

Recording Requested By:

The Port of San Francisco
Ferry Building
San Francisco, CA 94111

CONFIRMED COPY of document recorded on 01/11/2001, 2001G889069
at _____
This document is a true and correct copy of the original as recorded in the office of the County Clerk of San Francisco.

When Recorded, Mail To:

Lawrence P. Kolb, Acting Executive Officer
California Regional Water Quality Control Board
San Francisco Bay Region
1515 Clay Street, Suite 1400
Oakland, California 94612

San Francisco Municipal Railway
1145 Market Street, Fifth floor
San Francisco, CA 94103
Attention: John Fong

The Port of San Francisco
Ferry Building
San Francisco, CA 94111
Attention: Carol Bach

CALIFORNIA REGIONAL WATER
QUALITY CONTROL BOARD
DEC 1 2000
CALIFORNIA REGIONAL WATER
QUALITY CONTROL BOARD
DEC 18 2000

COVENANT AND ENVIRONMENTAL RESTRICTION
ON PROPERTY

(Re: Former Western Pacific Property located at lots 4297,4298,4299,4313,4310, City and County of San Francisco)

This Covenant and Environmental Restriction on Property (this "Covenant") is made as of this 31st day of October, 2000 by the City and County of San Francisco ("City" or "Covenantor"), a charter city and county in trust, who is the Owner of record of 13 acres of property located at the corner of Illinois and 25th Streets in the City and County of San Francisco, State of California, which is more particularly described in Exhibits A & B attached hereto and incorporated herein by this reference (such property hereinafter referred to as the "Burdened Property") for the benefit of the California Regional Water Quality Control Board for the San Francisco Bay Region (the "Board"), with reference to the following facts:

A. The Burdened Property and groundwater underlying the property contain hazardous materials.

B. Contamination of the Burdened Property. The Burdened Property lies in an area reclaimed from the San Francisco Bay ("Bay") in the Islais Creek Estuary. A former owner,

Western Pacific Railroad, used the area as a switchyard for rail cars. The soil and groundwater of the Burdened Property is contaminated with inorganic and organic chemicals including lead, arsenic, polynuclear aromatic hydrocarbons (PAHs), petroleum hydrocarbons, and chlorinated volatile organic compounds which constitute hazardous materials as that term is defined in Health & Safety Code Section 25260. The contamination may have been caused by previous operations and/or by the nature of artificial fill material below the ground surface.

A site characterization/corrective measure study (SC/CMS) was conducted at the Burdened Property between 1998 and 1999. The SC/CMS concluded that the levels of chemicals of concern observed at the Burdened Property (primarily lead, arsenic, and petroleum hydrocarbons) do not pose an unacceptable risk to human health and the environment. Therefore, no active soil or groundwater remediation is required, with the exception of capping the Burdened Property with concrete or asphalt or 2-foot of clean soil, and implementing risk management practices.

C. Exposure Pathways. The contaminants addressed in this Covenant are present in soil and groundwater on the Burdened Property. Exposure pathways for human receptors include the following: 1) inhalation of volatile emissions from soil to indoor air (on-site industrial worker), soil to ambient air (on-site industrial worker), groundwater to indoor air (on-site industrial worker, off-site resident), and groundwater to ambient air (on-site industrial worker, off-site resident); 2) inhalation, incidental ingestion and dermal contact with soils (on-site construction worker); and 3) inhalation of volatile emissions from groundwater (on-site construction worker). Based on the fact that Covenantor intends to pave the Burdened Property, it has been determined that no exposure scenario except potential exposure to future on-site construction workers will result in unacceptable risk. Because conservative estimates of risk to future construction workers at the Burdened Property slightly exceeded target risk levels, risk management practices have been recommended and required to address health and safety issues associated with the proposed construction work and subsequent maintenance. No active soil or groundwater remediation will be required, with the exception of capping the Burdened Property with concrete or asphalt or 2-foot of clean soil, and implementing risk management practices. The risk of public exposure to the contaminants (already and minimal/acceptable levels) will be substantially lessened by the remediation and controls described herein.

D. Adjacent Land Uses and Population Potentially Affected. The Burdened Property is adjacent to industrial land uses on the north, south and west. Covenantor is also the owner of the adjacent 13.7 eastern acres (plus 3.25 acres of shoreline) bordering the Bay. Covenantor plans to develop the adjacent 13.7 eastern acres in the future. Land use for the adjacent 13.7 eastern acres has not yet been determined and may possibly include commercial and/or residential development.

E. Full and voluntary disclosure to 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.

F. Covenantor desires and intends that in order to benefit the Board, 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.

G. Covenantor plans to construct and operate a light rail vehicle maintenance and operations facility (shops and yard) ("Facility") on the Burdened Property. Covenantor will limit the Burdened Property to industrial and associated land uses, which may include some office uses associated with the Facility.

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 Article III are reasonably necessary to protect present and future human health and safety or the environment as a result of the presence on the land of hazardous materials. Each and all of the Restrictions shall run with the land, and pass with each and every portion of the Burdened Property, and shall apply to, inure to the benefit of, and bind the respective successors in interest thereof, for the benefit of the Board 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 Board.

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 Board 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 and Agreement has been attached to or incorporated into any given deed or lease.

1.4 Purpose. It is the purpose of this instrument to convey to the Board real property rights, which will run with the land, 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 California Regional Water Quality Control Board for the San Francisco Bay Region and shall include its successor agencies, if any.

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

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

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

ARTICLE III
DEVELOPMENT, USE AND CONVEYANCE OF THE BURDENED PROPERTY

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

a. Development of the Burdened Property shall be restricted to industrial and associated land uses, which may include some office uses associated with the planned light rail vehicle maintenance and operations facility, but shall not include residential, hospital, school or day care uses;

b. No Owners or Occupants of the Property or any portion thereof shall conduct any excavation work on the Property, unless in compliance with the risk management plan approved by letter from the Board to Stanley deSouza of Department of Public Works, Bureau of Construction Management dated May 2, 2000 ("RMP"). Any contaminated soils brought to the surface by grading, excavation, trenching, or backfilling shall be managed by Covenantor or its agents in accordance with the RMP;

c. All uses and development of the Burdened Property shall be consistent with the RMP, which is hereby incorporated by reference. All uses and development shall preserve the integrity of the cap mandated in the RMP, unless otherwise expressly permitted in writing by the Board;

d. No Owners or Occupants of the Burdened Property or any portion thereof shall drill, bore, otherwise construct, or use a well for the purpose of extracting shallow groundwater for drinking water or for any other purpose, unless expressly permitted in writing by the Board;

e. The Covenantors agree that the Board, and/or any persons acting pursuant to Board

orders, shall have reasonable access to the Burdened Property for the purposes of inspection, surveillance, maintenance, or monitoring, as provided for in Division 7 of the Water Code.

f. No Owner or Occupant of the Burdened Property shall act in any manner that will aggravate or contribute to the existing environmental conditions of the Burdened Property. All use and development of the Burdened Property shall preserve the integrity of the capped areas.

g. Written approval by the Board will be required before the property use of the Burdened Property is changed from industrial use to other use in the future. If such a change in use is contemplated, the Owner or Occupant of the Burdened Property shall notify the Board about the intended change of property use, and will provide proposed changes to the risk assessment and RMP, as appropriate, to the Board. The risk assessment and RMP will be modified with the assistance of Board staff and the revised documents will be submitted to the Board for approval prior to changing the property use.

h. The Covenantors agree that annual visual inspections of the cap consisting of top-side walk-around surveys will be made and damage to the integrity of the cover materials such as major cracks will be promptly repaired. Reports documenting inspections and necessary repairs shall be signed by MUNI's Maintenance and Operations Facility Manager and kept on file at the Facility as specified in the RMP. If future activities at the Burdened Property are planned that will involve a significant reduction in the extent or effectiveness of the coverage over the soil, then an addendum to the RMP will be prepared and submitted to the Board.

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 Board, by reason of this Covenant, to have the authority to require that the Owner or Occupant undertake actions to comply therewith. Violation of the Covenant shall be grounds for the Board to file civil actions against the Owner or Occupant as provided by law.

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

The land described herein contains hazardous materials in soils and in the ground water under the property, and is subject to a deed restriction dated as of October 31, 2000, and recorded on _____, 2000, in the Official Records of San Francisco County, California, as Document No. _____, which Covenant and Restriction imposes certain covenants, conditions, and restrictions on usage of the property described herein. This statement is not a declaration that a hazard exists.

ARTICLE IV
VARIANCE AND TERMINATION

4.1 Variance. Any Owner or, with the Owner's consent, any Occupant of the Burdened Property or any portion thereof may apply to the Board 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 Board 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"

Port of San Francisco
Ferry Building, Suite 3100
San Francisco, CA 94111
Attention: Douglas F. Wong, Executive Director
(Note: After 12/31/00, address for Port will be:
Port of San Francisco
Pier 1
San Francisco, CA 94111)

And

San Francisco Municipal Railway
1145 Market Street, Fifth floor
San Francisco, CA 94103
Attention: Michael Burns, General Manager

With copies to:

Noreen Ambrose
Port General Counsel
Port of San Francisco
3100 Ferry Building
San Francisco, CA 94111
(Note: After 12/31/00, address for Port will be:
Port of San Francisco
Pier 1
San Francisco, CA 94111)

Carol Bach
Port of San Francisco
3100 Ferry Building
San Francisco, CA 94111
(Note: After 12/31/00, address for Port will be:
Port of San Francisco
Pier 1
San Francisco, CA 94111)

John Fong
San Francisco Municipal Railway
1145 Market Street, Fifth floor
San Francisco, CA 94103

Robert Bryan
Deputy City Attorney
Fox Plaza
1390 Market Street
San Francisco, CA 94102

If To: "Board"

Regional Water Quality Control Board
San Francisco Bay Region
1515 Clay Street, Suite 1400
Oakland, California 94612
Attention: Executive Officer

Any party may change its address or the individual to whose attention a notice is to be sent by giving written notice in compliance with this paragraph. The Burdened Property is currently owned by the Port of San Francisco ("Port") and occupied by the San Francisco Municipal

Railway ("MUNI"). Both are departments of Covenantor. The Port will record an amendment to this Covenant changing the name and address of the entity or individual to whom notice must be sent if the Port sells the Burdened Property to an outside party, to MUNI, or to another department of Covenantor.

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.

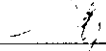
5.4 Article Headings. Headings at the beginning of each numbered article of this Covenant are solely for the convenience of the parties and are not a part of the Covenant.

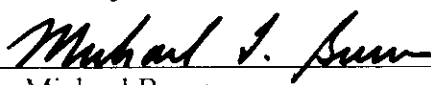
5.5 Recordation. This instrument shall be executed by the Port, MUNI, and the Board. This instrument shall be recorded by the Port in the City and County of San Francisco within ten (10) days of the date of execution.

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

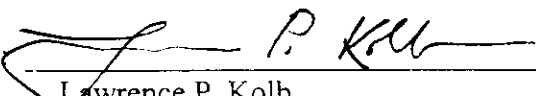
5.7 Construction. Any general rule of construction to the contrary notwithstanding, this instrument shall be liberally construed in favor of the Covenant to effect the purpose of this instrument and the policy and purpose of the Water Code. If any provision of this instrument is found to be ambiguous, 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: City and County of San Francisco

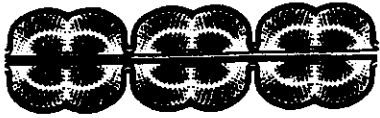
By: 
Douglas F. Wong
Title: Executive Director, Port of San Francisco
Date: October 31, 2000

By: 
Michael Burns
Title: General Manager, San Francisco Municipal Railway
Date: 11/22/2000

Board: Regional Water Quality Control Board

By: 
Lawrence P. Kolb
Title: Acting Executive Director
Date: 12/12/00

CALIFORNIA



ALL-PURPOSE



ACKNOWLEDGEMENT

STATE OF CALIFORNIA)

COUNTY OF Alameda)

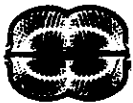
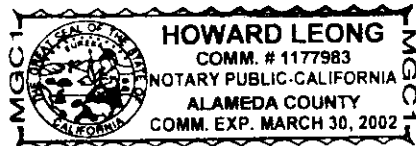
On 12/12/2000 before me, Howard Leong, Notary Public,
DATE NAME, TITLE OF OFFICER - E.G., "JANE DOE, NOTARY PUBLIC"

personally appeared, Lawrence P. Kolb

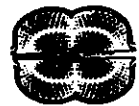
personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the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

WITNESS my hand and official seal.

Howard Leong (SEAL)
NOTARY PUBLIC SIGNATURE



OPTIONAL INFORMATION



TITLE OR TYPE OF DOCUMENT Convenient + Environmental Restrictions on Property

DATE OF DOCUMENT _____ NUMBER OF PAGES _____

SIGNER(S) OTHER THAN NAMED ABOVE _____

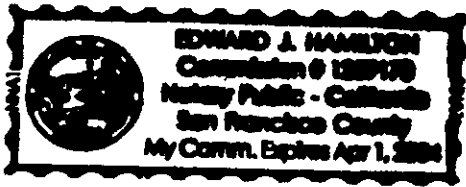
CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California }
 County of San Francisco } ss.

On Nov. 22, 2000, before me, Edward J. Hamilton, Notary Public,
Date Name and Title of Officer (e.g., "Jane Doe, Notary Public")
 personally appeared Michael T. Burns,
Name(s) of Signer(s)

personally known to me
 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.

Edward J. Hamilton
Signature of Notary Public

Place Notary Seal Above

OPTIONAL

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

Description of Attached Document

Title or Type of Document: Covenant and Environmental Restriction on Property

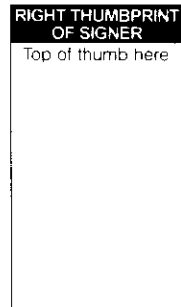
Document Date: EJA / October 31, 2000 Number of Pages: 8

Signer(s) Other Than Named Above: None

Capacity(ies) Claimed by Signer

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

Signer Is Representing: _____



CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California }
County of San Francisco } ss.

On October 31, 2000, before me, VIRNA C. WU. "Notary Public"
Date Name and Title of Officer (e.g., "Jane Doe, Notary Public")
personally appeared Douglas Farrell Wong
Name(s) of Signer(s)

personally known to me
 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.

Virna Wu
Signature of Notary Public

Place Notary Seal Above

OPTIONAL

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

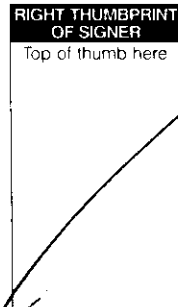
Description of Attached Document

Title or Type of Document: Covenant & Environmental Restriction on Property
Document Date: October 31, 2000 Number of Pages: 8 pages + Exhibit A
Signer(s) Other Than Named Above: None

Capacity(ies) Claimed by Signer

Signer's Name: Douglas Farrell Wong
 Individual
 Corporate Officer — Title(s): _____
 Partner — Limited General
 Attorney in Fact
 Trustee
 Guardian or Conservator
& Other: Port Executive Director

Signer Is Representing: Port of San Francisco



STATE OF CALIFORNIA)
)
COUNTY OF _____)

On _____, 199__ before me, the undersigned a Notary Public in and for said state, personally appeared [Covenantor], personally known to me or proved to me on the basis of satisfactory evidence to be the person who executed the within instrument.

WITNESS my hand and official seal.

Notary Public in and for said
County and State

STATE OF CALIFORNIA)
)
COUNTY OF _____)

On _____, 199__ before me, the undersigned a Notary Public in and for said state, personally appeared [EXECUTIVE OFFICER], personally known to me or proved to me on the basis of satisfactory evidence to be the person who executed the within instrument.

WITNESS my hand and official seal.

Notary Public in and for said
County and State

EXHIBIT A

LEGAL DESCRIPTION OF PROPERTY

Being a 5.2610 hectares (13.00 acres) parcel of land situated in the City & County of San Francisco, State of California and being more particularly described as follows:

Beginning at the point of intersection of the Southerly line of Twenty-Fifth Street and the Easterly line of Illinois Street: Thence, Easterly along that Southerly line of Twenty-Fifth Street 228.022 meters (748.13 feet); Thence, Southerly and parallel with the Westerly line of Louisiana Street 214.972 meters (705.29 feet) to a point that is Northerly 49.073 meters (161.00 feet) of the Northerly line of Cesar Chavez (Army) Street; Thence, Westerly 154.878 meters (508.13) feet along a line that is 49.073 meters (161.00 feet) from and parallel to the Northerly line of Cesar Chavez (Army) Street to the centerline of Michigan Street; Thence, Southerly along the centerline of Michigan Street 49.073 meters (161.00 feet) to the Northerly line of Cesar Chavez (Army) Street; Thence, Westerly along the Northerly line of Cesar Chavez (Army) Street 73.153 meters (240.00 feet) to the intersection of the Northerly line of Cesar Chavez (Army) Street and the Easterly line of Illinois Street: Thence, Northerly along the Easterly line of Illinois Street 264.045 meters (866.29 feet) to the point of beginning.