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COUNTY OF CONTRA COSTA

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COUNTY OF CONTRA COSTA
Contra Costa County Public Works Department
Attn: County Watershed Program
255 Glacier Drive
Martinez, CA 94553

Document Title

COUNTY OF CONTRA COSTA

COVENANT RUNNING WITH THE LAND,
STORMWATER MANAGEMENT FACILITIES OPERATION
AND MAINTENANCE AGREEMENT, AND RIGHT OF ENTRY

PROJECT: LP 10-2078 Warehouse Expansion Project

Bay Area News Group East Bay, LLC,

PROPERTY OWNER(S): as successor in interest to Leshar Communications, Inc.

ASSESSOR'S PARCEL NUMBER(S): 159-040-092

**COVENANT RUNNING WITH THE LAND,
STORMWATER MANAGEMENT FACILITIES
OPERATION AND MAINTENANCE AGREEMENT,
AND RIGHT OF ENTRY**

This Covenant Running with the Land, Stormwater Management Facilities Operation and Maintenance Agreement, and Right of Entry ("Agreement") is made and entered into this 14th day of November, 2011, by and between Bay Area News Group East Bay, a Delaware limited liability company ("Property Owner"), and the County of Contra Costa, a political subdivision of the State of California ("County").

DEFINITIONS

The following terms used in this Agreement have the meanings specified below:

County: The term "**County**" means the County of Contra Costa, its authorized officers, agents, and employees.

County Engineer: The term "**County Engineer**" means the Public Works Director for the County or his/her designee.

Maintain: The term "**maintain**," "**maintained**," or "**maintenance**" means taking all actions reasonably necessary to keep the Stormwater Facilities in first-class operation, condition, and repair, as described in the Stormwater Control Plan and the Operation and Maintenance Plan, which actions include but are not limited to: annual inspection and reporting, painting, cleaning, refinishing, repairing, replacing, and reconstructing the Stormwater Facilities, the payment of any applicable County fees, and in the case of landscaping, plant replacement, mulch replacement, irrigating, trimming, mowing, and fertilizing the landscaping.

NPDES Permit: The term "**NPDES Permit**" means the National Pollutant Discharge Elimination System (NPDES) Permit No. CAS612008 issued to the County and other co-permittees by the San Francisco Regional Water Quality Control Board, as amended, and as may be superseded by subsequent NPDES permits that are issued from time to time.

Operation and Maintenance Plan: The term "**Operation and Maintenance Plan**" means the Stormwater Control Operation and Maintenance Plan prepared by Aliquot Associates, Inc and deemed consistent with the Ordinance by the County, which may only be modified when, upon written application for such changes, the County Engineer, in his/her sole discretion, provides written consent to such changes. The Operation and Maintenance Plan and any approved changes are on file at the County Public Works Department.

Ordinance: The term "**Ordinance**" means Division 1014 of Title 10 of the Contra Costa County Code (Stormwater Management and Discharge Control), as may be amended from time to time.

Project: The term "**Project**" means LP 10-2078 Warehouse Expansion Project, which is being developed on the Property by the Property Owner.

Property: The term "**Property**" means that real property described in Exhibit A attached to this Agreement.

Property Owner: The term "**Property Owner**" and "**Property Owners**" means Bay Area News Group East Bay, and all heirs, successors, executors, administrators, and assigns of any interest in the Property, it being the intent of the parties that the obligations under this Agreement, as provided in Civil Code Section 1468, run with the Property.

Stormwater Control Plan: The term "**Stormwater Control Plan**" means the Stormwater Control Plan prepared by Aliquot Associates, Inc and deemed consistent with the Ordinance by the County, which may only be modified when, upon written application for such changes, the County Engineer, in his/her sole discretion, provides written consent to such changes. The Stormwater Control Plan and any approved changes are on file at the County Public Works Department.

Stormwater Facilities: The term "**Stormwater Facilities**" means the permanent stormwater management facilities and appurtenant design features located and constructed on the Property, as described in the Stormwater Control Plan and/or the Operation and Maintenance Plan.

RECITALS

This Agreement is made and entered into with reference to the following facts:

- A. The Property Owner is the owner of the Property and intends to develop the Property with impervious surfaces.
- B. The County owns, operates, and maintains public roads and/or drainage facilities in the vicinity of the Property, and the County is required to ensure that stormwater runoff from the Property meets the requirements of the NPDES Permit.
- C. To meet its obligations under the NPDES Permit, the County has required the Property Owner to construct the Stormwater Facilities.
- D. To meet its obligations under the NPDES Permit, the County has approved the Property Owner's Operation and Maintenance Plan and the Stormwater Control Plan for the Stormwater Facilities.
- E. To meet the County's obligations under the NPDES Permit, the County's Ordinance requires the Property Owner to properly operate and maintain in perpetuity of the Stormwater Facilities constructed on the Property.
- F. The Operation and Maintenance Plan and/or the Stormwater Control Plan include an annual inspection and reporting requirement and a continuing maintenance requirement for the Stormwater Facilities constructed on the Property.

AGREEMENT

NOW, THEREFORE, in consideration of the above premises, the sufficiency of which is acknowledged, the mutual covenants contained in this Agreement, and the following terms and conditions, the County and the Property Owner agree as follows:

SECTION 1

Responsibility for Operation and Maintenance: The Property Owner represents and warrants that the Stormwater Facilities have been designed and installed in strict accordance with the Stormwater Control Plan, Operation and Maintenance Plan, and the Ordinance. No portion of the Stormwater Facilities may be altered in any manner that is inconsistent with the Stormwater Control Plan or the Operation and Maintenance Plan without the prior, written consent of the County Engineer. The Property Owner shall continuously maintain the Stormwater Facilities in first-class operating condition, in strict accordance with the Stormwater Control Plan, the Operation and Maintenance Plan, and the Ordinance, and in compliance with all applicable federal, state, and local laws and regulations, as they may be amended from time to time.

The Property Owner shall engage a licensed landscape contractor or other licensed professional to undertake any of the following maintenance activities on the Property, unless the Property Owner receives prior, written approval of an alternative method from the County Engineer:

1. Diagnosis and correction of the Stormwater Facilities malfunctions that cannot be corrected through routine maintenance;
2. Application of fertilizer and/or pest control products within, under, or above the Stormwater Facilities;
3. Repair of private drainage system (including rain gutters, downspouts, area drains, risers, inlets, outlets, overflows, clean-outs, connectors, earthen and concrete conveyance swales, check dam/retaining walls, and catch basins);
4. Maintenance of irrigation system that may affect stormwater reaching the Stormwater Facilities;
5. Modification of site topography through yard and driveway grading that may affect stormwater reaching the Stormwater Facilities;
6. Subdrain cleaning/replacement (including perforated drain pipe); or
7. Replacement of engineered soil and mulch.

The County Engineer may, at any time, revoke approval of an alternate method for the maintenance of the Stormwater Facilities and require the Property Owner to hire a licensed landscape contractor or other licensed professional to undertake any of the activities mentioned in this section.

The County may require the Property Owner to amend the Stormwater Control Plan and/or the Operation and Maintenance Plan whenever the County deems amendments necessary to maintain compliance with the NPDES Permit. In that case, the Property Owner shall have the amendments prepared by a licensed engineer and promptly submit the amendments to the County Engineer for review and approval. All amendments proposed by the Property Owner are subject to the prior, written approval of the County Engineer. Whenever the Property Owner requests amendments to the Stormwater Control Plan and/or the Operation and Maintenance Plan, the Property Owner shall pay the County in advance for all staff time spent reviewing and taking action with respect to such request, whether or not the County Engineer approves the proposed amendments. All approved amendments to the Stormwater Control Plan and the Operation and Maintenance Plan will be kept on file at the County Public Works Department. The Property Owner shall promptly comply with all requirements of the Stormwater Control Plan and the Operation and Maintenance Plan, including any approved amendments.

SECTION 2

Inspection by Property Owner: The Property Owner shall inspect, at least annually, the Stormwater Facilities in accordance with this Agreement, including the requirements of the Operation and Maintenance Plan, the Stormwater Control Plan, and the Ordinance. The annual inspection shall include completion of the reporting form(s) required by the County, which form(s) will be provided annually to the Property Owner by the County. The Property Owner or a licensed contractor must submit the reporting form(s) to the County Engineer no later than the deadline indicated on the form(s). Upon review, the County may require additional information from either the Property Owner or an appropriately-licensed contractor.

SECTION 3

Right of Entry and Stormwater Facilities Inspection by the County: The Property Owner hereby grants permission to the County, its authorized agents and employees, and other agencies with an interest in the Stormwater Facilities, such as the Contra Costa County Flood Control and Water Conservation District, the Contra Costa Mosquito and Vector Control District, and the Regional Water Quality Control Board, to enter upon the Property at any reasonable time to inspect, assess, or observe the Stormwater Facilities for the purpose of ensuring that the Stormwater Facilities are being properly maintained and are continuing to perform in an adequate manner to protect water quality and the public health and safety. This includes the right to enter upon the Property whenever the County or other agency has a reasonable basis to believe that a violation of this Agreement, the Operation and Maintenance Plan, the Stormwater Control Plan, the Ordinance, or the Permit has occurred or is threatening to occur. It also includes the right for the County, its officers, agents, employees, and contractors to enter upon the Property to perform any maintenance or other obligations required of the Property Owner under this Agreement or to abate any nuisance in connection with the Stormwater Facilities. The County and the other agencies shall endeavor to provide reasonable notice to the Property Owner before entering the Property.

SECTION 4

Failure to Perform Required Stormwater Facilities Repairs or Maintenance by the Property Owner: If the Property Owner fails to maintain the Stormwater Facilities in good working order and in accordance with the approved Operation and Maintenance Plan, the Stormwater Control Plan, and the Ordinance, the County or its agents, with prior notice, may enter the Property to return the Stormwater Facilities to good working order. The County is under no obligation to maintain or repair the Stormwater Facilities, and this Agreement may not be construed to impose any such obligation on the County. If the County, under this section, performs any maintenance or repair work on the Stormwater Facilities, such action shall not be deemed or construed as an exercise of dominion and control by the County over the Stormwater Facilities or the Property. To the contrary, the Property Owner shall remain, at all times, obligated to maintain the Stormwater Facilities in accordance with this Agreement, the Stormwater Control Plan, the Operation and Maintenance Plan, and the Ordinance. If the County, under this section, performs any work to return Stormwater Facilities to good working order, the Property Owner shall reimburse the County for all the costs incurred by the County, including administrative costs. The County will provide the Property Owner with an itemized invoice of the County's costs and the Property Owner will have 30 days to pay the invoice. If the Property Owner fails to pay the invoice within 30 days, the County may secure a lien against the Property in the amount of such costs. In addition, the County may make the cost of abatement of the nuisance caused by the failure to maintain the Stormwater Facilities a special assessment against the Property, which assessment may be collected on the tax roll in accordance with applicable law. This section does not prevent the County from pursuing other remedies against the Property or the Property Owner, including but not limited to

those in the Ordinance and the nuisance abatement procedures in Division 14 of Title 1 (or successor provisions) of the Contra Costa County Ordinance Code.

If the Property Owner fails to maintain the Stormwater Facilities in accordance with this Agreement, the Operation and Maintenance Plan, the Stormwater Control Plan, or the Ordinance, the Property Owner shall be responsible for: (a) the costs of any code enforcement or nuisance abatement actions commenced by the County; and (b) the payment of, or reimbursement to the County for, any fines or penalties that may be levied against the County by the Regional Water Quality Control Board or any other regulatory agency, to the extent that the fines or penalties result from the Property Owner's failure to properly maintain the Stormwater Facilities. The County may recover such costs, fines, or penalties from the Property Owner in the same manner as provided in the preceding paragraph.

SECTION 5

Indemnity: The Property Owner agrees to defend, indemnify, save, and hold harmless the County, its governing board, officers, agents, and employees from any and all demands, losses, claims, costs, suits, liabilities, and expenses for any property damage, personal injury, or death arising directly or indirectly from or connected with the design, construction, use, operation, or maintenance of the Stormwater Facilities by the Property Owner or the presence or existence of the Stormwater Facilities on the Property, except for claims, costs, or liabilities resulting from the sole negligence or sole willful misconduct of the County. The Property Owner's obligations under this section shall include the payment of penalties, fines, attorneys' fees, experts' fees, costs, and litigation expenses, as well as liability for the release or existence of any hazardous materials on, under, or in the Property. If any action or proceeding is brought against any of the indemnitees, the Property Owner shall reimburse the indemnitees for any expenditures, including reasonable attorneys' fees and costs, incurred by the indemnitees, and if requested by any of the indemnitees, shall defend the action or proceeding at the Property Owner's sole expense with counsel reasonably acceptable to the indemnitees.

SECTION 6

Covenant Running with the Land: The covenants of the Property Owner set forth above shall run with the land and shall be binding upon each and every part of the Property and upon the Property Owner and the Property Owner's successors and assigns in ownership of any interest in the Property. The covenants shall inure to the benefit of and be enforceable by the County, its successors, and assigns in ownership of each and every part of the public roads, drainage facilities, and other public land rights located in the vicinity of the Property.

SECTION 7

Severability: Invalidation of any one of the provisions of this Agreement shall in no way affect any other provisions and all other provisions shall remain in full force and effect.

SECTION 8

No Dedication for Public Use: The provisions of this Agreement shall not be construed to constitute a dedication for public use, either express or implied, and any actions by the County to enforce this Agreement, including without limitation code enforcement or nuisance abatement actions, shall not be deemed to involve the exercise by the County of dominion or control over the Stormwater Facilities or the Property.

SECTION 9

Notices: All notices required by this Agreement or by law shall be in writing and shall be delivered in person or sent by certified mail, postage pre-paid.

Notices required to be given to the County shall be addressed as follows:

Contra Costa County Public Works Department
Attention: County Watershed Program
255 Glacier Drive
Martinez, CA 94553

Notices required to be given to the Property Owner, including any heirs, successors, or assigns, will be sent to the mailing address for the Property Owner that is on file with the Contra Costa County Assessor. The Property Owner may request in writing that notices be sent to an additional address.

Any party may change its address or contact person by notice in writing to the other party and thereafter notices shall be addressed and transmitted to the new address and/or new contact person.

SECTION 10

Effective Date and Modification: This Agreement is effective upon the date stated at the beginning of this Agreement. This Agreement shall not be modified except by written instrument executed by the County and the Property Owner at the time of modification. Such modifications shall be effective upon the date of execution and shall be recorded.

County

Contra Costa County, a political subdivision of the State of California

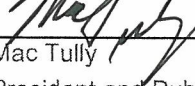
By: _____
Julia R. Bueren, Public Works Director

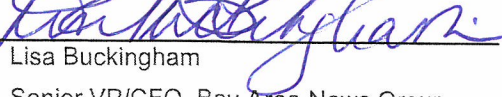
RECOMMENDED FOR APPROVAL:
Julia R. Bueren, Public Works Director

By: _____

Property Owner

Bay Area News Group East Bay, LLC

By: 
Mac Tully
President and Publisher, Bay Area News Group

By: 
Lisa Buckingham
Senior VP/CFO, Bay Area News Group

APPROVED AS TO FORM:
Sharon L. Anderson,
County Counsel

By: _____
David F. Schmidt,
Deputy County Counsel

Attachments: Acknowledgment
Exhibit A

ALL PURPOSE ACKNOWLEDGMENT

State of California)

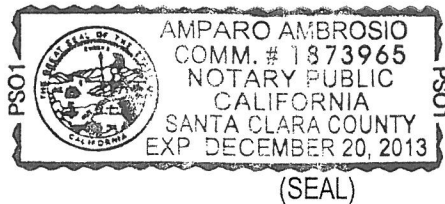
County of Santa Clara) s.s.

On November 18, 2011, before me, Amparo Ambrosio,
Notary Public, personally appeared Lisa Buckingham and
Mac Tully, who 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.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and
correct.

WITNESS my hand and official seal.

Amparo Ambrosio
Signature of Notary Public



CAPACITY CLAIMED BY SIGNER:

Though statute does not require the notary to fill in the data below, doing so may prove invaluable to persons relying on
the document.

____ Individual(s)
____ Corporate Officer(s) Titles _____ and _____
____ Partner(s) _____ Limited _____ General
____ Attorney-in-Fact
____ Trustee(s)
____ Guardian/Conservator
____ Other: _____

Signer is representing: _____

ATTENTION NOTARY: Although the information requested below is optional, it could prevent fraudulent attachment of
this certificate to unauthorized document.

Title or type of document: _____

Number of pages: _____ Date of document: _____

Signer(s) other than named above: _____

THIS CERTIFICATE MUST BE ATTACHED TO THE DOCUMENT DESCRIBED ABOVE

LP 10-02078

EXHIBIT "A"

All that real property situated in the County of Contra Costa, State of California, described as follows:

All of that land described in the deed from **Contra Costa Newspapers, LLC**, a California Limited Liability Company to **Contra Costa Newspapers, LLC**, a California Limited Liability Company, recorded and on file at the County Recorder's Office as follows:

Date: April 17, 2007

Series No.: 2007-0111744-00