



**AMENDED AND RESTATED  
DECLARATION OF RESTRICTIVE COVENANT**

MDEQ Reference No: RC-OWMRP-111-17-002

This Amended and Restated Declaration of Restrictive Covenant (Amended Restrictive Covenant) has been recorded with the Genesee County Register of Deeds to protect public health, safety, welfare and the environment pursuant to the provisions of Part 111, Hazardous Waste Management, Michigan Compiled Laws (MCL) 324.11101, *et seq.* (Part 111) and the applicable Sections of Part 201, Environmental Remediation, Michigan Compiled Laws (MCL) 324.20101, *et seq.* (Part 201) of the Natural Resources and Environmental Protection Act (NREPA), 1994 PA 451, as amended, MCL 324.101, *et seq.* and the Solid Waste Disposal Act, commonly referred to as the Resource Conservation and Recovery Act of 1976, as amended by the Hazardous and Solid Waste Amendments of 1984, 42 U.S.C. §§ 6901, *et seq.* (RCRA).

This Amended Restrictive Covenant is made by RACER Properties LLC, the address of which is 500 Woodward Avenue, Suite 2650, Detroit, MI 48226, the Grantor and an entity wholly owned by the Revitalizing Auto Communities Environmental Response Trust (Trust), and the current fee title holder of the property, for the benefit of the Grantee, State of Michigan, Department of Environment Quality (MDEQ), the address of which is 525 West Allegan Street, P.O. Box 30473, Lansing, MI 48909-7973.

The recording of this Amended Restrictive Covenant amends and restates in its entirety the Declaration of Restrictive Covenant dated as of September 27, 2013, and recorded with the Genesee County Register of Deeds on September 30, 2013 as Instrument Number 201309300105450 (2013 Restrictive Covenant). To the extent this Amended Restrictive Covenant conflicts with the 2013 Restrictive Covenant, the terms of this Amended Restrictive Covenant shall govern and control.

This Amended Restrictive Covenant has been made to prohibit or restrict activities that could result in unacceptable exposure to environmental contamination present at the property commonly known as Davison Road Industrial Land located in Burton, Genesee County, Michigan, Site ID#25000447, Tax Identification Numbers 59-10-100-30 (0.575 acres) and 59-10-100-031 (55.63 acres), and legally described and illustrated in Exhibit 1 (Property or Site), and to assure that the use of the Property is consistent with the exposure assumptions used to develop the nonresidential clean-up criteria under Section 20120a(1)(b) of NREPA and the exposure control measures relied upon at the Property.

NCS-844906 PAC FATCO

The MDEQ's approval of this Amended and Restated Declaration of Restrictive Covenant is documented by the letter attached as Exhibit 2.

Recording of this Amended Restrictive Covenant with the Genesee County Register of Deeds is designed to: (1) restrict land uses at the Property; (2) restrict exposures to groundwater on the Property; (3) require any future work or other activities on the Property by or for the Owner to be conducted in conformance with; i) applicable Michigan Department of Environmental Quality (MDEQ) soil relocation requirements including but not limited to MCL 324.20120c and any related administrative rules and MDEQ guidance, and ii) applicable due care obligations under MCL 324.20107a and associated administrative rules and guidance, and the Hazardous Waste Operations and Emergency Response Standard (HAZWOPER), 29 Code of Federal Regulations (CFR) Part 1910; and (4) prohibit structures from being constructed on the Property, unless the Owner has considered the potential for vapor intrusion, if any, and has taken steps to address such potential, if necessary, as may be required by MDEQ.

The land or resource use restrictions contained in this Amended Restrictive Covenant are based upon information available at the time this document was recorded. Future changes in the environmental condition of the Property or changes in the cleanup criteria developed under Parts 111 and 201; the discovery of environmental conditions at the Property that were not known at the time this document was recorded; or use of the Property in a manner inconsistent with the restrictions described herein, may result in this Amended Restrictive Covenant not being protective of public health, safety, and welfare, and the environment. Additional restrictions may become necessary.

MDEQ recommends that prospective purchasers or users of the Property undertake appropriate due diligence prior to acquiring or using this Property, and undertake appropriate actions to comply with the due care requirements of Section 20107a of the NREPA.

#### 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 RACER Properties LLC, an entity wholly owned by the Trust (RACER Properties and the Trust are collectively referred to herein as "RACER").

"RACER" means the Revitalizing Auto Communities Environmental Response Trust (or 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., 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) and RACER Properties LLC.

All other terms used in this document which are defined in Part 3 Definitions, Part 111 and Part 201 of NREPA, or the Part 111 or Part 201 Rules under the Michigan Administrative Code (MAC), shall have the same meaning in this document as in those statutes and rules as on the date this Amended Restrictive Covenant is made.

#### Summary of Response Activities

The Property was formerly part of a larger facility with the United States Environmental Protection Agency (USEPA) site identification number MID 980568745 and is subject to the Corrective Action requirements of RCRA and Part 111.

Investigations of the Property were completed by the former General Motors Corporation (GMC) from 1996 through November 2007. The investigations included soil and groundwater characterization, fill delineation, and ecological habitat assessment. RACER completed additional Site Investigations from 2012 through the present.

Analysis of soil and groundwater samples collected from the Site identified select polynuclear aromatic hydrocarbons (PNAs), metals, and/or volatile organic compounds. Soils were found to contain concentrations which exceeded the MDEQ Generic Nonresidential Drinking Water Protection, Groundwater/Surface Water Interface (GSI) Protection, and the Direct Contact Criteria. Groundwater was found to contain concentrations of select metals above the Non-Residential Drinking Water and GSI Cleanup Criteria. Exhibit 3 lists the hazardous substances detected above the MDEQ Part 201 Generic Nonresidential Criteria in soil and groundwater.

The northeastern portion of the Site contained concentrations of PNAs above the Nonresidential Direct Contact Criteria. In July 2016, excavation activities were conducted at the Site to remove soils with concentrations of PNAs that exceeded the Nonresidential Direct Contact Cleanup Criteria. The excavation activities removed approximately 37 tons of soil that contained concentrations of PNAs above the Nonresidential Direct Contact Cleanup Criteria. Excavation confirmation samples verified that soils exceeding the Nonresidential Direct Contact Cleanup Criteria were removed.

At the time this Amended Restrictive Covenant was recorded, RACER continues to perform activities in keeping with its goal to obtain from MDEQ formal No Further Action and RCRA "Corrective Action Complete with Controls" determinations for the Property.

Copies of all documents related to this matter are located in the MDEQ Remediation and Redevelopment Division, Lansing District Office and the Waste Management and Radiological Protection Division, both located in Lansing, Michigan.

**NOW THEREFORE,**Declaration of Land Use or Resource Use Restrictions

RACER 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) MDEQ; and (2) RACER or its successor.

1. Land Use Prohibitions. The Owner shall refrain from or otherwise prohibit all uses of the Property that are not compatible with nonresidential land use category under MCL 324.20120a(1)(b) and generally described in the Description of Allowable Uses, attached hereto as Exhibit 4.

Part 201 cleanup criteria for land use based response activities are located in the Government Documents Section of the State of Michigan Library, MCL 324.201201, *et seq.* effective December 27, 2012. These environmental protection standards which are necessary for cleanup and protection of soil, groundwater, surface water, sediments and ambient air can be used as long as the cleanup criteria are not less stringent than allowed pursuant to RCRA.

2. Activities Prohibited. The Owner shall refrain from or otherwise prohibit activities on the Property that may result in exposures above the nonresidential land use category. These prohibited activities include:
  - a. Installation or use of drinking water or irrigation wells on the Property.
  - b. Installation or use of groundwater extraction wells on the Property except for wells and devices that are part of an MDEQ-approved response activity and for short-term dewatering for construction purposes, provided the dewatering, including management and disposal of the groundwater, is conducted in accordance with all applicable environmental laws and does not cause or result in a new release, exacerbation of any pre-existing environmental condition, or any other violation of environmental laws.
  - c. Disturbance, damage, modification, or removal any monitoring wells (if present) on the Property without the prior written approval of MDEQ and RACER. Monitoring wells present at the Property as of the date of this Amended Restrictive Covenant are identified in Exhibit 5.
  - d. Relocation of contaminated soils on the Property except as provided for under Part 201, Section 20120c, MCL 324.20120c.
  - e. "Treatment", "storage", "disposal", or "release" of any Hazardous Substances, on, at, or below the Property, in a manner that would require a permit under RCRA, or

equivalent State law, except pursuant to a plan or permit approved in writing by MDEQ.

- f. Building or occupying any structure without first completing one of the following: Option 1) evaluate and determine, in accordance with applicable environmental laws, rules or regulations and to the satisfaction of MDEQ that no unacceptable vapor intrusion risks to human health exist in any existing or newly constructed site buildings; or Option 2) with the concurrence from MDEQ install, operate, and maintain a vapor barrier and/or mitigation system designed to eliminate the potential for subsurface vapor phase hazardous substances to migrate into any building at concentrations greater than applicable criteria. This prohibition does not apply to short-term (sixty (60) days or less), occupancy of a building for purposes of construction, renovation, repair, or other short-term activities as long as adequate health and safety precautions are employed during these activities, and they are performed in compliance with Section 20107a of NREPA.

If Option 2 above is selected, the Owner shall install and thereafter maintain a vapor barrier and/or install and thereafter operate and maintain a vapor intrusion mitigation system in accordance with applicable standards and criteria at the time, for the purpose of mitigating the potential intrusion of soil vapor below any human-occupied building constructed on the property after the date of this Amended Restrictive Covenant, until it is determined by MDEQ that a vapor barrier or mitigation system is no longer necessary in accordance with Option 1, above.

3. Contaminated Soil Management. The Owner shall manage contaminated soils, media and/or debris (if any) and all other soils located at the Property whether encountered on the surface or during below grade work in accordance with any applicable requirements of Part 111, Subtitle C of 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.
4. Access. The Owner shall grant MDEQ and RACER 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 Amended 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 111 and Part 201.
5. Notices. Any notice, demand, request, consent, approval, or communication that is required to be made or obtained under this Amended Restrictive Covenant shall be made in writing and shall: include a statement that the notice is being made pursuant to the requirements of this Amended Restrictive Covenant; include the MDEQ Reference Number: RC-OWMRP-111-17-002; and be served either personally, or sent via first class mail, postage prepaid, as follows:

For MDEQ:

Remediation and Redevelopment Division Director  
Michigan Department of Environmental Quality  
P.O. Box 30426  
Lansing, MI 48909-7926

And

Waste Management and Radiological Protection Division Director  
Michigan Department of Environmental Quality  
P.O. Box 30473  
Lansing, MI 48909-7973

For RACER:

RACER Trust  
Attn: Michigan Cleanup Manager  
500 Woodward Avenue, Suite 2650  
Detroit, MI 48226

6. Conveyance of Property Interest. The Owner shall provide notice to MDEQ and RACER at the addresses in Paragraph 5 of the Owner's intent to transfer any interest in the Property at least fourteen (14) days prior to consummating the conveyance. 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 this Amended Restrictive Covenant and the applicable provisions of MCL 324.20116. Owner shall include in any instrument conveying any interest in any portion of the Property, including, but not limited to, deeds, leases, and mortgages, a notice which is in substantially the following form:

**NOTICE: THE INTEREST CONVEYED HEREBY IS SUBJECT TO A DECLARATION OF RESTRICTIVE COVENANT DATED \_\_\_\_\_ [month, day, year], AND RECORDED WITH THE GENESEE COUNTY REGISTER OF DEEDS, LIBER \_\_\_\_\_, PAGE \_\_\_\_\_.**

A copy of this Amended Restrictive Covenant shall be provided to all future owners, heirs, successors, lessees, easement holders, assigns, and transferees by the person transferring the interest.

7. Term. This Amended 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 Amended Restrictive Covenant may only be modified or rescinded with the written approval of MDEQ and RACER.

8. Modification/ Release/Rescission. Owner may request in writing to MDEQ and RACER, at the addresses provided in Paragraph 5, modifications to, or release or rescission of, this Amended Restrictive Covenant. This Amended Restrictive Covenant may be modified, released or rescinded only with the written approval of MDEQ and RACER. Any approved modification to, or release or rescission of, this Amended Restrictive Covenant shall be filed with the Genesee County Registrar of Deeds by the Owner and a certified copy of such modification or release shall be returned to MDEQ and RACER at the addresses provided in Paragraph 5.
9. Enforcement. RACER is entitled to enforce the restrictions and covenants in this Amended Restrictive Covenant by specific performance or other legal action in a court of competent jurisdiction against the current and subsequent Owners of all or part of the Property. MDEQ is entitled to enforce the restrictions and covenants in this Amended 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.
10. Severability. If any provision of this Amended 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 Amended Restrictive Covenant and all other provisions shall continue to remain in full force and effect.
11. Limitation on RACER's Liability. The liability of RACER and the Administrative Trustee under this Amended Restrictive Covenant is limited by the terms and conditions of the Settlement Agreement, which are incorporated herein by reference.
12. Compliance with this Amended Restrictive Covenant and Applicable Due Care Obligations. The Owner shall at all times comply with the conditions and restrictions of this Amended Restrictive Covenant and the applicable Due Care obligations under Section 107a of NREPA, MCL 324.20107a, under the applicable Michigan administrative rules R299.51003, and under the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. §§ 9601, *et seq.* Owner agrees to maintain records of its activities to comply with this Amended Restrictive Covenant and applicable Due Care obligations, and shall timely supply copies of any records documenting such compliance upon request from MDEQ or RACER.
13. Authority to Execute Amended Restrictive Covenant. The undersigned person executing this Amended Restrictive Covenant represents and certifies that he is duly authorized and has been empowered to execute and deliver this Amended Restrictive Covenant.
14. Miscellaneous.
  - a) Controlling Law. The interpretation and performance of this Amended Restrictive Covenant shall be governed by the laws of the United States as to the obligations referred to in the Settlement Agreement and by the laws and regulations of the State of Michigan for all other purposes hereunder (without reference to choice of

laws principles thereof). The right to enforce the conditions and restrictions in this Amended Restrictive Covenant are in addition to other rights and remedies that may be available, including, but not limited to, administrative and judicial remedies under CERCLA or Part 201 of NREPA.

- b) Liberal Construction. Any general rule of construction to the contrary notwithstanding, this Amended Restrictive Covenant shall be liberally construed to affect the purpose of this Amended Restrictive Covenant, and the policy and purpose of NREPA, RCRA and the land use restrictions and prospective use limitations required by Parts 111 and 201. If any provision of this Amended Restrictive Covenant is found to be ambiguous, an interpretation consistent with the purpose of this Amended Restrictive Covenant that would render the provision valid shall be favored over any interpretation that would render it invalid.
- c) Entire Agreement. This Amended Restrictive Covenant and its attachments and appendices supersedes all prior discussions, negotiations, understandings, or agreements relating specifically to this Amended Restrictive Covenant, all of which are merged herein.

[signature page follows]



IN WITNESS WHEREOF, RACER Properties LLC has caused this Amended Restrictive Covenant, RC-OWMRP-111-17-002, to be executed on this 5<sup>th</sup> day of April, 2017.

RACER PROPERTIES LLC

By: Revitalizing Auto Communities Environmental Response Trust, Sole Member of RACER Properties LLC

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

By: [Signature]  
ELLIOTT P. LAWS, not individually, but acting solely in his capacity as Managing Member of EPLET, LLC

\*\*\*\*\*

DISTRICT/STATE OF Columbia )  
 ) ss.  
CITY/COUNTY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged before me this 5<sup>th</sup> day of April, 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, as Sole Member of RACER Properties LLC, a Delaware limited liability company, on behalf of said limited liability company and said trust.



[Signature]  
Notary Public Signature

Name of Notary Public SHARON M. DAVIS  
Notary Public, District/State of Columbia  
City/County of \_\_\_\_\_  
My Commission Expires: 9/30/19  
Acting in the County of \_\_\_\_\_

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

Prepared by/Return to:  
Carl Garvey, General Counsel  
RACER Trust  
500 Woodward Avenue, Suite 2650  
Detroit, MI 48226

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

Land situated in the City of Burton, County of Genesee, State of Michigan, more particularly described as follows:

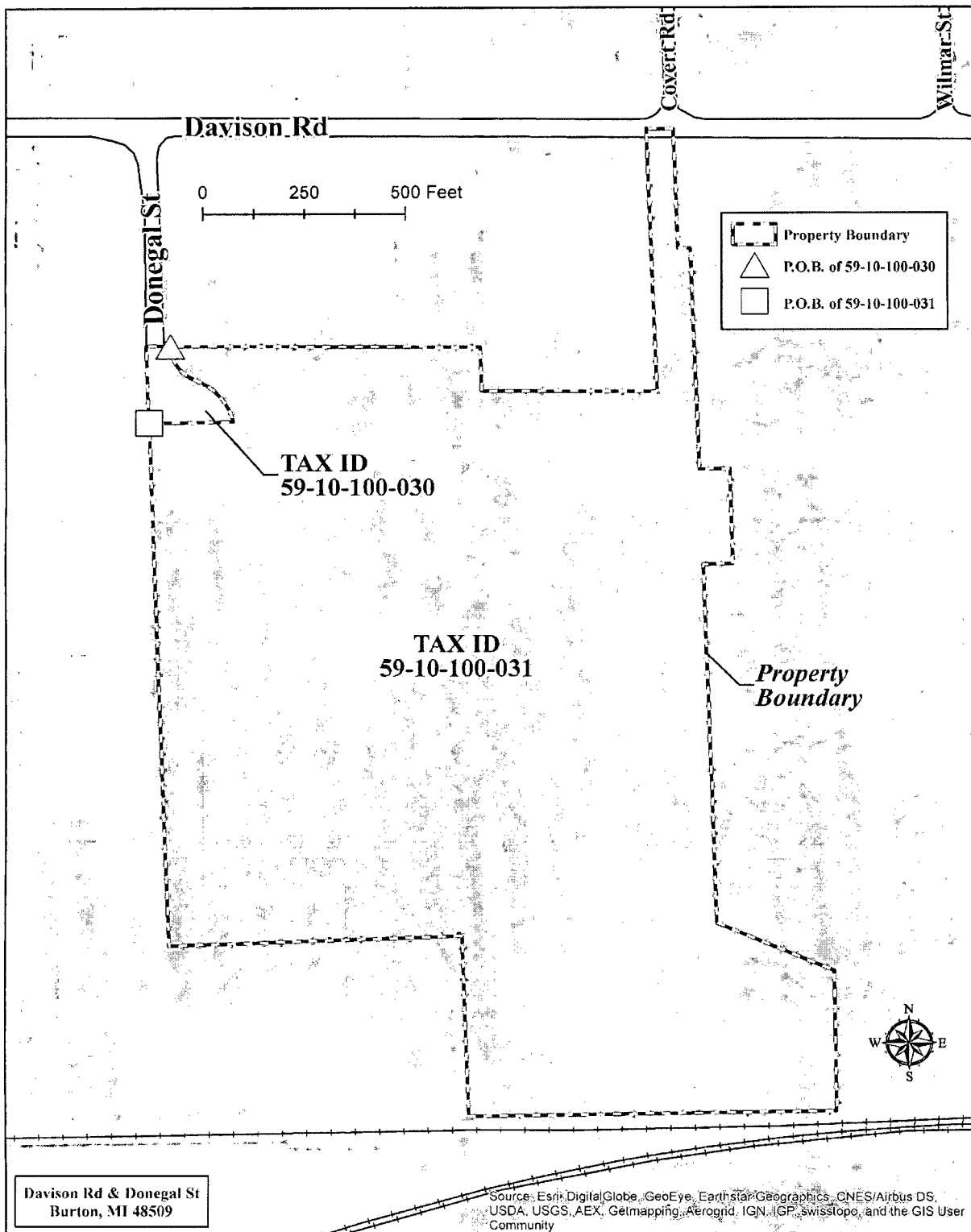
Tax ID: 59-10-100-031

Part of the North  $\frac{1}{2}$  of Section 10, Town 7 North, Range 7 East, City of Burton, Genesee County, Michigan, and "Emerald Estates Subdivision", as recorded in Liber 38, Page 18, of Plats, Genesee County Records, and also part of vacated Donegal Street and vacated Flannigan Street, described as: Commencing at the North  $\frac{1}{4}$  corner of Section 10, Town 7 North, Range 7 East, City of Burton, Genesee County, Michigan; thence North 88 degrees 02 minutes 45 seconds West, 1322.12 feet along the North line of said Section to the intersection of the West line of Donegal Street extended and the North line of Section 10; thence South 00 degrees 22 minutes 43 seconds East, 550.07 feet along the West line of Donegal Street extended to the Northwest corner of "Emerald Estates Subdivision"; thence continuing South 00 degrees 22 minutes 43 seconds East, 194.76 feet to the point of beginning; thence South 89 degrees 18 minutes 28 seconds East, 206.67 feet to a point on the Westerly line of Lot 1 of said subdivision; thence on a curve to the left, along the Westerly line of said Lot 1, having a radius of 153.80 feet, with a chord bearing and distance of North 39 degrees 38 minutes 31 seconds West, 141.98 feet; thence on a curve to the right, continuing along the Westerly line of Lot 1, having a radius of 93.80 feet, with a chord bearing and distance of North 33 degrees 44 minutes 17 seconds West, 103.25 feet to the Northwest corner of said Lot 1; thence South 88 degrees 02 minutes 45 seconds East, 763.74 feet along the North line of said subdivision to the Northeast corner of Lot 7 of said subdivision; thence South 00 degrees 16 minutes 59 seconds East, 109.87 feet along the East line of said Lot 7 to the Northwest corner of Lot 8 of said subdivision; thence South 88 degrees 02 minutes 45 seconds East, 433.71 feet along the North line of said subdivision; thence North 00 degrees 28 minutes 55 seconds West, parallel to the North-South  $\frac{1}{4}$  line, 660.00 feet to the North line of Section 10; thence South 88 degrees 02 minutes 45 seconds East along the North line of Section 10, 66.00 feet to the North  $\frac{1}{4}$  corner; thence South 00 degrees 28 minutes 55 seconds East along the North-South  $\frac{1}{4}$  line, 300.00 feet; thence South 88 degrees 05 minutes 10 seconds East, parallel to the North line of Section 10, 30.00 feet; thence South 00 degrees 28 minutes 55 seconds East, parallel to the North-South  $\frac{1}{4}$  line, 556.34 feet; thence due East, 74.53 feet; thence due South, 240.00 feet; thence due West, 72.51 feet to the North-South  $\frac{1}{4}$  line; thence South 00 degrees 28 minutes 55 seconds East along the North-South  $\frac{1}{4}$  line, 907.74 feet; thence South 65 degrees 16 minutes 21 seconds East, 311.57 feet; thence South 00 degrees 50 minutes 34 seconds West, 360.47 feet to the North line of the Grand Trunk Western Railroad right-of-way; thence North 89 degrees 15 minutes 08 seconds West, along said North line, 906.17 feet to the East line of the Consumers Power Substation property; thence North 00 degrees 22 minutes 32 seconds West, 464.18 feet to the Northeast corner of said Consumers Power property; thence South 89 degrees 37 minutes 28 seconds West, 723.12 feet to the East line of said Consumers Power property; thence North 00 degrees 22 minutes 43 seconds West, 1324.83 feet along said East line to the point of beginning.

Tax ID: 59-10-100-030

Part of the "Emerald Estates Subdivision", as recorded in Liber 38 of Plats, Page 18, Genesee County, Michigan Records and also part of vacated Donegal Street, described as follows: Commencing at the North  $\frac{1}{4}$  of Section 10, Town 7 North, Range 7 East, City of Burton, Genesee County, Michigan; thence North 88 degrees 02 minutes 45 seconds West, along the North line of Section 10, a distance of 66.00 feet; thence South 00 degrees 28 minutes 55 seconds East, 660.00 feet to the North line of said "Emerald Estates Subdivision"; thence along said North line of "Emerald Estates Subdivision", North 88 degrees 02 minutes 45 seconds West, 433.71 feet and North 00 degrees 16 minutes 59 seconds West, 109.87 feet (platted as 110.00 feet) and North 88 degrees 02 minutes 45 seconds West, 763.74 feet (platted as 763.82 feet) to the Northwest corner of Lot 1 of said plat, and the point of beginning; thence along the Westerly line of said Lot 1, on a curve to the left, having a radius of 93.80 feet, with a chord bearing and distance of South 33 degrees 44 minutes 18 seconds East, 103.25 feet; thence on a curve to the right, having a radius of 153.80 feet, with a chord bearing and distance of South 39 degrees 38 minutes 29 seconds East, 141.98 feet; thence North 89 degrees 18 minutes 28 seconds West, 206.67 feet, to the West line of the East  $\frac{1}{2}$  of the Northwest  $\frac{1}{4}$  of said Section 10; thence North 00 degrees 22 minutes 43 seconds West, 194.75 feet to the North line extended West of said Lot 1 of "Emerald Estates Subdivision"; thence South 88 degrees 02 minutes 45 seconds East, 60.05 feet to the point of beginning.

Commonly known as: Davison Road Industrial Land, Burton, MI 48509



## EXHIBIT 2

## MDEQ LETTER APPROVING THIS AMENDED RESTRICTIVE COVENANT



STATE OF MICHIGAN  
DEPARTMENT OF ENVIRONMENTAL QUALITY  
LANSING DISTRICT OFFICE



C. HEIDI GREYER  
DIRECTOR

March 27, 2017

RACER Properties LLC  
500 Woodward Avenue, Suite 2650  
Detroit, Michigan 48226

RECEIVED APR - 3 2017

ATTENTION: Mr. Dave Favero

SUBJECT: Notice of Approval of the Amended Restrictive Covenant for  
Davison Road Industrial Land, Burton, Genesee County, Michigan;  
Facility ID No.: 25000447

The Michigan Department of Environmental Quality (MDEQ) has reviewed the attached Amended Declaration of Restrictive Covenant (Amended Restrictive Covenant) for the property located at Davison Road Industrial Land located in Burton, Genesee County, Michigan, Facility ID No.: 25000447, Tax Identification Nos.: 59-10-100-30 (0.575 acres) and 59-10-100-031 (55.63 acres) (Property) and legally described in Exhibit 1 of the attached Amended Restrictive Covenant. The Amended Restrictive Covenant is hereby approved subject to the Amended Restrictive Covenant remaining protective of public health, safety, and welfare, and the environment. This Approval Letter is intended to be included as Exhibit 2 in the Amended Restrictive Covenant when recorded with the Register of Deeds.

Revitalizing Auto Communities Environmental Response Trust has undertaken response activities at this Property under applicable Sections of Part 201, Environmental Remediation, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended, MCL 324.20101, *et seq.* Response activities that were implemented to address environmental contamination are fully described in the site file available from the MDEQ, Remediation and Redevelopment Division, Lansing District Office.

The instrument number of the recorded Restrictive Covenant is 201309300105450, recorded on September 30, 2013, with the Genesee County Register of Deeds.

The land use and resource use restrictions contained in the Amended Restrictive Covenant are based on information available to the MDEQ at the time the Restrictive Covenant was amended.

Based upon our evaluation of the Amended Restrictive Covenants and other information identified above pertaining to current site conditions, the MDEQ has determined that the restrictions contained in the Amended Restrictive Covenant are necessary to protect public health, safety, and welfare, and the environment in accordance with Part 201. The MDEQ expresses no opinion as to other contaminants beyond those identified and remediated as a part of the Amended Restrictive Covenant that relate to this Property.

CONSTITUTION HALL • 525 WEST ALLEGAN STREET • P.O. BOX 30242 • LANSING, MICHIGAN 48909-7742  
www.michigan.gov/deq • (517) 284-6651

RACER Properties LLC

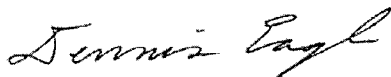
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March 27, 2017

The MDEQ also makes no warranty as to the fitness of this Property for any general or specific use, and prospective purchasers or users are advised to use due diligence prior to acquiring or using this Property.

If you have questions, please contact Mr. Jim Innes, project manager, at 517-284-5115, or [innesj@michigan.gov](mailto:innesj@michigan.gov); or you may contact me.

Sincerely,



Dennis Eagle, District Supervisor  
Lansing District Office  
Remediation and Redevelopment Division  
517-284-5089  
[eagled@michigan.gov](mailto:eagled@michigan.gov)

Attachment

cc: Mr. Mitch Adelman, MDEQ  
Ms. Kimberly Tyson, MDEQ  
Mr. Kevin Schrems, MDEQ  
Mr. Jim Innes, MDEQ

## EXHIBIT 3

## HAZARDOUS SUBSTANCES ABOVE CRITERIA IN SOILS AND GROUNDWATER

Media	Substance	Criteria <sup>1</sup> Exceeded
Soil	Ethylbenzene	NRDWP
	Naphthalene	NRDWP
	Styrene	NRDWP, GSIP
	Tetrachloroethylene	NRDWP, GSIP
	Trichloroethene	GSIP
	Fluoranthene	GSIP
	Phenanthrene	GSIP
	Aluminum	NRDWP
	Arsenic	NRDWP, GSIP
	Cobalt	NRDWP, GSIP
	Iron	NRDWPI
	Manganese	NRDWP, GSIP
	Selenium	GSIP
	Fluorene	NRDWP, GSIP
	Pentachlorophenol	GSIP
	Mercury	GSIP
	Dibenzofuran	GSIP
	Carbazole	GSIP
	Xylenes	GSIP

Media	Substance	Criteria <sup>1,2</sup> Exceeded
Groundwater	Arsenic	NRDW, GSI
	Iron	NRDW,
	Manganese	NRDW

**SOIL**

NRDWP- Non-Residential Drinking Water Protection

GSIP – Groundwater Surface Water Interface Protection

**GROUNDWATER**

NRDW – Non-Residential Drinking Water Criteria

GSI – Groundwater Surface Water Interface Criteria

1 – 1 – The substances and exceedances listed in this exhibit are based on a comparison of the data for the Property to MDEQ Part 201 Generic Cleanup Criteria – Non-Residential Soil and Groundwater Criteria, Table 1 and Table 2, dated December 30, 2013. However, it is noted that as of the date of this Restrictive Covenant, USEPA's authorization of the MDEQ RCRA Program includes the September 28, 2012 Part 201 Generic Cleanup Criteria.

2 - GSI Criteria were calculated pursuant to the "Calculation of Generic Facility-Specific Part 201 GSI Criteria for (G) Hazardous Substances" for Cadmium, Copper, Manganese and Zinc

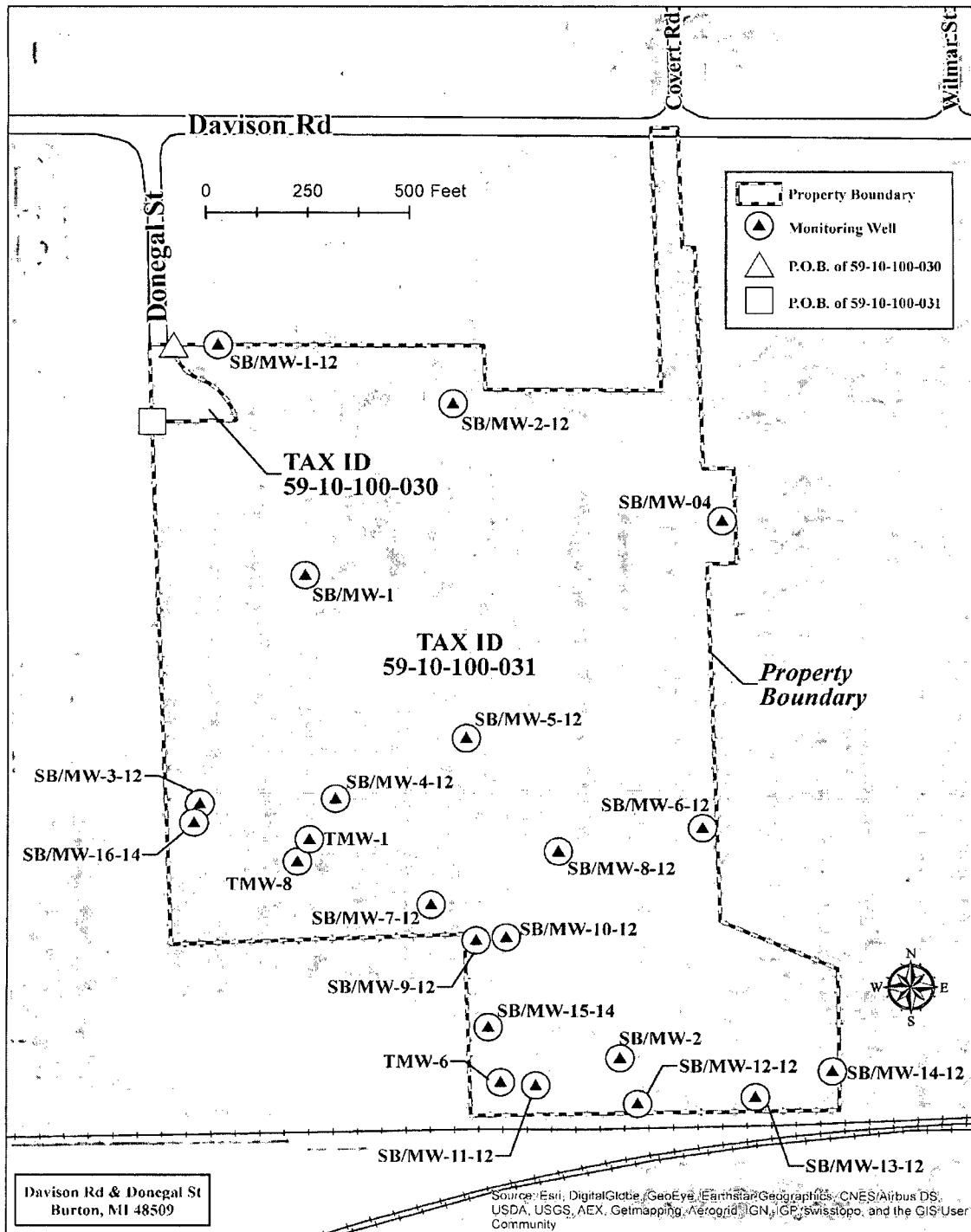
**EXHIBIT 4****DESCRIPTION OF ALLOWABLE USES**

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 nonresidential 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 5**  
**MONITORING WELLS**



**MONITORING WELL IDENTIFICATION NUMBERS AND LOCATIONS**

<b>Well ID</b>	<b>Northing</b>	<b>Easting</b>
SB/MW-1	558431.7852'	13320590.9320'
SB/MW-1-12	559022.8272'	13320366.6520'
SB/MW-2	557210.8073'	13321359.7560'
SB/MW-2-12	558864.4270'	13320935.9059'
SB/MW-3-12	557867.7706'	13320330.3884'
SB/MW-04	558576.5678'	13321606.7178'
SB/MW-4-12	557852.4469'	13320647.6418'
SB/MW-5-12	558018.5684'	13321018.0688'
SB/MW-6-12	557810.4848'	13321572.9262'
SB/MW-7-12	557611.2403'	13320911.6875'
SB/MW-8-12	557750.0727'	13321192.2475'
SB/MW-9-12	557520.0892'	13321024.5887'
SB/MW-10-12	557529.0797'	13321089.4155'
SB/MW-11-12	557146.2615'	13321181.1405'
SB/MW-12-12	557107.9676'	13321429.4618'
SB/MW-13-12	557138.8266'	13321690.2595'
SB/MW-14-12	557211.9121'	13321880.4688'
SB/MW-15-14	557304.0670'	13321043.5400'
SB/MW-16-14	557814.3070'	13320322.3600'
TMW-1	557773.6000'	13320589.4000'
TMW-6	557152.9000'	13321095.7000'
TMW-8	557711.5350'	13320575.9300'

Coordinates from Michigan State Plane Coordinate System NAD83, South zone, International Feet.