

RECORDING REQUESTED BY
North American Title Company

Order No. 54606-819506-EBC

Recording Requested By:

Jeff Antrim, Managing Member
461 McGraw Investors LLC
1635 Chestnut, Suite A
Livermore, CA 94551

CERTIFIED A TRUE COPY OF THE ORIGINAL
RECORDED IN THE OFFICIAL RECORDS OF
ALAMEDA COUNTY ON 08/29/2008
Under Recorder's Serial No. 2008-264796
NORTH AMERICAN TITLE COMPANY, INC.
By E. Bowens-Chambers

When Recorded, Mail To:

Ariu Levi, Director
Alameda County Environmental Health Services
1131 Harbor Bay Parkway
Alameda, California 94502

COVENANT AND ENVIRONMENTAL RESTRICTION
ON PROPERTY

Call Mac Transportation, 461 McGraw Avenue, Livermore, California 94550

This Covenant and Environmental Restriction on Property (this "Covenant") is made as of the 29th day of August 2008 by 461 McGraw Avenue Investors LLC ("Covenantor") who is the Owner of record of that certain property situated at 461 McGraw Avenue, in the City of Livermore, County of Alameda, State of California, which is more particularly described in Exhibit A attached hereto and incorporated herein by this reference (such portion hereinafter referred to as the "Burdened Property"), for the benefit of the Alameda County Department of Environmental Health (the "County"), with reference to the following facts:

- A. The Burdened Property and groundwater underlying the property contains hazardous materials.
- B. Contamination of the Burdened Property. Soil at the Burdened Property was contaminated by historical truck demolition and hazardous material storage activities. These operations resulted in contamination of soil and groundwater with the organic chemical tetrachloroethene (PCE), which constitute a hazardous material as that term is defined in Health & Safety Code Section 25260. Contaminated soil was remediated by excavation and aeration to a residual PCE level of 0.087 mg/Kg or below. Contaminated groundwater was remediated by extraction and treatment to show a significant reduction in PCE concentrations. Residual PCE in subsurface soil and groundwater is controlled by the placement of clean soil backfill over the contamination area.
- C. Exposure Pathways. The contaminant addressed in this Covenant is PCE present in groundwater on the Burdened Property. Without the mitigation measures which have been performed on the Burdened Property, exposure to the contaminant could take place via dermal

contact of contaminated soil and/or groundwater, and inhalation of contaminated soil vapor. The risk of public exposure to the contaminant has been substantially lessened by the remediation and controls described herein.

D. Adjacent Land Uses and Population Potentially Affected. The Burdened Property is used for retail, commercial, office, industrial and other related commercial uses as permitted by the City of Livermore and is adjacent to retail, commercial, office, industrial and other commercial uses as permitted by the City of Livermore land uses.

E. Full and voluntary disclosure to the County of the presence of hazardous materials on the Burdened Property has been made and extensive sampling of the Burdened Property has been conducted.

F. Covenantor desires and intends that in order to benefit the County, and to protect the present and future public health and safety, the Burdened Property shall be used in such a manner as to avoid potential harm to persons or property that may result from hazardous materials that may have been deposited on portions of the Burdened Property.

ARTICLE I GENERAL PROVISIONS

1.1 Provisions to Run with the Land. This Covenant sets forth protective provisions, covenants, conditions and restrictions (collectively referred to as "Restrictions") upon and Burdened to which the Burdened Property and every portion thereof shall be improved, held, used, occupied, leased, sold, hypothecated, encumbered, and/or conveyed. The restrictions set forth in Article III are reasonably necessary to protect present and future human health and safety or the environment as a result of the presence on the land of hazardous materials. Each and all of the Restrictions shall run with the land, and pass with each and every portion of the Burdened Property, and shall apply to, inure to the benefit of, and bind the respective successors in interest thereof, for the benefit of the County and all Owners and Occupants. Each and all of the Restrictions are imposed upon the entire Burdened Property unless expressly stated as applicable to a specific portion of the Burdened Property. Each and all of the Restrictions run with the land pursuant to section 1471 of the Civil Code. Each and all of the Restrictions are enforceable by the County.

1.2 Concurrence of Owners and Lessees Presumed. All purchasers, lessees, or possessors of any portion of the Burdened Property shall be deemed by their purchase, leasing, or possession of such Burdened Property, to be in accord with the foregoing and to agree for and among themselves, their heirs, successors, and assignees, and the agents, employees, and lessees of such owners, heirs, successors, and assignees, that the Restrictions as herein established must be adhered to for the benefit of the County and the Owners and Occupants of the Burdened Property and that the interest of the Owners and Occupants of the Burdened Property shall be Burdened to the Restrictions contained herein.

1.3 Incorporation into Deeds and Leases. Covenantor desires and covenants that the

Restrictions set out herein shall be incorporated in and attached to each and all deeds and leases of any portion of the Burdened Property. Recordation of this Covenant shall be deemed binding on all successors, assigns, and lessees, regardless of whether a copy of this Covenant and Agreement has been attached to or incorporated into any given deed or lease.

1.4 Purpose. It is the purpose of this instrument to convey to the County real property rights, which will run with the land, to facilitate the remediation of past environmental contamination and to protect human health and the environment by reducing the risk of exposure to residual hazardous materials.

ARTICLE II DEFINITIONS

2.1 County. "County" shall mean the Alameda County Environmental Health Services and shall include its successor agencies, if any.

2.2 Improvements. "Improvements" shall mean all buildings, roads, driveways, regradings, and paved parking areas, constructed or placed upon any portion of the Burdened Property.

2.3 Occupants. "Occupants" shall mean Owners and those persons entitled by ownership, leasehold, or other legal relationship to the exclusive right to use and/or occupy all or any portion of the Burdened Property.

2.4 Owner or Owners. "Owner" or "Owners" shall mean the Covenantor and/or its successors in interest, who hold title to all or any portion of the Burdened Property.

ARTICLE III DEVELOPMENT, USE AND CONVEYANCE OF THE BURDENED PROPERTY

3.1 Restrictions on Development and Use. Covenantor promises to restrict the use of the Burdened Property as follows:

- a. Development of the Burdened Property shall be restricted to retail, industrial, commercial office space or other commercial related uses as allowed by the City of Livermore;
- b. No residence for human habitation shall be permitted on the Burdened Property;
- c. No hospitals shall be permitted on the Burdened Property;
- d. No schools for persons under 21 years of age shall be permitted on the Burdened Property;

- e. No day care centers for children or day care centers for Senior Citizens shall be permitted on the Burdened Property;
- f. No Owners or Occupants of the Property or any portion thereof shall drill, bore, otherwise construct, or use a well for the purpose of extracting water for any use, including but not limited to, domestic, potable, or industrial uses, unless expressly permitted in writing by the County.
- g. The Covenantor agrees that the County, and/or any persons acting pursuant to County cleanup orders, shall have reasonable access to the Burdened Property for the purposes of inspection, surveillance, maintenance, or monitoring, as provided for in Division 7 of the Water Code.
- h. No Owner or Occupant of the Burdened Property shall act in any manner that will aggravate or contribute to the existing environmental conditions of the Burdened Property. All use and development of the Burdened Property shall preserve the integrity of any capped areas.

3.2 Enforcement. Failure of an Owner or Occupant to comply with any of the restrictions, as set forth in paragraph 3.1, shall be grounds for the County, by reason of this Covenant, to have the authority to require that the Owner modify or remove any Improvements constructed in violation of that paragraph. Violation of the Covenant shall be grounds for the County to file civil actions against the Owner as provided by law.

3.3 Notice in Agreements. After the date of recordation hereof, all Owners and Occupants shall execute a written instrument which shall accompany all purchase agreements or leases relating to the property. Any such instrument shall contain the following statement:

The land described herein contains hazardous materials in soils and in the ground water under the property, and is subject to a deed restriction dated as of 8-27-, 2008, and recorded on August 29, 2008, in the Official Records of Alameda County, California, as Document No. 2008-264796, which Covenant and Restriction imposes certain covenants, conditions, and restrictions on usage of the property described herein. This statement is not a declaration that a hazard exists.

ARTICLE IV VARIANCE AND TERMINATION

4.1 Variance. Any Owner or, with the Owner's consent, any Occupant of the Burdened Property or any portion thereof may apply to the County for a written variance from the provisions of this Covenant.

4.2 Termination. Any Owner or, with the Owner's consent, any Occupant of the Burdened Property or a portion thereof may apply to the County for a termination of the Restrictions as they apply to all or any portion of the Burdened Property.

4.3 Term. Unless terminated in accordance with paragraph 4.2 above, by law or otherwise, this Covenant shall continue in effect in perpetuity.

ARTICLE V
MISCELLANEOUS

5.1 No Dedication Intended. Nothing set forth herein shall be construed to be a gift or dedication, or offer of a gift or dedication, of the Burdened Property or any portion thereof to the general public.

5.2 Notices. Whenever any person gives or serves any notice, demand, or other communication with respect to this Covenant, each such notice, demand, or other communication shall be in writing and shall be deemed effective (1) when delivered, if personally delivered to the person being served or official of a government agency 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:

If To: "Covenantor"
461 McGraw Investors LLC
Attention: Managing Member
1635 Chestnut, Suite A
Livermore, CA 94551

If To: "County"
Alameda County Environmental Health Services
Attention: Director
1131 Harbor Bay Parkway
Alameda, California 94502

5.3 Partial Invalidity. If any portion of the Restrictions or terms set forth herein is determined to be invalid for any reason, the remaining portion shall remain in full force and effect as if such portion had not been included herein.

5.4 Article Headings. Headings at the beginning of each numbered article of this Covenant are solely for the convenience of the parties and are not a part of the Covenant.

5.5 Recordation. This instrument shall be executed by the Covenantor and by the Director of Alameda County Department of Environmental Health. This instrument shall be recorded by the

Covenantor in the County of ALAMEDA within ten (10) days of the date of execution.

5.6 References. All references to Code sections include successor provisions.

5.7 Construction. Any general rule of construction to the contrary notwithstanding, this instrument shall be liberally construed in favor of the Covenant to effect the purpose of this instrument and the policy and purpose of the Water Code. If any provision of this instrument is found to be ambiguous, an interpretation consistent with the purpose of this instrument that would render the provision valid shall be favored over any interpretation that would render it invalid.

IN WITNESS WHEREOF, the parties execute this Covenant as of the date set forth above.
Covenantor: 461 McGraw Investors LLC

By: Jeff Antrim
Title: Managing Member
Date: 8/21/08

Agency: Alameda County
Department of Environmental Health

By: Ariu Levi
Title: Director
Date: AUGUST 27, 2008

STATE OF CALIFORNIA)
)
COUNTY OF Alameda)

On 8-21, 2008 before me, the undersigned a Notary Public in and for said state, personally appeared Jeff Antrim, Managing Member of 461 McGraw Investors LLC personally known to me or proved to me on the basis of satisfactory evidence to be the person who executed the within instrument.

WITNESS my hand and official seal.

(SEE ATTACHED DOCUMENT)

Notary Public in and for said
County and State

STATE OF CALIFORNIA)
)
COUNTY OF ALAMEDA)

On 8-27, 2008 before me, the undersigned a Notary Public in and for said state, personally appeared Ariu Levi, personally known to me or proved to me on the basis of satisfactory evidence to be the person who executed the within instrument.

WITNESS my hand and official seal.

(SEE ATTACHED DOCUMENT)

Notary Public in and for said
County and State

EXHIBIT A

LEGAL DESCRIPTION OF PROPERTY

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

BEGINNING AT A POINT IN THE NORTHEASTERN BOUNDARY LINE OF THAT CERTAIN TRACT DESCRIBED IN THE DEED FROM F. GATCHELL, ET AL, TO GEO F. TUBBS, DATED NOVEMBER 4, 1931 AND RECORDED DECEMBER 12, 1931, IN BOOK 2721 OF OFFICIAL RECORDS, AT PAGE 262, RECORDS OF ALAMEDA COUNTY, CALIFORNIA, DISTANT THEREON SOUTH 28° 45' EAST, 400.00 FEET FROM THE POINT OF INTERSECTION THEREOF WITH THE CENTER LINE OF THE STATE HIGHWAY LEADING FROM LIVERMORE TO GREENVILLE, KNOWN AS ROAD IV, ALAMEDA COUNTY, ROUTE 5, SECTION A, SAID CENTER LINE BEING ALSO THE CENTER LINE OF COUNTY ROAD NO. 818, AS REFERRED TO IN THE HEREINABOVE MENTIONED DEED; THENCE CONTINUING ALONG SAID NORTHEASTERN BOUNDARY LINE, SOUTH 28° 45' EAST, 623.00 FEET TO THE POINT OF INTERSECTION THEREOF WITH THE CENTERLINE OF A PRIVATE ROAD, 40 FEET IN WIDTH; THENCE ALONG THE CENTER LINE OF SAID PRIVATE ROAD, SOUTH 61° 45' WEST 230.00 FEET TO THE CENTER LINE OF ANOTHER PRIVATE ROAD, 40 FEET IN WIDTH; THENCE ALONG THE LAST NAMED CENTER LINE, NORTH 28° 45' WEST, 623.00 FEET; THENCE LEAVING SAID PRIVATE ROAD, NORTH 61° 45' EAST, 230.00 FEET TO THE POINT OF BEGINNING.

EXCEPTING THOSE PORTIONS OF PUBLIC AND PRIVATE ROADS WHICH LIE WITHIN THE ABOVE DESCRIBED PROPERTY; SAID PROPERTY BEING A PART OF PLOT LETTERED H OF THE RANCHO LAS POSITAS, AS PLOT IS DELINEATED AND SO DESIGNATED ON THE MAP OF SAID RANCHO, RECORDED IN BOOK 95 OF DEEDS, AT PAGE 205, RECORDS OF ALAMEDA COUNTY, CALIFORNIA.

ALSO EXCEPTING THEREFROM, THAT PORTION DESCRIBED IN THE FINAL JUDGMENT IN CONDEMNATION ENTERED OCTOBER 9, 1986, IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA, IN AND FOR THE COUNTY OF ALAMEDA, CASE NO. H 100796-1, A CERTIFIED COPY OF WHICH RECORDED OCTOBER 10, 1986, SERIES NO. 86-250341, OFFICIAL RECORDS.

APN: 099-0040-005-02

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of

Alameda

On 8/21/08

Date

before me, Evelyn R. Wolter, Notary Public

Here Insert Name and Title of the Officer

personally appeared

Jeffrey B. Antrim

Name(s) of Signer(s)

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

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

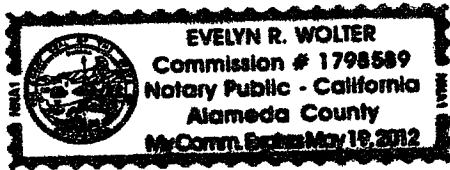
WITNESS my hand and official seal.

Signature

Evelyn R. Wolter

Signature of Notary Public

Place Notary Seal Above



OPTIONAL

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

Description of Attached Document

Title or Type of Document: _____

Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____

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

RIGHT THUMBPRINT OF SIGNER

Top of thumb here

Signer Is Representing: _____

Signer's Name: _____

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

RIGHT THUMBPRINT OF SIGNER

Top of thumb here

Signer Is Representing: _____

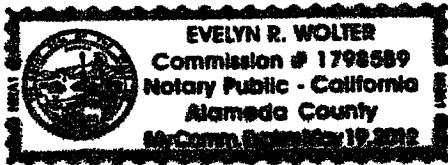
CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of Alameda }

On 8/27/2008 before me, Evelyn R. Wolter
Date Here Insert Name and Title of the Officer

personally appeared Ariid Benjamin Levi
Name(s) of Signer(s)



Place Notary Seal Above

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

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

WITNESS my hand and official seal.

Signature Evelyn R. Wolter
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: _____

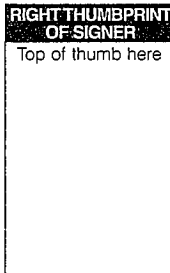
Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____

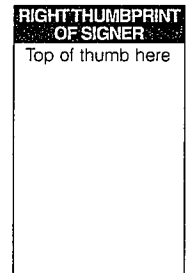
- Individual
- Corporate Officer — Title(s): _____
- Partner — Limited General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: _____



Signer Is Representing: _____

Signer's Name: _____

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



Signer Is Representing: _____

ILLEGIBLE NOTARY SEAL DECLARATION

(GOVERNMENT CODE 27361.7)

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

Name of Notary: Evelyn R. Wolter

Commission number: 1798589

Date Commission Expires: 05/19/2012

Notary Public State and County: California, Alameda

Date: August 28, 2008



Declarant

E. Chambers

Print name of Declarant

Pleasanton, CA 94588

Place of execution of this declaration