



**ASSESSMENT ASSOCIATES, INC.**  
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A CREtelligent Company  
3123 SE 9<sup>th</sup> Avenue, Portland, Oregon 97202

September 24, 2021

Ms. Taylor Coakley  
Manager, Encore Condominiums  
949 NW Overton Street  
Portland, Oregon 97209

c/o Bluestone and Hockley  
PO Box 62767  
Irvine CA 92602

**SUBJECT: Environmental Cap Inspection at The Encore Condominiums, 949  
NW Overton Street, Portland, Oregon 97209**

Dear Ms. Coakley,

We have prepared this report summarizing our inspection of the **environmental cap** at the above-referenced Encore Condominiums (the Property) which consists of soil and Concrete building features.

Based on information associated with ODEQ Environmental Cleanup Site Information System Site Summary Reports (ECSI SSRs) for ODEQ ECSI Site 1080 (Hoyt Street Railyard) and ECSI Site 5894 (Hoyt Street Railyard Block 15), it is our understanding that the Property is contaminated with various concentrations of diesel fuel, heavy oil, lead, and polycyclic aromatic hydrocarbons (PAHs). Per an agreement with the Oregon Department of Environmental Quality (ODEQ) the soil beneath the condominium building, as part of the construction process, was capped with a concrete slab foundation, and the landscaped portions of the Property were covered with a geotextile membrane which in turn was capped with a two-foot layer of clean soil. The two capping methods were utilized to prevent human exposure to these compounds. As part of the Cap and Maintenance Plan as required by ODEQ, which is attached to the deed of the Property, it is subject to the following environmental requirement:

**Maintenance of cap:** Except upon prior written approval from ODEQ, no operations or uses shall be made on or of the Property that will or likely will penetrate any surface cover required under the ROD or jeopardize the cover's functional integrity, including without limitation any excavation, drilling, scraping, or erosion. The Owner of the Property shall maintain the surface cover and any other permanent feature of the remedy described in the Record of Decision (ROD) in accordance with the Monitoring and Maintenance Plan approved in writing by DEQ for the Property pursuant to the Consent Decree.

**Full Text of Environmental Disclosure Statement associated with Cap:**

*The Property on which the Condominium is situated was used in the past for railroad purposes. The Burlington Northern and Santa Fe Railway Company ("BNSF") and Hoyt Street Properties, L.L.C. ("HSP"), the former owner of the Property on which the Condominium is being developed, entered into a Declaration of Covenants and Restrictions (the "BNSF Declaration") for the Property, in which HSP and BNSF*



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*released claims against one another related to environmental contamination of the Property or the migration of environmental contamination to certain real Property, including that upon which the Condominium will be situated. The BNSF Declaration runs with the Property and is binding upon Developer, successor owners of the Property, and the Association. Under the BNSF Declaration, BNSF is responsible for certain monitoring, testing, and remediation of groundwater within or from the Property upon which the Condominium is being developed, as required by state or federal authorities or under state or federal law with respect to environmental contamination released on the Property or the migration thereof. In addition, the Condominium and Association are subject to a License and Declaration of Restrictions ("DEQ License") which was entered into by HSP, BNSF and the Oregon Department of Environmental Quality ("DEQ"). The DEQ License requires HSP and its successors and assigns who take title to the Property, and, upon creation of the Condominium, the Association, to ensure that no use is made of groundwater beneath the Property, maintain the concrete surface cover of the Property, prohibit detached single family homes and agricultural use of the Property, and allow DEQ and BNSF access to certain limited portions of the Property upon advance written notice for inspections to ensure compliance with the restrictions in the DEQ License. DEQ and BNSF will be expressly prohibited from having access to any unit of the Condominium, other than the parking or storage units below grade. In addition, the DEQ License requires the Association to conduct annual inspections of the concrete surface cover of the Property and to file the inspection report with DEQ. The cost of such annual inspections and reports will be a common expense of the Association. In the unlikely event that the Association breaches the DEQ License, the Association will be required to correct the problem. In such unlikely event, the Association would include the costs for such correction in the assessments made upon owners of units, thereby spreading the cost among all such unit owners in the manner provided in the Declaration.*

To demonstrate compliance with the cap maintenance requirement, Coast Real Estate Services, which manages the properties, has contracted with AAI to perform our 5th annual (2021) inspection of the Property.

### **Areas of Observation/Inspection:**

AAI inspected the following site features for signs of structural failure or exposure of underlying soil:

- All hardscape areas, including exterior sidewalks, walkways, floor slabs, common areas, basement garages, and basement foundation walls.
  - Sealants along building perimeters and other surfaces were inspected for weathering, cracking or degradation.
  - All landscaped areas, including planters and open areas, along Property boundaries were inspected for evidence of holes, animal burrows, erosion, or other issues that could exposed the underlying contaminated soil.
  - Surface water drainage features, such as exposed surface drainages, storm water catch basins, and roof drains were visually inspected for structural integrity and functionality, as accessible from the outdoor areas of the Property.
-



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- The Property was inspected for evidence of groundwater seepage.

## **Inspection Details:**

**Property Name:** The Encore Condominiums.

**Property Address:** 949 NW Overton Street, Portland, Oregon 97209

**Year Built:** 2007.

**Property Legal Description:** T1N, R1E, NW ¼ of NW ¼ Section 34, Lot 40000

**Geologist Performing Inspection:** Michael T. O'Connor, R.G., Vice President, Principal Geologist & Business Development Engineer, Assessment Associates, Inc., a CREtelligent Company

**Inspection Requested By:**

Ms. Taylor Coakley  
Manager, Encore Condominiums

**Inspection Date:** September 23, 2021

AAI inspected the concrete foundation of the Property building for evidence of cracks, settlement, and/or unusual weathering patterns that could have the potential for allowing the underlying soil to migrate through the cap and create an exposure hazard for human or ecological receptors. Sealants, such as the caulking between the building and the sidewalk areas were also inspected for shrinkage and cracking. Areas inspected included the entire concrete slab in the PB (Parking Basement level) and P1 (Parking Level 1—above the basement) portions of the parking garage beneath the building. In addition, the floors of the commercial spaces at ground level were inspected, along with the exterior sidewalks and the floor in utility rooms that were accessible either from the interior of the parking garage or from exterior doors at the sidewalk level.



**Table of Features Inspected**

<b>Cracks and/or Settlement in vertical cement or flatwork? Y/N</b>	<b>Exposure Hazard? Y/N</b>	<b>Repair Required? Y/N</b>
No settlement was observed in any of the concrete walls or floors.	No	No
<b>Holes or Penetrations? Y/N</b>	<b>Exposure Hazard? Y/N</b>	<b>Repair Required? Y/N</b>
No holes or penetrations were observed.	No	No
<b>Exposed Soil or Fabric Y/N?</b>	<b>Exposure Hazard? Y/N</b>	<b>Repair Required? Y/N</b>
Soil was visible in planters, but no geotextile barrier was observed.	No	No
<b>Problematic Surface Water Drainage Features?</b>	<b>Exposure Hazard? Y/N</b>	<b>Repair Required? Y/N</b>
Problematic surface water drainage features were not observed.	No	No
<b>Cracked or Missing Caulking?</b>	<b>Exposure Hazard? Y/N</b>	<b>Repair Required? Y/N</b>
Cracked or missing caulking was not observed.	No	No
<b>Groundwater Seepage Areas?</b>	<b>Exposure Hazard? Y/N</b>	<b>Repair Required? Y/N</b>
Groundwater seepage areas were not observed.	No	No



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**Conclusions and Recommendations:**

It is our professional opinion that there were no areas where the soil cap or the geotextile membrane used to delineate the top of the cap were visible at any of the inspection points. No visible cracks or settling have occurred with respect to the building and sidewalk, and no areas of groundwater seepage were noted in the walls or floors of the basement parking garage. **AAI did not identify any human or ecological contaminant exposure hazards at the property with regard to the contaminated soil beneath the condominium building.**

We do not recommend additional inspections other than an annual re-inspection in Summer 2022. The soil and concrete cap at the Property are apparently intact and are functioning as intended.

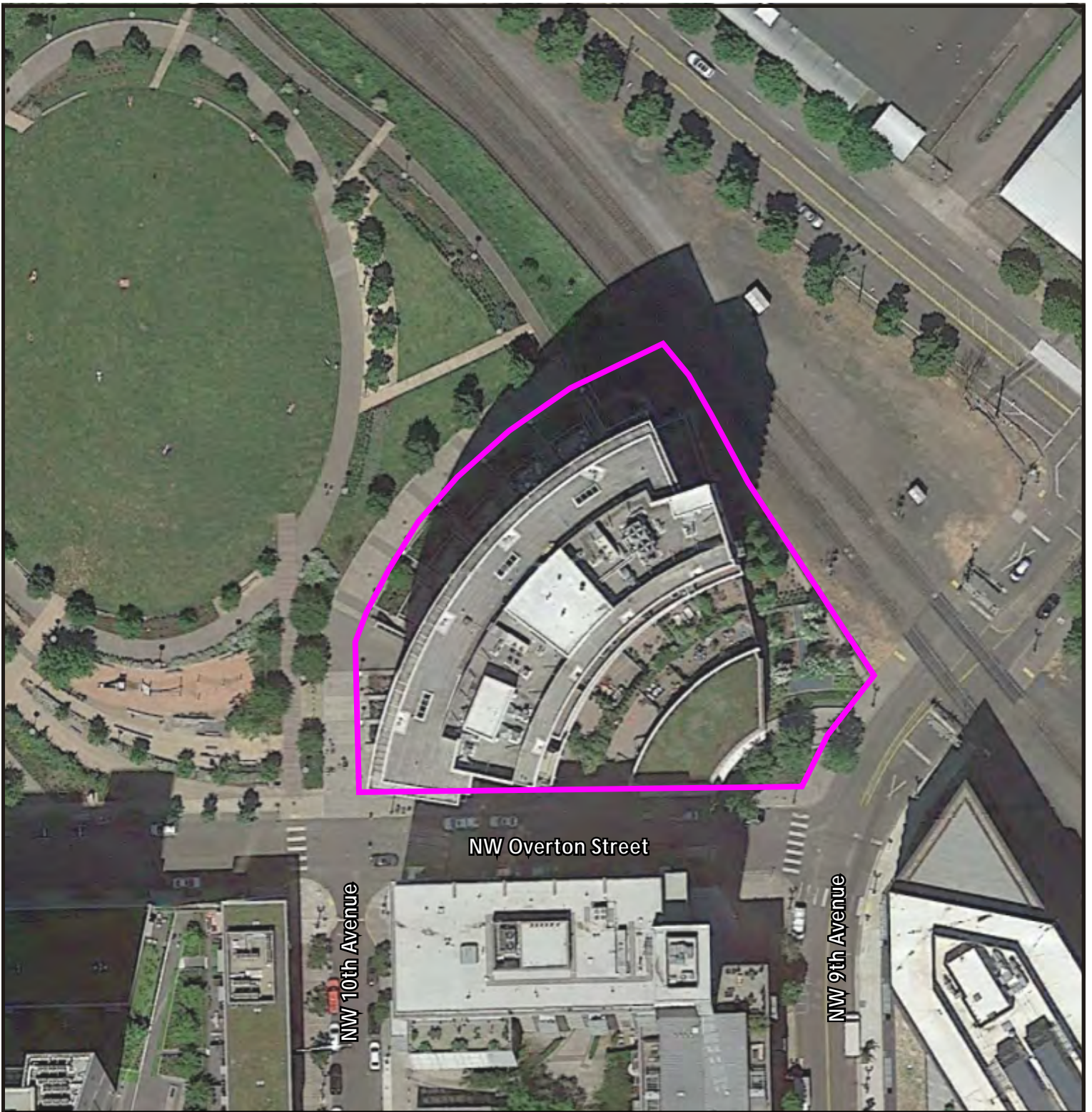
If there are any comments or questions, please contact the undersigned. Thank you for the opportunity to provide this proposal.

Sincerely,

A handwritten signature in blue ink that reads 'Michael T. O'Connor'.

Michael T. O'Connor, R.G.  
VP, Principal Geologist and Business Development Engineer  
September 24, 2021  
m.oconnor@cretelligent.com  
(503) 233-8565





NW Overton Street

NW 10th Avenue

NW 9th Avenue

2019 Aerial Photograph Source: Google Earth

**LEGEND**

 Property Boundary

**FIGURE 1. Project Location - The Encore Condominiums**

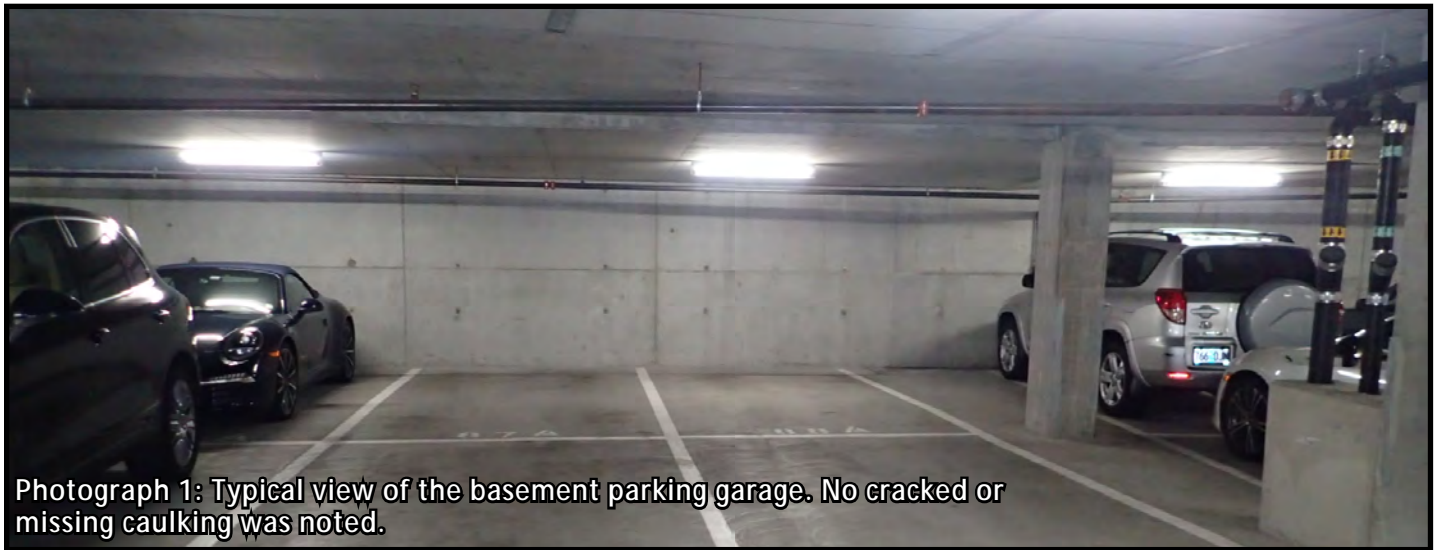
Annual Cap Inspection  
Encore Condominiums  
949 NW Overton Street, Portland, Oregon



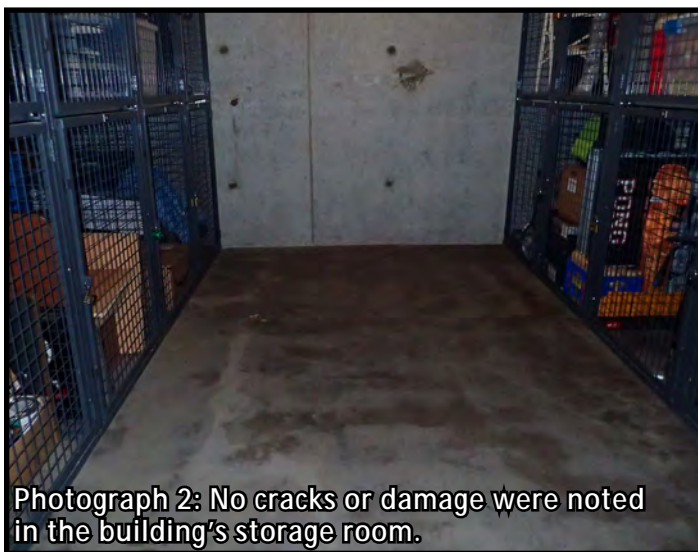
September 2021



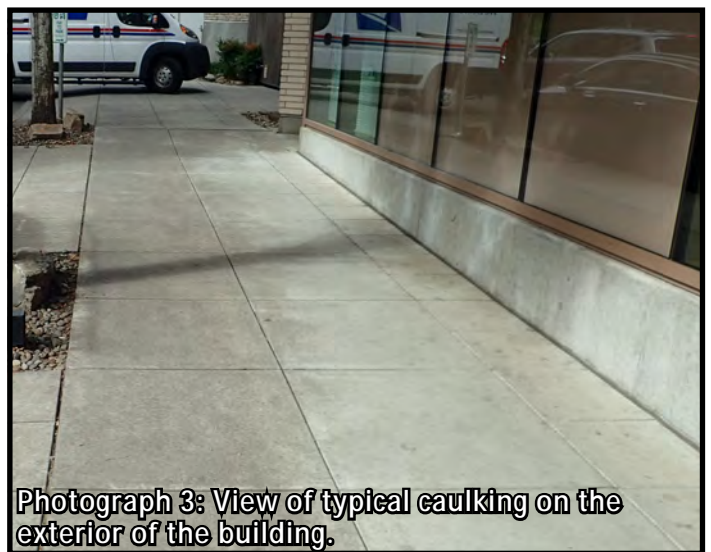
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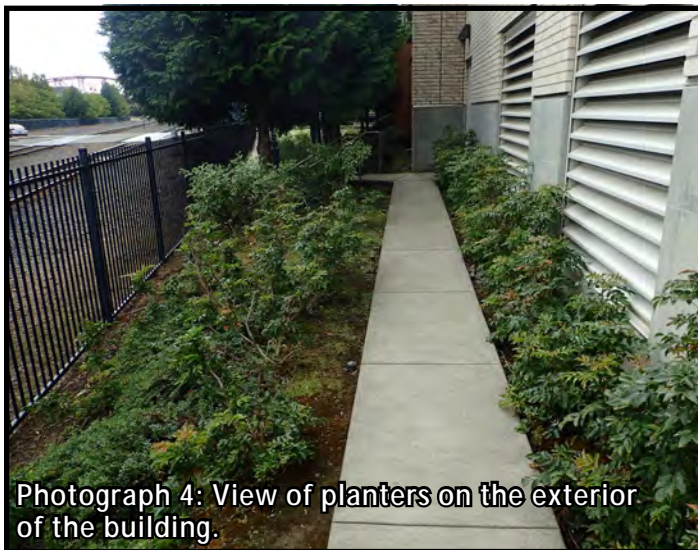
Photograph 1: Typical view of the basement parking garage. No cracked or missing caulking was noted.



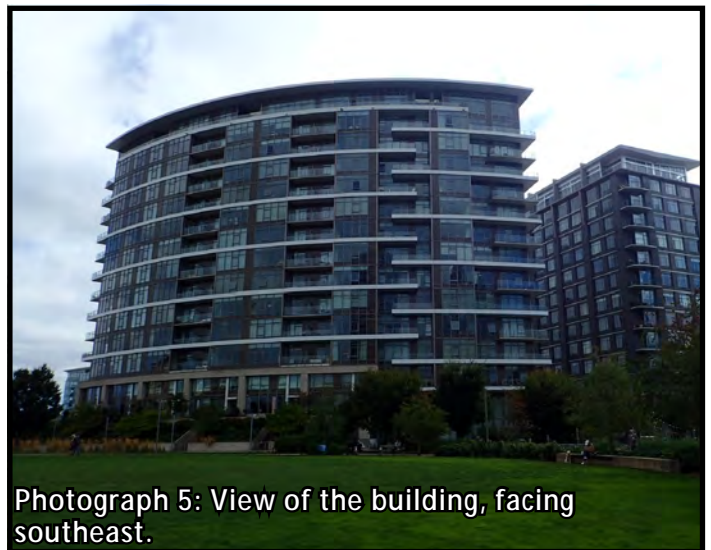
Photograph 2: No cracks or damage were noted in the building's storage room.



Photograph 3: View of typical caulking on the exterior of the building.



Photograph 4: View of planters on the exterior of the building.



Photograph 5: View of the building, facing southeast.

### Site Photographs

Annual Cap Inspection  
Encore Condominiums  
949 NW Overton Street, Portland, Oregon



WE DUE DILIGENCE SO YOU DON'T HAVE TO.

### Assessment Associates, Inc.

Environmental Consulting

3123 SE 9th Avenue, Portland, Oregon  
Phone 503.233.8565 • Fax 503.296.2638

AAI Project 1598

September 2021



**ENVIRONMENTAL CONSULTING SERVICES  
 QUALIFICATIONS AND EXPERIENCE SUMMARY**

**MICHAEL T. O’CONNOR, R.G.**  
 Vice President, Principal Geologist and  
 Business Development Engineer  
 Assessment Associates, Inc., a CREtelligent Company  
 Offices in Portland, Oregon and Gold River, California



**Technical Expertise and Experience Summary**

Mr. O’Connor’s experience spans over twenty-five years and includes over 1,000 Phase I and Phase II Environmental Assessment projects on almost every kind of property or facility imaginable. Past projects have included retail outlets, dry cleaners, greenspaces, industrial facilities, residential construction sites, gas stations, farmlands, cattle ranches, historic buildings, sawmills, and mining facilities, to name a few. He is fully conversant with ASTM E1527-13, which incorporates EPA’s *All Appropriate Inquiry* standard for Phase I ESAs.

**Credentials**

B.A. Geology, University of Massachusetts, Amherst, Massachusetts 1986

**Professional Titles and Affiliations**

- Oregon Registered Geologist No. 1998 2004
- Washington Licensed Geologist No. 2398 2003

**Professional Training**

- OSHA 40-Hour HAZWOPER Training and 8-Hour Refresher 1995-2006
- ASTM: Environmental Site Assessments for Commercial Real Estate 1995
- AHERA-Certified Asbestos Inspector 1997
- EDR, Inc. *Due Diligence at Dawn* Seminars 1995-2010

**Career Highlights**

CREtelligent, Inc.	VP. Principal Geologist and Business Development Engineer	Since May 2021
Assessment Associates, Inc.	President	2006 to May 2021
Hahn and Associates, Inc.	Senior Project Manager	1995 to 2006

**References**

Mr. Peter Bouman, Licensed Real Estate Broker	(503) 625-3000
Mr. Wil Eadie, Tualatin Hills Park and Recreation District	(503) 789-8939
Ms. Karen Starin, Office of the METRO Attorney	(503) 797-1557
Ms. Clara Taylor, Oregon Department of State Lands	(503) 986-5276

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RADIUS is a cloud-based service that allows you to order, receive, and archive all your Commercial Real Estate (CRE) due diligence on one secure platform. A one stop, one shop for environmental due diligence, valuation, property condition assessments, and more, all the products and services listed below are available on RADIUS. Join RADIUS free or take advantage of subscription levels to reduce costs.

## Environmental Reports & Services

Commercial Real Estate Environmental Due Diligence

### EnviroPreScreen Suite

**EnviroPreScreen** | The EnviroPreScreen (EPS) is an automated screening report, completed in under 30-seconds, that identifies regulatory environmental concerns on, or up to 1/8th-mile from a subject property. The report provides an algorithm-based risk rating of low, moderate or elevated, aerial maps with parcel outline and geo-located pin-drops that identify environmental concerns.

**EnviroPreScreen Advanced** | EnviroPreScreen Advanced is one step above the EPS report. It provides the aerial maps, risk rating and descriptions, but supplements the EPS with additional regulatory database status information. Completed in under 10 minutes, this report provides additional insights such as: UST installation and removal dates; spill/release dates; No Further Action date; and/or remedial status dates when available.

**EnviroPreScreen Pro Insight** | EnviroPreScreen Pro Insight is the most comprehensive of the EPS Suite. Our in-house Environmental Professionals evaluate the findings of the EPS Advanced Report, rendering a comprehensive discussion of interpreted risks and recommendations on any next steps. It also includes the risk rating, maps and data found in EPS Advanced. This report is completed within one business day.

## EnviroScreen RSRA SBA Report

**EnviroScreen RSRA SBA (Record Search with Risk Assessment)** is an affordable, comprehensive desktop report designed to meet SBA's SOP 50 10 6 procedures for low risk, low balance loans. It includes an evaluation of a target property with respect to client provided information, historical usage, a regulatory database search, a LOW or ELEVATED risk rating and recommendations. These reports are completed in 3-4 business days.

## EnviroScreen RSRA Conventional Report

The **EnviroScreen RSRA Conventional** is the same as the SBA RSRA desktop report except for the risk determination. The SBA version provides a LOW or ELEVATED environmental risk rating, while the Conventional version allows for a MODERATE finding (equivalent to De Minimis Condition). Ideal for loan balance loans, the RSRA Conventional report can be completed within 3-4 business days.

## EnviroScreen Report with an Enhanced File Review

The **EnviroScreen with Enhanced File Review (ES w/EFR)** is a Conventional RSRA desktop report where an additional regulatory file review is provided by an EP. While not a requirement for RSRAs, the addition of an EFR with EP's opinion often helps bridge data gaps and lower interpreted risk level that an RSRA cannot do by itself and is cost-effective alternative to a full-blown Phase I ESA. An EFR can typically be completed in 3-4 days.

## EnviroScreenPro Report

**EnviroScreen PRO**, also known as a Limited Environmental Site Assessment, is a desktop report that embodies all aspects of an ASTM Phase I ESA, minus the site inspection. An ideal alternative to a Phase I when a physical site inspection is not possible or provides limited value (i.e. businesses not using chemicals/producing hazardous wastes, vacant land, multi-family, etc.). Typically completed in 5 business days from agency file receipt.

## Report Review

The **Report Review** offers an independent analysis of other third party environmental due diligence reports. An Environmental Professional evaluates the consultant consensus and abidance to established ASTM criteria and industry standards. The report includes a synopsis of the report with an EP's written opinions and recommendation. Ideal for verifying consultant's work when not on approved vendor list, when a second opinion is sought, or when a review is part of a lender's policy. Typically completed 3-4 business days.

## Environmental Transaction Screen Report

The **Environmental Transaction Screen (ETS)** is an ASTM E1528-14 compliant report focusing on the target property. The ETS provides an on-site inspection, historical, regulatory database review, and interview. The ETS does not review these sources for adjacent properties is ideal to use where a site inspection is needed, but surrounding land use is not a concern. Typically completed in 5-7 business days.

## Environmental Transaction Screen Report with EFR

The **Environmental Transaction Screen (ETS) with Enhanced File Review (ETS w/EFR)** is simply an ETS report that additionally includes an EFR to supplement identified data gaps. An ETS w/EFR is a cost-effective and time saving alternative to having complete a full ESA when a file review is needed. The EFR sometimes adds additional waiting to the turn time depending on regulatory responsiveness to file request.

## Phase I Environmental Site Assessment Report

A **Phase I Environmental Site Assessment (ESA)** is an ASTM 1528-14 compliant report that meets EPA's All-Appropriate Inquiry (AAI) needed to limit owner liability of past environmental risks. It includes reviews of the historical background on the target and adjacent properties, reviews regulatory databases findings, includes regulatory file review as needed, and includes a site inspection and interview. Typically completed in 7 days from inspection.

## Phase II Limited Subsurface Investigation Report

The **Phase II Report**, also known as a **Limited Subsurface Investigation (LSI)**, is used when previous due diligence indicates an environmental concern may have negatively impacted a property. Phase II investigations generally follow ASTM Designation E1903-11 and/or state guidance. It evaluates potential subsurface media (soil, soil vapor, groundwater) impacts from the identified risks and includes conclusions and recommendations from an Environmental Professional. Typically completed in about 12 days from sampling date.

## Property Condition Reports & Services

### Inspections and Assessments of a Commercial Property

#### Property Condition Assessment Report

The **Property Condition Assessment (PCA)** is an ASTM E2018-15 compliant report that provides an analysis of the physical condition of a property. The PCA includes a walk-through survey and a certified professional's observations, recommendations, and preliminary cost estimates for addressing issues. It also includes recommended priorities for resolving major deficiencies, updating aging components, and other investigations when needed. Typically delivered in 10-12 business days from inspection.

#### Property Condition Inspection

The **Property Condition Inspection (PCI)** provides an accurate description and analysis of a subject property and neighborhood conditions. Available for exterior-only or interior/exterior, the PCI identifies risk concerns, provides photos, itemized repair grids and estimates, aerial and satellite Imagery. Used as a standalone inspection report or to complete a commercial evaluation, as it is compliant with Interagency Appraisal & Evaluation Guidelines (IAG).

## Valuation Reports & Services

### Value Assessments for Commercial Property

#### Commercial Automated Valuation Model

The **Commercial Automated Valuation Model (CAVM)** is a fast and cost-effective report providing a commercial property value in under 30 seconds. While not USPAP compliant, it is used in many situations when a fast valuation is needed. The CAVM report is loaded with data including estimated property value (probable price), property information, past sales, loan, taxes, sales comps, rental prices, net operating incomes, rent rolls, cap rates and more.

#### Commercial Evaluation

The **Commercial Evaluation** is an accurate, easy to read valuation report that complies with the latest state requirements and Interagency Appraisal and Evaluation Guidelines (IAG Guidelines). Available in sales or income/sales approaches to value, and exterior or interior/exterior inspections and images, the Commercial Evaluation is completed by a licensed real estate professional. For loans valued at \$500,000 or less (\$1M for credit unions), also ideal for valuing properties to be used as collateral on business loans less than \$1 million and for extending credit or loan modifications.

#### Commercial Broker Price Opinion

The **Broker Price Opinion (BPO)** provides a flexible, easy to understand, and cost-effective alternative to appraisals. Available in sales only or sales/income approaches to value, and drive-by exterior or interior/exterior inspections. The sales approach analyzes the property's potential cash flow to see how it might affect the final price conclusion. The BPO compares the property's rent roll with comparable rental incomes and provides an opinion of market rent and potential gross income.

## Commercial Appraisal

Our nationwide network of licensed appraisers provides competitively priced, fast turnaround, USPAP-compliant valuations. Available on all property types including special purpose, our appraisal reports are completed by the most qualified valuers with specific experience in the type of property you're analyzing. MAI designated appraisers with Certified General license credentials provide the highest quality valuations by Cost, Sales Comparison/Market, or Income Capitalization approaches.

## Zoning, Survey, Flood, Other Services

### Collateral Certainty for Commercial Real Estate Properties

### Commercial Flood Certificate

The **Commercial Flood Certificate** helps to quickly determine the flood zone status of a commercial property. Leveraging the latest FEMA databases and map updates, these reports are accurate, reliable and easy to understand. The report includes a comprehensive map with outline of subject property parcel boundary with identified flood risk. A manual QA exception process ensures the highest accuracy.

### Residential Flood Certificate

The **Residential Flood Certificate** helps to quickly determine the flood zone status of a residential property. Leveraging the latest FEMA databases and map updates, these reports are accurate, reliable, and easy to understand. The report includes a comprehensive map with outline of subject property parcel boundary with identified flood risk. A manual QA exception process ensures the highest accuracy.

### ALTA Land Title Survey

The **ALTA Survey** is a comprehensive report containing relevant information concerned with the present and future use of a property, and all encumbrances and restrictions that may affect its use. The survey includes: the exact location of property corners and boundary lines; location of improvements and above-ground, observable utilities, striped parking spaces, fences, and other observations; location of recorded and observed easements, accesses to public Right of Way, or lack thereof; zoning of the property and Setback Requirements as defined by the local municipality, and much more. The surveys meet the requirements and standards adopted by the American Land Title Association ("ALTA") and the National Society of Professional Surveyors ("NSPS") and include "Table A" items.

## Zoning Reports

**Zoning Compliance Report** | The Zoning Compliance Report provides a detailed analysis of the local zoning ordinance requirements and the existing conditions on-site. Commentary pertaining to the property's conformance with use, setback, height, area, density and parking zoning regulations is included as are insight into any special permits, zoning relief or open zoning violations affecting the property.

**Use Analysis Report** | The Use Analysis Report provides the local development regulations (use, setback, height, parking, etc.) for a subject property and is combined with written zoning verification and public records requests from the local municipality. The Use Analysis Report is ideal for vacant land, an outparcel with a proposed land use, or zoning investigation on a potential property for purchase. It is accepted by all major lenders and financial institutions; the Use Analysis Report is a perfect tool to help in the issuance of ALTA Zoning Endorsement 3.06 (Zoning - Unimproved Land).

**EZ Zoning Report** | The EZ Zoning Report provides the most basic zoning information for a property. It provides a quick overview of the basic zoning requirements (setbacks, height, area, density & parking) without having to obtain written verification and document request from the local municipality.

## Portfolio Asset Risk Monitoring

The **Portfolio Asset Risk Monitoring** service provides a life-of-loan check up on your CRE portfolio to identify any potential environmental risks that may have emerge since acquisition of the asset. Easily monitor your portfolio annually or bi-annually and receive risk ratings and insights on any properties with environmental concerns. The monitoring engine searches agency database records up to 1/8 mile of each property in your portfolio and delivers easy to understand results, quickly.



## Standard Terms and Conditions for Consulting Services

These Standard Terms and Conditions, together with our proposal, make up the Agreement between the named Client and AAI. Before countersigning the Proposal or verbally authorizing work, be sure you read and understand its contents, which deal with the allocation of risks and duties between the Client and AAI.

- 1. Services.** *We'll do what we agreed we would do.* AAI will perform the services defined in its Proposal and any amendments or change orders accepted by both parties. Any request from the Client that requires extra work, or additional time, or increases AAI's costs will require an amendment or change order agreeable to both parties.
- 2. Standard of Care.** *We'll try to do the work right. If we mess up, we'll try to fix it.* AAI will perform the services with the skill and care ordinarily used by qualified professionals performing the same type of services at the same time under similar conditions in the same or similar locality. No other standards or warranties, expressed or implied, including warranties of marketability or fitness for a particular purpose apply. The Client will notify AAI in writing of any deficiencies in the services within 15 days of their discovery but not later than 120 days after substantial completion of the services. The Client will give AAI a reasonable opportunity to correct these deficiencies. The Client understands that AAI's services may entail risk of personal injury and property damage (including cross contamination) that cannot be avoided, even with the exercise of due care. The Client acknowledges and accepts any risk resulting from the fact that geotechnical and environmental conditions can vary from those found by AAI at the times, locations and conditions of its work.
- 3. Client's Responsibilities.** *You'll help us where you can.* Client will provide permits, licenses, approvals and consents necessary for performance of the services, except those maintained by AAI for its ordinary conduct of business. Client will provide AAI with all reasonably available documents that are related to the services, including information related to hazardous materials or other environmental and geotechnical conditions at the site. Before AAI performs any subsurface activities, the Client will provide all available information concerning underground services, conduits, pipes, tanks, other facilities and obstructions at the site. AAI will rely on the documents and information provided by the Client. The Client grants AAI and its subconsultant(s) permission to enter the site to perform the services. If the site is owned by others, the Client represents and warrants that the owner has granted permission for AAI to enter the site and perform the services. Client will provide AAI with written verification of site access permission upon request.
- 4. Payment.** *You'll pay us fairly and quickly.* Except as expressly provide in the Proposal, Client will compensate AAI for the services at its standard rates, reimburse its expenses, and pay any taxes applicable thereto. AAI will submit periodic invoices that are due upon receipt. The Client will notify AAI in writing within 10 days of any disputed item on the invoice and pay all undisputed items within 30 days from invoice date. Overdue payments will accrue interest at the lower of 1 1/2 percent per month or the maximum lawful rate. AAI may terminate its services upon 10 days written notice any time payment is overdue on any account with the Client. Client agrees to pay for all services through termination, plus termination and collection costs, including reasonable attorneys' fees and expenses.
- 5. Underground Utilities and Site Restoration.** *We'll use our best efforts to limit damage to the site.* Where appropriate, AAI will contact local governmental authorities and private firms who coordinate underground utility information for information about conditions at the site. AAI will review plans and information provided by these entities and the Client. AAI will not be liable for any damage to underground services or structures not accurately identified in such plans and information. Client agrees to indemnify AAI against all liabilities and costs arising out of such damage and its repair, except to the extent caused by AAI's negligence. AAI will conduct its on-site activities to limit damage to existing conditions to the extent possible. Client acknowledges that damage may occur to facilities such as paving, landscaping, utilities, structures, other improvements and existing conditions, by the work, even with due care. Client agrees to compensate AAI for all costs to perform restoration work required by the Client.
- 6. Samples.** *We only know conditions for what and where we test.* You'll pay us for special sample handling. AAI will store samples for at least 30 days after submitting test results to the Client, unless requested in writing for them to be held longer or shipped. Client will compensate AAI for storage beyond 30 days, special storage conditions, and costs to ship samples. Client will pay AAI for all special disposal costs, including the cost to return samples to the Client. Test results obtained by AAI on samples apply only to the samples tested for the conditions under which they were tested.
- 7. Hazardous Materials.** *We won't own hazardous materials from your site.* AAI does not provide assessments of the presence of environmental contaminants unless expressly indicated in our written agreement. Client will advise AAI of any and all known contaminants and hazardous materials before AAI provides any services involving those materials. Before any hazardous or contaminated materials are removed from the site for AAI use, the Client will sign a manifest that names the Client as the generator of the waste (or will arrange for the generator to sign). AAI will not be the generator or owner of, nor will it take title to or assume legal liability for any hazardous or contaminated materials at or removed from the site. AAI will not undertake, arrange for, or control the handling, treatment, storage, removal, shipment, transportation or disposal of any hazardous or contaminated materials at or removed from the site, other than samples collected for laboratory testing.
- 8. Limits on AAI Responsibility.** *We aren't responsible for things we don't do or control.* AAI will not be responsible for the acts or omissions of any others, except for its employees and subconsultant(s). AAI will not supervise, direct or have control over any contractor's work. AAI will not have authority over or responsibility for the means, methods, techniques, sequences, or procedures of construction, for work site health or safety precautions or programs, or for any failure of contractors to comply with contracts, plans, specifications or laws. Any estimates or opinions of AAI of probable quantities or costs of labor, materials, equipment or services to be furnished by others are strictly estimates and are not a guaranty or representation that actual quantities or costs will be consistent with those estimates or opinions. Client acknowledges that AAI does not warrant or guarantee the approval or receipt of any governmental permits or approvals, or the time to obtain such permits or approvals.
- 9. Changed Conditions.** *You will pay us to do approved extra work required by unforeseen conditions or events.* The Client acknowledges that geotechnical and environmental services involve uncertainties, which often require a phased or staged

investigation with the need for additional services becoming apparent as the work progresses. The Client acknowledges that encountered conditions may differ considerably from those anticipated, that laws and regulations are subject to change, and that regulatory requirements may be unpredictable. AAI will notify the Client if additional services, costs or time become necessary due to any of these factors and the parties will negotiate appropriate changes to the scope of services, compensation and schedule. If the parties are unable to reach agreement, AAI will be entitled to terminate its services with 5 days notice and to be equitably and immediately compensated for services already performed. In the event of an emergency, AAI may take immediate steps to protect public safety, health and the environment, and will be equitably compensated for its work by the Client. AAI will not be responsible for delays, failures to perform or extra costs due to weather, labor disputes, intervention by or inability to get approvals from public authorities, acts or omissions by the Client, or any other causes beyond AAI's reasonable control. The Client will compensate AAI for any increase in its costs resulting from any of these factors.

10. **Documents and Information.** *We own our work and give you limited permission to use it for what you paid us for.* All documents, data, calculations and work papers prepared or furnished by AAI are instruments of service and will remain AAI's property. Designs, reports, data and other work product delivered to or on behalf of the Client are for Client's use only for the limited purposes disclosed to AAI and subject to Client paying for the services to provide said work product. Any delayed use, use at another site, use on another project, or use by a third party will be at the user's sole risk and Client agrees to indemnify and defend AAI against any liabilities resulting there from. Any technology, methodology, or technical information learned or developed by AAI will remain its property.
11. **Confidentiality and Subpoenas.** *We won't tell anybody about this work unless someone's health or safety is in danger, or the Sheriff delivers a demand.* Information about this Agreement and AAI's services and information provided by the Client about the services will be maintained in confidence and will not be disclosed to others without the Client's consent, except as AAI believes is necessary to perform its services, comply with professional standards to protect public safety, health and the environment, and to comply with laws and court orders. AAI will make reasonable efforts to notify the Client prior to any disclosure except as necessary to perform its services. Information available to the public and unprotected information acquired from third parties will not be considered confidential. The Client will reimburse AAI to respond to any subpoena or governmental inquiry or audit related to the services at AAI's standard rates then in effect.
12. **Insurance.** *This is all we have.* During the work, AAI will maintain workers' compensation, commercial general liability, automobile liability, and professional liability insurance in the following minimum amounts:
 

Workers compensation	statutory amount
General liability	\$1,000,000 per occurrence
	\$2,000,000 aggregate
Auto liability	\$1,000,000 per accident
Professional liability	\$3,000,000 aggregate

 AAI will furnish certificates of insurance upon request. AAI will purchase project specific insurance at Client request if it is commercially available and Client pays the premium and our costs to obtain the additional coverage.
13. **Indemnification.** *You won't blame us for anything except our own negligence.* Client agrees to hold harmless, indemnify, and defend AAI and its affiliates and subconsultants and their employees,

officers, directors and agents against all claims, suits, fines and penalties, attorneys' fees and other costs of settlement and defense, which claims, suits, fines, penalties or costs arise out of or are related to this Agreement or the services, except to the extent they are caused by the indemnified party's negligence.

14. **Limitation of Liability.** *We won't pay any more on a claim than what's fair, or covered by our insurance.* To the fullest extent permitted by law and notwithstanding anything else in this Agreement to the contrary, the aggregate liability of AAI and its affiliates and subconsultants and their employees, officers, and directors for all claims arising out of this Agreement or the services is limited to \$25,000 or the compensation received by AAI under this agreement, whichever is less. This limitation applies to all injuries, damages, claims, losses, expenses and defense costs, whether based in contract, negligence, strict liability, statutory, trespass, indemnity, misrepresentation or any other theory of liability. No claim will be valid if presented to AAI more than three years after substantial completion of the services or, if shorter, the applicable statute of limitations period. AAI will not be liable for lost profits, loss of use of property, diminution of value of property or goods, delays, cost to obtain replacement samples, or other special, indirect, incidental, consequential, punitive, exemplary or multiple damages. AAI will not be liable to anyone for injuries or deaths of any persons, except to the extent that such liability is covered by the insurance in Article 12.
15. **Disputes.** *We want disputes settled quickly and fairly.* All disputes between the Client and AAI shall be subject to non-binding mediation. Either party may demand mediation by serving written notice stating the essential nature of the dispute, the amount of time or money claimed, and requiring the matter be mediated within forty-five days of service of notice. The mediation shall be administered by the American Arbitration Association in accordance with their most recent Construction Mediation Rules, or by such other person or organization as the parties may agree on. No action or suit may be commenced unless mediation has occurred but did not resolve the dispute, or unless a statute of limitation period would expire if suit were not filed prior to such forty-five days after service of notice.
16. **Other.** *Legal details about this Agreement.* This Agreement shall be governed by Oregon law. The above terms and conditions regarding Limitation of Liability and Indemnification shall survive the completion of the services under this Agreement and the termination of the contract for any cause. Any amendment to this Agreement must be in writing signed by both parties. This Agreement supersedes any contract terms, purchase orders or other documents issued by the Client. These Terms and Conditions shall govern over any inconsistent terms in the Proposal, except those specifically identified in the proposal section-Modifications to Standard Terms and Conditions. If these Terms and Conditions have been provided to you, your verbal authorization to commence services constitutes your acceptance of them. The provisions of this Agreement are severable; if any provision is unenforceable, it shall be appropriately limited and given effect to the extent that it is enforceable. Headings in these Terms and Conditions are for convenience only and do not form a part of the agreement. Nothing in this Agreement shall be construed to give any rights or benefits to third parties.