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OFFICIAL RECORDS OF ALAMEDA COUNTY
STEVE MANNING
RECORDING FEE: 70.00

Recording Requested By:
Dublin Apartment Properties LLC
6775 Golden Gate Drive
Dublin, California 94568



16 PGS

When Recorded, Mail To:
Ms. Dilan Roe
Chief – Land Water Division
Alameda County Department of Environmental Health
1131 Harbor Bay Parkway
Alameda, California 94502

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**COVENANT AND ENVIRONMENTAL RESTRICTION
ON PROPERTY**

Aster Apartments
6775 Golden Gate Drive
Dublin, California

This Covenant and Environmental Restriction on Property (this "Covenant") is made as of the 17th day of July, 2017 by Dublin Apartment Properties, LLC ("Covenantor") who is the Owner of record of that certain property situated at 6775 Golden Gate Drive, Assessor's Parcel Number (APN) 941-1500-015-09, in the City of Dublin, 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 and soil vapor underlying the property contains hazardous materials.

B. Contamination of the Burdened Property. The approximately 4.73-acre Burdened Property was formerly operated as an auto dealership and auto body and service center. Groundwater and soil vapor at the Burdened Property were contaminated by both historic site uses and an unidentified off-site source west of the Burdened Property. The groundwater and soil vapor are contaminated with volatile organic chemicals, primarily tetrachloroethene and trichloroethene, above their respective Environmental Screening Levels.¹ A full description of volatile organic chemicals in groundwater and soil vapor can be found in the 2012 Soil,

¹ California Regional Water Quality Control Board, San Francisco Bay Region, 2016. Environmental Screening Level Workbook, February, http://www.waterboards.ca.gov/rwqcb2/water_issues/programs/esl.shtml

Alameda County

AUG 11 2017

Environmental Health

Groundwater, and Soil Vapor Investigation Report.²

Corrective actions have been implemented to mitigate the risk of exposure of future Occupants, maintenance workers, and construction workers to contamination: soil excavation was conducted in areas impacted by releases of chemicals from former sumps, underground storage tanks and piping, and hydraulic lifts beneath the former building slabs; a vapor mitigation system (“VMS”) was installed beneath the site buildings and concrete plugs were installed in utility trenches where they enter the building in areas where groundwater and related soil vapor organic chemical concentrations exceed Environmental Screening Levels; and a permeable reactive barrier (“PRB”) was installed at the northwest boundary of the Burdened Property (Exhibit B).

The VMS consists of a vapor membrane and a passive sub-slab venting system beneath the vapor membrane within the footprint of selected buildings on the Property, as described above. The VMS and concrete utility plugs are designed to mitigate the potential for soil vapor originating from contaminated groundwater beneath the Burdened Property to contribute to unacceptable human health risk in indoor air.

The PRB is located off-property, near the northwest corner of the Burdened Property within the City of Dublin right-of-way for Golden Gate Drive, where contaminated groundwater enters the Burdened Property. The PRB is designed to passively treat groundwater contamination as it moves beneath the Burdened Property and provide supplemental protection to human health in addition to that provided by the VMS.

Additionally, remediation was conducted in 2015 under County oversight to address soil that was primarily impacted by petroleum compounds related to historical site operations as an auto body and service center. The remediation successfully removed the impacted soil to levels consistent with protection of human health.³

The operations and maintenance of the vapor mitigation system, permeable reactive barrier, and concrete plugs is pursuant to the Operations, Maintenance, and Monitoring Plan for Vapor Mitigation System⁴; the Operations, Maintenance, and Monitoring Plan for Permeable Reactive Barrier⁵; and the Site Management Plan⁶. The Covenantor shall hire a qualified environmental consultant/contractor to inspect and maintain the integrity of the remedial measures described

² AMEC, 2012. Soil, Groundwater, and Soil Vapor Investigation Report, Crown Chevrolet Cadillac Isuzu, 7544 Dublin Boulevard and 6707 Golden Gate Drive, Dublin, California, October 19.

³ Amec Foster Wheeler, 2015. Post-Demolition Investigation and Soil Removal Completion Report, Former Crown Chevrolet North Parcel, 7544 Dublin Boulevard, Dublin, California, June 26.

⁴ Amec Foster Wheeler Environment & Infrastructure, Inc., 2017. Operations, Maintenance, and Monitoring Plan for Vapor Mitigation System, Aster Apartments, 6775 Golden Gate Drive, Dublin, California, July.

above at the burdened property, as specified in the above referenced plans and submit a report annually to the County (Record ID: RO0003252) and the State Water Board's GeoTracker website (GeoTracker Global ID: T10000010517) for the life of the improvements at the burdened property.

Covenantor accepts on going annual County fees for oversight and review of Operations and Maintenance Reports by the County, as provided by Health and Safety Code §101480 and establish a deposit/refund account as authorized in Alameda County Ordinance Code § 6.92.040L.

C. Exposure Pathways. The contaminants addressed in this Covenant are present in groundwater and soil vapor on the Burdened Property. Without the remedial and mitigation measures which have been performed on the Burdened Property, exposure to these contaminants could take place via in place contact or vapor intrusion resulting in inhalation, dermal contact, or ingestion by humans. The risk of public exposure to the contaminants 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 residential and commercial land uses and is adjacent to residential and commercial 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 subject 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

⁵ Amec Foster Wheeler Environment & Infrastructure, Inc., 2017. Operations, Maintenance, and Monitoring Plan for Permeable Reactive Barrier, Aster Apartments, 6775 Golden Gate Drive, Dublin, California, July.

⁶ Amec Foster Wheeler Environment & Infrastructure, Inc., 2017. Site Management Plan, Aster Apartments, 6775 Golden Gate Drive, Dublin, California, July.

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 subject 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 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 continuing 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 Burdened Property. "Burdened Property" shall mean that certain property situated at 6775 Golden Gate Drive in Dublin, California, which is more particularly described in Exhibit A attached hereto.

2.2 County. "County" shall mean the Alameda County Department of Environmental Health and shall include its successor agencies, if any.

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

2.4 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.

2.5 Owner or Owners. "Owner" or "Owners" shall mean the Covenantor and its corporate successors in interest, and/or its successors in interest 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. No hospitals shall be permitted on the Burdened Property;
- b. No schools for persons under 21 years of age shall be permitted on the Burdened Property;
- c. No day care centers for children or day care centers for Senior Citizens shall be permitted on the Burdened Property;
- d. No Owners or Occupants of the Property or any portion thereof shall conduct any excavation work on the Property, with the exception of routine maintenance activities outside of the site buildings that would not encounter soil below 7 feet below ground surface or saturated soil (e.g., landscaping, paving, utility repairs), unless approval is first sought and then expressly permitted in writing by the County. Any disturbance of the concrete utility plugs during utility repair or contaminated soils brought to the surface by grading, excavation, trenching, or backfilling shall be managed by Covenantor or his agent in accordance with the Site Management Plan and all applicable provisions of local, state and federal law;
- e. All uses and development of the Burdened Property shall be consistent with any applicable site documents, including the Site Management Plan, which is hereby incorporated by reference including future amendments thereto. All uses and development shall preserve the integrity of any remedial measures taken or remedial equipment installed, mitigation measures, and any groundwater monitoring network installed on the Burdened Property pursuant to the requirements of the County, specifically including the VMS installed under specified buildings and the PRB, unless otherwise expressly permitted in writing by the County.
- 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 Owner shall notify the County of each of the following: (1) The type, cause, location and date of any disturbance to any remedial measures taken or remedial equipment installed, including the VMS, PRB, concrete utility trench plugs, and/or monitoring well network which could affect the ability of such VMS, PRB or other remedial measures to perform their respective functions and (2) the type and date of repair of such disturbance, which shall be Owner's obligation to have performed. Notification to the County shall be made by registered mail within

ten (10) working days of both the discovery of such disturbance and the completion of repairs;

h. The Covenantor agrees that the County, and/or any persons acting pursuant to County cleanup orders or responsible for implementing operations and maintenance activities with respect to the VMS, PRB, concrete utility trench plugs, and/or monitoring well network, shall have reasonable access to the Burdened Property, including but not limited to the VMS, PRB, concrete utility trench plugs, and monitoring well network, for the purposes of inspection, surveillance, maintenance, monitoring, repair, and related activities as provided for in Division 7 of the Water Code.

i. 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 resulting from the residual hazardous materials. All use and development of the Burdened Property shall preserve the integrity of: (1) the VMS, and (2) the PRB, and (3) the concrete utility trench plugs.

j. No Owner or Occupant of the Burdened Property shall grow fruits or vegetables for consumption using site soils. Gardening on the Burdened Property shall only be permitted using imported soil within raised beds that do not allow direct contact between tree or plant roots and the underlying site soil.

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 soil vapor and in the groundwater under the property, and is subject to a deed restriction dated as of July 18th, 2017, and recorded on July 18th, 2017, in the Official Records of Alameda County, California, as Document No. _____, which Covenant and Environmental 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"
Dublin Apartment Properties, LLC
6775 Golden Gate Drive
Dublin, California

If To: "County"
Alameda County Department of Environmental Health
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 the 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: Dublin Apartment Properties, LLC
By: [Signature] Bill R. Poland
Title: Manager
Date: July 19, 2017

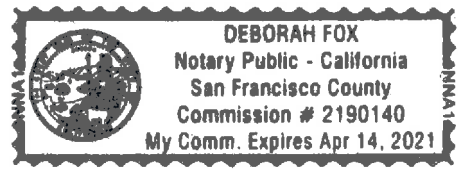
STATE OF CALIFORNIA, COUNTY OF San Francisco

On July 17, 2017, before me Deborah Fox, Notary Public,
personally appeared Bill R. Poland

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]
Notary Public in and for said
County and State



A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

Agency: Alameda County Department of Environmental Health
By: [Signature] Ronald Browder
Title: Director
Date: 07-18-2017

STATE OF CALIFORNIA, COUNTY OF Alameda

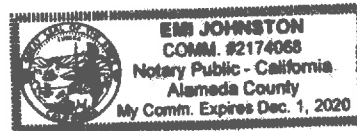
On 7/18/2017 before me Emi Johnston, Notary Public,
personally appeared

Ronald Browder
, 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.

Emi Johnston
Notary Public in and for said
County and State



A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California
County of San Francisco

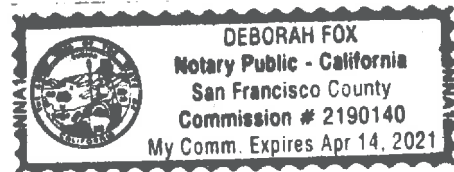
On July 18, 2017 before me, Deborah Fox, Notary Public
(insert name and title of the officer)

personally appeared Bill R. Poland
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 Deborah Fox (Seal)



CALIFORNIA CERTIFICATE OF ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)

County of Alameda)

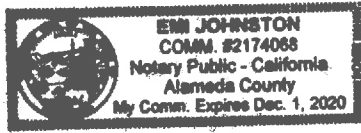
On 7/18/2017 before me, Emi Johnston, Notary Public,
(here insert name and title of the officer)

personally appeared Ronald Browder

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 Emi Johnston

(Seal)

Optional Information

Although the information in this section is not required by law, it could prevent fraudulent removal and reattachment of this acknowledgment to an unauthorized document and may prove useful to persons relying on the attached document.

Description of Attached Document

The preceding Certificate of Acknowledgment is attached to a document titled for the purpose of Covenant of Environmental Restriction on Property, Dublin, CA containing _____ pages, and dated 7/18/2017.

The signer(s) capacity or authority is/are as:

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

representing: _____
Name(s) of Person(s) or Entity(ies) Signer is Representing

Additional Information
Method of Signer Identification
Proved to me on the basis of satisfactory evidence: <input checked="" type="checkbox"/> form(s) of identification <input type="checkbox"/> credible witness(es)
Notarial event is detailed in notary journal on: Page # _____ Entry # _____
Notary contact: <u>415-676-8087</u>
Other
<input type="checkbox"/> Additional Signer(s) <input type="checkbox"/> Signer(s) Thumbprint(s)
<input type="checkbox"/>

EXHIBIT A
LEGAL DESCRIPTION OF BURDENED PROPERTY

MAY 11, 2017
JOB NO.: 2019-020

DESCRIPTION
DUBLIN APARTMENT PROPERTIES LLC
DUBLIN, CALIFORNIA

REAL PROPERTY, SITUATE IN THE INCORPORATED TERRITORY OF THE CITY OF DUBLIN, COUNTY OF ALAMEDA, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

BEING ALL THAT CERTAIN PARCEL OF LAND DESCRIBED IN THAT CERTAIN GRANT DEED RECORDED ON DECEMBER 31, 2014, AS DOCUMENT NO. 2014-319374 OF OFFICIAL RECORDS, IN THE OFFICE OF THE COUNTY RECORDER OF ALAMEDA COUNTY,

EXCEPTING THEREFROM:

BEING A PORTION OF SAID PARCEL OF LAND DESCRIBED IN SAID GRANT DEED RECORDED ON DECEMBER 31, 2014, AS DOCUMENT NO. 2014-319374 OF OFFICIAL RECORDS, IN THE OFFICE OF THE COUNTY RECORDER OF ALAMEDA COUNTY, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEASTERN CORNER OF SAID PARCEL OF LAND (2014-319374), SAID POINT ALSO BEING THE SOUTHEASTERN CORNER OF THAT CERTAIN PARCEL OF LAND DESCRIBED IN THAT CERTAIN FINAL ORDER OF CONDEMNATION RECORDED APRIL 8, 1997 AS DOCUMENT NO. 97090524 OF OFFICIAL RECORDS, IN SAID OFFICE OF THE COUNTY RECORDER OF ALAMEDA COUNTY;

THENCE, FROM SAID POINT OF COMMENCEMENT, ALONG THE NORTHERN LINE OF SAID PARCEL OF LAND (2014-319374), SOUTH 69°08'15" WEST 343.97 FEET TO THE TRUE POINT OF BEGINNING FOR THIS DESCRIPTION;

THENCE, LEAVING SAID NORTHERN LINE, ALONG THE ARC OF A TANGENT 35.00 FOOT RADIUS CURVE TO THE LEFT, THROUGH A CENTRAL ANGLE OF 90°00'00", AN ARC DISTANCE OF 54.98 FEET;

THENCE, SOUTH 20°51'45" EAST 176.60 FEET;

THENCE, ALONG THE ARC OF A TANGENT 210.00 FOOT RADIUS CURVE TO THE RIGHT, THROUGH A CENTRAL ANGLE OF 12°05'44", AN ARC DISTANCE OF 44.33 FEET, TO A POINT OF REVERSE CURVATURE TO WHICH A RADIAL BEARS NORTH 81°13'59" EAST;

THENCE, ALONG THE ARC OF A 190.00 FOOT RADIUS CURVE TO THE LEFT, THROUGH A CENTRAL ANGLE OF 12°05'44", AN ARC DISTANCE OF 40.11 FEET;

THENCE, SOUTH 20°51'45" EAST 183.30 FEET;

THENCE, SOUTH 24°08'15" WEST 14.14 FEET TO A POINT ON THE WESTERN LINE OF SAID PARCEL OF LAND (2014-319374);

LEGAL DESCRIPTION

MAY 12, 2017
JOB NO.: 2019-020

THENCE, ALONG SAID WESTERN LINE AND SAID NORTHERN LINE, THE FOLLOWING THREE (3) COURSES:

- 1) NORTH 20°51'45" WEST 446.72 FEET,
- 2) ALONG THE ARC OF A TANGENT 42.00 FOOT RADIUS CURVE TO THE RIGHT, THROUGH A CENTRAL ANGLE OF 90°00'00", AN ARC DISTANCE OF 65.97 FEET, AND
- 3) NORTH 69°08'15" EAST 11.88 FEET TO SAID TRUE POINT OF BEGINNING.

END OF DESCRIPTION



MARK WEHBER, P.L.S.
L.S. NO. 7960

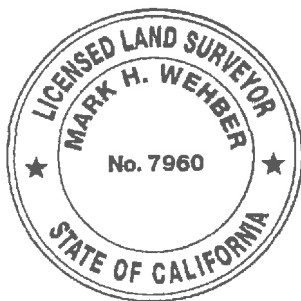


EXHIBIT B

PERMEABLE REACTIVE BARRIER, VAPOR MITIGATION SYSTEM AND
CONCRETE UTILITY TRENCH PLUG LOCATIONS

The original map can be found at: Aster Apartments
6775 Golden Gate Dr.
Dublin, CA 94568

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