

## Brownfields

Kaplan Kirsch & Rockwell is experienced in the successful redevelopment of contaminated properties, often referred to as brownfields. We assist clients with the range of contaminated property redevelopment issues, including purchase and sale agreements; environmental due diligence; environmental liability insurance policy negotiation; environmental cleanup and regulatory compliance; negotiation of regulatory orders and voluntary cleanup plan approvals; real estate and land use; public financing mechanisms; and remediation, construction, and professional service contracting.

### Representative Experience

- Represented the private purchaser and redeveloper of the former Gates Rubber plant site in Denver, Colorado, in negotiation of the purchase and sale agreement, project due diligence, negotiation of the environmental liability insurance policy, environmental cleanup and risk management, entitlements, use of special district and tax increment financing, and private project financing.
- Represented the master redeveloper of the former Stapleton International Airport property in drafting and negotiating purchase and development agreements that allowed phased remediation under the state voluntary cleanup program by the seller municipality. The agreements incorporated risk-based cleanup standards, remedial oversight mechanisms, and restrictive covenants. In addition, we:
  - Negotiated an environmental insurance program tailored to the transaction and continue to assist in policy administration and claims.
  - Assisted the client in developing an environmental due diligence process.
  - Assisted in drafting and negotiating environmental disclosures to be provided to prospective homebuyers and tenants.
  - Negotiated and developed the client's form resale agreement and environmental disclosure program.
  - Developed guidelines for negotiating environmental provisions of commercial leases.
  - Assisted the client in several areas related to construction at the project site, including developing construction materials management procedures, drafting construction contracts, and negotiating the form of easements and other construction access agreements.
- Represented a private brownfields redeveloper in acquisition, remediation, and resale of property in Seattle's South Lake Union area. In our representation, we:
  - Drafted and negotiated the agreement to manage insurance recovery litigation on behalf of the site owner.
  - Drafted and negotiated the related agreements for purchase and remediation of the property upon receipt of insurance proceeds, including associated cleanup escrow agreements.
  - Assisted in real estate and environmental due diligence.
  - Drafted and negotiated the client's professional services agreements for remediation of the property.
  - Drafted and negotiated the agreement for resale of the property to a biomedical real estate investment trust.
  - Assisted in negotiating an environmental liability insurance policy to cover the seller, the client, and the buyer of the property.
  - Worked with seller's and client's joint counsel on insurance recovery litigation issues, the regulatory approval process for cleanup, and resolution of third-party claims.
- Represented a developer in brownfields redevelopment, including clean up of two former landfills, river front restoration, and acquisition of large multiple parcel assemblage. We assisted in



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negotiations with major anchors, public finance, construction finance, and new market tax credit finance.

- Represented the master developer of a bioscience park at the former Fitzsimons Army Medical Center in Aurora, Colorado, in negotiating environmental agreements and developing a program for managing and remediating contamination, negotiating an environmental liability insurance policy, and obtaining regulatory approvals as part of the site development process.
- Represented clients in due diligence, environmental cleanup, acquisition, redevelopment, and execution of successful exit strategies for a variety of other former industrial and military facilities. These sites include acreage within the Federal Center in Lakewood, Colorado; the Lowry Bombing Range and Lowry Training Annex; a former defense manufacturing facility in Colorado; the Vicksburg Chemical Company site in Mississippi; and numerous redevelopment sites in and around Denver, Colorado, and around the country.