



San Francisco Assessor-Recorder
Doris M. Ward, Assessor-Recorder
DOC- 2000-G723986-00

RECORDING REQUESTED BY:
The Port of San Francisco
Ferry Building
San Francisco, California 94111

Acct 25-NO CHARGE DOCUMENT
Thursday, JAN 27, 2000 10:47:55
FRE \$0.00
Ttl Pd \$0.00 Nbr-0001346614
REEL H561 IMAGE 0199 oed/ER/1-16

WHEN RECORDED, MAIL TO:

Department of Toxic Substances Control
700 Heinz Avenue, Suite 300
Berkeley, California 94710
Attention: Mohinder S. Sandhu, P.E., Chief
Standardized Permits and Corrective
Action Branch

N/c
16

SPACE ABOVE THIS LINE RESERVED FOR RECORDER'S USE

COVENANT TO RESTRICT USE OF PROPERTY

ENVIRONMENTAL RESTRICTION

(Re: H&H Site located at Seawall Lot 337, City and County of San Francisco)

This Covenant and Agreement ("Covenant") is made by and between COVENANT TO RESTRICT USE OF PROPERTY

ENVIRONMENTAL RESTRICTION

Re: H&H Site located at Seawall Lot 337, City and County of San Francisco

This Covenant and Agreement ("Covenant") is made by and between the City and County of San Francisco, a charter city and county in trust (the "Covenantor"), the current owner, of certain property situated in the City and County of San Francisco, State of California, described in Exhibit "A", attached hereto and incorporated herein by this reference (the "Property"), and the Department of Toxic Substances Control (the

"Department"). Pursuant to Civil Code section 1471(c), 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 ("H&SC") section 25260. The Covenantor and the Department, collectively referred to as the "Parties", therefore intend that the use of the Property be restricted as set forth in this Covenant, in order to protect human health, safety and the environment.

ARTICLE I
STATEMENT OF FACTS

1.01. The Property, totaling approximately 14 acres, is more particularly described in Exhibit "A" and depicted in Exhibit "A-1", attached hereto and incorporated herein by this reference. The Property is located in the area now generally bounded by Terry Francois Boulevard on the North and East, in the City and County of San Francisco, California.

1.02. The site was created by filling marshlands and shallow tidal flats bordering San Francisco Bay between 1877 and 1913. Sources of fill are unknown, but likely included construction/demolition debris and rubble, and rock and dirt cut from nearby hills. Historical uses of the Site include railroad tracks and related support structures, parking and shipping by truck, and truck maintenance. From 1950 to 1996 H&H Ship Service operated a hazardous waste treatment facility, including a tank cleaning area and drum storage unit, and used portions of the Property for vehicle parking and offices.

In 1978 several of the wastes managed at the H&H Ship Service facility were determined to be hazardous wastes subject to federal and state hazardous waste management regulations. Since that time, the Department of Toxic Substances Control (or its predecessor in interest, the Department of Health Services) authorized H&H Ship Service's operations pursuant to an interim status document. Under this authorization the property was a hazardous waste facility (Facility), regulated by the Department, subject to the requirements of the California Hazardous Waste Control Law ("HWCL"), at Health and Safety Code ("H&S Code") section 25100 et seq., and the federal Resource Conservation and Recovery Act ("RCRA"), at 42 U.S.C. section 6901 et seq.

The Department is requiring this Covenant pursuant to the closure requirements of the HWCL, including H&S Code section 25246 and post-closure notices provisions of Title 22 California Code of Regulations [section 66265.119(b) for interim status hazardous waste facilities], as part of the facility closure. The Department circulated a closure plan, dated August 30, 1996 and a draft Categorical Exemption pursuant to the California Environmental Quality Act, Public Resources Code section 21000 et seq for

public review and comment from December 23, 1999 to January 24, 2000. The Department approved the closure plan, closure certification report titled, *RCRA Closure Certification Report, Former H&H Ship Service Facility, San Francisco, California, dated February 4, 1999*, containing a health risk assessment, and the Categorical Exemption on January 26, 2000. Hazardous wastes, which are also hazardous materials as defined in Health and Safety Code sections 25117 and 25260, including petroleum hydrocarbons, polynuclear aromatic hydrocarbons, metals and arsenic, remain in the soil and groundwater at the Site at concentrations below those which would pose a significant human health risk under proposed reuse scenarios. The health risk assessment did not evaluate an unrestricted land use scenario, recreational use involving direct contact with soil, or potential impacts from use of groundwater. Therefore a deed restriction to limit use of the property to those exposure scenarios evaluated and found to be below acceptable risk limits is required as part of the facility closure.

1.03. As detailed in the health risk assessment within the *RCRA Closure Certification Report*, as approved by the Department on January 26, 2000, portions of the surface and subsurface soils on the Site contain hazardous wastes and hazardous materials, as defined in H&S Code section 25117 and 25260, including the following contaminants of concern: arsenic (up to 92 mg/kg) and benzo(a)pyrene (up to 2.5 mg/kg). Groundwater beneath the Property is found within 10 to 20 feet below ground surface. Dissolved arsenic was found in groundwater at up to 812 ug/l. California drinking water standards are arsenic at 50 ug/l. Because the health risk assessment did not evaluate an unrestricted land use scenario, recreational use involving direct contact with soil, or potential impacts from use of groundwater, the Department concluded that use of the Property as a residence, hospital, school for persons under the age of 21, day care center, or recreational use involving direct contact with soil would entail an unacceptable potential human health risk. The Department further concluded that the Property, subject to the restrictions of this Covenant, does not present an unacceptable threat to human safety or the environment.

ARTICLE II DEFINITIONS

2.01. Department. "Department" shall mean the California Department of Toxic Substances Control and shall include its successor agencies, if any.

2.02. Owner. "Owner" shall mean the Covenantor, its successors in interest, and their successors in interest, including heirs and assigns, who at any time hold title to all or any portion of the Property.

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

ARTICLE III
GENERAL PROVISIONS

3.01. Restrictions to Run With the Land. This Covenant sets forth protective provisions, covenants, restrictions, and conditions (collectively referred to as "Restrictions"), upon and subject to which the Property and every portion thereof shall be improved, held, used, occupied, leased, sold, hypothecated, encumbered, and/or conveyed. Each and every one of the Restrictions: (a) shall run with the land pursuant to H&SC sections 25202.5, and 25202.6 and Civil Code section 1471; (b) shall inure to the benefit of and pass with each and every portion of the Property, (c) shall apply to and bind the respective successors in interest to the Property, (d) are for the benefit of, and shall be enforceable by the Department, and (e) are imposed upon the entire Property unless expressly stated as applicable only to a specific portion thereof.

3.02. Binding Upon Owners/Occupants. Pursuant to Health and Safety Code section 25202.5(b), this Covenant shall be binding upon all of the owners of the land, their heirs, successors, and assignees, and the agents, employees, and lessees of the owners, heirs, successors, and assignees. Pursuant to Civil Code section 1471(b), all successive owners of the Property are expressly bound hereby for the benefit of the covenantee(s) herein. "Owner" shall include "Covenantor".

3.04. Written Notice of Hazardous Substance Release. The Owner shall, prior to the sale, lease, or rental of the Property, give written notice that a release of hazardous substances has come to be located on or beneath the Property, pursuant to Health and Safety Code section 25359.7. Such written notice shall include a copy of this Covenant.

ARTICLE IV
RESTRICTIONS

- 4.01. Prohibited Uses. The Property shall not be used for any of the following purposes:
- (a) A residence, including any mobile home or factory built housing, constructed or installed for use as residential human habitation;
 - (b) A hospital for humans;
 - (c) A public or private school for persons under 21 years of age;
 - (d) A day care center for children; or
 - (e) Recreational use involving direct contact with soil.

4.02. Soil Management

- (a) 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.
- (b) If more than 50 cubic yards of any surface or subsurface soil will be disturbed, including excavation and grading, then the soil shall be evaluated for potential human health risks in compliance with Article 20 of the SF Municipal Code ("the Maher Ordinance"), and managed accordingly.

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

- (a) No raising of food (e.g., cattle, food crops, cotton, etc.) shall be permitted on the property.
- (b) No groundwater shall be extracted on the Property for purposes other than site remediation or construction dewatering without prior written approval by the Department.

4.04. Access for Department. Covenantor agrees that 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 and safety.

ARTICLE V
ENFORCEMENT

5.01. Enforcement. Failure of the Covenantor and/or Owner to comply with any of the Restrictions specifically applicable to it shall be grounds for the Department, by reason of this Covenant, to require that the Covenantor and/or Owner modify or remove any improvements ("Improvements" herein shall mean all buildings, roads, driveways, and paved parking areas, constructed or placed upon any portion of the Property constructed in violation of the Restrictions.) Violation of this Covenant shall be grounds for the Department to file civil and/or criminal actions against the Covenantor and/or Owner as provided by law.

ARTICLE VI
VARIANCE, TERMINATION, AND TERM

6.01. Variance. Any Owner or, with the Owner's written consent, any Occupant of the Property or any portion thereof may apply to the Department for a written variance from the provisions of this Covenant. Such application shall be made in accordance with H&S Code section 25202.6.

6.02. Termination. Any Owner, and/or, with the Owner's written consent, any Occupant of the Property, or any portion thereof, may apply to the Department for a termination of the Restrictions or other terms of this Covenant as they apply to all or any portion of the Property. Such application shall be made in accordance with H&S Code section 25202.6.

6.03. Term. Unless ended in accordance with the Termination Paragraph above, 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. Department References. All references to the Department include successor agencies/departments or other successor entity.

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

7.04. 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:

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On or Before 12/31/00:

Port of San Francisco
3100 Ferry Building
San Francisco, CA 94111
Attention: Carol Bach,

With a copy to

Noreen Ambrose
Port General Counsel
Port of San Francisco
3100 Ferry Building
San Francisco, CA 94111.

After 12/31/00:

Port of San Francisco
Pier 1
San Francisco, CA 94111
Attention: Carol Bach,

With a copy to:
Noreen Ambrose
Port General Counsel
Port of San Francisco
Pier 1
San Francisco, CA 94111.

To Department:

California Environmental Protection Agency
Department of Toxic Substances Control
700 Heinz Avenue, Suite 300
Berkeley, CA 94710-2737
Attention: Branch Chief
Standardized Permits and Corrective Action Branch

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.

7.05. Partial Invalidity. If any portion of the Restrictions or other term set forth herein is 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.

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IN WITNESS WHEREOF, the Parties execute this Covenant.

"Covenantor"

CITY & COUNTY OF SAN FRANCISCO

Date: 2/26/2000

By: //original signed by//
DOUGLAS F. WONG
Its: Executive Director
PORT OF SAN FRANCISCO

"Department"

DEPARTMENT OF TOXIC SUBSTANCES CONTROL

Date: 1/26/00

By: //original signed by//
MOHINDER S. SANDHU
Its: Chief, Standardized Permits and Corrective Action
Branch

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California }
County of San Francisco } ss.

On January 26, 2000, before me, Virna C. Wu, "Notary Public"
Date Name and Title of Officer (e.g., "Jane Doe, Notary Public")

personally appeared Mohinder Singh Sandhu
Name(s) of Signer(s)

- personally known to me
- proved to me on the basis of satisfactory evidence

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



WITNESS my hand and official seal.

// signed by // _____
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: Environmental Restriction

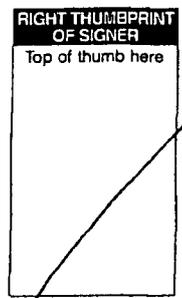
Document Date: 1/26/2000 Number of Pages: 8 + 6 Parcel (C, D)

Signer(s) Other Than Named Above: None

Capacity(ies) Claimed by Signer

- Signer's Name: Mohinder Singh Sandhu
- Individual
- Corporate Officer — Title(s): _____
- Partner — Limited General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: Port Executive Director

Signer Is Representing: Port of San Francisco



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CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

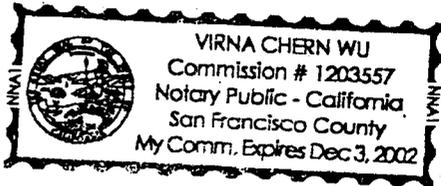
State of California }
County of San Francisco } ss.

On January 26, 2000, before me, Virna C. Wu, "Notary Public"
Date Name and Title of Officer (e.g., "Jane Doe, Notary Public")

personally appeared Mohinder Singh Sandhu
Name(s) of Signer(s)

- personally known to me
- proved to me on the basis of satisfactory evidence

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



WITNESS my hand and official seal.

Place Notary Seal Above

// signed by //
Signature of Notary Public

OPTIONAL

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

Description of Attached Document

Title or Type of Document: Environmental Restriction

Document Date: 01/26/2000 Number of Pages: 8+6 (Parcel A, C, D)

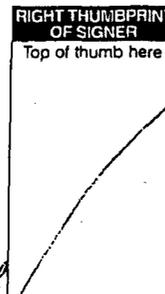
Signer(s) Other Than Named Above: None

Capacity(ies) Claimed by Signer

Signer's Name: Mohinder Singh Sandhu

- Individual
- Corporate Officer — Title(s): _____
- Partner — Limited General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: Chief, Standardized Permits & Corrective Action Branch

Signer Is Representing: Dept. of Toxic Substances Control



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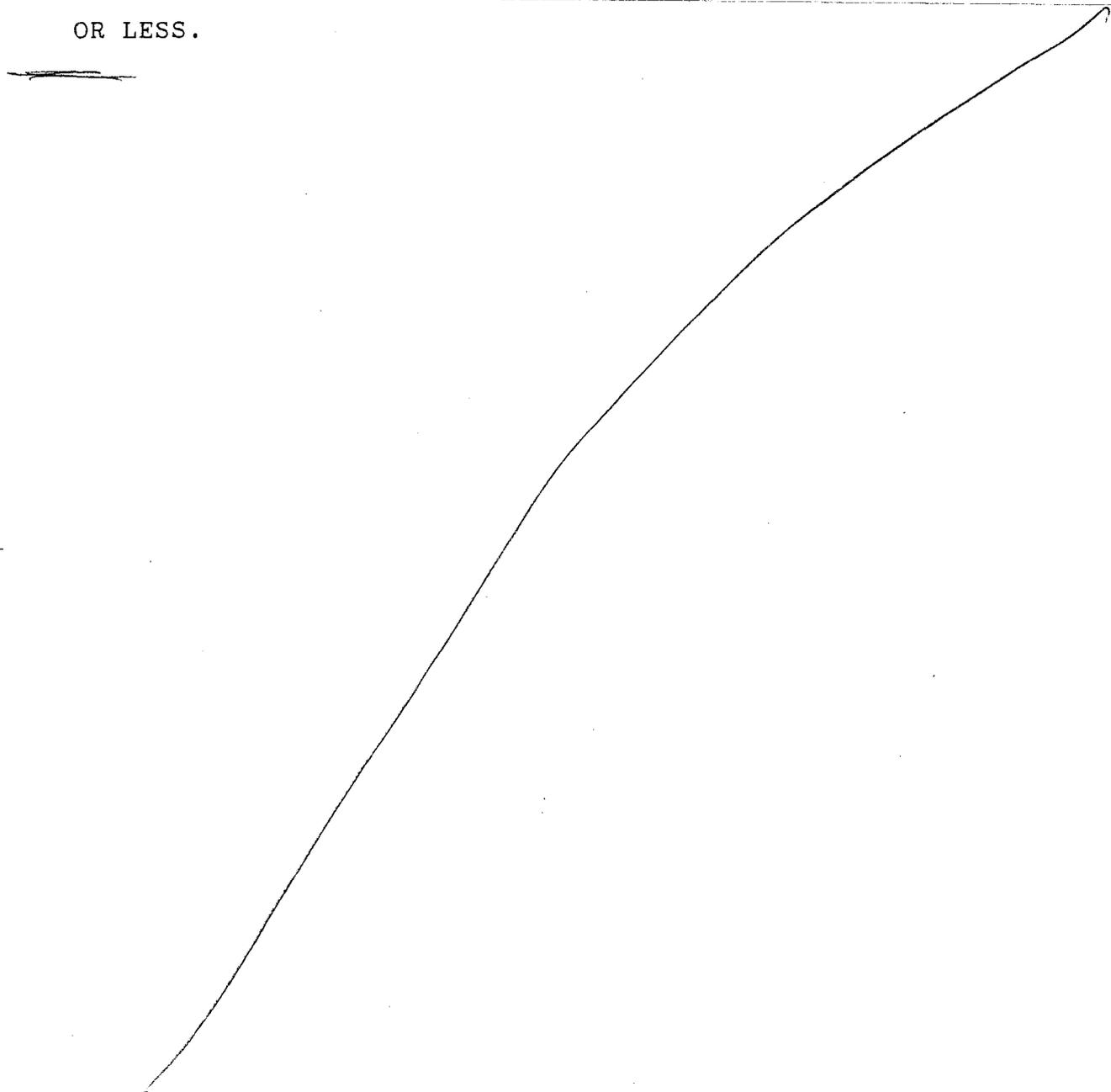
SEAWALL LOT 337

.PARCEL A

ALL THAT CERTAIN REAL PROPERTY SITUATED AT THE CITY
AND COUNTY OF SAN FRANCISCO, BEING A PORTION OF SEAWALL LOT
337 OF THE SAN FRANCISCO PORT AUTHORITY, DESCRIBED AS FOLLOWS;
COMMENCING AT THE SOUTHWEST CORNER OF THE INTERSECTION OF
TOWNSEND STREET AND DELANCEY STREET (FORMERLY FIRST STREET),
SAID CORNER BEING INNER 14 OF THE INNER WATERFRONT LINE AS
DESCRIBED IN THE RECORDS ON FILE AT THE OFFICE OF ENGINEERING
OF THE SAN FRANCISCO PORT AUTHORITY; RUNNING THENCE ALONG SAID
INNER WATERFRONT LINE AT S 3DEG 02'27" E A DISTANCE OF
2,217.59 FEET TO THE TRUE POINT OF BEGINNING; THENCE
CONTINUING ALONG THE LAST AFOREMENTIONED COURSE A DISTANCE OF
149.77 FEET; THENCE AT S 86DEG 57'33" W A DISTANCE OF 38.12
FEET; THENCE AT S 3DEG 14'22" E A DISTANCE OF 31.51 FEET;
THENCE AT N 86DEG 45'38" E A DISTANCE OF 55.69 FEET;
THENCE AT S 3DEG 02'27" E A DISTANCE OF 120.00 FEET; THENCE AT
S 86DEG 45'38" W A DISTANCE OF 55.27 FEET; THENCE AT
N 3DEG 14'22" W A DISTANCE OF 120.00 FEET; THENCE AT
S 86DEG 45'38" W A DISTANCE OF 40.17 FEET; THENCE AT
S 3DEG 14'22" E A DISTANCE OF 120.00 FEET; THENCE AT
N 86DEG 45'38" E A DISTANCE OF 40.17 FEET; THENCE AT
S 3DEG 14'22" E A DISTANCE OF 48.20 FEET; THENCE AT
S 86DEG 57'33" W A DISTANCE OF 142.25 FEET; THENCE AT

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S 86DEG 50'57" W A DISTANCE OF 111.99 FEET; THENCE AT
N 3DEG 10'55" W A DISTANCE OF 200.00 FEET; THENCE AT
N 86DEG 57'33" E A DISTANCE OF 171.00 FEET; THENCE AT
N 3DEG 02'27" W A DISTANCE OF 149.48 FEET; THENCE AT
N 86DEG 49'20" E A DISTANCE OF 121.29 FEET TO THE TRUE POINT OF
BEGINNING, CONTAINING AN AREA OF 70,765.20 SQUARE FEET, MORE
OR LESS.



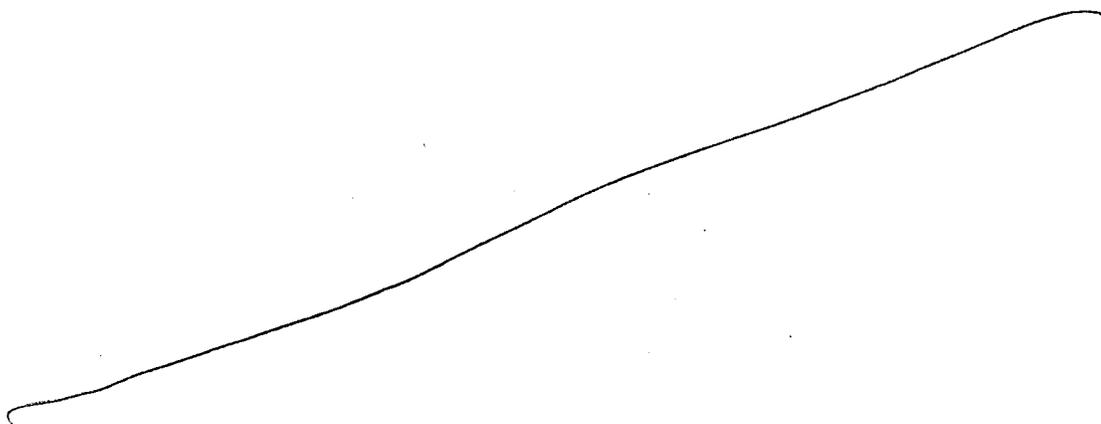
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SEAWALL LOT 337

PARCEL C

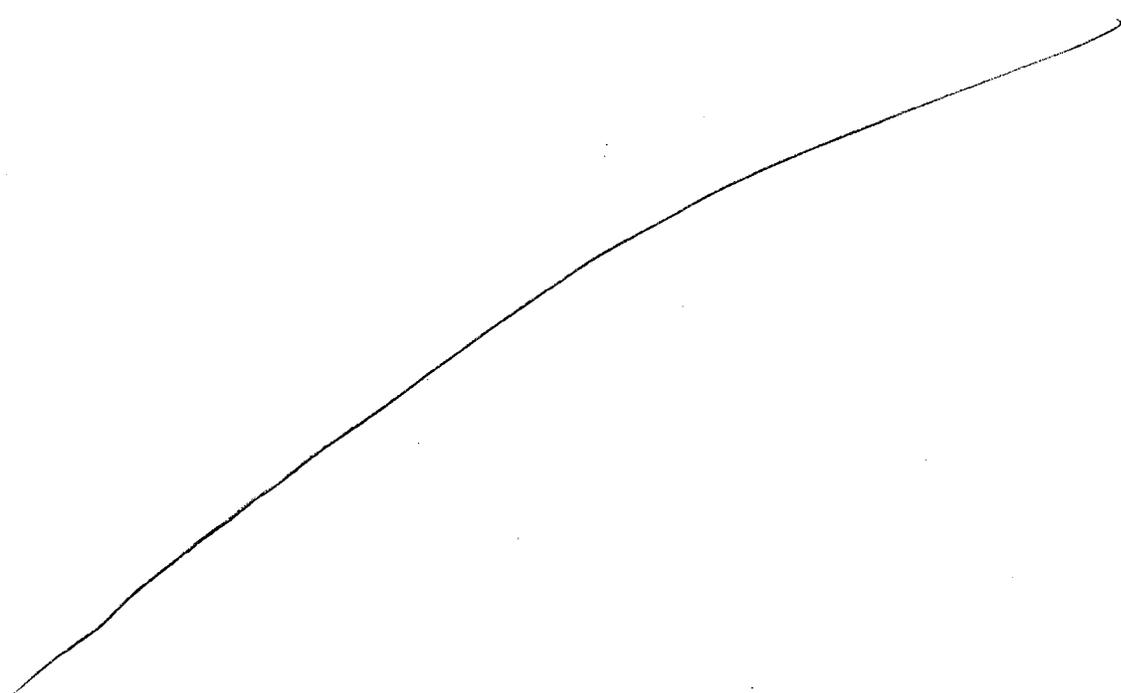
BEING A PORTION OF SEAWALL LOT 337 OF THE SAN

FRANCISCO PORT AUTHORITY ,CITY AND COUNTY OF SAN FRANCISCO,
BRIEFLY DESCRIBED AS FOLLOWS; COMMENCING AT THE SOUTHWEST
CORNER OF THE INTERSECTION OF TOWNSEND STREET AND DELANCEY
STREET (FORMERLY FIRST STREET), SAID CORNER BEING INNER 14 OF
THE INNER WATERFRONT LINE AS DESCRIBED IN THE RECORDS ON FILE
AT THE OFFICE OF ENGINEERING OF THE SAN FRANCISCO PORT
AUTHORITY; RUNNING THENCE ALONG THE AFORESAID INNER WATERFRONT
LINE AT S 3DEG 02'27" E A DISTANCE OF 2,367.36 FEET TO THE
TRUE POINT OF BEGINNING; THENCE AT S 48DEG 02'27" E A DISTANCE
OF 25.00 FEET; THENCE AT S 3DEG 02'27" E A DISTANCE OF 13.64
FEET; THENCE AT S 86DEG 45'38" W A DISTANCE OF 55.69 FEET;
THENCE AT N 3DEG 14'22" W A DISTANCE OF 31.51 FEET; THENCE AT
N 86DEG 57'33" E A DISTANCE OF 38.12 FEET TO THE TRUE POINT OF
BEGINNING, CONTAINING AN AREA OF 1,594.90 SQUARE FEET, MORE OR
LESS.



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ALSO INCLUDED IN THIS PARCEL IS A PORTION OF SEAWALL
LOT 337 BRIEFLY DESCRIBED AS FOLLOWS;
COMMENCING AT THE SOUTHWEST CORNER OF THE INTERSECTION OF
TOWNSEND STREET AND DELANCEY STREET (FORMERLY FIRST STREET)
SAID POINT BEING INNER 14 OF THE INNER WATERFRONT LINE AS
DESCRIBED IN THE RECORDS ON FILE AT THE OFFICE OF ENGINEERING
OF THE SAN FRANCISCO PORT AUTHORITY; RUNNING THENCE ALONG THE
AFORESAID INNER WATERFRONT LINE A DISTANCE OF 2,518.74 FEET;
THENCE AT N 86DEG 45'38" E A DISTANCE OF 17.66 FEET TO THE
TRUE POINT OF BEGINNING; THENCE AT S 3DEG 02'27" E DISTANCE OF
30.72 FEET; THENCE AT S 41DEG 57'33" W A DISTANCE OF 25.00
FEET; THENCE S 86DEG 57'33" W A DISTANCE OF 37.43 FEET; THENCE
AT N 3DEG 14'22" W A DISTANCE OF 48.20 FEET; THENCE AT
N 86DEG 45'38" E DISTANCE OF 55.27 FEET TO THE TRUE POINT
OF BEGINNING, CONTAINING AN AREA OF 2,509.60 SQUARE FEET, MORE
OR LESS.



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SEAWALL LOT 337

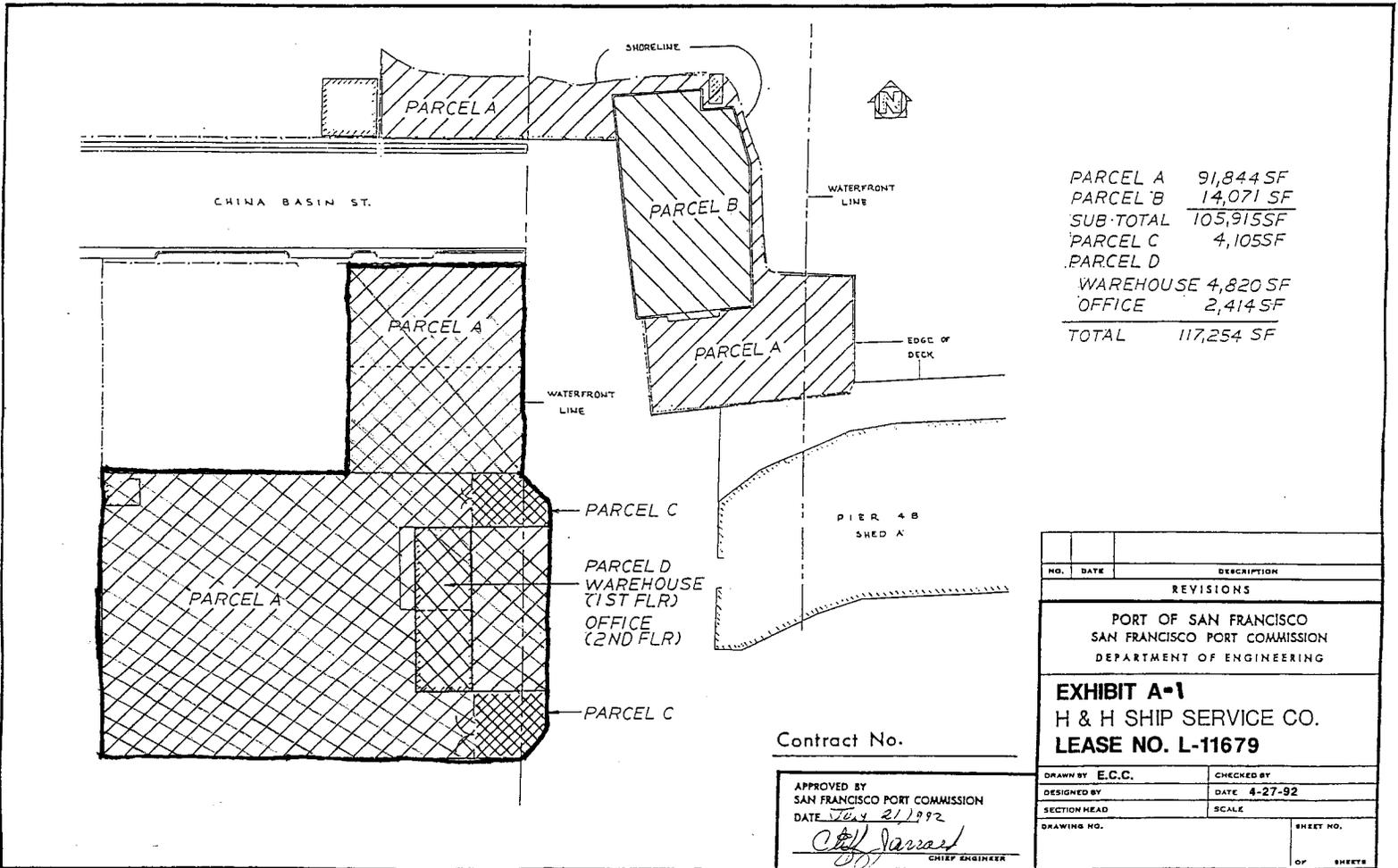
PARCEL D

PARCEL D IS A TWO-STORY WAREHOUSE AND OFFICE BUILDING LOCATED AT CHINA BASIN STREET WHOSE FOOTPRINT IS BRIEFLY DESCRIBED AS FOLLOWS;

COMMENCING AT THE SOUTHWEST CORNER OF THE INTERSECTION OF TOWNSEND STREET AND DELANCEY STREET (FORMERLY FIRST STREET), SAID POINT BEING INNER 14 OF THE INNER WATERFRONT LINE AS DESCRIBED IN THE RECORDS ON FILE AT THE OFFICE OF ENGINEERING OF THE SAN FRANCISCO PORT AUTHORITY; RUNNING THENCE SOUTHERLY ALONG THE AFORESAID INNER WATERFRONT LINE AT S 3DEG 02'27" E A DISTANCE OF 2,398.74 FEET; THENCE AT N 86DEG 45'38" E A DISTANCE OF 38.02 FEET TO THE TRUE POINT OF BEGINNING; THENCE AT S 3DEG 14'22" E A DISTANCE OF 120.00 FEET; THENCE AT S 86DEG 45'38" W A DISTANCE OF 40.17 FEET; THENCE AT N 3DEG 14'22" W A DISTANCE OF 120.00 FEET; THENCE AT N 86DEG 45'38" E A DISTANCE OF 40.17 FEET TO THE TRUE POINT OF BEGINNING, CONTAINING AN AREA OF 4,820.00 SQUARE FEET, MORE OR LESS.

ALSO INCLUDED IN THIS PARCEL IS THE SECOND FLOOR OFFICE SPACE OF THE AFOREMENTIONED TWO-STORY BUILDING WITH AN AREA OF 2,414.00 SQUARE FEET, MORE OR LESS.

G723986



PARCEL A	91,844 SF
PARCEL B	14,071 SF
SUB-TOTAL	105,915 SF
PARCEL C	4,105 SF
PARCEL D	
WAREHOUSE	4,820 SF
OFFICE	2,414 SF
TOTAL	117,254 SF

NO.	DATE	DESCRIPTION
REVISIONS		
PORT OF SAN FRANCISCO SAN FRANCISCO PORT COMMISSION DEPARTMENT OF ENGINEERING		
EXHIBIT A-1 H & H SHIP SERVICE CO. LEASE NO. L-11679		
DRAWN BY	E.C.C.	CHECKED BY
DESIGNED BY		DATE
SECTION HEAD		SCALE
DRAWING NO.		SHEET NO.
		OF SHEETS

Contract No.

APPROVED BY
SAN FRANCISCO PORT COMMISSION
DATE *July 21, 1992*
Chf. Jarrett
CHIEF ENGINEER