

Recording Requested By:

**Sobrato Development Companies**

When Recorded, Mail To:

Sobrato Development Companies  
10600 North De Anza Blvd., Suite 200  
Cupertino, California 95014-2075  
Attn: William E. Burns

Chicago Title Insurance Company hereby certifies that the within instrument is true and correct copy of the original instrument recorded in the office of the Recorder of the County of Santa Clara, State of California

on 10/5/98  
Recorder's Serial No. 14431400

**COVENANT  
TO RESTRICT USE OF PROPERTY:  
ENVIRONMENTAL RESTRICTION**

This Covenant to Restrict Use of Property: Environmental Restriction (Covenant) is made on the 3<sup>rd</sup> day of SEPTEMBER 1998 by SOBRATO INTERESTS II, a California Limited Partnership (Covenantor), which is the owner of record of certain real property situated at 333 West Julian Street, in the City of San Jose, County of Santa Clara, State of California, described more specifically in Exhibit "A", which is attached to and incorporated in this Covenant by this reference (Property), and by the State of California Regional Water Quality Control Board, San Francisco Bay Region (Board) with reference to the following facts:

- A. Portions of the Property's soil and groundwater contain trichloroethylene (TCE) and other volatile organic compounds (VOCs), metals and petroleum hydrocarbons as described in the following technical reports prepared by FMC Corporation (FMC) and filed with the Board:
  1. Comprehensive Environmental Assessment Report dated January 1989.
  2. Evaluation of Interim Remedial Alternatives Report dated November 1989.
  3. Remedial Investigation Report dated January 1990.
  4. Remedial Alternatives Report dated April 1990.
  5. Addendum to Remedial Investigation Report dated November 1990.
  6. Hydrogeologic Evaluation of the B1-Level Aquifer dated March 1991.
  7. Remedial Alternative Addendum dated May 1991.
  8. Soil Vapor Extraction System Effectiveness Assessment dated July 1996.
  9. Revised Soil Remediation Goals for Metals and Total Petroleum Hydrocarbons, dated September 1996.
  
- B. The nature and extent of the VOCs, metals and petroleum hydrocarbons in the soil and groundwater at the Property have been defined and a remedial plan acceptable to the Board has been developed by FMC and was and is currently being

implemented at the Property under Board Site Cleanup Requirements Orders Numbers 89-107, 90-122 and 98-006.

- C. Site Cleanup Requirements Order Number 98-006 required that a "Risk Management Plan" which describes the mitigation measures that will be implemented relative to exposure to residual chemicals in soils and groundwater during activities such as demolition, excavation, and construction be submitted to the Board. The Plan was submitted on February 27, 1998. The Risk Management Plan was accepted by the Board in a letter dated April 2, 1998.
- D. The Board adopted Waste Discharge Requirements Order Number 92-018 on February 19, 1992 imposing NPDES Permit Number CA0029840. This Order was rescinded by Board Order Number 97-008 adopted on January 15, 1997. By Discharge Authorization letter dated December 23, 1996, General NPDES Permit Number CAG912003, adopted by the Board by Waste Discharge Requirements Order Number 94-087 on July 20, 1994, was incorporated for the Property.
- E. Covenantor desires to provide notice of certain matters respecting the Property and to impose certain covenants, conditions and environmental restrictions on the Property.

## ARTICLE I.

### GENERAL PROVISIONS

1.01 Provisions to Run with the Land. Pursuant to California Civil Code Section 1471, this Covenant sets forth protective covenants, conditions and environmental restrictions (collectively, "Restrictions"), upon and subject to which the Property and every portion of the Property shall be improved, held, used, occupied, leased, sold, hypothecated, encumbered, or conveyed. Each and all of the Restrictions shall run with the land, and pass with each and every portion of the Property and shall apply to and bind the respective successors in interest of Covenantor, for the benefit of the Board. Each and all of the Restrictions are imposed upon the entire Property unless expressly stated as applicable to a specific portion of the Property. Each and all of the Restrictions shall be enforceable by the Board.

1.02 Concurrence of Owners Presumed. All purchasers, lessees, or possessors of any portion of the Property shall be deemed by their purchase, leasing, or possession of such 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 established in this Covenant must be adhered to for the benefit of

future Owners, Occupants, and the Board and that their interest in the Property shall be subject to the Restrictions contained in this Covenant.

1.03 Incorporation Into Deeds and Leases. Recordation of this covenant shall be deemed binding by all successors, assignees, and lessees regardless of whether a copy of this covenant has been specifically provided to such party.

## ARTICLE II.

### DEFINITIONS

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

2.02 Occupant. "Occupant" shall mean owners and those persons entitled by ownership, leasehold interest, or other legal relationship to the exclusive right to occupy any portion of the Property.

2.03 Owner. "Owner" shall mean the Covenantor and any successors in interest, including heirs and assigns, who hold title to all or any portion of the Property.

2.04 Groundwater Beneath the Property. "Groundwater Beneath the Property" shall mean the first three water-bearing units identified as A-, B1-, and B2- Level aquifers at the Property which underlie the surficial silty clay to a depth of approximately sixty five(65) feet below the ground surface.

2.05 Board. "Board " shall mean the California Regional Water Quality Control Board for the San Francisco Bay Region and shall include its successor agencies, if any.

## ARTICLE III.

### DEVELOPMENT, USE AND CONVEYANCE OF THE PROPERTY

3.01 Restrictions on Use. Covenantor promises to restrict the use of the Property as follows:

- (1) The use of the Property shall be restricted for commercial or industrial purposes, including without limitation recreational activities.
- (2) No residence for human habitation shall be permitted on the property.
- (3) No hospitals or similar medical facilities shall be permitted on the Property.

- (4) No schools for persons under 18 years of age shall be permitted on the Property.
- (5) No day care centers for children or senior citizens shall be permitted on the Property.
- (6) No raising of food (e.g., livestock, food crops, etc.) shall be permitted on the Property.
- (7) All uses and development of the Property shall preserve the integrity of the permanent cover of the lead-impacted soil along the Guadalupe River Bank, as such cover is installed pursuant to the provisions of Site Cleanup Requirements Order Number 98-006 or any amendment to the Order. Any proposed alteration of this cover following installation shall require written approval of the Board.
- (8) Until the Board, or its successor agency, determines in accordance with the provisions of Site Cleanup Requirements Orders Numbers 89-107, 90-122, and 98-006 adopted by the Board on June 29, 1989, August 15, 1990 and January 21, 1998 ("the Orders"), respectively, that the withdrawal of water for beneficial purposes from the Groundwater Beneath the Property does not pose a significant existing or potential hazard to present or future public health or safety or to the environment, no Owner or Occupant of the Property or any portion of the Property shall drill, bore, excavate, or otherwise construct a well in the A-, B1-, and B2-Level aquifers for purposes of extracting water for use for beneficial purposes, including as drinking water or other domestic use or for irrigation. Notwithstanding the foregoing, it shall be permissible to construct wells in these aquifers pursuant to a plan for remediation or monitoring of Groundwater Beneath the Property and to use water extracted from such wells in accordance with the provisions and authorization set forth in that plan.
- (9) Unless and until the Board determines in accordance with the provisions of the Order and any amendments to the Order that the drilling of wells or exploration borings deeper than sixty-five feet below the ground surface poses no hazard or threat to current or future public health or safety, no Owner or Occupant of the Property or any portion of the Property shall drill, bore, excavate, or otherwise construct such wells or holes for the purpose of providing a source of water for beneficial purposes, including as drinking water or other domestic use or for irrigation.
- (10) The excavation of soil or extraction of groundwater at any depth for any purpose shall not commence unless and until the Owner or Occupant desiring to make the excavation follows the "Risk Management Plan, FMC Corporation, 333 West Julian Street, San Jose, Santa Clara County, California" dated February 1998

which identifies: (1) risk mitigation measures associated with exposure to residual chemicals in soil and groundwater, and (2) procedures for protecting public health and safety and the health and safety of workers.

Each of the foregoing restrictions shall run with the land and shall be binding upon the Covenantor and each other person who becomes an Owner or Occupant of the property until the particular restriction is removed in accordance with the terms of this Covenant. The use restrictions set out above shall not restrict any use of the Property except as expressly provided in this paragraph 3.01.

3.02 Enforcement. Failure of the Owner to comply with any of the requirements set forth in paragraph 3.01 shall be grounds for the Board, by reason of this Covenant, to require that the Owner modify or remove any wells installed, or grading performed, in violation of that paragraph. Violation of the Covenant shall be grounds for the Board to file an action against the Owner as provided by law.

3.03 Notice in Agreements. All Owners and Occupants shall execute a written instrument that shall accompany all purchase or lease agreements relating to the Property and executed after the date of recording of this Covenant. The instrument shall contain the following statement:

"The land described herein contains hazardous substances, as defined in Section 25316 of the California Health and Safety Code, and petroleum hydrocarbons, and is subject to the requirements of the Water Code and a Covenant to Restrict Use of Property: Environmental Restriction dated SEPTEMBER 8, 1998, and recorded on 10/5/98, in the official records of Santa Clara County, California, as Document Number 14431400, which Covenant imposes certain covenants, conditions, and environmental restrictions pursuant to California Civil Code Section 1471 on use of the property described herein. The provisions of the Covenant and Agreement are incorporated herein and made a part hereof as if set forth in full. This statement is not a declaration that any hazard exists."

#### ARTICLE IV.

#### VARIANCE AND TERMINATION

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

4.02 Termination. Any Owner or, with the Owner's consent, any Occupant of the Property or a portion thereof may apply to the Board for a termination of the Restrictions established by this Covenant as they apply to all or any portion of the Property.

4.03 Term. This Covenant shall continue in effect until terminated in accordance with paragraph 4.02 above.

**ARTICLE V.  
MISCELLANEOUS**

5.01 No Dedication Intended. Nothing set forth in this Covenant shall be construed to be a gift or dedication, or an offer of a gift or dedication, of the Property or any portion of the Property to the general public or for any purpose whatsoever.

5.02 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 to an officer of a corporate party 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 certified mail, postage pre-paid, return receipt requested:

To:           SOBRATO INTERESTS II,  
                California Limited Partnership  
                10600 North De Anza Blvd., Suite 200  
                Cupertino, California 95014-2075

Attn: William E. Burns/John M. Sobrato

To:           Regional Water Quality Control Board  
                San Francisco Bay Region  
                ~~2101 Webster Street, Suite 500~~ 1515 CLAY STREET, SUITE 1400  
                Oakland, California 94612

Attn: Mr. Steven I. Morse, Chief  
                Toxics Cleanup Division

Copy to:     FMC Corporation  
                P.O. Box 58123, MD F64  
                Santa Clara, California 95052-8123

Attn: Ms. Zahra M. Zahiraleslamzadeh  
                Project Manager

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

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

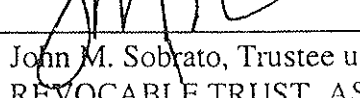
5.05 Recordation. This instrument shall be executed by the Covenantor and by the Board. This instrument shall be recorded by the Covenantor in the County of Santa Clara within fifteen (15) days of the date of its complete execution.

5.06 Mortgagee Protection. No violation of, or failure to comply with, the Restrictions contained in this Covenant by any Owner or Occupant shall impair, defeat or render invalid the lien of any mortgage or deed of trust given in good faith and for value and encumbering all or any portion of the Property, but the Restrictions contained in this Covenant shall be binding upon and enforceable against any Owner whose title is acquired by judicial or non-judicial foreclosure, deed-in-lieu of foreclosure or otherwise.

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

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

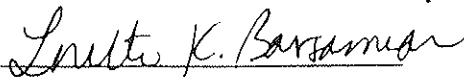
SOBRATO INTERESTS II, A California Limited Partnership

By:  \_\_\_\_\_  
John M. Sobrato, Trustee under The SOBRATO 1979  
REVOCABLE TRUST, AS AMENDED

Title: \_\_\_\_\_  
General Partner

Date: 9/8/98

Regional Water Quality Control Board

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

Title: Executive Officer

Date: 9.25.98

STATE OF CALIFORNIA )

COUNTY OF SANTA CLARA )

On Sept. 8, 1998, before me, the undersigned, a Notary Public in and for said state, personally appeared John M. Soberton, personally known to me or proved to me on the basis of satisfactory evidence to be the person who executed the within instrument as Sec of the corporation that executed the within instrument, and acknowledged to me that such corporation executed the same pursuant to its bylaws or a resolution of its board of directors.

WITNESS my hand and official seal.

\_\_\_\_\_  
Notary Public in and for said County and State

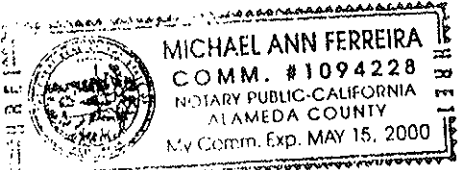
STATE OF CALIFORNIA )

COUNTY OF California )

On Sept 25, 1998, before me, the undersigned, a Notary Public in and for said state, personally appeared Butler K. Grossman, personally known to me or proved to me on the basis of satisfactory evidence to be the person who executed the within instrument as Executive Officer, of the California Regional Water Quality Control Board, San Francisco Bay Region, the agency that executed the within instrument, and acknowledged to me that such agency executed the same.

WITNESS my hand and official seal.

Michael Ann Ferreira  
\_\_\_\_\_  
Notary Public in and for said County and State





CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

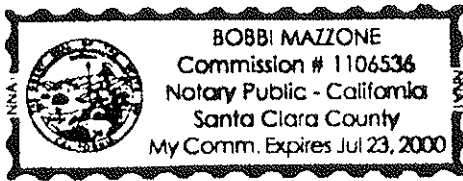
State of California        }  
  }  
  } ss.  
County of Santa Clara    }

On September 8, 19 98, before me,  
BOBBI MAZZONE, a Notary Public in and for said County and State,  
personally appeared JOHN MICHAEL SOBRATO

personally known to me - OR -  ~~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.

WITNESS my hand and official seal

Bobbi Mazzone  
NOTARY PUBLIC, STATE OF CALIFORNIA  
My Commission Expires: July 23, 2000



**CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**

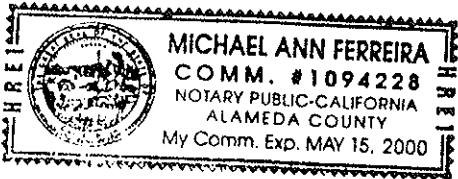
State of California

County of Alameda

On September 25, 1998 before me, Michael Ann Ferreira  
Date Name and Title of Officer (e.g., "Jane Doe, Notary Public")

personally appeared Lucretia K. Benson  
Name(s) of Signer(s)

personally known to me – OR –  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.



WITNESS my hand and official seal.

Michael Ann Ferreira  
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: \_\_\_\_\_

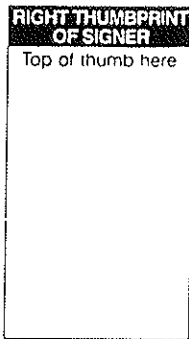
Document Date: \_\_\_\_\_ Number of Pages: \_\_\_\_\_

Signer(s) Other Than Named Above: \_\_\_\_\_

**Capacity(ies) Claimed by Signer(s)**

Signer's Name: \_\_\_\_\_

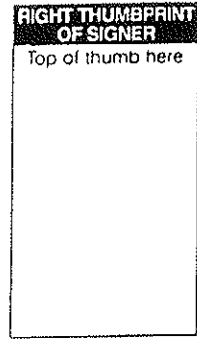
- Individual
- Corporate Officer  
Title(s): \_\_\_\_\_
- Partner —  Limited  General
- Attorney-in-Fact
- Trustee
- Guardian or Conservator
- Other: \_\_\_\_\_



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:  
\_\_\_\_\_  
\_\_\_\_\_

EXHIBIT A

Legal Description of Property

LEGAL DESCRIPTION

REAL PROPERTY in the City of San Jose, County of Santa Clara, State of California, described as follows:

PARCEL ONE:

Beginning at a point on the Northwestern line of Julian Street distant thereon S. 59° 21' W. 1030.18 feet from the point of intersection of the Northwestern line of Julian Street with the Southwesterly line of Terraine Street; thence at right angles N. 30° 39' W. 549.92 feet, more or less, to the Southeasterly line of lands of the Southern Pacific Railroad Company; thence Southwesterly along the Southeasterly line of said lands of the Southern Pacific Railroad Company 284 feet, more or less, to the center of the channel of the Guadalupe River as it existed on March 1, 1862; thence Southeasterly up the center of said channel of the Guadalupe River following its meanderings to the Northwestern line of Julian Street; thence Northeasterly along the Northwestern line of Julian Street to a point on the present Easterly bank of said Guadalupe River, which point is distant along said Northwestern line of Julian Street, S. 59° 21' W. 200 feet from the point of beginning; thence along said Northwestern line of Julian Street N. 59° 21' E. 200 feet to the point of beginning.

PARCEL TWO:

Beginning at a point on the Northerly line of Julian Street, distant thereon S. 59° 21' W. 930.18 feet from the point of intersection of the Northerly line of Julian Street with the Westerly line of Terraine Street and running thence S. 59° 21' W. along the Northerly line of Julian Street, 100 feet to a stake; thence N. 30° 39' W. 404.80 feet to a point on the Southerly line of Bassett Street prolonged Westerly; thence N. 59° 58' E., and along said prolonged Southerly line of Bassett Street, 100.08 feet to a stake; thence S. 30° 39' E., 404.15 feet to the point of beginning.

PARCEL THREE:

Beginning at a point in the Westerly prolongation of the Southerly line of Bassett Street which is the Southerly common corner of the land conveyed by J.Q.A. Ballou to Anderson-Barngrover Manufacturing Co., a corporation by Deed dated July 24, 1915, recorded July 27, 1915, Book 433 of Deeds, page 304, records of Santa Clara County, and the land conveyed by said J.Q.A. Ballou to Stewart Fruit Company, a corporation, by Deed dated January 31, 1918, recorded January 31, 1918, Book 465 of Deeds, page 571, records of Santa Clara County; thence Northerly a distance of 16 feet along the line dividing said lands, thence Easterly a distance of 71.79 feet along a line parallel to said Westerly prolongation of the Southerly line of Bassett Street to a point in the Southwesterly edge of the Southwesterly rail of the spur tract now existing on said land so conveyed to Stewart Fruit Company; thence Southeasterly and along the Southwesterly edge of the Southwesterly rail of said spur tract a distance of 20 feet, more or less, to a point in said Westerly prolongation of the Southerly line of Bassett Street that is distant Easterly along said prolonged line 83.92 feet from said Southerly common corner of said lands so conveyed to Stewart Fruit Company and Anderson-Barngrover Manufacturing Co., thence Westerly along said prolonged line to Bassett Street a distance of 83.92 feet to the point of beginning.

(LEGAL DESCRIPTION CONTINUED NEXT PAGE)

EXHIBIT A

## LEGAL DESCRIPTION: (Continued)

## PARCEL FOUR:

Beginning at a point on the Northerly line of Julian Street, distant thereon 870.18 feet S. 59° 21' W. from the point of intersection of said Northerly line of Julian Street with the Westerly line of Terraine Street and running thence S. 59° 21' W. and along said Northerly line of Julian Street 60 feet; thence at right angles in a Northwesterly direction and along the Eastern boundary line of lands heretofore conveyed by Ballou, et ux, to Hunkins, by Deed dated April 14, 1903 and 280 feet, more or less, to the center line of a railroad switch now or formerly of Ballou, et ux; thence at right angles Easterly and along the center line of said railroad switch, 60 feet; thence at right angles Southeasterly and parallel with Pleasant Street prolonged 280 feet, more or less, to the point of beginning.

## PARCEL FIVE:

Commencing at the intersection of the Northerly line of Julian Street with the Westerly line of Terraine Street; thence Westerly along said Northerly line of Julian Street a distance of 791.18 feet to the Easterly line of Pleasant Street; thence at right angles Northerly along said Easterly line of Pleasant Street a distance of 280.00 feet to a point in the center line of Southern Pacific Company's spur tract; thence at right angles Westerly along said center line of spur tract and across said Pleasant Street a distance of 40.0 feet to the point of beginning of the parcel to be described; thence continuing Westerly along said center line of spur tract a distance of 99.0 feet to a point; thence at right angles Northerly a distance of 86.10 feet to a point distant 10 feet Southwesterly measured radially from the center line of a spur tract of the Southern Pacific Railroad Company; thence Easterly from a tangent that deflects 149° 42' 55" to the right from the last-described course along a curve to the left concentric with the center line of said spur tract of the Southern Pacific Railroad Company and having a radius of 187.20 feet a distance of 131.22 feet to a point 40 feet Westerly at right angles from the Easterly line of Pleasant Street; thence Southerly and parallel to the Easterly line of Pleasant Street a distance of 4.10 feet to the point of beginning.

## PARCEL SIX:

Beginning at a point in the Northerly line of Julian Street, distant thereon S. 59° 21' W. 870.18 feet from the point of intersection of the Northerly line of Julian Street with the Westerly line of Terraine Street and said point of beginning being also the Southeasterly corner of land conveyed by J.Q.A. Ballou, et ux, to Enterprise Brewing Company, a corporation, by Deed recorded on December 9, 1903 in Book 2703 of Deeds, page 336, Records of Santa Clara County, California; thence Northerly and along the Easterly line of land conveyed to Enterprise Brewing Company, a corporation, 127.49 feet; thence Easterly and parallel with the Northerly line of Julian Street 39 feet to the Westerly line of Pleasant Street 40 feet wide, as existing on March 31, 1927; thence Southerly and along the Westerly line of Pleasant Street and parallel with the Easterly line of land conveyed to Enterprise Brewing Company, a corporation, 127.49 feet to the Northerly line of Julian Street; thence Westerly 39 feet to the point of beginning.

(LEGAL DESCRIPTION CONTINUED NEXT PAGE)

## LEGAL DESCRIPTION: (Continued)

## PARCEL SEVEN:

Beginning at a point in the Easterly line of land conveyed by J.Q.A. Ballou et ux, to Enterprise Brewing Company, a corporation, by Deed recorded December 9, 1903, Book 273 of Deeds, page 336, Records of Santa Clara County, California, distant thereon N. 30° 39' W. 162.49 feet from the Northerly line of Julian Street; thence Easterly and parallel with the Northerly line of Julian Street 39 feet to the Westerly line of Pleasant Street, 40 feet wide as existing on March 31, 1927; thence Northerly and along the Westerly line of Pleasant Street 117.50 feet to the center line of Railroad spur tract; thence S. 59° 21' W. and parallel with the Northerly line of Julian Street 39 feet to the Easterly line of land conveyed to Enterprise Brewing Company, a corporation, thence S. 30° 39' E. 117.50 feet to the point of beginning.

## PARCEL EIGHT:

Beginning at a point on the Northwesterly line of Julian Street, distant thereon S. 59° 21' W. 870.18 feet from the point of intersection of said line of Julian Street with the Southwesterly line of Terraine Street, and said point beginning being the most Easterly corner of the parcel of land conveyed by J.Q.A. Ballou et ux, to Enterprise Brewing Company, a corporation, by Deed dated December 5, 1903, recorded December 9, 1903, Book 273 of Deeds, page 336, and running thence N. 30° 39' W., and along the Northeasterly line of the lands conveyed to said Enterprise Brewing Company, a corporation, 127.49 feet to the true point of beginning of this description; thence continuing N. 30° 39' W., 35 feet; thence at right angles Easterly 39 feet; thence at a right angle Southerly 35 feet and thence at a right angle Westerly 39 feet to the true point of beginning.

## PARCEL NINE:

Lots 2, 4, 6, 8, 10, 12, 14, 15, 16, 17 and 18, Map of the Lynde and Roop Subdivision of a portion of the Ballou Tract filed March 15, 1907, Map Book L, page 72, Santa Clara County Records.

Excepting from Parcel Nine: All that portion thereof described as Parcel Three in the Deed to the State of California recorded April 17, 1978, Book D598, Official Records, page 136.

## PARCEL TEN:

Beginning at a point in the Easterly line of Pleasant Street prolonged Northerly distant thereon 127.49 feet Northerly from the point of intersection of the Northerly line of Julian Street with the Easterly line of said Pleasant Street prolonged Northerly; thence running parallel with Julian Street, N. 59° 21' E. 270.00 feet; thence at right angles Northerly 35.00 feet; thence at right angles Westerly 270 feet to the Easterly line of Pleasant Street prolonged Northerly; thence at right angles Southerly along said prolonged Easterly line of Pleasant Street, 35.00 feet to the point of beginning and being a part of a street called New Street as laid down, designated and delineated upon that certain Map entitled, "Map of the Lynde and Roop Subdivision of a portion of the Ballou Tract in the City of San Jose", which said Map is of record in the Office of the County Recorder of the County of Santa Clara, State of California, in Book "L" of Maps, page 72; and which said street was fully and regularly abandoned and vacated by an order passed by the City Council of the City of San Jose, March 14, 1927. A certified copy of said ordinance was on May 21, 1927 recorded in the Office of the County Recorder of the County of Santa Clara, State of California in Book 321 of Official Records, page 396.

(LEGAL DESCRIPTION CONTINUED NEXT PAGE)

LEGAL DESCRIPTION: (Continued)

PARCEL TEN: (Continued)

Excepting therefrom all that portion described in the Deed to the State of California, recorded April 17, 1978 in Book D598, page 136 of Official Records.

PARCEL ELEVEN:

Beginning at a stake standing on the Northerly prolongation of the Easterly line of Pleasant Street, in the City of San Jose, from the point of intersection of the Easterly line of Pleasant Street with the Southerly line of Julian Street bears S. 30° 39' E. 222.49 feet; thence on a line parallel with Julian Street N. 59° 21' E. 120.00 feet to a stake; thence on a line parallel with the prolongation of Pleasant Street, N. 30° 39' W. 117.50 feet to a stake standing in the center line of a railroad spur; thence on a line parallel with Julian Street S. 59° 21' W. 120.00 feet to a stake standing where the Easterly line of Pleasant Street, if prolonged Northerly would intersect the same, thence along the prolongation of the Easterly line of Pleasant Street S. 30° 39' E. 117.50 feet to the place of beginning and being the same lot, piece of parcel of land conveyed by J.Q.A. Ballou and Catherine J. Ballou, his wife, to A. Gartenlaub by Deed dated June 3, 1905, recorded June 3, 1905 in the Office of the County Recorder of the County of Santa Clara, State of California in Book 294 of Deeds, page 361.

PARCEL TWELVE:

Beginning at the most Easterly corner of that tract of land Deeded to A. Gartenlaub by J.Q.A. Ballou and Catherine J. Ballou, his wife, by Deed dated June 3, 1905, recorded in Book 294 of Deeds, page 361, in the Office of the County Recorder of Santa Clara County, Cal., running thence along the Northeasterly line of said tract Deeded to A. Garthenlaub, N. 30° 39' W. 117.50 feet to a stake standing in the center line of a railroad spur; thence on a line parallel with Julian Street N. 59° 21' E. 50.00 feet; thence at right angles S. 30° 39' E. 117.50 feet; thence on a line parallel with Julian Street S. 59° 21' W. 50.00 feet to the place of beginning and being the same lot, piece of parcel of land conveyed by J.Q.A. Ballou and Catherine J. Ballou, his wife, to Phoenix Packing Co., a corporation, by Deed dated March 12, 1907, recorded March 12, 1907 in the Office of the County Recorder of the County of Santa Clara, State of California, in Book 318 of Deeds, page 79.

PARCEL THIRTEEN:

Beginning at the Southeasterly corner of that certain tract of land Deeded to Phoenix Packing Company, a corporation, to J.Q.A. Ballou and Catherine J. Ballou, his wife, by Deed dated March 1, 1907 and recorded in Book 318 of Deeds, page 79 in the Office of the County Recorder of Santa Clara County, California and running thence along the Easterly line of the said Tract Deeded to Phoenix Packing Company, a corporation, N. 30° 39' W., 117.50 feet to a stake standing in the center line of a railroad spur; thence on a line that is parallel with Julian Street N. 59° 21' E. 50.00 feet; thence at right angles S. 30° 39' E. 117.50 feet; thence on a line that is parallel with Julian Street S. 59° 21' W. 50.00 feet to the place of beginning and being the same lot, piece of parcel of land conveyed by J.Q.A. Ballout and Catherine J. Ballou, his wife, to Pioneer Fruit Company, a corporation, by Deed dated June 8, 1908, recorded July 8, 1908 in the Office of the County Recorder of the County of Santa Clara, State of California, in Book 334 of Deeds, page 335.

(LEGAL DESCRIPTION CONTINUED NEXT PAGE)

LEGAL DESCRIPTION: (Continued)

PARCEL FOURTEEN:

Beginning at a point 50.00 feet Easterly from the Southeasterly corner of that certain tract of land Deeded to Phoenix Packing Company, a corporation, J.Q.A. Ballou and Catherine J. Ballou, by Deed dated March 12, 1907, recorded in Book 318 of Deeds, page 79, in the Office of the County Recorder of Santa Clara County, California, said point being on the Northerly line of a New Street surveyed through the Ballou Tract; running thence parallel with the Easterly line of said Tract Deeded to Phoenix Packing Company, a corporation, N. 30° 39' W. 117.50 feet to a stake standing in the center line of a railroad spur; thence on a line parallel with Julian Street N. 59° 21' E. 50.00 feet; thence at right angles S. 30° 39' E. 117.50 feet; thence on a line parallel with Julian Street, S. 59° 21' W. 50.00 feet to the place of beginning and being the same lot, piece or parcel of land conveyed by J.Q.A. Ballou and Catherine J. Ballou, his wife, to Port Costa Milling Company, a corporation, by Deed dated June 8, 1908 and recorded June 20, 1908 in the Office of the County Recorder of the County of Santa Clara, State of California in Book 331 of Deeds, page 575.

Excepting from Parcel Fourteen: All that portion thereof described as Parcel Four in the Deed to the State of California recorded April 17, 1978, Book D598, Official Records, page 135.

PARCEL FIFTEEN:

A portion of Lot 20 as said Lot is shown upon that certain Map entitled, "Map of the Lynde and Roop Subdivision of a portion of the Ballou Tract in the City of San Jose", and which said Map was filed for record in the Office of the Recorder of the County of Santa Clara, on March 15, 1907, in Book "L" of Maps, page 72, said portion being described as follows:

Commencing at the Northwestern corner of said Lot 20; thence Northeasterly along the Northwestern line of said Lot, N. 60° 07' 50" E., 14.18 feet; thence from a tangent that bears S. 10° 54' 05" E., along a curve to the right with a radius of 600.00 feet, through an angle of 3° 49' 05", an arc length of 39.98 feet to the Southwesterly line of said Lot; thence Northwesterly along said line N. 29° 46' 16" W., 37.35 feet to the point of commencement.

PARCEL SIXTEEN:

A perpetual right of way over and along a lot, piece or parcel of land described as being at the point of intersection of the Northerly line of Julian Street with the prolongation Northerly of the Easterly line of Pleasant Street; running thence along the Northerly prolongation of the Easterly line of Pleasant Street Northerly 400 feet, more or less, to the Northerly line of the lands formerly of J.Q.A. Ballou; thence at right angles Westerly and along the Northerly line of the lands formerly of J.Q.A. Ballou 40 feet; thence at right angles Southerly 400 feet, more or less, to the Northerly line of Julian Street and thence at right angles Easterly and along the Northerly line of Julian Street 40.00 feet to the point of beginning, rights of way over said parcel of land having being granted by J.Q.A. Ballou to A. Gartenlaub, Phoenix Packing Company, a corporation, Pioneer Fruit Company, a corporation, Port Costa Milling Company, a corporation, Bean Spray Pump Company, a corporation, E. K. Collins, George B. Roop and E. E. Lynde and Enterprise Brewing Company, a corporation.

(LEGAL DESCRIPTION CONTINUED NEXT PAGE)



LEGAL DESCRIPTION: (Continued)

PARCEL SEVENTEEN:

The right to use the railroad switch or spur along the Northerly line of Parcel Nos. Eleven, Twelve, Thirteen and Fourteen above, described to its connection with the Southern Pacific Company's Railway System, i. common with Anderson Barngrover Manufacturing Company, a corporation, J. R. Phelps, (Successor in interest to Enterprise Brewing Company, a corporation) C. H. James, W. J. James and S. R. James (Successors in interest to California Fruit Exchange) Bean Spray Pump Company, a corporation, E. K. Collins, Pine Box Realty Company, a corporation, Jane James and American Trust Company, a corporation (Successor in interest to J.Q.A. Ballou).

PARCEL EIGHTEEN:

Beginning at a point on the Southerly line of lands of the Southern Pacific Railroad Company, distant thereon 862 1/2 feet Westerly from the intersection of the prolonged Westerly line of Terraine Street Northerly and the said Southerly line of lands of the Southern Pacific Railroad Company, said point of being at the Northwesterly corner of the lot of land conveyed to John L. Stock, et al, by Deed recorded in Book 130 of Deeds, page 46; thence Westerly along said Southerly line of land of the said Railroad Company, 166.35 feet, more or less, to the Easterly line of lands conveyed to Anderson-Bargrover Mtg. Co., a corporation, by Deed recorded in Book 433 of Deeds, page 304; thence S. 30° 39' E. along said line of lands as conveyed to Anderson-Bargrover Mtg. Co., 126 feet, more or less, to the most Westerly corner of that certain parcel of land conveyed to Food Machinery Corporation, a Delaware corporation, recorded March 10, 1943, Book 1134, Official Records, page 93; thence Northeasterly along the Northwesterly line of said land so conveyed to Food Machinery Corporation, and parallel with the Westerly prolongation of the Southerly line of Bassett Street 71.79 feet to the most Northerly corner of said land so conveyed to Food Machinery Corporation; thence Southeasterly along the Northeasterly line of said land so conveyed to Food Machinery Corporation, 20 feet to the most Easterly corner of said parcel of land so conveyed to Food Machinery Corporation, said Easterly corner being on the Westerly prolongation of the Southerly line of Bassett Street; thence along said prolonged line of Bassett Street, Easterly 82.43 feet, more or less, to a point thereon which point is situated at the intersection of said Southerly line of Bassett Street with a line drawn at right angles thereto distant 862 1/2 feet Westerly line of Terraine Street; thence N. 30° 39' W. and along the Western boundary line of the lands so conveyed by said E. P. Reed to John L. Stoke, et al, by Deed hereinbefore mentioned 142 feet, more or less, to the point of beginning.

PARCEL NINETEEN:

Beginning at the intersection of the Southeasterly line of Julian Street with the Southwesterly line of Pleasant Street; thence Southeasterly along the Southwesterly line of Pleasant Street 435 feet, more or less, to the intersection thereof with the Northwesterly line of the parcel of land conveyed by Thomas Douglas to Jacob J. Phifer, by Deed dated September 21, 1880 and recorded in Book 60 of Deeds, page 102, Santa Clara County Records; thence leaving Pleasant Street, Southwesterly along the Northwesterly line of said parcel of land conveyed to Jacob J. Phifer and along the Northwesterly line of the Parcel of land conveyed by Thomas Douglas to Jacob J. Phifer by Deed dated May 9, 1882 and recorded in Book 87 of Deeds, page 535, Santa Clara County Records, parallel with the Northwesterly line of St. James Street, 206.25 feet to the Westerly

(LEGAL DESCRIPTION CONTINUED NEXT PAGE)

LEGAL DESCRIPTION: (Continued)

PARCEL NINETEEN (Continued):

corner of said last mentioned Parcel of land conveyed to Jacob J. Phifer; thence Southeasterly along the Southwesterly line of said last mentioned parcel of land conveyed to Jacob J. Phifer, 125 feet to the Northwesterly line of St. James Street; thence Southwesterly along the Northwesterly line of St. James Street, 128.75 feet to the Southwesterly line of River Street; thence Southeasterly along the Southwesterly line of River Street 195 feet, more or less, to the Southwesterly prolongation of the center line of what was formerly Chabolla Alley; thence at right angles Southwesterly along the Southwesterly prolongation of the center line of said Chabolla Alley to the center of the channel of the Guadalupe River as it existed on March 1, 1862 thence Northwesterly down the center of said channel of the Guadalupe River to the Southeasterly line of Julian Street; thence Northeasterly along the Southeasterly line of Julian Street 475 feet, more or less, to the point of beginning.

Excepting from Parcel Nineteen:

- 1 - That portion thereof described in the Deed to City of San Jose, a municipal corporation, recorded October 10, 1975, Book B660, Official Records, page 540.
- 2 - That portion thereof described in the Deed to City of San Jose, a municipal corporation, recorded May 24, 1976, Book B931, Official Records, page 174.
- 3 - The portion thereof described as Parcel One in the Deed to the State of California recorded April 17, 1978, Book D598, Official Records, page 136.

PARCEL TWENTY:

Beginning at the point of intersection of the Southeasterly line of Julian Street with the Southwesterly line of Santa Teresa Street; thence Southeasterly along the Southwesterly line of Santa Teresa Street, 134.55 feet to the point of intersection thereof with the Northwesterly line of Lot 40 as shown upon the Plat of the Pellier Property, commonly known as the Pellier Survey, which Plat was recorded in the Office of the Recorder of the County of Santa Clara, State of California on December 26, 1873 in Book E of Miscellaneous Records, page 465; thence leaving Santa Teresa Street and running Southwesterly along the Northwesterly line of said Lot 40, 68.75 feet to the Westerly corner thereof; thence Southeasterly along the Southwesterly line of said Lot 40, 11 feet, more or less, to the Northwesterly line of that certain parcel of land conveyed by Thomas Douglas to Philip Maloney by Deed dated July 29, 1882 and recorded October 21, 1882 in Book 65 of Deeds, page 203, Santa Clara County Records; thence Southwesterly along the Northwesterly line of said Parcel of land conveyed to Philip Maloney and its Southwesterly prolongation, parallel with the Northwesterly line of Divine Street, 205.41 feet, more or less, to the Northeasterly line of Pleasant Street; thence Northwesterly along the Northeasterly line of Pleasant Street, 134.99 feet to the intersection thereof with the Southeasterly line of Julian Street; thence Northeasterly along the Southeasterly line of Julian Street, 275.21 feet to the point of beginning.

Excepting from Parcel Twenty: That portion thereof described as Parcel Two in the Deed to the State of California recorded April 17, 1978, Book D598, Official Records, page 136.

(LEGAL DESCRIPTION CONTINUED NEXT PAGE)

LEGAL DESCRIPTION: (Continued)

PARCEL TWENTY-ONE:

Commencing at the most Westerly corner of Parcel 1 as described in the Final Order of Condemnation No. 272926 recorded August 1, 1974, in Volume B023 at page 33, Official Records of the County of Santa Clara, thence along the Southwesterly line of said Parcel 1, said line also being the Northeasterly line of Pleasant Street (60 feet wide), S. 29° 48' 15" E., 36.09 feet to the Westerly right of way line of the State Freeway 04-SC1-87; thence along last said line N. 8° 26' 43" E., 46.06 feet to the Northwesterly line of said Parcel 1; thence along last said line, S. 60° 02' 39" W., 28.51 feet to the point of commencement.

PARCEL TWENTY-TWO:

Portion of Lot 11 and all of Lot 13, as shown upon that certain Map entitled, "Map of the Lynde and Roop Subdivision", which Map was filed for record in the Office of the Recorder of the County of Santa Clara, State of California on March 15, 1907 in Book L of Maps, at page 72, and more particularly described as follows:

Beginning at a point on the Northerly line of Julian Street, distant thereon 138.09 feet Easterly from the point of intersection of said Northerly line of Julian Street with the Easterly line of Pleasant Street; and running thence Easterly along said Northerly line of Julian Street, 37 1/2 feet; thence Northerly and parallel with said Easterly line of Pleasant Street, 64 feet; thence Westerly and parallel with the Northerly line of Julian Street 37 1/2 feet; and thence Southerly and parallel with said Easterly line of Pleasant Street 64 feet to the point of beginning.

PARCEL TWENTY-THREE:

Beginning at the point of intersection of the Southerly line of Julian Street (60 feet wide) with the Westerly line of Pleasant Street (60 feet wide) as said streets are shown upon that certain Map entitled "Record of Survey - Guadalupe Freeway Unit No. 3", which Map was filed for record on January 12, 1966 in Book 204 of Maps, page 21 Records of Santa Clara County, California; thence along said Southerly line of Julian Street South 60° 07' 50" West 372.26 feet to the Easterly line of the Guadalupe River as shown upon said Map; thence crossing said Julian Street along said Easterly line of Guadalupe River North 35° 22' 38" West 60.28 feet to a point in the Northerly line of said Julian Street; thence along said Northerly line North 60° 07' 50" East 378.05 feet to a point in the Northerly prolongation of said Westerly line of Pleasant Street; thence along said Northerly prolongation of said Westerly line South 29° 48' 15" East 60.00 feet to the point of beginning.

(LEGAL DESCRIPTION CONTINUED NEXT PAGE)



LEGAL DESCRIPTION: (Continued)

PARCEL TWENTY-FOUR:

Beginning at the point of intersection of the Northeasterly line of Pleasant Street (60 feet wide) with the Southeasterly line of Julian Street (60 feet wide) as said streets are shown upon that certain Map entitled, "Record of Survey-Guadalupe Freeway Unit No. 3," which map was filed for record on February 11, 1966 in Book 205 of Maps, at page 27, Recorder of Santa Clara County, California; thence along said Northeasterly line of Pleasant Street South 29° 45' 15" East 171.44 feet; thence leaving said Northeasterly line South 8° 26' 43" W. 14.46 feet; thence South 28° 55' 55" East 86.43 feet; thence along a curve to the right, with a radius of 435 feet, through a central angle of 12° 11' 33" for an arc distance of 92.57 feet; thence South 22° 22' 55" East 19.88 feet; thence South 1° 55' 06" East 54.69 feet to a point in the Southwesterly line of said Pleasant Street; thence along said Southwesterly line North 29° 46' 24" West 155.71 feet to an angle point; thence continuing along said Southwesterly line North 29° 48' 15" West 271.32 feet to a point in said Southeasterly line of Julian Street; thence along said Southeasterly line as it crosses said Pleasant Street North 60° 07' 50" East 60 feet to the point of beginning.

APN: 259-23-013; 259-24-010,024,025; 259-30-090,091,084,080  
ARB: 259-24-002,010, x16 & 16.03; 259-30-x008, 69.01, x26; 259-23-13; 259-30-77,78

\*\*\*\*