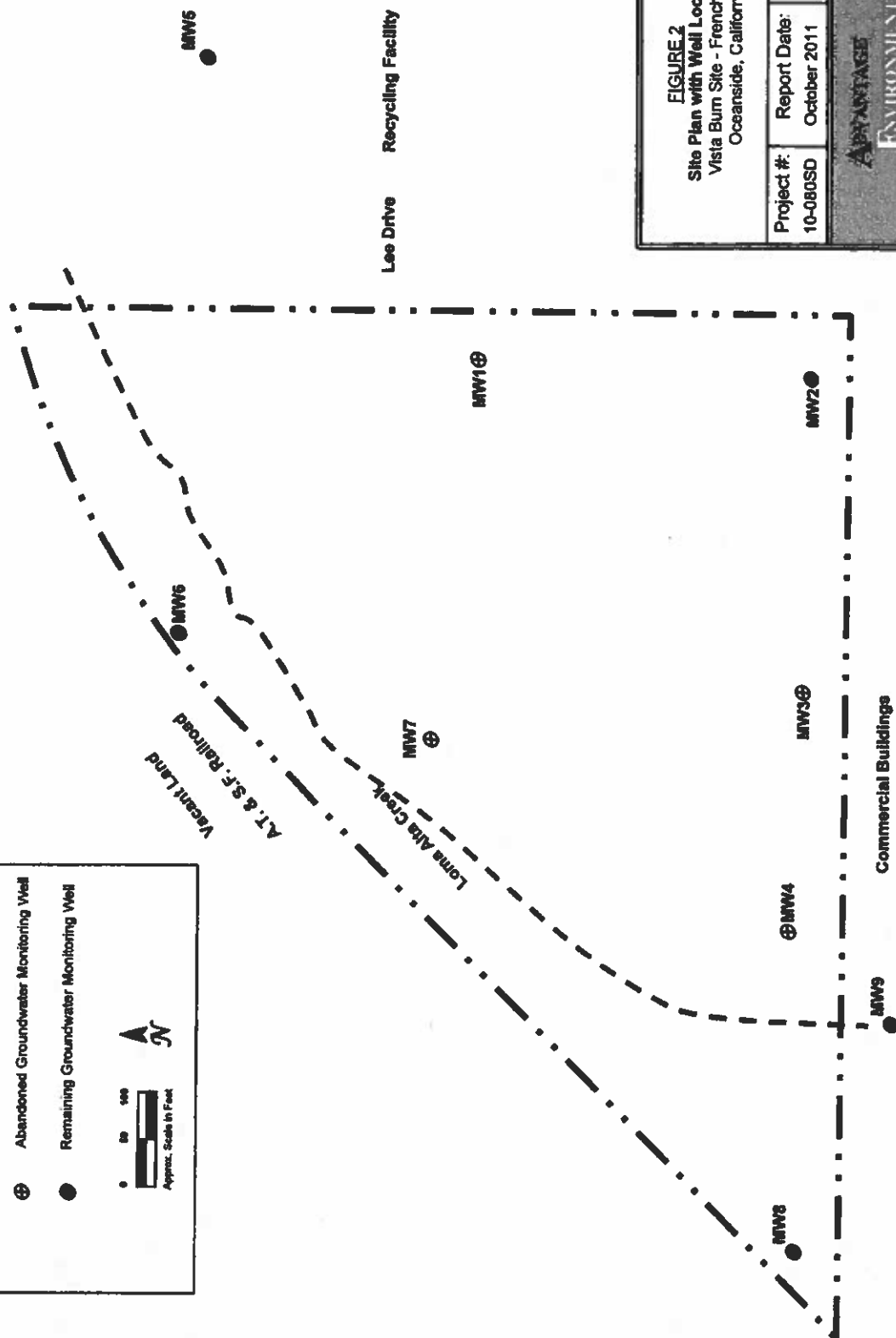
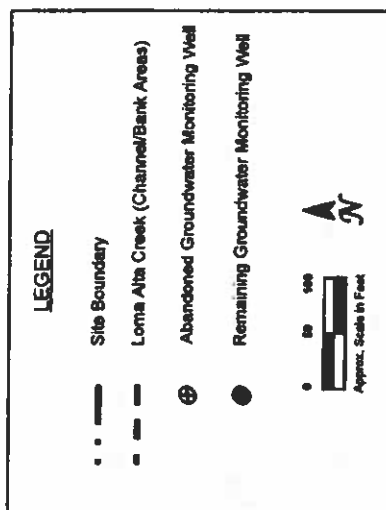


FIGURE 2
Site Plan with Well Locations
 Vista Bum Site - French Field
 Oceanside, California

Project #:	Report Date:	Drawn By:
10-080SD	October 2011	TJ

ADDITIONAL
ENVIRONMENTAL
CONSULTANTS, LLC

ATTACHMENT 6

**OPERATION AND MAINTENANCE AGREEMENT
WITH THE DEPARTMENT OF TOXIC SUBSTANCES CONTROL**

ATTACHMENT 6

In the matter of:)
) Docket No. HSA-O&MEA 12/13-041
)
Vista Burn Dump) OPERATION AND MAINTENANCE
1300 Lee Drive) AGREEMENT
Oceanside, California 92054)
)
)
Proponent:)
)
City of Oceanside) Health and Safety Code
300 North Coast Highway) Section 25355.5 (a)(1)(C)
Oceanside, CA 92054)
)

The California Department of Toxic Substances Control (DTSC) and the City of Oceanside (Proponent) enter into this Operation and Maintenance Agreement (Agreement) for the site located at 1300 Lee Drive, Oceanside, San Diego County, California, 92054 (Site) and agrees as follows:

1. Jurisdiction. This Agreement is entered into by DTSC and Proponent pursuant to Health and Safety Code section 25355.5(a)(1)(C) which authorizes DTSC to enter into an enforceable agreement to oversee the investigation and/or remediation of a release or threatened release of any hazardous substance at or from the Site, and to oversee the operation and maintenance of any remediation system installed at the Site.

2. Remediation System. A DTSC-approved Remediation System has been installed at the Site for the remediation of soil (Remediation System). The Remediation System consists of both a soil and paved cap. The Site is owned by the City of Oceanside. A site location map and the assessor's parcel map are attached as Exhibit A and Exhibit B. A site map or diagram showing the location(s) of the Remediation System is attached as Exhibit C.

3. Operation and Maintenance of Remediation System. Operation and maintenance of the Remediation System are required at the Site, and shall be left in place, operated and maintained by the Proponent until and except to the extent that DTSC authorizes Proponent in writing to discontinue or modify part or all of the Remediation System.

4. Implementation of Operation and Maintenance Plan. Proponent shall submit an Operation and Maintenance Plan/Post Closure Monitoring and Maintenance Plan (PCMMP) to DTSC and the County of San Diego Local Enforcement Agency (SDLEA) for approval. The Proponent shall fully implement the DTSC-approved Operation and Maintenance Plan/PCMMP dated July 20, 2012, attached as Exhibit D, including any

requirements for quarterly inspections and reporting for the SDLEA and annual groundwater monitoring, annual reporting and record keeping for DTSC. DTSC shall be included on all reports sent to the SDLEA pertaining to the Operation and Maintenance of the Site.

5. Modification or Discontinuation of Remediation System. Proponent shall submit a written request for DTSC's authorization for any modification or discontinuation of the Remediation System or any part thereof at least 60 days, to the extent feasible, prior to the intended date of any proposed modification or discontinuation. Proponent may seek modification or discontinuation of the Remediation System or any part thereof if (a) Proponent has met the remediation objectives for the site; (b) the modification would better achieve the remediation objectives; (c) the Remediation System could not achieve the remediation objectives and other cleanup methods will be implemented; or (d) it has been demonstrated that the maximum achievable remediation has occurred. The written request to DTSC shall include the reasons for the request, a detailed description of any work to be done or modification to be made, and a map showing the exact location of the proposed work.

6. DTSC-Required Modification. DTSC may require modification, replacement, or additions to the Remediation System if the Remediation System or part of thereof is not achieving the remediation objectives or is not protecting human health or the environment. DTSC may require additional evaluations, designs and the construction and operation of facilities to achieve these objectives.

7. Five-Year Review. Proponent shall review and reevaluate the Remediation System after a period of five years from the completion of construction and startup of the Remediation System and every 5 years thereafter. The review and reevaluation shall be conducted to determine if human health and the environment are being adequately protected by the Remediation System. Within 30 days before the end of each five-year period, Proponent shall submit a five-year review workplan to DTSC for review and approval. Within 60 days of DTSC's approval of the workplan, Proponent shall implement the workplan and submit a report of the results of the five-year review. The report shall describe the results of all sampling analyses, tests and other data generated or received by Proponent and evaluate the adequacy of the implemented remedy in protecting human health and the environment. As a result of any review work performed under this Agreement, DTSC may require Proponent to perform additional review work or modify the review work previously performed by Proponent.

8. Quality Control/Quality Assurance (QC/QA). All sampling and analysis conducted by Proponent under this Agreement shall be performed in accordance with the QC/QA procedures submitted by Proponent and approved by DTSC pursuant to this Agreement.

9. Financial Assurance. Financial Assurance is satisfied for this project, as the current Proponent is a local government. If there is any change in ownership, DTSC

may require that the financial assurance requirement be re-evaluated to determine if the new Proponent is required to provide financial assurance.

10. Cost Recovery and Payment.

10.1. Proponent is liable for all of DTSC's costs incurred in implementing this Agreement, including costs of overseeing the work performed by Proponent, and in responding to any contamination at the Site. Cost recovery may be pursued by DTSC pursuant to applicable state or federal laws or common law. DTSC will invoice Proponent for DTSC's costs on a quarterly basis.

10.2. All payments made by Proponent pursuant to this Agreement shall be by check payable to the "Department of Toxic Substances Control", and bearing on its face the project code for the Site (Site # 401292) and the docket number of this Agreement. Upon request by Proponent, DTSC may accept payments made by credit cards. Payments by check shall be sent to:

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

A photocopy of the check shall be sent concurrently to DTSC's Project Manager.

10.3. DTSC shall retain all cost records associated with the work performed under this Agreement as may be required by state law. DTSC will make all documents that support DTSC's cost determination available for inspection upon request in accordance with the Public Records Act, Government Code section 6250 et seq.

11. Endangerment During Implementation.

11.1. Proponent shall notify DTSC's Project Manager immediately upon learning of any condition that may pose an immediate threat to public health or safety or the environment. Within seven days of the onset of such a condition, Proponent shall furnish a report to DTSC, signed by Proponent's Project Manager, setting forth the conditions and events that occurred and the measures taken in response thereto.

11.2. In the event DTSC determines that any activity (whether or not pursued in compliance with this Agreement) may pose an imminent or substantial endangerment to the health or safety of people on the Site or in the surrounding area or to the environment, DTSC may order Proponent to conduct additional activities or to stop further implementation of this Agreement for such period of time as may be needed to

abate the endangerment. DTSC may request that Proponent implement interim measures to address any immediate threat or imminent or substantial endangerment.

12. Site Access. Proponent shall provide, and/or obtain access to the Site and take all reasonable efforts to obtain access to offsite areas to which access is necessary to implement the Agreement. Such access shall be provided to DTSC's employees, contractors, and consultants at all reasonable times. Such access shall also be provided to any other proponent or Proponent who is in compliance with this Agreement for the purpose of conducting activities pursuant to this Agreement or for activities deemed necessary by DTSC to meet the objectives of this Agreement. Nothing in this paragraph 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 law.

13. Sampling, Data and Document Availability. When requested by DTSC, Proponent shall make available for DTSC's inspection, and shall provide copies of, all data and information concerning contamination at or from the Site, including technical records and contractual documents, sampling and monitoring information and photographs and maps, whether or not such data and information was developed pursuant to this Agreement. For all final reports, Proponent shall submit one hard (paper) copy and one electronic copy with all applicable signatures and certification stamps as a text-readable Portable Document Formatted (pdf) file Adobe Acrobat or Microsoft Word formatted file.

14. Record Preservation. Proponent shall retain, during the implementation of this Agreement and for a minimum of six years after its termination, all data, reports, and other documents that relate to the performance of this Agreement. If DTSC requests that some or all of these documents be preserved for a longer period of time, Proponent shall either comply with the request, deliver the documents to DTSC, or permit DTSC to copy the documents at Proponent's expense prior to destruction.

15. Notification of Field Activities. Proponent shall inform DTSC at least seven days in advance of all field activities pursuant to this Agreement and shall allow DTSC and its authorized representatives to take duplicates of any samples collected by Proponent pursuant to this Agreement.

16. Project Managers. Within 14 days of the effective date of this Agreement, DTSC and Proponent shall each designate a Project Manager and shall notify each other in writing of the Project Manager selected. Each Project Manager shall be responsible for overseeing the implementation of this Agreement and for designating a person to act in his/her absence. All communications between DTSC and Proponent, and all notices, documents and correspondence concerning the activities performed pursuant to this Agreement shall be directed through the Project Managers. Each party may change its Project Manager with at least seven days prior written notice.

17. Proponent's Consultant and Contractor. All work performed pursuant to this Agreement shall be under the direction and supervision of a professional engineer or

professional geologist, licensed in California, with expertise in hazardous substances site cleanup. Proponent's Project Manager, contractor or consultant shall have the technical expertise sufficient to fulfill his or her responsibilities. Within 14 days of the effective date of this Agreement, Proponent shall notify DTSC's Project Manager in writing of the name, title, and qualifications of the professional engineer or professional geologist and of any contractors or consultants and their personnel to be used in carrying out the work under this Agreement in conformance with applicable state law, including but not limited to, Business and Professions Code sections 6735 and 7835.

18. DTSC Review and Approval. All work performed pursuant to this Agreement is subject to DTSC's review and approval. If DTSC determines that any report, plan, schedule or other document submitted for approval pursuant to this Agreement fails to comply with this Agreement or fails to protect public health or safety or the environment, DTSC may (a) return comments to Proponent with recommended changes and a date by which the Proponent must submit to DTSC a revised document incorporating or addressing the recommended changes; or (b) modify the document in consultation with Proponent and approve the document as modified. All DTSC approvals and decisions made regarding submittals and notifications will be communicated to Proponent in writing by DTSC's Branch Chief or his/her designee. No informal advice, guidance, suggestions or comments by DTSC regarding reports, plans, specifications, schedules or any other writings by the Proponent shall be construed to relieve Proponent of the obligation to obtain such written approvals.

19. Amendments. This Agreement, including the attached Operation and Maintenance Plan, may be amended in writing by mutual agreement of DTSC and Proponent. Such amendment shall be effective the third business day following the day the last party signing the amendment sends its notification of signing to the other party. The parties may agree to a different effective date.

20. Incorporation of Exhibits, Plans and Reports. All exhibits are incorporated into this Agreement by reference. All plans, schedules and reports that require DTSC's approval and are submitted by Proponent pursuant to this Agreement are incorporated in this Agreement upon DTSC's approval.

21. Reservation of Rights. DTSC reserves all of its statutory and regulatory powers, authorities, rights, and remedies under applicable laws to protect public health or the environment, including the right to recover its costs incurred therefore. Proponent reserves all of its statutory and regulatory rights, defenses and remedies available to the Proponent under applicable laws.

22. Non-Admission of Liability. By entering into this Agreement, Proponent does not admit to any finding of fact or conclusion of law set forth in this Agreement or any fault or liability under applicable laws.

23. Proponent Liabilities. Nothing in this Agreement shall constitute or be considered a covenant not to sue, release or satisfaction from liability by DTSC for any condition or claim arising as a result of Proponent's past, current, or future operations or ownership of the Site.

24. Government Liabilities. The State of California or DTSC shall not be liable for any injuries or damages to persons or property resulting from acts or omissions by Proponent or by related parties in carrying out activities pursuant to this Agreement, nor shall the State of California or DTSC be held as a party to any contract entered into by Proponent or its agents in carrying out the activities pursuant to this Agreement.

25. Third Party Actions. In the event that Proponent is a party to any suit or claim for damages or contribution relating to the Site to which DTSC is not a party, Proponent shall notify DTSC in writing within 10 days after service of the complaint in the third-party action. Proponent shall pay all costs incurred by DTSC relating to such third-party actions, including but not limited to responding to subpoenas.

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

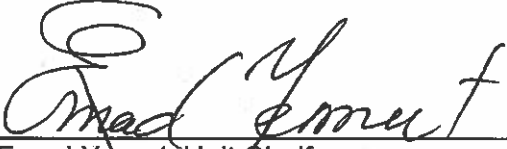
27. Severability. If any portion of this Agreement is ultimately determined not to be enforceable, that portion will be severed from the Agreement and the severability shall not affect the enforceability of the remaining provisions of the Agreement.

28. Parties Bound. This Agreement applies to and is binding, jointly and severally, upon Proponent and its agents, receivers, trustees, successors and assignees, and upon DTSC and any successor agency that may have responsibility for and jurisdiction over the subject matter of this Agreement. Proponent shall ensure that its contractors, subcontractors and agents receive a copy of this Agreement and comply with this Agreement.

29. Effective Date. The effective date of this Agreement is the date of signature by DTSC's authorized representative after this Agreement is first signed by Proponent's authorized representative. Except as otherwise specified, "days" means calendar days.


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

31. Counterparts. This 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.


Emad Yemut, Unit Chief
Cleanup Program
Department of Toxic Substances Control

Date:

1/3/2013


Peter Weiss
City Manager
City of Oceanside

Date:

12-17-12

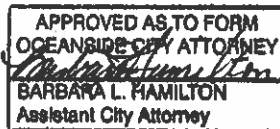


Exhibit A

EXHIBIT A

SITE LOCATION MAP

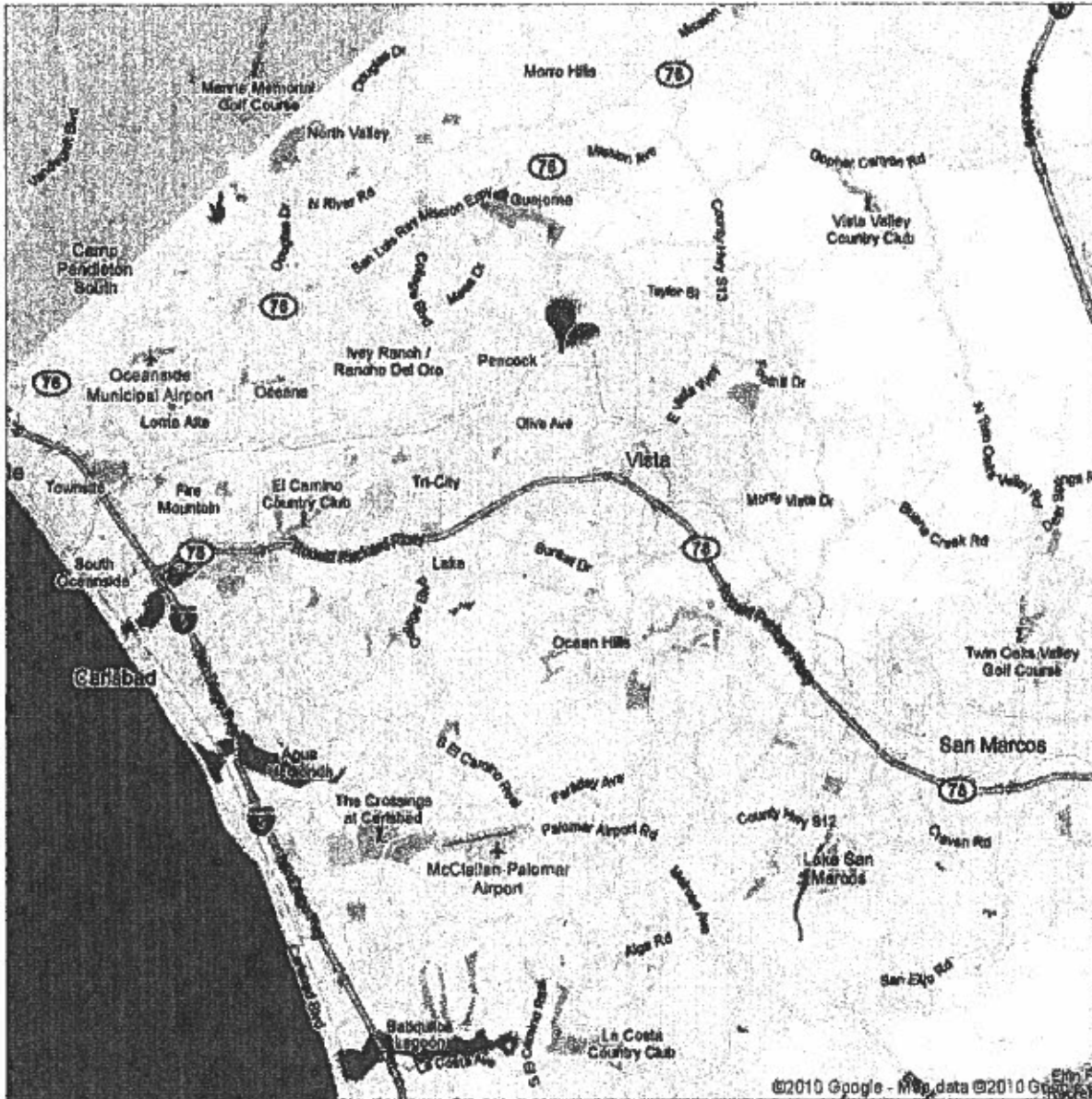
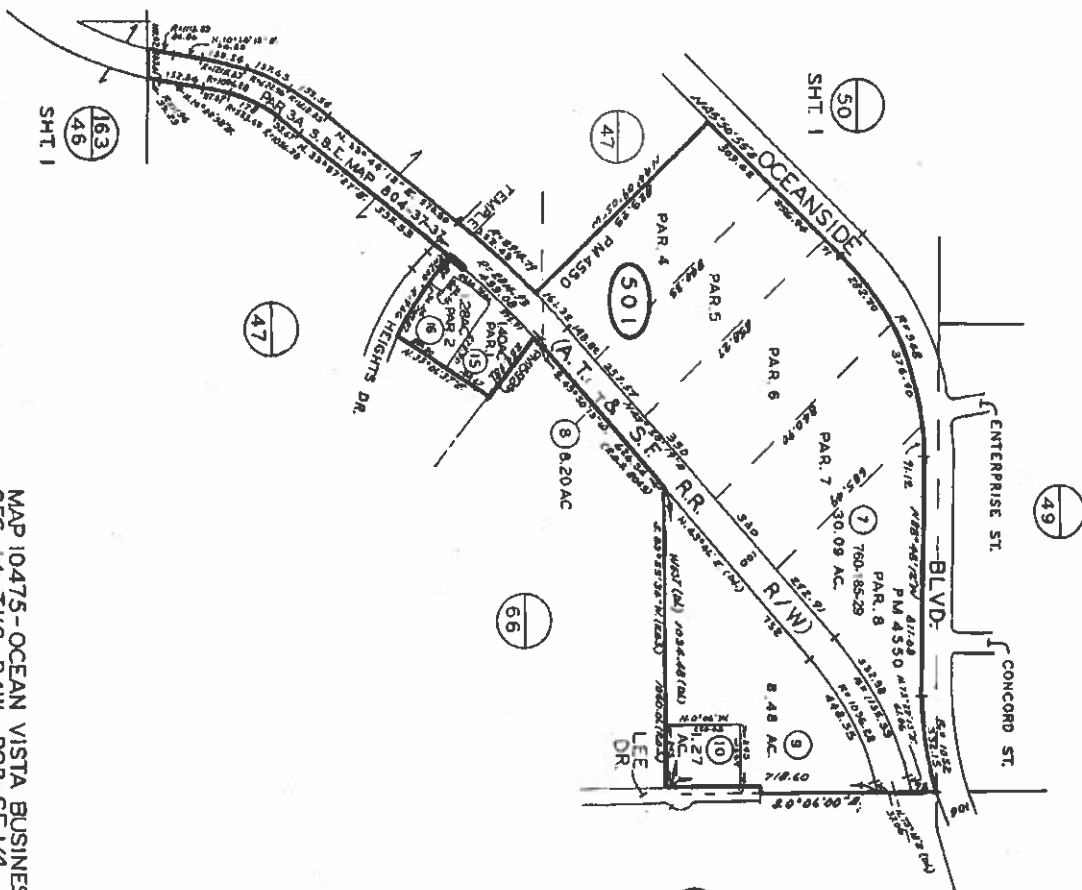


Exhibit B

EXHIBIT B ASSESSOR'S PARCEL MAP

SAN DIEGO COUNTY
ASSESSOR'S MAP
BOOK 161 PAGE 50 SHT 2 OF 2

THIS MAP WAS PREPARED FOR ASSESSMENT PURPOSES ONLY. NO LIABILITY IS
ASSUMED FOR THE ACCURACY OF THE DATA SHOWN. ASSESSOR'S PARCELS
MAY NOT COMPLY WITH LOCAL SUBDIVISION OR BUILDING ORDINANCES.



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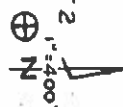


Exhibit C

EXHIBIT C

SITE MAP



Exhibit D

***A*dvantage *E*nvironmental *C*onsultants, LLC**

POST-CLOSURE MONITORING AND MAINTENANCE PLAN

Vista Burn Site - French Field
Oceanside, California

AEC Project No. 10-080SD
July 20, 2012

Presented to:

San Diego Solid Waste Local Enforcement Agency
5500 Overland Avenue, Suite 170
San Diego, California 92123

and

California Department of Toxic Substances Control
5796 Corporate Avenue
Cypress, California 90630

On Behalf Of:

City of Oceanside
300 North Coast Highway
Oceanside, California 92054

Prepared by:

Advantage Environmental Consultants, LLC
145 Vallecitos De Oro, Suite 201
San Marcos, California 92069
Phone (760) 744-3363 • FAX (760) 744-3383



Post-Closure Monitoring and Maintenance Plan

Vista Burn Site - French Field
Oceanside, California

Advantage Environmental Consultants, LLC has prepared this Post-Closure Monitoring and Maintenance Plan for the above referenced property on behalf of the City of Oceanside. This plan was completed in accordance with the standards of care exercised by environmental professionals in the industry and under the technical direction of the undersigned.

A handwritten signature in cursive script, reading "Dan Weis".

Dan Weis, R.E.H.S., REA
Branch Manager
Western Regional Office

7/20/2012

Date

A handwritten signature in cursive script, reading "Eric M. Cathcart".

Eric M. Cathcart, MS, PG, REA
Senior Geologist
California PG# 7548

7/20/2012

Date

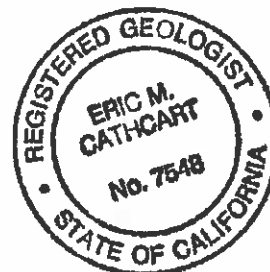


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1.0 INTRODUCTION

1.1 Introduction

This Post-Closure Monitoring and Maintenance Plan (PCMMP) has been prepared by Advantage Environmental Consultants, LLC (AEC) on behalf of the City of Oceanside for the former Vista Burn Site (aka French Field) located in the City of Oceanside, California ("Site"). A Vicinity Map depicting the general location of the Site is included as Figure 1. The site has also been historically known as the Vista Dump and Vista I Burnsite. AEC recently conducted oversight of the implementation of the Final Removal Action Workplan (RAW) for the project dated January 19, 2011 and approved by the California Environmental Protection Agency, Department of Toxic Substances Control (DTSC) on January 26, 2011. The RAW identified multiple alternatives that were evaluated to remediate areas where burn ash and dump debris were previously identified in surface and subsurface soil at the Site. Of the multiple remedial alternatives evaluated in the RAW, a consolidation and capping remedial alternative was selected to include consolidating burn ash and dump debris within the footprint of the burn site and capping it with a minimum one foot cap of clean soil. Construction activities included the import and placement of 57,329.45 tons (33,525.99 cubic yards) of clean fill to the Site. The review of this document is being conducted by the DTSC under a Voluntary Cleanup Agreement (VCA) dated October 5, 2005. In addition, the County of San Diego Department of Environmental Health (DEH) Solid Waste Local Enforcement Agency (LEA), the lead regulatory agency who will regulate the subject Site in the future under the authority of the Public Resources Code (PRC), Titles 14 and 27 of the California Code of Regulations (CCR) and San Diego County Code, will also review this plan. Under this authority, the LEA will inspect and enforce post closure maintenance at the Site.

This PCMMP addresses long-term monitoring and maintenance of the Site after completion of the consolidation and capping work that was completed in accordance with the RAW for the project. This PCMMP is also required as a condition for the DTSC to certify closure of the Site. In addition, this plan is also required by the LEA as a condition of that agency commencing oversight of the closed landfill.

1.2 Plan Objectives

The purpose of this PCMMP is to fulfill the requirements of Title 27 of the California Code of Regulations (27 CCR) set forth for inactive disposal sites. Plan objectives are as follows:

- Identify regulatory requirements and appropriate measures necessary to meet compliance standards;
- Provide a plan for post-closure monitoring, inspections and maintenance at the Site and describe additional corrective actions that may be necessary to maintain performance criteria and identify who will be responsible to perform these actions; and
- Assist the overseeing regulatory agencies in evaluating whether or not specified post-closure monitoring and maintenance activities are being conducted in accordance with the PCMMP.

1.3 Regulatory Oversight

In April 2005, GeoSyntec Consultants of San Diego, California prepared a Solid Waste Water Quality Assessment Test Report pertaining to the Site to the San Diego Regional Water Quality

Control Board (SD-RWQCB) in compliance with SD-RWQCB Order R9-2002-0166. The assessment was completed on behalf of the County of San Diego who formerly operated the burn dump operation at the Site. The SD-RWQCB did not indicate that further investigation of groundwater at the Site was necessary. Shortly after the Solid Waste Water Quality Assessment Test Report was completed, the DTSC assumed primary jurisdiction of the Site and served as the overseeing agency for additional assessment completed at the Site as well as the implementation of the RAW. In 2005, the City of Oceanside entered into a voluntary cleanup agreement with DTSC for such purposes.

For future long-term operations and maintenance, the County of San Diego DEH Solid Waste LEA will regulate the subject Site under the authority of the PRC, CCR Titles 14 and 27 and San Diego County Code. Under this authority, the LEA will inspect and enforce post closure maintenance at the Site and will base its oversight in part on compliance with this PCMMP. The California Department of Resources Recycling and Recovery (CalRecycle) Closure and Technical Services Section is responsible for ensuring that the LEA is following proper inspection and enforcement procedures during the future operations and maintenance of the Site.

In addition, a Land Use Covenant (LUC) in the form of a Deed Restriction is being concurrently drafted by the DTSC to be executed by the City of Oceanside. The Deed Restriction includes provisions to restrict excavation of soils without prior notification to DTSC, restrict installation of production wells for drinking or irrigation waters and prevent redevelopment or significant maintenance of the engineered cap without DTSC's prior knowledge and approval. As part of the LEA's future oversight of long-term operations of maintenance of the engineered cap, inspection reports and other documents drafted by the LEA will also be transmitted by this agency to the DTSC for its files.

2.0 SITE IDENTIFICATION, HISTORY AND BACKGROUND

2.1 Site Location/Legal Description

The Site consists of two legal parcels totaling 9.75 acres. The parcels currently have no recorded physical addresses and are identified by County of San Diego Assessor's Parcel Numbers 161-501-09-00 (8.48 acres) and 161-061-10-00 (1.27 acres). The Site was formerly associated with a physical address of 1300 Lee Drive. The main entrance to the Site (southeast corner) is situated approximately 300 feet northwest of the intersection of Lee Drive and North Avenue.

2.2 Site Owner

The Site is currently owned by the City of Oceanside. The designated contact for the Site owner is Mr. Hans Kiel Koger, Public Works Division Manager of the City of Oceanside. Mr. Koger's contact information is as follows:

Hans Kiel Koger
Public Works Division Manager
City of Oceanside
300 North Coast Highway
Oceanside, California 92054
Ph (Office): 760.435.5089
Ph (Cell): 760.535.0062
Email: HKKoger@ci.oceanside.ca.us

2.3 Topography/Geology/Hydrogeology

Pre-grading/capping elevations at the Site ranged from approximately 350 feet above mean sea level in the Loma Alta Creek channel to approximately 405 feet above mean sea level in the southeastern portion of the Site. The Site is situated within Section 14, Township 11S, Range 4W, San Bernardino Base and Meridian on a gently northwest-sloping plan, adjacent to the Loma Alta Creek drainage. Published geologic maps for the area indicate that the artificial fill material and burn ash at the Site are underlain by Tertiary-age sediments known as the Santiago Formation. This formation is generally described as light colored, interbedded, varicolored fine sandstone, siltstone and mudstone. The Site is situated within the Loma Alta Hydrologic Area (HA) of the Carlsbad Hydrologic Unit. Groundwater within the Loma Alta HA has existing beneficial groundwater uses for industrial service supply, and has been excepted from municipal and domestic supply purposes. Surface water in Loma Alta Creek has several beneficial use designations.

2.4 Current and Future Land Use

At the time of the drafting of this plan, the Site is a capped landfill that has been graded in a configuration that is anticipated to facilitate the construction of an athletic complex to consist of three ball fields, parking, landscaping and several auxiliary structures. Construction of the athletic facility has not commenced at the time of this plan. Use of the Site is currently governed by a 1993 Property Use Agreement between the City of Oceanside and the City of Vista, which designates Vista American Little League (VALL) as a user of the Site. As such, there is no date determined at this time as to when VALL will be occupying the Site.

2.5 Site History and Background

The County of San Diego operated a burn dump on the Site from approximately 1944 to 1967 that accepted municipal and residential refuse. County of San Diego waste disposal operations ceased in early 1967 as a result of complaints from residents about smoke and ash from burning the waste. The Vista Burn Site was closed shortly after the county ceased waste disposal operations. In 1974, the Vista Burn Site was utilized by the Vista Bobby Sox League, which added more cover material and constructed baseball fields on the Site. The construction of the ball fields required a substantial amount of fill material and grading. The subject Site is currently owned by the City of Oceanside and was most recently used by VALL pursuant to a Property Use Agreement between the City of Oceanside and the City of Vista. Following the discovery of burn ash/landfill materials during the installation of new light poles at the Site, the baseball fields were closed in 2005 for the purpose of investigating potential health risks to the public and the environment resulting from the former landfill/burn dump operation.

Based on the results of prior environmental assessments conducted under DTSC oversight, the Site was found to consist of approximately 155,000 cubic yards of fill material of which approximately 45,000 cubic yards was characterized as burn ash. Burn ash commonly contains chemicals that are known to cause risks to human health and the environment. It was recommended in a Preliminary Environmental Assessment (PEA) completed at the Site that containment through consolidation, capping and institutional controls to reduce the risks posed to human and ecological receptors should be conducted and it was concluded that the contaminants of potential concern at the Site would pose a negligible threat to human health and the environment after the remedy was implemented.

The Final RAW for the Site was prepared by AEC on behalf of the City of Oceanside. The RAW was prepared in general accordance with California Health and Safety Code Sections 25323.1 and 25356.1 and the California Environmental Protection Agency, DTSC September 23, 1998, guidance memorandum on removal action workplans. The RAW was prepared to provide the basis for an evaluation and selection of removal alternatives that would be implemented at the Site to reduce the potential for human exposure and health risk related to burn ash and dump debris. Removal action alternatives were individually evaluated based on overall protection of human health and the environment, short-term and long-term effectiveness, reduction of toxicity, mobility or volume, implementability, regulatory and community acceptance and cost. The three removal action alternatives evaluated included:

- No Action;
- Consolidation, Capping and Institutional Controls; and
- Excavation and Off-Site Disposal.

The no action alternative was considered for baseline comparison to the other alternatives. The consolidation and capping alternative considered consolidating burn ash and dump debris within the footprint of the burn site and capping it with a minimum of one foot of clean soil. Since the burn ash and dump debris would remain on the Site, land use controls would be required to minimize the potential for disturbance of and exposure to the underlying burn ash and dump debris. The excavation alternative involved excavation of soil that contains burn ash and dump, off-site disposal and backfilling with clean soil to an acceptable grade. Based on the results of the PEA investigation and the evaluation of removal alternatives, the preferred remedy was identified as consolidation and capping.

The implementation of the RAW is described in detail in AEC's Closure Report for the project which has been provided to the DTSC and LEA for its files. Prior to the remedial capping work conducted by the selected contractor for the project, AEC conducted several pre-construction activities that were required to effectively complete the capping work. Such studies/activities included a biological constraints analysis, nesting/breeding bird survey, groundwater monitoring well sampling, destruction of select groundwater monitoring wells, import fill soil selection and evaluation and preparation of a worker health and safety plan.

AEC's field monitoring during displacement of existing landfill soils and import of clean fill material commenced on May 23, 2011 and ended on August 3, 2011. AEC also completed several brief visits to the Site during the pre-grading weed abatement and tree removal activities. The length of time AEC staff spent on-site during the monitoring activities was based on professional judgment and also depended on the planned contractor activities for the days in question.

Initial displacement of soil at the Site primarily consisted of the over-excavation of future capped areas to be excavated during construction of future improvements. Such areas included future light pole foundations, spread footings and slab areas for structures, trenches for utilities (i.e. sewer lines, storm drain lines, etc.) and other miscellaneous future improvements. Spoils of in-place soils (i.e. landfill materials) and oversized material (i.e. concrete rubble) were temporarily stockpiled adjacent to the excavated areas and then spread in thin lifts and select areas throughout other portions of the Site that required fill material. The majority of the soil observed during the over-excavation work consisted of what appeared to be non-impacted soil and also debris-laden fill material. Limited areas of burn ash were observed during this portion of the project. The over-excavated areas were dug as deep as required so that existing landfill materials would not be disturbed or exposed during the future construction of structures at the Site (i.e. Phase 2 improvements). The limit of the underlying waste materials was the entire Site area. The Soil Cap Certification Map for the project is included as Appendix A which shows the surface elevations of the waste material after over-excavation spoils were spread, the surface elevations of the finished cap and the depth of cover at grid points over the entire Site. In all cases, a one foot minimum cap depth is exceeded.

Following the completion of over-excavation activities and spreading of existing soils to other portions of the Site requiring fill material, the import of clean soil to the Site commenced and was placed in temporary stockpiles adjacent to each area that was previously over-excavated. The clean-import soil was then placed in lifts within the excavated areas and compacted to requirements as required by the geotechnical consultant for the project. Upon completion of backfill of over-excavated areas with clean fill material, the mass hauling and grading of the clean fill material commenced in such areas. A total of 57,329.45 tons of clean import soil was delivered to the Site during the completion of the capping work. This tonnage corresponded to an estimated 33,525.99 cubic yards of soil. Soil was imported to the Site between May 25, 2011 and August 4, 2011.

Upon the placement of at least 14-inches of clean-import soil in the three future ball field areas, numerous 1-inch diameter and 12-inch long schedule 40 PVC pipes were installed in the future in-field areas (where the most wear and/or erosion is expected) of the fields and in select outfield areas. The installation of the PVC markers was observed by AEC staff and the locations of such markers are included on the approved grading plan for the project. Sheet 12 of 13 of the approved grading plan for the project which shows the locations of the PVC depth markers is included in Appendix A of this PCMP. The purpose of the pipes is to serve as a marker to show where the minimum one foot cap extends. The pipes are orange in color and

were anchored at the base of the cap so that they can be easily seen and not easily removed (if exposed in the future). If wear were to occur to within 12 inches of the base of the capped landfill materials, the top of the pipe(s) would become exposed and would indicate when additional clean fill material would need to be added. These markers will also aid in determining whether additional clean fill will be needed to prevent persons using the ball fields from coming in direct contact with capped landfill soils. In addition, future changes in land use (if applicable) could disturb and penetrate the cap, resulting in the potential for exposure. The installation of the PVC markers included hand or mechanical excavation of small boreholes to the bottom of the clean import soil and top of the former landfill materials. Following placement of the markers in the appropriate locations, the boreholes were backfilled and continued capping/grading of clean fill material commenced in areas where additional fill soils were required. Continuous dust monitoring was conducted during the capping/grading operations. During such monitoring activities, AEC did not note conditions that represented a concern to worker and/or public safety. In addition, there were no known public or worker complaints during the course of this phase of work for the project.

Based on AEC's observations and air monitoring completed during the grading and capping activities, it was stated in the Closure Report that it was AEC's opinion that the RAW was adequately implemented and that no significant deviations that would alter the requirements under the RAW occurred during the completion of the work. As such, the construction work completed during the capping of the landfill did not result in hazardous conditions to on-site workers or the surrounding public. In addition, with the successful implementation of the selected remedy for the Site, the Site and its associated in-situ landfill materials do not pose a threat to human health (including users of the future ball fields) and the environment. The former landfill has been capped with a minimum of 12-inches of clean, import soil and most areas, is capped with fill of greater thickness as required for proper drainage of the Site. As such, AEC, on behalf of the City of Oceanside, requested DTSC's concurrence that the RAW for the Site was properly implemented. DTSC has concurred with AEC's opinions as stated in the Closure Report.

3.0 RESPONSIBLE PARTIES

3.1 Current Property Owner and Responsible Party

As stated previously, the Site is currently owned by the City of Oceanside. The County of San Diego (former operator of the burn dump) is considered to be the responsible party. However, per an agreement between the City of Oceanside and the County of San Diego, the City of Oceanside has assumed responsibility for the long-term monitoring and maintenance of the Site. The contact information for the City of Oceanside representative responsible for management of the closed disposal site is as follows:

Hans Kiel Koger
Public Works Division Manager
City of Oceanside
300 North Coast Highway
Oceanside, California 92054
Ph (Office): 760.435.5089
Ph (Cell): 760.535.0062
Email: HKKoger@ci.oceanside.ca.us

3.2 Change of Ownership Notification Requirements

In the event that title to the Site is to be transferred to another party, the City of Oceanside will be responsible for providing written disclosure to the applicable party that there is a closed disposal site on the property and that any party assuming title will be responsible for future post-closure operations, maintenance and regulatory compliance unless otherwise noted by the City. In addition, the City of Oceanside will require that the subsequent owner make and require this same disclosure to and for all potential future successors, to explicitly inform them of the existence of this PCMMP and the related LUC that will be recorded against the Site. As stated previously, the LUC in the form of a Deed Restriction is being drafted by the DTSC to be executed by both the DTSC and the City of Oceanside. The Deed Restriction includes provisions to restrict excavation of soils without prior notification to DTSC, restrict installation of production wells for drinking or irrigation waters and prevent any redevelopment or significant maintenance of the cap without DTSC's prior knowledge and approval. In addition, Title 27 CCR Section 21630 (Change of Owner, Operator, and/or Address) requires that the City notify in writing both the LEA and CalRecycle 45 days prior to an anticipated transfer of title. This notification must include the name, address and phone number of the new owner/operator.

4.0 ENVIRONMENTAL MONITORING

As referenced in Title 27 CCR requirements, ongoing monitoring is required for cap maintenance and may be required at a given property for groundwater, stormwater and landfill gases.

4.1 Groundwater Monitoring

Four groundwater monitoring wells (MW-1 through MW-4) were installed at the Site during the completion of the Solid Waste Water Quality Assessment Test Report by Geosyntec and five additional wells (MW-5 through MW-9) were installed during additional assessment at the Site under DTSC oversight. A site plan with the well locations is included as Figure 2. The DTSC indicated that groundwater monitoring wells MW-2, MW-5, MW-6, MW-8 and MW-9 should remain in-tact for use during post remediation groundwater monitoring activities and that groundwater monitoring wells MW-1, MW-3, MW-4 and MW-7 could be abandoned prior to initiation of the remedial activities. Of the five wells remaining in-tact, three are situated within the limits of the parcels that comprise the subject Site (MW-2, MW-6 and MW-8). Wells MW-5 and MW-9 are situated off-site to the east beyond the Lee's Recycling facility (MW-5) and on a southern adjacent commercial property within its parking lot (MW-9). Prior to the abandonment of the four wells specific above, all wells in the nine well array were gauged and sampled.

Analytical results from the 2010 sampling event were compared to 2007 groundwater sampling results obtained during prior environmental assessment conducted under DTSC oversight. Based on a comparison between the two analytical data sets, AEC concluded that the December 2010 sampling event results were comparable to the 2007 event. In addition, the overall magnitude and number of analytes detected were similar with less analytes detected above the laboratory reporting limits in the 2010 results. The only exceedence of a maximum contaminant level (MCL) for metals or VOCs was for the metal barium found in off-site well MW-9. No metals concentrations exceeding MCLs were found in any other well. Various VOCs were detected in one on-site groundwater monitoring well (MW-4) at concentrations below MCLs. VOCs were not detected at or above laboratory reporting limits in any other groundwater sample. As such, groundwater conditions beneath the Site were not considered by AEC to be adversely impacted by the former use of the Site as a landfill/burn dump or other historical use.

AEC will make a request to the SD-RWQCB that during the first groundwater monitoring event associated with post-closure requirements, remaining monitoring wells MW-5, MW-6, MW-8 and MW-9 should be sampled. Monitoring well MW-2 was damaged during grading activities, resulting in a decrease of its length by approximately four vertical feet. However, upon further review of well construction details pertaining to MW-2 as included in the Geosyntec Solid Waste Water Quality Assessment Test Report, this well is not considered useful for decision making purposes related to groundwater quality beneath the Site as it was constructed as an occluded well (i.e. the static groundwater table is well above the screened interval of the monitoring). As such, AEC will request that this well be removed from future sampling activities and remain in place until it is destroyed. If groundwater conditions remain consistent with those seen during the sampling event conducted during the implementation of the RAW, AEC will also request that groundwater monitoring wells MW-2, MW-5 and MW-9 be properly destroyed under permit with the County of San Diego DEH and the two most down-gradient wells at the Site (MW-6 and MW-8) remain for future use. All recommendations and requests pertaining to groundwater monitoring and evaluation will be presented to the SD-RWQCB for its review and comment.

4.2 Stormwater Monitoring

Post construction stormwater requirements for the Site include maintaining the stormwater retention areas and storm drain facilities constructed at the Site to ensure that they are functioning properly. In addition, once construction of the proposed athletic complex is complete, City of Oceanside Standard Urban Stormwater Mitigation Plan (SUSMP) requirements will prevail and require that permanent best management practices (BMPs), which include bioretention facilities, remain in place and are maintained in perpetuity at the Site. General recommendations for the ongoing maintenance requirements for the bioretention areas as prepared by The California Stormwater Quality Association (Specification TC-32) is included as Appendix B of this PCMMP. The use of bioretention facilities is supported by measured depths to groundwater beneath the Site. In addition, the Site bioretention facilities were designed as a part of the grading plan for the Site and required minimum one foot cap requirement for the Site. The one foot minimum soil cap depth is exceeded over the entire Site, including the bioretention areas.

In addition, catch basins and outfalls will be inspected after significant rain events (one-quarter inch or greater) to ensure that inlet grates and headwalls are clear and unobstructed and to ensure that no significant buildup of sediment or debris that may affect the functionality of the system has occurred. The Ordinance Enforcement Supervisor of the City of Oceanside Department of Public Works will be responsible for ensuring that the maintenance of the bioretention facilities and inspection of catch basin and outfalls is properly conducted. Sheet 3 of 13 of the approved grading plan for the project which shows the locations of catch basins and outfalls at the Site is included in Appendix A of this PCMMP.

4.3 Landfill Gas Monitoring

Based on the results of prior assessment work completed under DTSC oversight, methane gas is not present at the Site at concentrations that require ongoing landfill gas monitoring. Therefore, no ongoing landfill gas monitoring program and no landfill gas mitigation system are considered to be warranted.

5.0 SITE MONITORING AND MAINTENANCE

The sections below identify post-closure maintenance requirements as required by Title 27 CCR and the measures that will be employed to comply with such requirements. In addition to the routine inspections conducted by the County LEA for regulatory compliance, the City of Oceanside will be performing at least quarterly self-audits to assess Site maintenance and any needs for corrective action. Annual audit reports will be submitted to the LEA on February 1 of each year. Such annual reports will also be submitted concurrently to the DTSC for fulfillment of the annual inspection requirement under the LUC. These reports will describe the results of the quarterly inspections, including the condition of paving, the engineered cap and other improvements, any problems noted or repairs or maintenance performed special occurrences and the timelines for completion of ongoing repairs. Inspections similar to those to be conducted by the City of Oceanside will also be conducted by VALL. Such inspections are anticipated to be conducted more frequently than quarterly and will likely occur before each day of sporting activity conducted at the Site concurrently with the striping of fields and general field maintenance. The Ordinance Enforcement Supervisor of the City of Oceanside Department of Public Works will be responsible for ensuring that adequate inspections are conducted at the Site and will also be responsible for submitting the annual audit report to the LEA.

5.1 Site Security – 27 CCR Section 20530

Prior to the construction of the proposed athletic facility, unauthorized access by persons and vehicles will be prevented by the current perimeter fencing system. Restricted access signs will also be posted along the Site boundary and will be constructed of a durable material, such as metal or plastic, and will be written in both English and Spanish. The signs will read "No Trespassing" and/or other appropriate content. The signage will also provide the telephone number of the Ordinance Enforcement Supervisor of the City of Oceanside Department of Public Works for emergency notification. All barriers and gates will be routinely inspected for structural damage, weathering, vandalism and missing or damaged warning signage. In the event that unauthorized access is identified during Site inspections, the Ordinance Enforcement Supervisor of the City of Oceanside Department of Public Works will be immediately notified and proper action will be taken accordingly.

5.2 Grading of Fill Areas – 27 CCR Section 20650

The Site has been mass graded to promote lateral runoff of precipitation and to prevent ponding. The overall condition of the grading will be visually inspected on a quarterly basis (including one inspection before the rainy season) and after significant rainfall events. If differential settlement is noted, such as ponding or low spots, then repair will be performed as necessary and maintenance will begin at the earliest time feasible. The Ordinance Enforcement Supervisor of the City of Oceanside Department of Public Works will be responsible for ensuring that all proper inspections are conducted.

5.3 Site Maintenance – 27 CCR Section 20750

The preventative maintenance program for the Site will be in place to allow for the prompt repair and/or correction of conditions with respect to requirements established by the LEA. Any preventative maintenance needs will be identified through a quarterly inspection of the engineered cap, parking lot and surrounding areas within the Site limits. When the ball fields are constructed at the Site, they will be inspected as part of the engineered cap. Visual inspections will be conducted to identify evidence of differential settlement and erosion of the engineered cap/ballfields. Further inspections will include an examination of asphalt cover,

catch basins, surface drainage, vegetative cover, monitoring wells and security features. The Ordinance Enforcement Supervisor of the City of Oceanside Department of Public Works will be responsible for ensuring that all proper inspections are conducted.

5.3.1 Maintenance of Asphalt Paving

Visual inspections of asphalt paving shall be focused on evidence of the following:

- Differential settlement, such as ponding or sagging of pavement; and
- Cracking of pavement and/or other signs of deterioration.

If damaged or failing pavement that might result in water infiltration to the subsurface is noted, repairs will be made as follows:

- An asphalt overlay may be required to maintain proper surface drainage. When necessary, import of additional soil may be used to raise the damaged area to the appropriate sub-grade and a fabric interlay may be coupled with the asphalt pavement to increase the strength of the paving section and avoid future sagging.
- An asphalt-based seal coat shall be used to seal minor cracking of the pavement. Areas with excessive cracking may be saw-cut and the pavement section replaced.
- An asphalt-based seal coat may also be used in areas in which the pavement has deteriorated and surface aggregate has loosened.

The Ordinance Enforcement Supervisor of the City of Oceanside Department of Public Works will be responsible for ensuring that all proper inspections are conducted and repairs are made as required.

5.3.2 Maintenance of Unpaved Areas

Visual inspection of grounds will be conducted to locate evidence of differential settlement. In addition, inspections will include evaluations for the presence of exposed PVC indicator markers that were placed in future anticipated ball field areas during grading. Repair of differential settlement and ponding conditions in unpaved areas shall be conducted by importing and compacting soil in such areas. Visual inspection will also include locating evidence of damage caused by animals (burrows, holes, damaged vegetation etc.). If damage caused by animals is noted, appropriate vector control measures will be taken. The Ordinance Enforcement Supervisor of the City of Oceanside Department of Public Works will be responsible for ensuring that all proper inspections are conducted and repairs are made as required.

As stated previously, the City of Oceanside will be performing at least quarterly self-audits to assess Site maintenance and any needs for corrective action. Annual audit reports will also be submitted to the LEA on February 1 of each year and concurrently to the DTSC for fulfillment of the annual inspection requirement under the LUC. Inspection reports will report on general Site conditions, conditions of the paved and unpaved portions of the cap and whether or not maintenance has been needed and completed. In the event that repairs to the paved and/or unpaved portions of cap are required, the City of Oceanside will notify the LEA and the DTSC that such activities will be occurring. Repairs will then be conducted to the satisfaction of the regulatory agencies. Similar to the capping material used during the implementation of the

selected remedy, any clean fill delivered to the Site for repair related purposes (due to erosion or other reasons) will meet requirements of the DTSC Clean Fill Advisory.

A five year review of the remedy will also be completed by the City of Oceanside as part of satisfying requirements of the LUC and will be submitted to the DTSC and the LEA. The five year report will include copies of all inspection reports, groundwater sampling results, descriptions of any repairs that are required during the term and other pertinent information.

5.3.3 Maintenance of Storm Drainage and Erosion Control

Post construction stormwater requirements for the Site include maintaining the stormwater retention areas and storm drain facilities constructed at the Site to ensure that they are functioning properly. In addition, once construction of the proposed athletic complex is complete, City of Oceanside SUSMP requirements will prevail and require that permanent BMPs, which include bioretention facilities, remain in place and are maintained in perpetuity at the Site. In addition, catch basins and outfalls will be inspected after significant rain events to ensure that inlet grates and headwalls are clear and unobstructed and to ensure that no significant buildup of sediment or debris that may affect the functionality of the system has occurred. The parking lot surfaces will also be inspected for evidence of accumulated trash, debris and sediment. These areas will be swept and cleaned on a routine basis. To repair any erosion damage, impacted areas will be repaired/re-graded and BMPs will be implemented as needed. Vegetative slope cover will also be visually inspected for erosion control and slope protection purposes. Slopes, eroded surfaces and areas of dead vegetation will be repaired by replanting and reseeding as required with appropriate plant species. Sheet 3 of 13 of the approved grading plan for the project which shows the locations of stormwater retention areas and storm drain facilities at the Site is included in Appendix A of this PCMMP. The Ordinance Enforcement Supervisor of the City of Oceanside Department of Public Works will be responsible for ensuring that all proper inspections are conducted and repairs are made as required.

5.3.4 Maintenance of Landscaping

For the purposes of this PCMMP, landscaping is assumed to be any plants and/or turf that will be installed at the Site for the construction of the proposed ball fields. To the extent feasible, landscaping will include the use of shallow rooting, drought tolerant plants and grasses. Irrigation systems will be monitored and controlled by trained staff. The irrigation systems will be inspected while in operation, and components of the irrigation system will be inspected, adjusted and repaired as needed. The Ordinance Enforcement Supervisor of the City of Oceanside Department of Public Works will be responsible for ensuring that all proper inspections are conducted and repairs are made as required.

5.4 Leachate Control – 27 CCR Section 20790

Leachate has not been reported or observed at the Site. In the unlikely event that evidence of leachate is discovered at the surface, the incident will be addressed using procedures found in the Waste Releases section of the Emergency Response Plan (Section 6.6.5).

5.5 Drainage and Erosion Control – 27 CCR Section 20820

The drainage system at the Site has been designed and maintained to:

- Ensure integrity of structures and other improvements;
- Prevent safety hazards; and
- Prevent exposure of waste.

The drainage system has also been designed to prevent run-on and runoff from adversely affecting the integrity of the engineered cap. The inspection and maintenance of drainage and erosion control features will follow City of Oceanside storm water requirements and provisions described in Section 5.3 above which will be conducted before the rainy season and after significant rainfall events.

5.6 Litter Control – 27 CCR Section 20830

Any litter shall be controlled, routinely collected and disposed of properly. Controls shall prevent the accumulation, or off-site migration, of litter in quantities that create a nuisance or cause other problems. Visual inspections will be conducted on a regular basis for the presence of accumulated trash and debris. The parking lots and other public areas will be swept and/or cleared of trash and debris and trash receptacles will be provided in these areas. The Ordinance Enforcement Supervisor of the City of Oceanside Department of Public Works will be responsible for ensuring that all proper inspections and mitigative measures are conducted.

5.7 Gas Control – 27 CCR Section 20919

As stated previously, based on the results of prior assessment work completed under DTSC oversight, methane gas is not present at the Site at concentrations that require ongoing landfill gas monitoring. Therefore, no ongoing landfill gas monitoring program and no landfill gas mitigation system are considered to be warranted.

5.8 Post Closure Land Use – 27 CCR Section 21190(c))

27 CCR Section 21190(c)) states the following:

All proposed postclosure land uses, other than non-irrigated open space, on sites implementing closure or on closed sites shall be submitted to the EA, RWQCB, local air district and local land use agency. The EA shall review and approve proposed postclosure land uses if the project involves structures within 1,000 feet of the disposal area, structures on top of waste, modification of the low permeability layer or irrigation over waste.

As stated previously, at the time of the drafting of this plan, the Site is a capped landfill that has been graded in a configuration that is anticipated to facilitate the construction of an athletic complex to consist of three ball fields, parking, landscaping and several auxiliary structures. Construction of the athletic facility has not commenced at the time of this plan. As such, there is no date determined at this time as to when VALL will be occupying the Site. However, prior to VALL occupying the Site, any additional regulatory notifications of such a use in addition to the LEA and the DTSC will be made by the City of Oceanside. No further development or improvements of any kind will be allowed on the Site without prior approval of the LEA and the DTSC. Further details regarding Site restrictions are included in the LUC for the Site.

6.0 EMERGENCY RESPONSE PLAN

The purpose of the Emergency Response Plan (ERP) is to outline procedures to be implemented in the event an emergency action is required during post-closure operations and maintenance activities. The ERP identifies those occurrences that may cause disruption of the engineered cap and represent a potential risk to public health and safety and the environment.

The primary elements of the ERP are as follows:

- Chain of command and notification procedures for emergency responses;
- Procedures and practices to follow during emergency response actions; and
- Reporting requirements for the emergency response actions.

The PCMMP of which the ERP is a part will be made available for public viewing at City of Oceanside offices. This plan will be available for viewing at the following location:

City of Oceanside
300 North Coast Highway
Oceanside, California 92054
Attn: Hans Kiel Koger
Public Works Division Manager
Ph (Office): 760.435.5089
Ph (Cell): 760.535.0062
Email: HKKoger@ci.oceanside.ca.us

The plan will also be maintained at VALL offices when their use of the Site commences.

6.1 Regulatory Requirements

The requirements for a post-closure ERP are found in 27 CCR Section 21130, which states:

(a) The operator shall maintain a written postclosure emergency response plan at the facility or at an alternate location as approved by the enforcement agency (EA). The emergency response plan must identify occurrences that may exceed the design of the site and endanger public health or the environment. The plan shall describe specific procedures that minimize these hazards to protect public health and safety. The events that the plan shall address include, but are not limited to vandalism, fires, explosions, earthquakes, floods, the collapse or failure of artificial or natural dikes, levees or dams, surface drainage problems and other waste releases.

(b) The emergency response plan shall contain the following:

- (1) identification of events which could require the implementation of emergency response actions. This section shall not apply to the gas monitoring provisions;
- (2) a description of the actions to be taken, and the sequence and implementation timetable needed to mitigate the conditions; and
- (3) a statement regarding the general availability of equipment required to mitigate each type of emergency.

(c) The operator shall amend the emergency response plan under the following conditions:

- (1) whenever a failure or release occurs for which the plan did not provide an adequate response;
- (2) when the postclosure land use and/or structures on the site change and these changes are not addressed in the existing plan; or
- (3) if the EA notifies the operator in writing that the current emergency response plan is inadequate under the provisions of this section. The notifying agency shall include within the written notice the items the plan needs to consider for it to comply with this section. The operator shall submit an amended emergency response plan to the EA within thirty (30) days of notification of an inadequacy.

(d) Whenever the operator amends the emergency response plan pursuant to §(c)(1 or 2), the operator shall submit a written copy of the amended plan to the EA.

6.2 Regulatory Requirements Emergency Response Plan Coordinator and Responsibilities

The identification of the occurrence of an emergency and appropriate emergency response actions will be made by an individual having both the authority and training to oversee implementation of the ERP. This individual is identified as the ERP Coordinator, whose responsibilities will include the following:

- Oversee and coordinate all emergency response activities.
- Communicate with the appropriate regulatory agencies in the event of an emergency.
- Ensure required documentation is transmitted to appropriate regulatory agencies for their approval and/or records.
- Review and revise this ERP as necessary.

The Ordinance Enforcement Supervisor of the City of Oceanside Department of Public Works will be the ERP Coordinator. All inspectors, maintenance crews and other personnel who potentially may be exposed to burn ash/waste materials at the Site are subject to the provisions of this ERP and should be familiar with its requirements and provisions. In the event that former landfill materials and/or burn ash are exposed, maintenance crews who will repair the impacted area will conduct such activities under a worker health and safety plan and therefore the employer of any personnel entering the Site will be responsible for the health and safety of their own employees. All contractors must also comply with Occupational Safety and Health Administration standards.

In the event of an injury or illness requiring emergency medical care, the hospital located nearest to the Site is as follows:

Tri-City Medical Center
4002 Vista Way
Oceanside, CA 92056
Emergency Room Phone: 760-940-3505

To reach the hospital indicated above, 1) leave the Site and travel south on Lee Drive, then turn right (west) on to North Drive and travel 1.1 miles. North Drive becomes Emerald Drive. Travel south on Emerald Drive for 1.4 miles. Turn right (southwest) on to West Vista Way. Travel approximately 1.0 mile on West Vista Way. The hospital will be on your right and follow signs for Emergency Room. A route map is included as Appendix C.

6.3 Emergency Response Plan Revisions

This ERP will be amended or revised under the following circumstances:

- There is a failure or release that was not adequately addressed in the plan with an appropriate response;
- Any change in post-closure land use at the Site; and
- Any changes in maintenance, monitoring, or inspections requirements during the postclosure operations and maintenance activities.

6.4 Equipment

The ERP Coordinator will make arrangements for all equipment required for emergency repairs. Such equipment may include but not be limited to backhoes, water trucks and dozers.

6.5 Employee Training

Emergency personnel shall have completed the 40-hour safety training requirements in accordance with Title 29 of Code of Federal Regulations (CFR) Section 1910.120, Hazardous Waste Operations and Emergency Response (HAZWOPER). Daily safety briefings will be held prior to work activities and all on-site personnel shall be required to attend. Topics of discussion and attendance will also be documented.

6.6 Potential Hazards and Corrective Actions

6.6.1 Vandalism

Vandalism is considered to be the deliberate destruction or defacement of Site property including fencing, groundwater monitoring wells, landscape vegetation, ball field related improvements, drainage related structures, additional structures that may be constructed at the Site, the engineered cap and final cover. The ERP Coordinator will inspect and evaluate the damage and loss due to any vandalism that occurs. If affected areas represent a potential public health and/or safety hazard, access to such areas will be restricted using signage and structural controls and corrective action will be taken as soon as possible.

Non-critical repairs (i.e., issues that do not encroach in to the former landfill material or burn-ash or do not represent a potential public health and/or safety hazard) will be scheduled at that same time and initiated within one week. Any acts of vandalism will be reported to the City of Oceanside Police Department and the LEA.

6.6.2 Fires and Explosions

Fire or explosion may be caused by ignition of brush, Site structures and other improvements constructed at the Site. As stated previously, based on the results of prior assessment work completed under DTSC oversight, methane gas is not present at the Site at concentrations that

require ongoing landfill gas monitoring. Therefore, fire and explosion hazard due to the accumulation of landfill gas in excess of its lower explosive limit is considered to be highly unlikely. On-site personnel will not be directly involved in fire-fighting activities, but will respond as follows to such an incident:

- Any occurrence of fire or explosion will be immediately reported to the City of Oceanside Fire Department (Call 911) and to the ERP Coordinator;
- The affected area(s) will be cordoned off at least 250 feet from the incident(s);
- If appropriate, hand-operated fire extinguishers will be used by trained personnel for small grass or structural fires; and
- The ERP Coordinator will immediately notify the LEA.

Once a fire has been extinguished, an investigation will be conducted as to cause, an evaluation of damage will be assessed and appropriate corrective actions taken. A follow-up report will be issued to the LEA within one week of the incident that would document the cause of fire or explosion, corrective actions taken and future preventative maintenance measures to avoid such a situation in the future. The report will also include timelines for completion of ongoing repairs. The Ordinance Enforcement Supervisor of the City of Oceanside Department of Public Works will ensure that such investigation and evaluation will be properly conducted.

6.6.3 Earthquakes

Earthquakes can cause slope failures and damage to paving and other final cover, on-Site structures, groundwater monitoring wells, drainage structures and other Site improvements. Following a significant earthquake (5.0 or greater on the Richter scale), the Site will be assessed for damages and the LEA notified within 24 hours if damage is noted. The ERP Coordinator (Ordinance Enforcement Supervisor of the City of Oceanside Department of Public Works) will make all necessary arrangements for repairs if earthquake damage is discovered. A written report that documents the earthquake damage and recommended repairs will be submitted within five working days to the LEA. The report will also include timelines for completion of ongoing repairs.

6.6.4 Floods and Surface Drainage Issues

Flooding resulting from significant rain events has the potential for damage to the engineered cap, final cover and drainage systems. In the event of a flood event, the following actions will be taken:

- The ERP Coordinator will assess the Site for damages.
- If necessary, temporary diversion channels will be constructed to minimize water infiltration into waste disposal areas. Sandbags or other BMPs may be used in conjunction with temporary drainage channels for this purpose.
- The ERP Coordinator will evaluate whether significant damage has occurred to the engineered cap to warrant immediate repairs and if such a situation occurs, arrangements will be made for immediate corrective action.

The ERP Coordinator will notify the LEA within 24 hours if significant flood-related impacts occur. A written report that documents the flood related damage and recommended repairs will be submitted within one week to the LEA. The report will also include timelines for completion of ongoing repairs.

6.6.5 Waste Releases

If the orange PVC pipe markers within the proposed ball field areas are exposed or buried wastes are exposed or released through the disruption of engineered cap as a result of any of the hazards described above or any other unforeseen event, the following actions will be taken:

- Affected areas will be immediately cordoned off to prevent public access;
- The ERP Coordinator will assess the situation and the wastes will be properly characterized to determine whether the wastes released are a potential hazard to public health;
- All necessary measures will be taken immediately to prevent further waste releases and any required waste containment and disposal equipment will be mobilized as quickly as possible to the Site; and
- If exposed or disturbed waste requires off-Site disposal or recycling at a regulated receiving facility, such waste will be profiled as either non-hazardous or hazardous waste and handled accordingly. The City's environmental consultant will likely assist with such waste profiling activities.

The ERP Coordinator will report any exposure of PVC indicator pipes or waste releases to the LEA within 24 hours and a written report will be issued within one week that documents the release circumstances, final disposition of wastes and any recommended further preventative measures. The report will also include timelines for completion of ongoing repairs.

As stated previously in this plan, for future long-term operations and maintenance, the County of San Diego DEH Solid Waste LEA will regulate the subject Site under the authority of the PRC, CCR Titles 14 and 27 and San Diego County Code. Under this authority, the LEA will inspect and enforce post closure maintenance at the Site and will base its oversight in part on compliance with this PCMMP. The CalRecycle Closure and Technical Services Section is responsible for ensuring that the LEA is following proper inspection and enforcement procedures during the future operations and maintenance of the Site. In addition, a LUC in the form of a Deed Restriction is being concurrently drafted by the DTSC to be executed by the City of Oceanside. The Deed Restriction includes provisions to restrict excavation of soils without prior notification to DTSC, restrict installation of production wells for drinking or irrigation waters and prevent redevelopment or significant maintenance of the engineered cap without DTSC's prior knowledge and approval. As part of the LEA's future oversight of long-term operations of maintenance of the engineered cap, inspection reports and other documents drafted by the LEA will also be transmitted by this agency to the DTSC for its files.

7.0 OPERATIONS AND MAINTENANCE BUDGET

As stated previously, construction of the proposed athletic facility at the Site has not commenced at the time of this plan. As such, until the proposed future improvements are designed and constructed, an accurate estimate of future operations and maintenance related costs would be difficult to generate. Such information will be more readily available in the future when the Site is further developed. However, general estimated outside unit costs (completed by parties other than the City of Oceanside) for repairs has been provided in the interim and is included below.

Task	Estimated Outside Unit Cost
Quarterly Cap Inspections	\$0 (Assumes City Will Conduct It's Own Inspections)
Annual Cap Inspections and Reporting	\$0 (Assumes City Will Conduct It's Own Inspections)
Five-Year Review and Reporting	\$0 (Assumes City Will Conduct It's Own Inspections)
Cap Repair (Import and Compaction of Clean Soil)	\$30 Per Cubic Yard
Asphalt Repair Or Repaving	\$5 Per Square Foot
Cleaning/Maintenance of Storm Drains	\$1,000 Annually

Additional tasks and associated costs may be necessary that are not listed above. In addition, actual costs for any repair work may differ (increase or decrease) from what is presented above. Further, the City may choose to conduct its own repairs to the cap and storm drain maintenance (if warranted), which would result in \$0 estimated outside costs for these line items.

FIGURES

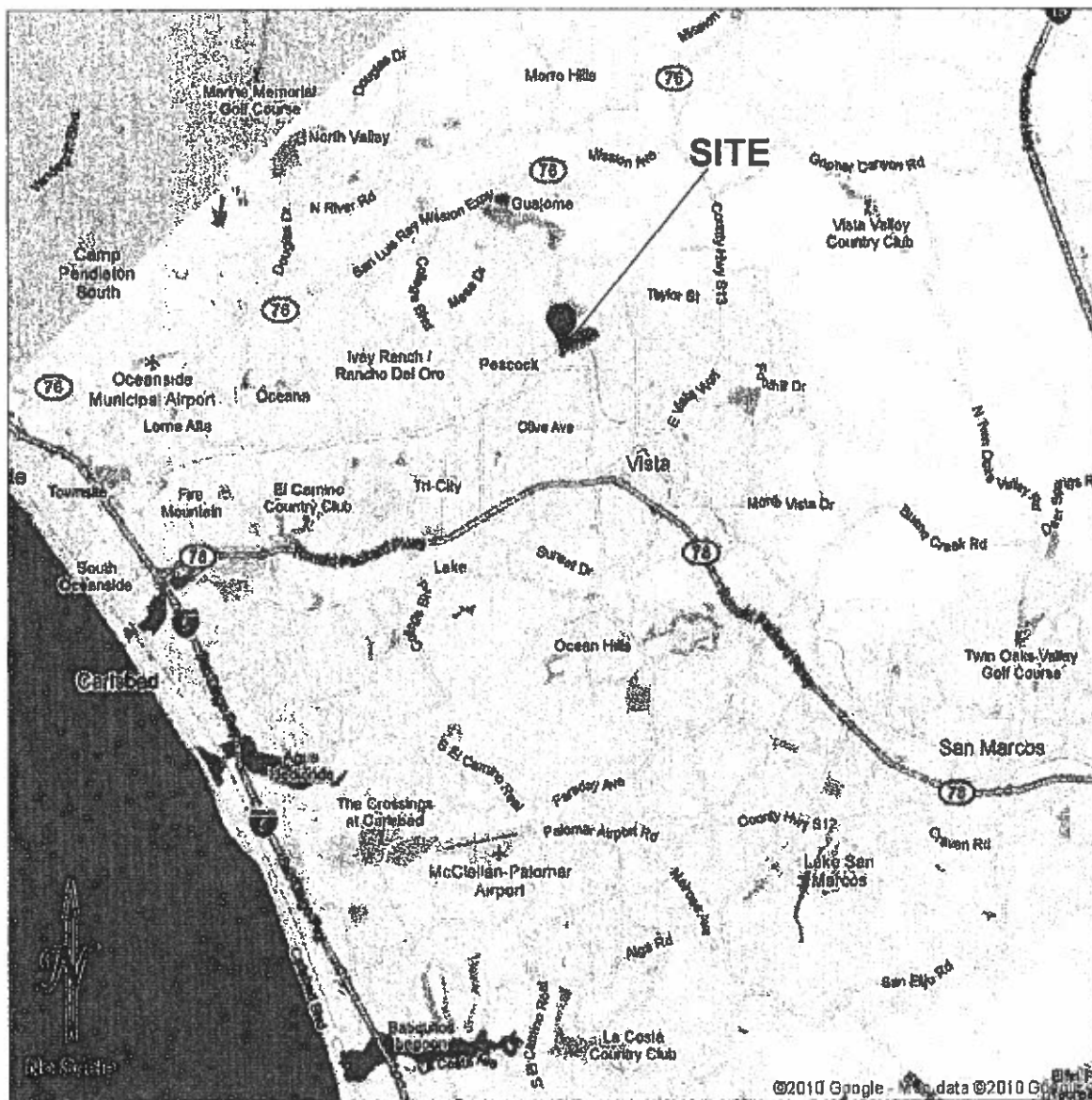


FIGURE 1

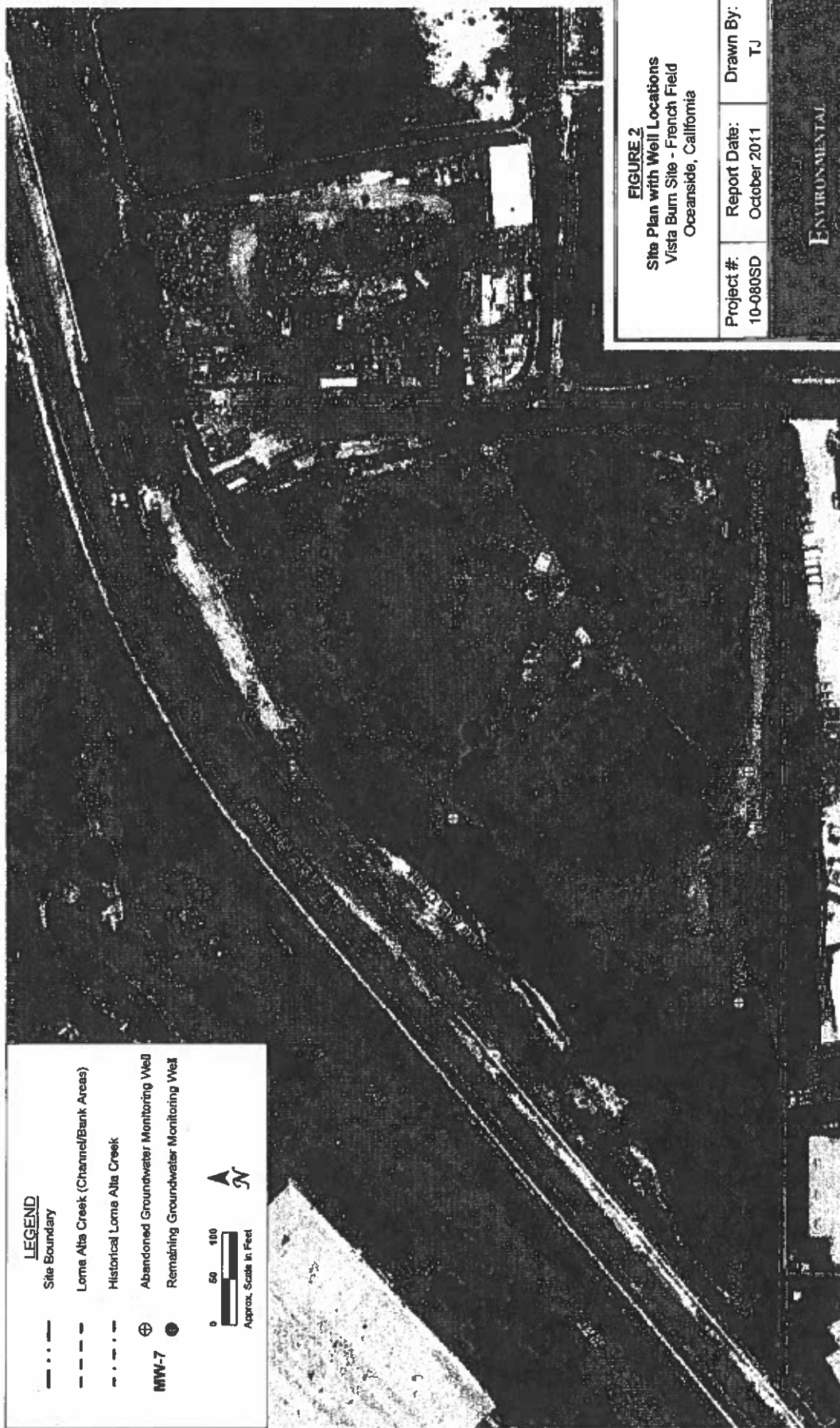
VICINITY MAP

Vista Burn Site - French Field
Oceanside, California

Work Order No.:
10-080SD

Report Date:
October 2011

Drawn By:
MJF



LEGEND

- Site Boundary
- Loma Alta Creek (Channel/Bank Areas)
- Historical Loma Alta Creek
- ⊕ MW-7 Abandoned Groundwater Monitoring Well
- MW-8 Remaining Groundwater Monitoring Well

0 50 100
Approx. Scale in Feet



FIGURE 2
Site Plan with Well Locations
Vista Burn Site - French Field
Oceanside, California

Project #:	Report Date:	Drawn By:
10-080SD	October 2011	TJ

ENVIRONMENTAL

APPENDIX A

DESIGN PLANS AND CAP CERTIFICATION

PASCO LARET SUITER

& ASSOCIATES
CIVIL ENGINEERING • LAND PLANNING • LAND SURVEYING

September 9, 2011

Gregory Nowell LLA, ASLA
2605 State Street, Suite B
San Diego, CA 92103

RE: French Field Site Remediation Soil Cap Certification, Oceanside, CA

Dear Mr. Nowell,

The purpose of this letter is to provide a certification that the site remediation work at French Field performed during the period starting in May 2011 and ending in August 2011 meets the 12 inch minimum "soil cap" requirement in accordance with the project's final Removal Action Workplan approved by DTSC dated January 19, 2011.

In our efforts to ensure that the final "soil cap" met the minimum 12 inch depth requirement, site topographic surveys were performed prior to construction for the basis of the site design, during construction after the disturbance to and redistribution of existing onsite soils was completed, and after the clean fill "soil cap" material had been imported to the site and graded in accordance with the project grading plans as approved by the City of Oceanside.

The "Soil Cap Certification Exhibit" dated September 2, 2011 prepared by my office, which is attached hereon for reference, graphically depicts the predetermined locations onsite where survey information was collected for the purposes of certifying the final "soil cap" depth throughout the site after the completion of rough grading operations. The elevations shown in green represent the baseline elevation for determining the final "soil cap" depth. These elevations were determined as a result of the field topographic survey data collected by my office on June 21, 2011 after we were informed that the disturbance to and redistribution of the existing onsite soils was completed and that the site had been properly prepared for the import of offsite clean fill material. The elevations shown in purple represent the final "as-built" grade elevations throughout the site. These elevations were determined as a result of the field topographic survey data collected by my office on August 25, 2011 after we were informed that site had been rough graded in substantial conformance with the approved project grading plans. The numbers shown in red represent the difference between the baseline ground elevation and the "as-built" ground elevation or final depth in feet of the clean fill material that was imported and placed onsite.

At this time, certain elements of the approved project grading plans have not yet been completed. These items include, but are not limited to, the installation of the parking lot, walkway, access road paving, the installation of the ballfields, and achieving final precise

finished grade particularly along the southerly edge of "Field 1". Although these items are not complete at this time it has been determined that the site meets the minimum 12 inch "soil cap" requirement in its current condition as demonstrated by the "Soil Cap Certification Exhibit".

In anticipation of the intended use of the site as a little league ball park, and to accommodate for the future Phase II development, specific areas of the site were excavated and filled with clean imported backfill prior to the capping of the site to allow for digging and trenching that may be required to construct future footings, and to install future utilities and fencing without compromising the clean soil cap layer. The locations of the areas to be excavated and filled with clean imported backfill material were based upon the preliminary siteplan and utility layout drawings provided by Nowell Associates and are shown on the Overexcavation Plan that is included as a part of the approved project Grading Plan. This plan should be referenced by a qualified individual prior to any future digging or trenching onsite to ensure that the soil cap remains intact.

Should you have any questions or require additional clarification regarding this letter or the attached exhibit, please feel free to contact my office.

Sincerely,

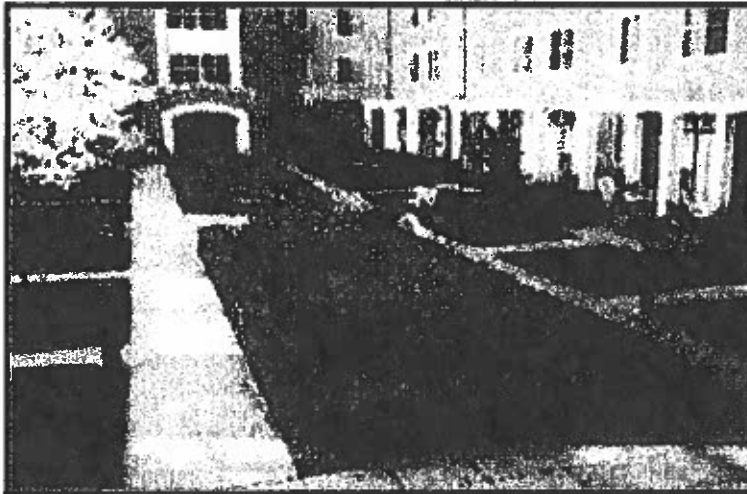
A handwritten signature in black ink, appearing to read "William G. Mack". The signature is fluid and cursive, with the first name "William" and last name "Mack" clearly distinguishable.

William G. Mack, P.E.
Project Engineer

MSA 1034

APPENDIX B

CALIFORNIA STORMWATER QUALITY ASSOCIATION SPECIFICATION TC-32



Design Considerations

- Soil for Infiltration
- Tributary Area
- Slope
- Aesthetics
- Environmental Side-effects

Description

The bioretention best management practice (BMP) functions as a soil and plant-based filtration device that removes pollutants through a variety of physical, biological, and chemical treatment processes. These facilities normally consist of a grass buffer strip, sand bed, ponding area, organic layer or mulch layer, planting soil, and plants. The runoff's velocity is reduced by passing over or through buffer strip and subsequently distributed evenly along a ponding area. Exfiltration of the stored water in the bioretention area planting soil into the underlying soils occurs over a period of days.

California Experience

None documented. Bioretention has been used as a stormwater BMP since 1992. In addition to Prince George's County, MD and Alexandria, VA, bioretention has been used successfully at urban and suburban areas in Montgomery County, MD; Baltimore County, MD; Chesterfield County, VA; Prince William County, VA; Smith Mountain Lake State Park, VA; and Cary, NC.

Advantages

- Bioretention provides stormwater treatment that enhances the quality of downstream water bodies by temporarily storing runoff in the BMP and releasing it over a period of four days to the receiving water (EPA, 1999).
- The vegetation provides shade and wind breaks, absorbs noise, and improves an area's landscape.

Limitations

- The bioretention BMP is not recommended for areas with slopes greater than 20% or where mature tree removal would

Targeted Constituents

<input checked="" type="checkbox"/>	Sediment	■
<input checked="" type="checkbox"/>	Nutrients	▲
<input checked="" type="checkbox"/>	Trash	■
<input checked="" type="checkbox"/>	Metals	■
<input checked="" type="checkbox"/>	Bacteria	■
<input checked="" type="checkbox"/>	Oil and Grease	■
<input checked="" type="checkbox"/>	Organics	■

Legend (Removal Effectiveness)

- Low
- High
- ▲ Medium



be required since clogging may result, particularly if the BMP receives runoff with high sediment loads (EPA, 1999).

- Bioretention is not a suitable BMP at locations where the water table is within 6 feet of the ground surface and where the surrounding soil stratum is unstable.
- By design, bioretention BMPs have the potential to create very attractive habitats for mosquitoes and other vectors because of highly organic, often heavily vegetated areas mixed with shallow water.
- In cold climates the soil may freeze, preventing runoff from infiltrating into the planting soil.

Design and Sizing Guidelines

- The bioretention area should be sized to capture the design storm runoff.
- In areas where the native soil permeability is less than 0.5 in/hr an underdrain should be provided.
- Recommended minimum dimensions are 15 feet by 40 feet, although the preferred width is 25 feet. Excavated depth should be 4 feet.
- Area should drain completely within 72 hours.
- Approximately 1 tree or shrub per 50 ft² of bioretention area should be included.
- Cover area with about 3 inches of mulch.

Construction/Inspection Considerations

Bioretention area should not be established until contributing watershed is stabilized.

Performance

Bioretention removes stormwater pollutants through physical and biological processes, including adsorption, filtration, plant uptake, microbial activity, decomposition, sedimentation and volatilization (EPA, 1999). Adsorption is the process whereby particulate pollutants attach to soil (e.g., clay) or vegetation surfaces. Adequate contact time between the surface and pollutant must be provided for in the design of the system for this removal process to occur. Thus, the infiltration rate of the soils must not exceed those specified in the design criteria or pollutant removal may decrease. Pollutants removed by adsorption include metals, phosphorus, and hydrocarbons. Filtration occurs as runoff passes through the bioretention area media, such as the sand bed, ground cover, and planting soil.

Common particulates removed from stormwater include particulate organic matter, phosphorus, and suspended solids. Biological processes that occur in wetlands result in pollutant uptake by plants and microorganisms in the soil. Plant growth is sustained by the uptake of nutrients from the soils, with woody plants locking up these nutrients through the seasons. Microbial activity within the soil also contributes to the removal of nitrogen and organic matter. Nitrogen is removed by nitrifying and denitrifying bacteria, while aerobic bacteria are responsible for the decomposition of the organic matter. Microbial processes require oxygen and can result in depleted oxygen levels if the bioretention area is not adequately

aerated. Sedimentation occurs in the swale or ponding area as the velocity slows and solids fall out of suspension.

The removal effectiveness of bioretention has been studied during field and laboratory studies conducted by the University of Maryland (Davis et al, 1998). During these experiments, synthetic stormwater runoff was pumped through several laboratory and field bioretention areas to simulate typical storm events in Prince George's County, MD. Removal rates for heavy metals and nutrients are shown in Table 1.

Table 1 Laboratory and Estimated Bioretention Davis et al. (1998); PGDER (1993)	
Pollutant	Removal Rate
Total Phosphorus	70-83%
Metals (Cu, Zn, Pb)	93-98%
TKN	68-80%
Total Suspended Solids	90%
Organics	90%
Bacteria	90%

Results for both the laboratory and field experiments were similar for each of the pollutants analyzed. Doubling or halving the influent pollutant levels had little effect on the effluent pollutants concentrations (Davis et al, 1998).

The microbial activity and plant uptake occurring in the bioretention area will likely result in higher removal rates than those determined for infiltration BMPs.

Siting Criteria

Bioretention BMPs are generally used to treat stormwater from impervious surfaces at commercial, residential, and industrial areas (EPA, 1999). Implementation of bioretention for stormwater management is ideal for median strips, parking lot islands, and swales. Moreover, the runoff in these areas can be designed to either divert directly into the bioretention area or convey into the bioretention area by a curb and gutter collection system.

The best location for bioretention areas is upland from inlets that receive sheet flow from graded areas and at areas that will be excavated (EPA, 1999). In order to maximize treatment effectiveness, the site must be graded in such a way that minimizes erosive conditions as sheet flow is conveyed to the treatment area. Locations where a bioretention area can be readily incorporated into the site plan without further environmental damage are preferred. Furthermore, to effectively minimize sediment loading in the treatment area, bioretention only should be used in stabilized drainage areas.

Additional Design Guidelines

The layout of the bioretention area is determined after site constraints such as location of utilities, underlying soils, existing vegetation, and drainage are considered (EPA, 1999). Sites with loamy sand soils are especially appropriate for bioretention because the excavated soil can be backfilled and used as the planting soil, thus eliminating the cost of importing planting soil.

The use of bioretention may not be feasible given an unstable surrounding soil stratum, soils with clay content greater than 25 percent, a site with slopes greater than 20 percent, and/or a site with mature trees that would be removed during construction of the BMP.

Bioretention can be designed to be off-line or on-line of the existing drainage system (EPA, 1999). The drainage area for a bioretention area should be between 0.1 and 0.4 hectares (0.25 and 1.0 acres). Larger drainage areas may require multiple bioretention areas. Furthermore, the maximum drainage area for a bioretention area is determined by the expected rainfall intensity and runoff rate. Stabilized areas may erode when velocities are greater than 5 feet per second (1.5 meter per second). The designer should determine the potential for erosive conditions at the site.

The size of the bioretention area, which is a function of the drainage area and the runoff generated from the area is sized to capture the water quality volume.

The recommended minimum dimensions of the bioretention area are 15 feet (4.6 meters) wide by 40 feet (12.2 meters) long, where the minimum width allows enough space for a dense, randomly-distributed area of trees and shrubs to become established. Thus replicating a natural forest and creating a microclimate, thereby enabling the bioretention area to tolerate the effects of heat stress, acid rain, runoff pollutants, and insect and disease infestations which landscaped areas in urban settings typically are unable to tolerate. The preferred width is 25 feet (7.6 meters), with a length of twice the width. Essentially, any facilities wider than 20 feet (6.1 meters) should be twice as long as they are wide, which promotes the distribution of flow and decreases the chances of concentrated flow.

In order to provide adequate storage and prevent water from standing for excessive periods of time the ponding depth of the bioretention area should not exceed 6 inches (15 centimeters). Water should not be left to stand for more than 72 hours. A restriction on the type of plants that can be used may be necessary due to some plants' water intolerance. Furthermore, if water is left standing for longer than 72 hours mosquitoes and other insects may start to breed.

The appropriate planting soil should be backfilled into the excavated bioretention area. Planting soils should be sandy loam, loamy sand, or loam texture with a clay content ranging from 10 to 25 percent.

Generally the soil should have infiltration rates greater than 0.5 inches (1.25 centimeters) per hour, which is typical of sandy loams, loamy sands, or loams. The pH of the soil should range between 5.5 and 6.5, where pollutants such as organic nitrogen and phosphorus can be adsorbed by the soil and microbial activity can flourish. Additional requirements for the planting soil include a 1.5 to 3 percent organic content and a maximum 500 ppm concentration of soluble salts.

Soil tests should be performed for every 500 cubic yards (382 cubic meters) of planting soil, with the exception of pH and organic content tests, which are required only once per bioretention area (EPA, 1999). Planting soil should be 4 inches (10.1 centimeters) deeper than the bottom of the largest root ball and 4 feet (1.2 meters) altogether. This depth will provide adequate soil for the plants' root systems to become established, prevent plant damage due to severe wind, and provide adequate moisture capacity. Most sites will require excavation in order to obtain the recommended depth.

Planting soil depths of greater than 4 feet (1.2 meters) may require additional construction practices such as shoring measures (EPA, 1999). Planting soil should be placed in 18 inches or greater lifts and lightly compacted until the desired depth is reached. Since high canopy trees may be destroyed during maintenance the bioretention area should be vegetated to resemble a terrestrial forest community ecosystem that is dominated by understory trees. Three species each of both trees and shrubs are recommended to be planted at a rate of 2500 trees and shrubs per hectare (1000 per acre). For instance, a 15 foot (4.6 meter) by 40 foot (12.2 meter) bioretention area (600 square feet or 55.75 square meters) would require 14 trees and shrubs. The shrub-to-tree ratio should be 2:1 to 3:1.

Trees and shrubs should be planted when conditions are favorable. Vegetation should be watered at the end of each day for fourteen days following its planting. Plant species tolerant of pollutant loads and varying wet and dry conditions should be used in the bioretention area.

The designer should assess aesthetics, site layout, and maintenance requirements when selecting plant species. Adjacent non-native invasive species should be identified and the designer should take measures, such as providing a soil breach to eliminate the threat of these species invading the bioretention area. Regional landscaping manuals should be consulted to ensure that the planting of the bioretention area meets the landscaping requirements established by the local authorities. The designers should evaluate the best placement of vegetation within the bioretention area. Plants should be placed at irregular intervals to replicate a natural forest. Trees should be placed on the perimeter of the area to provide shade and shelter from the wind. Trees and shrubs can be sheltered from damaging flows if they are placed away from the path of the incoming runoff. In cold climates, species that are more tolerant to cold winds, such as evergreens, should be placed in windier areas of the site.

Following placement of the trees and shrubs, the ground cover and/or mulch should be established. Ground cover such as grasses or legumes can be planted at the beginning of the growing season. Mulch should be placed immediately after trees and shrubs are planted. Two to 3 inches (5 to 7.6 cm) of commercially-available fine shredded hardwood mulch or shredded hardwood chips should be applied to the bioretention area to protect from erosion.

Maintenance

The primary maintenance requirement for bioretention areas is that of inspection and repair or replacement of the treatment area's components. Generally, this involves nothing more than the routine periodic maintenance that is required of any landscaped area. Plants that are appropriate for the site, climatic, and watering conditions should be selected for use in the bioretention cell. Appropriately selected plants will aide in reducing fertilizer, pesticide, water, and overall maintenance requirements. Bioretention system components should blend over time through plant and root growth, organic decomposition, and the development of a natural

soil horizon. These biologic and physical processes over time will lengthen the facility's life span and reduce the need for extensive maintenance.

Routine maintenance should include a biannual health evaluation of the trees and shrubs and subsequent removal of any dead or diseased vegetation (EPA, 1999). Diseased vegetation should be treated as needed using preventative and low-toxic measures to the extent possible. BMPs have the potential to create very attractive habitats for mosquitoes and other vectors because of highly organic, often heavily vegetated areas mixed with shallow water. Routine inspections for areas of standing water within the BMP and corrective measures to restore proper infiltration rates are necessary to prevent creating mosquito and other vector habitat. In addition, bioretention BMPs are susceptible to invasion by aggressive plant species such as cattails, which increase the chances of water standing and subsequent vector production if not routinely maintained.

In order to maintain the treatment area's appearance it may be necessary to prune and weed. Furthermore, mulch replacement is suggested when erosion is evident or when the site begins to look unattractive. Specifically, the entire area may require mulch replacement every two to three years, although spot mulching may be sufficient when there are random void areas. Mulch replacement should be done prior to the start of the wet season.

New Jersey's Department of Environmental Protection states in their bioretention systems standards that accumulated sediment and debris removal (especially at the inflow point) will normally be the primary maintenance function. Other potential tasks include replacement of dead vegetation, soil pH regulation, erosion repair at inflow points, mulch replenishment, unclogging the underdrain, and repairing overflow structures. There is also the possibility that the cation exchange capacity of the soils in the cell will be significantly reduced over time. Depending on pollutant loads, soils may need to be replaced within 5-10 years of construction (LID, 2000).

Cost

Construction Cost

Construction cost estimates for a bioretention area are slightly greater than those for the required landscaping for a new development (EPA, 1999). A general rule of thumb (Coffman, 1999) is that residential bioretention areas average about \$3 to \$4 per square foot, depending on soil conditions and the density and types of plants used. Commercial, industrial and institutional site costs can range between \$10 to \$40 per square foot, based on the need for control structures, curbing, storm drains and underdrains.

Retrofitting a site typically costs more, averaging \$6,500 per bioretention area. The higher costs are attributed to the demolition of existing concrete, asphalt, and existing structures and the replacement of fill material with planting soil. The costs of retrofitting a commercial site in Maryland, Kettering Development, with 15 bioretention areas were estimated at \$111,600.

In any bioretention area design, the cost of plants varies substantially and can account for a significant portion of the expenditures. While these cost estimates are slightly greater than those of typical landscaping treatment (due to the increased number of plantings, additional soil excavation, backfill material, use of underdrains etc.), those landscaping expenses that would be required regardless of the bioretention installation should be subtracted when determining the net cost.

Perhaps of most importance, however, the cost savings compared to the use of traditional structural stormwater conveyance systems makes bioretention areas quite attractive financially. For example, the use of bioretention can decrease the cost required for constructing stormwater conveyance systems at a site. A medical office building in Maryland was able to reduce the amount of storm drain pipe that was needed from 800 to 230 feet - a cost savings of \$24,000 (PGDER, 1993). And a new residential development spent a total of approximately \$100,000 using bioretention cells on each lot instead of nearly \$400,000 for the traditional stormwater ponds that were originally planned (Rappahanock,). Also, in residential areas, stormwater management controls become a part of each property owner's landscape, reducing the public burden to maintain large centralized facilities.

Maintenance Cost

The operation and maintenance costs for a bioretention facility will be comparable to those of typical landscaping required for a site. Costs beyond the normal landscaping fees will include the cost for testing the soils and may include costs for a sand bed and planting soil.

References and Sources of Additional Information

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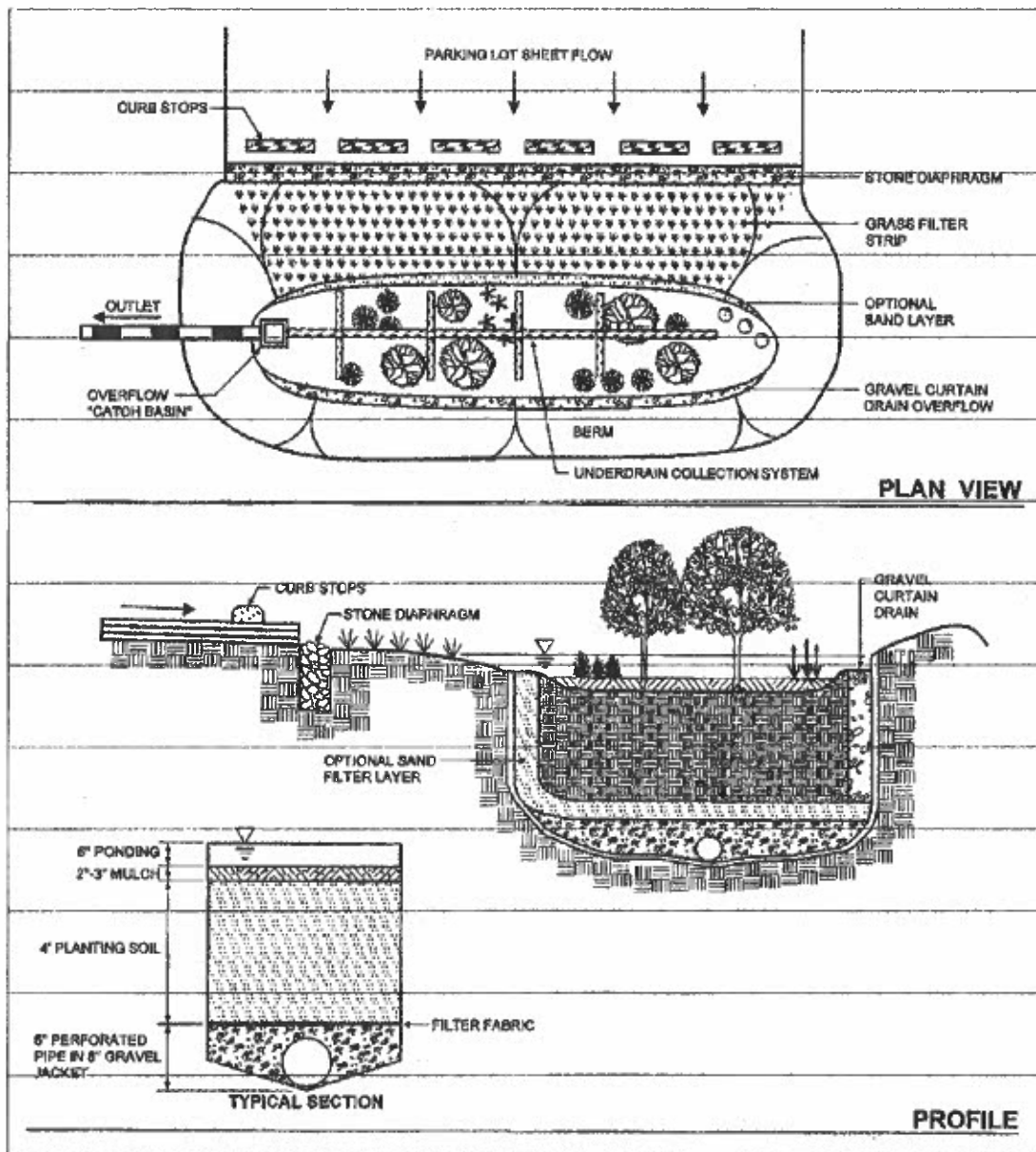
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Schematic of a Bioretention Facility (MDE, 2000)

APPENDIX C

HOSPITAL ROUTE MAP

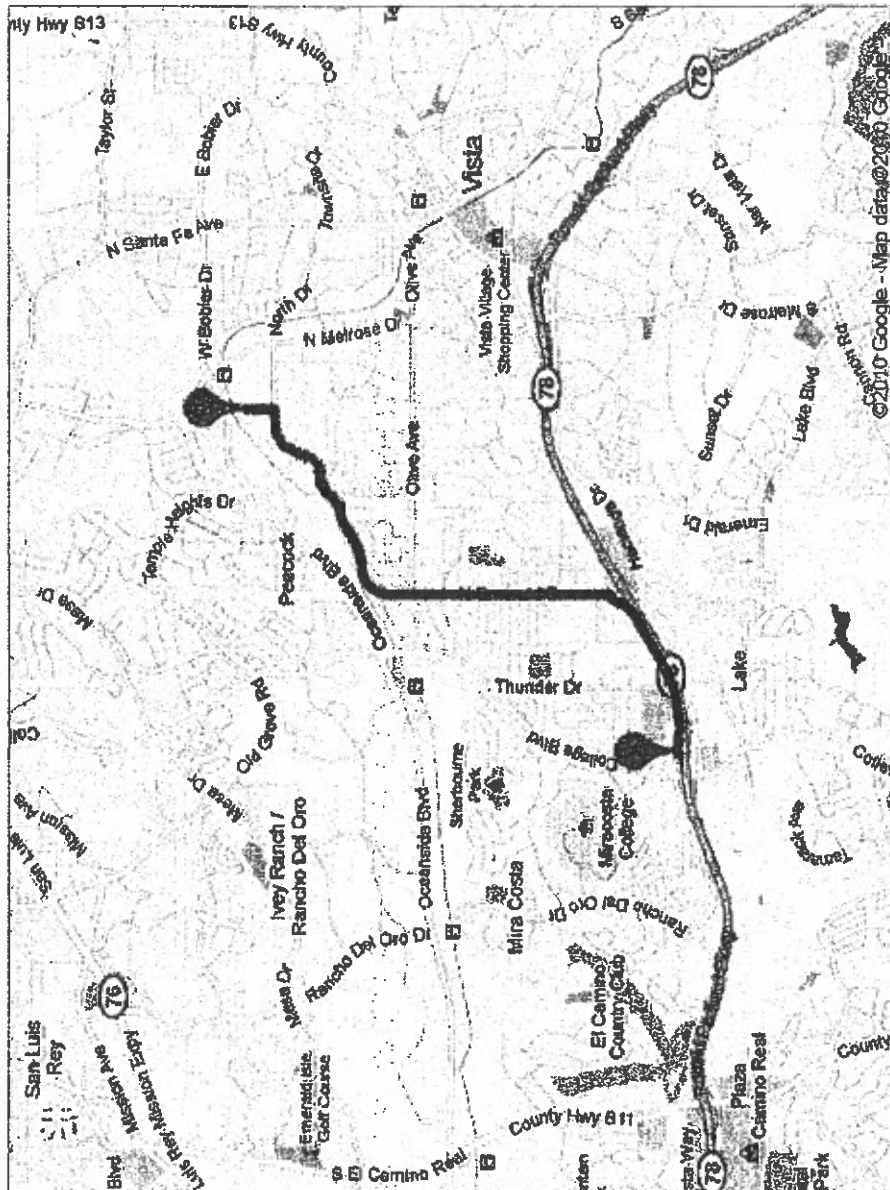
Nearest Hospital
Tri-City Medical Center
4002 Vista Way
Oceanside, CA 92056
Emergency Room Phone: 760-940-3505

To reach the hospital indicated above, 1) leave the site and travel south on Lee Drive, then turn right (west) on to North Drive and travel 1.1 miles. North Drive becomes Emerald Drive. Travel south on Emerald Drive for 1.4 miles. Turn right (southwest) on to West Vista Way. Travel approximately 1.0 mile on West Vista Way. The Hospital will be on your right and follow signs for Emergency Room.




Get Directions [My Maps](#)

[Print](#) [Send](#) [Link](#)



Driving directions to 4002 Vista Way, Oceanside, CA 92056

 1300 Lee Dr
Vista, CA 92083

1. Head south on Lee Dr toward North Ave

0.2 mi

2. Turn right at North Ave

1.1 mi

3. Continue onto Emerald Dr

1.4 mi

4. Turn right at W Vista Way

1.0 mi

Destination will be on the right



4002 Vista Way
Oceanside, CA 92056

These directions are for planning purposes only. You may find that construction projects, traffic, weather, or other events may cause conditions to differ from the map results, and you should plan your route accordingly. You must obey all signs or notices regarding your route.

Map data ©2010 Google

[Report a problem](#)

1300 lee drive, vista, ca

ATTACHMENT 7

CITY-OWNED INVENTORY FOR PROPERTY AT COMMENCMENT

- 1.) Two storage Conex boxes containing landscaping materials as follows:**
- 2.) One metal bleacher structure containing four (4) levels for public seating.**



BA20250747860



STATE OF CALIFORNIA
Office of the Secretary of State
STATEMENT OF INFORMATION
LIMITED LIABILITY COMPANY

California Secretary of State
1500 11th Street
Sacramento, California 95814
(916) 657-5448

For Office Use Only

-FILED-

File No.: BA20250747860

Date Filed: 4/10/2025

B3595-3431 04/10/2025 10:59 AM Received by California Secretary of State

Entity Details							
Limited Liability Company Name	Otomi & Stone LLC						
Entity No.	B20250058906						
Formed In	CALIFORNIA						
Street Address of Principal Office of LLC							
Principal Address	947 CHUMASH TRL VISTA, CA 92084						
Mailing Address of LLC							
Mailing Address	947 CHUMASH TRL VISTA, CA 92084						
Attention							
Street Address of California Office of LLC							
Street Address of California Office	947 CHUMASH TRL VISTA, CA 92084						
Manager(s) or Member(s)							
<table border="1"><thead><tr><th>Manager or Member Name</th><th>Manager or Member Address</th></tr></thead><tbody><tr><td>+ Kory Richard Smith</td><td>947 CHUMASH TRL VISTA, CA 92084</td></tr><tr><td>+ Gerald L Perrault</td><td>947 CHUMASH TRL VISTA, CA 92084</td></tr></tbody></table>	Manager or Member Name	Manager or Member Address	+ Kory Richard Smith	947 CHUMASH TRL VISTA, CA 92084	+ Gerald L Perrault	947 CHUMASH TRL VISTA, CA 92084	
Manager or Member Name	Manager or Member Address						
+ Kory Richard Smith	947 CHUMASH TRL VISTA, CA 92084						
+ Gerald L Perrault	947 CHUMASH TRL VISTA, CA 92084						
Agent for Service of Process							
California Registered Corporate Agent (1505)	UNITED STATES CORPORATION AGENTS, INC. Registered Corporate 1505 Agent						
Type of Business							
Type of Business	Sports Field rental and instruction						
Email Notifications							
Opt-in Email Notifications	No, I do NOT want to receive entity notifications via email. I prefer notifications by USPS mail.						
Chief Executive Officer (CEO)							
<table border="1"><thead><tr><th>CEO Name</th><th>CEO Address</th></tr></thead><tbody><tr><td>+ Kory Smith</td><td>1787 COUNTRYSIDE DR VISTA, CA 92081</td></tr></tbody></table>	CEO Name	CEO Address	+ Kory Smith	1787 COUNTRYSIDE DR VISTA, CA 92081			
CEO Name	CEO Address						
+ Kory Smith	1787 COUNTRYSIDE DR VISTA, CA 92081						
Labor Judgment							
No Manager or Member, as further defined by California Corporations Code section 17702.09(a)(8), has an outstanding final judgment issued by the Division of Labor Standards Enforcement or a court of law, for which no appeal is pending, for the violation of any wage order or provision of the Labor Code.							

Electronic Signature

☒ By signing, I affirm under penalty of perjury that the information herein is true and correct and that I am authorized by California law to sign.

Kory Richard Smith

Signature

04/10/2025

Date