

When Recorded Return To

Alice Calvert, City Clerk
City of San Leandro
835 E. 14th St.
San Leandro, CA 94578

CITY OF SAN LEANDRO

APR 05 1993

CITY CLERK'S OFFICE

93 070979

RECORDED IN OFFICIAL RECORDS
OF ALAMEDA COUNTY, CALIF.
PATRICK O'CONNELL
COUNTY RECORDER

D.H.

'93 MAR 3 PM 3 29

1 STEVEN R. MEYERS, SBN 57800
2 MICHAEL R. NAVE, SBN 37226
3 DAVID W. SKINNER, SBN 146285
4 MEYERS, NAVE, RIBACK & SILVER
5 Gateway Plaza
6 777 Davis Street, Suite 300
7 San Leandro, California 94577
8 Telephone: (510) 351-4300
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10 Attorneys for CITY OF SAN LEANDRO

FILED
ALAMEDA COUNTY

JAN 25 1993

RONALD G. OVERHOLT, Exec. Off./Clerk
By Linda Steffens

SUPERIOR COURT OF CALIFORNIA

COUNTY OF ALAMEDA

11 CITY OF SAN LEANDRO, a Municipal
12 Corporation,

13 Plaintiff,

14 v.

15 LUCKY STORES, INC., a Delaware
16 corporation, successor by merger to
17 Lucky Stores, Inc., a California
18 corporation, and doing business as
19 Delaware Lucky Stores, Inc.; WALNUT
20 CREEK CANNING CO., a California
21 corporation; PACIFIC GAS AND
22 ELECTRIC COMPANY; SOUTHERN PACIFIC
TRANSPORTATION COMPANY; KAISER
COMMUNITY HOMES; ALAMEDA COUNTY
FLOOD CONTROL AND WATER CONSERVATION
DISTRICT; SEVENTEEN ONE, INC.; THE
TITLE INSURANCE AND TRUST COMPANY;
CONNECTICUT GENERAL LIFE INSURANCE
COMPANY; and DOES I through XX,
inclusive,

23 Defendants.

No.: H-1617430

FINAL JUDGMENT--ACTION IN
EMINENT DOMAIN

PARCEL NOS. 77A-647-9-21
77A-647-9-30
77A-647-9-34

ENTERED IN
JUDGMENT BOOK
BOOK (NEEL) 265 PG 33

JAN 25 1993

RONALD G. OVERHOLT, Exec. Off./Clerk

24
25 IT APPEARING to the Court that Plaintiff CITY OF SAN
26 LEANDRO, in accordance with the Stipulation for Judgment (a true
27 and correct copy of which is attached as Exhibit "1" and
28 incorporated herein by reference), between the parties has

136\plead\113\fnljmt.dws

1

MEYERS, NAVE,
RIBACK & SILVER
A PROFESSIONAL LAW CORPORATION

GATEWAY PLAZA
777 DAVIS STREET, SUITE 300
SAN LEANDRO, CA 94577
(510) 351-4300
FAX: (510) 351-4481

JAN 26 1993

1 deposited the sum of ONE HUNDRED TWELVE THOUSAND FOUR HUNDRED
2 DOLLARS (\$112,400.00) into the State Treasury Condemnation Fund,
3 said sum representing the agreed-upon just compensation.

4 NOW, THEREFORE, IT IS ORDERED, ADJUDGED AND DECREED
5 that Defendants LUCKY STORES, INC., a Delaware corporation,
6 successor by merger to Lucky Stores, Inc., a California
7 corporation, and doing business as Delaware Lucky Stores, Inc.
8 and WALNUT CREEK CANNING CO. ("Defendant LUCKY STORES") has
9 withdrawn the above-referenced sum from the State Treasury
10 Condemnation Fund per this Court's Order of Withdrawal, a true
11 and correct copy of which is attached hereto as Exhibit "2."

12 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that
13 Plaintiff CITY OF SAN LEANDRO shall pay to Defendant LUCKY
14 STORES the sum of interest from June 8, 1992, through December
15 30, 1992, as provided by law, on the above referenced
16 \$112,400.00, within 30 days of the date hereof, and that the
17 above-referenced \$112,400.00 plus such interest represent the
18 full, adequate and just compensation for the taking of the
19 properties more particularly described in Exhibits "3-A," "3-B"
20 and "3-C" (the "subject properties"), attached hereto and
21 incorporated herein.

22 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the
23 fee simple title in and to the subject properties will vest in
24 Plaintiff free and discharged of all claims and liens of every
25 kind whatsoever, except utility easements of record, forthwith
26 upon recordation of this final judgment;

27 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that:

28 (a) The public interest and necessity require the

1 project;

2 (b) The acquisition is planned and located in the
3 manner that will be most compatible with the greatest
4 public good and to the least private injury; and

5 (c) The properties sought to be acquired are necessary
6 for the construction of the Fairway Drive Overcrossing.

7 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the
8 real property taxes, including any delinquencies, costs and
9 interest, if any, shall be apportioned and prorated in
10 accordance with Revenue and Taxation Code Section 4986 as of May
11 7, 1992, and such portion of said taxes as is attributable to
12 the period from and after said date be and the same is hereby
13 cancelled, and the Auditor of the County of Alameda is directed
14 to take whatever steps as are necessary to cancel such taxes,
15 and the lien for real property taxes, insofar as the lien for
16 real property taxes affects the subject properties, is to be
17 cancelled and extinguished;

18 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the
19 subject properties are situated in the County of Alameda, State
20 of California;

21 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that
22 Judgment be entered in favor of Plaintiff and against Defendants
23 LUCKY STORES, and that said Defendants have no interest in the
24 subject properties.

25

26 DATED: JAN 25 1993

27

28


JUDGE OF THE SUPERIOR COURT

MEYERS, NAVE,
RIBACK & SILVER
A PROFESSIONAL LAW CORPORATION

GATEWAY PLAZA
777 DAVIS STREET, SUITE 300
SAN LEANDRO, CA 94577
(510) 351-4300
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 Telephone: (510) 351-4300
 5
 Attorneys for CITY OF SAN LEANDRO
 6
 7

8 SUPERIOR COURT OF CALIFORNIA

9 COUNTY OF ALAMEDA
 10

11 CITY OF SAN LEANDRO, a Municipal
 Corporation,

No.: H-1617430

12 Plaintiff,

STIPULATION FOR FINAL
 JUDGMENT AND ORDER
 THEREON--ACTION IN
EMINENT DOMAIN

13 v.
 14

LUCKY STORES, INC., a Delaware
 15 corporation, successor by merger to
 Lucky Stores, Inc., a California
 16 corporation, and doing business as
 Delaware Lucky Stores, Inc.; WALNUT
 17 CREEK CANNING CO., a California
 corporation; PACIFIC GAS AND
 18 ELECTRIC COMPANY; SOUTHERN PACIFIC
 TRANSPORTATION COMPANY; KAISER
 19 COMMUNITY HOMES; ALAMEDA COUNTY
 FLOOD CONTROL AND WATER CONSERVATION
 20 DISTRICT; SEVENTEEN ONE, INC.; THE
 TITLE INSURANCE AND TRUST COMPANY;
 21 CONNECTICUT GENERAL LIFE INSURANCE
 COMPANY; and DOES I through XX,
 22 inclusive,

PARCEL NOS. 77A-647-9-21
 77A-647-9-30
 77A-647-9-34

23 Defendants.
 24 _____/

25
 26 IT IS STIPULATED between Plaintiff CITY OF SAN LEANDRO,
 27 a municipal corporation, through its attorneys, and Defendants
 28 LUCKY STORES, INC., a Delaware corporation, successor by merger

1 to Lucky Stores, Inc., a California corporation, and doing
2 business as Delaware Lucky Stores, Inc., and WALNUT CREEK
3 CANNING CO., a California corporation (hereinafter jointly
4 "Defendants LUCKY STORES") as follows:

5 1. The Complaint in this action was filed on May 5,
6 1992, by Plaintiff CITY OF SAN LEANDRO (hereafter "CITY"), to
7 condemn certain property located in the City of San Leandro for
8 the construction of the Fairway Drive Overcrossing. The CITY
9 and Defendants LUCKY STORES hereby stipulate that the Complaint
10 is amended to provide that the CITY seeks to acquire fee simple
11 title to the property described in Exhibits "A-1," "A-2," and
12 "A-3" attached hereto and incorporated by reference herein
13 (hereinafter the "Subject Property"). (These legal descriptions
14 supersede and abrogate any and all legal descriptions attached
15 to the Complaint in this action.)

16 2. All named Defendants having an interest in the
17 Subject Property have been served with the Summons and
18 Complaint.

19 3. Defendants LUCKY STORES represent that at the
20 time, and immediately preceding the filing of the Complaint,
21 they were and now are the owners of the Subject Property, as
22 applicable.

23 4. Defendants LUCKY STORES have been served with
24 Summons and Complaint in this action, and they are fully
25 informed as to all matters affecting the Subject Property and
26 expressly waive any and all other process of notice and any
27 rights affected thereby.

28 ///

1 5. On June 10, 1992, Plaintiff CITY OF SAN LEANDRO
2 filed a Request for Dismissal as to Defendant SOUTHERN PACIFIC
3 TRANSPORTATION COMPANY, and a dismissal was entered on such
4 date.

5 6. On June 11, 1992, Defendant ALAMEDA COUNTY FLOOD
6 CONTROL AND WATER CONSERVATION DISTRICT filed a disclaimer of
7 any interest and right to the Subject Property and in the
8 compensation to be awarded therefor. Therefore, such Defendant
9 has no interest in the Subject Property nor any right to
10 compensation to be awarded therefor.

11 7. On June 29, 1992, Defendant PACIFIC GAS AND
12 ELECTRIC COMPANY filed a disclaimer of any interest and right to
13 the Subject Property and in the compensation to be awarded
14 therefor. Therefore, such Defendant has no interest in the
15 Subject Property nor any right to compensation to be awarded
16 therefor.

17 8. On July 9, 1992, Plaintiff CITY OF SAN LEANDRO
18 filed a Request for Dismissal as to Defendants SOUTHERN PACIFIC
19 TRANSPORTATION COMPANY, KAISER COMMUNITY HOMES, SEVENTEEN ONE,
20 INC., and CONNECTICUT GENERAL LIFE INSURANCE COMPANY, and a
21 dismissal was entered on said date.

22 9. The Court is authorized and petitioned to enter
23 without further notice a Final Judgment, identical to the copy
24 of Final Judgment--Action in Eminent Domain which is attached
25 hereto as Exhibit "B," decreeing that the fee simple title in
26 and to the Subject Property, more particularly described in
27 Exhibits "A-1," "A-2 and "A-3," is taken and condemned as
28 authorized by law, and adjudging that the sum of ONE HUNDRED

1 TWELVE THOUSAND FOUR HUNDRED DOLLARS (\$112,400.00), plus
2 interest from June 8, 1992 through December 30, 1992, as
3 provided by law, is full, adequate and just compensation for the
4 taking thereof and any and all claims or damages asserted by
5 such Defendants.

6 10. That Plaintiff CITY OF SAN LEANDRO has deposited
7 for Defendants LUCKY STORES the sum of ONE HUNDRED TWELVE
8 THOUSAND FOUR HUNDRED DOLLARS (\$112,400.00) into the State
9 Treasury Condemnation Fund, said sum representing the agreed-
10 upon just compensation, and the fee simple title in and to the
11 Subject Property will forthwith vest in Plaintiff free and
12 discharged of all claims and liens of every kind whatsoever,
13 except utility easements of record, upon recordation of the
14 Final Judgment herein.

15 11. Defendants LUCKY STORES have withdrawn the funds
16 as deposited, pursuant to C.C.P. § 1255.210, et seq., and
17 Plaintiff CITY OF SAN LEANDRO shall pay the sum of interest
18 accrued on the \$112,400.00 to Defendants LUCKY STORES within
19 thirty (30) days of the filing of this Stipulation.

20 12. That the real property taxes, including any
21 delinquencies, costs and interest, if any, shall be apportioned
22 and prorated in accordance with Revenue and Taxation Code
23 Section 4986 as of May 7, 1992, and such portion of said taxes
24 as is attributable to the period from and after such date be,
25 and the same are hereby, cancelled, and that the lien for real
26 property taxes, insofar as it affects the Subject Property, be
27 cancelled, and the Auditor of the County of Alameda is directed
28 to take whatever steps as are necessary to cancel such taxes,

1 and the lien for real property taxes, insofar as the lien for
2 real property taxes affects the Subject Property, is to be
3 cancelled and extinguished.

4 Dated: January __, 1993

MEYERS, NAVE, RIBACK & SILVER

By:

STEVEN R. MEYERS
Attorneys for Plaintiff
CITY OF SAN LEANDRO

9 Dated: January __, 1993

DONAHUE, GALLAGHER, THOMAS & WOODS

By:

HARRISON S. ROBINSON
Attorneys for Defendants
LUCKY STORES, INC.

Real property in the City of San Leandro, County of Alameda, State of California, described as follows:

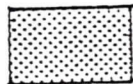
Beginning at the southwest corner of the lands of Walnut Creek Canning Company as recorded in the records of Alameda County at Series No. BA-008575, said point being on the northern line of Fairway Drive, said northern line of Fairway Drive being taken as bearing N 62° 30' E for purposes of this description; thence N 27° 30' W, 4.16 feet to a point on a non-tangent curve, concave to the northwest, having a radius of 1733.00 feet, a radial line of said curve to said point bears S 31° 28' 11" E; thence along said curve, northeasterly, through a central angle of 3° 37' 39", a distance of 109.71 feet to a tangent line; thence along said tangent line N 54° 54' 10" E, 58.94 feet; thence N 65° 13' 31" E, 152.18 feet; thence N 62° 29' 37" E, 380.55 feet to a tangent curve, concave to the northwest, having a radius of 70.00 feet; thence along said curve, northeasterly, through a central angle of 31° 21' 59", a distance of 38.32 feet to a tangent curve, concave to the southeast, having a radius of 68.50 feet, a radial line of last said curve to last said point bears N 62° 36' 04" W, last said curve being a portion of the northern line of Fairway Drive as said drive was deeded to the City of San Leandro by deed filed February 20, 1967, at reel 1919, image 102, Alameda County Records; thence along last said curve southwesterly, through a central angle of 8° 40' 51", a distance of 10.38 feet to a point of reverse curvature with a curve concave to the northwest, having a radius of 70 feet, last said curve being also on the northern line of Fairway Drive; thence along last said curve southwesterly, through a central angle of 43° 46' 55", a distance of 53.49 feet to a tangent line, last said tangent line being also the northern line of Fairway Drive; thence along last said line S 62° 30' W, 680.11 feet to the Beginning.

The above described parcel of land contains an area of 11,285 square feet, more or less.



LD 92-6
 Dwg 1233 Case 1602
 Fairway Drive R/W Acquisition
 Walnut Creek Canning
 77A-647-9-21
 Revised 9/30/92

EXHIBIT A-1



INDICATES AREA
TO BE ACQUIRED

AREA = 11,285 S.F. (±)
LD 92-6

LANDS OF
WALNUT
CREEK
CANNING CO.

R=70.0'
Δ=31°21'59"
L=38.32'

(R) N 62°36'04" W

R=68.50'
Δ=08°40'51"
L=10.38'

R=70.0'
Δ=43°46'55"
L=53.49'

380.55'

N 62°29'37" E

DRIVE

FAIRWAY

680.11'

N 65°13'31" E
152.18'

N 54°54'10" E
58.94'

R=1733'
Δ=3°37'39"
L=109.71'



MILLER STREET

(R) S 31°28'11" E

R=1733'
Δ=3°58'11"
L=120.07'

P.O.B.

N 27°30' W 4.16'

N 62°30' E
120'

APPROVAL DATE _____

CITY ENGINEER P.O.E. 14042

DESIGNED BY _____

DRAWN BY N.R.W. _____

CHECKED BY J.S.N. _____

CITY OF SAN LEANDRO

FAIRWAY DRIVE WIDENING

ALADDIN-FAIRWAY OVERCROSSING

APN: 77A-647-9-21

WALNUT CREEK CANNING CO.

NO. DATE REVISION

1 9/30/92 CHANGE 120.8' TO 120.07'

SHEET 1 OF 1

JOB NO. _____

SCALE N.T.S.

DWG. 1233 CASE 1602

1/2/51

Real property in the City of San Leandro, County of Alameda, State of California, being more particularly described as follows:

BEGINNING at a point on the northeastern line of Merced Street, the bearing of said line being north $27^{\circ} 30' 00''$ west, said point being the most northern point of the parcel of land described in the deed by Mainut Creek Canning Co., a California corporation, to the City of San Leandro, a municipal corporation, recorded February 5, 1971, at Series No. 71-13503, Official Records of Alameda County; thence southeasterly, easterly and northeasterly along a tangent curve, concave to the northeast, having a radius of 35.00 feet, through a central angle of $90^{\circ} 00' 00''$, an arc length of 34.98 feet, to a tangent line, said tangent line being parallel to and 5.00 feet northwesterly from, measured at right angles, the northwestern line of Fairway Drive; thence north $62^{\circ} 30' 00''$ east, 250.00 feet; thence north $65^{\circ} 30' 46''$ east, 95.13 feet, to the northwestern line of Fairway Drive; thence south $62^{\circ} 30' 00''$ west, 340.00 feet, to a tangent curve, concave to the northeast, having a radius of 40.00 feet; thence southeasterly, westerly and northwesterly along last said curve, through a central angle of $90^{\circ} 00' 00''$, an arc length of 62.83 feet, to the point of BEGINNING.

Containing 1,582.02 square feet, more or less.



Acquisition - Fairway Drive Widening
 Northeast corner Fairway Drive and Merced Street
 Mainut Creek Canning Co. (Lucky Stores), 2530 Merced Street
 APN 77A-647-9-30

JD 90-16
 DWG 1174 Case 1602

EXHIBIT A-2

NORTH

LD 90-16

Indicates area to be acquired
Area = 1,582 sq. ft.

FAIRWAY DRIVE WIDENING

R=35.00' Δ=90° L=54.98'
R=40.00' Δ=90° L=62.83'
N 27° 30' W
P.A.S.

N 62° 30' E 250.00'
S 62° 30' W 340.00'

N 65° 30' 16" E
95.71'

FAIRWAY DR.
(60') 80' R/W

MERCED ST.
80' R/W

CITY OF SAN JOSE
ACQUISITION

FAIRWAY DRIVE WIDENING
AT

2550 MERCED STREET
APN: 7A-647-9-30 LUCKY STORES

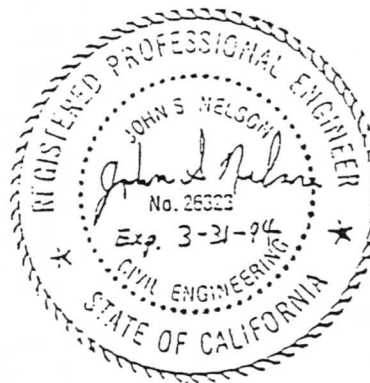
KY
JM
KY

1/24/100 Transition
NONE
1175-1176-1177-1178-1179-1180-1181-1182

Real property in the City of San Leandro, County of Alameda, State of California, described as follows:

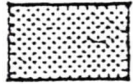
Beginning at the southwest corner of the lands of Walnut Creek Canning Company as recorded in the records of Alameda County at Series No. BA-008575, said point being on the northern line of Fairway Drive, said northern line of Fairway Drive being taken as bearing N 62° 30' E for purposes of this description; thence S 62° 30' W, 120.00 feet to point on a tangent curve, concave to the northwest, having a radius of 1733.00 feet; thence along said curve, northeasterly, through a central angle of 3° 58' 11", a distance of 120.07 feet to a non-tangent line; thence S 27° 30' E, 4.16 feet to the Beginning.

The above described parcel of land contains an area of 166 square feet, more or less.



LD 92-7
Dwg 1234 Case 1602
Fairway Drive R/W Acquisition
Lucky Stores, Inc.
77A-647-9-38
Revised 9/30/92

EXHIBIT A-3



INDICATES AREA
TO BE ACQUIRED

AREA = 166 S.F. (±)

LD 92-7

LANDS OF
WALNUT
CREEK
CANNING CO.

R=70.0'
Δ=31°21'59"
L=38.32'

R=68.50'
Δ=08°40'51"
L=10.38'

R=70.0'
Δ=43°46'55"
L=53.49'

380.55'

N62°29'37"E

DRIVE

FAIRWAY

N65°13'31"E
152.18'

S62°30'W 680.11'

N54°54'10"E
58.94'

R=1733'
Δ=3°37'39"
L=109.71'

N27°30'W 4.16' MILLER STREET

(R) S31°28'11"E

R=1733
Δ=3°58'11"
L=120.07'

P.O.B.

N 62°30' E
120'



APPROVAL DATE _____

CITY OF SAN LEANDRO

NO.	DATE	REVISION
1	9/30/92	CHANGE 120.5 TO 120.07'

FAIRWAY DRIVE WIDENING

ALADDIN-FAIRWAY OVERCROSSING

APN: 77A-647-9-38

LUCKY STORES INC.

CITY ENGINEER, R.C.E. 14942

DESIGNED BY _____

DRAWN BY NRW

CHECKED BY J.S.N.

SHEET 1 OF 1

JOB NO. _____

SCALE N.T.S.

DWG. 1234 CASE 1602

1 STEVEN R. MEYERS, SBN 57800
 MICHAEL R. NAVE, SBN 37226
 2 DAVID W. SKINNER, SBN 146285
 MEYERS, NAVE, RIBACK & SILVER
 3 Gateway Plaza
 777 Davis Street, Suite 300
 4 San Leandro, California 94577
 Telephone: (510) 351-4300
 5
 Attorneys for CITY OF SAN LEANDRO
 6
 7

8 SUPERIOR COURT OF CALIFORNIA

9 COUNTY OF ALAMEDA

10
 11 CITY OF SAN LEANDRO, a Municipal
 Corporation,

No.: H-1617430

12 Plaintiff,

FINAL JUDGMENT--ACTION IN
EMINENT DOMAIN

13 v.

PARCEL NOS. 77A-647-9-21
 77A-647-9-30
 77A-647-9-34

14 LUCKY STORES, INC., a Delaware
 15 corporation, successor by merger to
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 16 corporation, and doing business as
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 18 ELECTRIC COMPANY; SOUTHERN PACIFIC
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 19 COMMUNITY HOMES; ALAMEDA COUNTY
 FLOOD CONTROL AND WATER CONSERVATION
 20 DISTRICT; SEVENTEEN ONE, INC.; THE
 TITLE INSURANCE AND TRUST COMPANY;
 21 CONNECTICUT GENERAL LIFE INSURANCE
 COMPANY; and DOES I through XX,
 22 inclusive,

23 Defendants.
 24 _____/

25 IT APPEARING to the Court that Plaintiff CITY OF SAN
 26 LEANDRO, in accordance with the Stipulation for Judgment (a true
 27 and correct copy of which is attached as Exhibit "1" and
 28 incorporated herein by reference), between the parties has

136\plead\113\fnljmt.dws

1

Exhibit B

MEYERS, NAVE,
 RIBACK & SILVER
 A PROFESSIONAL LAW CORPORATION

GATEWAY PLAZA
 77 DAVIS STREET, SUITE 300
 SAN LEANDRO, CA 94577
 (510) 351-4300
 FAX: (510) 351-4481

1 deposited the sum of ONE HUNDRED TWELVE THOUSAND FOUR HUNDRED
2 DOLLARS (\$112,400.00) into the State Treasury Condemnation Fund,
3 said sum representing the agreed-upon just compensation.

4 NOW, THEREFORE, IT IS ORDERED, ADJUDGED AND DECREED
5 that Defendants LUCKY STORES, INC., a Delaware corporation,
6 successor by merger to Lucky Stores, Inc., a California
7 corporation, and doing business as Delaware Lucky Stores, Inc.
8 and WALNUT CREEK CANNING CO. ("Defendant LUCKY STORES") has
9 withdrawn the above-referenced sum from the State Treasury
10 Condemnation Fund per this Court's Order of Withdrawal, a true
11 and correct copy of which is attached hereto as Exhibit "2."

12 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that
13 Plaintiff CITY OF SAN LEANDRO shall pay to Defendant LUCKY
14 STORES the sum of interest from June 8, 1992, through December
15 30, 1992, as provided by law, on the above referenced
16 \$112,400.00, within 30 days of the date hereof, and that the
17 above-referenced \$112,400.00 plus such interest represent the
18 full, adequate and just compensation for the taking of the
19 properties more particularly described in Exhibits "3-A," "3-B"
20 and "3-C" (the "subject properties"), attached hereto and
21 incorporated herein.

22 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the
23 fee simple title in and to the subject properties will vest in
24 Plaintiff free and discharged of all claims and liens of every
25 kind whatsoever, except utility easements of record, forthwith
26 upon recordation of this final judgment;

27 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that:

28 (a) The public interest and necessity require the

1 project;

2 (b) The acquisition is planned and located in the
3 manner that will be most compatible with the greatest
4 public good and to the least private injury; and

5 (c) The properties sought to be acquired are necessary
6 for the construction of the Fairway Drive Overcrossing.

7 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the
8 real property taxes, including any delinquencies, costs and
9 interest, if any, shall be apportioned and prorated in
10 accordance with Revenue and Taxation Code Section 4986 as of May
11 7, 1992, and such portion of said taxes as is attributable to
12 the period from and after said date be and the same is hereby
13 cancelled, and the Auditor of the County of Alameda is directed
14 to take whatever steps as are necessary to cancel such taxes,
15 and the lien for real property taxes, insofar as the lien for
16 real property taxes affects the subject properties, is to be
17 cancelled and extinguished;

18 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the
19 subject properties are situated in the County of Alameda, State
20 of California;

21 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that
22 Judgment be entered in favor of Plaintiff and against Defendants
23 LUCKY STORES, and that said Defendants have no interest in the
24 subject properties.

25

26 DATED: _____

27

28

JUDGE OF THE SUPERIOR COURT

136\plead\113\fnljmt.dws

1 ANDREW W. LARKENZ, #53937
 2 WILLIAM W. HATCHER, #154664
 3 DONAHUE, GALLAGHER, THOMAS & WOODS
 4 Attorneys at Law
 5 300 Lakeside Drive, 19th Floor
 6 Oakland, California 94612-3570
 7 P.O. Box 12979
 8 Oakland, California 94604-2979

ENDORSED
 FILED
 ALAMEDA COUNTY

DEC 30 1992

RONALD G. OVERHOLT, Exec. Off./Clerk
 By Linda Steffens

9 Telephone: (510) 451-0544

10 Attorneys for Defendants
 11 LUCKY STORES, INC., a Delaware corporation, and
 12 WALNUT CREEK CANNING CO., a California corporation

13 SUPERIOR COURT OF THE STATE OF CALIFORNIA
 14 FOR THE COUNTY OF ALAMEDA - HAYWARD BRANCH

15 CITY OF SAN LEANDRO, a
 16 Municipal Corporation,

17 Plaintiff,

18 v.

19 LUCKY STORES, INC., a
 20 California corporation; WALNUT
 21 CREEK CANNING COMPANY, a
 22 California corporation;
 23 PACIFIC GAS AND ELECTRIC
 24 COMPANY; SOUTHERN PACIFIC
 25 TRANSPORTATION COMPANY; KAISER
 26 COMMUNITY HOMES; ALAMEDA
 27 COUNTY FLOOD CONTROL AND WATER
 28 CONSERVATION DISTRICT;
 SEVENTEEN ONE, INC.; THE TITLE
 INSURANCE AND TRUST COMPANY;
 CONNECTICUT GENERAL LIFE
 INSURANCE COMPANY; AND DOES I
 through XX, inclusive,

Defendants.

CASE NO. H 161743-0

ORDER GRANTING MOTION AND
 VERIFIED APPLICATION FOR
 WITHDRAWAL OF DEPOSIT OF
 PROBABLE COMPENSATION

Parcel Nos. 77A-647-9-21,
 77A-647-9-30,
 77A-647-9-34

Date: December 30, 12992
 Time: 9:30 a.m.
 Dept: 30

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27 ///

28 ///

PROPOSED ORDER GRANTING MOTION & APPLIC. FOR WITHDRAWAL OF DEPOSIT, ETC.

I:\PLEAD\WWW\14058 1

EXHIBIT 2

1 The motion and verified application of defendants Lucky
2 Stores, Inc. and Walnut Creek Canning Co. (collectively,
3 "Lucky Stores") for withdrawal of deposit of probable
4 compensation came on regularly for hearing at the above-date
5 and time.

6 Upon consideration of the papers and filings presented
7 to the Court, and good cause appearing therefor, this Court
8 hereby grants Lucky Stores' motion and verified application
9 for withdrawal of probable compensation pursuant to C.C.P.
10 § 1255.220. Accordingly,

11 IT IS HEREBY ORDERED that the person or entity in posses-
12 sion of the deposit of probable compensation in this matter
13 be, and hereby is, directed to immediately issue a check pay-
14 able to "Lucky Stores, Inc. and Walnut Creek Canning Co." in
15 the amount of \$112,400.00, or otherwise immediately transfer
16 said sum to Lucky Stores.

17 IT IS HEREBY FURTHER ORDERED that plaintiff City of San
18 Leandro ("the City") be, and hereby is, directed to promptly
19 pay to Lucky Stores the amount of interest accrued on the
20 deposit filed with the State Controller as Receipt No. 34749

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1 upon the City's receipt of such interest payment from the
2 State Controller.

3
4 Dated: DEC 30 1992, 1992 JOANNE C. PARILLI
5 JUDGE OF THE SUPERIOR COURT

6 Submitted by:

7 Dated: December 10, 1992 DONAHUE, GALLAGHER, THOMAS & WOODS

8 By Andrew W. Lafrenz
9 Andrew W. Lafrenz
10 Attorneys for Defendants LUCKY
11 STORES, INC., a Delaware corpo-
12 ration, and WALNUT CREEK CANNING
13 CO., a California corporation
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Real property in the City of San Leandro, County of Alameda, State of California, described as follows:

Beginning at the southwest corner of the lands of Walnut Creek Canning Company as recorded in the records of Alameda County at Series No. BA-008575, said point being on the northern line of Fairway Drive, said northern line of Fairway Drive being taken as bearing N 62° 30' E for purposes of this description; thence N 27° 30' W, 4.16 feet to a point on a non-tangent curve, concave to the northwest, having a radius of 1733.00 feet, a radial line of said curve to said point bears S 31° 28' 11" E; thence along said curve, northeasterly, through a central angle of 3° 37' 39", a distance of 109.71 feet to a tangent line; thence along said tangent line N 54° 54' 10" E, 58.94 feet; thence N 65° 13' 31" E, 152.18 feet; thence N 62° 29' 37" E, 380.55 feet to a tangent curve, concave to the northwest, having a radius of 70.00 feet; thence along said curve, northeasterly, through a central angle of 31° 21' 59", a distance of 38.32 feet to a tangent curve, concave to the southeast, having a radius of 68.50 feet, a radial line of last said curve to last said point bears N 62° 36' 04" W, last said curve being a portion of the northern line of Fairway Drive as said drive was deeded to the City of San Leandro by deed filed February 20, 1967, at reel 1919, image 102, Alameda County Records; thence along last said curve southwesterly, through a central angle of 8° 40' 51", a distance of 10.38 feet to a point of reverse curvature with a curve concave to the northwest, having a radius of 70 feet, last said curve being also on the northern line of Fairway Drive; thence along last said curve southwesterly, through a central angle of 43° 46' 55", a distance of 53.49 feet to a tangent line, last said tangent line being also the northern line of Fairway Drive; thence along last said line S 62° 30' W, 680.11 feet to the Beginning.

The above described parcel of land contains an area of 11,285 square feet, more or less.



LD 92-6
Dwg 1233 Case 1602
Fairway Drive R/W Acquisition
Walnut Creek Canning
77A-647-9-21
Revised 9/30/92

EXHIBIT 3-A



INDICATES AREA
TO BE ACQUIRED

AREA = 11,285 S.F. (±)

LD 92-6

LANDS OF
WALNUT
CREEK
CANNING CO.

R=70.0'
Δ=31°21'59"
L=38.32'

R=68.50'
Δ=08°40'51"
L=10.38'

R=70.0'
Δ=43°46'55"
L=53.49'

380.55'

N62°29'37"E

DRIVE

FAIRWAY

S62°30'W 680.11'

N65°13'31"E
152.18'

N54°54'10"E
58.94'

R=1733'
Δ=3°37'39"
L=109.71'



MILLER STREET

(R) S31°28'11"E

R=1733'
Δ=3°58'11"
L=120.07'

P.O.B.

N 27° 30' W 4.16'

N 62° 30' E

120'

APPROVAL DATE _____

CITY OF SAN LEANDRO

NO DATE REVISION

1 9/30/92 UNCL 120.6' TO 120.07'

FAIRWAY DRIVE WIDENING

ALADDIN-FAIRWAY OVERCROSSING

APN: 77A-647-9-21

WALNUT CREEK CANNING CO.

CITY ENGINEER P.O.E. 14042

DESIGNED BY _____

DRAWN BY N.R.W.

CHECKED BY J.S.N.

SHEET 1 OF 1

JCB NO _____

SCALE N.T.S.

DWG. 1233 CASE 1602

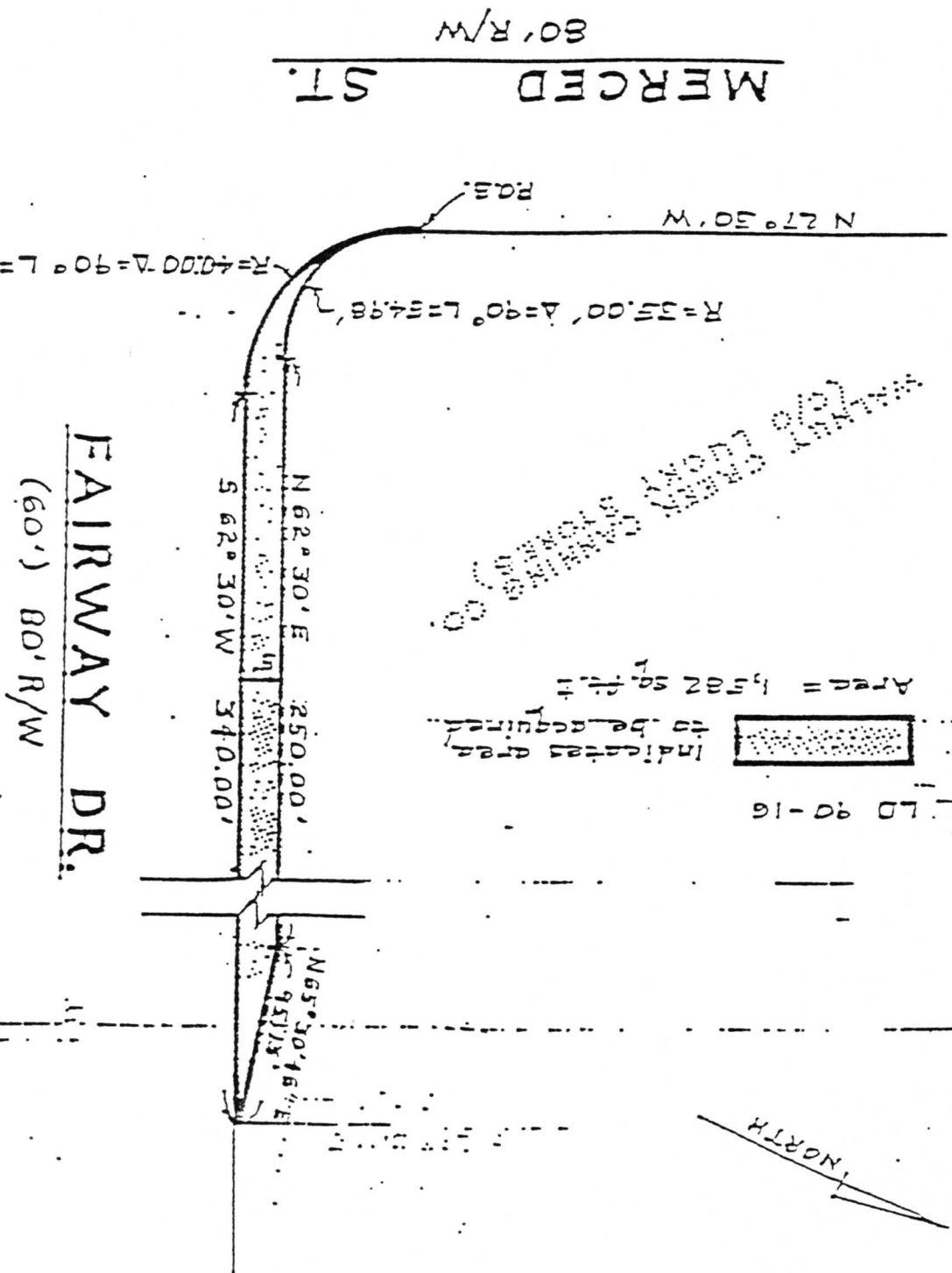
Real property in the City of San Leandro, County of Alameda, State of California, being more particularly described as follows:

BEGINNING at a point on the northeastern line of Merced Street, the bearing of said line being north 27° 30' 00" west, said point being the most northern point of the parcel of land described in the deed by Mainut Creek Canning Co., a California corporation, to the City of San Leandro, a municipal corporation, recorded February 5, 1971, at Series No. 71-13503, Official Records of Alameda County; thence southeasterly, easterly and northeasterly along a tangent curve, concave to the northeast, having a radius of 35.00 feet, through a central angle of 90° 00' 00", an arc length of 54.98 feet, to a tangent line, said tangent line being parallel to and 5.00 feet northwesterly from, measured at right angles, the northwestern line of Fairway Drive; thence north 62° 30' 00" east, 250.00 feet; thence north 63° 30' 46" east, 95.13 feet, to the northwestern line of Fairway Drive; thence south 62° 30' 00" west, 340.00 feet, to a tangent curve, concave to the northeast, having a radius of 40.00 feet; thence southwesterly, westerly and northwesterly along said curve, through a central angle of 90° 00' 00", an arc length of 62.83 feet, to the point of BEGINNING.

Containing 1,582.02 square feet, more or less.



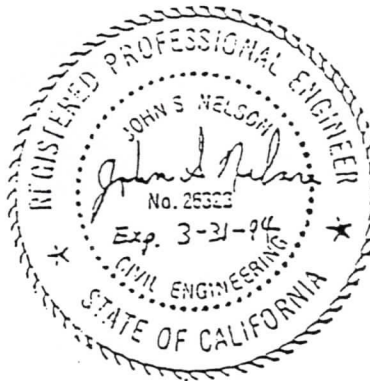
LD 90-16
OWG 1174 Case 1602
Acquisition - Fairway Drive Widening
Northeast corner Fairway Drive and Merced Street
Mainut Creek Canning Co. (Lucky Stores), 2550 Merced Street
APN 77A-647-9-30



Real property in the City of San Leandro, County of Alameda, State of California, described as follows:

Beginning at the southwest corner of the lands of Walnut Creek Canning Company as recorded in the records of Alameda County at Series No. BA-008575, said point being on the northern line of Fairway Drive, said northern line of Fairway Drive being taken as bearing N 62° 30' E for purposes of this description; thence S 62° 30' W, 120.00 feet to point on a tangent curve, concave to the northwest, having a radius of 1733.00 feet; thence along said curve, northeasterly, through a central angle of 3° 58' 11", a distance of 120.07 feet to a non-tangent line; thence S 27° 30' E, 4.16 feet to the Beginning.

The above described parcel of land contains an area of 166 square feet, more or less.



LD 92-7
Dwg 1234 Case 1602
Fairway Drive R/W Acquisition
Lucky Stores, Inc.
77A-647-9-38
Revised 9/30/92



INDICATES AREA
TO BE ACQUIRED

AREA = 166 S.F. (±)

LD 92-7

LANDS OF
WALNUT
CREEK
CANNING CO.

R=70.0'
Δ=31°21'59"
L=38.32'

R=68.50'
Δ=08°40'51"
L=10.38'

R=70.0'
Δ=43°46'55"
L=53.49'

380.55'

N 62°29'37"E

DRIVE

FAIRWAY

S 62°30'W 680.11'

N 65°13'31"E
152.18'

N 54°54'10"E
58.94'

R=1733'
Δ=3°37'39"
L=109.71'

N 27°30'W 4.16' MILLER STREET

(R) S 31°28'11"E

R=1733
Δ=3°58'11"
L=120.07'

P.O.B.

N 62°30'E
120'

THE ORIGINAL FILED IN THE
CORRECT COPY TO THE
OFFICE OF THE CLERK OF THE
SUPERIOR COURT OF THE COUNTY OF ALAMEDA

ATTEST: MAR 07 1993

RONALD G. OVERHOLT
CLERK OF THE SUPERIOR COURT OF THE COUNTY OF ALAMEDA



APPROVAL DATE _____

CITY ENGINEER, R.C.E. 14942

DESIGNED BY _____

DRAWN BY NRW

CHECKED BY J.S.N.

CITY OF SAN LEANDRO

FAIRWAY DRIVE WIDENING

ALADDIN-FAIRWAY OVERCROSSING

APN: 77A-647-9-38

LUCKY STORES INC.

NO. 1 DATE

REVISION

1 9/30/93 CHANGE 120.5 TO 120.07

SHEET 1 OF 1

JOB NO. _____

SCALE N.T.S.

DWG. 1234 CASE 1602

93070979

The foregoing instrument is a
correct copy of the original
on file in this office.

ATTEST: MAR 03 1993

RONALD G. OVERHOLT
Executive Officer/Clerk of the Superior Court,
State of California, County of Alameda.
BY [Signature] DEPUTY



CITY OF SAN LEANDRO

MAY 10 1993

CITY CLERK'S OFFICE

93 104167

RECORDED IN OFFICIAL RECORDS
ALAMEDA COUNTY, CA.
PATRICK O'CONNELL, CO. RECORDER

087

'93 APR 2 AM 10 51

(1-289 and 1049)

When Recorded, Return To:
Alice Calvert, City Clerk
City of San Leandro
835 East 14th Street
San Leandro, CA 94577

Documentary Transfer Tax
EXEMPT

D.H.

City of San Leandro

GRANT OF EASEMENT

For a good and valuable consideration, receipt of which is hereby acknowledged, WALNUT CREEK CANNING CO., a California corporation ("Grantor"), hereby GRANTS and CONVEYS to the CITY OF SAN LEANDRO, a municipal corporation, its successors and assigns ("Grantee"), the perpetual non-exclusive easement and right of way to lay down, construct, reconstruct, remove, replace, repair, maintain, operate and use a pipe or pipelines and the appurtenances thereto for the transmission and distribution of water (the "Facilities") in, through and under the real property situate in the City of San Leandro, County of Alameda, State of California, described in Exhibit A, attached hereto and incorporated herein (the "Easement Area").

Grantor further grants to Grantee the non-exclusive right to enter upon Grantor's lands adjacent to the Easement Area with such men, equipment and material as may be reasonably necessary or reasonably convenient for the laying down, construction, reconstruction, removal, replacement, repairing, maintenance, operation and use of the Facilities.

This Grant of Easement is made upon the following conditions to be observed by the Grantee:

1. The Facilities shall at all times be located beneath the surface of the Easement Area.
2. Grantee shall keep and maintain the Facilities in good, safe condition and repair and in compliance with all applicable laws at no expense to Grantor.
3. Grantee shall exercise due care not to injure or damage any improvement in exercising Grantee's right of entry.
4. Except in an emergency, Grantee shall enter upon the Easement Area on weekdays during normal business hours.
5. Any construction, maintenance, inspection and repair by the Grantee shall be performed with diligence and in a manner so as not to interfere unreasonably with Grantor's use and enjoyment of Grantor's property adjacent to the Easement Area. Upon completion of any construction, maintenance, inspection and repair, Grantee shall at its expense restore and repair the Easement Area and the surface thereof so that it is in the same condition as existed prior thereto.

Grantor, its successors and assigns, shall not place, or permit to be placed, on the Easement Area any structure, shall not plant any tree in the Easement Area and shall not change the existing surface elevation (grade) of the Easement Area by more than one (1) foot without obtaining the prior written consent of Grantee, but otherwise Grantor reserves the right to use the surface of the Easement Area, subject to the right of entry granted to the Grantee herein.

IN WITNESS WHEREOF, Grantor has executed this Grant of Easement on the 18th day of December, 1992.

WALNUT CREEK CANNING CO.,
a California corporation

By: _____

John Sloan
President

By: _____

Margaret Sloan
Secretary

"Grantor"

(to be notarially acknowledged)

Approved as to Form
Donahue, Gallagher, Thomas & Woods

By: _____

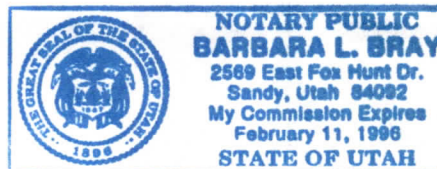
State of Utah)
 County of Salt Lake)

On Dec. 18, 1992, before me, Barbara L. Bray,
 personally appeared Jack Hunt and Mary C. Sloan, ☐ personally known to me or
☒ proved to me on the basis of satisfactory evidence to be the
 person(s) whose name(s) is/are subscribed to the within
 instrument and acknowledged to me that he/she/they executed the
 same in his/her/their authorized capacity(ies), and that by
 his/her/their signature(s) on the instrument the person(s), or
 the entity upon behalf of which the person(s) acted, executed the
 instrument.

WITNESS my hand and official seal.

Barbara L. Bray

(SEAL)





ՀԱՅԱՍՏԱՆԻ ՀԱՆՐԱՊԵՏՈՒԹՅԱՆ
ԲԱՆԱԿԱՆ ԲՈՐՈՑ
ՀԱՅԱՍՏԱՆԻ ՀԱՆՐԱՊԵՏՈՒԹՅԱՆ
ԲԱՆԱԿԱՆ ԲՈՐՈՑ
ՀԱՅԱՍՏԱՆԻ ՀԱՆՐԱՊԵՏՈՒԹՅԱՆ
ԲԱՆԱԿԱՆ ԲՈՐՈՑ

SUBORDINATION

For a good and valuable consideration, receipt of which is hereby acknowledged, LUCKY STORES, INC., a Delaware corporation, successor by merger to Lucky Stores, Inc., a California corporation, and doing business in California as Delaware Lucky Stores, Inc. ("Lucky"), tenant under that certain Lease dated as of November 15, 1967 (the "Lease"), a recording short form of which was recorded in the Official Records of Alameda County, California, on January 25, 1968, on Reel 2114, at Image 539, which Lease demises to Lucky a premises which includes the Easement Area as defined in the Grant of Easement (the "Grant") to which this Subordination is attached, agrees that all of its interest pursuant to the Lease in the premises demised by the Lease is, and henceforth shall be, subject and subordinate to the Grant and the rights and interests created thereby.

IN WITNESS WHEREOF, the undersigned has executed this Subordination on the 18th day of December, 1992.

LUCKY STORES, INC.,
a Delaware corporation, doing
business in California as Delaware
Lucky Stores, Inc.

By: _____

Joe Lunn
Vice President

By: _____

Mary V. Sloan
Asst Secretary

"Lucky"

(to be notarially acknowledged) *W*

Approved as to Form
Donahue, Gallagher, Thomas & Woods

By: _____

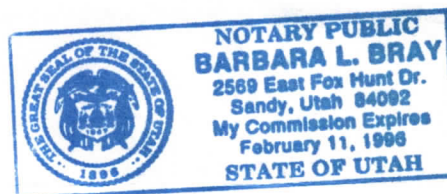
State of Utah)
 County of Salt Lake)

On Dec. 18, 1992, before me, Barbara L. Bray,
 personally appeared Jack Hunt and Mary V. Sloan, ☐ personally known to me or
☒ proved to me on the basis of satisfactory evidence to be the
 person(s) whose name(s) is/are subscribed to the within
 instrument and acknowledged to me that he/she/they executed the
 same in his/her/their authorized capacity(ies), and that by
his/her/their signature(s) on the instrument the person(s), or
 the entity upon behalf of which the person(s) acted, executed the
 instrument.

WITNESS my hand and official seal.

Barbara L. Bray

(SEAL)



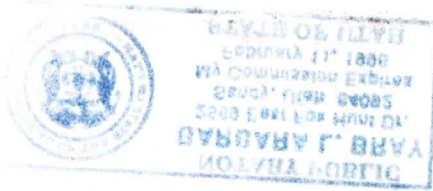


EXHIBIT A

Real property in the City of San Leandro, County of Alameda, State of California, described as follows:

Beginning at the intersection of the southwestern line of the Nimitz Freeway, as said line is described in the deed from Kaiser Community Homes to the State of California, dated June 6, 1949, recorded July 8, 1949, Book 5837 OR, Page 223, with the northwestern line of Fairway Drive, formerly West Avenue 137, as described in the Quitclaim Deed from Lucky Stores, Inc. to the City of San Leandro, dated April 25, 1962, recorded June 1, 1962 on Reel 597 OR, Image 202, Alameda County Records; thence along said southwestern line of the Nimitz Freeway, north $48^{\circ} 47' 18''$ west, 21.46 feet to a point on a line drawn parallel with and 20.00 feet northwesterly, measured at right angles, from said line of Fairway Drive, thence along said parallel line south $62^{\circ} 30' 00''$ west, 93.54 feet to a point on a non-tangent curve, concave to the southwest, having a radius of 68.50 feet and a central angle of $20^{\circ} 54' 19''$, a radial line of said curve to said point bears north $15^{\circ} 37' 14''$ east, said curve being a portion of the northerly boundary line of that parcel of land described in the deed from Lucky Stores, Inc. to the City of San Leandro, dated December 21, 1966, recorded February 20, 1967, Series No. AZ/15720, on Reel 1919 OR, Image 102, Alameda County Records; thence along said curve, easterly and southeasterly, a distance of 24.99 feet to said northwestern line of Fairway Drive; thence along last said line, north $62^{\circ} 30' 00''$ east, 86.58 feet to the point of beginning.

The above described parcel of land contains 1,782 square feet, more or less.



LD 92-2
Dwg 1229 Case 1602
EBMUD Easement - Fairway Drive at Nimitz
Lucky
77A-647-9/21

93104167

This is to certify that the interest in real property conveyed by Deed or Grant,
dated December 18, 1992 , from Walnut Creek Canning Co.

to the City of San Leandro, a municipal corporation, is hereby accepted on behalf
of the City Council of the City of San Leandro, pursuant to authority conferred
by Resolution No. 89-91, adopted by the City Council of the City of San Leandro
on May 15, 1989, and the grantee consents to recordation thereof by its duly
authorized officer.

Dated: March 30, 1993



Alice Calvert
City Clerk of the City of San Leandro

CITY OF SAN LEANDRO
MEMORANDUM

CITY OF SAN LEANDRO
APR 12 1993
CITY CLERK'S OFFICE

DATE: April 12, 1993
TO: Alice Calvert, City Clerk
FROM: Rob Caughell, Administrative Assistant
Engineering & Transportation Department
SUBJ: CANCEL TAXES @ 1701 MARINA BOULEVARD
APN: PORTIONS OF 77A-647-9-21 (Lucky Stores, Inc dba
77A-647-9-30 Walnut Creek Canning Co)
77A-647-9-34

Attached is a FINAL JUDGEMENT--ACTION IN EMINENT DOMAIN for the above subject property. Approximately 30 days from today, you should receive a copy of the recorded Deed from the County Assessor. Upon receipt of this document, please inform the County Tax Collector to cancel the property taxes.

Also, please send me a copy of the recorded Deed for my file. Call me at ext. 3432 if you have any questions.

Rob



WILLIAM MEHRWEIN
CLERK OF THE BOARD

CLERK, BOARD OF SUPERVISORS

CITY OF SAN LEANDRO

JAN 3 1994

CITY CLERK'S OFFICE

YVONNE D. QUAN
ASSISTANT CLERK

(1-289)

DATE: DECEMBER 23, 1994

In reply, refer to CT 93-818192

ALICE CALVERT, CITY
CITY OF SAN LEANDRO
835 E. 14TH STREET
SAN LEANDRO, CA 94577

RE: REQUEST FOR CANCELLATION OF TAXES

APN: 77A-647-9-21

APN: 77A-647-9-30

APN: 77A-647-9-36

APN: 77A-647-9-38

Enclosed is a copy of the Assessor's report (Exhibit # 93-13-0192 93-13-0001),
in reply to your request for cancellation of taxes on the above parcel(s).

The Auditor is requested to cancel a portion or all of the taxes on the above
reference no(s).

Very truly yours,

W Mehrwein
William Mehrwein, Clerk

WM:sft

Enclosure(s)

cc: Tax Collector



WILLIAM MEHRWEIN
CLERK OF THE BOARD

CLERK, BOARD OF SUPERVISORS

CITY OF SAN LEANDRO

DEC 21 1993

YVONNE D. QUAN
ASSISTANT CLERK

CITY CLERK'S OFFICE
In reply, refer to CT

93-192

DATE:

12/17/93

TO:

ASSESSOR, ATTN: ~~SEICHI YOSHIURA~~ PHILIP BANGLOV

FROM:

CLERK, BOARD OF SUPERVISORS WM

SUBJECT:

CANCELLATION OF TAXES

Enclosed is a request for cancellation of taxes from the following:

CITY OR AGENCY	RECORDER'S NO.	APN OR ADDRESS	DATE OF REQUEST
CITY OF SAN LEANDRO	93-070979	77A-647-9-21 77A-647-9-30 77A-647-9-34	12/26/93 8/11/93

This is referred to you for processing.

WM: SFT

Enclosure(s)

☒ cc. City or Agency

Pro-rata check ☐ Yes ☒ No

Date received _____

Amount \$ _____

Date sent to Tax Collector _____

DEBBIE DETMER
ADMINISTRATIVE SECRETARY
CITY OF SAN LEANDRO
835 E. 14TH STREET
SAN LEANDRO, CA - 94577