



Further, the environmental covenant - attached to the CNS as Exhibit 4 - must also be recorded in the same manner as a deed to the property (see the "Conditions and Limitations" section of the CNS). Please record the environmental covenant just prior to and separate from the recording of the CNS and its remaining exhibits. The CNS becomes effective on the date of the recording of the environmental covenant. Like the CNS recording, remember to submit to Ohio EPA a copy of the environmental covenant that shows the filing date stamp of the county recorder's office. For questions on the recording of these documents, you can consult Ohio EPA Legal Office attorney, Sue Kroeger, at (614) 644-3037.

You are hereby notified that this action of the Director is final and may be appealed to the Environmental Review Appeals Commission pursuant to ORC 3745.04. The appeal must be in writing and set forth the action complained of and the grounds upon which the appeal is based. The appeal must be filed with the Commission within 30 days after notice of the Director's action. The appeal must be accompanied by a filing fee of \$70.00, made payable to "Ohio Treasurer Kevin Boyce," which the Commission, in its discretion, may reduce if by affidavit you demonstrate that payment of the full amount of the fee would cause extreme hardship. Notice of the filing of the appeal shall be filed with the Director within three days of filing with the Commission. Ohio EPA requests that a copy of the appeal be served upon the Ohio Attorney General's Office, Environmental Enforcement Section. An appeal may be filed with the Environmental Review Appeals Commission at the following address: Environmental Review Appeals Commission, 309 South Fourth Street, Room 222, Columbus, OH 43215.

Congratulations on the issuance of this CNS. Many persons within the agency, Rusch Properties, and Pandey Environmental, LLC, among others, worked hard to remove the environmental barriers associated with redeveloping this property. If you have any questions or concerns, feel free to contact me at (614) 644-2924 or [tiffani.kavalec@epa.state.oh.us](mailto:tiffani.kavalec@epa.state.oh.us).

Sincerely,



Tiffani Kavalec, Manager  
Division of Emergency and Remedial Response  
Assessment, Cleanup and Reuse (ACRE)

Enclosure

c: Atul Pandey, Certified Professional, Pandey Environmental, LLC  
Chris Schraff, Esq., Porter, Wright, Morris and Arthur  
DERR-CO/CDO Files (#09NFA344)

Rusch Properties  
Former Anomatic Property  
Page 3

ec: Deborah Strayton, DERR/CDO  
Raymond R. Moreno DERR/CDO  
Sue Kroeger, Legal

RECEIVED

APR 30 2010

TO BE RECORDED IN DEED RECORDS,  
PURSUANT TO ORC 317.08(A)

OHIO EPA/CDO

AFFIDAVIT

STATE OF OHIO )

)

ss:

COUNTY OF FRANKLIN )

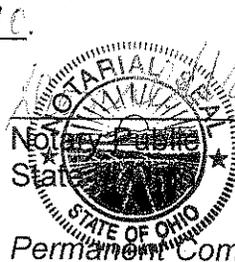
)

Before me, the subscriber, a Notary Public in and for the State of Ohio, personally appeared Tonya R. Lassiter, who, being duly sworn according to law, deposes and says that: (i) she is employed as a records management officer in the Legal Office of the Ohio Environmental Protection Agency ("Ohio EPA") and, as such, is authorized to sign this Affidavit on behalf of Ohio EPA; and (ii) the attached document is a true and correct copy of the Covenant Not to Sue / Director's Final Findings and Orders issued by the Director, and entered in the Ohio EPA Director's Journal on April 29, 2010, regarding property known as Former Anomatic Property, located at 175 East Broadway Avenue in Westerville, Franklin County, Ohio and further described in the attached Covenant Not to Sue.

*Tonya R. Lassiter*

Tonya R. Lassiter  
Records Management Officer  
Ohio EPA Legal Office

Sworn to and subscribed before me, a Notary Public in and for the State of Ohio, this 29<sup>th</sup> day of April, 2010.



*Donald L. Vanterpool*  
DONALD L. VANTERPOOL, Attorney-At-Law

NOTARY PUBLIC, STATE OF OHIO

My Commission has no expiration date.

Section 147.03 R.C.

Permanent Commission

No expiration, R.C. 147.03

This instrument prepared by:

Sue Kroeger, Attorney  
Ohio EPA Legal Office  
P.O. Box 1049  
Columbus, Ohio 43216-1049



Properties and the parcel numbers are 080-001750-00, 080-010184-00 and 080-009695-00.

4. The Certified Professional prepared pursuant to OAC 3745-300-13(J) an executive summary of the NFA Letter, which is attached hereto as Exhibit 3.

#### **Summary of the Voluntary Action for the Property**

5. Based upon the information in the NFA Letter, the Volunteer undertook the following investigational and remedial activities regarding the Property:
  - a. A Phase I property assessment, in accordance with OAC 3745-300-06, to determine whether there is any reason to believe that a release of hazardous substances or petroleum has or may have occurred on, underlying or is emanating from the Property.
  - b. A Phase II property assessment, in accordance with OAC 3745-300-07, including but not limited to investigations of identified areas and affected media, to assess environmental conditions related to releases of hazardous substances and/or petroleum.
  - c. Activity and use limitations contained in a proposed environmental covenant (the "Environmental Covenant") prepared pursuant to ORC 5301.80 to 5301.92, subject to execution by the Director and recording as described in these Findings and Orders.
  - d. Other remedial activities, conducted in accordance with OAC 3745-300-15, including the removal of 10.38 tons of contaminated soil from a ground surface gasoline leak area and bioremediation using microbial enhancement injections in the subsurface at a former underground storage tank cavity location.
  - e. A demonstration that the Property complies with applicable standards following completion of remedial activities for the identified chemicals of concern in the identified areas and affected media at the Property through a comparison to background levels in accordance with OAC 3745-300-07, the use of generic numerical standards in accordance with OAC 3745-300-08, or the use of a property-specific risk assessment in accordance with OAC 3745-300-09.
6. The Certified Professional has verified by affidavit that the voluntary action was conducted and the NFA Letter was issued for the Property in accordance with ORC Chapter 3746 and OAC Chapter 3745-300, that the Property is eligible for the Voluntary Action Program, and that the voluntary action was conducted in compliance with all applicable federal, state and local laws and regulations.

7. At the time that analyses were performed, EA Group and DataChem Laboratories, Inc. were certified laboratories, No(s). CL0015 and CL0022, respectively, as defined in ORC 3746.01(D) and OAC 3745-300-01(A), whose services were used in support of the NFA Letter (the "Certified Laboratories").
8. The Environmental Covenant will be recorded in the Franklin County Recorder's Office as described in the Environmental Covenant and Order No. 2 herein. A copy of the executed Environmental Covenant is attached hereto as Exhibit 4. The Environmental Covenant upon recording will:
  - a. Restrict the Property to commercial and industrial land uses.
  - b. Prohibit the extraction and use of ground water for any purpose, potable or non-potable, except for investigation, monitoring or remediation and in conjunction with construction or excavation or maintenance of subsurface utilities.

### **Applicable Standards**

9. Based on the information contained in the NFA Letter and all conditions set forth in these Findings and Orders, the Property meets applicable standards contained in ORC Chapter 3746 and OAC Chapter 3745-300 for various uses including commercial and industrial land use and restricted ground water use. The applicable standards for the Property are those in effect when the NFA Letter was issued on February 27, 2010. The applicable standards, the methods of achieving compliance with the standards, and the associated points of compliance for the standards for each complete exposure pathway, are identified in the NFA Letter. The standards include one or more of the following:
  - a. Generic numerical standards determined in accordance with OAC 3745-300-08.
  - b. Property-specific risk assessment standards developed in accordance with OAC 3745-300-09.
  - c. Background standards determined in accordance with ORC 3746.06(A) and OAC 3745-300-07(H).
  - d. Standards for residential (potable) use of ground water in the lower unconsolidated saturated zone underlying the Property, applied in accordance with ORC 3746.06(B).
10. Based on the implementation and maintenance of the remedies identified in this paragraph, the Property complies with applicable standards. Failure to implement one or more of the remedial activities may constitute noncompliance with applicable standards. The remedies requiring implementation include:

- a. The activity and use limitations set forth in the Environmental Covenant attached hereto, which once recorded will limit the Property to commercial or industrial land uses and prohibit the potable use of ground water.
11. Pursuant to ORC 3746.12(A), the Director of Ohio EPA is authorized to issue a covenant not to sue for the Property through these Findings and Orders. Based on the NFA Letter and subject to all conditions set forth in these Findings and Orders, the remedial activities for the Property are protective of public health and safety and the environment.

### ORDERS

#### Covenant

1. Based on the NFA Letter, and subject to all conditions set forth in these Findings and Orders, Ohio EPA hereby covenants not to sue and releases Rusch Properties, and its agents, employees, members, shareholders, officers, directors, successors and assigns, and successors and assigns of the Property, from all civil liability to the State of Ohio (the "State") to perform additional investigational and remedial activities. This covenant not to sue and release of liability (the "Covenant") applies to the Property that has undergone a Phase I or Phase II property assessment in compliance with ORC Chapter 3746 and OAC Chapter 3745-300 or has been the subject of remedial activities conducted under ORC Chapter 3746 and OAC Chapter 3745-300 to address a release of hazardous substances or petroleum, and the assessment or the remedial activities demonstrate or result in compliance with applicable standards.

#### Conditions and Limitations

##### Effectiveness of the Covenant— Recording of the Environmental Covenant

2. The Covenant provided in Order No. 1 herein shall become effective upon the date the Environmental Covenant is recorded in accordance with this Order. The Environmental Covenant shall be filed as a document separate from the filing required by Order No. 3 herein. Within thirty (30) days after the issuance of these Findings and Orders, Rusch Properties shall:
  - a. File with the Franklin County Recorder's Office for recording, in the same manner as a deed to the Property pursuant to ORC 3746.14 and 5301.88, the Environmental Covenant as executed and attached hereto as Exhibit 4. The document for recording may be an executed original or a copy of the same authenticated by Ohio EPA.
  - b. Submit to Ohio EPA a copy of the recorded Environmental Covenant that shows the filing date stamp of the Franklin County Recorder's Office or

other reliable information that verifies the recording of the document in accordance with this Order. The submission shall include a cover letter that identifies "*Recorded - Environmental Covenant for Former Anomalous Property, NFA Letter No. 09NFA344.*" The submission shall be delivered either (1) electronically to the DERR Records Management Officer at Ohio EPA's Central Office, at records@epa.state.oh.us or (2) by U.S. mail or by other reliable means to both Ohio EPA's Central Office, 50 West Town Street, Suite 700, P.O. Box 1049, Columbus, OH 43216-1049, Attention: DERR Records Management Officer and Ohio EPA's Central District Office, 50 West Town Street, Suite 700, P.O. Box 1049, Columbus, OH 43216-1049, Attention: DERR Site Coordinator for Former Anomalous Property.

#### Requirement to Record These Findings and Orders / Covenant Not to Sue

3. Within thirty (30) days after the issuance of these Findings and Orders, Rusch Properties shall:
  - a. File with the Franklin County Recorder's Office, for recording in the same manner as a deed to the Property pursuant to ORC 3746.14, a copy of these Findings and Orders, including Exhibits 1 (Legal Description), 2 (Property Location Map), 3 (Executive Summary).
  - b. Submit to Ohio EPA a copy of the Findings and Orders that shows the filing date stamp of the Franklin County Recorder's Office or other reliable information that verifies the recording of the Findings and Orders in accordance with this Order. The submission shall include a cover letter that identifies "*Recorded - Covenant Not to Sue for NFA Letter No. 09NFA344.*" The submission shall be delivered either (1) electronically to the DERR Records Management Officer at Ohio EPA's Central Office, at records@epa.state.oh.us or (2) by U.S. mail or by other reliable means to both Ohio EPA's Central Office, 50 West Town Street, Suite 700, P.O. Box 1049, Columbus, OH 43216-1049, Attention: DERR Records Management Officer and Ohio EPA's Central District Office, 50 West Town Street, Suite 700, P.O. Box 1049, Columbus, OH 43216-1049, Attention: DERR Site Coordinator for Former Anomalous Property.

#### Limits of Covenant

4. Pursuant to ORC 3746.12(B)(1), the Covenant shall remain in effect for as long as the Property continues to comply with the applicable standards upon which the Covenant is based, as referenced in these Findings and Orders. Upon a finding pursuant to ORC 3746.12(B)(2) that the Property or portion thereof no longer complies with applicable standards upon which issuance of the Covenant was based and receipt of the Director's notice of that fact and the requirements of ORC 3746.12(B)(3), the person(s) responsible for maintaining compliance with

- those standards shall receive an "opportunity to cure" the noncompliance. ORC 3746.12(B)(4) provides for revocation of the Covenant upon a Director's finding that the non-compliance has not been cured.
5. Pursuant to ORC 3746.05, any use of the Property that does not comply with the institutional controls identified herein (i.e., the activity and use limitations contained in the Environmental Covenant), voids the Covenant on and after the date of the commencement of the noncomplying use.
  6. The Covenant shall not apply to releases of hazardous substances or petroleum that occur after the issuance of the NFA Letter, including but not limited to, releases of asbestos that may occur from asbestos-containing materials remaining at the Property that were not abated or required to be abated pursuant to OAC Chapter 3745-20.
  7. The Covenant shall not apply:
    - a. To claims for natural resource damages the State may have pursuant to Sections 107 or 113 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA"), 42 U.S.C. 9607 and 9613, as amended.
    - b. To claims the State may have pursuant to Section 107 of CERCLA, 42 U.S.C. 9607, as amended, for costs other than those for damages to natural resources, provided that the State incurs those other costs as a result of an action by the United States Environmental Protection Agency.
    - c. As otherwise specifically provided in ORC Chapter 3746, including but not limited to obligations arising under other applicable laws and hazardous waste generator closure obligations for the accumulation areas at the Property under the Resource Conservation and Recovery Act, 42 U.S.C. 6901, et seq., as amended, or ORC Chapter 3734, or the regulations adopted thereunder.
  8. Nothing in the Covenant limits the authority of the Director to act under ORC 3734.13 and 3734.20 to 3734.23, or to request that a civil action be brought pursuant to the ORC or common law of the State to recover the costs incurred by Ohio EPA for investigating or remediating a release or threatened release of hazardous substances or petroleum at or from the Property, when the Director determines that the release or threatened release poses an imminent and substantial threat to public health or safety or the environment.
  9. Nothing in the Covenant shall be construed to limit or waive the Director's authority to revoke the Covenant in response to any of the circumstances for revocation of a covenant, as provided in ORC Chapter 3746 and OAC Chapter 3745-300.

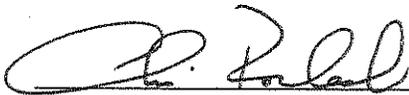
### Ohio EPA Access to Property

10. Pursuant to ORC 3746.21 or 3746.171 and the Environmental Covenant, and at reasonable times, upon proper identification, and stating the necessity and purpose as directed by applicable law, authorized representatives of the Director shall be granted access to the Property for the inspection or investigation purposes authorized under applicable law, including but not limited to determining whether the Property is being used in compliance with the activity and use limitations contained in the Environmental Covenant.

### Transfer

11. Pursuant to ORC 3746.14 and OAC 3745-300-13(L), the NFA Letter and the Covenant Not to Sue/Findings and Orders may be transferred to any person by assignment or in conjunction with the acquisition of title to the Property.

**IT IS SO ORDERED:**



Chris Korleski, Director  
Ohio Environmental Protection Agency

APR 29 2010

Date

**Exhibit 1**  
**Legal Description**

DESCRIPTION OF 5.448 ACRES OF LAND LOCATED ON THE SOUTHERLY SIDE  
OF EAST BROADWAY AND EAST OF VINE STREET IN THE CITY OF  
WESTERVILLE, COUNTY OF FRANKLIN, STATE OF OHIO

Situated in the State of Ohio, County of Franklin, City of Westerville and containing 5.448 acres of land, more or less, part of said 5.448 acres being all of that tract of land described in Exhibit "A" in the deed to Rusch Properties, of record in Official Record 05816J15, part of said 5.448 acres being all of the residue of that 0.711 acre tract of land described in Exhibit "A" in the deed to Rusch Properties, of record in Official Record 08106I17 and part of said 5.448 acres being all of the residue of that 0.857 acre tract of land described in Exhibit "A" in the deed to Rusch Properties, of record in Official Record 11511D09, all being of record in the Recorder's Office, Franklin County, Ohio, said 5.448 acre area of land being more particularly described as follows:

Said tract described in Official Record 05816J15 (4.073 acres of land, more or less) consists of all of Lots numbered 57, 58, 59, 60, 95, 96, 97, 98 and Reserve "A", together with parts of Lots numbered 61 and 94 and vacated portions of Lincoln Street and certain alleys of Valentine Addition, of record in Plat Book 7, Pages 450 and 451, together with a 1 acre and 44 rods (0.275 acre) tract (Parcel 6 and a 0.625 acre tract Parcel 7) as described in the deed to Commercial Credit Corporation, of record in Deed Book 2369, Page 150, both being of record in the Recorder's Office, Franklin County, Ohio;

Beginning at a 3/4-inch (L.D.) iron pipe set in the southerly right-of-way line of East Broadway Avenue, at the northeasterly corner of said 4.073 acre tract, the same being the northwesterly corner of Lot 56 of said Valentine Addition, said Lot 56 having been conveyed to Melvin D. Hatch and Karen M. Hatch by deed of record in Instrument No. 200103230059509, Recorder's Office, Franklin County, Ohio, said beginning point being located 20.00 feet southerly from, as measured at right angles, the centerline of East Broadway;

Thence S00°20'54"W, with the easternmost line of said 4.073 acre tract, with the westerly line of said Lot 56, with the westerly line of the residue of that 2.937 acre tract of land designated as PARCEL TWO and described in Exhibit "A" in the deed to Walter N. Morrow, of record in Instrument No. 200110230243722, with the westerly line of that 0.100 acre tract of land designated as Parcel One and described in Exhibit "A" in the Certificate of Transfer to Eric W. Gibson and Lisa A. Gross, of record in Instrument No. 200103220058521 and with a westerly line of that 1.338 acre tract of land described in Exhibit A in the deed to Fullen Properties, LLC, of record in Instrument No. 200710040174136, all being of record in the Recorder's Office, Franklin County, Ohio, a distance of 327.62 feet to a 3/4-inch (L.D.) iron pipe set at a southeasterly corner of said 4.073 acre tract, the same being an external corner of said 1.338 acre tract;

Thence westwardly, southwardly, westwardly, southwardly and eastwardly, with the common boundary of said 4.073 acre tract and said 1.338 acre tract, the following five (5) courses and distances:

- 1.) S89°31'21"W, a distance of 35.00 feet to a 3/4-inch (L.D.) iron pipe set;
- 2.) S00°28'39"E, a distance of 171.89 feet to a point;
- 3.) S89°42'21"W, a distance of 18.92 feet to a point;
- 4.) S00°28'39"E, a distance of 15.00 feet to a point;

DESCRIPTION OF 5.448 ACRES OF LAND LOCATED ON THE SOUTHERLY SIDE  
OF EAST BROADWAY AND EAST OF VINE STREET IN THE CITY OF  
WESTERVILLE, COUNTY OF FRANKLIN, STATE OF OHIO  
(continued)

5.) N89°42'21"E, a distance of 2.25 feet to a 3/4-inch (I.D.) iron pipe set at a northeasterly corner of said 4.073 acre tract, the same being the northwesterly corner of Lot 6 as the same is numbered and delineated upon the recorded plat of Slaughter and Tabler's Addition to the Village of Westerville, of record in Plat Book 3, Page 446, said Lot 6 having been conveyed to Steven D. Underwood and Janis S. Underwood by deed of record in Official Record 20706G16, both being of record in the Recorder's Office, Franklin County, Ohio;

Thence S00°47'28"E, with an easterly line of said 4.073 acre tract and with the westerly line of said Lot 6, a distance of 14.52 feet to a 3/4-inch (I.D.) iron pipe set at the southernmost southeasterly corner of said 4.073 acre tract, the same being the northeasterly corner of Lot 8 of said Slaughter and Tabler's addition to the City of Westerville, said Lot 8 having been conveyed to James Walter by deed of record in Instrument No. 200301310031317, Recorder's Office, Franklin County, Ohio;

Thence N89°59'17"W, with the southernmost line of said 4.073 acre tract, with the northerly line of said Lot 8 and with the northerly right-of-way line of Israel Street, forty feet in width, a distance of 235.80 feet to a 5/8-inch solid iron pin found at the southwesterly corner of said 4.073 acre tract, the same being the northwesterly right-of-way corner of said Israel Street and in the easterly line of said 0.857 acre tract;

Thence S00°31'08"E, with the westerly right-of-way line of said Israel Street and with the easterly line of said 0.857 acre tract, a distance of 134.56 feet to a 5/8-inch solid iron pin found at the southeasterly corner of said 0.857 acre tract, the same being the northeasterly corner of that 0.338 acre tract of land described in Exhibit "A" in the deed to Thompkins Properties, Inc., of record in Instrument No. 200205060113526, Recorder's Office, Franklin County, Ohio;

Thence N89°58'40"W, with the southerly line of said 0.857 acre tract and with the northerly line of said 0.338 acre tract, a distance of 102.36 feet to a 3/4-inch (I.D.) iron pipe set at the southwesterly corner of the residue of said 0.857 acre tract, the same being the northwesterly corner of said 0.338 acre tract, said iron pipes also being the northeasterly corner of a 10.00 foot wide strip of land described in the deed to The State of Ohio, of record in Instrument No. 199809140232999, and the southeasterly corner of that 0.203 acre tract of land designated as PARCEL NO. 17WD and described in Exhibit "A" in the deed to the City of Westerville, of record in Instrument No. 199904130092092, both being of record in the Recorder's Office, Franklin County, Ohio;

Thence northwardly, with the westerly boundary of the residue of said 0.857 acre tract, with the westerly boundary of the residue of said 0.711 acre tract and with the easterly boundary of said 0.203 acre tract, the following three (3) courses and distances:

- 1.) N01°43'22"E, a distance of 85.05 feet to a 3/4-inch (I.D.) iron pipe;
- 2.) N05°59'04"E, a distance of 159.33 feet to a 3/4-inch (I.D.) iron pipe set at a point of curvature (said point being not tangent to said curve);

10006101

February 4, 2010

DESCRIPTION OF 5.448 ACRES OF LAND LOCATED ON THE SOUTHERLY SIDE  
OF EAST BROADWAY AND EAST OF VINE STREET IN THE CITY OF  
WESTERVILLE, COUNTY OF FRANKLIN, STATE OF OHIO  
(continued)

3.) with the arc of a curve to the right, having a radius of 5740.65 feet, a central angle of  $05^{\circ}17'59''$ , an arc length of 531.01 feet and a chord that bears  $N02^{\circ}41'12''E$ , a chord distance of 530.82 feet to a 3/4-inch (I.D.) iron pipe set in the southerly right-of-way line of said East Broadway Avenue at the northwesterly corner of said 4.073 acre tract, the same being the northeasterly corner of said 0.203 acre tract;

Thence  $N86^{\circ}49'00''E$ , with the southerly right-of-way line of said East Broadway Avenue and with the northernmost line of said 4.073 acre tract, the same being parallel with and 20.00 feet southerly from, as measured at right angles, the centerline of said East Broadway Avenue, a distance of 343.86 feet to the point of beginning and containing 5.448 acres of land, more or less.

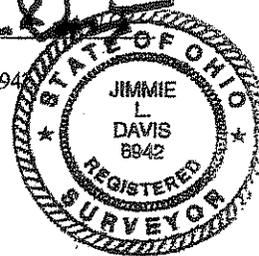
Subject to all rights-of-way, easements and restrictions, if any, of previous record.

We hereby state that the foregoing description was prepared from an actual field survey conducted by Bauer, Davidson & Merchant, Inc. in April of 2004 and in February of 2010.

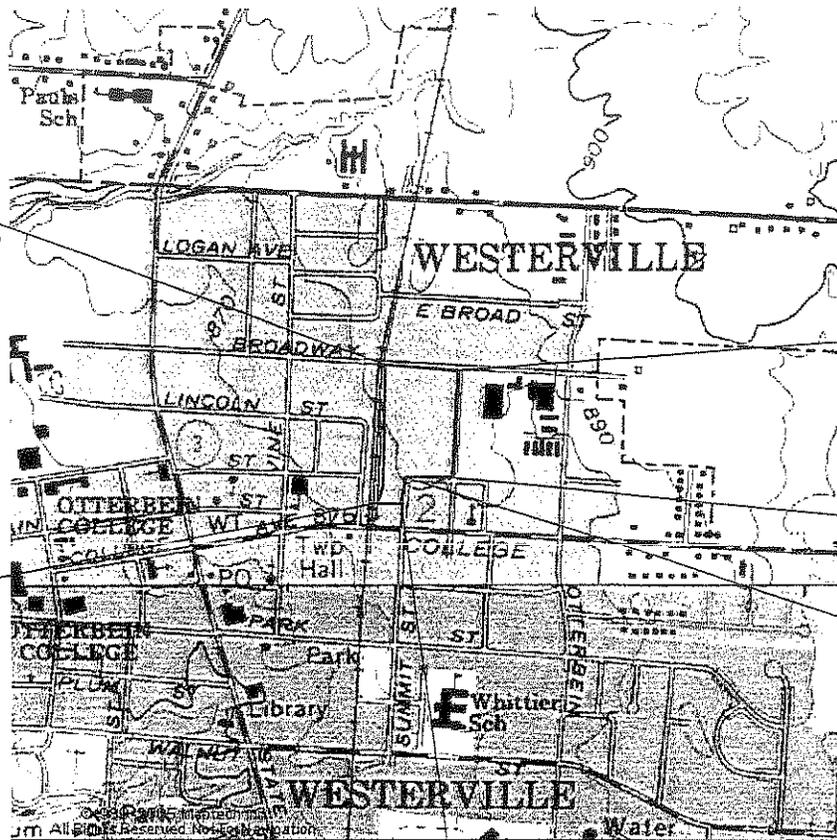
The bearings given in the foregoing description are based on the bearing of  $N89^{\circ}49'00''E$ , as given for the southerly right-of-way line of said East Broadway Avenue in said deed to Rusch Properties, of record in Official Record 05816J15, Recorder's Office, Franklin County, Ohio.

BAUER, DAVIDSON & MERCHANT, INC.  
Consulting Engineers

  
Jimmie L. Davis,  
Professional Surveyor No. 6942



**Exhibit 2**  
**Property Location Map**



Lat: 40.1297  
Lon: 82.9266

Lat: 40.1297  
Lon: 82.9254

Lat: 40.1276  
Lon: 82.9269

Lat: 40.1279  
Lon: 82.9256

Lat: 40.1279  
Lon: 82.9264

Lat: 40.1276  
Lon: 82.9264



<b>PANDEY</b> ENVIRONMENTAL, LLC 673 Mohawk St., #300 Columbus, OH 43206 Phone: 614-444-8078 Fax: 614-444-8679		TITLE:	PROPERTY LOCATION MAP
		LOCATION:	FORMER ANOMATIC PROPERTY 175 E BROADWAY AVE WESTERVILLE, OHIO 43081
DATE: 4/2/04	SCALE: AS SHOWN	REVISION:	FIGURE: 1A

**Exhibit 3**  
**Executive Summary**

# PANDEY

ENVIRONMENTAL, LLC

## EXECUTIVE SUMMARY OF NO FURTHER ACTION LETTER

FORMER ANOMATIC PROPERTY, WESTERVILLE, OHIO

NFA ISSUED: FEBRUARY 27, 2009

NFA ADDENDUM ISSUED: FEBRUARY 15, 2010

### 1.0 Introduction

A No Further Action (NFA) Letter under the auspices of the Ohio EPA's Voluntary Action Program (VAP) was issued to Rusch Properties on February 27, 2009, by Atul Pandey, P.E. of PANDEY Environmental, LLC, CP #224. An addendum was issued on February 15, 2010 in order to address Ohio EPA comments concerning the original NFA submission.

The NFA describes the Phase I Property Assessment and Phase II Property Assessment for the approximate 5.448 acres of land located at 175 East Broadway Avenue in Westerville, Franklin County, Ohio 43081, known as the Former Anomatic Property.

This executive summary of the NFA has been prepared to meet the requirements of Ohio Revised Code (ORC Chapter 3746). A complete copy of the NFA Letter and addendum is on file and will be available from the Ohio EPA, Division of Emergency and Remedial Response, Voluntary Action Program in accordance with filing requirements of OAC 3745-300-13(J).

The legal description and survey of the 5.448 acres of land is provided as an enclosure to this executive summary.

## **2.0 Summary of No Further Action Letter**

The Certified Professional (Atul Pandey, P.E.) issued an NFA letter based upon Phase I and Phase II property assessments, Remedy Implementation, and subsequent Risk Assessment for the subject property.

A summary of the assessments is provided below. Complete copies of the VAP Phase I Property Assessment dated September 6, 2005, VAP Phase I Property Assessment Update dated December, 2006, Phase I Property Assessment Update dated February 27, 2009, VAP Phase II Property Assessment dated September 2005, VAP Phase II Property Assessment Addendum dated October, 2005, VAP Phase II Property Assessment Addendum dated December, 2006, VAP Phase II Property Assessment Addendum dated February 27, 2009, PAYGO Correspondence dated February 27, 2009 and the Property Specific Risk Assessment Report dated February 27, 2009, are contained in the NFA Letter. In addition an addendum was prepared and dated February 15, 2010 in order to respond to Ohio EPA comments contained in a letter dated January 20, 2010.

### **2.1 Phase I Property Assessment**

A Phase I Property Assessment was conducted in June-August, 2005. A Phase I Assessment Report was completed in September, 2005. A Phase I Property Assessment Update was completed in December, 2006 and a second Phase I Property Assessment Update was completed on February 27, 2009.

The Phase I Assessment included a determination of eligibility for entry into the Ohio VAP, a review of historic and current uses of the property and surrounding properties, and an environmental history review, a review of the history of hazardous substances or petroleum releases, a property inspection and identification of identified areas as defined in OAC 3745-300-06(F). A summary of the Phase I Property Assessment is as follows.

The information used to establish a continuous history of the subject property and its surroundings included deed and tax records, city directories, topographic maps, aerial photographs, and interviews. Information gathered from these documents show that medium to light industrial operations have been conducted at the subject property for approximately 90 years. Raw materials and waste products containing petroleum products, solvents, paint wastes, and other materials have been used and generated in large quantities at the site. As a result, 10 areas of potential impact were identified at the subject property.

A review of previous environmental assessments performed for the subject property showed that the subsurface media at the subject property was impacted by the presence of volatile organic compounds and nickel.

The subject property consists of approximately 5.448 acres. The manufacturing and office buildings within this parcel comprise the majority of the parcel. The main facility was originally built in approximately 1942 with several additions constructed over the years through 1988. The facility was home to Anomatic Corporation from 1970 until 1991. Anomatic used the area for anodizing aluminum parts, primarily for the cosmetic industry. The main building on the property is currently used by Anomatic for storage, by Ohio Valley Cable as warehouse space, and by Combs Collision, an auto body repair shop.

The Phase I Property Assessment concluded that a Phase II Property Assessment should be conducted to determine the potential adverse impacts to soil/groundwater from historical industrial operations.

## 2.2 Phase II Property Assessment

A Phase II Property Assessment was conducted during September, 2005. The Phase II Property Assessment was issued in September, 2005. Phase II Property Assessment Addendums were completed for the property in October, 2005; December, 2006; and February 27, 2009. The purpose of the Phase II Property Assessments was to determine if soil and/or groundwater underneath the subject property was impacted in the identified areas.

The Phase II Assessments included sampling and analysis of soil, groundwater, and soil gas media at the subject property. In addition, a pathway completeness determination, determination of applicable standards, and an assessment of the risk from direct contact to the soils at the property was evaluated in the Risk Evaluation Report. The complete Phase II Property Assessment Report is contained in the NFA on file with the Ohio EPA. A summary of the Phase II findings is provided below.

### 2.2.1 Soil Investigations and Findings

Soil was investigated for the presence of Volatile and Semi-Volatile Organic Compounds, Total Petroleum Hydrocarbons, BTEX-MTBE, RCRA 8 Metals, and nickel by the placement of upwards of 50 soil bores. Various chemicals of concern were identified in the Phase II Assessment. The maximum concentration of chemicals of concern detected at the site are as follows: acetone (1,500 parts per billion (ppb)); benzene (4.3 ppb); chloroethane (2.7 ppb); 1,1-dichloroethane (3,500 ppb); 1,2-dichloroethane (28 ppb); 1,1-dichloroethene (3,500 ppb); cis-1,2-dichloroethene (49,000 ppb); trans-1,2-dichloroethene (1,900 ppb); ethylbenzene (17,000 ppb); tetrachloroethene (700ppb); toluene (1,200 ppb); 1,1,1-trichloroethane (49,000 ppb); 1,1,2-trichloroethane (15 ppb); trichloroethene (60,000 ppb); 1,1,2-trichlorotrifluoroethane (5,300); 1,2,4-trimethylbenzene (4,800 ppb); vinyl chloride (1,400 ppb); total xylenes (46,000 ppb); acenaphthene (110 ppb); acenaphthylene (200 ppb);

anthracene (460 ppb); benzo(a)anthracene (1,900 ppb); benzo(a)pyrene (2,400 ppb); benzo(b)fluoranthene (5,300 ppb); benzo(g,h,i)perylene (710 ppb); benzo(k)fluoranthene (1,900 ppb); carbazole (420 ppb); chrysene (2,300 ppb); fluoranthene (2,800 ppb); fluorene (240 ppb); indeno(1,2,3-cd)pyrene (970 ppb); 2-methylnaphthalene (110 ppb); naphthalene (280 ppb); phenanthrene (1,800 ppb); pyrene (2,800 ppb); 2-4-dimethylphenol (120 ppb); arsenic (40.9 parts per million (ppm)); barium (186 ppm); cadmium (3.35 ppm); chromium (143 ppm); lead (119 ppm); selenium (11.2 ppm); and silver (62.8 ppm)

### 2.2.2 Groundwater Investigation and Findings

The groundwater was investigated by PANDEY and during previous environmental investigations at the property. Groundwater samples were collected and analyzed for VOCs, SVOCs, RCRA 8 Metals, and nickel. Various chemicals of concern were detected in the shallow groundwater underlying the subject property, including several detections above applicable VAP standards. Based on site conditions observed through the VAP Phase II investigations, the shallow groundwater aquifer is Class B groundwater according to VAP regulations. Deep groundwater was sampled and shown to be unimpacted by chemicals of concern in excess of applicable standards.

The maximum concentration of chemicals of concern detected at the site are as follows: acetone (25 ppb); 1,1-dichloroethane (2,000 ppb); 1,2-dichloroethane (13 ppb); 1,1-dichloroethene (180 ppb); cis-1,2-dichloroethene (610 ppb); trans-1,2-dichloroethene (42 ppb); 1,1,1-trichloroethane (4,100 ppb); 1,1,2-trichloroethane (17 ppb); 1,2,4-trimethylbenzene (12 ppb); trichloroethene (3,200 ppb); vinyl chloride (35 ppb); arsenic (66.4 ppb); barium (146 ppb); cadmium (15.8 ppb); lead (10.8 ppb); and nickel (8.59 ppb).

### 2.2.3 Soil Gas Investigation

The soil gas media at the subject property was investigated with the placement of 6 bore holes which were converted to temporary soil gas wells. A total of 6 soil gas samples were collected and analyzed for VOCs. These samples were collected in order to accurately represent the soil gas conditions. Various chemicals of concern were identified in the soil gas media at the subject property during this investigation.

The maximum concentration of chemicals of concern detected at the site are as follows: propene (110 ppb); vinyl chloride (57,000 ppb); Trichlorofluoromethane (1 ppb); 2-propanol (74 ppb); 1,1-dichloroethene (430 ppb); acetone (140 ppb); carbon disulfide (13 ppb); methylene chloride (1 ppb); trans-1,2-dichloroethene (5,900); hexane (110 ppb); 1,1-dichloroethane (1,300 ppb); cis-1,2-dichloroethene (67,000 ppb); 2-butanone (19 ppb); 1,1,1,-trichloroethane (1,700 ppb); cyclohexane (63 ppb); heptane (230 ppb); benzene (69 ppb); trichloroethene (130 ppb); 4-methyl-2-pentanone (2 ppb); toluene (1,300 ppb); tetrachloroethene (25 ppb); ethylbenzene (1,300 ppb); m&p xylene (89 ppb); o xylenes (49 ppb); styrene (15 ppb); 4-ethyl toluene (19 ppb); 1,3,5-trimethylbenzene (1 ppb); 1,2,4-trimethylbenzene (25 ppb).

### 2.2.4 Exposure Pathway Assessment

An exposure pathway assessment was prepared to evaluate potentially exposed human receptors, current and future, and identify potential exposure pathways associated with the property. This assessment was developed in accordance with guidance in the Ohio VAP (OAC 3745-300-09). The preferred land use designation for the property is commercial/industrial. The following pathways were determined to be complete, and may or may not pose a risk to human health and/or the environment:

- Direct contact soils;
- Construction worker exposure scenario, on- and off-property;
- Soil: vapor intrusion to subsurface structures, i.e., soil to indoor air
- Groundwater: non-potable use, on- and off-property;
- Groundwater: vapor intrusion to subsurface structures, i.e., groundwater to indoor air, on- and off-property;

### **2.3 Determination of Applicable Standards**

The applicable standards for soil at the subject property included VAP commercial/industrial direct contact standards following the required multiple chemical adjustment exercise. The direct contact pathway was also evaluated for the construction worker receptor through a multiple chemical adjustment exercise using VAP generic construction worker standards. In addition, concentrations of chemicals of concern in soil, soil gas and groundwater were evaluated for their contribution to the indoor air pathway and potential construction worker exposure. The applicable standards for concentrations of chemicals of concern in deep groundwater are VAP generic unrestricted potable use standards.

### **2.4 Determination of Compliance with Applicable Standards**

A preliminary risk evaluation was conducted to identify the complete exposure pathways at the subject property. As a conclusion of the preliminary risk evaluation, the following list of remedial activities was established to be conducted at the subject property in order to allow commercial/industrial development and obtain a "Covenant Not to Sue" from Ohio EPA.

- Excavation of Gasoline Leak Area
- Remediation of Former UST Area

The above remedial activities were implemented at the subject property. The end goal of the remedial activities was to return the subject property to conditions that met and qualify for VAP commercial/industrial land use standards. Following implementation of these remedies, a Post-Remedial Risk Assessment was completed which demonstrated compliance with applicable standards prior to the issuance of the No Further Action Letter.

#### **2.4.1 Data Analysis**

Concentrations of all chemicals of concern present at the subject property have been compared to appropriate applicable standards in accordance with VAP protocol. The Risk Evaluation Report and the addendum issued February 15, 2010, document that all applicable standards have been met at the subject property following the implementation of various remedies.

#### **2.4.2 Compliance with Generic Numerical Standards (GNS)**

Generic Numerical Standards were used for the direct contact with soil pathway. Cumulative adjustments for the presence of multiple chemicals were completed and are documented in the Risk Evaluation Report.

#### **2.4.3 Property-Specific Risk Assessment Findings**

The Risk Evaluation Report documents that the subject property complies with all applicable standards under the VAP. This includes all applicable exposure pathways to potential receptors as well as Protection of Groundwater Meeting Unrestricted Potable Use Standards.

#### **2.4.4 Determination of Whether Remedial Activities are Required**

Remedial activities were required to achieve compliance with applicable standards in soil and groundwater at the subject property. This was due to risk exceedances in the soil direct contact and soil leaching to groundwater pathways at the subject property.

#### **2.5 Remedies Implemented**

The following remedial activities were implemented at the subject property. The end goal of the remedial activities was to return the subject property to conditions that met and qualify for VAP commercial/industrial land use standards. The following sections describe the remedies implemented.

##### **2.5.1 Former UST Area Remediation**

A series of microbial injections were performed in the Former UST Area. The purpose of these injections was to reduce soil and groundwater contamination in this area to allow for risk-based closure of the site. The results of the remediation were confirmed through two rounds of confirmatory sampling as described in the Phase II Property Assessment Addendum dated December, 2006.

##### **2.5.2 Excavation of Gasoline Leak Area**

The excavation of the Gasoline Leak area was conducted on September 27, 2005. Soil was removed from the 15 feet x 15 feet x 2 feet area and transported to Ohio Soil Recycling for disposal. The total amount of soil removed from the Gasoline Leak area was 10.38 tons.

## 2.6 Confirmatory Sampling

Following implementation of each of the remedies described in the previous section, representative samples of environmental media were collected and analyzed to prove the efficacy of the remedy. The results of this confirmatory sampling were combined as the Post-Remedial data set which was further evaluated to determine compliance with applicable standards for the property. Details on the collection of confirmatory samples and associated analytical results can be found in the Phase II Property Assessment Addendums.

## 2.7 Property Specific Risk Assessment

Following collection of all samples at the property, analysis was conducted in accordance with OAC 3745-300-09 to determine compliance of the property with applicable standards. The entire sampling data set was utilized in this demonstration. The results of this analysis are documented in the Risk Evaluation Report as well as the addendum issued February 15, 2010 and demonstrate the compliance of the property with VAP commercial/industrial land use standards. Restrictions limiting future groundwater use at the site as well as restricting future land use to commercial/industrial operations have also been proposed for the property.

## 3.0 Conclusions

The foregoing is a summary of the NFA Letter submitted for Rusch Properties by Atul Pandey, P.E. of PANDEY Environmental, LLC as a Certified Professional (CP # 224).

Mr. Pandey is the contact at PANDEY Environmental, LLC regarding questions of this NFA Letter. Mr. Pandey can be contacted at 614.444.8078 x207. Mr. Bill Rusch is the contact at Rusch Properties and can be reached at 740.788.3222.

Enclosed: List and Date of Completion of all NFA Documents  
Legal Description and Survey

Page 10 of 11

**List and Date of Completion of All NFA Documents**

<b>PROPERTY</b>	<b>REPORT</b>	<b>DATE</b>
Former Anomatic Property	Phase I Property Assessment	September 6, 2005
Former Anomatic Property	Phase I Property Assessment Update	February 27, 2009
Former Anomatic Property	Phase I Property Assessment Update	December, 2006
Former Anomatic Property	Phase II Property Assessment	September, 2005
Former Anomatic Property	Phase II Property Assessment Addendum	October, 2005
Former Anomatic Property	Phase II Property Assessment Addendum	December, 2006
Former Anomatic Property	Phase II Property Assessment Addendum #3	February 27, 2009
Former Anomatic Property	PAYGO Correspondence	February 27, 2009
Former Anomatic Property	Risk Evaluation Report	February 27, 2009
Former Anomatic Property	VAP NFA Checklist	February 27, 2009
Former Anomatic Property	VAP NFA Addendum	February 15, 2010

Total: 6 Binders

**Exhibit 4**  
**Environmental Covenant**

To be recorded with Deed  
Records - ORC § 317.08

### ENVIRONMENTAL COVENANT

This Environmental Covenant is entered into by Rusch Properties ("Owner") and the Ohio Environmental Protection Agency ("Ohio EPA") pursuant to Ohio Revised Code ("ORC") §§ 5301.80 to 5301.92 for the purpose of subjecting the Property located at 175 East Broadway Avenue, Westerville, Ohio 43081 ("Property") to the activity and use limitations set forth herein.

WHEREAS, Rusch Properties has undertaken a voluntary action with respect to the Property described herein under Ohio's Voluntary Action Program ("VAP"), pursuant to Ohio Revised Code ("ORC") Chapter 3746 and Ohio Administrative Code ("OAC") Chapter 3745-300;

WHEREAS Certified Professional Atul Pandey, P.E., CP #224, issued a no further action letter for the Property on February 27, 2009 ("NFA Letter") and on that date submitted the NFA Letter to Ohio EPA, with a request for a covenant not to sue ("No. 09NFA344");

WHEREAS, the voluntary action remedy for the Property includes the activity and use limitations set forth in this Environmental Covenant;

WHEREAS, the activity and use limitations protect against exposure to the hazardous substances and petroleum in soil and ground water, on or underlying the Property and support the issuance of the NFA Letter and a covenant not to sue for the Property;

WHEREAS, the NFA Letter's executive summary contains an overview of the voluntary action. The executive summary may be reviewed as an exhibit to the covenant not to sue issued for the Property, recorded in the deed records for the Property in the Franklin County Recorder's Office. You may also review the covenant not to sue, executive summary, and NFA Letter (No. 09NFA344) by contacting the Records Management Officer, at Ohio EPA's Central Office Division of Emergency and Remedial Response, 50 West Town Street, P.O. Box 1049, Columbus, OH 43216-1049, 614-644-2924, or at Ohio EPA's Central District Office at 50 West Town Street, P.O. Box 1049, Columbus, Ohio 43216-1049, 614-728-3778, or by contacting PANDEY Environmental, LLC at 673

Mohawk Street, Suite 300, Columbus, Ohio 43206, 614-444-8078.

NOW THEREFORE, Rusch Properties and Ohio EPA agree to the following:

1. Environmental Covenant. This instrument is an environmental covenant developed and executed pursuant to ORC §§ 5301.80 to 5301.92.
2. Property. This Environmental Covenant concerns approximately 5.448 acres of real property located at 175 East Broadway Avenue in Westerville, Franklin County, Ohio, and more particularly described in Exhibit A attached hereto and hereby incorporated by reference herein ("Property").
3. Owner. Rusch Properties, a partnership, with a business address of 1650 Tamarack Road, Newark, Ohio 43055, is the owner of the Property.
4. Holder. Owner, whose address is listed above, is the holder of this Environmental Covenant.
5. Activity and Use Limitations. As part of the voluntary action described in the NFA Letter, Owner hereby imposes and agrees to comply with the following activity and use limitations:

***Limitation for Commercial or Industrial Land Uses.*** The Property is hereby limited to commercial or industrial land use only, as defined in OAC 3745-300-08(B)(2)(c)(ii) and (B)(2)(c)(iii) (effective October 21, 2002).

OAC 3745-300-08(B)(2)(c)(ii) defines *commercial land use* as "land use with potential exposure of adult workers during a business day and potential exposure of adults and children who are customers, patrons, or visitors to commercial facilities during the business day. Commercial land use has potential exposure of adults to dermal contact with soil, inhalation of vapors and particles from soil and ingestion of soil. Examples of commercial land uses include but are not limited to warehouses; building supply facilities; retail gasoline stations; automobile service stations; automobile dealerships; retail warehouses; repair and service establishments for appliances and other goods; professional offices; banks and credit unions; office buildings; retail businesses selling foods or merchandise; golf courses; hospitals and clinics; religious institutions; hotels; motels; and parking facilities."

OAC 3745-300-08(B)(2)(c)(iii) defines *industrial land use* as "land use with potential exposure of adult workers during a business day and potential

exposures of adults and children who are visitors to industrial facilities during the business day. Industrial land use has potential exposure of adults to dermal contact with soil, inhalation of vapors and particles from soil and ingestion of soil. Examples of industrial land uses include, but are not limited to: lumberyards; power plants; manufacturing facilities such as metalworking shops, plating shops, blast furnaces, coke plants, oil refineries, brick factories, chemical plants and plastics plants; assembly plants; non-public airport areas; limited access highways; railroad switching yards; and marine port facilities.”

*Limitation Prohibiting Ground Water Extraction and Use.* Ground water underlying the Property shall not be extracted or used for any purpose, potable or otherwise, except for investigation, monitoring or remediation of the ground water or in conjunction with construction or excavation activities or maintenance of subsurface utilities.

6. Running with the Land. This Environmental Covenant shall be binding upon the Owner[s] and all assigns and successors in interest, including any Transferee, and shall run with the land, pursuant to ORC § 5301.85, subject to amendment or termination as set forth herein. The term “Transferee,” as used in this Environmental Covenant, shall mean any future owner of any interest in the Property or any portion thereof, including, but not limited to, owners of an interest in fee simple, mortgagees, easement holders, and/or lessees.

7. Compliance Enforcement. Compliance with this Environmental Covenant may be enforced pursuant to ORC § 5301.91. Failure to timely enforce compliance with this Environmental Covenant or the activity and use limitations contained herein by any party shall not bar subsequent enforcement by such party and shall not be deemed a waiver of the party’s right to take action to enforce any non-compliance. Nothing in this Environmental Covenant shall restrict the Director of Ohio EPA from exercising any authority under applicable law.

Pursuant to ORC § 3746.171, if the Property or any portion thereof is put to a use that does not comply with this Environmental Covenant, the covenant not to sue issued for the Property by the Director of Ohio EPA under ORC § 3746.12 is void on and after the date of the commencement of the noncomplying use.

8. Rights of Access. Owner hereby grants to Ohio EPA, its agents, contractors, and employees the right of access to the Property for implementation or enforcement of this Environmental Covenant and shall require such access as a condition of any transfer of the Property or any portion thereof.

9. Compliance Reporting. The Owner or any Transferee shall submit to Ohio EPA, upon request, written documentation verifying that the activity and use limitations remain in place and are being complied with.

10. Notice upon Conveyance. Each instrument hereafter conveying any interest in the Property or any portion of the Property shall contain a notice of the activity and use limitations set forth in this Environmental Covenant, and provide the recorded location of this Environmental Covenant. The notice shall be substantially in the following form:

THE INTEREST CONVEYED HEREBY IS SUBJECT TO AN ENVIRONMENTAL COVENANT, DATED \_\_\_\_\_, 2010, RECORDED IN THE DEED OR OFFICIAL RECORDS OF THE FRANKLIN COUNTY RECORDER ON \_\_\_\_\_, 2010, IN [DOCUMENT \_\_\_\_, or BOOK \_\_\_\_, PAGE \_\_\_\_]. THE ENVIRONMENTAL COVENANT LIMITS THE PROPERTY USE TO COMMERCIAL OR INDUSTRIAL LAND USE, OR ANY COMBINATION OF THOSE USES, AND PROHIBITS USE OF GROUND WATER, AS FURTHER DESCRIBED IN THE ENVIRONMENTAL COVENANT.

Owner shall notify Ohio EPA within ten (10) days after each conveyance of an interest in the Property or any portion thereof. Owner's notice shall include the name, address, and telephone number of the Transferee, a copy of the deed or other documentation evidencing the conveyance, and a survey map that shows the boundaries of the property being transferred.

11. Representations and Warranties. Owner hereby represents and warrants to the other signatories hereto:

- A. that the Owner is the sole owner of the Property;
- B. that the Owner holds fee simple title to the Property which is subject to the interests or encumbrances identified in Exhibit B attached hereto and incorporated by reference herein;
- C. that the Owner has the power and authority to enter into this Environmental Covenant, to grant the rights and interests herein provided and to carry out all obligations hereunder;
- D. that the Owner has identified all other persons that own an interest in or hold an encumbrance on the Property and notified such persons of the

Owner's intention to enter into this Environmental Covenant; and

- E. that this Environmental Covenant will not materially violate or contravene or constitute a material default under any other agreement, document or instrument to which Owner is a party or by which Owner may be bound or affected.

12. Amendment or Termination. This Environmental Covenant may be amended or terminated by consent of all of the following: the Owner or a Transferee; and the Ohio EPA, pursuant to ORC § 5301.90 and other applicable law. The term, "Amendment," as used in this Environmental Covenant, shall mean any changes to the Environmental Covenant, including the activity and use limitations set forth herein, or the elimination of one or more activity and use limitations when there is at least one limitation remaining. The term, "Termination," as used in this Environmental Covenant, shall mean the elimination of all activity and use limitations set forth herein and all other obligations under this Environmental Covenant.

This Environmental Covenant may be amended or terminated only by a written instrument duly executed by the Director of Ohio EPA and the Owner or Transferee of the Property or portion thereof, as applicable. Within thirty (30) days of signature by all requisite parties on any amendment or termination of this Environmental Covenant, the Owner or Transferee shall file such instrument for recording with the Franklin County Recorder's Office, and shall provide a file- and date-stamped copy of the recorded instrument to Ohio EPA.

13. Severability. If any provision of this Environmental Covenant is found to be unenforceable in any respect, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired.

14. Governing Law. This Environmental Covenant shall be governed by and interpreted in accordance with the laws of the State of Ohio.

15. Recordation. Within thirty (30) days after the date of the final required signature upon this Environmental Covenant, Owner shall file this Environmental Covenant for recording, in the same manner as a deed to the Property, with the Franklin County Recorder's Office.

16. Effective Date. The effective date of this Environmental Covenant shall be the date upon which the fully executed Environmental Covenant has been recorded as a deed record for the Property with the Franklin County Recorder.

17. Distribution of Environmental Covenant. The Owner shall distribute a file- and date-stamped copy of the recorded Environmental Covenant to the Ohio EPA and to the city of Westerville, Ohio.

18. Notice. Unless otherwise notified in writing by or on behalf of the Owner or Ohio EPA, any document or communication required by this Environmental Covenant shall be submitted to:

As to Ohio EPA:

Ohio EPA Central Office  
Attn: DERR Records Management Officer  
50 West Town Street  
P.O. Box 1049  
Columbus, OH 43216-1049

and

Ohio EPA Central District Office  
Division of Emergency and Remedial Response  
Attn: Site Coordinator for 09NFA344  
50 West Town Street  
P.O. Box 1049  
Columbus, OH 43216-1049

As to Rusch Properties:

William B. Rusch  
c/o Anomatic Corporation  
1650 Tamarack Road  
Newark, OH 43055-1359

and

Scott Rusch  
c/o Anomatic Corporation  
1650 Tamarack Road  
Newark, OH 43055-1359.

[Balance of page intentionally left blank.]

The undersigned representative of Owner represents and certifies that he is authorized to execute this Environmental Covenant.

**IT IS SO AGREED:**

RUSCH PROPERTIES

By: William B. Rusch

State of Ohio )

County of Licking )

ss:

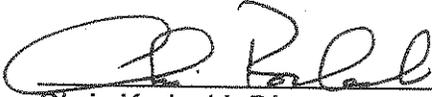
Before me, a notary public, in and for said county and state, personally appeared \_\_\_\_\_, a duly authorized representative of Rusch Properties, who acknowledged to me that he did execute the foregoing instrument on behalf of that entity.

IN TESTIMONY WHEREOF, I have subscribed my name and affixed my official seal this 30<sup>th</sup> day of March, 2010.

Kathleen M. Keaser  
Notary Public

KATHLEEN M. KEASER  
Notary Public, State of Ohio  
My Commission Expires March 19, 2012  
Recorded in Licking County

OHIO ENVIRONMENTAL PROTECTION AGENCY

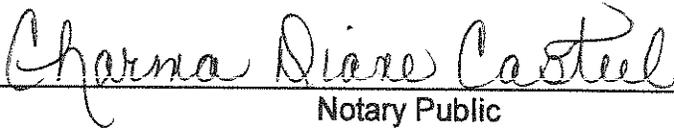
  
Chris Korleski, Director

State of Ohio                    )  
  )        ss:  
County of Franklin            )

Before me, a notary public, in and for said county and state, personally appeared Chris Korleski, the Director of Ohio EPA, who acknowledged to me that he did execute the foregoing instrument on behalf of Ohio EPA.

IN TESTIMONY WHEREOF, I have subscribed my name and affixed my official seal this 28<sup>th</sup> day of APRIL, 2010.



  
Notary Public

CHARMA DIANE CASTEEL  
NOTARY PUBLIC  
STATE OF OHIO  
MY COMMISSION EXPIRES

May 10, 2014

This instrument prepared by:

Sue Kroeger, Attorney  
Ohio EPA  
50 W. Town Street  
Columbus, OH 43215

**EXHIBIT A**  
**SURVEY AND LEGAL DESCRIPTION**



10006101

February 4, 2010

DESCRIPTION OF 5.448 ACRES OF LAND LOCATED ON THE SOUTHERLY SIDE  
OF EAST BROADWAY AND EAST OF VINE STREET IN THE CITY OF  
WESTERVILLE, COUNTY OF FRANKLIN, STATE OF OHIO

Situated in the State of Ohio, County of Franklin, City of Westerville and containing 5.448 acres of land, more or less, part of said 5.448 acres being all of that tract of land described in Exhibit "A" in the deed to Rusch Properties, of record in Official Record 05816J15, part of said 5.448 acres being all of the residue of that 0.711 acre tract of land described in Exhibit "A" in the deed to Rusch Properties, of record in Official Record 08106I17 and part of said 5.448 acres being all of the residue of that 0.857 acre tract of land described in Exhibit "A" in the deed to Rusch Properties, of record in Official Record 11511D09, all being of record in the Recorder's Office, Franklin County, Ohio, said 5.448 acre area of land being more particularly described as follows:

Said tract described in Official Record 05816J15 (4.073 acres of land, more or less) consists of all of Lots numbered 57, 58, 59, 60, 95, 96, 97, 98 and Reserve "A", together with parts of Lots numbered 61 and 94 and vacated portions of Lincoln Street and certain alleys of Valentine Addition, of record in Plat Book 7, Pages 450 and 451, together with a 1 acre and 44 rods (0.275 acre) tract (Parcel 6 and a 0.625 acre tract Parcel 7) as described in the deed to Commercial Credit Corporation, of record in Deed Book 2369, Page 150, both being of record in the Recorder's Office, Franklin County, Ohio;

Beginning at a 3/4-inch (I.D.) iron pipe set in the southerly right-of-way line of East Broadway Avenue, at the northeasterly corner of said 4.073 acre tract, the same being the northwesterly corner of Lot 56 of said Valentine Addition, said Lot 56 having been conveyed to Melvin D. Hatch and Karen M. Hatch by deed of record in Instrument No. 200103220059509, Recorder's Office, Franklin County, Ohio, said beginning point being located 20.00 feet southerly from, as measured at right angles, the centerline of East Broadway;

Thence  $S00^{\circ}20'54''W$ , with the easternmost line of said 4.073 acre tract, with the westerly line of said Lot 56, with the westerly line of the residue of that 2.937 acre tract of land designated as PARCEL TWO and described in Exhibit "A" in the deed to Walter N. Morrow, of record in Instrument No. 200110230243722, with the westerly line of that 0.100 acre tract of land designated as Parcel One and described in Exhibit "A" in the Certificate of Transfer to Eric W. Gibson and Lisa A. Gross, of record in Instrument No. 200103220058521 and with a westerly line of that 1.338 acre tract of land described in Exhibit A in the deed to Fullen Properties, LLC, of record in Instrument No. 200710040174136, all being of record in the Recorder's Office, Franklin County, Ohio, a distance of 327.62 feet to a 3/4-inch (I.D.) iron pipe set at a southeasterly corner of said 4.073 acre tract, the same being an external corner of said 1.338 acre tract;

Thence westwardly, southwardly, westwardly, southwardly and eastwardly, with the common boundary of said 4.073 acre tract and said 1.338 acre tract, the following five (5) courses and distances:

- 1.)  $S89^{\circ}31'21''W$ , a distance of 35.00 feet to a 3/4-inch (I.D.) iron pipe set;
- 2.)  $S00^{\circ}28'39''E$ , a distance of 171.89 feet to a point;
- 3.)  $S89^{\circ}42'21''W$ , a distance of 18.92 feet to a point;
- 4.)  $S00^{\circ}28'39''E$ , a distance of 15.00 feet to a point;

DESCRIPTION OF 5.448 ACRES OF LAND LOCATED ON THE SOUTHERLY SIDE  
OF EAST BROADWAY AND EAST OF VINE STREET IN THE CITY OF  
WESTERVILLE, COUNTY OF FRANKLIN, STATE OF OHIO  
(continued)

5.) N89°42'21"E, a distance of 2.25 feet to a 3/4-inch (I.D.) iron pipe set at a northeasterly corner of said 4.073 acre tract, the same being the northwesterly corner of Lot 6 as the same is numbered and delineated upon the recorded plat of Slaughter and Tabler's Addition to the Village of Westerville, of record in Plat Book 3, Page 446, said Lot 6 having been conveyed to Steven D. Underwood and Janis S. Underwood by deed of record in Official Record 20706G16, both being of record in the Recorder's Office, Franklin County, Ohio;

Thence S00°47'28"E, with an easterly line of said 4.073 acre tract and with the westerly line of said Lot 6, a distance of 14.52 feet to a 3/4-inch (I.D.) iron pipe set at the southernmost southeasterly corner of said 4.073 acre tract, the same being the northeasterly corner of Lot 8 of said Slaughter and Tabler's addition to the City of Westerville, said Lot 8 having been conveyed to James Walter by deed of record in Instrument No. 200301310031317, Recorder's Office, Franklin County, Ohio;

Thence N89°59'17"W, with the southernmost line of said 4.073 acre tract, with the northerly line of said Lot 8 and with the northerly right-of-way line of Israel Street, forty feet in width, a distance of 235.80 feet to a 5/8-inch solid iron pin found at the southwest corner of said 4.073 acre tract; the same being the northwesterly right-of-way corner of said Israel Street and in the easterly line of said 0.857 acre tract;

Thence S00°31'08"E, with the westerly right-of-way line of said Israel Street and with the easterly line of said 0.857 acre tract, a distance of 134.56 feet to a 5/8-inch solid iron pin found at the southeasterly corner of said 0.857 acre tract, the same being the northeasterly corner of that 0.338 acre tract of land described in Exhibit "A" in the deed to Thompkins Properties, Inc., of record in Instrument No. 200205060113526, Recorder's Office, Franklin County, Ohio;

Thence N89°58'40"W, with the southerly line of said 0.857 acre tract and with the northerly line of said 0.338 acre tract, a distance of 102.36 feet to a 3/4-inch (I.D.) iron pipe set at the southwest corner of the residue of said 0.857 acre tract, the same being the northwesterly corner of said 0.338 acre tract, said iron pipes also being the northeasterly corner of a 10.00 foot wide strip of land described in the deed to The State of Ohio, of record in Instrument No. 199809140232999, and the southeasterly corner of that 0.203 acre tract of land designated as PARCEL NO. 17WD and described in Exhibit "A" in the deed to the City of Westerville, of record in Instrument No. 199904130092092, both being of record in the Recorder's Office, Franklin County, Ohio;

Thence northwardly, with the westerly boundary of the residue of said 0.857 acre tract, with the westerly boundary of the residue of said 0.711 acre tract and with the easterly boundary of said 0.203 acre tract, the following three (3) courses and distances:

- 1.) N01°43'22"E, a distance of 85.05 feet to a 3/4-inch (I.D.) iron pipe;
- 2.) N05°59'04"E, a distance of 159.33 feet to a 3/4-inch (I.D.) iron pipe set at a point of curvature (said point being not tangent to said curve);

10006101

February 4, 2010

DESCRIPTION OF 5.448 ACRES OF LAND LOCATED ON THE SOUTHERLY SIDE  
OF EAST BROADWAY AND EAST OF VINE STREET IN THE CITY OF  
WESTERVILLE, COUNTY OF FRANKLIN, STATE OF OHIO  
(continued)

3.) with the arc of a curve to the right, having a radius of 5740.65 feet, a central angle of  $05^{\circ}17'59''$ , an arc length of 531.01 feet and a chord that bears  $N02^{\circ}41'12''E$ , a chord distance of 530.82 feet to a 3/4-inch (I.D.) iron pipe set in the southerly right-of-way line of said East Broadway Avenue at the northwesterly corner of said 4.073 acre tract, the same being the northeasterly corner of said 0.203 acre tract;

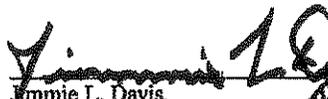
Thence  $N86^{\circ}49'00''E$ , with the southerly right-of-way line of said East Broadway Avenue and with the northernmost line of said 4.073 acre tract, the same being parallel with and 20.00 feet southerly from, as measured at right angles, the centerline of said East Broadway Avenue, a distance of 343.86 feet to the point of beginning and containing 5.448 acres of land, more or less.

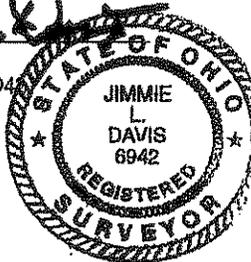
Subject to all rights-of-way, easements and restrictions, if any, of previous record.

We hereby state that the foregoing description was prepared from an actual field survey conducted by Bauer, Davidson & Merchant, Inc. in April of 2004 and in February of 2010.

The bearings given in the foregoing description are based on the bearing of  $N89^{\circ}49'00''E$ , as given for the southerly right-of-way line of said East Broadway Avenue in said deed to Rusch Properties, of record in Official Record 05816J15, Recorder's Office, Franklin County, Ohio.

BAUER, DAVIDSON & MERCHANT, INC.  
Consulting Engineers

  
Jimmie L. Davis,  
Professional Surveyor No. 6942



**EXHIBIT B**

**LIST OF ENCUMBRANCES**

EXHIBIT B  
Encumbrances

1. Taxes and assessments for the 2<sup>nd</sup> half of tax year 2009 and thereafter.  
(Parcel Nos. 080-001705; 080-009695; 080-010184)
  
2. Open-End Mortgage from Rusch Properties to National City Bank, dated February 16, 2004, to secure the sum of \$400,000.00, filed March 16, 2004 and recorded as Instrument No. 200403160056932, Recorder's Office, Franklin County, Ohio.  
  
Assignment of Rents between Rush Properties and National City Bank, dated February 16, 2004, filed March 16, 2004 and recorded as Instrument No. 200403160056931, Recorder's Office, Franklin County, Ohio.  
  
Modification of Mortgage dated March 31, 2006, filed April 10, 2006 and recorded as Instrument No. 200604100066345, Recorder's Office, Franklin County, Ohio.
  
3. Easement to the City of Westerville, dated January 24, 1969, filed January 29, 1969 and recorded in Deed Book 2957, Page 144, Recorder's Office, Franklin County, Ohio.
  
4. Easement to The Ohio Bell Telephone Company, filed March 17, 1969 and recorded in Deed Book 2966, Page 695, Recorder's Office, Franklin County, Ohio.
  
5. Rights and Easements as created in that deed from Consolidated Rail Corporation to the City of Westerville, dated February 15, 1977, filed April 24, 1978 and recorded in Deed Book 3647, Page 542, and as re-filed August 1, 1979 and re-recorded in Deed Book 3742, Page 518, Recorder's Office, Franklin County, Ohio.  
  
Relocation of Easement filed April 12, 1985 and recorded in Official Records Volume 05572, Page E01, Recorder's Office, Franklin County, Ohio.  
  
Relocation of Easement filed May 30, 1985 and recorded in Official Records Volume 05755, Page B17, Recorder's office, Franklin County, Ohio.
  
6. Terms and conditions of easements granted to Rusch Properties, dated August 18, 1986, filed September 12, 1986 and recorded in Official Records Volume 8121 Page I11, Recorder's Office, Franklin County, Ohio.
  
7. Easement for Storm Sewer Line to the City of Westerville, dated September 15, 1988, filed September 30, 1988 and recorded in Official Records Volume 12344, Page H15, Recorder's Office, Franklin County, Ohio.
  
8. Easements reserved in vacated alleys per Road Record No. 16, Page 163; Ordinance No. 1655-70 and Ordinance No. 768.



State of Ohio Environmental Protection Agency

STREET ADDRESS:

Lazarus Government Center  
50 W. Town St., Suite 700  
Columbus, Ohio 43215

TELE: (614) 644-3026 FAX: (614) 644-3184  
www.epa.state.oh.us

RECEIVED

APR 30 2010

MAILING ADDRESS:

P.O. Box 1049  
Columbus, OH 43216-1049

MEMORANDUM

OHIO EPA/CDO

**TO:** Shelley Wilson, Executive Administrator for Real Property, Tax Equalization Division, Dept. of Taxation  
Amy Alduino, Office of Urban Development, Dept. of Development

**FROM:** Chris Korleski, Director, Ohio Environmental Protection Agency

**DATE:** APR 29 2010

**RE:** Covenant Not to Sue Issued to Rusch Properties for the Former Anomatic Property

As Director of the Ohio Environmental Protection Agency, I certify that Rusch Properties has performed investigational and remedial activities at the property listed below and has been issued a covenant not to sue under the authority of Ohio Revised Code (ORC) Chapter 3746. This information is being provided in satisfaction of ORC 5709.87(B).

Property name: Former Anomatic Property

Property address: 175 East Broadway Avenue, Westerville, OH 43081

Property owner: Rusch Properties

Property owner address: 1650 Tamarack Road, Newark, OH 43055

Parcel number(s): 080-001750-00, 080-010184-00 and 080-009695-00

County: Franklin

Taxing District: City of Westerville (080)

APR 29 2010

Date Covenant Not to Sue Issued: \_\_\_\_\_

Attached, for your information, is a copy of the legal description and map of the property.

Ted Strickland, Governor  
Lee Fisher, Lieutenant Governor  
Chris Korleski, Director

Ohio EPA is an Equal Opportunity Employer



If additional information regarding the property or the voluntary action is required, I suggest you first contact Atul Pandey, the certified professional for the property, at (614) 444-8078. In the alternative, you can contact Ray Moreno with the Ohio Environmental Protection Agency at (614) 728-3833.

c: William B. Rusch, Rusch Properties  
1650 Tamarack Road, Newark, OH 43055

Atul Pandey, Certified Professional, Pandey Environmental, LLC  
673 Mohawk St., Suite 300, Columbus, OH 43206

Clarence E. Mingo II, Franklin County Auditor  
373 South High Street, 21<sup>st</sup> Floor, Columbus, OH 43215-6310

DERR-CO/CDO Files (#09NFA344)

ec: Tiffani Kavalec, Manager, DERR-ACRE, Ohio EPA  
Deborah Strayton, DERR-CDO, Ohio EPA  
Sue Kroeger, Legal Office, Ohio EPA

10006101

February 4, 2010

DESCRIPTION OF 5.448 ACRES OF LAND LOCATED ON THE SOUTHERLY SIDE  
OF EAST BROADWAY AND EAST OF VINE STREET IN THE CITY OF  
WESTERVILLE, COUNTY OF FRANKLIN, STATE OF OHIO

Situated in the State of Ohio, County of Franklin, City of Westerville and containing 5.448 acres of land, more or less, part of said 5.448 acres being all of that tract of land described in Exhibit "A" in the deed to Rusch Properties, of record in Official Record 05816J15, part of said 5.448 acres being all of the residue of that 0.711 acre tract of land described in Exhibit "A" in the deed to Rusch Properties, of record in Official Record 08106I17 and part of said 5.448 acres being all of the residue of that 0.857 acre tract of land described in Exhibit "A" in the deed to Rusch Properties, of record in Official Record 11511D09, all being of record in the Recorder's Office, Franklin County, Ohio, said 5.448 acre area of land being more particularly described as follows:

Said tract described in Official Record 05816J15 (4.073 acres of land, more or less) consists of all of Lots numbered 57, 58, 59, 60, 95, 96, 97, 98 and Reserve "A", together with parts of Lots numbered 61 and 94 and vacated portions of Lincoln Street and certain alleys of Valentine Addition, of record in Plat Book 7, Pages 450 and 451, together with a 1 acre and 44 rods (0.275 acre) tract (Parcel 6 and a 0.625 acre tract Parcel 7) as described in the deed to Commercial Credit Corporation, of record in Deed Book 2369, Page 150, both being of record in the Recorder's Office, Franklin County, Ohio;

Beginning at a 3/4-inch (I.D.) iron pipe set in the southerly right-of-way line of East Broadway Avenue, at the northeasterly corner of said 4.073 acre tract, the same being the northwesterly corner of Lot 56 of said Valentine Addition, said Lot 56 having been conveyed to Melvin D. Hatch and Karen M. Hatch by deed of record in Instrument No. 200103230059509, Recorder's Office, Franklin County, Ohio, said beginning point being located 20.00 feet southerly from, as measured at right angles, the centerline of East Broadway;

Thence S00°20'54"W, with the easternmost line of said 4.073 acre tract, with the westerly line of said Lot 56, with the westerly line of the residue of that 2.937 acre tract of land designated as PARCEL TWO and described in Exhibit "A" in the deed to Walter N. Morrow, of record in Instrument No. 200110230243722, with the westerly line of that 0.100 acre tract of land designated as Parcel One and described in Exhibit "A" in the Certificate of Transfer to Eric W. Gibson and Lisa A. Gross, of record in Instrument No. 200103220058521 and with a westerly line of that 1.338 acre tract of land described in Exhibit A in the deed to Fullen Properties, LLC, of record in Instrument No. 200710040174136, all being of record in the Recorder's Office, Franklin County, Ohio, a distance of 327.62 feet to a 3/4-inch (I.D.) iron pipe set at a southeasterly corner of said 4.073 acre tract, the same being an external corner of said 1.338 acre tract;

Thence westwardly, southwardly, westwardly, southwardly and eastwardly, with the common boundary of said 4.073 acre tract and said 1.338 acre tract, the following five (5) courses and distances:

- 1.) S89°31'21"W, a distance of 35.00 feet to a 3/4-inch (I.D.) iron pipe set;
- 2.) S00°28'39"E, a distance of 171.89 feet to a point;
- 3.) S89°42'21"W, a distance of 18.92 feet to a point;
- 4.) S00°28'39"E, a distance of 15.00 feet to a point;

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(continued)

5.) N89°42'21"E, a distance of 2.25 feet to a 3/4-inch (I.D.) iron pipe set at a northeasterly corner of said 4.073 acre tract, the same being the northwesterly corner of Lot 6 as the same is numbered and delineated upon the recorded plat of Slaughter and Tabler's Addition to the Village of Westerville, of record in Plat Book 3, Page 446, said Lot 6 having been conveyed to Steven D. Underwood and Janis S. Underwood by deed of record in Official Record 20706G16, both being of record in the Recorder's Office, Franklin County, Ohio;

Thence S00°47'28"E, with an easterly line of said 4.073 acre tract and with the westerly line of said Lot 6, a distance of 14.52 feet to a 3/4-inch (I.D.) iron pipe set at the southernmost southeasterly corner of said 4.073 acre tract, the same being the northeasterly corner of Lot 8 of said Slaughter and Tabler's addition to the City of Westerville, said Lot 8 having been conveyed to James Walter by deed of record in Instrument No. 200301310031317, Recorder's Office, Franklin County, Ohio;

Thence N89°59'17"W, with the southernmost line of said 4.073 acre tract, with the northerly line of said Lot 8 and with the northerly right-of-way line of Israel Street, forty feet in width, a distance of 235.80 feet to a 5/8-inch solid iron pin found at the southwest corner of said 4.073 acre tract; the same being the northwesterly right-of-way corner of said Israel Street and in the easterly line of said 0.857 acre tract;

Thence S00°31'08"E, with the westerly right-of-way line of said Israel Street and with the easterly line of said 0.857 acre tract, a distance of 134.56 feet to a 5/8-inch solid iron pin found at the southeasterly corner of said 0.857 acre tract, the same being the northeasterly corner of that 0.338 acre tract of land described in Exhibit "A" in the deed to Thompkins Properties, Inc., of record in Instrument No. 200205060113526, Recorder's Office, Franklin County, Ohio;

Thence N89°58'40"W, with the southerly line of said 0.857 acre tract and with the northerly line of said 0.338 acre tract, a distance of 102.36 feet to a 3/4-inch (I.D.) iron pipe set at the southwest corner of the residue of said 0.857 acre tract, the same being the northwesterly corner of said 0.338 acre tract, said iron pipes also being the northeasterly corner of a 10.00 foot wide strip of land described in the deed to The State of Ohio, of record in Instrument No. 199809140232999, and the southeasterly corner of that 0.203 acre tract of land designated as PARCEL NO. 17WD and described in Exhibit "A" in the deed to the City of Westerville, of record in Instrument No. 199904130092092, both being of record in the Recorder's Office, Franklin County, Ohio;

Thence northwardly, with the westerly boundary of the residue of said 0.857 acre tract, with the westerly boundary of the residue of said 0.711 acre tract and with the easterly boundary of said 0.203 acre tract, the following three (3) courses and distances:

- 1.) N01°43'22"E, a distance of 85.05 feet to a 3/4-inch (I.D.) iron pipe;
- 2.) N05°59'04"E, a distance of 159.33 feet to a 3/4-inch (I.D.) iron pipe set at a point of curvature (said point being not tangent to said curve);

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(continued)

3.) with the arc of a curve to the right, having a radius of 5740.65 feet, a central angle of  $05^{\circ}17'59''$ , an arc length of 531.01 feet and a chord that bears  $N02^{\circ}41'12''E$ , a chord distance of 530.82 feet to a 3/4-inch (I.D.) iron pipe set in the southerly right-of-way line of said East Broadway Avenue at the northwesterly corner of said 4.073 acre tract, the same being the northeasterly corner of said 0.203 acre tract;

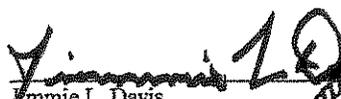
Thence  $N86^{\circ}49'00''E$ , with the southerly right-of-way line of said East Broadway Avenue and with the northernmost line of said 4.073 acre tract, the same being parallel with and 20.00 feet southerly from, as measured at right angles, the centerline of said East Broadway Avenue, a distance of 343.86 feet to the point of beginning and containing 5.448 acres of land, more or less.

Subject to all rights-of-way, easements and restrictions, if any, of previous record.

We hereby state that the foregoing description was prepared from an actual field survey conducted by Bauer, Davidson & Merchant, Inc. in April of 2004 and in February of 2010.

The bearings given in the foregoing description are based on the bearing of  $N89^{\circ}49'00''E$ , as given for the southerly right-of-way line of said East Broadway Avenue in said deed to Rusch Properties, of record in Official Record 05816J15, Recorder's Office, Franklin County, Ohio.

BAUER, DAVIDSON & MERCHANT, INC.  
Consulting Engineers

  
Jimmie L. Davis,  
Professional Surveyor No. 6942

