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FLOYD CO. IN RECORDER

TODD N. SCARBELL

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Environmental Restrictive Covenant

THIS ENVIRONMENTAL RESTRICTIVE COVENANT is made this 30 day of April, 2019, by The Housing Authority of the City of New Albany ("Owner" or "New Albany Housing Authority").

WHEREAS: Owner is the fee owner of certain real estate in the County of Floyd, Indiana, located at 55 Riverside Drive in New Albany 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 October 21, 1980, and recorded on October 21, 1980, as Deed Record #7154 in the Office of the Recorder of Floyd County, Indiana. The Real Estate consists of approximately 17 acres and is identified by the state by parcel identification number #22-05-02-802-146.000-008. The Real Estate to which this Covenant applies is depicted on a map attached hereto as **Exhibit "B"**.

WHEREAS: A Site Status 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 a brownfield site resulting from a release of hazardous substances relating to historical operations on the Real Estate, Program site number BFD #4170610.

WHEREAS: The Site Status Letter, as approved by the Department, provides that certain contaminants of concern ("COCs") were detected in ground water on the Real Estate but will not pose an unacceptable risk to human health at the detected concentrations provided that the land use restrictions contained herein implemented and maintained to ensure the protection of public health, safety, or welfare, and the environment. The COCs are arsenic, cis-1,2-dichloroethylene, 1,2-dichloropropane, and trichloroethylene ("TCE") in ground water.

WHEREAS: Soil, ground water, soil gas, indoor air, and ambient air on the Real Estate were sampled for volatile organic compounds ("VOCs"), polynuclear aromatic hydrocarbons ("PAHs"), and/or Resource Conservation and Recovery Act ("RCRA") metals. Analytical results were compared to applicable screening levels in the IDEM *Remediation Closure Guide* ("RCG") (March 22, 2012 and applicable revisions). Arsenic, Cis-1,2-dichloroethylene, 1,2-dichloropropane, and TCE were detected in ground water samples MW-9, MW-11, MW-13, MW-14, and/or MW-18 above their respective residential tap ground water screening levels ("Res TAP GWSLs"). TCE was detected in samples MW-14 and MW-18 above its residential vapor exposure ground water screening level ("Res VE GWSL") and above its industrial vapor exposure ground water screening level ("Indus VE GWSL") in sample MW-9. Table 1, attached hereto as **Exhibit "D"** summarizes analytical results above applicable RCG screening levels on the Real Estate. A site map, attached hereto as **Exhibit "E"**, depicts the sample locations on the Real

Estate at which the COCs were detected in ground water above its applicable RCG screening levels.

WHEREAS: Notwithstanding contaminants in ground water having been detected at levels above applicable RCG screening levels, IDEM approved a conditional residential closure of environmental conditions at the Real Estate under the RCG since: (1) although arsenic was detected in soil above the RDCSL, the detected levels are within naturally occurring background levels and the calculated average concentration of arsenic in soil on the Real Estate is below its RDCSL; (2) no other sampled constituents in soil were detected at levels above applicable RCG screening levels; (3) contaminants detected in indoor air samples exceeding applicable screening levels were not also detected in the subslab soil gas samples; therefore, benzene, 1,3-butadiene, chloroform, 1,2-dichloroethane, and naphthalene detected in indoor air samples at the Real Estate above applicable RCG residential screening levels are not a result of the contamination in the ground water but are likely from common household items or cigarette smoke, which were identified in the pre-sampling inventories completed for each apartment, as a number of cleaning products and beauty items such as hairspray were not removed prior to sampling; (4) contaminants detected in exterior soil gas samples exceeding applicable screening levels were not also detected in the subslab soil gas samples; however, contaminants were detected in ambient air samples above their RCG screening levels. Therefore, contaminants detected in exterior soil gas samples at the Real Estate above applicable RCG screening levels are determined to not be a result of the contamination in the ground water but are likely from ambient air conditions; (5) although contaminants detected in ground water are above their respective Res TAP GWSLs, potable water on the Real Estate is supplied by a municipal source; and, (6) potential exposure to the contamination detected in the ground water on the Real Estate can be controlled with an institutional control.

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, New Albany Housing Authority subjects the Real Estate to the following restrictions and provisions, which shall be binding on New Albany Housing Authority and all future owners:

I. RESTRICTIONS

1. Restrictions. 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.

- (b) (i) Shall not occupy any residential and/or commercial/industrial building(s) constructed on the Real Estate after the effective date of this Covenant without first completing one of the following: Option 1) Evaluate and determine through a Program-approved sampling plan, the presence or absence of the intrusion of contaminated vapor into indoor air ("vapor intrusion") in any newly-constructed residential and/or commercial/industrial building(s) on the Real Estate; or, Option 2) Install, operate and maintain a vapor mitigation system (in accordance with *U.S. EPA Brownfield Technology Primer Vapor Intrusion Considerations for Redevelopment* (EPA 542-R-08-001) (March 2008) and *IDEM Draft Interim Guidance Document: Vapor Remedy Selection and Implementation* (February 2014)) within any newly-constructed residential and/or commercial/industrial building(s) on the Real Estate, unless the Department concurs that a vapor mitigation system(s) is no longer necessary based upon achievement of the applicable IDEM RCG residential subslab soil gas screening levels ("Res SGss SLs") or commercial/industrial subslab soil gas screening levels ("Indus SGss SLs") and/or residential indoor air vapor exposure screening levels ("Res IA VESLs") or commercial industrial indoor air vapor exposure screening levels ("Indus IA VESLs") based upon then-current use of the Real Estate or site-specific action levels approved by the Department.

(ii) if Option 2 is selected from (b)(i) above, a detailed work plan must be submitted and approved by the Program outlining activities to be completed to evaluate vapor intrusion risk and to determine the effectiveness of any operating vapor mitigation system(s) after occupancy. Following Program approval, operate the vapor mitigation system(s) for the purpose of mitigating the COCs potentially impacting indoor air in any residential and/or commercial/industrial building(s) on the Real Estate per the *IDEM Draft Interim Guidance Document: Vapor Remedy Selection and Implementation* (February 2014) until the Department a) concurs that a vapor mitigation system(s) is no longer necessary based upon demonstrated achievement under an Program-approved sampling work plan of the applicable IDEM RCG Res SGss SLs and/or Res IA VESLs OR Indus SGss SLs and/or Indus IA VESLs and/or site-specific action levels approved by the Department; and, b) makes a determination regarding acceptable risk under Paragraph No. 9 of this Covenant. The Department's determination shall be based upon RCG Res IA VESLs or Indus IA VESLs or site-specific action levels approved by the Department. The Department's determination in concert with Paragraph No. 9 shall not be unreasonably withheld. In the event that the vapor intrusion mitigation system(s) malfunction(s) or cease(s) operation, the Department shall afford the Owner a reasonable opportunity to repair or replace the vapor intrusion mitigation system(s) prior to the Department exercising whatever rights it may have under Paragraph No. 8.

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 restriction 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 _____ 20____, RECORDED IN THE OFFICE OF THE RECORDER OF FLOYD COUNTY ON _____, 20____, INSTRUMENT NUMBER (or other identifying reference) _____ 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 restriction 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 Floyd 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:
New Albany Housing Authority
300 Erie Avenue
New Albany, Indiana 47150
ATTN: Cora Huffines


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

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, The Housing Authority of the City of New Albany, the said Owner of the Real Estate described above has caused this Environmental Restrictive Covenant to be executed on this 19 day of April, 2019


The Housing Authority of the City of New Albany

STATE OF Indiana
COUNTY OF Flound) SS:

Before me, the undersigned, a Notary Public in and for said County and State, personally appeared Dave Duggins, the representative of the Owner, who acknowledged the execution of the foregoing instrument for and on behalf of said entity.

Witness my hand and Notarial Seal this 30 day of April, 2019

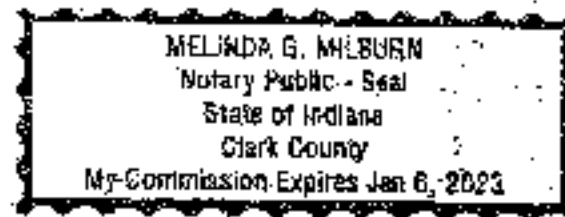


Melinda G. Milburn, Notary Public

Residing in Indiana County, Clark

My Commission Expires: 01/06/23

This instrument prepared by:
Dave C. Duggins Jr
New Albany Housing Authority
300 Erie Avenue
New Albany, IN 47150



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.

Melinda G. Milburn (Printed Name of Declarant)

EXHIBIT A

Warranty Deed for the Real Estate

WARRANTY DEED

THIS INDENTURE, made this 21st day of October, 1930, between THE HORGESANG FOUNDATION, INC., a Kentucky Corporation of Jefferson County, Kentucky, Grantor and THE HOUSING AUTHORITY OF THE CITY OF NEW ALBANY, INDIANA, Grantee;

WITNESSETH: That the said Grantor, for and in consideration of the sum of ONE HUNDRED SIXTY THOUSAND DOLLARS (\$160,000.00), this day paid by said Grantee, the receipt whereof is hereby acknowledged and pursuant to the authority of the Board of Directors of said corporation, has, and by these presents does convey and warrant unto said Grantee, THE HOUSING AUTHORITY OF THE CITY OF NEW ALBANY, INDIANA, all of the following described real estate situated in Floyd County, Indiana, to-wit:

BEING all of Lot No. Two, and a part of Lot No. One of Plat No. 352 of the Floyd County, Indiana Record of Plats and being a part of the land heretofore conveyed to the Horgesang Foundation, Inc. by deed as recited in Deed Drawer No. 6, Instrument No. 9911 of the Floyd County, Indiana record of deeds and being apart of Survey No. 23 of the Illinois Grant and being more fully described as follows, to-wit:

BEGINNING at an iron pin at the Northeast corner of Lot No. Two of Plat No. 352 and running thence South 41° 17' 43" East along the line dividing lots Two and Six of said Plat 352, a distance of 519.72 feet to an iron pin at the Southeast corner of said Lot No. Two; thence along the Southerly line of said Lot No. Six, North 54° 37' 02" East, 219.51 feet to an iron pin on the right of way line of the New Albany Flood Control District thence along said following courses and distances; South 11° 38' 00" East, 145.21 feet to an iron pin; South 75° 09' 22" West, 10.00 feet to an iron pin; South 20° 08' 38" East, 132.06 feet to an iron pin; South 40° 22' 30" East, 279.30 feet to an iron pin; South 49° 26' 20" West, 100.00 feet to an iron pin; South 40° 23' 30" East, 176.50 feet to an iron pin; South 49° 36' 30" West, 34.00 feet to an iron pin; thence continuing along said right of way line on a curve to the right, said curve having a central angle of 67° 32' 46", a radius of 382.47 feet and a chord which bears South 42° 26' 21" West,

DULY ENTERED FOR
TAXATION

OCT 21 1930

Betty J. Haines

AUDITOR FLOYD CO. IND.

425.23 feet to an iron pin; thence continuing along said Flood Control District right of way line the following courses and distances; North $13^{\circ} 47' 16''$ West, 45.00 feet to an iron pin; South $76^{\circ} 12' 44''$ West, 198.44 feet to an iron pin; North $13^{\circ} 47' 16''$ West, 70.00 feet to an iron pin; South $76^{\circ} 12' 44''$ West, 390.00 feet to an iron pin; and South $35^{\circ} 33' 22''$ West, 179.16 feet to an iron pin on the Northerly right of way line of Chambers Street (60 foot right of way); thence along the Northeasterly right of way line of said Chambers Street, North $40^{\circ} 48' 04''$ West, 58.47 feet to an iron pin; thence along a Northerly line of The Hoffmann Foundation, Inc. Land, North $53^{\circ} 18' 56''$ East, 543.05 feet to a stone; thence North $40^{\circ} 31' 37''$ West, 490.14 feet to a stone; thence North $54^{\circ} 36' 35''$ East, 145.90 feet to a stone; thence North $40^{\circ} 33' 45''$ West, 611.85 feet to an iron pin at the Northwest corner of said Lot No. Two of said Plat No. 352; thence North $54^{\circ} 37' 30''$ East along the Northerly line of said Lot No. Two, 424.79 feet to the place of beginning and containing 17.9132 acres of land.

It is the intention of the Grantor to convey to Grantee herein all property acquired by Grantor herein through its source deed hereinabove referenced which lies on the land side of the floodwall property and not to convey any portion of such real estate which lies on the river side of the floodwall property. The metes and bounds description hereinabove set out was provided by Grantee and Grantor herein does not in any way covenant or warrant the accuracy of the description utilized. Grantor reserves the herein, in addition to all real estate on the river side of the floodwall, reasonable and full access to the retained property of Grantor on the river side of the floodwall through the property which is the subject of conveyance in this deed to Grantee should reasonable and full access to such property not be otherwise available without cost to Grantor for its future use of the river side property. The exact location and dimensions of the retained access for ingress and egress to such property through the property herein conveyed to Grantee shall be subject to future determination between the owners of such property.

Subject to a sanitary sewer easement as described in Deed Record 89, page 160 of the Floyd County, Indiana, records.

Subject to a water line easement as described
in Deed Record 162, page 398 of the Floyd
County, Indiana, records.

Subject to a 52 foot sanitary sewer easement
as recorded in Deed Record 151, page 321
of the Floyd County, Indiana, records.

There are no Indian gross income taxes
due.

IN WITNESS WHEREOF, the said Grantor, The Hofgesang
Foundation, Inc., pursuant to the authority of its Board of
Directors, has caused the execution hereof by its President.

THE HOFGESANG FOUNDATION, INC.

BY: Ben B. Hardy, President
President

STATE OF KENTUCKY)
) SS
COUNTY OF JEFFERSON)

I hereby certify that on this 21st day of October, 1980, the
foregoing Warranty Deed was acknowledged before me by BEN B.
HARDY as President of The Hofgesang Foundation, Inc.

William P. Spindeman
NOTARY PUBLIC
Kentucky, State at Large

My commission expires: 2/27/82

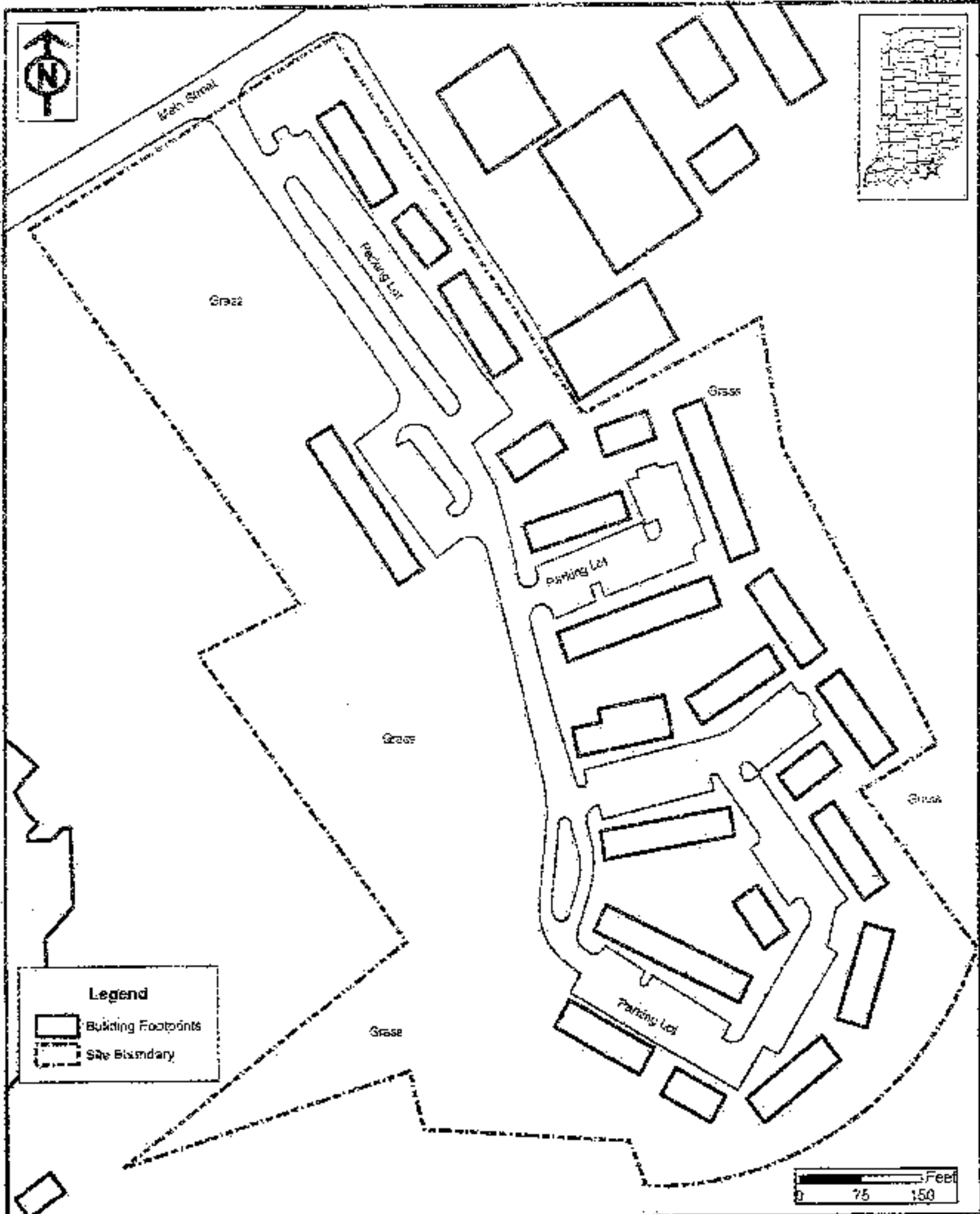
Prepared By: Ben B. Hardy, Attorney at Law

RECEIVED
FOR RECORD
TIME 2:40 PM
DATE OCT 24 1980
RECORDED IN 7 GRA 7
INSTR. NO. 7154

John E. Frutkin
RECORDER OF FLOYD COUNTY

EXHIBIT B

Map of the Real Estate



Legend
 [Solid Line] Building Footprints
 [Dashed Line] Site Boundary

0 75 150 Feet



Heartland Environmental Associates, Inc.
 5570 Woodstock Avenue, South Bend, Indiana 46615
 1376 East 14th Street, Indianapolis, Indiana 46202

SITE LAYOUT MAP
 RIVERSIDE TERRACE
 55 RIVERSIDE DRIVE
 NEW ALBANY, INDIANA

Date:
 3/20/19
 Scale:
 1"=150'
 Drawn By:
 NV

EXHIBIT C

Copy of Site Status Letter



INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

We Protect Hoosiers and Our Environment

130 N. Senate Avenue • Indianapolis, IN 46204

(500) 454-6037 • (317) 232-8503 • www.idem.in.gov

Eric J. Holcomb
Governor

Brian L. Figott
Commissioner

April 19, 2019

Ms. Cora Huffines
The Housing Authority of the City of New Albany
a.k.a. New Albany Housing Authority
300 Erni Avenue
New Albany, Indiana 47150

Re: **Site Status Letter**
Riverside Terrace
55 Riverside Drive
New Albany, Floyd County
Brownfield #4170840

Dear Ms. Huffines:

In response to the request by AsbesTECH, Inc., in association with Merit Environmental, Inc., (A & M) on behalf of the New Albany Housing Authority (NAHA or Owner) to the Indiana Brownfields Program (Program) for assistance concerning the property located at 55 Riverside Drive, New Albany (Site), the Indiana Department of Environmental Management (IDEM) has agreed to provide this Site Status Letter to clarify IDEM's position on the necessity of an environmental response action at the Site. This letter is not a legal release from liability. It will, however, help to establish whether environmental conditions at the Site might be a barrier to redevelopment or property transfer.

As part of the request for assistance in determining any existing environmental contamination and potential liability to undertake response activities at the Site, Program staff have reviewed the following documents. These documents may be viewed electronically by searching online by the noted document number in IDEM's Virtual File Cabinet (VFC) accessible through IDEM's website.

- *Phase I Environmental Site Assessment (Phase I ESA)*, dated October 27, 2015, prepared by A & M (Document #80491368)
- *Phase II Environmental Site Assessment (Phase II ESA)*, dated June 29, 2016, prepared by A & M (Document #80491370)
- *Ground Water Investigation Report*, dated September 28, 2016, prepared by A & M (Document #80491371)
- *Ground Water and Vapor Intrusion Investigation*, dated April 28, 2017, prepared by A & M (Document # 80491373)



A State that Works

- *Further Site Investigation and Vapor Intrusion Assessment Report*, dated October 11, 2018, prepared by Heartland Environmental Associates, Inc. (Document #82640163)

Site Description and History

The 17-acre Site is one parcel identified by the State by parcel #22-05-02-802-146.000-008. The Site was occupied by a fertilizer manufacturing and storage operation from 1924 until 1971. Sanborn maps of the Site depict a fertilizer mill/warehouse, above ground tanks (ASTs), a locomotive shop and a railroad spur on the Site. The activities on-Site included the handling of hazardous substances and petroleum products. In the early 1980s, the current public housing complex, Riverside Terrace, was constructed on the Site. The facility consists of twenty-one single story and two story apartment buildings containing 120 apartments, and a building which houses an office, maintenance shop, and community space. The Site is expected to continue as multi-tenant residential use.

The Site is bordered to the south by the Ohio River; to the east by Maximum Fleet Service Truck Repair, former Moser Leather Company and wetlands; to the north by East Main Street then woodland and railroad tracks; and, to the west by woodland.

Environmental Conditions

For purposes of evaluating Site conditions for closure, 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) and 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 both residential tap ground water screening levels (Res TAP GWSLs), residential and commercial/industrial vapor exposure ground water screening levels (Res VE GWSLs and Indus VE GWSLs, respectively). Indoor air samples were compared to residential indoor air vapor exposure screening levels (Res IA VESLs) and commercial/industrial indoor air vapor exposure screening levels (Indus IA VESLs). Subslab soil gas samples were compared to calculated RCG residential subslab soil gas screening levels (Res SGss SLs) and calculated commercial/industrial subslab soil gas screening level (Indus SGss SLs). Exterior soil gas samples were compared to calculated RCG residential exterior soil gas screening levels (Res SGe SLs) and calculated commercial/industrial exterior soil gas screening levels (Indus SGe SLs).

Phase I ESA – October 2015

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

- ▶ Historical use as a fertilizer manufacturing plant.
- ▶ Historical use of the property adjacent to the east as a glue manufacturing company and a fertilizer manufacturing plant.

Phase II ESA – June 2016

In June 2016, eight soil borings (B-1 through B-8) were advanced on-Site to a maximum depth of 30 feet bgs. Eight soil samples and three ground water samples (B-1, B-5, and B-6) were collected and analyzed for one or more of the following: volatile organic compounds (VOCs), polynuclear aromatic hydrocarbons (PAHs), and/or Resource Conservation Recovery Act (RCRA) metals. No constituents analyzed in soil were detected at levels above applicable RCG screening levels. Cis-1,2-dichloroethene and 1,2-dichloropropane were detected in ground water sample B-6 above their respective Res TAP GWSLs. Trichloroethylene (TCE) was detected in ground water sample B-6 above its Res TAP GWSL of 5 parts per billion (ppb) and Res VE GWSL of 9.1 parts per billion. No other constituents analyzed in ground water were detected at levels above applicable RCG screening levels. Refer to Table 1, below, for a summary of ground water analytical data above applicable RCG screening levels.

**TABLE 1
 June 2016 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
	B-6			
Cis-1,2-dichloroethene	272	70	NE	NE
1,2-dichloropropane	465	5	NE	NE
Trichloroethylene	12.5	5	9.1	35

Notes: **bold** = above RCG Residential Tap Ground Water Screening Level
italics = above RCG Residential Vapor Exposure Ground Water Screening Level
 NE = not established

Ground Water Investigation Report – September 2016

In August 2016, eight borings (B-9 through B-16) were advanced on-Site to a maximum depth of 35 ft bgs and completed as permanent ground water monitoring wells (MW-9 through MW-16). Eight soil samples were collected from the borings and eight ground water samples were collected from monitoring wells. Samples were analyzed for one or more of the following: VOCs, PAHs, and/or RCRA metals. No

constituents analyzed in soil were detected at levels above applicable RCG screening levels. Cis-1,2-dichloroethene, 1,2-dichloropropane, and TCE were detected in ground water samples MW-9, MW-11, MW-13, and/or MW-14 above their respective Res TAP GWSLs. TCE was detected in ground water sample MW-9 above its Res VE GWSL and Indus VE GWSL of 38 ppb. No other constituents analyzed in ground water were detected at levels above applicable RCG screening levels. Refer to Table 2, below, for a summary of ground water analytical data above applicable RCG screening levels.

TABLE 2
August 2016 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
	MW-9	MW-11	MW-13	MW-14			
Cis-1,2-dichloroethene	479	<1	135	<1	70	NE	NE
1,2-dichloropropane	601	129	215	13.2	5	NE	NE
Trichloroethylene	111	4.98	5.31	4.19	5	3.1	38

Notes: **bold** = above RCG Residential Tap Ground Water Screening Level
italics = above RCG Residential Vapor Exposure Ground Water Screening Level
underline = above RCG Commercial/Industrial Vapor Exposure Ground Water Screening Level
 NE = not established

Ground Water and Vapor Intrusion Investigation Report – April 2017

In March 2017, a vapor intrusion (VI) investigation was conducted in response to the TCE detected in ground water samples on-site. The investigation included the collection of paired indoor air and subslab soil gas samples from apartment units # 21, 23, 24, 25, 26, 56, 57, 120, and 121 located in buildings C, F, and G. Prior to the collection of samples, apartment units and adjacent spaces were inspected to determine if materials with the potential to affect indoor air quality were present. Items with the potential to interfere with sampling activities found within these areas were secured in containers and removed from the area. However, a number of cleaning product and beauty items such as hairspray were not removed prior to sampling.

Eight subslab soil gas samples (C-56-SS, C-57-SS, F-23-SS through F-26-SS, G-120-SS, and G-121-SS) and 16 indoor air samples (C-56-1, C-56-2 through C-57-2, F-23-1 through F-26-2, G-120-1 through G-121-2) were collected over a 24-hour timeframe and analyzed for VOCs. No constituents analyzed in subslab soil gas samples were detected at levels above their calculated RCG screening levels. Benzene and 1,3-butadiene were detected in indoor air samples F-24-1 and F-24-2 above their

respective Indus IA VESLs. 1,2-dichloroethane was detected above its Res IA VESL in indoor air sample F-26-1 and above its Indus IA VESL in indoor air sample F-26-2. Naphthalene was detected in indoor air samples F-24-2 and G-121-2 above its Res IA VESL and above its Indus IA VESL in indoor air samples F-24-1 and G-121-1. Chloroform was detected in indoor air samples F-23-1, F-23-2, F-24-1, F-25-1, F-25-2, and G-121-1 above its Res IA VESL. No other constituents analyzed in indoor air samples were detected at levels above their applicable RCG screening levels. Refer to Table 3, below, for a summary of indoor air analytical data above applicable RCG screening levels.

TABLE 3
March 2017 Indoor Air Concentrations
Exceeding Applicable IDEM RCG Screening Levels

Sample ID	Contaminant Detected & Results (micrograms per cubic meter (ug/m ³))				
	Benzene	1,3-butadiene	Chloroform	1,2-dichloroethane	Naphthalene
F-23-1	ND	ND	4.36	ND	ND
F-23-2	2.6	ND	2.19	ND	ND
F-24-1	50.2	15.4	1.36	ND	4.47
F-24-2	57.3	17.8	1.34	ND	3.30
F-25-1	1.23	ND	1.23	ND	ND
F-25-2	1.46	ND	1.27	ND	ND
F-26-1	1.65	ND	ND	4.44	ND
F-26-2	1.23	ND	ND	7.82	ND
G-121-1	1.57	ND	1.80	ND	6.47
G-121-2	1.53	ND	ND	ND	3.38
Res IA VESL	3.6	0.94	1.2	1.1	0.83
Indus IA VESL	16	4.1	5.3	4.7	3.6

Notes: **bold** = above RCG Residential Indoor Air Vapor Exposure Screening Level
italics = above RCG Commercial/Industrial Indoor Air Vapor Exposure Screening Level
 ND = non-detect

One soil boring (MW-17) was advanced to a depth of 35 ft bgs and completed as a permanent ground water monitoring well. One soil sample and one ground water sample were collected from the boring and analyzed for one or more of the following: VOCs, PAHs, and/or RCRA metals. No constituents analyzed in the soil or ground water sample were detected at levels above their applicable RCG screening levels.

Further Site Investigation and Vapor Intrusion Investigation Report - October 2018

In August 2018, eight soil borings (B-18 through B-25) were advanced to a maximum depth of 30 feet bgs. Two soil samples were collected from each boring. The borings were converted into permanent ground water monitoring wells (MW-18 through MW-25). Ground water samples were collected from each of the monitoring wells and all of the seventeen existing ground water monitoring wells on-Site. Soil and ground water samples were analyzed for one or more of the following: VOCs, PAHs, and/or RCRA metals.

Arsenic was detected in soil samples B-21, B-22, and B-23 at levels above its RDCSL of 8.5 parts per million (ppm). Arsenic is a naturally occurring element with background levels in Indiana generally ranging from 2 to 13 ppm. An average arsenic concentration of 8.2 ppm was calculated using analytical data from all samples collected during site investigations. Given that no on-Site anthropogenic source of the arsenic has been identified and the analytical results above RCG screening levels are within the background range for arsenic in Indiana soils, IDEM concludes there is no risk related to the arsenic levels detected in on-Site soil above the RDCSL. No other constituents analyzed in soil were detected at levels above applicable RCG screening levels.

Arsenic, cis-1,2-dichloroethene, 1,2-dichloropropane, and TCE were detected in one or more ground water samples collected at MW-9, MW-11, MW-13, MW-14, and MW-18 above their respective Res TAP GWSLs. TCE was detected in samples MW-14 and MW-18 above its Res VE GWSL and in sample MW-9 above its Indus VE GWSL. Refer to Table 4, below, for a summary of ground water data above applicable RCG screening levels.

TABLE 4
August 2018 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
	MW-9	MW-11	MW-13	MW-14	MW-18			
Cis-1,2-dichloroethylene	234	<5	145	<5	767	73	NE	NE
1,2-dichloropropane	273	92.1	230	60.9	747	5	NE	NE
Trichloroethylene	53.5	<5	<5	30.7	34.5	5	9.1	38
Arsenic	21.1	<10	<10	<10	<10	10	NE	NE

Notes: **bold** = above RCG Residential Tap Ground water Screening Level
italics = above RCG Residential Vapor Exposure Ground Water Screening Level
underline = above RCG Commercial/Industrial Vapor Exposure Ground Water Screening Level
 NE = not established

In August and September, 2018, a VI investigation was conducted by Heartland. As part of this VI investigation three exterior soil gas probes (SG-1 through SG-3) were installed in the utility corridor area between MW-9 and the southern end of the apartment building. The investigation included the collection of paired indoor air and subslab soil gas samples from within apartment units #8, 9, 21, 23 through 26, 45, 48, 64, 67, and 69 in eight buildings (F, 8, 9, 45, 48, 64, 67, and 69). Twelve subslab soil gas samples (F-21-SS, F-23-SS through F-26-SS, 8-SS, 9-SS, 45-SS, 48-SS, 64-SS, 67-SS, and 69-SS) and twenty four indoor air samples (F-21-1, F-21-2, F-23-1, F-23-2 through F-26-2, 8-1, 8-2, 9-1, 9-2, 45-1, 45-2, 48-1, 48-2, 64-1, 64-2, 67-1, 67-2, 69-1 and 69-2) were collected. Two outdoor ambient air samples (AA-080818 and AA-092018) were collected adjacent to the west side of building F and the east side of the maintenance building, respectively. All indoor air and subslab soil gas samples collected were analyzed for VOCs. Items with the potential to interfere with sampling activities found within these areas were secured in containers and removed from the area. However, a number of cleaning products and beauty items such as hairspray were not removed prior to sampling.

Benzene, ethylbenzene, and 1,2,4-trimethylbenzene (1,2,4-TMB) were detected in exterior soil gas sample SG-1 above their respective calculated Res SGe SLs and in samples SG-2, and SG-3 above their respective calculated Indus SGe SLs. Ethylbenzene was detected in all three samples above its Res SGe SL. Naphthalene was detected in all three samples above its Indus SGe SL. No other constituents analyzed in exterior soil gas were detected at levels above applicable RCG screening levels. Refer to Table 5, below, for a summary of exterior soil gas data above applicable RCG screening levels.

TABLE 5
August 2018 Shallow Exterior Soil Gas Concentrations
Exceeding Applicable IDEM RCG Screening Levels

Sample ID	Contaminant Detected & Results (Micrograms per cubic meter (ug/m ³))			
	Benzene	Ethylbenzene	1,2,4-trimethylbenzene	Naphthalene
SG-1	8.6	11.3	19.1	10.1
SG-2	17.6	22.6	32.3	10.2
SG-3	17.6	24.8	32.7	7.6
Calculated ^{**} Res SGe SLs	3.6	11	7.3	0.83
Calculated ^{**} Indus SGe SLs	15	48	31	3.6

Notes: **bold** = above RCG Residential Exterior Soil Gas Screening Level

italics = above RCG Commercial/Industrial Indoor Exterior Soil Gas Screening Level

^{**} = calculated by dividing the applicable RCG Residential/Commercial/Industrial Exterior Soil Gas Screening Levels by an attenuation factor of 0.1 for exterior soil gas samples

Benzyl chloride and 1,2,4-trichloroethane were detected in all of the exterior soil gas samples at a levels above their respective screening levels; however, the detection limit for these contaminants were above their respective calculated Res Indus SGe SLs. Therefore, the data is inconclusive as an actual contaminant level in indoor and ambient air samples.

Analytical results detected benzene, chloroform, trichloroethene, methylene chloride, 1,2-dichloroethane, ethylacetate, and naphthalene in indoor air above their respective Res IA VESLs and/or above indus IA VESLs. No other constituents analyzed in subslab soil gas were detected at levels above applicable RCG screening levels. Refer to Table 6, attached, for a summary of indoor air analytical data above applicable RCG screening levels.

Two outdoor ambient air samples (AA-080818 and AA-092018) were collected adjacent to the west side of building F and the east side of the maintenance building, respectively. All samples collected were analyzed for VOCs. Analytical results detected ethylbenzene, 2-hexanone, 1,2,4-trimethylbenzene, and naphthalene in ambient air above their respective Res IA VESLs and/or above Indus IA VESLs. No other constituents analyzed in ambient air were detected at levels above applicable RCG screening levels. Refer to Table 7, below, for a summary of ambient air analytical data above applicable RCG screening levels.

TABLE 7
August & September 2018 Ambient Air Concentrations
Exceeding Applicable IDEM RCG Screening Levels

Sample ID	Contaminant Detected Results (Micrograms per cubic meter (ug/m ³))			
	Ethylbenzene	2-hexanone	1,2,4-trimethylbenzene	Naphthalene
AA-080818	8.5	11.4	23.7	9.2
AA-092018	12.9	44.5	28.5	10.1
Res IA VESL	11	31	7.3	0.83
Indus IA VESL	45	130	31	3.6

Notes: **bold** = above RCG Residential Indoor Air Vapor Exposure Screening Level
Italics = above RCG Commercial/Industrial Indoor Air Vapor Exposure Screening Level

Bromodichloromethane, 1,4-dichlorobenzene, 1,1,2,2-tetrachloroethane, 1,2,4-trichlorobenzene, and 1,1,2-trichloroethane were not detected in all of the indoor air and ambient air samples at a levels above their respective screening levels; however, the detection limits for these contaminants were above their respective Res IA VESLs. Therefore, the data is inconclusive as an actual contaminant level in indoor and ambient air samples.

Indoor Air – Background Interference

Given that the two paired soil gas and indoor air investigations conducted comply with and satisfy the indoor air sampling/vapor mitigation sampling protocol, IDEM has

concluded after evaluation of the analytical data that there is no unacceptable risk to human health posed by the potential migration of subsurface vapor to indoor air inside on-Site Buildings under current IDEM RCG screening criteria. The detected IA contamination is most likely from background levels of common household items or cigarette smoke identified in the pre-sampling inventories.

Technical Conclusion

Notwithstanding contaminants in ground water having been detected at levels above RCG residential screening levels, IDEM can approve a conditional residential closure of environmental conditions at the Site under the RCG since: (1) although arsenic was detected in soil at levels above RDCSLs, the detected levels are within naturally occurring background levels and the calculated average concentration of arsenic in Site soil is below its RDCSL; (2) no other sampled constituents in soil were above applicable RCG screening levels; (3) contaminants exceeding applicable screening levels in indoor air samples were not also detected in the subslab soil gas samples; therefore benzene, 1,3-butadiene, chloroform, 1,2-dichloroethane, and naphthalene detected in indoor air samples at the Site above applicable RCG residential screening levels are not a result of the contamination in the ground water but are likely from common household items or cigarette smoke, which were identified in the pre-sampling inventories completed for each apartment, as a number of cleaning products and beauty items such as hairspray were not removed prior to sampling; (4) contaminants detected in exterior soil gas samples exceeding applicable screening levels were not detected in the subslab soil gas samples; however, contaminants were detected in ambient air samples above their RCG screening levels; therefore, contaminants detected in exterior soil gas samples at the Site above applicable RCG industrial screening levels are not a result of the contamination in the ground water but are likely from ambient air conditions; (5) although contaminants were detected in ground water at levels above their respective Res TAP GWSLs, potable water on the Site is supplied by a municipal source; and, (6) potential exposure to the contamination detected in the ground water on the Site can be controlled with an institutional control.

Since levels of arsenic, cis-1,2-dichloroethylene, 1,2-dichloropropane, and TCE were detected in ground water underlying the Site are above applicable RCG screening levels, an environmental restrictive covenant (ERC) is required to be recorded on the deed for the Site. As a condition of the effectiveness of this Site Status Letter, IDEM is requiring land use restrictions via the enclosed ERC with the following provision, summarized below:

- Shall not use or allow the use or extraction of ground water on the Site.
- Not occupy any human-occupied structures newly-constructed on the Site without IDEM concurrence that there is no vapor intrusion (VI) exposure risk due to the documented chlorinated-solvent contamination or mitigate any VI exposure risk prior to occupancy with an IDEM-approved VI mitigation system.

Riverside Terrace, New Albany -- Site Status Letter
BFD #4170610
April 19, 2019
Page 11 of 11

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

Indiana Brownfields Program
100 North Senate Avenue, Room 1275
Indianapolis, Indiana 46204
ATTN: Jillian Henderson

IDEM is pleased to assist the New Albany Housing Association with this request. Should you have any questions or comments, please contact Jillian Henderson of the Indiana Brownfields Program at 317-234-3605 or by email at JHenderson1@ifa.in.gov.

Sincerely,


Peggy Boksey
Assistant Commissioner
Office of Land Quality

Enclosure

cc: Patricia Polston, U.S. EPA Region 5 (*electronic copy*)
Meredith Grameispacher, Indiana Brownfields Program (*electronic copy*)
Jillian Henderson, Indiana Brownfields Program (*electronic copy*)
Nivas Vijay, Heartland Environmental Associates, Inc. (*electronic copy*)
Karen Goodwell, New Albany Housing Association (*electronic copy*)

TABLE 6
Riverside Terrace, New Albany - BFD #4170610
August & September 2018 Indoor Air Concentrations
Exceeding Applicable IDEM RCG Screening Levels

Sample ID	Contaminant Detected & Results (Micrograms per cubic meter (ug/m ³))						
	Benzene	Chloroform	Trichloroethene	Methylene Chloride	1,2-dichlorobenzene	Ethylacetate	Naphthalene
F-21-1	2.6	11.6	<0.79	5.5	0.69	94.5	<4.0
F-21-2	2.7	11.6	<0.79	<5.3	0.66	80.9	<4.0
F-23-1	6.5	2.8	<0.79	<5.4	<0.62	8.7	<4.0
F-23-2	6.0	2.7	<0.79	6.2	<0.69	5.3	<4.3
F-24-1	36.3	4.0	<0.79	<5.4	1.6	<1.1	6.3
F-24-2	25.0	3.0	21.8	<5.3	1.4	4.7	4.7
F-25-1	0.91	1.3	<0.79	<5.1	<0.59	<1.1	<3.8 ^A
F-25-2	0.86	1.3	<0.79	<5.1	<0.59	<1.1	<3.8 ^A
F-26-1	<0.62	1.2	<0.79	<6.8	<0.79	<1.4	<5.1 ^A
F-26-2	0.60	1.7	<0.79	<5.2	<0.60	<1.1	<3.9 ^A
8-1	0.85	4.1	<0.83	11.2	<0.60	<1.1	<3.9 ^A
8-2	<0.62	1.3	<0.88	<5.7	<0.66	<1.2	<4.3 ^A
9-1	23.4	3.7	<0.83	697	<0.62	<1.2	6.1
9-2	17.2	3.6	<0.83	<5.4	0.98	<1.2	4.8
48-1	2.3	3.8	<0.79	<5.1	0.82	7.2	4.6
48-2	2.3	3.6	<0.85	<5.5	0.97	7.9	4.8
64-1	8.7	<0.83	<0.92	7.0	<0.69	17.3	5.7
64-2	8.8	<0.77	<0.85	<5.5	<0.64	11.4	4.6
67-1	1.0	4.4	<0.81	<5.3	<0.51	3.3	4.6
67-2	1.3	3.6	<0.83	<5.4	<0.52	2.9	<4.0 ^A
69-1	0.73	6.7	<0.79	<5.9	<0.69	<1.2	<4.5 ^A
69-2	0.87	6.8	<0.79	<5.5	<0.64	<1.1	<4.1 ^A
Res IA VESL	3.6	1.2	2.1	630	1.1	73	0.83
Indus IA VESL	16	5.3	8.8	2,600	4.7	310	3.6

Notes: **bold** = above RCG Residential Indoor Air Vapor Exposure Screening Level

Italics = above RCG Commercial/Industrial Indoor Air Vapor Exposure Screening Level

^A = laboratory detection limits were higher than the RCG Commercial/Industrial Vapor Exposure Screening Level and, therefore, this data is inconclusive as an actual detected level

EXHIBIT D

TABLE 1
Riverside Terrace, New Albany, BFD#4170610
August 2018 Ground Water Concentrations Exceeding
Applicable IDEM RCG Screening Levels

TABLE 1
Riverside Terrace, New Albany, BFD#4170610
August 2018 Ground Water Concentrations Exceeding Applicable IDEM
ROG Screening Levels

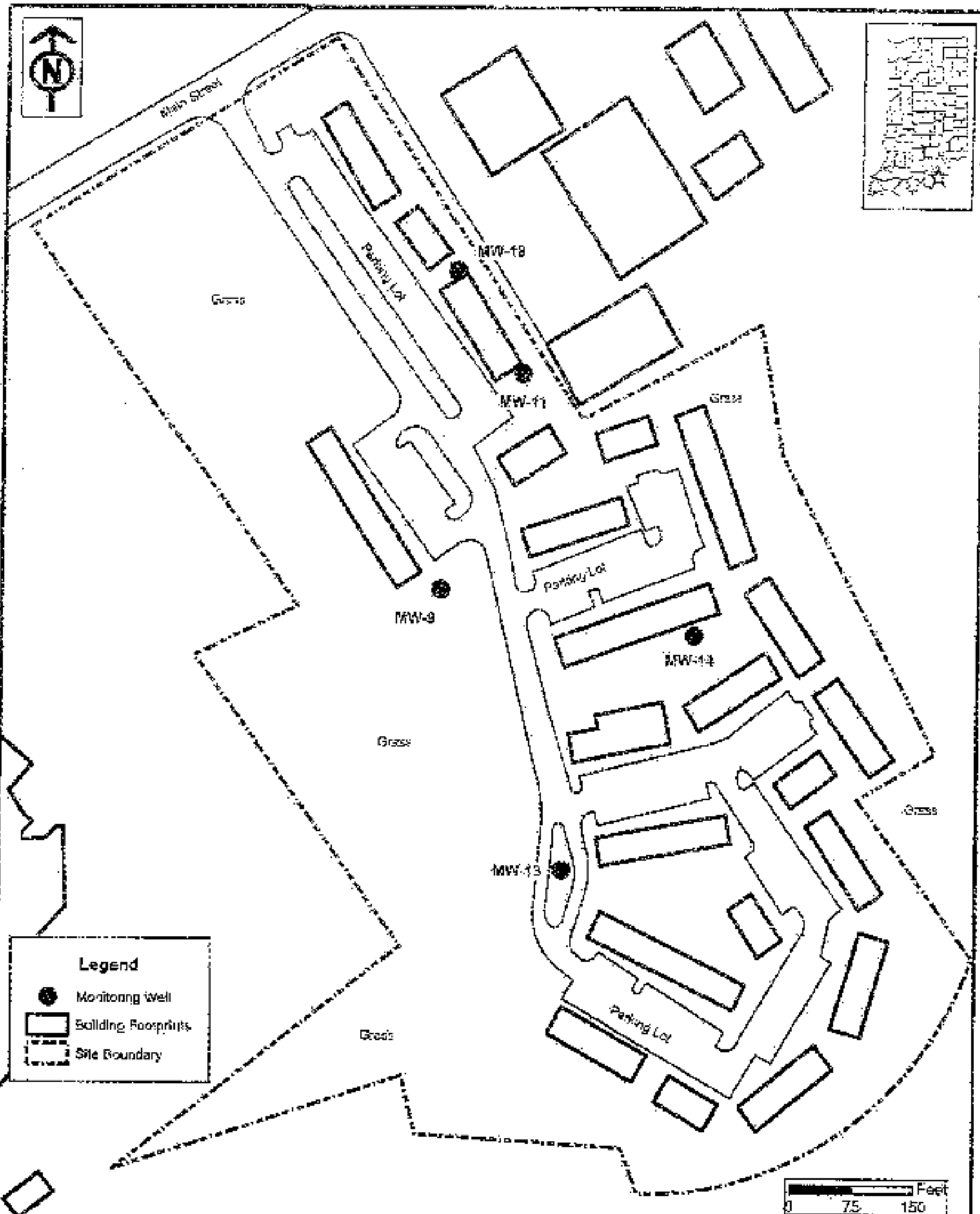
Contaminant Detected	Sample Location & Results (parts per billion (ppb))					Res TAP GWSL	Res VE GWSL	Indus VE GWSL
	MW-9	MW-11	MW-13	MW-14	MW-18			
Cis-1,2-dichloroethylene	234	<5	145	<5	787	70	NE	NE
1,2-dichloropropane	273	92.1	230	50.9	747	5	NE	NE
Trichloroethylene	<u>53.5</u>	<5	<5	30.7	34.5	5	9.1	38
Arsenic	31.1	<10	<10	<10	<10	10	NE	NE

Notes: **bold** = above ROG Residential Tap Ground water Screening Level
italics = above ROG Residential Vapor Exposure Ground Water Screening Level
underline = above ROG Commercial/Industrial Vapor Exposure Ground Water Screening Level
 NE = not established

EXHIBIT E

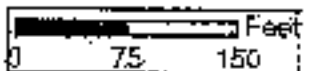
***Riverside Terrace, New Albany, BFD#1170610
Site Map Depicting Sampling Location at Which COCs
Detected Above Applicable RCG Screening Levels***

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.



Legend

-  Monitoring well
-  Building Footprints
-  Site Boundary



Heartland Environmental Associates, Inc.
 3510 Michigan Avenue, South Bend, Indiana 46619
 7324 6th Street, Indianapolis, Indiana 46214

MONITORING WELL LOCATIONS MAP

**RIVERSIDE TERRACE
 55 RIVERSIDE DRIVE
 NEW ALBANY, INDIANA**

Date:
3/29/19
 Scale:
1"=150'
 Drawn By:
NV