

## Environmental Restrictive Covenant

THIS ENVIRONMENTAL RESTRICTIVE COVENANT ("Covenant") is made this 3rd day of November, 2020, by 400 Forsythe, LLC, 1800 Churchman Avenue, Indianapolis, Indiana 46203 (together with all successors and assignees, collectively "Owner").

WHEREAS: Owner is the fee owner of certain real estate in the County of Johnson, Indiana, which is located at 400 North Forsythe Street, Franklin, Indiana 46131 and more particularly described in the attached Exhibit "A" ("Real Estate"), which is hereby incorporated and made a part hereof. This Real Estate was acquired by deed on October 16, 2006, and recorded on October 31, 2006, as Deed Record 2006-028611, in the Office of the Recorder of Johnson County, Indiana. The Real Estate consists of approximately 11.516 acres and has also been identified by the county as parcel identification numbers 41-08-13-023-094.000-009 and 41-08-13-023-093.000-009.

WHEREAS: Corrective action was implemented in accordance with IC 13-25-4 and/or other applicable Indiana law as a result of a release of hazardous substances relating to the Former Franklin Power Products, Inc. and/or the Former Amphenol Corporation located at 980 Hurricane Road, Franklin, Indiana 46131. The incident number assigned by the Indiana Department of Environmental Management ("Department" or "IDEM") for the release is 0000807.

WHEREAS: Certain contaminants of concern ("COCs") remain in the groundwater of the Real Estate following completion of corrective action. The Department has determined that the COCs will not pose an unacceptable risk to human health at the remaining concentrations, provided that the land use restrictions contained herein are implemented to protect human health and the environment. The COC is trichloroethylene.

WHEREAS: Environmental investigation reports and other related documents are hereby incorporated by reference and may be examined at the offices of the Department, which is located in the Indiana Government Center North building at 100 N. Senate Avenue, Indianapolis, Indiana. The documents may also be viewed electronically in the Department's Virtual File Cabinet by accessing the Department's Web Site (currently [www.in.gov/idem/](http://www.in.gov/idem/)).

NOW THEREFORE, 400 Forsythe, LLC subjects the Real Estate to the following restrictions and provisions, which shall be binding on the current Owner and all future Owners:

### I. RESTRICTIONS

#### 1. Restrictions. The Owner:

- (a) Shall not use or allow the use or extraction of groundwater at the Real Estate for any purpose, including, but not limited to: human or animal consumption, gardening,

industrial processes, or agriculture, except that groundwater may be extracted in conjunction with environmental investigation and/or remediation activities.

- (b) Shall not construct a new building for residential dwelling purposes or daily child care facilities on the Real Estate unless a vapor mitigation system is installed, operated, and maintained consistent with IDEM guidelines, within the dwelling or work space. IDEM may waive this restriction in writing if the Owner has provided data and analysis demonstrating to IDEM's satisfaction that there is no unacceptable risk to human health via the vapor intrusion exposure pathway.
- (c) Shall not allow the occupancy of Area B of the existing Site building, as identified in Exhibit B, for residential dwelling purposes or daily child care facilities unless a vapor mitigation system is installed, operated, and maintained consistent with IDEM guidelines, within the dwelling or work space. IDEM may waive this restriction in writing if the Owner has provided data and analysis demonstrating to IDEM's satisfaction that there is no unacceptable risk to human health via the vapor intrusion exposure pathway. The restrictions in this paragraph 1(c) do not apply to Area A of the existing Site building, as identified in Exhibit B; no vapor intrusion restrictions apply to or are required for Area A of the existing site building.
- (d) Shall prohibit any activity at the Real Estate that may interfere with the groundwater monitoring or well network. Must also allow access for sampling required by the United States Environmental Protection Agency (US EPA) as part of the Amphenol release investigation and monitoring.

## 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 and their authorized agents, employees, contractors, representatives, agents, lessees, licensees, invitees, guests, or persons acting under their direction or control (hereinafter "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 or right to occupancy in all or any part of the Real Estate by any person shall affect 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 monitoring compliance with this Covenant and ensuring its protectiveness; this right

includes the right to take samples 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 JOHNSON 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: (a) include a certified copy of the instrument conveying any interest in any portion of the Real Estate, and (b) if it has been recorded, its recording reference, 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 IDEM 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, IDEM 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 the contaminants of concern 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 Johnson 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 of its obligation to comply 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, guidance, 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:

400 Forsythe, LLC  
1800 Churchman Avenue  
Indianapolis, Indiana 46203  
Attn: Kevin Lawrence

With a copy (which shall not constitute notice) to:

Plews Shadley Racher & Braun, LLP  
1346 N. Delaware St.  
Indianapolis, IN 46202  
Attention: Andrea K. Townsend, Esq.

To Department:

IDEM, Office of Land Quality  
100 N. Senate Avenue  
IGCN 1101  
Indianapolis, IN 46204-2251  
Attn: Section Chief, State Cleanup Program

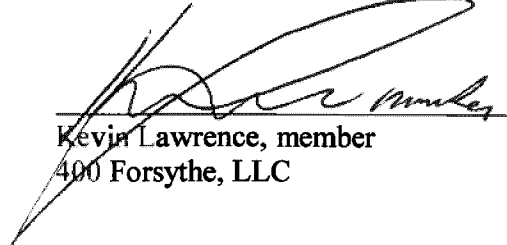
An Owner may change its address or the individual to whose attention a notice is to be sent by giving written notice via certified mail.

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, 400 Forsythe, LLC, the said Owner of the Real Estate described above has caused this Environmental Restrictive Covenant to be executed on this 3rd day of November, 2020.

  
Kevin Lawrence, member  
400 Forsythe, LLC

STATE OF INDIANA        )  
  ) SS:  
COUNTY OF JOHNSON    )

Before me, the undersigned, a Notary Public in and for said County and State, personally appeared Kevin Lawrence, member of the Owner, 400 Forsythe, LLC, who acknowledged the execution of the foregoing instrument for and on behalf of said entity.

Witness my hand and Notarial Seal this 3 day of November, 2020.



Debbie Williams  
Debbie Williams, Notary Public  
Residing in Martin County, IN

My Commission Expires:  
3-3-2024

This instrument prepared by:

Richard S. VanRheenen  
Lewis Kappes, P.C.  
One American Square, Suite 2500  
Indianapolis, Indiana 46282

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: Richard S. VanRheenen, Lewis Kappes, P.C., One American Square, Suite 2500, Indianapolis, Indiana 46282.

EXECUTED AND DELIVERED in my presence:

Carrie Lawrence  
Witness

Carrie Lawrence  
Printed

STATE OF INDIANA        )  
  ) SS:  
COUNTY OF Marion )

Before me, a Notary Public in and for said County and State, personally appeared Carrie Lawrence being known to me to be the person whose name is subscribed as a witness to the foregoing instrument, who, being duly sworn by me, deposes and says that the foregoing instrument was executed and delivered by Kevin Lawrence, member, 400 Forsythe, LLC, in the above-named subscribing witness's presence, and that the above-named subscribing witness is not a party to the transaction described in the foregoing instrument and will not receive any interest in or proceeds from the property that is the subject of the transaction.

Witness my hand and Notarial Seal this 3 day of November, 2020.



Debbie Williams  
Debbie Williams, Notary Public  
Residing in Marion County, IN

My Commission Expires:

2/3/2024

**EXHIBIT A**

**LEGAL DESCRIPTION OF REAL ESTATE**

## EXHIBIT "A"

Part of the West half of the Northwest Quarter and part of the West Half of the Southwest Quarter of Section 13 and part of the East Half of the Southeast Quarter of Section 14, all in Township 12 North, Range 4 East of the Second Principal Meridian, Johnson County, Indiana, including a portion of Harness Factory Addition, described as follows:

Beginning at the Southwest corner of the West Half of the Northwest Quarter of said Section 13; thence North 0 degrees 13 minutes 30 seconds East on and along the West line thereof 321.58 feet; thence South 86 degrees 57 minutes East parallel to the South line of the said Half Quarter Section 579.56 feet to the West right-of-way line of Forsythe Street; said point being 321.75 feet North of and 772.51 feet North 86 degrees 57 minutes West of the Southeast corner of the said Half Quarter Section; thence South 0 degrees 12 minutes 47 seconds West on and along the said right-of-way line 321.59 feet to the South line of this said Half Quarter Section; thence North 86 degrees 57 minutes West on and along the said South line 91.23 feet to the Northeast corner of a Tract deeded to the Johnson County Agricultural Society in Deed Record "S", page 192, as recorded in the Recorder's Office of Johnson County, Indiana; thence South 27 degrees 36 minutes 08 second West on and along the East line of the said Tract 587.21 feet to the Southeast corner thereof; thence South 89 degrees 53 minutes West on and along the South line of the said tract 72.87 feet; thence North 0 degrees 13 minutes 30 seconds East 10.80 feet to the Southeast corner of Lot Number 21 of Harness Factory Addition; thence North 86 degrees 57 minutes West on and along the South line of the said Lot 21, 118.00 feet to the Southwest corner thereof; thence North 0 degrees 13 minutes 30 seconds East 8.85 feet to a point on the North right-of-way line of Kentucky Street; thence North 89 degrees 43 minutes 30 seconds West on and along the said right-of-way line 260.48 feet to the East right-of-way line of Cit Street, said point being on the West line of Lot Number 4 in Harness Factory Addition 20.00 feet North of the Southwest corner thereof; thence North 0 degrees 13 minutes 30 seconds East on and along the said East right-of-way line 514.78 feet to the North line of the East Half of the Southeast Quarter of the said Section 14; thence North 88 degrees 53 minutes East on and along the said North line 233.6 feet to the POINT OF BEGINNING.

ALSO, part of the West Half of the Southwest Quarter of Section 13, Township 12 North, Range 4 East of the Second Principal Meridian, Johnson County, Indiana, described as follows:

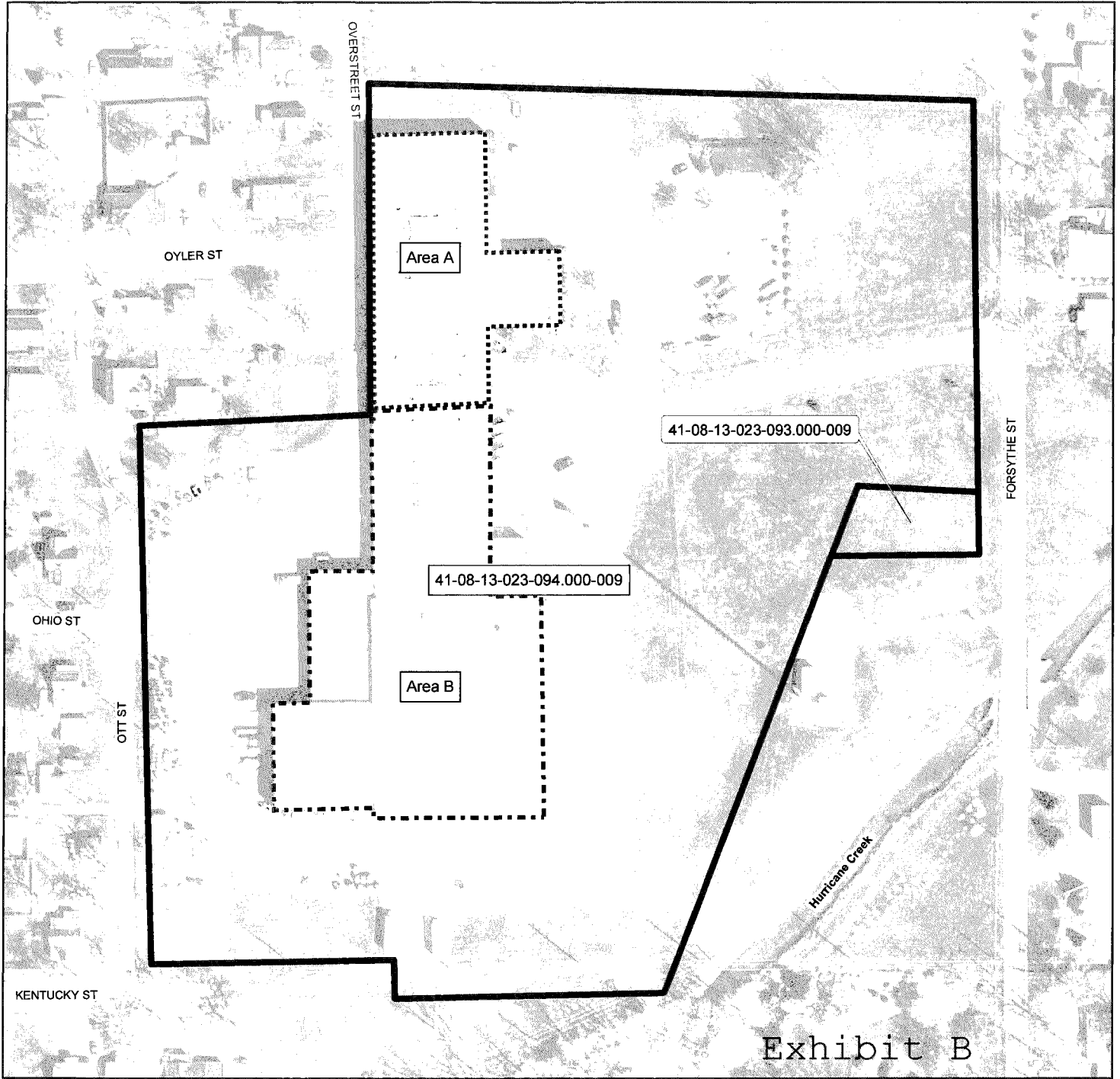
Beginning on the North line of the said Half Quarter Section 488.40 feet East of the Northwest corner thereof; thence South 86 degrees 57 minutes East, on and along the said North line, 91.23 feet to the West right-of-way line of Forsythe Street, said point being 773.71 feet West of the Northeast corner of the said Half Quarter Section; thence South 0 degrees 12 minutes 47 seconds West, on and along the said right-of-way line, 60.00 feet; thence North 89 degrees 47 minutes 13 seconds West 124.55 feet; thence North 27 degrees 36 minutes 08 seconds East 72.66 feet to the PLACE OF BEGINNING, containing 0.155 acres, more or less (This tract is part of Lot 11 in Addition of Outlots of F.M. Finch and others)



**EXHIBIT B**

**MAP OF REAL ESTATE**

# IDEM State Cleanup # 0000807 - Environmental Restrictive Covenant



**Mapped By:** Mike Hill, IDEM, Office of Land Quality, Science Services Branch, Engineering & GIS Services, January 10, 2020

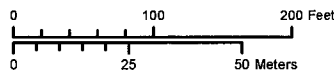
**Deed Info:** Instrument # 2006-028611 Recorded 10/31/2006  
Corporate Warranty Deed

**Parcel ID:** 41-08-13-023-093.000-009  
41-08-13-023-094.000-009

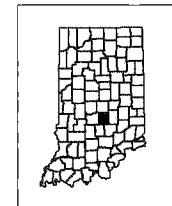
**PLSS Info:** Sections 13 & 14, T12N, R4E  
Franklin Township  
Johnson County, IN

**Property Info:** 400 North Forsythe Street, Franklin, IN

**Disclaimer:** This map is intended to serve as an aid in graphic representation only. This information is not warranted for accuracy or other purposes.



Johnson County



Project Area

