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Lisa Brown, Clerk/Register of Deeds

DECLARATION OF RESTRICTIVE COVENANT

MDEQ Reference No: RC-RRD-213-17-012

This Declaration of Restrictive Covenant (Restrictive Covenant) has been recorded with the Oakland County Register of Deeds to protect public health, safety, welfare, and the environment by prohibiting or restricting activities that could result in unacceptable exposure to regulated substances present at the property commonly known as 675 Cesar E. Chavez Avenue, Pontiac, Oakland County, Michigan 48340, Tax Parcel Identification Numbers 14-19-432-003 and 14-19-432-004, and legally described and illustrated in Exhibit 1 - Legal Description and Illustration of Property, (Property or Site).

The Property is associated with the former Pontiac GM Truck Center for which a Closure Report was completed under Part 213, Leaking Underground Storage Tanks of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (NREPA), Michigan Compiled Law (MCL) 324.21301, *et seq.* Exhibit 2 - Legal Description and Illustration of the Portion of the Property Subject to Underground Storage Tank Closure, (Portion of the Property), provides a description and illustration of the Portion of the Property that is subject to Underground Storage Tank Closure under Part 213, Leaking Underground Storage Tanks of the NREPA, 1994 PA 451, as amended, MCL 324.21301, *et seq.* Corrective actions that have been implemented to address environmental contamination are fully described in the Closure Report dated January 23, 2017 (Closure Report). Closure of the reported Underground Storage Tank releases requires the recordation of this Restrictive Covenant. A copy of the Closure Report is available from the Michigan Department of Environmental Quality (MDEQ), Remediation and Redevelopment Division (RRD) Southeast District Office.

The Property described contains regulated substances in excess of the concentrations developed as the unrestricted residential cleanup criteria under Section 21304a(2) of NREPA. MDEQ recommends that prospective purchasers or users of this Property undertake appropriate due diligence prior to acquiring or using this Property, and undertake appropriate actions to comply with the requirements of Section 21304c of NREPA.

Part 213 requires the recording of this Restrictive Covenant with the Oakland County Register of Deeds based upon the corrective action measures for the Property to: 1) restrict unacceptable exposures to regulated substances located on the Property; and 2) assure that the use of the Property is consistent with the exposure assumptions used to develop cleanup criteria under Section 21304a(2) of NREPA.

The restrictions contained in this Restrictive Covenant are based upon information available at the time the corrective action was implemented by Revitalizing Auto Communities Environmental Response Trust (Trust). Failure of the corrective action to achieve and maintain the cleanup criteria, exposure controls, and requirements specified in the Closure Report to be submitted to MDEQ; future changes in the environmental condition of the Property; changes in the cleanup criteria developed under Section 21304a(2) of NREPA; the discovery of environmental conditions at the Property that were not accounted for in the Closure Report; or use of the Property in a manner inconsistent with the restrictions described herein may result in this Restrictive Covenant not being protective of public health, safety, and welfare, and the environment. The adequacy of the corrective action undertaken pursuant to the Closure Report may not have been reviewed by MDEQ.

Definitions

"MDEQ" means the Michigan Department of Environmental Quality, its successor entities, and those persons or entities acting on its behalf.

"Owner" means at any given time the then current fee title holder(s) of the Property or any portion thereof, including the fee title holder's lessees and those persons or entities authorized to act on its behalf. The title to the Property is currently held by Lee Industrial Plaza LLC.

"Property" means the real property as described and illustrated in Exhibit 1 of this Restrictive Covenant that is subject to the restrictions, terms and conditions described herein.

"Portion of the Property" is the portion of the real Property as described and illustrated in Exhibit 2 of this Restrictive Covenant that is subject to Underground Storage Tank Closure under Part 213, Leaking Underground Storage Tanks of the NREPA, 1994 PA 451, as amended, MCL 324.21301, et seq., MDEQ Site ID 00011332.

"Trust" means the Revitalizing Auto Communities Environmental Response Trust, which on March 31, 2011 was established and assumed the rights, title, and interest of Motors Liquidation Company in and to the Property pursuant to an Environmental Response Trust Consent Decree and Settlement Agreement (Settlement Agreement) entered by the U.S. Bankruptcy Court for the Southern District of New York on March 29, 2011, in the case of *In re Motors Liquidation Company, et al., f/k/a General Motors Corp., et al. Debtors*, Case No. 09-50026 (REG), among the Debtors, the United States of America, certain states including the State of Michigan, the Saint Regis Mohawk Tribe, and EPLET, LLC (not individually but solely in its representative capacity as Administrative Trustee of the Trust).

All other terms used in this document which are defined in Part 3 Definitions, of NREPA, and Part 213 of NREPA, shall have the same meaning in this document as in those statutes and rules as of the date this Restrictive Covenant is made.

Summary of Environmental Conditions and Corrective Action

Hazardous substances including arsenic, chromium, selenium, trichloroethene, and tetrachloroethene are present at the site resulting in contamination of the Portion of the Property identified in Exhibit 2. These contaminants remain in soil at concentrations that do not allow unrestricted use of the Portion of the Property. Arsenic, lead, and manganese remain in groundwater at concentrations above the residential and nonresidential drinking water criteria and risk-based screening levels developed by MDEQ under Part 201 of NREPA and required for

corrective actions required under Part 213, Leaking Underground Storage Tanks, of NREPA, as amended, effective December 30, 2013.

The investigation data and analytical results of confirmatory soil and groundwater samples (as summarized in the Closure Report) show that the current conditions on the Property comply with MDEQ requirements for a Tier I Restricted Nonresidential closure.

This restrictive covenant serves to protect the public by restricting the land use to nonresidential (Exhibit 3) and restricting the use of the groundwater. Any change in land use would necessitate further evaluation of potential risks to the public health, safety, welfare, and the environment.

NOW THEREFORE,

Declaration of Land Use or Resource Use Restrictions

1. The Trust, with the express written consent of the Owner (Exhibit 4), hereby declares and covenants that the Property shall be subject to the following restrictions and conditions and intends that said restrictions and covenants shall run with the land, and may be enforced in perpetuity against the Owner by the following entities: (1) the State of Michigan through, MDEQ; and (2) the Trust or its successor.
 - a. Land Use Prohibitions. The Owner shall prohibit all uses of the Property that are not compatible with or are inconsistent with the assumptions and basis for the nonresidential land use risk-based screening levels established pursuant to Section 21304a of NREPA, and generally described in the Description of Allowable Uses, attached hereto as Exhibit 3.
 - b. Prohibited Activities to Eliminate Unacceptable Exposures to Regulated Substances: The Owner shall prohibit activities at the Property that may result in exposures above levels established in the Closure Report. These prohibited activities include:
 - i. The construction and use of wells to extract groundwater for consumption, irrigation, or any other purpose, except as provided below:
 - (a) Wells and other devices constructed for the purpose of evaluating groundwater quality or to remediate subsurface contamination associated with a release of regulated substances into the environment are permitted provided the construction of the wells or devices complies with all applicable local, state, and federal laws and regulations and does not cause or result in a new release, exacerbation of existing contamination, or any other violation of local, state, or federal laws or regulations.
 - (b) Short-term dewatering for construction purposes is permitted provided the dewatering, including management and disposal of the groundwater, is conducted in accordance with all applicable local, state, and federal laws and regulations and does not cause or result in a new release, exacerbation of existing contamination, or any other violation of local, state, and federal environmental laws and regulations.

2. Contaminated Soil Management. The Owner shall manage all soils, media, and/or debris located on the Property in accordance with any applicable requirements of Section 21304B of NREPA; Part 111, Hazardous Waste Management, of NREPA; Subtitle C of the Resource Conservation and Recovery Act (RCRA); the administrative rules promulgated pursuant to Part 111 and RCRA; and all other relevant State and Federal laws, including but not limited to MCL 324.20120c.
3. Access. The Owner grants to MDEQ and the Trust, and their designated representatives, the right to enter the Property at reasonable times: (1) to conduct and complete any and all response activities, together with any reasonably needed ingress and egress to the Property; and (2) for the purpose of determining and monitoring compliance with this Restrictive Covenant, including the right to take samples and, inspect any records relating thereto, and to perform any actions necessary to maintain compliance with Part 213.
4. Conveyance of Property Interest. A conveyance of title, easement, or other interest in the Property shall not be consummated by the Owner without adequate and complete provision for compliance with the terms and conditions of the Closure Report. The Owner shall provide a copy of this Restrictive Covenant to all future owners, heirs, successors, lessees, easement holders, assigns, and transferees by the person transferring the interest in accordance with Section 21310a(2) of NREPA.
5. Compliance with this Restrictive Covenant and Applicable Due Care Obligations. The Owner shall at all times comply with the conditions and restrictions of this Restrictive Covenant and the applicable due care obligations under Section 21304c of NREPA and CERCLA, 42 U.S.C. § 9601, *et seq.* Owner agrees to maintain records of its applicable due care activities and shall supply copies of any records documenting such compliance upon request from Grantor or any Agency.
6. Audits Pursuant to Section 21315 of NREPA. This Restrictive Covenant is subject to audits in accordance with the provisions of Section 21315 of NREPA, and such an audit may result in a finding by MDEQ that this Restrictive Covenant is not protective of the public health, safety, and welfare, and the environment.
7. Term of Restrictive Covenant. This Restrictive Covenant shall run with the Property and shall be binding on the Owner, and all current and future successors, lessees, easement holders, their assigns, and their authorized agents, employees, or persons acting under their direction and control. This Restrictive Covenant shall continue in effect until it is determined that the regulated substances no longer present an unacceptable risk to the public health, safety, or welfare, or the environment. Improper modification or rescission of any restriction necessary to prevent unacceptable exposure to regulated substances may result in the need to perform additional corrective actions by those parties responsible for performing corrective action at the Property or to comply with Section 21304c of the NREPA.
8. Enforcement of Restrictive Covenant. The State of Michigan, through MDEQ, the Trust, and Lee Industrial Plaza, LLC are entitled to enforce the restrictions and covenants in this Restrictive Covenant by specific performance or other legal action in a court of competent jurisdiction. All remedies available hereunder shall be in addition to any and all other remedies at law or equity.
9. Severability. If any provision of this Restrictive Covenant is held to be invalid by a court of competent jurisdiction, the invalidity of such provision shall not affect the validity of any other

provisions of this Restrictive Covenant and all other provisions shall continue to remain in full force and effect.

10. Authority to Execute Restrictive Covenant. The undersigned person executing this Restrictive Covenant has the express written permission of the current Owner, Lee Industrial Plaza LLC, and represents and certifies that he is duly authorized and has been empowered to execute and record this Restrictive Covenant (Exhibit 4).
11. Limitation on the Trust's Liability. The Trust's and the Administrative Trustee's liability is limited by the terms and conditions of the Settlement Agreement, which are incorporated herein by reference.

[signature page follows]

IN WITNESS WHEREOF, the Trust has caused this Restrictive Covenant, MDEQ Reference Number: RC-RRD-213-17-012, to be executed on this 30th day of January, 2017.

By: EPLET, LLC, acting solely in its capacity as
Administrative Trustee of Revitalizing Auto
Communities Environmental Response Trust

By: Elliott P. Laws
ELLIOTT P. LAWS, not individually, but acting solely
in his capacity as Managing Member

DISTRICT/STATE OF Columbia)
) ss.
CITY/COUNTY OF _____)

The foregoing instrument was acknowledged before me this 30th day of January, 2017, by ELLIOTT P. LAWS, not individually, but acting solely in his capacity as Managing Member of EPLET, LLC, a Delaware limited liability company, acting solely in its capacity as Administrative Trustee of Revitalizing Auto Communities Environmental Response Trust, a trust formed under the laws of the State of New York, on behalf of said limited liability company and said trust.

Notary Public: Sharon M. Davis

My commission expires: 9/30/19

This document is exempt from state and county transfer taxes pursuant MCL 207.505(a) and MCL 207.526(a).

Prepared by and return to:
Carl P. Garvey, General Counsel
RACER Trust
500 Woodward Avenue, Suite 2650
Detroit, MI 48226



EXHIBIT 1**LEGAL DESCRIPTION AND ILLUSTRATION OF PROPERTY**

Commonly known as: 675 Cesar E. Chavez Avenue, Pontiac, MI 48340

Tax Parcel ID 14-19-432-003

Land situated in the City of Pontiac, in the County of Oakland, in the State of Michigan is described as follows:

Part of Lot 2, Assessor's Plat No. 3, parts of Southwest and Southeast $\frac{1}{4}$'s of Section 19 and Northeast $\frac{1}{4}$ of Section 30, Township 3 North, Range 10 East, City and Township of Pontiac, Oakland County, Michigan, according to the plat thereof as recorded in Liber 1A of Assessor's Plat, Page 3, Oakland County Records, and more particularly described as follows: Beginning at a point on the Northwestern line of Oakland Avenue, as widened, and bearing South 43 degrees 16 minutes 00 seconds West 27.00 feet and South 46 degrees 45 minutes 00 seconds East 180.80 feet from the Northeasterly corner of said Lot 2; thence South 43 degrees 16 minutes 00 seconds West, parallel to the Northwestern line of said Lot, 495.24 feet to the Southwesterly line of said Lot; thence South 38 degrees 24 minutes 00 seconds East along the Southwesterly line of said Lot, 101.07 feet; thence North 46 degrees 16 minutes 00 seconds East 509.89 feet to the widened line of Oakland Avenue; thence North 46 degrees 45 minutes 00 seconds West along Oakland Avenue 100.00 feet to the point of beginning.

And Also,

Tax Parcel ID 14-19-432-004

Part of Assessor's Plat No. 3, parts of Southwest and Southeast $\frac{1}{4}$'s of Section 19, and Northeast $\frac{1}{4}$ of Section 30, Town 3 North, Range 10 East, City and Township of Pontiac, Oakland County, Michigan, according to the plat thereof as recorded in Liber 1A of Assessor's Plats, Page 3, Oakland County Records, and more particularly described as follows: Beginning at South corner of Lot 2; thence North 43 degrees 00 minutes 30 seconds East 125.15 feet to a point on a curve; thence to right on said curve having radius of 543.00 feet a distance of 466.83 feet to a point of tangency; thence North 43 degrees 00 minutes 20 seconds East 62.34 feet to a point on the Southwesterly line of Oakland Avenue as widened; thence North 46 degrees 40 minutes 10 seconds West 405.78 feet along said widened line to a point on the Northwestern line of said Lot 2; thence South 46 degrees 16 minutes 00 seconds West 509.89 feet to the West line of Lot 2; thence South 38 degrees 22 minutes 00 seconds East 605.20 feet along the Southwesterly line of said Lot 2 to the point of beginning.

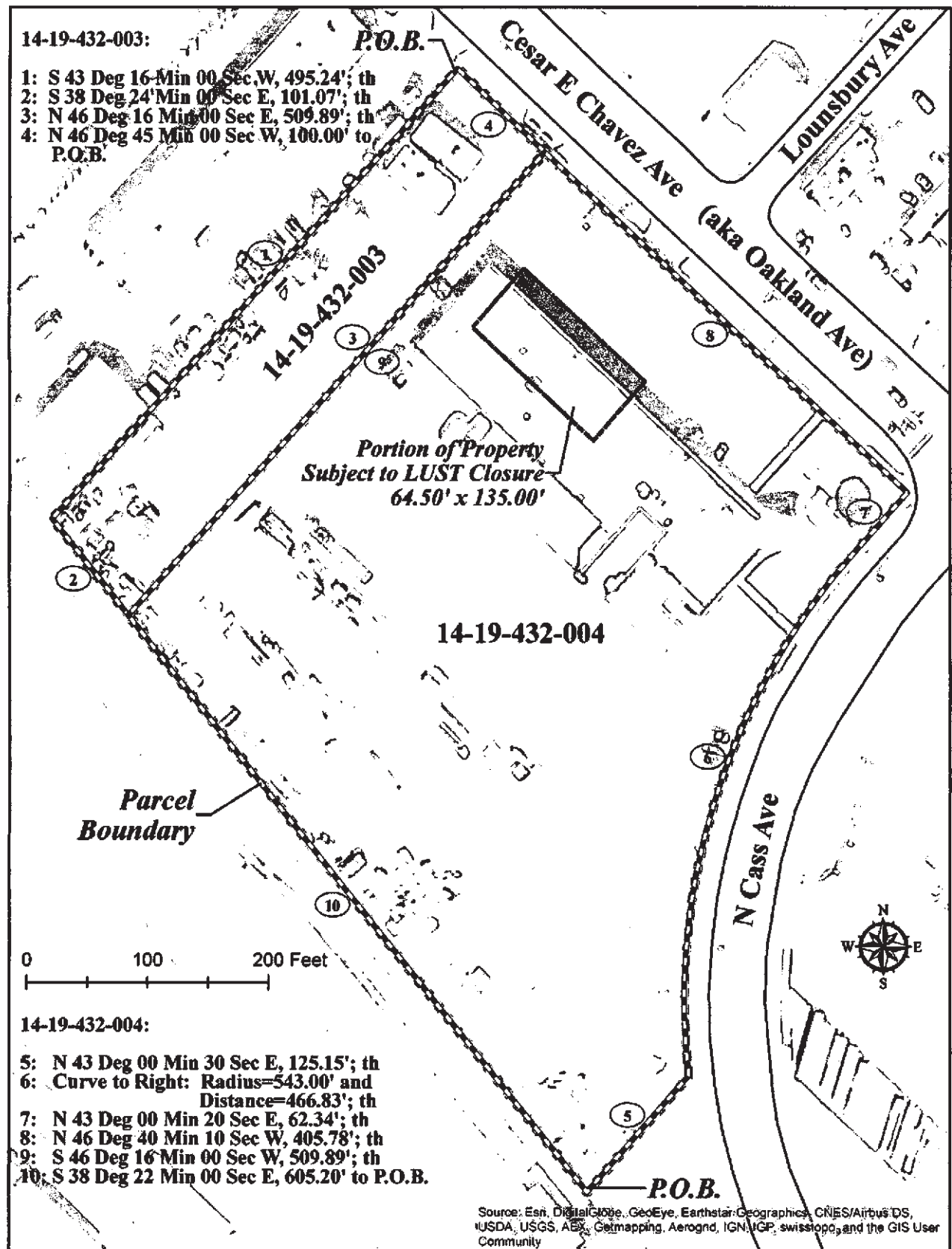


EXHIBIT 2**LEGAL DESCRIPTION AND ILLUSTRATION OF THE PORTION OF THE PROPERTY
SUBJECT TO UNDERGROUND STORAGE TANK CLOSURE**

Property located in part of Lot 2, "Assessors Plat No.3", parts of the Southwest and Southeast 1/4's of Section 19 and the Northeast 1/4 of Section 30, Township 3 North, Range 10 East, City of Pontiac, Oakland County, Michigan, according to the plat thereof as recorded in Liber 1A of Assessor's Plat, Page 3, Oakland County Records, and being described as:

commencing at a point on the Northwesternly line of Oakland Avenue, as widened, and bearing South 43°16'00" West 27.00 feet; thence South 46°45'00" East 334 feet; thence South 43°15'00" West 81.74 feet to the POINT OF BEGINNING; thence South 46°38'53" East 135.00 feet; thence South 42°59'00" West 64.50 feet; thence North 46°38'53" West 135.00 feet; thence North 42°59'00" East 64.50 feet to the POINT OF BEGINNING, containing 0.200 acre of land, more or less.

DECLARATION OF RESTRICTIVE COVENANT EXHIBIT

PART OF LOT 2, "ASSESSORS PLAT NO. 3"
PARTS OF THE SW 1/4 AND SE 1/4 OF SECTION 19 AND
THE NE 1/4 OF SECTION 30, T. 3 N., R. 10 E
CITY OF PONTIAC, OAKLAND COUNTY, MI

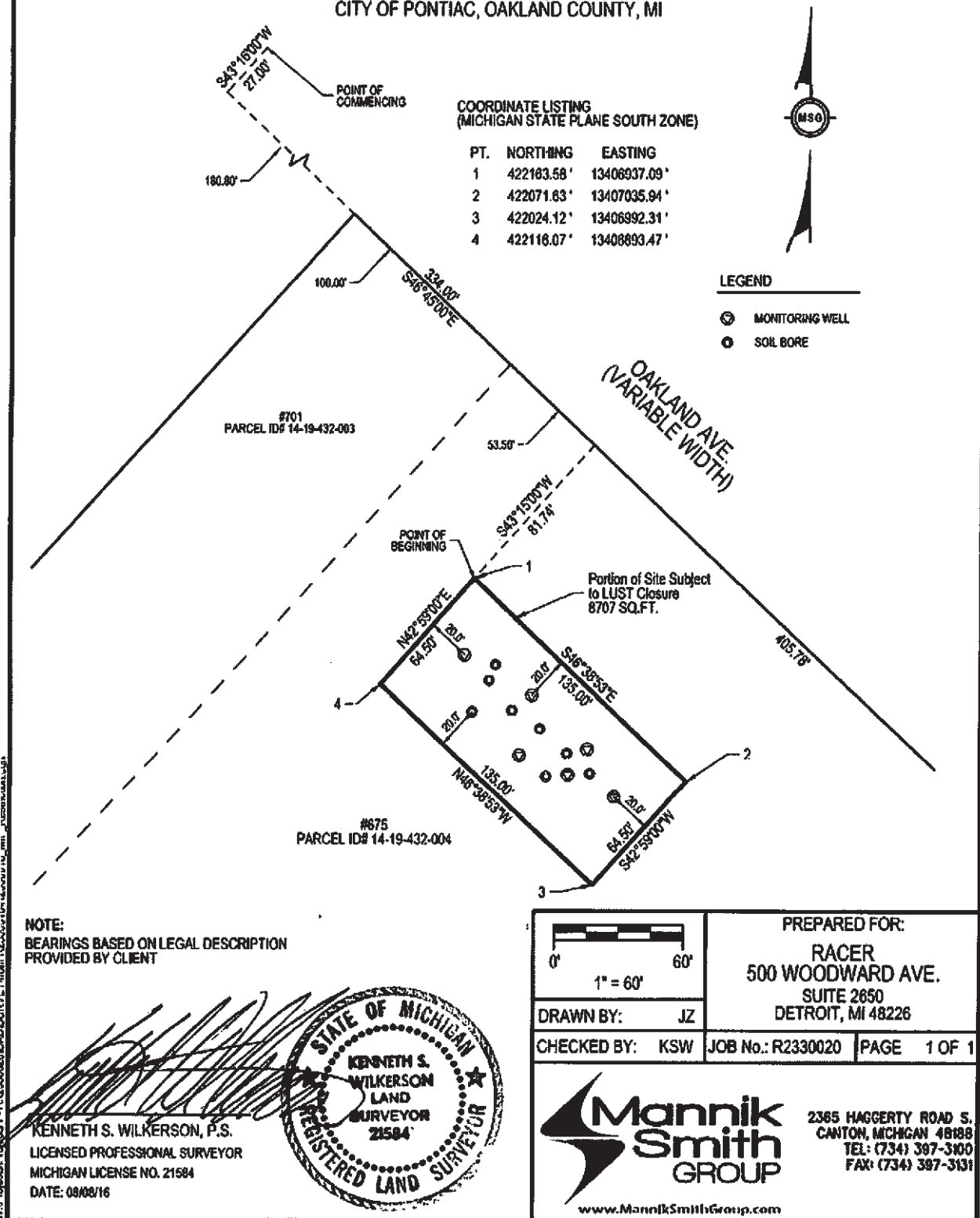


EXHIBIT 3**DESCRIPTION OF ALLOWABLE USES**

Nonresidential Land Use: This land use is characterized by any use which is not residential in nature and is primarily characterized by industrial and commercial uses. Industrial uses typically involve manufacturing operations engaged in processing and manufacturing of materials or products. Other examples of industrial uses are utility companies, industrial research and development, and petroleum bulk storage. Commercial uses include any business or income-producing use such as commercial warehouses, lumber yards, retail gas stations, auto dealerships and service stations, as well as office buildings, banks, and medical/dental offices (not including hospitals). Commercial uses also include retail businesses whose principal activity is the sale of food or merchandise within an enclosed building and personal service establishments which perform services indoors such as health clubs, barber/beauty salons, photographic studios, etc.

Any residential use is specifically prohibited from the non-residential land use category. This would include the primary use of the property for human habitation and includes structures such as single family dwellings, multiple family structures, mobile homes, condominiums, and apartment buildings. Residential use is also characterized by any use which is intended to house, educate, or provide care for children, the elderly, the infirm, or other sensitive populations, and therefore could include day care centers, educational facilities, hospitals, elder care facilities, and nursing homes. The use of any accessory building or portion of an existing building as a dwelling unit permitted for a proprietor or storekeeper and their families, located in the same building as their place of occupation, or for a watchman or caretaker is also prohibited. Any authority that allows for residential use of the Property as a legal non-conforming use is also restricted per the prohibitions contained in this restrictive covenant.

EXHIBIT 4

CONSENT OF OWNER

Lee Industrial Plaza LLC, the current and legal Owner of the Property, does hereby consent to the recording of this Declaration of Restrictive Covenant, RC-RRD-213-17-012, and authorizes the Revitalizing Auto Communities Environmental Response Trust to file this Declaration of Restrictive Covenant with the Oakland County Register of Deeds for recording.

LEE INDUSTRIAL PLAZA LLC

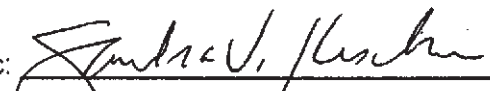
By: 

Printed Name: ED LEE

Title: PRES

STATE OF MICHIGAN)
) ss.
COUNTY OF OAKLAND)

The foregoing instrument was acknowledged before me this 23rd day of JANUARY 2017, by ED LEE,
of Lee Industrial Plaza LLC, on behalf of said corporation.

Notary Public: 

My commission expires: 6/30/2019

SANDRA V. KISCHUK
Notary Public, Macomb County, MI
My Commission Expires 6/30/2019