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AUDITOR, Pierce County, WASHINGTON

When Recorded, Return To: City of Tacoma Real Property Services 747 Market Street, Room 737 Tacoma, WA 98402
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Duplicate
ORIGINAL

DOCUMENT TITLE Environmental Covenant No. A356 - Pacific Plaza
Grantor City of Tacoma
Grantee State of Washington, Department of Ecology
Legal Description - SW1/4 of NW1/4 of Section 4, Township 20 North, Range 3 East, W.M.
Reference Number
Assessor's Parcel Number 201104-007-9

Model Restrictive (Environmental) Covenant

After Recording Return to:
Attn: Hans Qiu, Site Manager
Department of Ecology, Southwest Region
PO Box 47775
Olympia, WA 98504-7775

Environmental Covenant

Grantor: City of Tacoma
Grantee: State of Washington, Department of Ecology
Legal: Pacific Plaza Garage Facility (Site), Exhibit A – Legal Description
Tax Parcel Nos.: 2011040079

Grantor, City of Tacoma, hereby binds Grantor, its successors and assigns to the land use restrictions identified herein and grants such other rights under this environmental covenant (hereafter "Covenant") made this 4th day of February, 20 13 in favor of the State of Washington Department of Ecology (Ecology). Ecology shall have full right of enforcement of the rights conveyed under this Covenant pursuant to the Model Toxics Control Act, RCW 70.105D.030(1)(g), and the Uniform Environmental Covenants Act, Chapter 64.70 RCW .

This Declaration of Covenant is made and executed pursuant to RCW 70.105D.030(1)(f) and (g) and WAC 173-340-440 and Chapter 64.70 RCW by City of Tacoma, its successors and assigns, and Ecology, its successors and assigns.

A remedial action (hereafter "Remedial Action") occurred at the property that is the subject of this Covenant. The Remedial Action conducted at the property is described in the following document[s]:

- 1) GeoEngineers, Inc., Technical Memorandum (Letter Report to Tacoma Public Works, Facility Management), December 18, 2009.
- 2) GeoEngineers, Inc., Underground Storage Tank Removal Report, December 31, 2008.

- 3) Tacoma/Pierce County Health Department, Underground Storage Tank (UST) Removal: Site Closure Determination Letter, August 20, 2011.
- 4) Southwest Regional Office of Ecology, Initial Investigation Report (ERTS # 605007).
- 5) Southwest Regional Office of Ecology, Opinion Letter, October 8, 2012.

These documents are on file at Ecology's Southwest Regional Office.

This Covenant is required because the Remedial Action resulted in residual concentrations of diesel- and oil-range petroleum hydrocarbons (TPH-D and TPH-O) whose combined values exceed the Model Toxics Control Act Method A Cleanup Level(s) for soil established under WAC 173-340-704.

The undersigned, City of Tacoma, is the fee owner of real property (hereafter "Property") in the County of Pierce, State of Washington, that is subject to this Covenant. The Property is legally described in Exhibit A of this covenant and made a part hereof by reference.

City of Tacoma makes the following declaration as to limitations, restrictions, and uses to which the Property may be put and specifies that such declarations shall constitute covenants to run with the land, as provided by law and shall be binding on all parties and all persons claiming under them, including all current and future owners of any portion of or interest in the Property (hereafter "Owner").

Section 1. A portion of the Property contains TPH-D and TPH-O contaminated soil located approximately 12 feet below ground surface at the main entry of the structure located on the Pacific Avenue level (Exhibit B). The Owner shall not alter, modify, or remove the existing structure[s] in any manner that may result in the release or exposure to the environment of that contaminated soil or create a new exposure pathway without prior written approval from Ecology.

Section 2. Any activity on the Property that may interfere with the integrity of the Remedial Action and continued protection of human health and the environment is prohibited.

Section 3. Any activity on the Property that may result in the release or exposure to the environment of a hazardous substance that remains on the Property as part of the Remedial Action, or create a new exposure pathway, is prohibited without prior written approval from Ecology.

Section 4. The Owner of the property must give thirty (30) day advance written notice to Ecology of the Owner's intent to convey any interest in the Property. No conveyance of title, easement, lease, or other interest in the Property shall be consummated by the Owner without adequate and complete provision for continued monitoring, operation, and maintenance of the Remedial Action.

Section 5. The Owner must restrict leases to uses and activities consistent with the Covenant and notify all lessees of the restrictions on the use of the Property.

Section 6. The Owner must notify and obtain approval from Ecology prior to any use of the Property that is inconsistent with the terms of this Covenant. Ecology may approve any inconsistent use only after public notice and comment.

Section 7. The Owner shall allow authorized representatives of Ecology the right to enter the Property at reasonable times for the purpose of evaluating the Remedial Action; to take samples, to inspect remedial actions conducted at the property, to determine compliance with this Covenant, and to inspect records that are related to the Remedial Action.

Section 8. The Owner of the Property reserves the right under WAC 173-340-440 to record an instrument that provides that this Covenant shall no longer limit use of the Property or be of any further force or effect. However, such an instrument may be recorded only if Ecology, after public notice and opportunity for comment, concurs.


City of Tacoma



Jeffrey A. Jenkins
Facilities Division Manager

Dated: 28 JAN 13

STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY



Rebecca S. Lawson, P.E., LHG
Section Manager
Toxics Cleanup Program
Southwest Regional Office

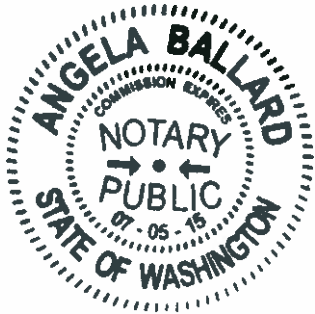
Dated: 2/4/2013

[REPRESENTATIVE ACKNOWLEDGEMENT]

STATE OF WASHINGTON

COUNTY OF PIERCE

On this 28th day of January, 2013 I certify that Jeffrey A. Jenkins personally appeared before me, acknowledged that he signed this instrument, on oath stated that he was authorized to execute this instrument, and acknowledged it as the Facilities Division Manager of City of Tacoma to be the free and voluntary act and deed of such party for the uses and purposes mentioned in the instrument.



Notary Public in and for the State of
Washington, residing at Tacoma.
My appointment expires 7/5/2015.

Exhibit A
Legal Description

A PORTION OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 4, TOWNSHIP 20 NORTH, RANGE 03 EAST, W.M. MORE PARTICULARLY DESCRIBED AS FOLLOWS: UNITS 1 THROUGH 4 OF PACIFIC PLAZA, A CONDOMINIUM, CREATED PURSUANT TO THAT CERTAIN DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS RECORDED UNDER AUDITOR'S FILE NUMBER 201104010529 AND THAT CERTAIN SURVEY MAP AND PLANS RECORDED UNDER AUDITOR'S FILE NUMBER 201104015002, RECORDS OF PIERCE COUNTY, STATE OF WASHINGTON.

Exhibit B
Site Figure

