

RECORDING REQUESTED BY:

County of El Dorado
Board of Supervisors
330 Fair Lane
Placerville, California 95667

WHEN RECORDED, MAIL TO:

California Regional Water Quality Control Board
Central Valley Region
ATTN: Site Cleanup Program Supervisor
11020 Sun Center Drive, Suite 200
Rancho Cordova, California 95670-6114

(Space Above for Recorder's Use)

**COVENANT AND AGREEMENT TO RESTRICT USE OF PROPERTY
ENVIRONMENTAL RESTRICTION**

Diamond Springs Parkway
El Dorado County, California 95667

Assessor's Parcel Number: 051-250-054

This Environmental Restriction ("Covenant") is made by and between the California Regional Water Quality Control Board, Central Valley Region ("Central Valley Water Board") and the County of El Dorado ("Covenantor"), the owner of record of that certain property along the proposed Diamond Springs Parkway, west of Throwita Way in Diamond Springs, County of El Dorado, State of California, and described and depicted in **Exhibit A** attached hereto and incorporated herein by this reference ("Property").

Pursuant to Civil Code section 1471, the Central Valley Water Board has determined that this Covenant is reasonably necessary to protect present or future human health or safety or the environment due to the possible presence of hazardous materials on the land, as defined in Health & Safety Code section 25260.

ARTICLE I - DEFINITIONS

1.01 Central Valley Water Board. "Central Valley Water Board" shall refer to the California Regional Water Quality Control Board, Central Valley Region, and any successor agencies designated by statute with respect to the subject matter of this Covenant.

1.02 Environmental Restrictions. "Environmental Restrictions" shall refer to the Restrictions set forth in Article IV of this Covenant.

1.03 Owner(s). “Owner” or “Owners” shall refer to the Covenantor and its successors-in-interest with fee title to the subject Property.1.04

Occupant(s). “Occupant” or “Occupants” shall refer to Owners and those persons entitled by ownership, leasehold, or other legal relationship to the exclusive right to use and/or occupy all or any portion of the Property.1.05

Improvements. “Improvements” shall mean all buildings, roads, driveways, water supply wells, gradings, paved parking areas, utilities, or other infrastructure or fixtures constructed or placed upon the Property.

ARTICLE II - STATEMENT OF FACTS

2.01 Property Description. The Property, which is approximately 2.06 acres in total area, is owned by the Covenantor, is zoned for industrial use, and is described and depicted in Exhibit A.

2.02 Property History. The Property is the site of the former Diamond Lime Plant, which operated from approximately 1927 to 1977. Locally quarried limestone was transported to the site, where it was processed to form calcium hydroxide used for various products.

2.03 Site Conditions. In March 2011, the California Department of Fish & Game (Fish & Game) was notified of the apparent discharge of lime waste into tributaries of Weber Creek, originating from the former Diamond Lime Plant site. Site conditions were evaluated by both Fish & Game and the Central Valley Water Board, who met with the previous site owner to discuss temporary and permanent site stabilization options. In 2012, the previous site owner performed remedial work which included the widespread excavation and reuse of lime kiln slag materials as compacted engineered fill.

Despite these efforts, subsequent sampling and monitoring of discharged water has continually found elevated pH levels outside of water quality goals. Subsurface investigations performed by multiple parties have indicated that concentrated lime waste remains existing within saturated bedrock zones, where it contacts groundwater and eventually accumulates down-gradient as high pH surface water.

In 2019, Waste Connections, an adjacent property owner to the south, performed remedial work within the north and western portions of their property. Remedial activities included partial source removal with excavation/treatment and source isolation of in-situ lime waste. A similar remedial scope has been proposed by the Covenantor prior to construction of a proposed 4-lane arterial roadway.

2.04 Remedial Action. The Owner proposes remedial action to include the removal of lime waste within the Owner’s Property that exists at depths below the ground surface where it is likely to encounter groundwater. A new 4-lane arterial roadway is proposed by the Owner within the Property limits that will act as asphaltic cap over the residual lime waste, thereby reducing future surface water infiltration.

ARTICLE III - GENERAL PROVISIONS

3.01 Covenant to Run with the Land. This Covenant sets forth Environmental Restrictions that are reasonably necessary to protect public health and safety and the environment from risks associated with the presence of hazardous materials in soil, groundwater, and soil vapor underlying the Property. This Covenant and all requirements herein shall run with the land pursuant to Civil Code section 1471, and shall apply to, inure to the benefit of, and bind Owners and Occupants and the respective successors-in-interest thereof, for the benefit of the Central Valley Water Board and all Owners and Occupants.

3.02 Concurrence of Owners and Lessees Presumed. All Owners and Occupants of any portion of the Property are bound by this Covenant during their ownership and/or occupancy of any portion of the Property. Their heirs, successors, and assignees are also bound during their respective ownership and/or occupancy of any portion of the Property and all shall comply with all applicable terms of this Covenant.

ARTICLE IV - NOTIFICATION REQUIREMENT

4.01 Notification in Agreements. Upon recordation of this Covenant, all purchase agreements and lease agreements for all or any portion of the Property shall be accompanied by the following written statement:

Pursuant to the Covenant dated [AGREEMENT DATE], and recorded as Document No. [NUMBER] on [RECORDATION DATE] in the Official Records of El Dorado County, California, you are hereby notified that the real property described herein may contain relatively small quantities of hazardous substances in soil vapor, which are being addressed in accordance with applicable local building codes and related regulations and/or ordinances. This statement is not a declaration that a health hazard exists. For more information, please contact the California Regional Water Quality Control Board, Central Valley Region.

4.02 Use Restrictions. Use of the Property shall be restricted as follows:

- a. No person shall use groundwater beneath the Property as a drinking water source.
- b. No person shall drill, bore, or otherwise construct a well on the Property unless expressly permitted in writing by the Central Valley Water Board.
- c. No person shall construct any Improvements that will disturb the residual lime waste on the Property, unless expressly permitted in writing by the Central Valley Water Board.
- d. No person shall act in any manner that will aggravate or contribute to the existing environmental conditions of the Property. All use and development of the

Property shall preserve the integrity of any capped areas.

- e. No excavation work shall be conducted onsite unless expressly permitted in writing by the Central Valley Water Board. Any contaminated soils brought to the surface by grading, excavation, trenching, or backfilling shall be managed in accordance with all applicable provisions of local, state, and federal law.

4.03 Access for the Central Valley Water Board. The Central Valley Water Board, agents acting on behalf of the Central Valley Water Board, and any persons acting pursuant to Central Valley Water Board orders or directives shall have reasonable right of entry and access to the Property for inspection, investigation, and other activities consistent with the purposes of this Covenant as deemed necessary by the Central Valley Water Board in order to protect the public health or safety or the environment.

4.04 Conveyance of the Property. Not later than thirty (30) days after any conveyance of any ownership interest in the Property (excluding leases, mortgages, liens, other non-possessory encumbrances, and transfers to affiliated parties), the new Owner of such interest shall provide to the Central Valley Water Board notice of such conveyance. The notice shall include the name and mailing address of the new Owner of the Property and shall reference the address and Assessor's Parcel Number(s) ("APN(s)") listed on page one (1) of this Covenant. If the Property has been assigned a new or additional APN(s) and/or address(es), each such new identifier shall also be referenced. The Central Valley Water Board shall not, by reasons of this Covenant, have authority to approve, disapprove, or otherwise affect a proposed conveyance, except as otherwise provided by law or by administrative order.

4.05 Inspection and Reporting Requirements. Within 30 days after any of the following events, the Owner of the Property shall submit to the Central Valley Water Board written documentation of:

- i. At completion of construction of the roadway within the Property, photographic documentation of its construction will be submitted, which shall include the placement and compaction of embankment fill, aggregate base, and asphalt concrete surfacing;
- ii. Changes in use of the Property;
- iii. Installation of groundwater monitoring wells for any use; or
- iv. Filing of applications for building permits for the Property and any proposals for any site work, if the building or proposed site work will affect the contamination on the Property subject to this Covenant.

ARTICLE V - VARIANCE, TERMINATION, AND TERM

5.01 Variance. Any Owner or, with the Owner's consent, any Occupant of the Property or any portion thereof may apply to the Central Valley Water Board for a

written variance from the provisions of this Covenant. The variance will not be unreasonably withheld.

5.02 Termination. Any Owner or, with the Owner's consent, any Occupant of the Property or a portion thereof may apply to the Central Valley Water Board for a termination of this Covenant or any Environmental Restriction herein. The Central Valley Water Board shall terminate the Covenant or applicable Environmental Restriction upon receiving adequate data demonstrating to the Central Valley Water Board's satisfaction that the environmental condition giving rise to this Covenant has been cured.

5.03 Term. This Covenant shall continue in perpetuity unless terminated, in writing, by the Executive Officer of the Central Valley Water Board or by operation of law.

ARTICLE VI - MISCELLANEOUS

6.01 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 Property or any portion thereof to the general public.

6.02 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: (a) when delivered, if personally delivered to the person being served or official of a government agency being served, or (b) three (3) business days after deposit in the mail if mailed by United States mail, postage paid certified, return receipt requested:

Covenantor

County of El Dorado, Department of Transportation
Attention: Director of Transportation
2850 Fairlane Court
Placerville, CA 95667

Central Valley Water Board

California Regional Water Quality Control Board
Central Valley Region
Attention: Site Cleanup Program Supervisor
11020 Sun Center Drive, Suite 200
Rancho Cordova, CA 95670-6114

6.03 Partial Invalidity. If any portion of this Covenant is determined by a court of competent jurisdiction to be invalid for any reason, the surviving portions shall remain in full force and effect as if the invalidated portion had not been included herein.

6.04 Headings. Headings at the beginning of each numbered article herein are solely for the convenience of the parties and are not a part of the Covenant.

6.05 Exhibits. All exhibits referenced in this Covenant are deemed incorporated into this Covenant by reference.

6.06 References. All code sections references include successor provisions.

6.07 Recordation. This instrument shall be executed by the Covenantor and by the Executive Officer of the Central Valley Water Board. This instrument shall be recorded by the Covenantor in the County of El Dorado within 30 days of the date of execution. Evidence of the recordation of this Covenant shall be provided to the Central Valley Water Board promptly.

6.08 Construction. Any general rule of construction to the contrary notwithstanding, this instrument shall be liberally construed in favor of the Covenant to affect 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.

6.09 Execution and Counterparts. This Covenant may be executed in any number of counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same Covenant. It is also agreed that separate counterparts of this Covenant may separately be executed by the signatories to this Covenant, all with the same force and effect as though the same counterpart had been executed by all of the signatories.

6.10 No Documentary Transfer Tax Due. This Covenant is recorded for the benefit of the State of California and is exempt from California transfer tax pursuant to Revenue and Taxation Code section 11928 and from recording fees pursuant to Government Code sections 6103 and 27383.

(Signature Page on Next Page)

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

County of El Dorado

BY: _____

Wendy Thomas
Chair, Board of Supervisors

DATE: _____

ATTEST:
Kim Dawson
Clerk of the Board of Supervisors

BY: _____

Deputy Clerk

**California Regional Water Quality Control Board,
Central Valley Region**

BY: _____

Patrick Pulupa
Executive Officer

DATE: _____

***Signatures must be acknowledged before a Notary Public.
Acknowledgement forms must be included in final packet for recording.***

EXHIBITS

Exhibit A: Legal Description of Property.

EXHIBIT 'A'

All that real property situate in the Southeast One-Quarter of Section 24, Township 10 North, Range 10 East, and the Southwest One-Quarter of Section 19, Township 10 North, Range 11 East, Mount Diablo Meridian, County of El Dorado, State of California, being a portion of Tract 2 of that certain Record of Survey filed in Book 28 of Surveys, Page 38 in the Official Records of El Dorado County more particularly described as follows:

COMMENCING at the Northeast corner of said Tract 2;

THENCE along the northerly line of said Tract South $62^{\circ}41'11''$ West, 337.91 feet to the POINT OF BEGINNING;

THENCE from said POINT OF BEGINNING leaving said northerly line South $84^{\circ}02'49''$ East, 117.27 feet;

THENCE North $84^{\circ}38'35''$ East, 61.19 feet;

THENCE South $84^{\circ}02'49''$ East, 51.39 feet;

THENCE South $75^{\circ}30'58''$ East, 80.85 feet to the beginning of a non-tangent curve concave northerly, said curve has a radius of 22.50 feet;

THENCE easterly along said curve through a central angle of $22^{\circ}58'46''$ an arc distance of 9.02 feet, said curve being subtended by a chord which bears North $83^{\circ}03'31''$ East, 8.96 feet to the westerly line of a road and public utilities easement described in that certain document number 99-0004479 recorded in said county;

THENCE along said westerly line the following two (2) courses:

- 1) South $13^{\circ}06'09''$ East, 87.11 feet to the beginning of a curve concave westerly, said curve has a radius of 504.95 feet;
- 2) THENCE southerly along said curve through a central angle of $9^{\circ}09'27''$ an arc distance of 80.70 feet, said curve being subtended by a chord which bears South $8^{\circ}31'25''$ East, 80.62 feet;

THENCE leaving said westerly line South $87^{\circ}40'42''$ West, 1.66 feet;

THENCE North $2^{\circ}19'18''$ West, 6.74 feet to the beginning of a curve concave southwesterly, said curve has a radius of 42.00 feet;

THENCE northwesterly along said curve through a central angle of $81^{\circ}43'31''$ an arc distance of 59.91 feet, said curve being subtended by a chord which bears North $43^{\circ}11'04''$ West, 54.96 feet;

THENCE North 84°02'49" West, 380.33 feet;

THENCE North 72°44'13" West, 81.58;

THENCE North 84°02'49" West, 331.14 feet to the westerly line of said Tract;

THENCE along said westerly line North 47°44'31" West, 168.89 feet;

THENCE leaving said westerly line South 84°02'49" East, 373.93 feet to the northerly line of said Tract;

THENCE along said northerly line the following two(2) courses:

- 1) South 63°27'23" East, 157.50 feet;
- 2) THENCE North 62°41'11" East, 100.98 feet to the POINT OF BEGINNING.

Containing 89,880 square feet (2.06 acres) more or less.

-End of Description-

See Exhibit 'B' attached hereto and made a part hereof.

The Basis of Bearings of the above description is grid North and is identical to that shown on that certain Record of Survey filed in Book 31 of Surveys, page 143. Distances used in the above description are grid distances. Divide distances by 0.999855 to obtain ground level distances.

The purpose of the above description is to describe that portion of said Tract as a Right-of-Way for road purposes.



Joseph C. Neely, P.L.S. 9026
Associate Land Surveyor
El Dorado County
Department of Transportation



Date: 11/21/2022

EXHIBIT 'B'

Situate in the Southeast 1/4 of Section 24, T. 10 N., R. 10 E., M.D.M.
 & the Southwest 1/4 of Section 19, T. 10 N., R. 11 E., M.D.M
 County of El Dorado, State of California



SECTION 24
SECTION 19

NORTHEAST CORNER
TRACT 2, R.S. 28-38

ROAD & P.U.E. PER
DOC. No. 99-0004479

THROWITA WAY

POINT OF
BEGINNING

FEE RIGHT-OF-WAY
AREA=89,880 SQ. FT. ±
(2.06 ACRES ±)

PCI HOLDINGS, LLC
APN 051-250-054
TRACT 2, R.S. 28-38



11/21/2022

- L1 S 84° 02' 49" E 117.27'
- L2 N 84° 38' 35" E 61.19'
- L3 S 84° 02' 49" E 51.39'
- L4 S 75° 30' 58" E 80.85'
- C1 R=22.50' L=9.02' Δ=22° 58' 46"
CH=N 83° 03' 31" E 8.96'

- L5 S 13° 06' 09" E 87.11'
- C2 R=504.95' L=80.70' Δ=9° 09' 27"
CH=S 8° 31' 25" E 80.62'
- L6 S 87° 40' 42" W 1.66'
- L7 N 2° 19' 18" W 6.74'
- C3 R=42.00' L=59.91' Δ=81° 43' 31"
CH=N 43° 11' 04" W 54.96'

