|  |  |
| --- | --- |
| **Recording Requested By:**   1. Attn: <<CLIENT NAME>> 2. <<ORGANIZATION>> 3. <<DEPARTMENT>> 4. <<STREET ADDRESS>> 5. San Francisco, California <<94103>>   **When Recorded Mail To:**   1. Attn: Director of Environmental Health 2. City and County of San Francisco 3. Department of Public Health 4. 49 South Van Ness Avenue, Suite 600 5. San Francisco, California 94103   The undersigned hereby declares this instrument to be exempt from recording fees under California Government Code section 27383. |  |

***Space above for Recorder’s use only***

1. **COVENANT AND ENVIRONMENTAL RESTRICTION**
2. **Located at** <<PROPERTY STREET ADDRESS>>**, San Francisco, California**
3. **Assessor Parcel Number (APN) Lot** <<Lot #>>**, Block** <<Block #>>
4. This Covenant and Environmental Restriction (this “Covenant”) is made as of the \_\_\_\_ day of \_\_\_\_\_\_\_\_, 20\_\_ by <<COVENANTOR NAME>>, a <<TYPE OF ORGANIZATION>> (“Covenantor”), for the benefit of the CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation (the “City”), acting by and through the San Francisco Department of Public Health (“SFDPH”).

RECITALS

1. A. Fee Owner; Contamination. Covenantor is the sole fee owner of that certain property situated at <<PROPERTY LOCATION>> in the City and County of San Francisco, State of California, which is more particularly described in the attached Exhibit A (the “Burdened Property”). The Burdened Property contains the hazardous materials described below.
2. B. Contamination of the Burdened Property. The hazardous materials beneath the Burdened Property are due to <<EXPLAIN STRUCTURAL PROBLEMS>> at the Burdened Property, consisting, at least in part, of <<LIST OF CHEMICALS>> from <<EXPLAIN HOW PROPERTY WAS CONTAMINATED>>. As a result, soil, groundwater, and/or soil vapor beneath the Burdened Property have been analyzed, as summarized in the attached Exhibit B. The results indicate that remaining soil, groundwater, and/or soil vapor at the Burdened Property contains <<LIST OF CHEMICALS>>chemicals, including <<SPECIFIC CHEMICALS ABOVE ACCEPTABLE AMOUNT>>, which constitute hazardous materials as that term is defined in California Health and Safety Code Section 25260(d). The following efforts were taken to remediate and control the contamination (collectively, the “Control Work”): (i) the excavation of impacted soil at the Burdened Property to a depth of <<NUMBER OF FEET>> feet below ground surface <<IF CONTAMINATION INVOLVED GROUNDWATER OR SOIL VAPOR MODIFY ACCORDINGLY >> and (ii) the installation and maintenance of a Cap (as defined in Article II) over the Burdened Property to minimize potential migration of and exposure to the remaining hazardous materials <<IF CONTAMINATION CONTAINED BY ALTERNATIVE METHOD, MODIFY ACCORDINGLY >>. However, in the unlikely event that remaining impacted soil below the Cap is disturbed <<IF CONTAMINATION INVOLVED GROUNDWATER OR SOIL VAPOR MODIFY ACCORDINGLY >>, the Cap Maintenance Plan attached as Exhibit C (“CMP”) was prepared to insure long-term compliance and safety measures and approved by SFDPH on <<INSERT DATE HERE>>. Among other requirements, the CMP requires notification to the SFDPH, a site specific work plan, compliance with local, state and federal regulations, and a Site Mitigation Plan as defined in the CMP prior to conducting any work below the Cap.
3. C. Exposure Pathways. The contaminants, addressed in this Covenant, are present in soil <<IF CONTAMINATION INVOLVED GROUNDWATER OR SOIL VAPOR MODIFY ACCORDINGLY >> below the Cap on the Burdened Property. If the Control Work had not been completed, exposure to these contaminants could potentially take place via <<in-place contact, surface water runoff and aerosol dispersal, through three pathways: dermal contact, inhalation, wind dispersal, or ingestion by humans or animals>>. The risk of public exposure to the contaminants has been substantially lessened by the Control Work.
4. D. Adjacent Land Uses and Population Potentially Affected. The Burdened Property is adjacent to property used for <<residential, industrial, and commercial>>land purposes.
5. E. Site Remediation. The Control Work was performed under the oversight of the SFDPH <<with input from the Department of Toxic Substances Control (“DTSC”) and the Regional Water Quality Control Board, San Francisco Bay Region (“Board”) AND >> in accordance with Article 22A of the San Francisco Health Code.
6. F. Disclosure and Sampling. Full and voluntary disclosure to SFDPH, DTSC and/or the Board of the presence of hazardous materials on the Burdened Property has been made and extensive sampling of the Burdened Property has been conducted.
7. G. Intent Regarding Use. Covenantor desires and intends that in order to benefit SFDPH, and to protect the present and future public health and safety, the Burdened Property shall be used in such a manner that avoids potential harm to persons or property that may otherwise result from hazardous materials identified at the Burdened Property.

H. Protection of Health and Safety. Pursuant to California Civil Code Section 1471, SFDPH has determined that this Covenant is reasonably necessary to protect present or future human health or safety of the environment as a result of the presence on the land of hazardous materials as defined in the California Health and Safety Code Section 25260(d).

AGREEMENT

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Covenantor agrees, on behalf of itself and all other Owners (as defined in Article II below), as follows:

1. ARTICLE I
2. GENERAL PROVISIONS

1.1 Recitals. The Covenantor represents and covenants that the above Recitals are true, correct, and complete, are not misleading in any way, and are incorporated herein by reference.

1.2 Provisions to Run with the Land. This Covenant sets forth the Restrictions (as defined in Article II) upon and subject to which the Burdened Property and every portion thereof shall be improved, held, used, occupied, leased, sold, hypothecated, encumbered, transferred and/or conveyed. The Restrictions are reasonably necessary to protect present and future human health and safety or the environment as a result of the presence of hazardous materials on the Burdened Property. This Covenant shall (i) run with the land in accordance with California Civil Code Section 1471, (ii) burden and pass with each and every portion of the Burdened Property, and (iii) apply to and bind each successor owner of any interest in the Burdened Property for the benefit of SFDPH and all parties in or around the Burdened Property. The Covenantor agrees to record this Covenant in the Official Records of the City and County of San Francisco in order to give all future Owners and Occupants notice of this Covenant.

1.3 Concurrence of Other Owners and Occupants Presumed. All other Owners and Occupants (as defined in Article II) of any interest in any portion of the Burdened Property shall be deemed, by their purchase, leasing, use or occupancy of such Burdened Property, to have agreed to this Covenant and, on behalf of themselves and their respective agents, employees, heirs, successors, and assigns, to strictly abide by this Covenant for the benefit of SFDPH and all parties in or about the Burdened Property.

1.4 Incorporation into Deeds, Leases, and Agreements. Following recordation of this Covenant, and through the term of Covenantor’s ownership of the Burdened Property, Covenantor agrees to reference, attach or incorporate this Covenant in all deeds, leases, permits or other agreements governing the use, occupancy, or transfer of all or any portion of the Burdened Property. Recordation of this Covenant shall be deemed binding on all successors, assigns, lessees, permittees and all other owners, users or occupants of the Burdened Property regardless of whether this Covenant has been referenced, attached to or incorporated into any given deed, lease, permit or other applicable agreement. Without limiting the foregoing, each Owner agrees, during its ownership of the Burdened Property, to cause each Occupant and each Owner immediately succeeding it to execute, a writing that includes the following statement:

The land described herein contains hazardous materials in its soil, <<IF CONTAMINATION INVOLVED GROUNDWATER OR SOIL VAPOR MODIFY ACCORDINGLY >> that have been remediated and controlled and is subject to a Covenant and Environmental Restriction dated as of <<INSERT DATE OF THIS COVENANT >> and recorded on <<INSERT DATE THIS COVENANT WAS RECORDED >> in the Official Records of City and County of San Francisco, California, as Document No. <<INSERT DOCUMENT NUMBER OF COVENANT>>, which imposes certain covenants, conditions, and restrictions on usage of the property described herein. This statement is not a declaration that a hazard exists.

1.5 Purpose. The purpose of this Covenant is to convey certain rights to SFDPH 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 Board. “Board” shall mean the Regional Water Quality Control Board, San Francisco Bay Region and shall include its successor agencies, if any.

2.2 Cap. “Cap” shall mean <<DESCRIBE AS APPROPRIATE>>, which includes all concrete floor surfaces <<IF CAP CONTAINS OTHER MATERIALS, MODIFY ACCORDINGLY >>, that cover the soil <<IF CONTAMINATION INVOLVED GROUNDWATER OR SOIL VAPOR MODIFY ACCORDINGLY >> and are present over the total footprint of the Burdened Property, extending from property line to property line and fully described in the CMP. The Cap will be used to isolate contaminated soil <<IF CONTAMINATION INVOLVED GROUNDWATER OR SOIL VAPOR MODIFY ACCORDINGLY on the Burdened Property from human or environmental exposure. The Cap has been constructed as outlined in the CMP.

2.3 City. “City” shall mean the City and County of San Francisco, a municipal corporation.

2.4 Control Work. “Control Work” shall mean as defined in Recital B.

2.5 Covenantor. “Covenantor” shall mean <<COVENANTOR NAME>>, a <<TYPE OF ORGANIZATION>>.

2.6 DTSC. “DTSC” shall mean the Department of Toxic Substances Control and shall include its successor agencies, if any.

2.7 Improvements. “Improvements” shall mean all temporary or permanent buildings, structures, improvements, fences, roads, driveways, sidewalks, paving, gradings, and paved parking areas constructed or placed upon any portion of the Burdened Property.

2.8 Losses. “Losses” shall mean claims, damages, losses, penalties, fines, penalties, judgments, settlements, costs, liabilities (including direct and vicarious liability), and expenses of every kind.

2.9 Occupants. “Occupants” shall mean all Owners and all parties entitled by ownership, lease, permit, easement or other agreement or relationship to use and/or occupy all or any portion of the Burdened Property, each during the period of its ownership, use, or occupancy of the Burdened Property.

2.10 Owner or Owners. “Owner” or “Owners” shall mean the Covenantor during the term of its ownership of the Burdened Property, and any and all successors in interest who hold a fee interest in all or any portion of the Burdened Property.

2.11 Restrictions. “Restrictions” shall mean all of the provisions, covenants, conditions, agreements, requirements, and restrictions set forth in this Covenant.

2.12 Senior Citizens. “Senior Citizens” shall mean a person 62 years of age or older, or 55 years of age or older in a senior housing development.

2.13 SFDPH. “SFDPH” shall mean the San Francisco Department of Public Health and include its successor agencies, if any.

1. ARTICLE III
2. RESTRICTIONS AND REPRESENTATIONS

3.1 Restrictions on Development and Use. Each Owner, during the term of its ownership of the Burdened Property, covenants and agrees to restrict the use of the Burdened Property as follows:<<IS THERE A RESIDENTIAL RESTRICTION? IF YES, THEN LEAVE bullets (a) THROUGH (d) OF THIS SECTION (I.E. GREY SHADING). IF NO, THEN REMOVE HIGHLIGHTED SECTION AND RENUMBER >>

a. No residence or human habitation shall be permitted on the Burdened Property.

b. No hospitals shall be permitted on the Burdened Property.

c. No schools for persons under 21 years of age shall be permitted on the Burdened Property.

d. No day care centers for children or day care centers for Senior Citizens shall be permitted on the Burdened Property.

e. It shall be responsible for implementing and complying with the CMP.

f. No soil <<IF CONTAMINATION INVOLVED GROUNDWATER OR SOIL VAPOR MODIFY ACCORDINGLY >> removal, grading or excavation or disturbance of the CAP shall be done or permitted at the Burdened Property unless expressly approved in writing and in advance by SFDPH (with reference to this Covenant) and any other regulatory agency with jurisdiction. Any contaminated soil <<IF CONTAMINATION INVOLVED GROUNDWATER OR SOIL VAPOR MODIFY ACCORDINGLY >>, brought above the Cap shall be managed in accordance with all applicable provisions of local, state and federal law.

g. All uses and development of the Burdened Property shall be consistent with the CMP and any applicable SFDPH order and risk management plan, including any future amendments thereto. All uses and development shall preserve the integrity of any Cap and any other remedial measures taken or remedial or monitoring equipment installed on the Burdened Property pursuant to the requirements of SFDPH, unless otherwise expressly permitted in writing by SFDPH.

h. No Owners or Occupants shall drill, bore, or construct and/or use a well at the Burdened Property 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 SFDPH.

i. Owner shall notify SFDPH of each of the following: (1) the type, cause, location and date of any disturbance to the Cap or any other remedial measures taken or remedial or monitoring equipment installed on the Burdened Property if such disturbance could affect the ability of the Cap, other remedial measures, or remedial or monitoring equipment to perform their respective functions, and (2) the actions taken to repair the disturbance and the completion date of such repair. Notification to SFDPH shall be made by registered mail within ten (10) working days of the discovery of such disturbance and within ten (10) working days following the completion of repairs.

j. No Owner or Occupant 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 the Cap.

3.2 Representations and Warranties. The Covenantor hereby represents and warrants to the City as follows:

a. The Covenantor is the sole fee owner of the Burdened Property, and there are no mortgages or deeds of trust on the Burdened Property. <<IF THERE ARE EXISTING MORTGAGES OR DEEDS OF TRUST, ADD THE FOLLOWING CLAUSE AT THE END OF THIS SENTENCE: "EXCEPT FOR THE DEED OF TRUST RECORDED AS INSTRUMENT NO. \_\_\_\_\_\_\_\_\_\_ IN THE OFFICIAL RECORDS OF SAN FRANCISCO COUNTY ON \_\_\_\_\_\_\_\_\_\_\_\_\_\_, WHICH IS BEING SUBORDINATED TO THIS COVENANT BY A SUBORDINATION AGREEMENT EXECUTED BY THE COVENANTOR AND \_\_\_\_\_\_\_\_\_\_\_\_\_\_ [INSERT NAME OF LENDER] THAT WILL BE RECORDED IN THE OFFICIAL RECORDS OF SAN FRANCISCO COUNTY IMMEDIATELY FOLLOWING THE RECORDATION OF THIS COVENANT. >>

>>

b. The execution, delivery, and performance of this Covenant will not contravene, or constitute a default, under any agreement or instrument binding upon or affecting the Covenantor or the Burdened Property.

c. There is no action, suit or proceeding pending or threatened against the Covenantor that might adversely affect the Covenantor's ability to comply with this Covenant in any material respect.

d. The Covenantor will comply with all applicable laws and regulations relative to its use of the Burdened Property.

1. ARTICLE IV
2. ENFORCEMENT AND REMEDIES

4.1 Enforcement. Following written notice to Owner and a reasonable period of time for Owner to cure any actual or threatened violation of this Covenant, such reasonable period of time being determined in the sole discretion of SFDPH in light of the nature of the hazard the violation poses to human health or the environment, the City shall have all rights and remedies available at law or in equity in order to enforce this Covenant. Such rights include, but are not limited to, the right of the City, acting through SFDPH, (i) to demolish, modify or remove, at the then Owner's sole cost, any Improvements constructed in violation of this Covenant; (ii) to take such actions as may be reasonably necessary, in SFDPH's sole judgment, to prevent a threatened violation of this Covenant; and (iii) to pursue any additional remedies available at law or in equity, including the filing of a civil action against any and all Owners or Occupants. Covenantor agrees that SFDPH and/or any persons acting on SFDPH instructions shall have access to the Burdened Property on request for the purposes of inspection, surveillance, maintenance, or monitoring the implementation of and compliance with this Covenant. Each Owner and Occupant shall cooperate with the City to facilitate such inspection, surveillance, maintenance or monitoring as may be required to confirm implementation of and compliance with this Covenant.

4.2 Attorneys' Fees and Costs. If any action is brought by SFDPH to enforce this Covenant, the prevailing party shall recover all costs, including without limitation reasonable attorneys’ fees and costs, incurred in bringing such action. The reasonable fees of attorneys of the City's Office of the City Attorney shall be based on the fees regularly charged by private attorneys with the equivalent number of years of experience in the subject matter area of the law for which the City Attorney's services were rendered and who practice in the City of San Francisco in law firms with approximately the same number of attorneys as employed by the Office of the City Attorney.

4.3 No Joint Venture; No Third Party Beneficiary. The City is not, and none of the provisions in this Covenant shall be deemed to render the City, a partner in the business of any Owner or Occupant, or a joint venturer or member in any joint enterprise with any Owner or Occupant. No Owner or Occupant shall act as the agent of the City in any respect hereunder, nor shall City act as the agent of any Owner or Occupant in any respect hereunder. This Covenant is not intended nor shall it be construed to create any third party beneficiary rights or any third party enforcement rights for any third party, including but not limited to members of the public.

4.4 Indemnities.

a. The Covenantor shall indemnify, defend, reimburse and hold the City and its officers, agents and employees, and their respective heirs, legal representatives, successors, and assigns, harmless from and against any and all Losses, whether direct, indirect, known, unknown, foreseen, or unforeseen, arising out of any failure of any Covenantor representation in this Covenant to be correct in all material respects when made. The foregoing indemnity includes reasonable fees of attorneys, consultants, and experts and related costs and City’s costs of investigating such matter. This paragraph shall survive any termination of this Covenant.

b. Each Owner shall indemnify, defend, reimburse and hold the City and its officers, agents and employees, and their respective heirs, legal representatives, successors, and assigns, harmless from and against any and all Losses, whether direct, indirect, known, unknown, foreseen, or unforeseen, arising out of (i) such Owner’s breach of this Covenant, (ii) injury or death to persons or damage to property on the Burdened Property caused by the presence of any hazardous material in soil, groundwater, and/or soil vapor in or about the Burdened Property, or (iii) any claim, demand or cause of action, or any action or other proceeding (a “Claim”), whether meritorious or not, brought or asserted against the City that relates to the Burdened Property or this Covenant, including any Claim relating to the presence, release or discharge of any hazardous material. The foregoing indemnity includes reasonable fees of attorneys, consultants, and experts and related costs and City’s costs of investigating any Claim. The Covenantor, and by taking ownership of any portion of the Burdened Property, each other Owner, expressly acknowledges that it has an immediate and independent obligation to defend City from any Claim that actually or potentially falls within this indemnity provision even if the allegation is or may be groundless, fraudulent, or false, which obligation arises at the time the Claim is tendered to the Covenantor or such other Owner by City and continues at all times thereafter. This paragraph shall survive any termination of this Covenant.

4.5 No Duty Owed by the City.

a. Each Owner and Occupant shall be solely responsible for and shall rely solely on its own judgment with respect to all matters relating to the Burdened Property, including the conduct of such party and its agents and employees, the quality, adequacy and suitability of the Control Work, and any work or materials furnished or to be furnished in connection with the Control Work. The City does not assume any responsibility to any Owner, Occupant or other party to review, inspect, supervise or approve, or to provide any advice or information with respect to any such matters.

b. Inspections made by or on behalf of the City, City’s acceptance, approval or review of any documents, information, conditions or performance, and any other City action are for purposes of administration only and for the sole benefit of the City, and shall not constitute a representation or warranty by the City to any Owner, Occupant, or any other party nor be relied on by any Owner, Occupant, or other party for any purpose.

c. The City does not owe any duty of care to protect any Owner, Occupant or other party against, or to inform any Owner, Occupant, or other party of, anything relating to the Burdened Property, including anything relating to the adequacy of the Control Work, any other remediation efforts, this Covenant, or the ability of the Control Work, other remediation efforts, or this Covenant to prevent any damage or loss or injury.

4.6 Release of the City. The Covenantor, and each other Owner and each Occupant, by assuming ownership, use or possession of the Burdened Property shall be deemed to, forever releases and discharges the City and its officers, agents, and employees from any and all Losses, whether direct or indirect, known or unknown, foreseen or unforeseen, that may arise on account of or in any way be connected with the Burdened Property, including the presence of any hazardous material on, in, or about the Burdened Property. This paragraph shall survive any termination of this Covenant.

1. ARTICLE V
2. VARIANCE AND TERMINATION

5.1 Variance. Any Owner or, with the Owner's consent, any Occupant may apply to SFDPH for a written variance from the Restrictions. Such applicant shall demonstrate to SFDPH’s satisfaction that the requested variance is justified and the applicant will institute alternative measures that would be as protective to the public health and the environment as the measure for which the variance is being sought. The decision to grant any such variance shall be made in SFDPH's sole and absolute discretion and shall not affect its right to grant or deny any future request for another variance.

5.2 Termination. Any Owner or, with the Owner's consent, any Occupant may apply to SFDPH to terminate some or all of the Restrictions. Such applicant shall demonstrate to SFDPH’s satisfaction that the termination of the specified Restrictions will not adversely affect the public health or the environment. Any such termination decision shall be made in SFDPH's sole and absolute discretion.

5.3 Term. This Covenant shall be effective on the date it is fully executed. Unless terminated in accordance with paragraph 5.2 above, by law or otherwise, this Covenant shall continue in effect in perpetuity.

1. ARTICLE VI
2. MISCELLANEOUS

6.1 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. No member of the public shall have rights against the City or any Owner or Occupant as a result of this Covenant.

6.2 Notices. Whenever any party gives or serves any notice, demand, or other communication with respect to this Covenant, it shall be in writing and delivered in person, by first-class mail with postage prepaid, or certified mail with postage prepaid and a return receipt requested, or by overnight courier with postage prepaid and return receipt requested, to the following applicable address or to any other address that a party designates as its new address by notice given to the other party in accordance with the provisions of this paragraph at least ten (10) days before the effective date of the change:

1. If to Covenantor:
2. Attn: <<CLIENT NAME>>
3. <<ORGANIZATION>>
4. <<DEPARTMENT>>
5. <<STREET ADDRESS>>
6. San Francisco, California <<94102>>
7. If to Owner:
8. Attn: <<OWNER NAME>>
9. <<ORGANIZATION>>
10. <<DEPARTMENT>>
11. <<STREET ADDRESS>>
12. San Francisco, California <<94102>>
13. If to a Future Owner:

Name and address to be determined by registered owner shown on the most recent recorded vesting deed for the Burdened Property on the office of the San Francisco Tax Assessor.

1. If to SFDPH:

Director of Environmental Health Branch

City and County of San Francisco

Department of Public Health

49 South Van Ness Avenue, Suite 600

San Francisco, California 94103

Any notice will be deemed to have been given two (2) days after the date it is mailed by first class or certified mail, one (1) day after the date it is deposited with an overnight courier for overnight delivery, or on the date of personal delivery.

6.3 Partial Invalidity. If any portion of this Covenant is determined to be invalid for any reason, the remaining portion shall remain in full force and effect.

6.4 Headings. Headings used for the articles, paragraphs and subparagraphs of this Covenant are solely for the convenience of the parties.

6.5 Recordation. The Covenantor shall record the fully executed original copy of this Covenant in City and County of San Francisco within ten (10) days of full execution.

6.6 References. All references to statutes and ordinances include successor provisions.

6.7 Construction. Any general rule of construction to the contrary notwithstanding, this Covenant shall be liberally construed in favor of City to effect its purpose and the policy and purpose of the San Francisco Health Code and the California Civil Code. If any provision of this Covenant is found to be ambiguous, an interpretation consistent with the purpose of this Covenant that would render the provision valid shall be favored over any interpretation that would render it invalid.

6.8 Miscellaneous.

a. This Covenant can only be amended or modified by a writing signed by the City and by the then Owner and recorded in the Official Records of San Francisco County.

b. No waiver by any party of any of the provisions set forth herein shall be effective unless in writing and signed by an officer or other authorized representative, and then only to the extent expressly provided in such written waiver. Any waiver by the City must be signed by the Director of SFDPH or his or her designee and include reference to this Covenant to be effective.

c. All approvals and determinations by City requested, required, or permitted hereunder shall be made in the sole and absolute discretion of the Director of SFDPH or his or her designee.

d. This Covenant shall be governed by California law.

e. If any Owner consists of more than one party, then the obligations of each party shall be joint and several.

f. All of the exhibits hereto are incorporated herein.

g. Time is of the essence in all matters related to this Covenant.

h. This Covenant may be executed in counterparts with such counterparts together constituting a single document.

i. The signatures of the signatories for Covenantor and City in this Covenant must be notarized.

j. If the Covenantor is a corporation, a limited liability company, or a partnership, then each of the persons executing this Covenant on behalf of Covenantor covenants and warrants that Covenantor is a duly authorized and existing entity, has and is qualified to do business in California, has full right and authority to enter into this Covenant, and each and all of the persons signing on behalf of Covenantor are authorized to do so. On City’s request, Covenantor will provide City with evidence reasonably satisfactory to City confirming these representations and warranties.

6.9 Effect on Mortgage. Neither breach of any of the terms or conditions of this Covenant, nor enforcement action taken by SFDPH or any other governmental agency concerning such breach, shall defeat or render invalid or affect in any manner whatsoever the status or priority of the lien of any mortgage or deed of trust made for value and encumbering the Burdened Property; provided, however, that the foregoing clause shall not relieve any lender or holder of a security interest of its obligation to comply with this Covenant if such lender or holder comes into possession of any portion of the Burdened Property, as provided under California Civil Code Section 1471 and other applicable laws.

IN WITNESS WHEREOF, the parties execute this Covenant as of the date set forth above.

**COVENANTOR:**

<<COVENANTOR NAME>>

By:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Date:\_\_\_\_\_\_\_\_\_\_\_\_\_

Name:

Title:

**CITY:**

City and County of San Francisco, a

municipal corporation, acting by and through the

Department of Public Health

By:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Date:\_\_\_\_\_\_\_\_\_\_\_\_\_

Patrick Fosdahl

Director of Environmental Health Branch

Approved as to Form:

DAVID CHIU, CITY ATTORNEY

By:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

<< TO BE INSERTED BY DEPUTY CITY ATTORNEY >>

Deputy City Attorney

**CERTIFICATE OF ACKNOWLEDGMENT  
OF NOTARY PUBLIC**

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 \_\_\_\_\_\_\_\_\_\_\_, before me, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, a Notary Public, personally appeared \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 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 |  |  |

**CERTIFICATE OF ACKNOWLEDGMENT  
OF NOTARY PUBLIC**

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 \_\_\_\_\_\_\_\_\_\_\_, before me, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, a Notary Public, personally appeared \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 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 |  |  |

**EXHIBIT A**

LEGAL DESCRIPTION AND DEPICTION OF BURDENED PROPERTY

**EXHIBIT B**

BURDENED PROPERTY CONTAMINATION ANALYSIS

**EXHIBIT C**

CAP MAINTENANCE PLAN