

RECEIVED

SEP 13 2018

Environmental Response &
Remediation

When Recorded Return To:
Alta Gateway Owner, LLC
4600 South Syracuse Street, Suite 210
Denver, Colorado 80237

With Copy To:
Project Manager, Voluntary Cleanup Program Site ID C082
Utah Department of Environmental Quality
Division of Environmental Response and Remediation
P.O. Box 144840
Salt Lake City, Utah 84114-4840

Parcel No. [1501108033000]

ENVIRONMENTAL COVENANT

This environmental covenant is made pursuant to the Utah Uniform Environmental Covenants Act, Utah Code Ann. Section 57-25-101, et seq. (the "Utah Act"). Alta Gateway Owner, LLC., as grantor ("Grantor") makes and imposes this environmental covenant upon the property more particularly described in Exhibit A attached hereto (the "Property"). This environmental covenant shall run with the land, pursuant to and subject to the Utah Act.

1. Notice. Notice is hereby given that the Property is or may be contaminated with a regulated substance and therefore this environmental covenant is imposed to mitigate the risk to public health, safety and the environment.
2. Environmental Response Project. An environmental response project was conducted on the Property under the authority of the Voluntary Cleanup Program, Title 19, Chapter 8 of the Utah Code Ann. that is administered by the Division of Environmental Response and Remediation ("DERR") in the Utah Department of Environmental Quality ("UDEQ"). The Property was enrolled into UDEQ's Voluntary Cleanup Program ("VCP") and was assigned the VCP Site ID C082. The Property was designated as the "Alta Gateway site."

The following paragraphs summarize the remedial work performed at the Property.

Prior investigations identified polycyclic aromatic hydrocarbons ("PAHs"), lead, and arsenic in soils at concentrations that exceeded the EPA's May 2018 Regional Screening Levels for residential land use ("Cleanup Levels"), from the ground surface to depths ranging from approximately 3 to 7.5 feet below the ground surface, and volatile organic compounds ("VOCs") in soil gas at concentrations that exceed EPA's May 2018 Vapor Intrusion Screening Levels ("VISLs"). Groundwater samples did not identify PAH impacts, and metals concentrations in groundwater were within the range of typical background concentrations. Arsenic was reported in one of the groundwater samples at a 0.012 mg/L, which exceeded the EPA's Maximum Contaminant Level ("MCL") for drinking water of 0.010 mg/L.

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A Remedial Action Plan was developed and implemented to address impacted soils. Impacted soils were excavated to approximately 8 feet below the ground surface across the entire Property and disposed off-site. Confirmation samples were collected after the removal. Lead and arsenic were below Cleanup Levels. PAHs reported in soils remaining in the floor of the excavation were at concentrations less than the Cleanup Levels. PAH-impacted soils remained at concentrations above the Cleanup Levels in each of the four walls of the excavation. As the wall samples were collected at the property boundaries, these constituents are not considered to be present on the Property, but rather representative of concentrations present just beyond the property boundaries. A vapor mitigation system was installed beneath each occupied building on the Property to address the VOCs identified in soil gas. The system consists of a vapor barrier and a passive venting system.

3. Grantor. The Grantor of this environmental covenant, Alta Gateway Owner, LLC, is the Owner of the Property as defined in Paragraph 4.

4. Owner. The "Owner" of the Property is a person who controls, occupies, or holds an interest (other than this environmental covenant) in the Property at any given time. Because this environmental covenant runs with the land, the obligations of the Owner are transferred to assigns, successors-in-interest, including without limitation to future owners of an interest in fee simple, mortgagees, lenders, easement holders, lessees, and any other person or entity who acquires any interest whatsoever in the Property, or any portion thereof, whether or not any reference to this environmental covenant or its provisions are contained in the deed or other conveyance instrument, or other agreements by which such person or entity acquires its interest in the Property or any portion thereof ("Transferees"). Upon transfer of an Owner's interest in the Property, the transferee shall have all obligations as an Owner and the transferor (the prior Owner) shall have no further rights or obligations hereunder. Notwithstanding the foregoing, nothing herein shall relieve Owner during the time it holds an interest in the Property of its responsibilities to comply with the terms hereof and all other provisions of applicable law or of responsibility for its failure to comply during the time it held an interest in the Property.

5. Holder. Alta Gateway Owner, LLC., shall be the grantee ("Holder") of this environmental covenant as defined in Sections 57-25-102(6), 103(1), 103(3)(b). Holder may enforce this environmental covenant. Holder's obligations hereunder are limited to the specific provisions and the limited purposes described herein. Subject to the provisions hereof, Holder's rights and obligations survive the transfer of the Property.

6. Agency. The UDEQ is the Agency (as defined in the Utah Act) under this environmental covenant. The Agency may be referred to herein as the Agency or the UDEQ. The Agency may enforce this environmental covenant. The Agency assumes no affirmative duties through the execution of this environmental covenant.

7. Administrative Record. The environmental response project is assigned Voluntary Cleanup Program Site ID C082, on file with the DERR.

8. Activity and Use Limitations. As part of the environmental response project described above, the following activity and use limitations are imposed on the Property.

a. Groundwater Use Limitations. Groundwater shall not be used for drinking water, irrigation or bathing purposes.

b. Maintenance and Evaluation of Vapor Mitigation System. The Owner shall prevent the vapor mitigation system from being damaged. The Owner shall maintain the vapor mitigation system consistent with the Site Management Plan, dated August 10, 2018, as may be amended from time to time (“SMP”) without amendment to the Environmental Covenant. The SMP is available in the Administrative Record.

In the event additional occupied buildings are constructed on the Property, or if the Property is otherwise redeveloped, the requirements for vapor mitigation will need to be re-evaluated and discussed with and approved by the UDEQ.

c. Worker Health and Safety Requirements. The Owner shall inform any workers conducting work at the Property boundaries of the potential soil impacts that could be encountered in the subsurface beyond the Property boundaries. The Owner shall require contractors that work on the Property, and that could come into contact with soil impacts, to comply with the SMP and have a Health and Safety Plan that specifically addresses the tasks and potential contaminants that could be encountered and any personal protective equipment (PPE) that is required. It will be the contractor’s responsibility to ensure worker protection meets the Occupational Safety and Health Administration’s (“OSHA’s”) requirements.

d. Compliance Reporting. Owner or Holder shall submit written documentation to the UDEQ in a manner consistent with the SMP verifying that the activity and use limitations remain in place and are being followed.

9. Compliance Enforcement. This environmental covenant may be enforced pursuant to the Utah Act. Failure to timely enforce compliance with this environmental covenant or the activity and use limitations contained herein shall not bar subsequent enforcement, and shall not be deemed a waiver of a right to take action to enforce any non-compliance. Nothing in this environmental covenant shall restrict the Agency from exercising any authority under applicable law.

10. Rights of Access. The right of access to the Property is permanently granted to the Agency and the Holders and their respective contractors for necessary response actions, inspections, implementation and enforcement of this environmental covenant.

11. Notice upon Conveyance. Owner shall notify the Agency and Holder within *twenty* (20) days after each transfer of ownership of all or any portion of the Property. Owner's notice to the Agency and Holder shall include the name, address and telephone number of the Transferee, a copy of the deed or other documentation evidencing the conveyance, and an unsurveyed plat that shows the boundaries of the property being transferred. Instruments that convey any interest in the Property (fee, ground lease, easement, encumbrance, etc.) shall include a notification to the person or entity who acquires the interest that the Property is subject to this environmental covenant and shall identify the date, entry no., book and page number at which this document is recorded in the records of the Salt Lake County Recorder, in the State of Utah. Failure to provide notification shall have no effect upon the enforceability and duty to comply with this environmental covenant.

12. Representations and Warranties. Grantor hereby represents and warrants to the other signatories hereto:

- a. that it is the sole fee simple owner of the Property;
- b. that it has the power and authority to enter into this environmental covenant, to grant the rights and interests herein provided and to carry out all obligations hereunder;
- c. that it has identified all other persons that own an interest in or hold an encumbrance on the Property, has notified such persons of its intention to enter into this environmental covenant, and has notified the Agency of the names and contact information of the persons holding such encumbrances as provided in Paragraph 17, below, entitled: "Notice;" and,
- d. that this environmental covenant will not materially violate or contravene or constitute a material default under any other agreement, document, or instrument to which it is a party or by which it may be bound or affected.

13. Amendment or Termination. This environmental covenant may be amended or terminated pursuant to the Utah Act. Except as set forth herein, Grantor and Holder waive any and all rights to consent or notice of amendment concerning any parcel of the Property to which Grantor or Holder has no fee simple interest at the time of amendment or termination.

14. Effective Date, Severability and Governing Law. The effective date of this environmental covenant shall be the date upon which the fully executed environmental covenant has been recorded as a document of record for the Property with the Salt Lake County Recorder. If any

provision of this environmental covenant is found to be unenforceable in any respect, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired. This environmental covenant shall be governed by and interpreted in accordance with the laws of the State of Utah.

15. Recordation and Distribution of Environmental Covenant. Within *thirty (30)* days after the date of the final required signature upon this environmental covenant, Grantor shall file this environmental covenant for recording in the same manner as a deed to the Property, with the Salt Lake County Recorder's Office. Grantor shall distribute a file-and-date stamped copy of the recorded environmental covenant to the Agency.

16. Reimbursement of UDEQ's Costs: Holder and Owner are jointly and severally responsible for payment of UDEQ's costs. Holder, on behalf of the Owner(s), shall reimburse UDEQ for all costs incurred by the UDEQ in connection with UDEQ's review, inspection involvement, enforcement or other activities contemplated in this environmental covenant. In the event either Holder or Owner incurs any costs or expenses in enforcing any provision hereof against an Owner or Holder, as the case may be, who fails to comply herewith, the Owner of Holder who is in default under this environmental covenant shall reimburse the non-defaulting party in full for all costs and expenses, including reasonable attorney's fees, incurred by the non-defaulting party in connection with such activities, provided that in no event shall the foregoing be deemed to obligate UDEQ to reimburse Owner or Holder for any costs, expenses, or attorney fees. Nothing herein shall be deemed to supersede or prohibit any separate agreement among Holder and Owner(s) as such agreement relates to the sharing of such costs.

17. Notice. Unless otherwise notified in writing by or on behalf of the pertinent party any document or communication required by this environmental covenant shall be submitted to:

If to the UDEQ:

Project Manager, Voluntary Cleanup Program Site ID C082
Division of Environmental Response and Remediation
Utah Department of Environmental Quality
P.O. Box 144840
Salt Lake City, Utah 84114-4840

If to Alta Gateway Owner, LLC:

Alta Gateway Owner, LLC
Clay Iman, Vice President
4600 South Syracuse Street, Suite 210
Denver, Colorado 80237

18. Governmental Immunity. In executing this covenant, the Agency does not waive governmental immunity afforded by law. The Grantor, Owner, and Holder, for themselves and their successors, assigns, and Transferees, hereby fully and irrevocably release and covenant not to sue the State of Utah, its agencies, successors, departments, agents, and employees (“State”) from any and all claims, damages, or causes of action arising from, or on account of the activities carried out pursuant to this environmental covenant except for an action to amend or terminate the environmental covenant pursuant to Sections 57-25-109 and 57-25-110 of the Utah Code Ann. or for a claim against the State arising directly or indirectly from or out of actions of employees of the State that would result in (i) liability to the State of Utah under Section 63G-7-301 of the Governmental Immunity Act of Utah, Utah Code Ann. Section 63G-7-101, et seq. or (ii) individual liability for actions not covered by the Governmental Immunity Act as indicated in Sections 63G-7-202 and 902 of the Governmental Immunity Act, as determined in a court of law.

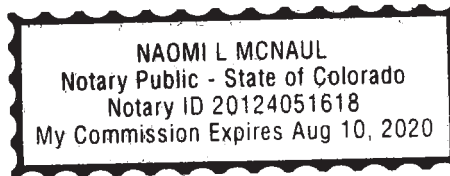
**Alta Gateway Owner, LLC, a Delaware limited liability company
as Grantor, Owner, and Holder**

By: Alta Gateway Holdings, LLC, its manager
By: Wood Gateway, LLC, its managing member
By: WP West Development Enterprises, LLC, its manager,
By: Clay Iman
Its: Vice President

Clay Iman
Clay Iman, Vice President

9/10/18
Date

State of Colorado
County of Arapahoe : ss.



On this 10th day of September, 2018 appeared before me, Clay Iman, as vice president of WP West Development Enterprises, LLC, as manager of Wood Gateway, LLC, as manager of Alta Gateway Holdings, LLC, as the manager of Alta Gateway Owner, LLC, who, his identity and position having been satisfactorily established to me, affirmed to me upon oath that the governing body of Alta Gateway Owner, LLC, Grantor, Owner, and Holder herein has authorized him to execute the foregoing environmental covenant, and did duly acknowledge in my presence having executed the same for the purposes stated therein.

Naomi L. McNaul
Notary Public

UTAH DEPARTMENT OF ENVIRONMENTAL QUALITY

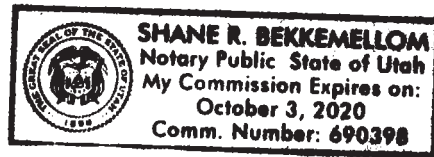
The Utah Department of Environmental Quality authorized representative identified below hereby approves the foregoing environmental covenant pursuant to Utah Code Ann. Sections 57-25-102(2) and 57-25-104(1)(e).

Brent H. Everett
Brent H. Everett, Director
Division of Environmental Response and Remediation
Utah Department of Environmental Quality

17 SEPTEMBER 2018
Date

State of Utah)
 : ss.
County of Salt Lake)

On this 17th day of September, 20 18 appeared before me Brent H. Everett, an authorized representative of the Utah Department of Environmental Quality, personally known to me, or whose identity has been satisfactorily established to me, who acknowledged to me that he executed the foregoing environmental covenant.



Shane R. Bekkemellom
Notary Public

Exhibit A

Property Legal Description

**Alta Gateway Voluntary Cleanup Program
Property Legal Description:**

Lot 1, McCarthy's Subdivision, according to the official plat thereof, recorded June 9, 2015 as Entry No. 12067482 in Book 2015P at Page 128 in the office of the Salt Lake County Recorder.