

Belmont Beverage

Stores of Indiana

Main Office
3305 North Anthony Boulevard
Fort Wayne, Indiana 46805
(260) 424-4604
FAX: (260) 424-3301



**Chalet
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Retailers of: Fine Wines • Spirits • Ale

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MAR 20 2017

INDIANA FINANCE AUTHORITY
ENVIRONMENTAL PROGRAMS

Indiana Brownfields Program
100 North Senate Avenue, Room 1275
Indianapolis, Indiana 46204
Attn: Dawn Andershock

To whom it may concern:

We recorded and filed one Environmental Restrictive Covenants for parcel 02-12-01-311-006.000-074 via 2017005502 and for parcels 02-12-02-480-006.000-074 and 02-12-02-480-007.000-074 via 201705503 with the Allen County Recorder's office. Copies are attached.

Please let me know if you need further information.

Thank you,

Clair

Clair McKinley

President

RECEIVED

MAR 20 2017



Tx:4256001

INDIANA FINANCIAL THROTTLE /
ENVIRONMENTAL PROGRAM

2017003502

RECORDED: 01/23/2017 4:06:01 PM

ANITA MATHER

ALLEN COUNTY RECORDER

FORT WAYNE, IN

Environmental Restrictive Covenant

THIS ENVIRONMENTAL RESTRICTIVE COVENANT is made this 24th day of January, 2017, by Grey Real Estate, LLC ("Owner").

WHEREAS: Owner is the fee owner of certain real estate in the County of Allen, Indiana, which is located at 929 South Lafayette Street in Fort Wayne and more particularly described in the attached **Exhibit "A"** ("Real Estate"), which is hereby incorporated and made a part hereof. The Real Estate was acquired by deed on December 29, 2015, and recorded on December 30, 2015 as Deed Record 2015066313 in the Office of the Recorder of Allen County, Indiana. The Real Estate, consists of approximately 0.43 acres and is identified by the State by parcel identification numbers 02-12-01-311-006.000-074. The Real Estate to which this Covenant applies is depicted on a map attached hereto as **Exhibit "B"**.

WHEREAS: A Comfort Letter, a copy of which is attached hereto as **Exhibit "C"**, was prepared and issued by the Indiana Department of Environmental Management ("the Department" or "IDEM") pursuant to the Indiana Brownfields Program's ("Program") recommendation at the request of the Owner to address the redevelopment potential of the Real Estate which is one of three parcels comprising a brownfield site ("Site") resulting from a release of petroleum contamination relating to historical operations on the Real Estate, Program site number BFD # 4160509.

WHEREAS: The Comfort Letter, as approved by the Department, provides that a certain contaminant of concern ("COC") was detected in ground water on one of the Site parcels adjoining the Real Estate but will not pose an unacceptable risk to human health at the detected concentration provided that the land use restrictions contained herein are implemented and maintained to ensure the protection of public health, safety, or welfare, and the environment. The COC is benzene.

WHEREAS: Soil and ground water on the Real Estate were sampled for total petroleum hydrocarbons ("TPH"), volatile organic compounds ("VOCs"), polyaromatic hydrocarbons ("PAHs"), semi-volatile organic compounds ("SVOCs"), and Resource Conservation & Recovery Act-8 metals ("RCRA-8 metals"). No contaminants were detected on soil or in ground water on the Real Estate above applicable screening levels established by IDEM in the Remediation Closure Guide ("RCG") (March 22, 2012 and applicable revisions); however, investigations detected a level of benzene above the IDEM RCG residential tap ground water screening level at GP1 on a Site parcel adjoining the Real Estate. Ground water analytical results above the applicable RCG screening levels from the adjoining Site parcel are summarized on Table 1, attached hereto as **Exhibit "D"**. A site map, attached hereto as **Exhibit "E"**, depicts the sample location on the Site parcel adjoining the Real Estate at which the COC was detected in ground water above the applicable RCG screening level.

AUDITOR'S OFFICE

Duty entered for taxation, Subject
to final acceptance for transfer.

JAN 26 2017

AUDITOR OF ALLEN COUNTY

determined that the land use restriction contained in this Covenant will enable the Real Estate to be used safely for commercial use.

WHEREAS: Environmental reports and other documents related to the Real Estate are hereby incorporated by reference and may be examined at the Public File Room of the Department, which is located in the Indiana Government Center North at 100 N. Senate Avenue, 12th Floor East, Indianapolis, Indiana. The documents may also be viewed electronically by searching the Department's Virtual File Cabinet on the Web at: <http://www.in.gov/idem/4101.htm>.

NOW THEREFORE, Grey Real Estate, LLC subjects the Real Estate to the following restrictions and provisions, which shall be binding on Grey Real Estate, LLC and all future owners:

I. RESTRICTIONS

1. Restriction. The Owner and all future owners:
 - (a) Shall not use or allow the use or extraction of ground water at the Real Estate for any purpose, including, but not limited to, human or animal consumption, gardening, industrial processes, or agriculture, without prior Department approval, except that ground water may be extracted in conjunction with environmental investigation and/or remediation activities.

II. GENERAL PROVISIONS

2. Restrictions to Run with the Land. The restrictions and other requirements described in this Covenant shall run with the land and be binding upon, and inure to the benefit of the Owner of the Real Estate and the Owner's successors, assignees, heirs and lessees or their authorized agents, employees, contractors, representatives, agents, lessees, licensees, invitees, guests, or persons acting under their direction or control ("Related Parties") and shall continue as a servitude running in perpetuity with the Real Estate. No transfer, mortgage, lease, license, easement, or other conveyance of any interest in all or any part of the Real Estate by any person shall limit the restrictions set forth herein. This Covenant is imposed upon the entire Real Estate unless expressly stated as applicable only to a specific portion thereof.
3. Binding upon Future Owners. By taking title to an interest in or occupancy of the Real Estate, any subsequent owner or Related Party agrees to comply with all of the restrictions set forth in paragraph 1 above and with all other terms of this Covenant.
4. Access for Department. The Owner shall grant to the Department and its designated representatives the right to enter upon the Real Estate at reasonable

times for the purpose of determining whether the land use restrictions set forth in paragraph 1 above are being properly maintained (and operated, if applicable) in a manner that ensures the protection of public health, safety, or welfare and the environment. This right of entry includes the right to take samples, monitor compliance with the remediation work plan (if applicable), and inspect records.

5. Written Notice of the Presence of Contamination. Owner agrees to include in any instrument conveying any interest in any portion of the Real Estate, including but not limited to deeds, leases and subleases (excluding mortgages, liens, similar financing interests, and other non-possessory encumbrances) the following notice provision (with blanks to be filled in):

NOTICE: THE INTEREST CONVEYED HEREBY IS SUBJECT TO AN ENVIRONMENTAL RESTRICTIVE COVENANT, DATED 1-24, 2011, RECORDED IN THE OFFICE OF THE RECORDER OF ALLEN COUNTY ON 1-21-17, 20 , INSTRUMENT NUMBER (or other identifying reference) 2017005503 IN FAVOR OF AND ENFORCEABLE BY THE INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT.

6. Notice to Department of the Conveyance of Property. Owner agrees to provide notice to the Department of any conveyance (voluntary or involuntary) of any ownership interest in the Real Estate (excluding mortgages, liens, similar financing interests, and other non-possessory encumbrances). Owner must provide the Department with the notice within thirty (30) days of the conveyance and include (a) a certified copy of the instrument conveying any interest in any portion of the Real Estate, and (b) if the instrument has been recorded, its recording reference(s), and (c) the name and business address of the transferee.
7. Indiana Law. This Covenant shall be governed by, and shall be construed and enforced according to, the laws of the State of Indiana.

III. ENFORCEMENT

8. Enforcement. Pursuant to IC 13-14-2-6 and other applicable law, the Department may proceed in court by appropriate action to enforce this Covenant. Damages alone are insufficient to compensate the Department if any owner of the Real Estate or its Related Parties breach this Covenant or otherwise default hereunder. As a result, if any owner of the Real Estate, or any owner's Related Parties, breach this Covenant or otherwise default hereunder, the Department shall have the right to request specific performance and/or immediate injunctive relief to enforce this Covenant in addition to any other remedies it may have at law or at equity. Owner agrees that the provisions of this Covenant are enforceable and agrees not to

challenge the provisions or the appropriate court's jurisdiction.

IV. TERM, MODIFICATION AND TERMINATION

9. Term. The restrictions shall apply until the Department determines that contaminants of concern on the Real Estate no longer present an unacceptable risk to the public health, safety, or welfare, or to the environment.
10. Modification and Termination. This Covenant shall not be amended, modified, or terminated without the Department's prior written approval. Within thirty (30) days of executing an amendment, modification, or termination of the Covenant, Owner shall record such amendment, modification, or termination with the Office of the Recorder of Allen County and within thirty (30) days after recording, provide a true copy of the recorded amendment, modification, or termination to the Department.

V. MISCELLANEOUS

11. Waiver. No failure on the part of the Department at any time to require performance by any person of any term of this Covenant shall be taken or held to be a waiver of such term or in any way affect the Department's right to enforce such term, and no waiver on the part of the Department of any term hereof shall be taken or held to be a waiver of any other term hereof or the breach thereof.
12. Conflict of and Compliance with Laws. If any provision of this Covenant is also the subject of any law or regulation established by any federal, state, or local government, the strictest standard or requirement shall apply. Compliance with this Covenant does not relieve the Owner from complying with any other applicable laws.
13. Change in Law, Policy or Regulation. In no event shall this Covenant be rendered unenforceable if Indiana's laws, regulations, guidelines, or remediation policies (including those concerning environmental restrictive covenants, or institutional or engineering controls) change as to form or content. All statutory references include any successor provisions.
14. Notices. Any notice, demand, request, consent, approval or communication that either party desires or is required to give to the other pursuant to this Covenant shall be in writing and shall either be served personally or sent by first class mail, postage prepaid, addressed as follows:

To Owner:
Grey Real Estate, LLC
14227 Briarcliff Pt.
Fort Wayne, IN 46814
ATTN: Clair McKinley

To Department:
Indiana Brownfields Program
100 N. Senate Avenue, Rm. 1275
Indianapolis, Indiana 46204
ATTN: Dawn Andershock

Any party may change its address or the individual to whose attention a notice is to be sent by giving written notice in compliance with this paragraph.

15. Severability. If any portion of this Covenant or other term set forth herein is determined by a court of competent jurisdiction to be invalid for any reason, the surviving portions or terms of this Covenant shall remain in full force and effect as if such portion found invalid had not been included herein.
16. Authority to Execute and Record. The undersigned person executing this Covenant represents that he or she is the current fee Owner of the Real Estate or is the authorized representative of the Owner, and further represents and certifies that he or she is duly authorized and fully empowered to execute and record, or have recorded, this Covenant.

Owner hereby attests to the accuracy of the statements in this document and all attachments.

IN WITNESS WHEREOF, Grey Real Estate, LLC, the said Owner of the Real Estate described above has caused this Environmental Restrictive Covenant to be executed on this 24th day of January, 2017.

Clair McKinley
Grey Real Estate, LLC

STATE OF Indiana
COUNTY OF Allen) SS:

Before me, the undersigned, a Notary Public in and for said County and State, personally appeared Clair McKinley, the Managing Partner of the Owner, Grey Real Estate, LLC who acknowledged the execution of the foregoing instrument for and on behalf of said entity.

Witness my hand and Notarial Seal this 24 day of January, 2017.



Elizabeth Thomas, Notary Public
Residing in Allen County, Indiana

My Commission Expires: 6/14/20

This instrument prepared by: Clair T. McKinley

I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law.

Clair T. McKinley (Printed Name of Declarant)

EXHIBIT A

Special Warranty Deed for the Real Estate

2015066312

RECORDED: 12/30/2015 4:47:42 PM

ANITA MATHER

ALLEN COUNTY RECORDER

FORT WAYNE, IN

Tax PIN Numbers: 02-12-02-480-006,000-074
02-12-02-480-007,000-074

Wayne 135020

1524712

TITAN TITLE SERVICES, LLC

Mail tax notice for:
Grey Real Estate, LLC
14227 Brincliffe Point
Fort Wayne, IN 46814

SPECIAL WARRANTY DEED

GREYHOUND LINKS, INC., a Delaware corporation ("Grantor"), for and in consideration of the sum of \$10.00 and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, has GRANTED, BARGAINED, SOLD, and CONVEYED and by these presents does GRANT, BARGAIN, SELL, and CONVEY unto GREY REAL ESTATE, LLC, an Indiana limited liability company ("Grantee"), the tract or parcel of land in Allen County, Indiana, described in Exhibit A, together with all rights, titles, and interests appurtenant thereto including, without limitation, Grantor's interest, if any, in any and all adjacent streets, alleys, rights of way and any adjacent strips and gores (such land and interests are hereinafter collectively referred to as the "Property").

This Special Warranty Deed and the conveyance hereinabove set forth is executed by Grantor and accepted by Grantee subject to all easements, restrictions, reservations and covenants now of record and further subject to all matters that a current, accurate survey of the Property would show, together with the matters described in Exhibit B attached hereto and incorporated herein by this reference, to the extent the same are validly existing and applicable to the Property (hereinafter referred to collectively as the "Permitted Exceptions").

TO HAVE AND TO HOLD the Property, together with all and singular the rights and appurtenances thereto in anywise belonging, unto Grantee, its successors and assigns forever, and Grantor does hereby bind itself, its successors and assigns, to WARRANT AND FOREVER DEFEND all and singular the title to the Property unto the said Grantee, its successors and assigns against every person whomsoever lawfully claiming or to claim the same or any part thereof by, through, or under Grantor but not otherwise, subject to the Permitted Exceptions.

SPECIAL WARRANTY DEED -- Page 1

AUDITOR'S OFFICE
Duly entered for taxation. Subject
to final acceptance for transfer.

Dec 30 2015

TITAN KLUTZ
AUDITOR OF ALLEN COUNTY

EXHIBIT A

DESCRIPTION OF THE PROPERTY

PARCEL I:

Part of Lots 55 and 56 in Hanna's Addition to the City of Fort Wayne, Indiana, according to the plat thereof, recorded in Deed Record "B", page 447, in the Office of the Recorder of Allen County, Indiana, described as follows:

Beginning at a point on the West line of Lot 55, 25 feet South of the Northwest corner thereof; thence North along said West line 25 feet to said Northwest corner of Lot 55; thence East along the North line of said Lots 55 and 56, 90.50 feet to a point 15 feet West of the Northeast corner of said Lot 56; thence South parallel to the East line of said Lot 56, 25 feet; thence West, Parallel to the said North line of Lots 55 and 56, 90.50 feet to the point of beginning.

PARCEL II:

Lots 55 and 56 in Hanna's Addition to the City of Fort Wayne, Indiana according to the plat thereof, recorded in Deed Record "B", page 447, in the Office of the Recorder of Allen County, Indiana.

EXCEPTING THE FOLLOWING:

Beginning at a point on the West line of Lot 55, 25 feet South of the Northwest corner thereof; thence North along said West line 25 feet to said Northwest corner of Lot 55; thence East along the North line of said Lots 55 and 56, 90.50 feet to a point 15 feet West of the Northeast corner of said Lot 56; thence South, parallel to the East line of said Lot 56, 25 feet; thence West, parallel to the said North line of Lots 55 and 56, 90.50 feet to the point of beginning.

EXHIBIT B

PERMITTED EXCEPTIONS

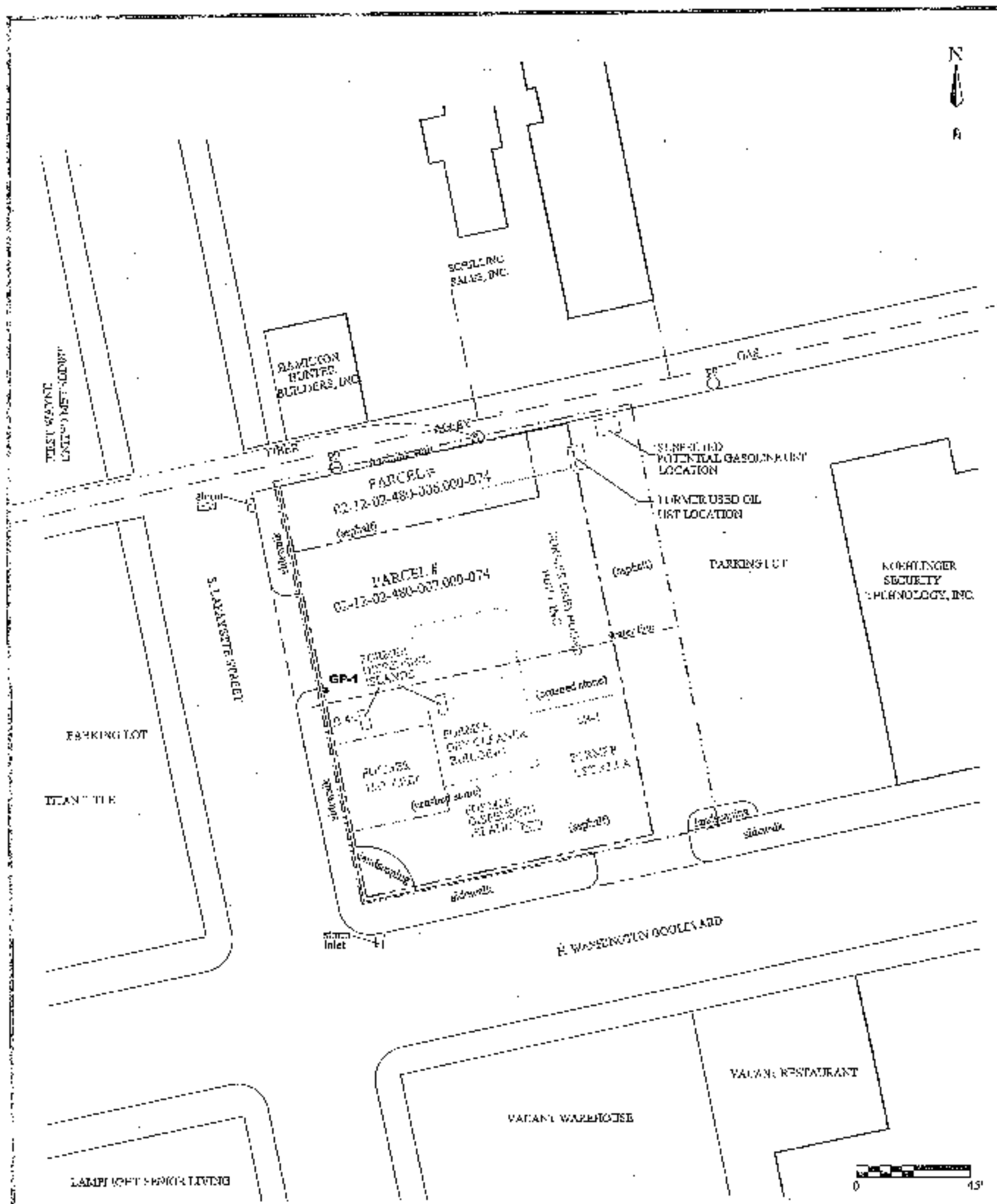
1. Terms and Provisions of Resolution No. R-70-95, a Resolution Approving the Establishment of an "Economic Improvement District" for the Downtown Area of the City of Fort Wayne and an Initial Economic Improvement Board, adopted October 24, 1995 by the Common Council of the City of Fort Wayne, recorded February 23, 1997 as Document Number 970009234, as modified by Resolution No. R-72-96 adopted November 26, 1996 and recorded February 23, 1997 as Document Number 970009233.
2. Insured real estate lies within the bounds of the premises described as part of the Urban Renewal Plan for Neighborhood Development for the East and West Central Renewal Area, as set out in Common Council Resolution R-14-73, R-15-73 and Renewal Plan recorded May 8, 1973 as Document Number 73-10808; and as amended by Document Number 75-23336, recorded October 19, 1975; and as further amended by Document Number 76-18287, recorded July 10, 1976. Document Number 80-11452, recorded June 2, 1980, further amends the East-West Urban Renewal Plan.

4835-1924-3052v.4
6008-7 12/28/2013

EXHIBIT B, Permitted Exceptions - Page 1

EXHIBIT B

Map of the Real Estate








TITLE	LEGEND	PROJECT		
REAL ESTATE MAP	 TRANSFORMER	2015-573		
LOCATION Former Greyhound Station 929 S. Lafayette Street Fort Wayne, Indiana	SEE BORING LOCATION	SCALE	FILE	
	 GP-1 SEE BORING LOCATION	1" = 45'	2015573.dwg	
	 PARCEL BOUNDARY	DRAWN	CHECKED	
	 REAL ESTATE PROPERTY BOUNDARY	WY	W2	
		DATE	FIGURE	
		12/30/16	1	

EXHIBIT C

Copy of Comfort Letter



Indiana Department of Environmental Management

We Protect Hoosiers and Our Environment.

100 N. Senate Avenue • Indianapolis, IN 46204

(800) 451-6327 • (317) 232-8603 • www.idem.IN.gov

Michael R. Pence
Governor

Carol S. Connor
Commissioner

December 27, 2016

Mr. Tom F. Druley & Ms. Clair McKinley
Grey Real Estate, LLC
14227 Briarcliff Pt.
Fort Wayne, Indiana 46814

Re: **Comfort Letter –**
Bona Fide Prospective Purchaser
Greyhound Lines Incorporated
929 South Lafayette Street
Fort Wayne, Allen County
UST FID #24303
Brownfield #4160509

Dear Mr. Druley & Ms. McKinley:

in response to the request by SES Environmental (SES) on behalf of Grey Real Estate, LLC (Owner) to the Indiana Brownfields Program (Program) for assistance concerning the property located at 929 South Lafayette Street, Fort Wayne (Site), the Indiana Department of Environmental Management (IDEM) has agreed to provide this Comfort Letter to outline applicable limitations on liability with respect to hazardous substances and/or petroleum products found on the Site. This letter does not provide a release from liability, but provides specific information with respect to some of the criteria the Owner must satisfy to qualify for relief from potential liability related to hazardous substances contamination under the bona fide prospective purchaser (BFPP) exemption under Indiana Code (IC) § 13-25-4-8(b) (incorporating section 101(40) of the Comprehensive Environmental Response Compensation and Liability Act (CERCLA), 42 U.S.C. §§ 9601 *et. seq.*, and 42 U.S.C. § 9607(r)) and potential liability for petroleum contamination under the BFPP exemption under IC § 13-23-13 and IC § 13-24-1. This letter will also address the reasonable steps IDEM recommends the Owner undertake to prevent or limit human, environmental, and/or natural resource exposure to previously released hazardous substances and/or petroleum found at the Site and help to establish whether environmental conditions might be a barrier to redevelopment or transfer.



Site Description and History

The 0.43-acre Site is comprised of three parcels identified by the State by parcel identification numbers 02-12-01-311-006.001-074, 02-12-02-480-006.000-074, and 02-12-02-480-007.000-074. Refer to Table 1, below for parcel numbers and acre size.

TABLE 1
Parcel Information

Parcel Number	Address	Acreage
02-12-01-311-006.001-074	E. Washington Blvd.	0.07
02-12-02-480-006.000-074	919 S. Lafayette St.	0.05
02-12-02-480-007.000-074	929 S. Lafayette St.	0.31

The Site was developed with multiple residential dwellings from at least 1885 to 1919. A fire insurance of the Site map from 1951 depicts flats on the northwest portion, a commercial building occupied by a dry cleaner (925 South Lafayette) on the west-central portion, a rooming house (409 East Washington) on the south-central portion, an auto repair garage on the northeast portion, and a commercial building (413 East Washington) occupied by a bicycle repair shop on the southeast portion. According to city directories the commercial building (413 East Washington) was occupied by a locksmith/bicycle shop (1927-1940); a hardware store and shoe store (1950); Perfect Circle Corp – Flush Flo Pump Division (1955); storage for an adjacent pronating business (1965); and Miller Scales & Food Machines, Inc. (1970-1975). Based on a review of aerial photographs, this building was removed sometime between 1973 and 1989. City directories indicate a filling station was located at the Site (401 East Washington) from at least 1927 to 1940. The filling station was also depicted on the 1963 and 1972 fire insurance maps. City directories indicated a dry cleaner/laundry facility occupied the Site from at least 1950 to 1965. City directories indicated a Greyhound bus station occupied the Site from at least 1980 to 2010. In May 2014, the former Greyhound Bus Terminal building was razed. Grey Real Estate, LLC is planning to redevelop the Site with a commercial building for Belmont Beverage.

As part of this request, the Owner provided the Program with the Phase I Environmental Site Assessment dated August 4, 2015 (Phase I ESA) prepared for LCS Realty, LLC/Belmont Beverage by SES. On December 29, 2015, the Owner obtained a letter from SES allowing it to rely on the Phase I ESA. The Phase I ESA was conducted utilizing the American Society for Testing and Materials (ASTM) Practice E1527-13, Standard Practice for Environmental Site Assessment, which satisfies the federal "All Appropriate Inquiries" (AAI) rule set forth in 40 CFR Part 312. In an effort for the Owner to qualify as a BFPP, Ms. Clair T. McKinley, Member with Grey Real Estate, LLC, provided answers to the user-specific questions to ensure its satisfaction of the federal AAI rule. The Owner acquired the Site on December 29, 2015.

The Phase I ESA identified the following recognized environmental conditions (RECs) associated with the Site:

- The Site was occupied by a filling station from the 1920s to the 1940s and 1960s to 1970s. An auto repair garage was present on the northeast portion of the Site in the 1950s. Previous environmental investigations and remediation conducted at the Site between 1998 and 2014 include the advancement of several soil borings and the removal of five underground storage tanks (USTs), associated dispenser islands and piping, two hydraulic lift posts, and one oil/water separator.
- A dry cleaner was present on the west-central portion of the Site during the 1950s and 1960s.
- The results of a geophysical survey conducted at the Site in June 2013 indicated a gasoline UST (less than 1,000-gallons in capacity) was potentially located adjacent to the northeast corner of the Site. According to information provided in the UST Closure Report from 2014,¹ this potential tank area was not investigated during tank closure activities; therefore, a tank may still be present at this area.

Pursuant to ASTM E1527-13, *Standard Practice for Environmental Site Assessment* and ASTM E2600-15 *Standard Guide for Vapor Encroachment Screening on Property Involved in Real Estate Transactions*, SES conducted a Tier 1 evaluation to assess the presence or likely presence of vapor-phase chemicals of concern in soil at the Site that might result from contaminated soil and/or ground water either on or near the Site. SES identified one potential vapor encroachment condition (VEC) associated with the Site. Refer to Table 2, below, for a description of the identified VEC.

TABLE 2
On-Site Vapor Encroachment Condition

VEC #	On-Site Location	Description	Chemical of Concern	Rationale
1	Site-wide	Historical filling station, dry cleaner, and auto repair operations	Petroleum/ Solvents	Historical review indicates the Site was occupied by a filling station from the 1920s to the 1940s and 1960s to 1970s. A dry cleaner was present on the west-central portion of the Site during the 1950s and the 1960s. An auto repair garage was present on the northeast portion of the site in the 1950s.

¹ UST System Closure Report – Former Greyhound Bus Terminal, dated August 2, 2014, prepared by IWM Consulting Group, Inc.

As part of the request for assistance in determining any existing environmental contamination and potential liability at the Site, Program staff also reviewed the following reports:

- *Limited Subsurface Investigation Report – Former Greyhound Bus Terminal* (LSI Report), dated July 2, 2013, prepared by IWM Consulting Group, LLC (IWM)
- *Underground Storage Tank System Closure Report – Former Greyhound Bus Terminal* (UST System Closure Report), dated August 12, 2014, prepared by IWM
- *Additional Environmental Screening Investigation Report – Former Greyhound Bus Terminal* (AESI Report), dated August 27, 2015 prepared by SES

These reports may be viewed electronically by searching online by the applicable Brownfield and/or other IDEM site ID # referenced on the first page of this letter in IDEM's Virtual File Cabinet (VFC) on IDEM's website.

For purposes of this letter, sample analytical results were compared to IDEM's Remediation Closure Guide (RCG) (March 22, 2012 and applicable revisions) screening levels as follows: soil samples collected at depths between 0 and 10 feet below ground surface (bgs) were compared to RCG residential and commercial/industrial direct contact screening levels (RDCSLs and IDCSLs, respectively) soil samples collected between 0 and 18 feet bgs were compared to the excavation worker soil exposure direct contact screening levels (EX DCSLs); and, soil samples collected at depths greater than 18 feet bgs were not evaluated for purposes of closure because of the unlikely risk of exposure to soil at that depth. Ground water samples were compared to residential tap ground water screening levels (Res TAP GWSLs) and residential vapor exposure ground water screening levels (Res VE GWSLs), as well as commercial/industrial vapor exposure ground water screening levels (Indus VE GWSLs).

LSI Report – July 2013

On June 7, 2013, a geophysical investigation using ground penetrating radar (GPR) identified three USTs (1,000-gallon or less) beneath the west-central portion of the Site, adjacent to Lafayette Street. Two apparent steel USTs (1,000-gallons or less) and an UST closed-in-place in 2000 were identified at the northeast corner of the Site. Also identified was a disturbed area at the southeast corner of the Site between the Site building (since removed) and the East Washington Boulevard, which appeared to contain two USTs. The Site plan provided by Greyhound indicated that two, 8,000 gallon fiberglass USTs were buried in the disturbed area (Figure 2 in the LSI Report). A

vent pipe was identified at the southeast corner of the Site building that was traced and appeared to end at a potential heating oil UST identified on the Site plan provided by Greyhound. GPR was utilized inside the Site building to verify whether two hydraulic lift posts depicted on the Greyhound-provided Site plan as being in the central portion of the building were present since there were no surface features on the interior floor that would have indicated locations of hydraulic lift posts.

IWM conducted a limited subsurface investigation at the Site in June 2013. Seven soil borings (B-1 through B-7) were advanced to depths ranging from 8 to 16 feet bgs and four temporary ground water monitoring wells (B-1, B-4, B-6, and B-7) were installed. The borings were positioned adjacent to the UST, dispensing island, and hydraulic lift areas identified during the GPR survey. Ground water was encountered at depths ranging from 3 to 8 feet bgs. Petroleum volatile organic compounds (VOCs) and polyaromatic hydrocarbons (PAHs) constituents were detected in soil samples at several locations; however, concentrations did not exceed IDEM RCG RDCSLs. Petroleum VOCs and PAH constituents were detected in ground water samples obtained at B-1 on the southeast portion of the Site and B-4 on the west portion of the Site. Ground water detections were above the RCG Res TAP GWSLs for ethylbenzene, 1,2,4-trimethylbenzene, 1,3,5-trimethylbenzene, m + p xylene, 1-methylnaphthalene, 2-methylnaphthalene, and naphthalene at B-1-W. Ground water detections were also above the RCG Res TAP GWSL for naphthalene at B-4-W. No other constituents analyzed in soil and ground water were detected at levels above applicable RCG screening levels.

UST System Closure Report – August 2014

IWM removed five USTs (two at the northeast corner and three on the southeast corner) three dispenser islands, associated piping, two hydraulic lift posts, and one oil/water separator as part of the UST closure activities at the Site. IWM also razed the site building in May 2014, removed building slabs and foundations, returning the site to grade with clean fill material and crushed limestone.

One used-oil UST had been permanently closed in-place on the Site in March 2000. As part of the UST System Closure Report, historical Closure Report dated April 28, 2000 prepared by Leigh Engineering, Inc. was included which provided additional information regarding the in-place closure of the waste-oil UST. According to this historical report, the UST was 1,000 gallons in size and was not used by Greyhound since no maintenance activities occurred at this facility. During closure activities for the used-oil UST, approximately 12-inches of product and water was discovered within the tank which was pumped out for disposal. Due to the elevated lead concentrations, this residual product was disposed of as hazardous material. Following product removal, the UST and associated piping were filled with concrete slurry as part of closure activities.

The historical report also discusses the advancement of four borings (GP-1 through GP-4) to a depth of 10 to 12 foot bgs. Two soil samples were retained from each boring and a ground water sample was collected from boring GP-2 for analysis of TPH, VOCs, SVOCs, PCBs, and/or RCRA-8 metals. The analytical results did not detect any contaminants above the then-applicable IDEM screening levels.

As part of the UST closure activities in May 2014, the formerly closed in-placed used-oil UST was permanently removed from the subsurface. On May 21, 2014 the hydraulic lift posts identified during the geophysical survey were removed from the subsurface beneath the central and southern garage bays. An oil/water separator was also removed from beneath the concrete floor in the northern-most garage bay.

Soil confirmation samples were collected from the base and sidewalls of the UST basin, the over-excavated areas, beneath the dispenser islands, and from beneath each 20 linear feet of product piping identified once potentially impacted soil was removed. Soil confirmation samples were analyzed for VOCs, total lead, and/or PAHs. The soil analytical results did not detect any contaminants above applicable RCG screening levels.

No ground water was encountered in the excavations performed at the Site. Therefore, no ground water samples were collected for analysis during the UST closure activities.

AESI Report – August 2015

The additional investigation discussed in the AESI report consisted of a geophysical survey and advancement of eight soil borings (GP1 – GP8). A geophysical survey was used to identify underground utilities and structures and was conducted on August 12, 2015 by Ground Penetrating Radar Systems, Inc. (GPRS). A water line was detected extending from South Lafayette Street through the central portion of the Site. Disturbed surface conditions were noted at the east central and southeast portions of the Site – consistent with previous reports indicating excavation and building demolition at these areas. An anomaly was noted near the landscaping area at the southwest corner of the Site. The anomaly was suspected to be a buried foundation. The GPRS survey at the northeast corner of the Site found no indications of a buried UST or anomalies.

Boring GP1 was advanced near the previous IWM boring B-4, where ground water contamination was detected during a limited subsurface investigation in June 2013. Soil borings GP2, GP3, and GP6 were advanced at the location of the former dry cleaner building in the west-central portion of the Site. Soil borings GP4 and GP 5 were advanced adjacent and north of previous boring B-1, where ground water contamination was detected during a limited subsurface investigation in June 2013. Borings GP7 and

GP8 were advanced at the northeast corner of the Site, where a prior geophysical survey indicated a gasoline UST was potentially present.

Eight soil samples (GP1 – GP8) were collected and analyzed for VOCs and GP7 and GP8 were also analyzed for lead. The depth interval with the highest PID response was selected at each boring location for sample collection, except at GP4 where the sample depth interval was based on the limited subsurface investigation in June 2013 around B-1. No constituents analyzed in soil were detected at levels above applicable RCG screening levels.

Seven ground water samples (GP1 – GP7) were retained and analyzed for VOCs. The sample collected at GP7 was also analyzed for lead and 1,2-dibromoethane (EDB) a lead scavenger. The ground water analytical results from GP1 detected benzene above its RCG Res TAP GWSL. Refer to Table 3, below, for a summary of ground water analytical data above applicable RCG screening levels. No other constituents analyzed in ground water were detected at levels above applicable RCG screening levels.

TABLE 3
August 2015 Ground Water Concentrations Exceeding
Applicable IDEM RCG Screening Levels

Contaminant Detected	Sample Location & Results (<i>parts per billion (ppb)</i>)	Res TAP GWSL	Res VE GWSL	Indus VE GWSL
	GP1			
Benzene	6.31	5	28	120

Note: *Italics* = above RCG Residential Tap Ground Water Screening Level

Although dry cleaning contaminants were not detected on the Site, the historical dry cleaner identified as a REC in the Phase I ESA has not been fully investigated; no samples have been collected south/southeast of the former dry cleaner building where “back door” disposal of used dry cleaning chemicals could have occurred.

Liability Clarification

IDEM’s “Brownfields Program Comfort and Site Status Letters” Non-rule Policy Document, W-0051 (April 18, 2003) (Comfort and Site Status Letter Policy), provides that IDEM may issue a letter to a stakeholder involved in redevelopment of a brownfield if the stakeholder satisfies certain eligibility criteria outlined below. IDEM concludes, based in part on information provided by the Owner, that:

- (1) no state or federal enforcement action at the Site is pending;
- (2) no federal grant requires an enforcement action at the Site;
- (3) no condition on the Site constitutes an imminent and substantial threat to

- human health or the environment;
- (4) neither the Owner nor an agent or employee of the Owner caused, contributed to, or knowingly exacerbated the release or threat of release of any petroleum at the Site, and;
 - (5) the Owner is eligible for an applicable exemption to liability, specifically the bona fide prospective purchaser (BFPP) exception to for petroleum contamination under IC §§ 13-23-13 and 13-24-1, provided the applicable statutory criteria are met.

As discussed below, the Owner has demonstrated to IDEM's satisfaction that it is eligible for the State BFPP exemption from liability for petroleum contamination provided it takes the "reasonable steps" required by statute, recommendations for which are also discussed below.

Bona Fide Prospective Purchaser

Under IC § 13-25-4-8(a), except as provided in IC § 13-25-4-8(b), (c), or (d), a person that is liable under § 107(a) of CERCLA is liable to the state in the same manner and to the same extent. IC § 13-25-4-8(b) references certain exceptions to liability imposed by IC § 13-25-4-8(a), including the exception in Section 107(r) of CERCLA, 42 U.S.C. § 9607(r), which states that a BFPP whose potential liability for a release or threatened release is based solely on the purchaser's being considered to be an owner or operator of a facility shall not be liable as long as the BFPP does not impede the performance of a response action or natural resource restoration. 42 U.S.C. § 9607(r). Thus a prospective purchaser that qualifies as a bona fide prospective purchaser and does not impede the performance of a response action or natural resource restoration would not be liable under IC § 13-25-4-8(a). Similarly, such a bona fide prospective purchaser would not be liable under IC §§ 13-23-13 and 13-24-1 for petroleum contamination existing on the Site.

Under Indiana law, if the Owner qualifies as a bona fide prospective purchaser and does not impede the performance of a response action or natural resource restoration, IDEM is prohibited from pursuing the Owner even if cleanup requirements change or if IDEM determines that a response action related to existing known hazardous substances or petroleum contamination from prior releases at the Site is necessary. Furthermore, IDEM is prohibited from pursuing such an Owner for response costs relating to the past release of hazardous substances or petroleum contamination at the Site. Therefore, IDEM will not require the Owner to respond to the past release of hazardous substances or petroleum contamination found at the Site beyond the scope of the statutorily-required reasonable steps outlined below, even if cleanup requirements change or if IDEM determines that a response action is necessary in the future. This decision, however, does not apply to past or present hazardous substance or petroleum contamination that is not described in this letter, future releases, or applicable federal requirements under CERCLA or the Resource Conservation and

Recovery Act, 42 U.S.C. § 6901.

To meet the statutory criteria for liability protection as a BFPP under Indiana law, a landowner must meet certain threshold criteria and satisfy certain continuing obligations. IDEM notes that the Owner acquired the Site on December 29, 2015 after January 11, 2002 (and after June 30, 2009), and the disposal of hazardous substances and petroleum at the Site occurred prior to that date. See 42 U.S.C. § 9601(40)(A); IC 13-11-2-148(h); IC 13-11-2-151(g); IC 13-11-2-150(f). Based on information reviewed by IDEM, IDEM concludes that the Owner has conducted all appropriate inquiries into the previous ownership and uses of the Site. See 42 U.S.C. § 9601(40)(B)(i). Furthermore, the Owner has represented that it is not potentially liable or affiliated with any person that is potentially liable for contamination at the Site, and IDEM has no information to the contrary. See 42 U.S.C. § 9601(40)(H). Therefore, the Owner meets the threshold requirements of CERCLA §§ 9601(40) (A), (B) and (H) to qualify for the status of BFPP under 42 U.S.C. § 9601(40).

The continuing obligations the Owner must undertake to qualify as a BFPP under Indiana law and maintain such status are outlined in 42 U.S.C. §§ 9601(40)(C)-(G) and include exercising "appropriate care with respect to hazardous substances found at the facility by taking reasonable steps to – (i) stop any continuing release; (ii) prevent any threatened future release; and, (iii) prevent or limit human, environmental, or natural resource exposure to any previously released hazardous substance." 42 U.S.C. § 9601(40)(D). By extension, under IC §§ 13-11-2-148(h), 13-11-2-150(f), and 13-11-2-151(g), the continuing obligations the Owner must undertake to maintain BFPP status are outlined in 42 U.S.C. §§ 9601(40) (C)-(G) and include exercising appropriate care with respect to petroleum products found at the facility by taking reasonable steps to – (i) stop any continuing release; (ii) prevent any threatened future release; and, (iii) prevent or limit human, environmental, or natural resource exposure to any previously released petroleum product. Furthermore, the Owner recognizes that in order to maintain the status of BFPP, it will have to continue to provide the cooperation, assistance and access required by 42 U.S.C. § 9601(40) (E). In addition, the Owner will have to maintain compliance with land use restrictions established for the Site, and not impede the implementation or the effectiveness of any institutional control as required by 42 U.S.C. § 9601(40) (F). To maintain BFPP status, the Owner must also supply required notices and respond to requests for information or administrative subpoenas in accordance with 42 U.S.C. § 9601(40)(C) and 42 U.S.C. § 9601(40) (G), respectively.

Reasonable Steps

As of the date of issuance of this Comfort Letter, and based on the currently proposed redevelopment of the Site, IDEM believes the following are appropriate reasonable steps for the Owner to undertake with respect to the petroleum contamination found at the Site in order to qualify as a BFPP, as well as to satisfy the

eligibility requirements for issuance of this letter under the Comfort and Site Status Letter Policy:

- Implement and maintain the land use restrictions required by this letter.
- Upon becoming aware of such information, communicate to IDEM any newly-obtained information about existing petroleum contamination or any information about new (or previously unidentified) contamination.

Implementation of the above-mentioned reasonable steps in addition to ongoing satisfaction of the additional statutory conditions will, with respect to IDEM, satisfy the statutory conditions for State BFPP protection. Please be advised that any work performed at the subject property must be done in accordance with all applicable environmental laws in order to ensure no inadvertent exacerbation of existing contamination found on the Site which could give rise to liability.

Due the historical dry cleaning REC not having been fully investigated, as discussed above, should future Site use change to include construction of a building over or in the vicinity of the former location of the dry cleaner, additional investigation is recommended and additional/modified reasonable steps may be necessary to address any newly-discovered exposure threats.

Institutional Control

Since benzene was detected in ground water on-Site above the applicable RCG residential screening level, IDEM is requiring an environmental restrictive covenant (ERC) to be recorded on the deed for the Site to ensure no exposure to on-Site contamination. As a condition of the issuance and effectiveness of this letter under the Comfort and Site Status Letter Policy, the Owner must abide by the land use restriction in the enclosed ERC, which is summarized below:

- Not use or allow the use or extraction of ground water at the Site.

Conclusion

IDEM encourages the redevelopment of the Site. Should additional information gathered in conjunction with future Site investigations and/or remediation demonstrate that a particular restriction is no longer necessary to protect human health and the environment or that Site conditions are appropriate for unrestricted use, IDEM will, upon request, consider modification or termination of the ERC recorded on the deed for the parcels comprising the Site pursuant to its terms and conditions. Conversely, it is also possible that new land use restrictions may be necessary in the future due to new information or changed circumstances at the Site.

Greyhound Lines Incorporated, Fort Wayne – BFPP Comfort Letter
BFD # 4160509
December 27, 2016
Page 11 of 12

Pursuant to the Comfort and Site Status Letter Policy, the determinations in this letter are based on the nature and extent of contamination known to IDEM as of the date of this letter, as a result of review of information submitted to or otherwise reviewed by IDEM. If additional information regarding the nature and extent of contamination at the Site later becomes available, additional measures may be necessary to satisfy the reasonable steps requirements of BFPP status. In particular, if new areas of contamination or new contaminants are identified, the Owner must communicate this information to IDEM upon becoming aware of it and should ensure that reasonable steps are undertaken with respect to such contamination in order to qualify as and maintain BFPP status.

This letter shall not be construed as limiting the Owner's ability to rely upon any other defenses and/or exemptions available to it under any common or environmental law, nor shall it limit any ongoing obligations of the Owner that are required to maintain the status of BFPP. Furthermore, the terms and conditions of this letter shall be limited in application to this letter recipient and this Site, and shall not be binding on IDEM at any other Site.

If at any time IDEM discovers that the above-mentioned reports, any representations made to IDEM, or any other information submitted to or reviewed by IDEM was inaccurate, which inaccuracy can be attributed to the Owner, then IDEM reserves the right to revoke this letter and pursue any responsible parties. Furthermore, if any activities undertaken by the Owner result in a new release or if Site conditions are later determined by IDEM to constitute an imminent and substantial threat to human health or the environment, IDEM reserves the right to revoke this decision and pursue any responsible parties. Additionally, this decision does not apply to past or present contamination that is not described in this Comfort Letter, future releases, or applicable requirements under the Resource Conservation and Recovery Act, 42 U.S.C. § 6901 or CERCLA. In addition, if any acts or omission by the Owner exacerbates the contamination at the Site, or if the Owner does not implement and maintain the reasonable steps and other statutory requirements outlined in this letter, then the Owner would not be considered a BFPP and may be potentially liable under IC §§ 13-25-4-8(a), 13-23-13 and/or 13-24-1. Furthermore, activities conducted at the Site subsequent to purchase that result in a new release can give rise to full liability.

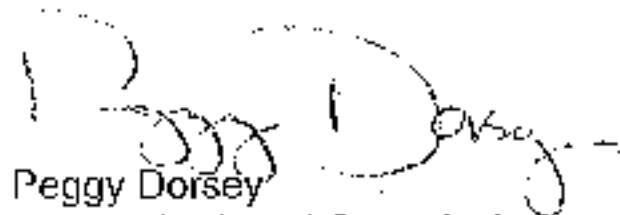
In order for IDEM to consider this letter effective, the enclosed ERC, which includes a copy of the Comfort Letter, must be recorded on the deed for the Site in the Allen County Recorder's Office. Please return a certified copy of the filed document to the address listed below:

Indiana Brownfields Program
100 North Senate Avenue, Room 1275
Indianapolis, Indiana 46204
ATTN: Dawn Andershock

Greyhound Lines Incorporated, Fort Wayne – BFPP Comfort Letter
BFD # 4160509
December 27, 2016
Page 12 of 12

IDEM is pleased to assist Grey Real Estate, LLC with this redevelopment project. Should you have any questions or comments, please contact Dawn Andershock at 317-234-4861 or toll free from within Indiana at 800/451-6027, ext. 4-4861. She can also be reached via email at: dandershock@ifa.in.gov.

Sincerely,



Peggy Dorsey
Deputy Assistant Commissioner
Office of Land Quality

Enclosure ERC

cc: Jan Pels, U.S. EPA Region 5 (*electronic copy*)
Meredith Gramelspacher, Indiana Brownfields Program (*electronic copy*)
Dawn Andershock, Indiana Brownfields Program (*electronic copy*)
Glen A. Howard, SES Environmental (*electronic copy*)

EXHIBIT D

TABLE 1

Greyhound Lines Incorporated, Fort Wayne – BFD# 4160509
August 2015 Ground Water Concentrations Exceeding
Applicable IDEM RCG Screening Levels

TABLE 1

Greyhound Lines Incorporated, Fort Wayne -- BFD# 4160509
August 2015 Ground Water Concentrations Exceeding
Applicable IDEM RCG Screening Levels

Contaminant Detected	Sample Location & Results (parts per billion (ppb))	Res TAP GWSL	Res VE GWSL	Indus VE GWSL
	GP1			
Benzene	6.31	5	28	120

Note: *italics* = above RCG Residential Tap Ground Water Screening Level

EXHIBIT E

Greyhound Lines Incorporated, Fort Wayne – BFD# 4160509
Site Map Depicting Sampling Locations at Which
COCs Were Detected Above Applicable IDEM RCG Screening Levels

DISCLAIMER: Information on this map is being provided to depict environmental conditions on the Real Estate that are the subject of the land use restrictions contained in the Covenant to which this map is attached and incorporated. The land use restrictions contained in the Covenant were deemed appropriate by the Department based on information provided to the Department by the Owner or another party investigating and/or remediating the environmental conditions on the Real Estate. This map cannot be relied upon as a depiction of all current environmental conditions on the Real Estate, nor can it be relied upon in the future as depicting environmental conditions on the Real Estate.

MAR 24 2017
INDIANA FINANCE AUTHORITY
RECEIVED



8 4 4 3 9 0 7
Tx:4256001

MAR 24 2017

2017005503

INDIANA FINANCE AUTHORITY RECORDED: 01/26/2017 04:00:12 PM
ENVIRONMENTAL PROGRAMS

ANITA MATHER

ALLEN COUNTY RECORDER
FORT WAYNE, IN

Environmental Restrictive Covenant

THIS ENVIRONMENTAL RESTRICTIVE COVENANT is made this 24th day of JANUARY, 2017, by Grey Real Estate, LLC ("Owner").

WHEREAS: Owner is the fee owner of certain real estate in the County of Allen, Indiana, which is located at 929 South Lafayette Street in Fort Wayne and more particularly described in the attached **Exhibit "A"** ("Real Estate"), which is hereby incorporated and made a part hereof. The Real Estate was acquired by deed on December 29, 2015, and recorded on December 30, 2015 as Deed Record 2015066312 in the Office of the Recorder of Allen County, Indiana. The Real Estate, consists of approximately 0.43 acres and is identified by the State by parcel identification numbers 02-12-02-480-006.000-074 and 02-12-02-480-007.000-074. The Real Estate to which this Covenant applies is depicted on a map attached hereto as **Exhibit "B"**.

WHEREAS: A Comfort Letter, a copy of which is attached hereto as **Exhibit "C"**, was prepared and issued by the Indiana Department of Environmental Management ("the Department" or "IDEM") pursuant to the Indiana Brownfields Program's ("Program") recommendation at the request of the Owner to address the redevelopment potential of the Real Estate which is two of three parcels comprising a brownfield site resulting from a release of petroleum contamination relating to historical operations on the Real Estate, Program site number BFD # 4160509.

WHEREAS: The Comfort Letter, as approved by the Department, provides that a certain contaminant of concern ("COC") was detected in ground water on the Real Estate but will not pose an unacceptable risk to human health at the detected concentration provided that the land use restrictions contained herein are implemented and maintained to ensure the protection of public health, safety, or welfare, and the environment. The COC is benzene.

WHEREAS: Soil and ground water on the Real Estate were sampled for total petroleum hydrocarbons ("TPH"), volatile organic compounds ("VOCs"), polyaromatic hydrocarbons ("PAHs"), semi-volatile organic compounds ("SVOCs"), and Resource Conservation & Recovery Act-8 metals ("RCRA-8 metals"). Investigations detected a level of benzene above applicable screening levels established by IDEM in the Remediation Closure Guide ("RCG") (March 22, 2012 and applicable revisions). Benzene was detected above the IDEM RCG residential tap ground water screening level at GP1. Ground water analytical results above the applicable RCG screening level are summarized on Table 1, attached hereto as **Exhibit "D"**. A site map, attached hereto as **Exhibit "E"**, depicts the sample location on the Real Estate at which the COC was detected in ground water above the applicable RCG screening level.

WHEREAS: The Department has not approved closure of environmental conditions on the Real Estate under the Remediation Closure Guide. However, the Department has

Not entered for taxation. Subject to final acceptance for transfer.

JAN 26 2017

AUDITOR OF ALLEN COUNTY

100-1102

WHEREAS: The Department has not approved closure of environmental conditions on the Real Estate under the Remediation Closure Guide. However, the Department has determined that the land use restriction contained in this Covenant will enable the Real Estate to be used safely for commercial use.

WHEREAS: Environmental reports and other documents related to the Real Estate are hereby incorporated by reference and may be examined at the Public File Room of the Department, which is located in the Indiana Government Center North at 100 N. Senate Avenue, 12th Floor East, Indianapolis, Indiana. The documents may also be viewed electronically by searching the Department's Virtual File Cabinet on the Web at: <http://www.in.gov/idem/4101.htm>.

NOW THEREFORE, Grey Real Estate, LLC subjects the Real Estate to the following restrictions and provisions, which shall be binding on Grey Real Estate, LLC and all future owners:

1. RESTRICTIONS

i. Restriction. The Owner and all future owners:

- (a) Shall not use or allow the use or extraction of ground water at the Real Estate for any purpose, including, but not limited to, human or animal consumption, gardening, industrial processes, or agriculture, without prior Department approval, except that ground water may be extracted in conjunction with environmental investigation and/or remediation activities.

II. GENERAL PROVISIONS

- 2. Restrictions to Run with the Land. The restrictions and other requirements described in this Covenant shall run with the land and be binding upon, and inure to the benefit of the Owner of the Real Estate and the Owner's successors, assignees, heirs and lessees or their authorized agents, employees, contractors, representatives, agents, lessees, licensees, invitees, guests, or persons acting under their direction or control ("Related Parties") and shall continue as a servitude running in perpetuity with the Real Estate. No transfer, mortgage, lease, license, easement, or other conveyance of any interest in all or any part of the Real Estate by any person shall limit the restrictions set forth herein. This Covenant is imposed upon the entire Real Estate unless expressly stated as applicable only to a specific portion thereof.
- 3. Binding upon Future Owners. By taking title to an interest in or occupancy of the Real Estate, any subsequent owner or Related Party agrees to comply with all of the restrictions set forth in paragraph 1 above and with all other terms of this Covenant.

4. Access for Department. The Owner shall grant to the Department and its designated representatives the right to enter upon the Real Estate at reasonable times for the purpose of determining whether the land use restrictions set forth in paragraph 1 above are being properly maintained (and operated, if applicable) in a manner that ensures the protection of public health, safety, or welfare and the environment. This right of entry includes the right to take samples, monitor compliance with the remediation work plan (if applicable), and inspect records.

5. Written Notice of the Presence of Contamination. Owner agrees to include in any instrument conveying any interest in any portion of the Real Estate, including but not limited to deeds, leases and subleases (excluding mortgages, liens, similar financing interests, and other non-possessory encumbrances) the following notice provision (with blanks to be filled in):

NOTICE: THE INTEREST CONVEYED HEREBY IS SUBJECT TO AN ENVIRONMENTAL RESTRICTIVE COVENANT, DATED 1-24 2017 RECORDED IN THE OFFICE OF THE RECORDER OF ALLEN COUNTY ON 1-26-2017, 20 , INSTRUMENT NUMBER (or other identifying reference) 20170045503 IN FAVOR OF AND ENFORCEABLE BY THE INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT.

6. Notice to Department of the Conveyance of Property. Owner agrees to provide notice to the Department of any conveyance (voluntary or involuntary) of any ownership interest in the Real Estate (excluding mortgages, liens, similar financing interests, and other non-possessory encumbrances). Owner must provide the Department with the notice within thirty (30) days of the conveyance and include (a) a certified copy of the instrument conveying any interest in any portion of the Real Estate, and (b) if the instrument has been recorded, its recording reference(s), and (c) the name and business address of the transferee.
7. Indiana Law. This Covenant shall be governed by, and shall be construed and enforced according to, the laws of the State of Indiana.

III. ENFORCEMENT

8. Enforcement. Pursuant to IC 13-14-2-6 and other applicable law, the Department may proceed in court by appropriate action to enforce this Covenant. Damages alone are insufficient to compensate the Department if any owner of the Real Estate or its Related Parties breach this Covenant or otherwise default hereunder. As a result, if any owner of the Real Estate, or any owner's Related Parties, breach this Covenant or otherwise default hereunder, the Department shall have the right to request specific performance and/or immediate injunctive relief to enforce this Covenant in addition to any other remedies it may have at law or at equity. Owner agrees that the provisions of this Covenant are enforceable and agrees not to

challenge the provisions or the appropriate court's jurisdiction.

IV. TERM, MODIFICATION AND TERMINATION

9. Term. The restrictions shall apply until the Department determines that contaminants of concern on the Real Estate no longer present an unacceptable risk to the public health, safety, or welfare, or to the environment.
10. Modification and Termination. This Covenant shall not be amended, modified, or terminated without the Department's prior written approval. Within thirty (30) days of executing an amendment, modification, or termination of the Covenant, Owner shall record such amendment, modification, or termination with the Office of the Recorder of Allen County and within thirty (30) days after recording, provide a true copy of the recorded amendment, modification, or termination to the Department.

V. MISCELLANEOUS

11. Waiver. No failure on the part of the Department at any time to require performance by any person of any term of this Covenant shall be taken or held to be a waiver of such term or in any way affect the Department's right to enforce such term, and no waiver on the part of the Department of any term hereof shall be taken or held to be a waiver of any other term hereof or the breach thereof.
12. Conflict of and Compliance with Laws. If any provision of this Covenant is also the subject of any law or regulation established by any federal, state, or local government, the strictest standard or requirement shall apply. Compliance with this Covenant does not relieve the Owner from complying with any other applicable laws.
13. Change in Law, Policy or Regulation. In no event shall this Covenant be rendered unenforceable if Indiana's laws, regulations, guidelines, or remediation policies (including those concerning environmental restrictive covenants, or institutional or engineering controls) change as to form or content. All statutory references include any successor provisions.
14. Notices. Any notice, demand, request, consent, approval or communication that either party desires or is required to give to the other pursuant to this Covenant shall be in writing and shall either be served personally or sent by first class mail, postage prepaid, addressed as follows:

To Owner:
Grey Real Estate, LLC
14227 Briarcliff Pt.
Fort Wayne, IN 46814
ATTN: Clair McKinley

To Department:
Indiana Brownfields Program
100 N. Senate Avenue, Rm. 1275
Indianapolis, Indiana 46204
ATTN: Dawn Andershock

Any party may change its address or the individual to whose attention a notice is to be sent by giving written notice in compliance with this paragraph.

15. Severability. If any portion of this Covenant or other term set forth herein is determined by a court of competent jurisdiction to be invalid for any reason, the surviving portions or terms of this Covenant shall remain in full force and effect as if such portion found invalid had not been included herein.
16. Authority to Execute and Record. The undersigned person executing this Covenant represents that he or she is the current fee Owner of the Real Estate or is the authorized representative of the Owner, and further represents and certifies that he or she is duly authorized and fully empowered to execute and record, or have recorded, this Covenant.

Owner hereby attests to the accuracy of the statements in this document and all attachments.

IN WITNESS WHEREOF, Grey Real Estate, LLC, the said Owner of the Real Estate described above has caused this Environmental Restrictive Covenant to be executed on this 24 day of January, 2017.

Clair McKinley
Grey Real Estate, LLC

STATE OF Indiana
COUNTY OF Allen) SS:

Before me, the undersigned, a Notary Public in and for said County and State, personally appeared Clair T. McKinley, the Managing Partner of the Owner, Grey Real Estate LLC, who acknowledged the execution of the foregoing instrument for and on behalf of said entity.

Witness my hand and Notarial Seal this 24 day of January, 2017.



Elizabeth Thomas, Notary Public
Residing in Allen County, Indiana

My Commission Expires: 6/14/20

This instrument prepared by: Clair T. McKinley

I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law.

Clair T. McKinley (Printed Name of Declarant)

EXHIBIT A

Corporate Warranty Deed for the Real Estate

2015066313
RECORDED: 12/30/2015 4:54:39 PM
ANITA MATHER
ALLEN COUNTY RECORDER
FORT WAYNE, IN

Wayne 135022

TAXIDOC NO: 00-12-01-311-000.000 074

CORPORATE WARRANTY DEED

THIS INDENTURE WITNESSETH, that KOBELINGER SECURITY TECHNOLOGY, INC. f/k/a Kuehlinger Lock & Safe, Inc., an Indiana corporation ("Grantor"), CONVEYS AND WARRANTS to GRIVY REAL ESTATE, LLC, an Indiana limited liability company ("Grantee"), in consideration of Ten Dollars and 00/100 (\$10.00) and other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the following described real estate in Allen County, in the State of Indiana:

The West 20 feet of Lot Number 57 in Hanna's Addition to the City of Fort Wayne, according to the plat thereof, recorded in Deed Record D, page 417 in the Office of the Recorder of Allen County, Indiana.

SUBJECT TO all current and future real estate taxes and assessments.

SUBJECT TO all conditions, covenants, limitations, restrictions and covenants of record, and to all visible easements not of record.

The undersigned person executing this deed represents and certifies on behalf of the Grantor, that the undersigned is a duly elected officer of the Grantor and has been duly empowered by proper resolution, or by the By-Laws of the Grantor, to execute and deliver this deed; that the Grantor is a corporation in good standing in the State of its origin and where required, in the State where the subject real estate is situated; that the Grantor has full corporate capacity to convey the real estate described; and that all necessary corporate action for the making of this conveyance has been duly taken.

IN WITNESS WHEREOF, Grantor has caused this deed to be executed this 25th day of December, 2015.

KOBELINGER SECURITY TECHNOLOGY, INC.
f/k/a Kuehlinger Lock & Safe, Inc.,
an Indiana corporation

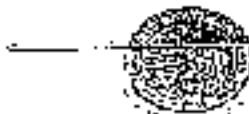
By: [Signature]
Kim S. Kuehlinger, President

STATE OF INDIANA)
COUNTY OF ALLEN) SS:

Before me, a Notary Public in and for said County and State, personally appeared Kim S. Kuehlinger, the President of KOBELINGER SECURITY TECHNOLOGY, INC. f/k/a Kuehlinger Lock & Safe, Inc., who acknowledged the execution of the foregoing Deed for and on behalf of said Grantor, and who, having been duly sworn, stated that the representations therein contained are true.

Witness my hand and Notarial Seal, this 25th day of December, 2015.

My Commission Expires:



Kathleen A. McMahon, Notary Public
Allen County, State of Indiana
My Commission Expires 02/27/2015

[Signature]
Notary Public
Resident of _____ County, Indiana

This instrument prepared by: John B. Dentz (#17860-19), Bruce Mollers Books & Safe, LLC
110 West Perry Street, Suite 1100, Fort Wayne, Indiana 46802

Grantee's Address/Mail Tax Bills To:

GREY REAL ESTATE, LLC
1427 BRIARCLIFF POINT
FORT WAYNE, INDIANA 46814

525237
TITAN TITLE SERVICES, LLC

AUDITOR'S OFFICE
Duly entered for taxation. Subject
to final acceptance for transfer.

Dec 30 2015

TERA K. KLUTZ
AUDITOR OF ALLEN COUNTY

I affirm, under the penalties for perjury, that I have, subject reasonable care to protect each Social Security number in this document, unless required by law: Robert A. [illegible]

23021075/16625-04001

MAIL TO: GREY REAL ESTATE, LLC
14227 TRIARCHIE POINT
FORT WAYNE, INDIANA 46814

EXHIBIT B

Map of the Real Estate

EXHIBIT C

Copy of Comfort Letter



Indiana Department of Environmental Management

We Protect Hoosiers and Our Environment.

100 N. Senate Avenue • Indianapolis, IN 46204

(800) 451-6027 • (317) 232-8603 • www.idem.IN.gov

Michael R. Pence
Governor

Carroll S. Comer
Commissioner

December 27, 2016

Mr. Tom F. Druley & Ms. Clair McKinley
Grey Real Estate, LLC
14227 Briardliff Pt.
Fort Wayne, Indiana 46814

Re: **Comfort Letter --**
Bona Fide Prospective Purchaser
Greyhound Lines Incorporated
929 South Lafayette Street
Fort Wayne, Allen County
UST FID #24303
Brownfield #4160509

Dear Mr. Druley & Ms. McKinley:

In response to the request by SES Environmental (SES) on behalf of Grey Real Estate, LLC (Owner) to the Indiana Brownfields Program (Program) for assistance concerning the property located at 929 South Lafayette Street, Fort Wayne (Site), the Indiana Department of Environmental Management (IDEM) has agreed to provide this Comfort Letter to outline applicable limitations on liability with respect to hazardous substances and/or petroleum products found on the Site. This letter does not provide a release from liability, but provides specific information with respect to some of the criteria the Owner must satisfy to qualify for relief from potential liability related to hazardous substances contamination under the bona fide prospective purchaser (BFPP) exemption under Indiana Code (IC) § 13-25-4-8(b) (incorporating section 101(40) of the Comprehensive Environmental Response Compensation and Liability Act (CERCLA), 42 U.S.C. §§ 9601 *et. seq.*, and 42 U.S.C. § 9607(r)) and potential liability for petroleum contamination under the BFPP exemption under IC § 13-23-13 and IC § 13-24-1. This letter will also address the reasonable steps IDEM recommends the Owner undertake to prevent or limit human, environmental, and/or natural resource exposure to previously released hazardous substances and/or petroleum found at the Site and help to establish whether environmental conditions might be a barrier to redevelopment or transfer.

Site Description and History

The 0.43-acre Site is comprised of three parcels identified by the State by parcel identification numbers 02-12-01-311-006.001-074, 02-12-02-480-006.000-074, and 02-12-02-480-007.000-074. Refer to Table 1, below for parcel numbers and acre size.

TABLE 1
Parcel Information

Parcel Number	Address	Acreage
02-12-01-311-006.001-074	E. Washington Blvd.	0.07
02-12-02-480-006.000-074	919 S. Lafayette St.	0.05
02-12-02-480-007.000-074	929 S. Lafayette St.	0.31

The Site was developed with multiple residential dwellings from at least 1885 to 1919. A fire insurance of the Site map from 1951 depicts flats on the northwest portion, a commercial building occupied by a dry cleaner (925 South Lafayette) on the west-central portion, a rooming house (409 East Washington) on the south-central portion, an auto repair garage on the northeast portion, and a commercial building (413 East Washington) occupied by a bicycle repair shop on the southeast portion. According to city directories the commercial building (413 East Washington) was occupied by a locksmith/bicycle shop (1927-1940); a hardware store and shoe store (1950); Perfect Circle Corp – Flush Flo Pump Division (1955); storage for an adjacent printing business (1965); and Miller Scales & Food Machines, Inc. (1970-1975). Based on a review of aerial photographs, this building was removed sometime between 1973 and 1989. City directories indicate a filling station was located at the Site (401 East Washington) from at least 1927 to 1940. The filling station was also depicted on the 1963 and 1972 fire insurance maps. City directories indicated a dry cleaner/laundry facility occupied the Site from at least 1950 to 1965. City directories indicated a Greyhound bus station occupied the Site from at least 1980 to 2010. In May 2014, the former Greyhound Bus Terminal building was razed. Grey Real Estate, LLC is planning to redevelop the Site with a commercial building for Belmont Beverage.

As part of this request, the Owner provided the Program with the Phase I Environmental Site Assessment dated August 4, 2015 (Phase I ESA) prepared for LCS Realty, LLC/Belmont Beverage by SES. On December 29, 2015, the Owner obtained a letter from SES allowing it to rely on the Phase I ESA. The Phase I ESA was conducted utilizing the American Society for Testing and Materials (ASTM) Practice E1527-13, Standard Practice for Environmental Site Assessment, which satisfies the federal "All Appropriate Inquiries" (AAI) rule set forth in 40 CFR Part 312. In an effort for the Owner to qualify as a BFPP, Ms. Clair T. McKinley, Member with Grey Real Estate, LLC, provided answers to the user-specific questions to ensure its satisfaction of the federal AAI rule. The Owner acquired the Site on December 29, 2015.

The Phase I ESA identified the following recognized environmental conditions (RECs) associated with the Site:

- The Site was occupied by a filling station from the 1920s to the 1940s and 1960s to 1970s. An auto repair garage was present on the northeast portion of the Site in the 1950s. Previous environmental investigations and remediation conducted at the Site between 1998 and 2014 include the advancement of several soil borings and the removal of five underground storage tanks (USTs), associated dispenser islands and piping, two hydraulic lift posts, and one oil/water separator.
- A dry cleaner was present on the west-central portion of the Site during the 1950s and 1960s.
- The results of a geophysical survey conducted at the Site in June 2013 indicated a gasoline UST (less than 1,000-gallons in capacity) was potentially located adjacent to the northeast corner of the Site. According to information provided in the UST Closure Report from 2014,¹ this potential tank area was not investigated during tank closure activities; therefore, a tank may still be present at this area.

Pursuant to ASTM E1527-13, *Standard Practice for Environmental Site Assessment* and ASTM E2600-15, *Standard Guide for Vapor Encroachment Screening on Property Involved in Real Estate Transactions*, SES conducted a Tier 1 evaluation to assess the presence or likely presence of vapor-phase chemicals of concern in soil at the Site that might result from contaminated soil and/or ground water either on or near the Site. SES identified one potential vapor encroachment condition (VEC) associated with the Site. Refer to Table 2, below, for a description of the identified VEC.

TABLE 2
On-Site Vapor Encroachment Condition

VEC #	On-Site Location	Description	Chemical of Concern	Rationale
1	Site-wide	Historical filling station, dry cleaner, and auto repair operations	Petroleum/ Solvents	Historical review indicates the Site was occupied by a filling station from the 1920s to the 1940s and 1960s to 1970s. A dry cleaner was present on the west-central portion of the Site during the 1950s and the 1960s. An auto repair garage was present on the northeast portion of the site in the 1950s.

¹ UST System Closure Report – Former Greyhound Bus Terminal, dated August 2, 2014, prepared by WWM Consulting Group, Inc.

As part of the request for assistance in determining any existing environmental contamination and potential liability at the Site, Program staff also reviewed the following reports:

- *Limited Subsurface Investigation Report – Former Greyhound Bus Terminal* (LSI Report), dated July 2, 2013, prepared by IWM Consulting Group, LLC (IWM)
- *Underground Storage Tank System Closure Report – Former Greyhound Bus Terminal* (UST System Closure Report), dated August 12, 2014, prepared by IWM
- *Additional Environmental Screening Investigation Report – Former Greyhound Bus Terminal* (AESI Report), dated August 27, 2015 prepared by SES

These reports may be viewed electronically by searching online by the applicable Brownfield and/or other IDEM site ID # referenced on the first page of this letter in IDEM's Virtual File Cabinet (VFC) on IDEM's website.

For purposes of this letter, sample analytical results were compared to IDEM's Remediation Closure Guide (RCG) (March 22, 2012 and applicable revisions) screening levels as follows: soil samples collected at depths between 0 and 10 feet below ground surface (bgs) were compared to RCG residential and commercial/industrial direct contact screening levels (RDCSLs and IDCSLs, respectively) soil samples collected between 0 and 18 feet bgs were compared to the excavation worker soil exposure direct contact screening levels (EX DCSLs); and, soil samples collected at depths greater than 18 feet bgs were not evaluated for purposes of closure because of the unlikely risk of exposure to soil at that depth. Ground water samples were compared to residential tap ground water screening levels (Res TAP GWSLs) and residential vapor exposure ground water screening levels (Res VE GWSLs), as well as commercial/industrial vapor exposure ground water screening levels (Indus VE GWSLs).

LSI Report – July 2013

On June 7, 2013, a geophysical investigation using ground penetrating radar (GPR) identified three USTs (1,000-gallon or less) beneath the west-central portion of the Site, adjacent to Lafayette Street. Two apparent steel USTs (1,000-gallons or less) and an UST closed-in-place in 2000 were identified at the northeast corner of the Site. Also identified was a disturbed area at the southeast corner of the Site between the Site building (since removed) and the East Washington Boulevard, which appeared to contain two USTs. The Site plan provided by Greyhound indicated that two, 8,000 gallon fiberglass USTs were buried in the disturbed area (Figure 2 in the LSI Report). A

vent pipe was identified at the southeast corner of the Site building that was traced and appeared to end at a potential heating oil UST identified on the Site plan provided by Greyhound. GPR was utilized inside the Site building to verify whether two hydraulic lift posts depicted on the Greyhound-provided Site plan as being in the central portion of the building were present since there were no surface features on the interior floor that would have indicated locations of hydraulic lift posts.

IWM conducted a limited subsurface investigation at the Site in June 2013. Seven soil borings (B-1 through B-7) were advanced to depths ranging from 8 to 16 feet bgs and four temporary ground water monitoring wells (B-1, B-4, B-6, and B-7) were installed. The borings were positioned adjacent to the UST, dispensing island, and hydraulic lift areas identified during the GPR survey. Ground water was encountered at depths ranging from 3 to 8 feet bgs. Petroleum volatile organic compounds (VOCs) and polycyclic aromatic hydrocarbons (PAHs) constituents were detected in soil samples at several locations; however, concentrations did not exceed IDEM RCG RDCSLs. Petroleum VOCs and PAH constituents were detected in ground water samples obtained at B-1 on the southeast portion of the Site and B-4 on the west portion of the Site. Ground water detections were above the RCG Res TAP GWSLs for ethylbenzene, 1,2,4-trimethylbenzene, 1,3,5-trimethylbenzene, m + p xylene, 1-methylnaphthalene, 2-methylnaphthalene, and naphthalene at B-1-W. Ground water detections were also above the RCG Res TAP GWSL for naphthalene at B-4-W. No other constituents analyzed in soil and ground water were detected at levels above applicable RCG screening levels.

UST System Closure Report – August 2014

IWM removed five USTs (two at the northeast corner and three on the southeast corner) three dispenser islands, associated piping, two hydraulic lift posts, and one oil/water separator as part of the UST closure activities at the Site. IWM also razed the site building in May 2014, removed building slabs and foundations, returning the site to grade with clean fill material and crushed limestone.

One used-oil UST had been permanently closed in-place on the Site in March 2000. As part of the UST System Closure Report, historical Closure Report dated April 28, 2000 prepared by Leigh Engineering, Inc. was included which provided additional information regarding the in-place closure of the waste-oil UST. According to this historical report, the UST was 1,000 gallons in size and was not used by Greyhound since no maintenance activities occurred at this facility. During closure activities for the used-oil UST, approximately 12-inches of product and water was discovered within the tank which was pumped out for disposal. Due to the elevated lead concentrations, this residual product was disposed of as hazardous material. Following product removal, the UST and associated piping were filled with concrete slurry as part of closure activities.

The historical report also discusses the advancement of four borings (GP-1 through GP-4) to a depth of 10 to 12 feet bgs. Two soil samples were retained from each boring and a ground water sample was collected from boring GP-2 for analysis of TPH, VOCs, SVOCs, PCBs, and/or RCRA-8 metals. The analytical results did not detect any contaminants above the then-applicable IDEM screening levels.

As part of the UST closure activities in May 2014, the formerly closed in-placed used-oil UST was permanently removed from the subsurface. On May 21, 2014 the hydraulic lift posts identified during the geophysical survey were removed from the subsurface beneath the central and southern garage bays. An oil/water separator was also removed from beneath the concrete floor in the northern-most garage bay.

Soil confirmation samples were collected from the base and sidewalls of the UST basin, the over-excavated areas, beneath the dispenser islands, and from beneath each 20 linear feet of product piping identified once potentially impacted soil was removed. Soil confirmation samples were analyzed for VOCs, total lead, and/or PAHs. The soil analytical results did not detect any contaminants above applicable RCG screening levels.

No ground water was encountered in the excavations performed at the Site. Therefore, no ground water samples were collected for analysis during the UST closure activities.

AESI Report – August 2015

The additional investigation discussed in the AESI report consisted of a geophysical survey and advancement of eight soil borings (GP1 – GP8). A geophysical survey was used to identify underground utilities and structures and was conducted on August 12, 2015 by Ground Penetrating Radar Systems, Inc. (GPRS). A water line was detected extending from South Lafayette Street through the central portion of the Site. Disturbed surface conditions were noted at the east central and southeast portions of the Site – consistent with previous reports indicating excavation and building demolition at these areas. An anomaly was noted near the landscaping area at the southwest corner of the Site. The anomaly was suspected to be a buried foundation. The GPRS survey at the northeast corner of the Site found no indications of a buried UST or anomalies.

Boring GP1 was advanced near the previous IWM boring B-4, where ground water contamination was detected during a limited subsurface investigation in June 2013. Soil borings GP2, GP3, and GP6 were advanced at the location of the former dry cleaner building in the west-central portion of the Site. Soil borings GP4 and GP 5 were advanced adjacent and north of previous boring B-1, where ground water contamination was detected during a limited subsurface investigation in June 2013. Borings GP7 and

GP8 were advanced at the northeast corner of the Site, where a prior geophysical survey indicated a gasoline UST was potentially present.

Eight soil samples (GP1 – GP8) were collected and analyzed for VOCs and GP7 and GP8 were also analyzed for lead. The depth interval with the highest PID response was selected at each boring location for sample collection, except at GP4 where the sample depth interval was based on the limited subsurface investigation in June 2013 around B-1. No constituents analyzed in soil were detected at levels above applicable RCG screening levels.

Seven ground water samples (GP1 – GP7) were retained and analyzed for VOCs. The sample collected at GP7 was also analyzed for lead and 1,2-dibromoethane (EDB) a lead scavenger. The ground water analytical results from GP1 detected benzene above its RCG Res TAP GWSL. Refer to Table 3, below, for a summary of ground water analytical data above applicable RCG screening levels. No other constituents analyzed in ground water were detected at levels above applicable RCG screening levels.

TABLE 3
August 2015 Ground Water Concentrations Exceeding
Applicable IDEM RCG Screening Levels

Contaminant Detected	Sample Location & Results (<i>parts per billion (ppb)</i>)	Res TAP GWSL	Res VE GWSL	Indus VE GWSL
	GP1			
Benzene	6.31	5	28	120

Note: *italics* = above RCG Residential Tap Ground Water Screening Level

Although dry cleaning contaminants were not detected on the Site, the historical dry cleaner identified as a REC in the Phase I ESA has not been fully investigated; no samples have been collected south/southeast of the former dry cleaner building where "back door" disposal of used dry cleaning chemicals could have occurred.

Liability Clarification

IDEM's "Brownfields Program Comfort and Site Status Letters" Non-rule Policy Document, W-0051 (April 18, 2003) (Comfort and Site Status Letter Policy), provides that IDEM may issue a letter to a stakeholder involved in redevelopment of a brownfield if the stakeholder satisfies certain eligibility criteria outlined below. IDEM concludes, based in part on information provided by the Owner, that:

- (1) no state or federal enforcement action at the Site is pending;
- (2) no federal grant requires an enforcement action at the Site;
- (3) no condition on the Site constitutes an imminent and substantial threat to

- human health or the environment;
- (4) neither the Owner nor an agent or employee of the Owner caused, contributed to, or knowingly exacerbated the release or threat of release of any petroleum at the Site, and;
 - (5) the Owner is eligible for an applicable exemption to liability, specifically the bona fide prospective purchaser (BFPP) exception to for petroleum contamination under IC §§ 13-23-13 and 13-24-1, provided the applicable statutory criteria are met.

As discussed below, the Owner has demonstrated to IDEM's satisfaction that it is eligible for the State BFPP exemption from liability for petroleum contamination provided it takes the "reasonable steps" required by statute, recommendations for which are also discussed below.

Bona Fide Prospective Purchaser

Under IC § 13-25-4-8(a), except as provided in IC § 13-25-4-8(b), (c), or (d), a person that is liable under § 107(a) of CERCLA is liable to the state in the same manner and to the same extent. IC § 13-25-4-8(b) references certain exceptions to liability imposed by IC § 13-25-4-8(a), including the exception in Section 107(r) of CERCLA, 42 U.S.C. § 9607(r), which states that a BFPP whose potential liability for a release or threatened release is based solely on the purchaser's being considered to be an owner or operator of a facility shall not be liable as long as the BFPP does not impede the performance of a response action or natural resource restoration. 42 U.S.C. § 9607(r). Thus a prospective purchaser that qualifies as a bona fide prospective purchaser and does not impede the performance of a response action or natural resource restoration would not be liable under IC § 13-25-4-8(a). Similarly, such a bona fide prospective purchaser would not be liable under IC §§ 13-23-13 and 13-24-1 for petroleum contamination existing on the Site.

Under Indiana law, if the Owner qualifies as a bona fide prospective purchaser and does not impede the performance of a response action or natural resource restoration, IDEM is prohibited from pursuing the Owner even if cleanup requirements change or if IDEM determines that a response action related to existing known hazardous substances or petroleum contamination from prior releases at the Site is necessary. Furthermore, IDEM is prohibited from pursuing such an Owner for response costs relating to the past release of hazardous substances or petroleum contamination at the Site. Therefore, IDEM will not require the Owner to respond to the past release of hazardous substances or petroleum contamination found at the Site beyond the scope of the statutorily-required reasonable steps outlined below, even if cleanup requirements change or if IDEM determines that a response action is necessary in the future. This decision, however, does not apply to past or present hazardous substance or petroleum contamination that is not described in this letter, future releases, or applicable federal requirements under CERCLA or the Resource Conservation and

Recovery Act, 42 U.S.C. § 6901.

To meet the statutory criteria for liability protection as a BFPP under Indiana law, a landowner must meet certain threshold criteria and satisfy certain continuing obligations. IDEM notes that the Owner acquired the Site on December 29, 2015 after January 11, 2002 (and after June 30, 2009), and the disposal of hazardous substances and petroleum at the Site occurred prior to that date. See 42 U.S.C. § 9601(40)(A); IC 13-11-2-148(h); IC § 13-11-2-151(g); IC § 13-11-2-150(f). Based on information reviewed by IDEM, IDEM concludes that the Owner has conducted all appropriate inquiries into the previous ownership and uses of the Site. See 42 U.S.C. § 9601(40)(B)(i). Furthermore, the Owner has represented that it is not potentially liable or affiliated with any person that is potentially liable for contamination at the Site, and IDEM has no information to the contrary. See 42 U.S.C. § 9601(40)(H). Therefore, the Owner meets the threshold requirements of CERCLA §§ 9601(40) (A), (B) and (H) to qualify for the status of BFPP under 42 U.S.C. § 9601(40).

The continuing obligations the Owner must undertake to qualify as a BFPP under Indiana law and maintain such status are outlined in 42 U.S.C. §§ 9601(40)(C)-(G) and include exercising "appropriate care with respect to hazardous substances found at the facility by taking reasonable steps to – (i) stop any continuing release; (ii) prevent any threatened future release; and, (iii) prevent or limit human, environmental, or natural resource exposure to any previously released hazardous substance." 42 U.S.C. § 9601(40)(D). By extension, under IC §§ 13-11-2-148(h), 13-11-2-150(f), and 13-11-2-151(g), the continuing obligations the Owner must undertake to maintain BFPP status are outlined in 42 U.S.C. §§ 9601(40) (C)-(G) and include exercising appropriate care with respect to petroleum products found at the facility by taking reasonable steps to – (i) stop any continuing release; (ii) prevent any threatened future release; and, (iii) prevent or limit human, environmental, or natural resource exposure to any previously released petroleum product. Furthermore, the Owner recognizes that in order to maintain the status of BFPP, it will have to continue to provide the cooperation, assistance and access required by 42 U.S.C. § 9601(40) (E). In addition, the Owner will have to maintain compliance with land use restrictions established for the Site, and not impede the implementation or the effectiveness of any institutional control as required by 42 U.S.C. § 9601(40) (F). To maintain BFPP status, the Owner must also supply required notices and respond to requests for information or administrative subpoenas in accordance with 42 U.S.C. § 9601(40)(C) and 42 U.S.C. § 9601(40) (G), respectively.

Reasonable Steps

As of the date of issuance of this Comfort Letter, and based on the currently proposed redevelopment of the Site, IDEM believes the following are appropriate reasonable steps for the Owner to undertake with respect to the petroleum contamination found at the Site in order to qualify as a BFPP, as well as to satisfy the

eligibility requirements for issuance of this letter under the Comfort and Site Status Letter Policy:

- Implement and maintain the land use restrictions required by this letter.
- Upon becoming aware of such information, communicate to IDEM any newly-obtained information about existing petroleum contamination or any information about new (or previously unidentified) contamination.

Implementation of the above-mentioned reasonable steps in addition to ongoing satisfaction of the additional statutory conditions will, with respect to IDEM, satisfy the statutory conditions for State BFPP protection. Please be advised that any work performed at the subject property must be done in accordance with all applicable environmental laws in order to ensure no inadvertent exacerbation of existing contamination found on the Site which could give rise to liability.

Due the historical dry cleaning REC not having been fully investigated, as discussed above, should future Site use change to include construction of a building over or in the vicinity of the former location of the dry cleaner, additional investigation is recommended and additional/modified reasonable steps may be necessary to address any newly-discovered exposure threats.

Institutional Control

Since benzene was detected in ground water on-Site above the applicable RCG residential screening level, IDEM is requiring an environmental restrictive covenant (ERC) to be recorded on the deed for the Site to ensure no exposure to on-Site contamination. As a condition of the issuance and effectiveness of this letter under the Comfort and Site Status Letter Policy, the Owner must abide by the land use restriction in the enclosed ERC, which is summarized below:

- Not use or allow the use or extraction of ground water at the Site.

Conclusion

IDEM encourages the redevelopment of the Site. Should additional information gathered in conjunction with future Site investigations and/or remediation demonstrate that a particular restriction is no longer necessary to protect human health and the environment or that Site conditions are appropriate for unrestricted use, IDEM will, upon request, consider modification or termination of the ERC recorded on the deed for the parcels comprising the Site pursuant to its terms and conditions. Conversely, it is also possible that new land use restrictions may be necessary in the future due to new information or changed circumstances at the Site.

Greyhound Lines Incorporated, Fort Wayne - BFPP Comfort Letter
BFD # 4160509
December 27, 2016
Page 11 of 12

Pursuant to the Comfort and Site Status Letter Policy, the determinations in this letter are based on the nature and extent of contamination known to IDEM as of the date of this letter, as a result of review of information submitted to or otherwise reviewed by IDEM. If additional information regarding the nature and extent of contamination at the Site later becomes available, additional measures may be necessary to satisfy the reasonable steps requirements of BFPP status. In particular, if new areas of contamination or new contaminants are identified, the Owner must communicate this information to IDEM upon becoming aware of it and should ensure that reasonable steps are undertaken with respect to such contamination in order to qualify as and maintain BFPP status.

This letter shall not be construed as limiting the Owner's ability to rely upon any other defenses and/or exemptions available to it under any common or environmental law, nor shall it limit any ongoing obligations of the Owner that are required to maintain the status of BFPP. Furthermore, the terms and conditions of this letter shall be limited in application to this letter recipient and this Site, and shall not be binding on IDEM at any other Site.

If at any time IDEM discovers that the above-mentioned reports, any representations made to IDEM, or any other information submitted to or reviewed by IDEM was inaccurate, which inaccuracy can be attributed to the Owner, then IDEM reserves the right to revoke this letter and pursue any responsible parties. Furthermore, if any activities undertaken by the Owner result in a new release or if Site conditions are later determined by IDEM to constitute an imminent and substantial threat to human health or the environment, IDEM reserves the right to revoke this decision and pursue any responsible parties. Additionally, this decision does not apply to past or present contamination that is not described in this Comfort Letter, future releases, or applicable requirements under the Resource Conservation and Recovery Act, 42 U.S.C. § 6901 or CERCLA. In addition, if any acts or omission by the Owner exacerbates the contamination at the Site, or if the Owner does not implement and maintain the reasonable steps and other statutory requirements outlined in this letter, then the Owner would not be considered a BFPP and may be potentially liable under IC §§ 13-25-4-3(a), 13-23-13 and/or 13-24-1. Furthermore, activities conducted at the Site subsequent to purchase that result in a new release can give rise to full liability.

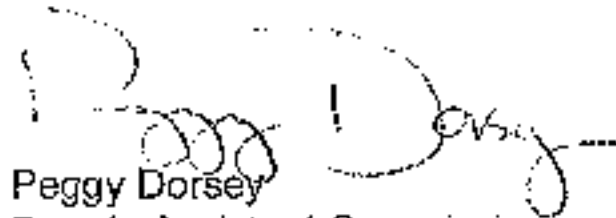
In order for IDEM to consider this letter effective, the enclosed ERC, which includes a copy of the Comfort Letter, must be recorded on the deed for the Site in the Allen County Recorder's Office. Please return a certified copy of the filed document to the address listed below:

Indiana Brownfields Program
100 North Senate Avenue, Room 1275
Indianapolis, Indiana 46204
ATTN: Dawn Andershock

Grayhound Lines Incorporated, Fort Wayne – BFPP Comfort Letter
BFD # 4160509
December 27, 2016
Page 12 of 12

IDEM is pleased to assist Grey Real Estate, LLC with this redevelopment project. Should you have any questions or comments, please contact Dawn Andershock at 317-234-4861 or toll free from within Indiana at 800/451-6027, ext. 4-4861. She can also be reached via email at: dandershock@ifa.in.gov.

Sincerely,



Peggy Dorsey
Deputy Assistant Commissioner
Office of Land Quality

Enclosure ERC

cc: Jan Pels, U.S. EPA Region 5 (*electronic copy*)
Meredith Gramelspacher, Indiana Brownfields Program (*electronic copy*)
Dawn Andershock, Indiana Brownfields Program (*electronic copy*)
Glen A. Howard, SES Environmental (*electronic copy*)

EXHIBIT D

TABLE 1

Greyhound Lines Incorporated, Fort Wayne – BFD# 4160509
August 2015 Ground Water Concentrations Exceeding
Applicable IDEM RCG Screening Levels

TABLE 1

Greyhound Lines Incorporated, Fort Wayne – BFD# 4160509
August 2015 Ground Water Concentrations Exceeding
Applicable IDEM RCG Screening Levels

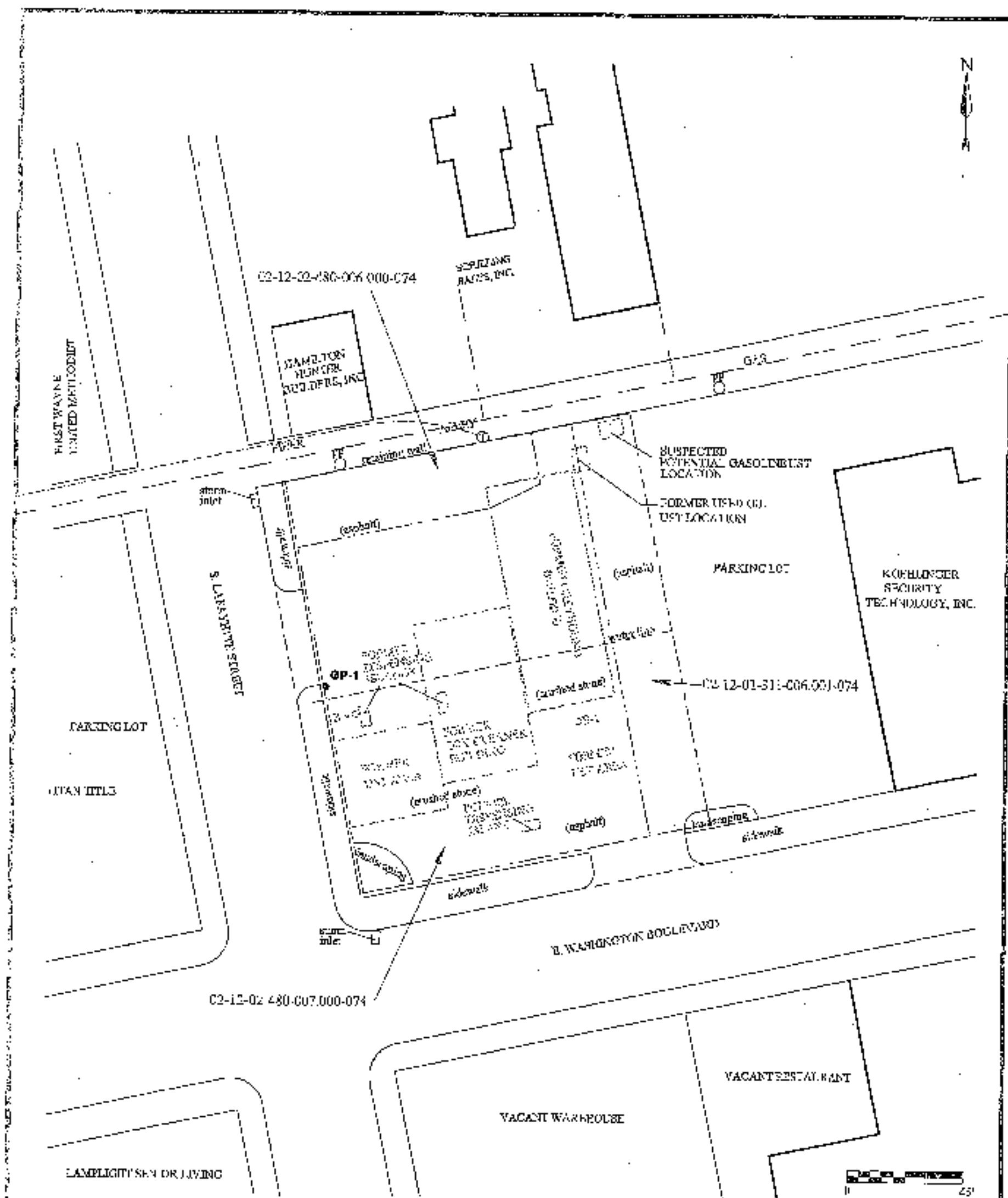
Contaminant Detected	Sample Location & Results (<i>parts per billion (ppb)</i>)	Res TAP GWSL	Res VE GWSL	Indus VE GWSL
	GP1			
Benzene	6.31	5	28	120

Note: *italics* = above RCG Residential Tap Ground Water Screening Level

EXHIBIT E

Greyhound Lines Incorporated, Fort Wayne – BFD# 4160509
Site Map Depicting Sampling Locations at Which
COCs Were Detected Above Applicable IDEM RCG Screening Levels

DISCLAIMER: Information on this map is being provided to depict environmental conditions on the Real Estate that are the subject of the land use restrictions contained in the Covenant to which this map is attached and incorporated. The land use restrictions contained in the Covenant were deemed appropriate by the Department based on information provided to the Department by the Owner or another party investigating and/or remediating the environmental conditions on the Real Estate. This map cannot be relied upon as a depiction of all current environmental conditions on the Real Estate, nor can it be relied upon in the future as depicting environmental conditions on the Real Estate.



TITLE:
SITE MAP DEPICTING SAMPLING LOCATIONS
AT WEICH COCs WHERE DETECTED ABOVE
APPLICABLE IDEM-ROG SCREENING LEVELING

LOCATION:
Former Greyhound Station
629 S. Lafayette Street
Fort Wayne, Indiana

LEGEND:

- ⊕ TRANSFORMER
- FORMER UST LOCATION
- GP-1 SAMPLING LOCATION

PROJECT:
2015-573

SCALE:
1" = 45'

DATE:
8/27/15

FILE:
2015573map

CHECKED:
[Signature]

DATE:
8/27/15

PROJECT:
2

