



State of Ohio Environmental Protection Agency

STREET ADDRESS:

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

TELE: (614) 644-3020 FAX: (614) 644-3184
www.epa.state.oh.us

MAILING ADDRESS:

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

December 30, 2009

Jonathan Coven
TechSouth Development Co., LLC
Lead Volunteer
c/o Greystone & Company, Inc.
152 W. 57th Street, 60th Floor
New York, New York 10019

Gary Guglielmi
City of Columbus, Department of Development
Co-Volunteer
Economic Development Division
150 S. Front Street, Suite 200
Columbus, OH 43215

Re: Issuance of Covenant Not To Sue for the Former Techneglas, Inc. Facility Property (09NFA373)

Dear Messrs. Coven and Guglielmi:

I am pleased to inform you that on December 30, 2009, the Director of the Ohio Environmental Protection Agency ("Director") issued a Covenant Not To Sue ("CNS") to TechSouth Development, Co. LLC and the city of Columbus, Department of Development, for the Former Techneglas, Inc. Facility property, located at 727 East Jenkins Avenue, Columbus, Franklin County, Ohio. The CNS was issued as Final Findings and Orders pursuant to Ohio Revised Code ("ORC") Chapter 3746 and Ohio Administrative Code ("OAC") Chapter 3745-300.

The CNS states that based on the NFA Letter, and subject to all conditions set forth in these Findings and Orders, including but not limited to the terms and conditions of the O&M Agreement, Ohio EPA covenants not to sue and releases TechSouth Development Co., LLC, the City of Columbus, and their 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 to perform additional investigational and remedial activities at the Property. The covenant not to sue and release of liability 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

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

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OHIO EPA/CDO

release of hazardous substances or petroleum, and the assessment or the remedial activities demonstrate or result in compliance with applicable standards.

Enclosed is a certified copy of the CNS and its exhibits for the recording of the documents in the same manner as a deed for the property, as instructed by the CNS (see the "Conditions and Limitations" section.) The enclosed Affidavit should be presented to the county recorder's office staff to support the required recording. Remember to submit to Ohio EPA after the recording a copy of the CNS that shows the filing date stamp of the county recorder's office.

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 county recorder's date stamp. For questions on the recording of these documents, you can consult the Ohio EPA Legal Office attorney designated below at (614) 644-3037.

OAC 3745-300-03 authorizes Ohio EPA to charge for its actual costs that it may incur related to site-specific activities, such as the monitoring of compliance with the CNS and its Operation and Maintenance Agreement or Risk Mitigation Plan, including the review of the submitted reports. This agency will send a separate correspondence to provide the number of the VAP account established for the Property and to ask you to verify the billing information.

The issuance of the CNS is a final action of the Director and will be public noticed in accordance with OAC 3745-47-07. The action may be appealed to the Environmental Review Appeals Commission ("Commission"). 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 thirty (30) days after notice of the Director's action. The appeal must be accompanied by a filing fee of \$70.00, which the Commission, in its discretion, may reduce if by affidavit it is demonstrated 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 (3) days after the appeal is filed 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 Commission at the following address: Environmental Review Appeals Commission, 309 South Fourth

Tech South Development, Co., LLC
Former Techneglas, Inc. Facility Property
09FNA373
Page 3 of 3

Street, Room 222, Columbus, Ohio 43215.

Congratulations on the issuance of this CNS. Many persons within the agency, TechSouth Development, Co., LLC, the City of Columbus, Schottenstein Zox & Dunn, Co. LPA, and HzW Environmental Consultants, 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 by email at tiffani.kavalec@epa.state.oh.us.

Sincerely,



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

Enclosure

- cc: Matt Knecht, Certified Professional, HzW Environmental Consultants, LLC
Joseph M. Reidy, Esq., Schottenstein Zox & Dunn, Co., LPA
CO DERR-VAP File #125002393003
CDO DERR File #125002393003
- ec: Frank Robertson, Supervisor, DERR/ACRE
Don Vogel, DERR-SABR
Eric Sainey, DERR/ACRE/VAP
Diane Crosby, DERR-ACRE-VAP
Deborah Strayton, Manager, DERR/CDO
Robin Roth, DERR/CDO
Ann Fischbein, Legal Office



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DEC 31 2009

OHIO EPA/CDO

MEMORANDUM

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, ^{SR} Director, Ohio Environmental Protection Agency

DATE: 12/30/09

RE: Covenant Not to Sue Issued to TechSouth Development Co., LLC for the Former Techneglas, Inc. Facility Property

As Director of the Ohio Environmental Protection Agency, I certify that TechSouth Development Co., LLC, 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 Techneglas, Inc. Facility Property, TechCenter South

Property address: 727 East Jenkins Avenue, Columbus, Ohio 43207

Property owner: TechSouth Development Co., LLC

Property owner address: c/o Greystone & Company, Inc., 152 W. 57th Street,
60th Floor, New York, New York 10019

Parcel number(s):

- 010-240950
- 010-113409 (partial)
- 010-112267
- 010-236033
- 010-050688
- 010-235706
- 010-238865
- 010-112838

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



010-112837

County: Franklin

Taxing District: Franklin County

Date Covenant Not to Sue Issued: DEC 30 2009

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

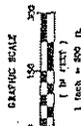
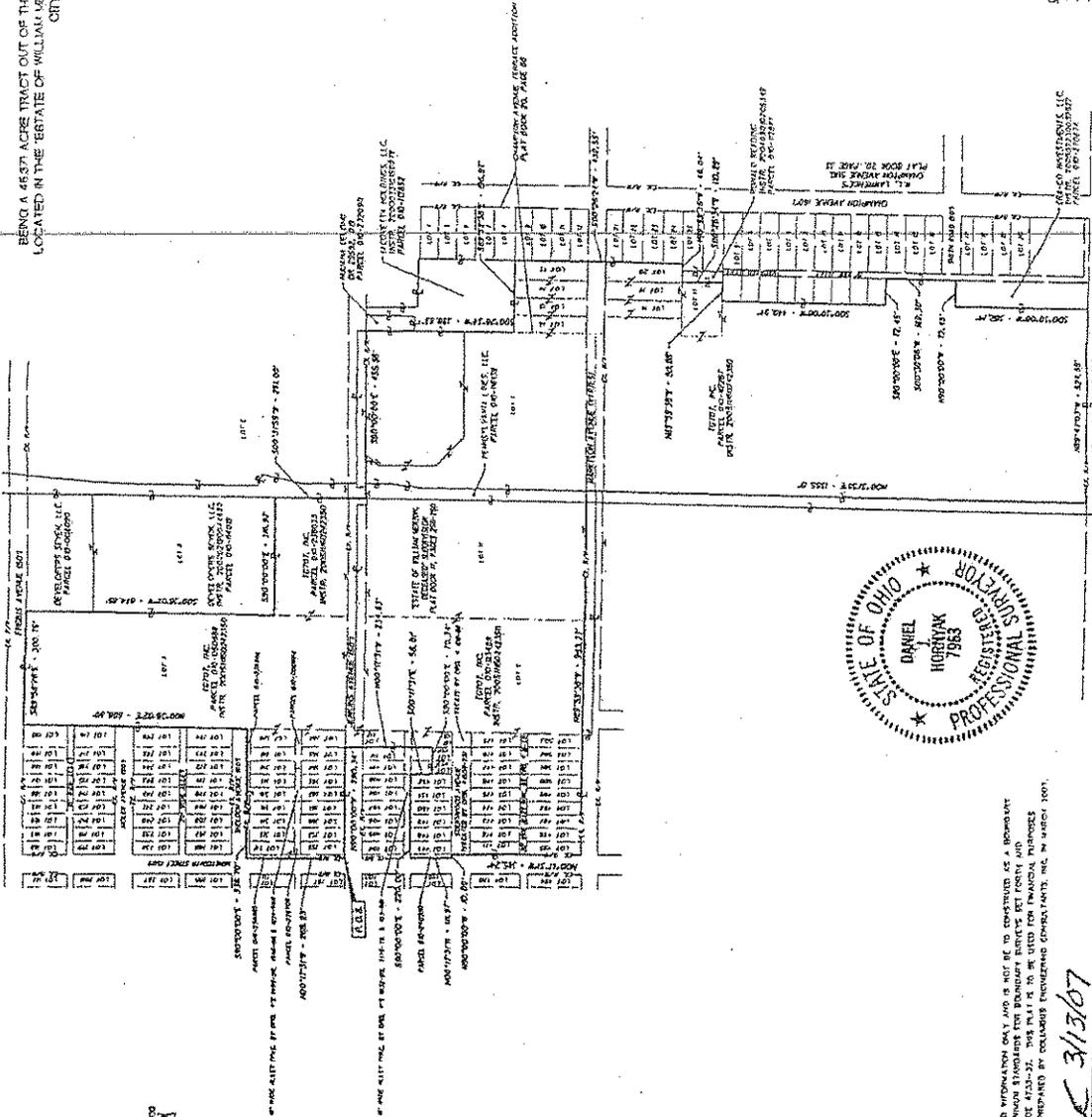
If additional information regarding the property or the voluntary action is required, I suggest you first contact Matthew D. Knecht, the Certified Professional for the property, at (440) 357-1260. In the alternative, you can contact Robin Roth with the Ohio Environmental Protection Agency at (614) 466-2476.

cc: Jonathan Coven, TechSouth Development Co., Inc.
c/o Greystone & Company, Inc.
152 W. 57th Street, 60th Floor
New York, New York 10019
Joseph M. Reidy, Esq., Schottenstein Zox & Dunn, Co., LPA
250 West Street
Columbus, Ohio 43215
Gary Guglielmi, City of Columbus, Department of Development
Matthew D. Knecht, Certified Professional, HzW Environmental Consultants, LLC
Clarence E. Mingo, II, Franklin County Auditor
373 S. High Street, 21st Floor
Columbus, Ohio 43215
Tiffani Kavalec, Manager, ACRE, Ohio EPA
Ann Fischbein, Legal Office, Ohio EPA
DERR-CDO File #125002393003
DERR-CO, VAP Files NFA #09NFA373

ec: Robin Roth, DERR-CDO, Ohio EPA

EXHIBIT 'B'

BING A 4637 ACRE TRACT OUT OF THE LANDS CONVEYED TO TOTOY, INC. IN INSTRUMENT NUMBER 2005010242350,
 LOCATED IN THE ESTATE OF WILLIAM MERVIN DEGEASED, SUBDIVISION OF RECORD IN PLAT BOOK 17, PAGES 256-280
 CITY OF COLUMBUS, FRANKLIN COUNTY, OHIO



NOTE:
 ALL DIMENSIONS ARE IN FEET AND INCHES UNLESS OTHERWISE NOTED.
 P.S. - POINT OF BEGINNING

DATE OF SURVEY: 3/1/2017
 ALL DIMENSIONS ARE IN FEET AND INCHES UNLESS OTHERWISE NOTED.
 P.S. - POINT OF BEGINNING

DATE OF SURVEY: 3/1/2017
 ALL DIMENSIONS ARE IN FEET AND INCHES UNLESS OTHERWISE NOTED.
 P.S. - POINT OF BEGINNING

STATE ENGINEER OF MICHIGAN
 DANIEL J. HOGAN
 REGISTERED PROFESSIONAL SURVEYOR
 NO. 10000
 STATE OF OHIO
 3/1/2017



THIS PLAT IS BASED ON BEST AVAILABLE INFORMATION ONLY AND IS NOT TO BE CONSIDERED AS A WARRANTY
 OR GUARANTEE OF ANY KIND. THE SURVEYOR HAS CONDUCTED A VISUAL INSPECTION OF THE
 PROPERTY AND HAS FOUND NO EVIDENCE OF ANY UNLAWFUL ACTS OR OMISSIONS.
 ONLY THE INFORMATION WAS PREPARED BY THE SURVEYOR OR HIS EMPLOYEES.
 DATE: 3/1/2017
 DANIEL J. HOGAN
 REGISTERED PROFESSIONAL SURVEYOR NO. 10000

Daniel J. Hogan
 3/1/2017

TEL: (614) 249-3800 FAX: (614) 249-3010

Exhibit "A"
46.371 acre tract
East of Nineteenth Avenue, West of Champion Avenue
North of Woodrow Avenue, South of Frebis Avenue
City of Columbus, Ohio

Situated in the State of Ohio, City of Columbus, being a 46.371 acre tract out of the lands conveyed to TG707 Inc. in Instrument Number 200511160242350, located in the "Estate of William Merion, Deceased" Subdivision of record in Plat Book 17, Pages 256 through 260 of the Recorder's Office, Franklin County, Ohio (further shown and delineated upon Exhibit "B" attached hereto and made a part hereof), and being more particularly described as follows:

Beginning at a point 10 feet westerly of the southwesterly corner of Lot 358 of the said subdivision, and at the intersection of the northerly right-of-way line of Jenkins Avenue (50 feet in width) and the easterly right-of-way line of 19th Street (width varies);

Thence North 00 degrees 17 minutes 31 seconds West, along the easterly right-of-way line of said 19th Street, a distance of 269.23 feet to a point at the intersection of the aforesaid easterly right-of-way line and the southerly right-of-way line of Sheldon Avenue (50 feet in width);

Thence South 90 degrees 00 minutes 00 seconds East, along the said southerly right-of-way line, a distance of 338.70 feet to a point in the westerly line of Lot A of the said subdivision;

Thence North 00 degrees 36 minutes 02 seconds East, along the said westerly line of Lot A and the easterly line of Lot 274, Lot 246, Lot 218, and Lot 190 of the said subdivision, a distance of 606.80 feet to a point at the northeasterly corner of said Lot 190 and the northwesterly corner of said Lot A and in the southerly right-of-way line of Frebis Avenue (50 feet in width);

Thence South 89 degrees 58 minutes 26 seconds East, along the said southerly right-of-way line of Frebis Avenue, a distance of 300.75 feet to a point at the northeasterly corner of said Lot A and the northwesterly corner of Lot B of the said subdivision;

Thence South 00 degrees 36 minutes 02 seconds West, along the easterly line of said Lot A, the westerly line of said Lot B and the westerly line of a tract of land conveyed to Developers Seven, LLC., in Instrument Number 200202190044680, a distance of 674.85 feet to a point at the southwesterly corner of said Developers Seven, LLC. tract;

Thence South 90 degrees 00 minutes 00 seconds East, along the southerly line of said Developers Seven, LLC. tract, and through said Lot B, a distance of 316.92 feet to a point in the easterly line of said Lot B and the westerly line of the railroad property (Pennsylvania Lines, LLC);

Thence South 00 degrees 31 minutes 55 seconds West, along the easterly line of said Lot B, the westerly line of said railroad property, and through Jenkins Avenue, a distance of 251.00 feet to a point in the southerly right-of-way line of said Jenkins Avenue;

Thence South 00 degrees 30 minutes 06 seconds West, along the westerly line of said Cra-Co Investments, LLC. tract, a distance of 362.14 feet to a point at the southwesterly corner of said Cra-Co Investments, LLC. tract and in the northerly right-of-way line of Woodrow Avenue (50 feet in width);

Thence North 89 degrees 47 minutes 03 seconds West, along the aforesaid northerly right-of-way line, a distance of 524.59 feet to a point at a southwesterly corner of said TG707, Inc. tract and in the easterly line of said railroad property;

Thence North 00 degrees 31 minutes 55 seconds East, along the easterly line of said railroad property and through said Markison Avenue, a distance of 1,355.19 feet to a point at the southwesterly corner of said Lot I in the northerly right-of-way line of said Markison Avenue;

Thence North 89 degrees 59 minutes 36 seconds West, along the northerly right-of-way line of said Markison Avenue, through said railroad property and along the southerly line of Lot G of said "Estate of William Merion, Deceased" Subdivision, a distance of 963.27 feet to a point at the intersection of the said northerly right-of-way line of Markison Avenue and the easterly right-of-way line of said 19th Street;

Thence North 00 degrees 17 minutes 31 seconds East, along the aforesaid easterly right-of-way line and the westerly line of Lot 495 and Lot 471 of the said "Estate of William Merion, Deceased" Subdivision, a distance of 345.24 feet to a point at the southwesterly corner of Lot 447 of said subdivision in the northerly line of Southwood Avenue (vacate by ordinance #1508-93);

Thence North 90 degrees 00 minutes 00 seconds West, along the northerly line of said vacated Southwood Avenue, a distance of 10.00 feet to a point at the intersection of the northerly line of said vacated Southwood Avenue and the easterly right-of-way line of said 19th Avenue;

Thence North 00 degrees 17 minutes 31 seconds West, along the easterly line of said Nineteenth Avenue, a distance of 111.97 feet to a point at the intersection of the southerly line of a 16 foot wide alley (vacated by ordinance #'s 1932-95, 2176-78, and 103-66) and the easterly right-of-way line of said 19th Avenue;

Thence South 90 degrees 00 minutes 00 seconds East, along the southerly line of said vacate 16 foot wide alley and the northerly line of Lot 447 through Lot 452 (inclusive) of said subdivision, a distance of 220.00 feet to a point at the northeasterly corner of the said Lot 452;

Thence South 00 degrees 17 minutes 31 seconds East, along the easterly line of said Lot 452, a distance of 56.01 feet to a point;

Thence South 90 degrees 00 minutes 00 seconds East, through Lot 453 and Lot 454 of the said subdivision, a distance of 70.34 feet to a point in the easterly line of said Lot 454;

Thence South 90 degrees 00 minutes 00 seconds East, along the said southerly right-of-way line of Jenkins Avenue and the northerly line of Lot I of said subdivision, a distance of 455.56 feet to a point at the northwesterly corner of a tract of land conveyed to Nuuana Delong in Official Record Volume 29592, Page D19;

Thence South 00 degrees 26 minutes 34 seconds West, along the westerly line of said Delong tract, the westerly line of a tract of land conveyed to Iacovetta Holdings, LLC. in Instrument Number 200007310150976 and the easterly line of said Lot I, a distance of 398.83 feet to a point at the northwesterly corner of Lot 16 of the Champion Avenue Terrace Addition of record in Plat Book 20, Page 66;

Thence South 89 degrees 59 minutes 36 seconds East, along the northerly line of Lot 13 through Lot 16 (inclusive) of the aforesaid Addition, a distance of 196.97 feet to a point at the northeasterly corner of said Lot 13 and the northwesterly corner of Lot 9 of said Addition;

Thence South 00 degrees 26 minutes 24 seconds East, along the westerly line of Lot 9 through Lot 24 (inclusive) of the said Addition and through Markison Avenue, a distance of 432.55 feet to a point in the northerly line of Lot 25 of said Addition;

Thence North 89 degrees 59 minutes 36 seconds West, along the said northerly line of Lot 25, the northerly line of Lot 17 of said Addition and the northerly line of a tract of land conveyed to Ronald Reading in Instrument Number 200409010205349, a distance of 49.04 feet to a point;

Thence South 00 degrees 26 minutes 34 seconds West, through Lot 17 of the said Addition and along the westerly line of said Reading tract, a distance of 110.29 feet to a point in the southerly line of said Lot 17;

Thence North 89 degrees 59 minutes 36 seconds West, along the said southerly line of said Lot 17, a distance of 50.88 feet to a point;

Thence South 00 degrees 30 minutes 06 seconds West, along an easterly line of said TG707, Inc. tract, a distance of 449.94 feet to a point;

Thence South 90 degrees 00 minutes 00 seconds East, along a northerly line of said TG707, Inc. tract, a distance of 72.45 feet to a point in the westerly line of a 16 foot wide alley;

Thence South 00 degrees 30 minutes 06 seconds West, along the westerly line of the said 16 foot wide alley, a distance of 189.30 feet to a point at the northeasterly corner of a tract of land conveyed to Cra-Co Investments, LLC. in Instrument Number 200502230032922;

Thence North 90 degrees 00 minutes 00 seconds West, along the northerly line of said Cra-Co Investments, LLC. tract, a distance of 72.45 feet to a point at the northwesterly corner of said Cra-Co Investments, LLC. tract;

Thence North 00 degrees 17 minutes 31 seconds West, along the easterly line of said Lot 454, through aforesaid vacated 16 foot wide alley, along the easterly line of Lot 411, and through said Jenkins Avenue, a distance of 234.53 feet to a point at the southeasterly corner of Lot 365 in the said northerly right-of-way line of Jenkins Avenue;

Thence North 90 degrees 00 minutes 00 seconds West, along the said northerly right-of-way line of Jenkins Avenue and the southerly line of Lot 358 through 365 (inclusive) of the said subdivision, a distance of 290.34 feet to the Point of Beginning.

Containing 46.371 acres, more or less, within Franklin County Auditor's Parcel Numbers 010-113409, 010-235706, 010-236033, 010-112267, 010-238865, 010-240950, 010-050688, 010-112837, and 010-112838.

Excepting there from all existing and valid roadway and/or railway rights-of-way of record.

All references herein are to records in the Recorder's Office, Franklin County, Ohio.

The basis of bearings for this description is based on the northerly right-of-way line of Jenkins Avenue, being North 90 degrees 00 minutes 00 seconds West, as described in the deed conveyed to TG707 Inc. in Instrument Number 200511160242350.

This description is based on record information only and is not to be construed as a boundary survey as defined by the Minimum Standards for Boundary Surveys set forth and described in Ohio Revised Code 4733-37. This description is to be used for financial purposes only. This instrument was prepared by Columbus Engineering Consultants, Inc. in March 2007.

Daniel J. Hornyak 3/13/07

Daniel J. Hornyak
Registered Professional Surveyor No. 7963

Date



BEFORE THE

OHIO ENVIRONMENTAL PROTECTION AGENCY DIRECTOR'S JOURNAL



In the matter of:

TechSouth Development Co., LLC
c/o Greystone & Company, Inc.
152 W. 57th Street, 60th Floor
New York, New York 10019

Covenant Not to Sue
Director's Final Findings
and Orders

City of Columbus, Department of Development :
Economic Development Division :
150 S. Front Street, Suite 200 :
Columbus, Ohio 43215 :

Regarding property known as:

Former Techneglas, Inc. Facility Property :
727 East Jenkins Avenue :
Columbus, Ohio 43207 :

Pursuant to Ohio Revised Code ("ORC") Chapter 3746 and Ohio Administrative Code ("OAC") Chapter 3745-300, the Director of the Ohio Environmental Protection Agency (the "Director") hereby makes the following Findings and issues the following Orders ("Findings and Orders").

FINDINGS

1. A No Further Action Letter, No. 09NFA373 (the "NFA Letter"), was submitted on September 09, 2009 to the Director under the Voluntary Action Program on behalf of TechSouth Development Co., LLC, a Delaware Limited Liability Company, and city of Columbus, Department of Development, Economic Development Division, (the "Volunteers"), by Mathew D. Knecht, a certified professional, No. CP 105, as defined in ORC 3746.01(E) and OAC 3745-300-01(A) (the "Certified Professional").
2. The Certified Professional issued the NFA Letter by his CP affidavit on September 4, 2009. The Certified Professional also submitted to the Director an addendum to the NFA Letter, which was issued under CP affidavit on December 30, 2009. For the purposes of these Findings and Orders, the term "NFA Letter" includes the addendum.

3. The NFA Letter describes the investigational and remedial activities undertaken at the approximately 46.371-acre property, known as Former Techneglas, Inc. Facility, TechCenter South, located at 727 East Jenkins Avenue, Columbus, Franklin County, Ohio (the "Property"). An exact legal description of the Property is attached hereto as Exhibit 1. A Property location map is attached hereto as Exhibit 2. Based on information in the NFA Letter, the Property is owned by TechSouth Development Co., LLC and the parcel numbers are PPN 010-240950, PPN 010-113409 (partial), PPN 010-112267, PPN 010-236033, PPN 010-050688, PPN 010-235706, PPN 010-238865, PPN 010-112838, PPN 010-112837.
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 Volunteers 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 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. A Risk Mitigation Plan, prepared in accordance with OAC 3745-300-11, and incorporated as part of the O&M Plan that provides various risk mitigation measures for construction or excavation activities at the Property in Identified Areas 1, 6/7 and a portion of 8 as delineated in Exhibits 1, 2, and 3 of the Risk Management Plan.
 - e. Remedial activities for implementation under an Operation and Maintenance ("O&M") Plan, pursuant to OAC 3745-300-11. The O&M Plan provides for implementation of the engineering controls to maintain applicable standards.

- f. Other remedial activities conducted in accordance with OAC 3745-300-11 include: removing approximately 2,650 tons of contaminated soils from the ground surface to two feet below ground surface from Identified Areas 2, 3, 4, 6, and 7; pavement engineering controls in Identified Areas 1, 2, 6, 7 and a portion of 8; properly sealing the deep fire suppression well following OAC 3745-9-03; institutional controls through an Environmental Covenant; and an O&M Plan with Risk Management Plan implementation as needed for Identified Areas 1,6,7, and a portion of Identified Area 8, as delineated in Exhibits 1, 2, and 3 of the Risk Management Plan.
 - g. A demonstration that the Property complies with applicable standards following completion of remedial activities for the identified COCs in the identified areas and affected media at the Property through the use of generic numerical standards in accordance with OAC 3745-300-08, and 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 as amended 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, Test America of Nashville, Tennessee (in 2005 only); EA Group (in 2005-2007 and 2009); Test America of North Canton, Ohio (in 2008 and 2009); and GeoAnalytical Laboratories, Inc. (in 2008 and 2009) were certified laboratories, No(s). CL#0033, CL#0015, CL#0024 and CL#0008, 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/Industrial Land Use as defined in OAC 3745-300-08(B)(2)(c);
 - b. Prohibit the extraction of ground water underlying the Property for any purposes, 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; and

- c. Prohibit the construction of occupied structures within the areas of the Property identified in the Environmental Covenant, attached as Exhibit 4 hereto, as "Building Restriction Areas."
9. To provide for implementation of the activities specified in the O&M Plan herein, Ohio EPA and TechSouth Development Co., LLC have entered into an O&M Agreement, which is incorporated by reference as if fully written into these Findings and Orders. The O&M Agreement includes and incorporates by reference an approved O&M Plan, as well as a Risk Mitigation Plan, dated December 30, 2009, in part to mitigate or eliminate human exposure to direct contact with soils containing arsenic lead and benzo(a)pyrene at the Property. The O&M Agreement is attached hereto as Exhibit 5 and incorporated by reference herein.

Applicable Standards

10. 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 September 4, 2009. 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, which contains a summary table entitled "*Applicable Standards and Remedial Activities for Each Exposure Pathway*" in the NFA Letter Addendum. 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 Sand and Gravel zone (at an approximate depth between 118 to 165 feet) underlying the Property, applied in accordance with ORC 3746.06(B).
11. 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; prohibit the extraction of ground water underlying the Property for any purposes, 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; and prohibit construction of occupied buildings in the Building Restriction areas of the Property, as identified in Exhibit 4 hereto.
 - b. The engineering control and associated activities set forth in the O&M Plan and the O&M Agreement attached hereto, which are expected to mitigate direct contact exposure to soil.
 - c. The risk mitigation measures implemented under the Risk Mitigation Plan attached hereto, which are expected to mitigate exposure to COCs in soil and ground water for construction and excavation activities in Identified Areas 1, 6,7, and a portion of 8, as delineated in Exhibits 1, 2, and 3 of the Risk Management Plan, of the Property below a depth of two feet.
12. 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 as amended 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, including but not limited to the terms and conditions of the O&M Agreement, Ohio EPA hereby covenants not to sue and releases TechSouth Development Co., LLC, the City of Columbus, and their 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 at the Property. This covenant not to sue and release of liability ("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, TechSouth Development Co., LLC 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; and
 - 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 Techneglas, Inc. Facility Property, NFA Letter No. 09NFA373.*" 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, P.O. Box 1049, Columbus, OH 43216-1049, Attention: DERR Records Management Officer and Ohio EPA's Central District Office, 50 W. Town Street, Suite 700, Columbus, Ohio 43215, Attention: DERR Site Coordinator for Former Techneglas, Inc. Facility 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, TechSouth Development Co., LLC 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), and 5 (O&M Agreement); and
 - 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 Former Techneglas, Inc. Facility Property, NFA Letter No.09NFA373.*" 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, P.O. Box 1049, Columbus, OH 43216-1049, Attention: DERR Records Management Officer and Ohio EPA's Central District Office, 50 W. Town Street, Suite 700, Columbus, Ohio 43215, Attention: DERR Site Coordinator for Former Techneglas, Inc. Facility Property.

Requirement to Notify Director of each Transfer or Assignment of the Property or of the Covenant

4. Pursuant to ORC 3746.12(A)(2) and the O&M Agreement, TechSouth Development Co., LLC shall notify the Director of each transfer or assignment of the Property or any portion of the Property or of the Covenant. The notice to Ohio EPA shall include a cover letter that identifies "*Notice of Conveyance pursuant to ORC 3746.12(A)(2) – Former Techneglas, Inc. Facility Property, NFA Letter No. 09NFA37.*" The notice shall be addressed and 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 regular U.S. mail or by other reliable means to both Ohio EPA's Central Office, 50 West Town Street, P.O. Box 1049, Columbus, OH 43216-1049, Attention: DERR Records Management Officer and Ohio EPA's Central District Office, 50 W. Town Street, Suite 700, Columbus, Ohio 43215, Attention: DERR Site Coordinator for Former Techneglas, Inc. Facility.

Limits of Covenant

5. 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 noncompliance has not been cured.
6. 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.

7. 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.
8. 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, hazardous waste generator closure obligations for the active accumulation area 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, and permit and other applicable requirements of the Federal Water Pollution Control Act and ORC Chapter 6111, and the regulations adopted thereunder related to regulated point source discharges or other regulated discharges on or from the Property.
 - d. To releases of hazardous substances or petroleum discharged via permitted outfalls in NPDES permit 41N00032*ND.
9. 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.
10. 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

11. 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

12. 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

DEC 30 2009

Date

Exhibit 1
Legal Description

Exhibit "A"
46.371 acre tract
East of Nineteenth Avenue, West of Champion Avenue
North of Woodrow Avenue, South of Frebis Avenue
City of Columbus, Ohio

Situated in the State of Ohio, City of Columbus, being a 46.371 acre tract out of the lands conveyed to TG707 Inc. in Instrument Number 200511160242350, located in the "Estate of William Merion, Deceased" Subdivision of record in Plat Book 17, Pages 256 through 260 of the Recorder's Office, Franklin County, Ohio (further shown and delineated upon Exhibit "B" attached hereto and made a part hereof), and being more particularly described as follows:

Beginning at a point 10 feet westerly of the southwesterly corner of Lot 358 of the said subdivision, and at the intersection of the northerly right-of-way line of Jenkins Avenue (50 feet in width) and the easterly right-of-way line of 19th Street (width varies);

Thence North 00 degrees 17 minutes 31 seconds West, along the easterly right-of-way line of said 19th Street, a distance of 269.23 feet to a point at the intersection of the aforesaid easterly right-of-way line and the southerly right-of-way line of Sheldon Avenue (50 feet in width);

Thence South 90 degrees 00 minutes 00 seconds East, along the said southerly right-of-way line, a distance of 338.70 feet to a point in the westerly line of Lot A of the said subdivision;

Thence North 00 degrees 36 minutes 02 seconds East, along the said westerly line of Lot A and the easterly line of Lot 274, Lot 246, Lot 218, and Lot 190 of the said subdivision, a distance of 606.80 feet to a point at the northeasterly corner of said Lot 190 and the northwesterly corner of said Lot A and in the southerly right-of-way line of Frebis Avenue (50 feet in width);

Thence South 89 degrees 58 minutes 26 seconds East, along the said southerly right-of-way line of Frebis Avenue, a distance of 300.75 feet to a point at the northeasterly corner of said Lot A and the northwesterly corner of Lot B of the said subdivision;

Thence South 00 degrees 36 minutes 02 seconds West, along the easterly line of said Lot A, the westerly line of said Lot B and the westerly line of a tract of land conveyed to Developers Seven, LLC., in Instrument Number 200202190044680, a distance of 674.85 feet to a point at the southwesterly corner of said Developers Seven, LLC. tract;

Thence South 90 degrees 00 minutes 00 seconds East, along the southerly line of said Developers Seven, LLC. tract, and through said Lot B, a distance of 316.92 feet to a point in the easterly line of said Lot B and the westerly line of the railroad property (Pennsylvania Lines, LLC);

Thence South 00 degrees 31 minutes 55 seconds West, along the easterly line of said Lot B, the westerly line of said railroad property, and through Jenkins Avenue, a distance of 251.00 feet to a point in the southerly right-of-way line of said Jenkins Avenue;

Thence South 00 degrees 30 minutes 06 seconds West, along the westerly line of said Cra-Co Investments, LLC. tract, a distance of 362.14 feet to a point at the southwesterly corner of said Cra-Co Investments, LLC. tract and in the northerly right-of-way line of Woodrow Avenue (50 feet in width);

Thence North 89 degrees 47 minutes 03 seconds West, along the aforesaid northerly right-of-way line, a distance of 524.59 feet to a point at a southwesterly corner of said TG707, Inc. tract and in the easterly line of said railroad property;

Thence North 00 degrees 31 minutes 55 seconds East, along the easterly line of said railroad property and through said Markison Avenue, a distance of 1,355.19 feet to a point at the southwesterly corner of said Lot I in the northerly right-of-way line of said Markison Avenue;

Thence North 89 degrees 59 minutes 36 seconds West, along the northerly right-of-way line of said Markison Avenue, through said railroad property and along the southerly line of Lot G of said "Estate of William Merion, Deceased" Subdivision, a distance of 963.27 feet to a point at the intersection of the said northerly right-of-way line of Markison Avenue and the easterly right-of-way line of said 19th Street;

Thence North 00 degrees 17 minutes 31 seconds East, along the aforesaid easterly right-of-way line and the westerly line of Lot 495 and Lot 471 of the said "Estate of William Merion, Deceased" Subdivision, a distance of 345.24 feet to a point at the southwesterly corner of Lot 447 of said subdivision in the northerly line of Southwood Avenue (vacate by ordinance #1508-93);

Thence North 90 degrees 00 minutes 00 seconds West, along the northerly line of said vacated Southwood Avenue, a distance of 10.00 feet to a point at the intersection of the northerly line of said vacated Southwood Avenue and the easterly right-of-way line of said 19th Avenue;

Thence North 00 degrees 17 minutes 31 seconds West, along the easterly line of said Nineteenth Avenue, a distance of 111.97 feet to a point at the intersection of the southerly line of a 16 foot wide alley (vacated by ordinance #'s 1932-95, 2176-78, and 103-66) and the easterly right-of-way line of said 19th Avenue;

Thence South 90 degrees 00 minutes 00 seconds East, along the southerly line of said vacate 16 foot wide alley and the northerly line of Lot 447 through Lot 452 (inclusive) of said subdivision, a distance of 220.00 feet to a point at the northeasterly corner of the said Lot 452;

Thence South 00 degrees 17 minutes 31 seconds East, along the easterly line of said Lot 452, a distance of 56.01 feet to a point;

Thence South 90 degrees 00 minutes 00 seconds East, through Lot 453 and Lot 454 of the said subdivision, a distance of 70.34 feet to a point in the easterly line of said Lot 454;

Thence South 90 degrees 00 minutes 00 seconds East, along the said southerly right-of-way line of Jenkins Avenue and the northerly line of Lot I of said subdivision, a distance of 455.56 feet to a point at the northwesterly corner of a tract of land conveyed to Nuuana Delong in Official Record Volume 29592, Page D19;

Thence South 00 degrees 26 minutes 34 seconds West, along the westerly line of said Delong tract, the westerly line of a tract of land conveyed to Iacovetta Holdings, LLC. in Instrument Number 200007310150976 and the easterly line of said Lot I, a distance of 398.83 feet to a point at the northwesterly corner of Lot 16 of the Champion Avenue Terrace Addition of record in Plat Book 20, Page 66;

Thence South 89 degrees 59 minutes 36 seconds East, along the northerly line of Lot 13 through Lot 16 (inclusive) of the aforesaid Addition, a distance of 196.97 feet to a point at the northeasterly corner of said Lot 13 and the northwesterly corner of Lot 9 of said Addition;

Thence South 00 degrees 26 minutes 24 seconds East, along the westerly line of Lot 9 through Lot 24 (inclusive) of the said Addition and through Markison Avenue, a distance of 432.55 feet to a point in the northerly line of Lot 25 of said Addition;

Thence North 89 degrees 59 minutes 36 seconds West, along the said northerly line of Lot 25, the northerly line of Lot 17 of said Addition and the northerly line of a tract of land conveyed to Ronald Reading in Instrument Number 200409010205349, a distance of 49.04 feet to a point;

Thence South 00 degrees 26 minutes 34 seconds West, through Lot 17 of the said Addition and along the westerly line of said Reading tract, a distance of 110.29 feet to a point in the southerly line of said Lot 17;

Thence North 89 degrees 59 minutes 36 seconds West, along the said southerly line of said Lot 17, a distance of 50.88 feet to a point;

Thence South 00 degrees 30 minutes 06 seconds West, along an easterly line of said TG707, Inc. tract, a distance of 449.94 feet to a point;

Thence South 90 degrees 00 minutes 00 seconds East, along a northerly line of said TG707, Inc. tract, a distance of 72.45 feet to a point in the westerly line of a 16 foot wide alley;

Thence South 00 degrees 30 minutes 06 seconds West, along the westerly line of the said 16 foot wide alley, a distance of 189.30 feet to a point at the northeasterly corner of a tract of land conveyed to Cra-Co Investments, LLC. in Instrument Number 200502230032922;

Thence North 90 degrees 00 minutes 00 seconds West, along the northerly line of said Cra-Co Investments, LLC. tract, a distance of 72.45 feet to a point at the northwesterly corner of said Cra-Co Investments, LLC. tract;

Thence North 00 degrees 17 minutes 31 seconds West, along the easterly line of said Lot 454, through aforesaid vacated 16 foot wide alley, along the easterly line of Lot 411, and through said Jenkins Avenue, a distance of 234.53 feet to a point at the southeasterly corner of Lot 365 in the said northerly right-of-way line of Jenkins Avenue;

Thence North 90 degrees 00 minutes 00 seconds West, along the said northerly right-of-way line of Jenkins Avenue and the southerly line of Lot 358 through 365 (inclusive) of the said subdivision, a distance of 290.34 feet to the **Point of Beginning**.

Containing 46.371 acres, more or less, within Franklin County Auditor's Parcel Numbers 010-113409, 010-235706, 010-236033, 010-112267, 010-238865, 010-240950, 010-050688, 010-112837, and 010-112838.

Excepting there from all existing and valid roadway and/or railway rights-of-way of record.

All references herein are to records in the Recorder's Office, Franklin County, Ohio.

The basis of bearings for this description is based on the northerly right-of-way line of Jenkins Avenue, being North 90 degrees 00 minutes 00 seconds West, as described in the deed conveyed to TG707 Inc. in Instrument Number 200511160242350.

This description is based on record information only and is not to be construed as a boundary survey as defined by the Minimum Standards for Boundary Surveys set forth and described in Ohio Revised Code 4733-37. This description is to be used for financial purposes only. This instrument was prepared by Columbus Engineering Consultants, Inc. in March 2007.

Daniel J. Hornyak 3/13/07

Daniel J. Hornyak
Registered Professional Surveyor No. 7963

Date



Exhibit 2
Property Location Map

USGS TOPOGRAPHIC MAP

1964 (REVISED 1994) SOUTHEAST COLUMBUS, OHIO QUADRANGLE

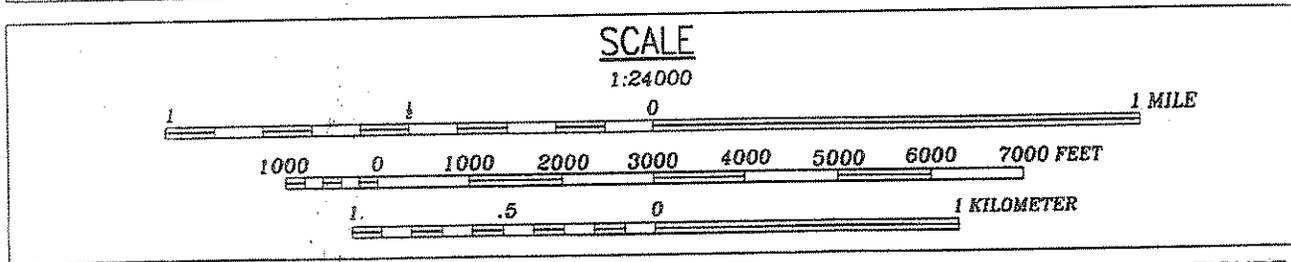
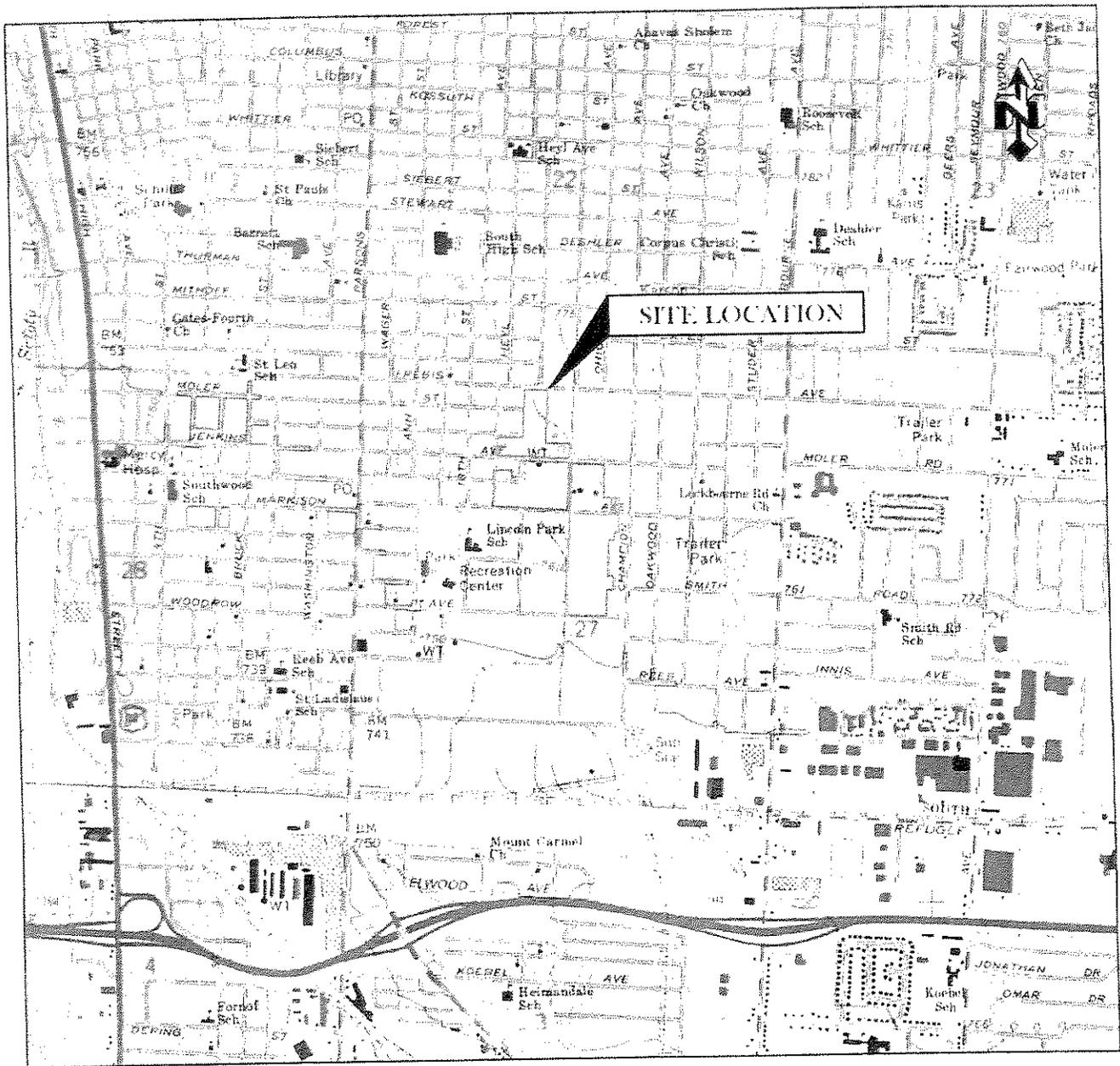


FIGURE 3

PPNs: 010-240950, 010-113409, 010-112267,
010-236033, 010-050688, 010-235706,
010-238865, 010-112838 AND 010-112837,
COLUMBUS, FRANKLIN COUNTY, OHIO



Exhibit 3
Executive Summary

SECTION B

EXECUTIVE SUMMARY

FORMER TECHNEGLAS, INC. FACILITY

727 EAST JENKINS AVENUE

COLUMBUS, FRANKLIN COUNTY, OHIO

VOLUNTEERS:

**TECHSOUTH DEVELOPMENT CO., LLC, A DELAWARE LIMITED LIABILITY COMPANY
c/o GREYSTONE & COMPANY, INC.
152 W. 57TH STREET
NEW YORK, NEW YORK 10019**

and

**CITY OF COLUMBUS DEPARTMENT OF DEVELOPMENT
ECONOMIC DEVELOPMENT DIVISION
150 S. FRONT ST., SUITE 220
COLUMBUS, OHIO 43215**

CERTIFIED PROFESSIONAL:

MATTHEW D. KNECHT, CP0105

440-357-1260

(AFFIDAVIT OF CP WAS INCLUDED EARLIER IN THIS NFA FORM)

EXECUTIVE SUMMARY

1.0 INTRODUCTION

This Executive Summary has been prepared to satisfy the requirements of Chapter 3745-300-13(I) of the Ohio Administrative Code (OAC), namely, to use a format prescribed by the Ohio Environmental Protection Agency (EPA) for submittal of a Voluntary Action Program (VAP) No Further Action (NFA) Letter, and which permits recording a summary of the NFA Letter by the Franklin County Recorder, as appropriate. Complete copies of the NFA Letter have been retained by the Volunteers and the Certified Professional. A copy of the NFA Letter may be reviewed (and obtained) from the Ohio EPA's Central District Office in Columbus, Ohio.

Under authority of the VAP, an NFA Letter was submitted to TechSouth Development Co., LLC, a Delaware Limited Liability Company (TechSouth, also referred to as the "lead Volunteer") and the City of Columbus Department of Development (also referred to as the "co-Volunteer") on September 4, 2009 by Matthew D. Knecht of HzW Environmental Consultants, LLC (HzW), Ohio EPA Certified Professional No. 0105. The NFA Letter was supplemented by an Addendum to the NFA Letter dated December 28, 2009. The NFA Letter and Addendum to the NFA Letter (collectively, the "NFA Letter") described the Phase I and Phase II Property Assessment activities conducted (including remedial activities) as well as the proposed Operations and Maintenance (O&M) Plan for the former Techneglas, Inc. facility, located at 727 East Jenkins Avenue, Columbus (Franklin County), Ohio (herein referred to as the "Property"). The Property is comprised of eight (8) entire parcels, and a portion of a ninth parcel. These parcels include:

- ◆ Permanent Parcel Number (PPN) 010-240950 (entire)
- ◆ PPN 010-113409 (partial)
- ◆ PPN 010-112267 (entire)
- ◆ PPN 010-236033 (entire)
- ◆ PPN 010-050688 (entire)
- ◆ PPN 010-235706 (entire)
- ◆ PPN 010-238865 (entire)
- ◆ PPN 010-112838 (entire)
- ◆ PPN 010-112837 (entire)

In aggregate, the Property consists of 46.371 acres of land, all of which is currently owned by TechSouth. A legal description of the Property is attached to this Executive Summary.

2.0 SUMMARY OF NO FURTHER ACTION LETTER

The Certified Professional (Matthew D. Knecht) issued the NFA Letter based upon the results of Phase I and Phase II Property Assessments of the Property, as well as remedial activities. Summaries of the Phase I and Phase II Property Assessments are provided below. Based upon the information compiled through the Phase I and Phase II Property Assessments, the Certified Professional concluded that the Property met VAP applicable standards for a commercial/industrial land use. A VAP O&M Plan has been prepared to document interim engineering controls, four (4) permanent pavement engineering controls to be installed by June 1, 2010, and a Risk Mitigation Plan (RMP) to be put in place to achieve VAP applicable standards at the Property.

2.1 Summary of Phase I Property Assessment

PANDEY Environmental, LLC (PANDEY) initiated the original VAP Phase I Property Assessment for the Property in 2006. Given the passage of time, a new VAP Phase I Property Assessment was prepared by

Executive Summary

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HzW for the Property during July and August 2009. The HzW VAP Phase I Property Assessment report is not an "update" of the PANDEY Phase I report; rather, the HzW Phase I supersedes the original Phase I Property Assessment prepared by PANDEY. Certain of the identified areas in the PANDEY Phase I report were not carried forward into the HzW Phase I Property Assessment in that Phase II data collected by PANDEY and/or Malcolm Pirnie, Inc. (MPI) did not justify the continued designation of these locations as "identified areas" (i.e., the data did not support that a release of hazardous materials had occurred in these areas). HzW's final VAP Phase I Property Assessment report was completed during August 2009. The total 46.371 acres that comprise the Property were assessed as part of the Phase I Property Assessment.

The purpose of a Phase I Property Assessment is to determine whether there is any reason to conclude that a release of hazardous substances or petroleum has occurred at a property, either from on-property or off-property sources. The Certified Professional performed a diligent inquiry of practically reviewable publicly available information as defined in OAC 3745-300-01(A)(35), (A)(97), and (A)(107). The methods used as part of the Phase I Property Assessment included the following elements as identified under OAC 3745-300-06:

1. Reviewing information to determine the historic and current uses of the Property, adjoining parcels, or surrounding parcels, and establishing a continuous history of these parcels, in accordance with OAC 3745-300-06. This included identification of the first industrial and/or commercial use of the Property.
2. Performing an environmental inquiry of applicable local, state and federal agency records in accordance with OAC 3745-300-06(C)(1)(a), (C)(2)(a-e) and (C)(3).
3. Reviewing background information to identify general hydrologic, topographic and hydrogeologic conditions in the area.
4. Identifying (to the extent practical) potential constraints which may be placed on the future use of the Property due to on-site (or nearby) sensitive environmental areas or features.
5. Conducting interviews in accordance with OAC 3745-300-06 (C)(1)(c) and (C)(2)(f) relevant to the environmental conditions in the Property and surrounding areas.
6. Conducting an inspection of the Property in accordance with OAC 3745-300-06(C)(5)(a-g).

A summary of historical information presented in the Phase I Property Assessment is presented below.

Until August 2004, the Property was occupied by Techneglas, Inc., a manufacturer of television picture tube assemblies. Historical information indicates that one of the parcels that now comprises the Property (PPN 010-113409) was developed for glass manufacturing operations between 1900, at which time no structures were present on the Property, and 1922, at which time historic fire insurance maps indicate the "Winslow Glass Company", a manufacturer of glass bottles occupied this parcel. The Winslow Glass Company was purchased in 1927 by the Berney-Bond Glass Company (which is indicated as occupying PPN 010-113409 on historical tax maps from 1928), although by this time the plant may have been converted for manufacture of glass block. Owens-Illinois Glass Block Company purchased the Berney-Bond Glass Company in 1930, and continued the manufacture of glass products (either bottles or glass block) on this parcel until 1949, at which point the operations were sold to American Structural Products.

Executive Summary

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The operations on PPN 010-113409 were acquired in 1953 by the Kimble Glass Company, a subsidiary of Owens-Illinois Company. The Kimble Glass Company is best known for the manufacture of pharmaceutical drug vials, but historical records suggest that – with the advent of the television in the early 1950s – operations on the Property were converted to the manufacture of television picture tube assemblies. Much of the consolidation of the larger parcels that comprise the Property occurred during 1953, as the Kimble Glass Company acquired PPNs 010-112267 and 010-050688, which in combination comprise nearly 31.5 acres, or nearly quadrupling the size of glass making operations on-site. The date of the first appearance of the name “Techneglas, Inc.” on tax maps and city directories is May 1995. Techneglas, Inc. consolidated the remaining parcels that comprise the Property between 1996 and 2000, and continued the manufacture of television picture tube assemblies on the Property until August 2004.

Since the 1950s, active glass making at the facility involved the following general process:

- ◆ Raw materials (sand, potash, litharge [a lead oxide], cullet [broken glass purchased from other glass manufacturers], etc.) were delivered to the Property in bulk;
- ◆ Most raw materials (excluding cullet) were transferred via a common overhead conveyor system to raw material silos located in a six-story building referred to as the “Raw Materials Building”;
- ◆ There were two glass furnaces on the Property, referred to as the “C Furnace” and the “H Furnace”. These two furnaces replaced an earlier glass furnace located in the southern portion of the main manufacturing building depicted on the 1922 historic fire insurance map.
- ◆ Raw materials would be blended together in the Raw Materials Building, and transferred via overhead conveyors to one of two “Batch Houses” (one batch house for each furnace, referred to as the “C-silo” and “H-silo”);
- ◆ From the batch houses, the blended raw materials would be transferred to “day bins” located near each furnace;
- ◆ Materials from the day bins would be transferred to the furnaces and melted as feed stock to form molten glass;
- ◆ During television picture tube manufacture, the molten glass would exit the furnaces and either be transferred to a centrifugal “forming area”, or be transferred to what was referred to as the “Forming Basement”;
- ◆ Following forming of the molten glass, the rear “funnels” of the television picture tube would be transferred to one of a series of annealing furnaces referred to as “Lears”. The purpose of the Lear furnaces was to allow the glass to cool at a controlled rate;
- ◆ From the Lears the product would go through a grinding process and have certain electronic components (essentially, wiring) installed in the rear of the funnel;
- ◆ From this point, the product would be transferred to the Unit Finishing Operation (UFO) Building, where further etching, polishing, grinding, and final inspection would occur;
- ◆ The finished products would be shipped from the UFO Building off-Property to another Techneglas, Inc. facility for final assembly.

At all stages of the glass forming process, inspections were performed of the product. If flaws or defects were detected (or if the product cracked or was otherwise broken), plant personnel would place the flawed or broken material into an in-floor conveyor system which carried the material to a cullet crusher. The cullet crusher broke the material into appropriate sized pieces, which were then transferred back to the furnaces for re-melting, or to a temporary storage area (cullet storage bins).

The majority of raw materials storage, conveyance, blending, power supply, reclamation of oil used in the process, etc., was conducted in an area immediately north of the furnaces referred to as the “Batch Yard”. The Batch Yard included raw material delivery areas, the Raw Materials Building, the overhead

Executive Summary
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conveyors, the C- and H-silos, the Power House, and the Oil Reclamation Building. All structures in the Batch Yard, as well as the two furnaces, the Forming Basement and the centrifugal forming area were demolished during 2009. This included demolition of a portion of the main manufacturing building on the Property, although the areas formerly occupied by the Lear furnaces, the primary grinding/polishing areas, maintenance areas, and the former plating area were not demolished, and are intended for re-use.

There are, in essence, two large buildings that remain on the Property. These include:

- ◆ That portion of the main manufacturing building not demolished in 2009, which, in addition to the areas listed in the previous paragraph, includes former office areas used during active operations.
- ◆ The UFO Building.

There are several other buildings on the Property that are considerably smaller than the two listed above. These include:

- ◆ Two warehouse buildings (referred to as the Sheldon Warehouses) located adjacent to one another on a portion of the Property located north of East Jenkins Avenue.
- ◆ A substation building associated with a former transformer yard located on a portion of the Property located north of East Jenkins Avenue.
- ◆ A Mold Storage Building located east of the main manufacturing building.
- ◆ Former guard houses, pump houses, etc.

Based upon all information collected, reviewed, and assimilated as part of the Phase I Property Assessment, the Certified Professional determined that there were seventeen (17) separate areas or features that satisfied the definition of an “identified area”. All seventeen (17) identified areas were determined to be related to potential on-site source areas. The location of these identified areas is depicted on a figure in the Phase I Property Assessment report. A list of the identified areas and “pre-remediation” COCs in each identified area is presented below:

IA#	Description	COCs
1	Batch Yard/Forming Area	TPH, Metals, SVOCs, PCBs, VOCs
2	Former Chrome/Nickel Plating	TPH, Metals, PAHs, Cr+6, VOCs
3	North Railroad Siding	Metals; PAHs
4	South Railroad Siding	Metals; PAHs
5	Interior Railroad Sidings	Metals; PAHs
6	Fuel Oil Spill Area	TPH, Metals, SVOCs, VOCs
7	Cullet Storage Area #1	TPH, Metals, SVOCs, VOCs
8	Historic Coal Yard and Print Shop	TPH, Metals, SVOCs, VOCs, PCBs
9	Earthen Berms	TPH, Metals, SVOCs, VOCs, PCBs
10	Sheldon Warehouses Area	TPH, Metals, SVOCs, VOCs, PCBs
11	UFO Building UST	BTEX & MTBE
12	RCRA Accumulation Areas (4 inactive/1 active)	TPH, Metals, SVOCs, VOCs
13	Cullet Storage Area #2	Metals, SVOCs, VOCs
14	Historic PCB Spill Area	PCBs
15	Woodrow Avenue Drum Spill Area	VOCs
16	Abandoned Fuel Line Chase	TPH, PAHs, VOCs
17	North Jenkins Lot	Metals

The primary media of concern were soil and groundwater beneath the Property. Indoor air was also considered a potentially impacted medium.

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OAC 3745-300-02 lists the eligibility criteria for a property to participate in the VAP. A review of these criteria was performed to evaluate the VAP eligibility of the Property. In summary, the Property is deemed eligible to participate in the VAP, in that no portion of the Property:

1. Is identified on the National Priorities List (NPL);
2. Is subject to the requirements under the Underground Injection Control (UIC) Program;
3. Is subject to federal or state corrective action permit obligations;
4. Is subject to federal enforcement;
5. Is subject to closure as a hazardous waste facility or solid waste facility
6. Is subject to the requirements for site assessment, removal or remediation under BUSTR regulations;
7. Is subject to the requirements for site assessment, removal or remediation of oil and gas wells; or
8. Is subject to a state enforcement letter.

The Property had two (2) former underground storage tanks (USTs) located on-site. One of the former USTs was situated in the Batch Yard (Identified Area 1), and consisted of a 1,000-gallon gasoline UST removed on March 31, 1994. This UST received a No Further Action letter from BUSTR on January 31, 2003. The second UST was a 2,000-gallon gasoline UST located in Identified Area 11, north of the UFO Building, south of Markison Avenue. This UST was removed on June 23, 1994, and received a No Further Action letter from BUSTR on September 10, 1997. Therefore, all USTs subject to closure, assessment, removal or remediation under BUSTR regulations have received No Further Action letters from BUSTR. Therefore, the Property is considered to be eligible to participate in the VAP relative to OAC 3745-300-02(B)(6).

The Property has historically operated as a Large Quantity Generator (LQG) of hazardous waste. Identified Area 12 relates to four inactive/closed hazardous waste accumulation areas. Documentation at Ohio EPA's Central District Office indicated that one of the hazardous waste accumulation areas was closed prior to 2005. Techneglas, Inc. performed generator closure of three additional hazardous waste accumulation areas in 2005. A copy of Techneglas, Inc.'s generator closure letter is included in the Phase I Property Assessment report. Therefore, all inactive hazardous waste accumulation areas are considered "generator closed".

There remains one active LQG accumulation area. This is a fenced compound on a concrete pad located north of the Mold Storage Building. This area is used to stage tarped roll-off containers of sludges generated through treatment of stormwater at the facility. These sludges are considered a characteristic hazardous waste based upon lead content. Until such time as treatment of stormwater is no longer necessary (i.e., those areas on the Property subject to stormwater capture and treatment under an National Pollutant Discharge Elimination System [NPDES] permit are demolished and/or paved), the facility will remain an LQG and will continue to accumulate hazardous waste in the fenced compound north of the Mold Storage Building. The activities that generate the stormwater treatment sludges are on-going and required by the NPDES permit. Further, the facility accumulates hazardous waste in this area in accordance with applicable Resource Conservation and Recovery Act (RCRA) regulations, and is not subject to "closure" as a treatment, storage, or disposal facility. It is not believed that meeting the requirements of generator closure would apply to this accumulation area until such time as the facility either a) changed its status from an LQG to a Small Quantity Generator (SQG); or b) ceased the generation of hazardous waste altogether; or c) re-located its hazardous waste accumulation area from its present location to another location. This has been the agency's position under the VAP in the past at operating facilities that continue to generate hazardous waste as an LQG. Therefore, given the circumstances surrounding the on-going LQG generation of hazardous waste at the facility (accumulation

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less than 90 days, accumulation in accordance with applicable regulations, and an understanding that generator closure will apply to the active accumulation area at some point in the future), the Certified Professional concluded that the active hazardous waste accumulation area is eligible to participate in the VAP.

2.2 Summary of Phase II Property Assessment

The purpose of a Phase II Property Assessment is to conduct an investigation sufficient to determine whether applicable standards under the VAP are met in all identified areas and affected media on a property. VAP Phase II Property Assessment data collection activities were initiated during 2005 (by MPI) and continued through December 2009.

Phase II Property Assessment data collection activities included sampling of soil in all identified areas and the sampling of groundwater. Certain soil samples were collected from the walls and/or floors of five (5) remedial excavation areas in 2009. Remedial activities are described in a later section of this Executive Summary. Soils used to backfill remedial excavations were evaluated prior to importation to the site, and only materials determined to satisfy VAP soil direct contact standards (assuming a future commercial/industrial use) were deemed acceptable for use as remedial excavation backfill.

2.2.1 Soil Investigation and Findings

The Certified Professional determined that soil data from 149 soil borings (installed either by MPI, PANDEY, or HzW) met the data quality objectives (DQOs) outlined in Section 5.3.2 of the Phase II Property Assessment report. In total, the concentrations of COCs in soil were characterized through the collection and analysis of a total of 285 soil samples that satisfied DQOs. Of this total, 47 samples were collected by MPI, 125 samples were collected by PANDEY, and 113 samples were collected by HzW. This total includes samples from soil borings/monitoring well installation, as well as confirmatory soil samples from remedial excavations. The Certified Professional received initial affidavits from both MPI's and PANDEY's Certified Professionals, indicating that all data collection activities performed by MPI and PANDEY were in accordance with OAC 3745-300-07. Copies of these affidavits are included in the Phase II Property Assessment report. As part of the Addendum to the NFA Letter, revised affidavits were obtained from these two Certified Professionals in response to a comment from the Ohio EPA.

MPI used a combination of Geoprobe® direct-push techniques and conventional split-spoon sampling techniques to collect soil samples. Soil samples retrieved by MPI during exploration activities were screened using either a flame ionization detection (FID) or a photoionization detector (PID), and selected samples submitted to a Certified Laboratory for analysis using VAP protocols.

PANDEY used Geoprobe® direct-push techniques (exclusively) for collection of all soil samples referenced in these reports. Soil samples retrieved by PANDEY during exploration activities were screened for VOCs using a PID, with selected samples submitted to a Certified Laboratory for analysis using VAP protocols.

A Geoprobe® uses hydraulic "direct push" sampling techniques, where soil samples from discrete intervals are retained within non-reactive acetate liners situated within a "string" of stainless steel rods. The sampling rods are advanced (i.e., hydraulically pushed into the ground), and soil samples retrieved within the acetate liner. Soil samples may be collected either continuously (i.e. at 2-foot intervals from ground surface to terminal depth) or from a discrete depth interval, depending upon the objectives of soil sampling.

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In those instances where MPI used a conventional drilling rig to collect soil samples during monitoring well installation, soil samples were obtained by driving a 24-inch long split-spoon from ground surface to terminal depth using a 140 pound hammer. The split-spoon is attached at the lead end of a series of metal rods. After the split-spoon is driven through a particular interval, the rods are withdrawn from the borehole, the split-spoon is opened, and the nature of the sampled materials is revealed. Hollow stem augers are used to "ream out" the borehole following split-spoon sampling to the top of the next sampling interval, and the process is repeated until the terminal depth of sampling is achieved.

VAP regulations require a Certified Professional (in this case, MPI's and PANDEY's Certified Professionals, whose affidavits were included in the Phase II Property Assessment report) to consider factors such as field screening results, visual observations, and release history in an identified area in deciding upon the selection of soil samples for analysis from a particular boring. For example, the release history for former USTs would lead to a conclusion that soils and other media would be impacted at depth, rather than at ground surface. On the other hand, the release history in former coal storage areas, plating areas, railroad sidings, and the fuel oil spill area (as examples) would be expected in shallow soils, given that COCs were introduced to soils via the storage of materials on bare soils, releases from plating tanks, pipes, and treated railroad ties, which would tend to release COCs at or near ground surface. Therefore, the rationale for soil boring placement and soil sample collection used by MPI and PANDEY was deemed appropriate by HzW's Certified Professional, except in those cases where soils were collected from depths that would be outside a reasonable construction/excavation activities point of compliance (i.e., greater than 10 feet below ground surface).

In that Identified Area 16 was discovered during remedial activities in 2009, HzW installed soil borings and collected soil samples to assess conditions in this identified area, as well as from the point of compliance interval in Identified Area 14. HzW used a Geoprobe® 5400 truck-mounted drilling unit to collect soil samples in Identified Area 16, and Geoprobe® hand sampling equipment in Identified Area 14. As stated above, a Geoprobe® uses hydraulic "direct push" sampling techniques, where soil samples from discrete intervals are retained within non-reactive acetate liners situated within a "string" of stainless steel rods. The sampling rods are advanced (i.e., hydraulically or manually pushed into the ground), and soil samples retrieved within the acetate liner. Soil samples were collected from discrete depth intervals (the 0-2 foot commercial/industrial point of compliance interval in Identified Area 14, and 0-3 feet below ground surface in Identified Area 16 since the piping in Identified Area 16 was observed at a depth of approximately 6-8 inches below pavement). These soil samples were submitted to a Certified Laboratory for analysis using VAP protocols, and soil samples from Identified Areas 14 and 16 were not screened prior to submittal to the laboratory.

Finally, a certain population of soil samples obtained by HzW was collected from the walls and/or floors of remedial excavations in Identified Areas 2, 3, 4, 6 and 7. These samples were typically collected in a systematic fashion (i.e., samples collected at regular intervals along exposed walls, or in a grid pattern from exposed floors) depending upon the dimensions of the remedial excavation. Soil samples collected from the walls and/or floors of excavation were collected by placing a sample of soil directly into laboratory-supplied sample containers, either by hand, or using a stainless steel trowel or scoop. The Certified Professional directed field personnel to bias sample locations to areas of discoloration or obvious odors (if evident). However, no screening was performed of soil samples collected directly from walls and/or floors of remedial excavations.

All soil analytical results for samples collected within 2 feet of final grade were compared to the VAP Generic Direct Contact Standards (GDSCS) for the commercial/industrial land use category. The rationale for this comparison was to evaluate the achievement of VAP applicable standards relative to the current and anticipated future use of the Property using a commercial/industrial point of compliance depth of 2

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feet. An elevation survey map (with a contour interval of 2 feet) is included in the VAP O&M Plan to satisfy the requirements of OAC 3745-300-11(D)(1)(d).

In those cases where a VAP GDCS did not exist for a particular COC relative to the commercial/industrial exposure pathway, the Certified Professional referred to Supplemental Risk-Derived Values (SRDV, also known as the "VAP Supplemental Values") for commercial/industrial land use derived and updated by the Ohio EPA in January 2006, and provided to the Certified Professional by the Ohio EPA in 2007. All soils samples were submitted to one of four VAP Certified Laboratories:

- ◆ Test America, Nashville, Tennessee (CL#0033, used by MPI in 2005)
- ◆ EA Group, Mentor, Ohio (CL#0015, used by PANDEY in 2005-2007 and HzW in 2009)
- ◆ Test America, North Canton, Ohio (CL#0024, used by HzW in 2008 and 2009)
- ◆ GeoAnalytical Laboratories, Twinsburg, Ohio (CL#0008, used by HzW in 2008 and 2009)

These Certified Laboratories used USEPA approved methods, including:

- ◆ Volatile organic compounds (VOCs) by EPA Method 8260A/B
- ◆ Semi-Volatile Organic Compounds (SVOCs) by EPA Method 8270B/C
- ◆ Polynuclear aromatic hydrocarbons (PAHs) by EPA Method 8270B/C
- ◆ Polychlorinated biphenyls (PCBs) by EPA Method 8081A/8082
- ◆ Benzene, toluene, ethylbenzene, total xylenes and MTBE by EPA Method 8260A/B
- ◆ Total petroleum hydrocarbons (TPH) by EPA Method 8015A (modified)
- ◆ Metals by EPA Methods 6010A/B and 7471A
- ◆ Hexavalent chromium by EPA Method 7196A

In addition, all soil analytical results collected within 10 feet of ground surface were compared to VAP GDCS or SRDV for construction/excavation activities. The rationale for this comparison was related to potential exposure to COCs in soils associated with future construction and/or excavation activities. The bases for selecting this depth was that previous guidance from the Ohio EPA is that 10 feet is the most "plausible depth" to which construction or excavation activities could proceed via conventional excavation techniques and it would be reasonably anticipated that a human construction worker could have direct contact exposures consistent with the assumptions outlined in OAC 3745-300-08 and -09.

In terms of providing a "concise summary" (from the instructions for Section B of the NFA Form), Tables 4 through 20 of the Phase II Property Assessment provide summaries of the soil analytical findings by identified area, indicating whether comparable direct contact values were exceeded in these areas. Table 21 of the Phase II Property Assessment report provides a summary of soil analytical findings by identified area, indicating whether – prior to a remedy – any COCs detected within the 0-2 foot commercial/industrial land use point of compliance interval exceeded a VAP single-chemical GDCS. Table 21 lists these COCs, as well as the maximum detected concentrations of any COCs that exceeded a VAP single-chemical GDCS, and the planned remedy. Similarly, Table 21 provides a summary of soil analytical data by identified area indicating whether – prior to a remedy – any COCs detected within the 0-10 foot construction/excavation activities point of compliance interval exceeded a VAP GDCS or SRDV. These COCs are listed, as are the maximum detected concentrations of any COCs that exceeded a VAP single-chemical GDCS or SRDV, as well as the planned remedy relative to construction/excavation activities. Finally, Table 21 lists whether, in the instance of an active remedy (such as excavation and removal), the remedy was successful in addressing soil direct contact risk and indicates what remedy is planned if the achieving VAP applicable standards for soil direct contact risk was not the goal of an active remedy, or if remedial efforts were not entirely successful.

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A review of Table 21 indicates that prior to a remedy, certain soils in Identified Areas 1, 2, 3, 4, 6, 7 and 8 exceeded VAP applicable standards for soil direct contact (either based upon commercial/industrial land use, construction/excavation activities, or exceeding TPH soil saturation levels). Based upon this, the Volunteer opted to implement a remedy in each of these identified areas.

2.2.2 Groundwater Investigation and Findings

MPI does not mention any pre-existing groundwater monitoring wells on the Property prior to the initiation of their Phase II ESA in March-May 2005. As part of MPI's Phase II ESA, MPI installed seven (7) borings (designated "MW-1" through "MW-7") with the *intention* of converting these borings to groundwater monitoring wells. However, groundwater was only encountered in four (4) of these seven locations (MW-1 and MW-3 in the Fuel Oil Spill Area [Identified Area 6] and MW-4 and MW-6 in the Batch Yard [Identified Area 1]). All four wells that were installed by MPI consisted of 2-inch diameter polyvinylchloride (PVC) well casing and screen, presumably installed using a conventional truck-mounted drill rig using 4.25-inch inside diameter (I.D.), 8.25-inch outside diameter (O.D.) hollow stem augers, in accordance with VAP regulations. It is worth noting that this section indicates that all seven attempted monitoring wells were double-cased to a depth of 5 feet, meaning that MPI made an effort to "block off" any saturation within the 0-5 foot interval.

During 2006 and 2007, PANDEY attempted the installation of an additional sixteen (16) monitoring wells at the Property. Groundwater was encountered in sufficient quantity to permit installation of monitoring wells at twelve (12) of these locations. These wells were installed using a Geoprobe® rotary rig with 4.25-inch I.D., 8.25-inch O.D. hollow stem augers, and consisted of 2-inch diameter PVC well casing and screen. The wells installed by PANDEY were not double-cased. In addition, PANDEY collected a groundwater sample from an inactive 165-foot deep fire suppression well installed in 1965 on the Property.

During 2009, HzW installed eleven 1.5-inch diameter pre-packed Geoprobe® monitoring wells (designated HzW-01 through HzW-11) at various locations on the Property, with the majority of these placed near the Property boundary. These pre-packed wells were using a track-mounted Geoprobe® direct push rig. Three of these pre-packed monitoring wells either were dry following installation (HzW-10), or yielded insufficient groundwater to permit sampling for all COCs (HzW-07 and HzW-09). Following installation and sampling of these pre-packed wells, HzW installed an additional four 2-inch diameter monitoring wells (designated HzW-12, HzW-13, HzW-14 and HzW-16) using a Geoprobe® 6600 truck-mounted rotary rig. HzW-12 was installed adjacent to pre-packed monitoring well HzW-04. HzW-13 was installed adjacent to pre-packed monitoring well HzW-06. HzW-14 was installed south of Markison Avenue near Identified Area 11. HzW-16 was installed near PANDEY monitoring well IAYMW-1, which could not be located given the presence of imported dirt piles in the area of this well. The purpose of these four monitoring wells was to perform yield testing of the uppermost saturated zone at various locations around the Property (including existing PANDEY monitoring well IALMW-1).

Groundwater sources investigated included areas either in or downgradient of HzW Identified Areas 1, 2, 5, 6, 7, 8, 10, 11, 12, 13, 14 and 15. In addition, HzW conducted re-sampling of five (5) of the MPI and/or PANDEY wells in 2008. All groundwater samples were submitted to Test America, Nashville, Tennessee (CL#0033 by MPI in 2005), EA Group (CL#0015 by PANDEY between 2005 and 2007), or GeoAnalytical Laboratories (by HzW in 2008) for analysis of VOCs (EPA Methods 8260A/B) and/or SVOCs (EPA Methods 8270B/C) and/or total metals (EPA Methods 6010A/7470A) and/or PCBs (EPA Method 8081A).

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In general, the uppermost saturated groundwater zone that was only encountered in silty sands or sandy silts at depths of 21 feet or less. The boring logs for the three "dry" monitoring wells installed by MPI penetrated to depths of 49 feet, 35 feet, and 34 feet, respectively. These three borings encountered "dry silt" below 15 feet, 11 feet and 15 feet, respectively. For their part, PANDEY concluded that the uppermost saturated zone was limited to silty clays/sandy silts or clayey silts with intermittent sand or gravel lenses at depths of 15 feet or less. The deepest penetration of any PANDEY groundwater boring was 48 feet, although this boring was eventually backfilled with 33 feet of sand so that the well's final depth was 15 feet. Below a depth of 15 feet, the deeper PANDEY borings encountered silty clay (described as "extremely hard" at one 20-foot deep boring) or a "very stiff" clayey silt that was described as "dry" below 24 feet.

HzW performed yield testing at various spatial locations around the Property. As indicated in the Addendum to the NFA Letter, HzW's Certified Professional concluded that the weight of evidence was that the yield of the uppermost saturated unit was not sufficient for classification as "Class A Groundwater" based upon a comparison of yield with deeper saturated units (a sand and gravel unit, and deeper bedrock units) and the absence of any evidence of use of the uppermost saturated zone for potable purposes within ½ mile of the Property.

Ground surface and top-of-casing elevations for monitoring wells were provided in the MPI and PANDEY reports. Further, the PANDEY report contained a contoured potentiometric surface map indicating that groundwater flow direction in the uppermost saturated unit was from the east/northeast towards the west/southwest beneath the Property.

Table 23 of the Phase II Property Assessment report and a table in Attachment 2A of the Addendum to the NFA Letter present the groundwater analytical findings for groundwater samples collected from monitoring devices completed into the uppermost saturated zone beneath the Property. The tables also include samples collected from a fire suppression well which is completed into the deeper sand and gravel saturated zone present at a depth of 118 feet beneath the Property. These tables indicated exceedances of VAP Generic Unrestricted Potable Use Standards (GUPUS) or Risk-Derived Generic Unrestricted Potable Use Standards (RDGUPUS), including at the Property boundary. The COCs which exceeded GUPUS or RDGUPUS included inorganics (lead, arsenic, and chromium) and organics (trichloroethene [TCE], vinyl chloride, and polynuclear aromatic hydrocarbons (PAHs)).

Based upon these data, the Certified Professional concluded that groundwater impacts to the uppermost saturated unit beneath the Property in excess of GUPUS or RDGUPUS extended to the Property boundary (with regard to inorganics). However, organic COCs (TCE, vinyl chloride, and PAHs) were only detected in excess of GUPUS or RDGUPUS at "Property-interior" wells associated with Identified Areas 1, 2, and 12. There is no evidence of the presence of organic COCs in groundwater near the Property boundary (with the possible exception of HzW-05 and HzW-07), based upon sampling conducted during 2009. Therefore, source areas were Identified Areas 1 (Batch Yard/Forming Area), 2 (Former Chrome/Nickel Plating Area), and a portion of Identified Area 12 in the UFO Building. All groundwater impacts in excess of VAP GUPUS are determined to be related to on-Property source areas.

The steps followed for groundwater classification are discussed in the Addendum to the NFA Letter. In summary, the Certified Professional concluded that the uppermost saturated zone beneath the Property contained "Class B Groundwater" as defined under the VAP.

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The provisions for the Protection of Ground Water Meeting Unrestricted Potable Use Standards (POGWMUPUS) do not apply to the uppermost saturated zone beneath the Property. However, the provisions of POGWMUPUS would apply to the deeper sand and gravel unit beneath the Property. In the Phase II Property Assessment report, the Certified Professional presents a weight of evidence demonstration that the provisions of POGWMUPUS will continue to be achieved for the deeper sand and gravel unit. This weight-of-evidence demonstration is detailed in the Phase II Property Assessment report, but the salient points of the demonstration are:

- ◆ The nature of the majority of the COCs detected in the uppermost saturated zone in excess of GUPUS/RDGUPUS is considered “highly immobile” (Ohio EPA Technical Guidance Compendium [TGC] VA.300007.09.018).
- ◆ The concentrations of COCs released to the uppermost saturated zone are comparatively low.
- ◆ The absence of COCs in the materials between the uppermost saturated zone and the deeper sand and gravel saturated zone would result in a high attenuation capacity for hypothetical vertical migration of COCs between the two saturated units.
- ◆ The physical characteristics of the materials between the uppermost saturated zone and the sand and gravel zone would best be described as a “homogeneous confining unit” with no evidence of the vertical migration of groundwater between the two zones (described as “extremely hard” and “dry”).
- ◆ VAP TGC VA30007.09.018 is very clear that separation distance alone cannot be used to make a POGWMUPUS demonstration for protection of a deeper groundwater bearing zone. However, the technical guidance does say that “...a weight-of-evidence demonstration that ground water [in a deeper groundwater zone] will continue to meet UPUS may be reasonable if **at least** [emphasis in the TGC] 30 feet of clay to clayey silt [the exact geologic materials present in the zone between the uppermost saturated zone and the sand and gravel zone beneath the Property] exists between the deepest known source area [21 feet at the Property] and the groundwater zone being protected [top at 118 feet].” At least 90 feet of separation exists between the uppermost saturated zone affected with COCs in excess of GUPUS and the deeper sand and gravel zone. Therefore, in the context of a weight-of-evidence demonstration, adequate separation distance is present between these two zones.

The fire suppression well was re-sampled in December 2009. The sample contained 0.016 milligrams per liter (mg/l) of total arsenic, as analyzed by a VAP Certified Laboratory. Based upon a December 21, 2009 electronic mail correspondence, the Ohio EPA indicated that abandonment of the fire suppression well would be sufficient for satisfying the requirements for the sand and gravel saturated zone from which the fire suppression well drew water, and for satisfying the requirements for protection of deeper groundwater zones. As a result, the fire suppression well was abandoned during December 2009.

A cross-section of subsurface stratigraphy is included in the Phase II Property Assessment report. The topography of the site is generally level, with a gentle slope to the south. No streams, ditches, ponds or other surface water bodies are located on or adjacent to the Property.

2.2.3 Surface Water/Sediment Investigation and Findings

There are no surface waters on the Property. Therefore, no investigation of surface water or sediments was warranted at the Property.

2.2.4 Exposure Pathway Assessment

OAC 3745-300-07(F)(1)(c) states that if it is determined that any exposure pathway is not reasonably expected to be complete, the Phase II Property Assessment report must include a written justification for its elimination. The Phase II Property Assessment report outlines the potential exposure pathways at the Property, and the rationale for elimination of exposure pathways deemed to be incomplete at the Property.

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Several potential exposure pathways are complete (or potentially complete) at the Property. However, in each circumstance of a complete or potentially complete exposure pathway, the affected medium (soil or groundwater) will be shown below to meet applicable standards.

Several institutional controls were relied upon to eliminate a potential exposure pathway. Three of these are outlined in the draft environmental covenant, which restricts the Property from future residential use, prohibits the extraction of groundwater on-Property for any purpose other than monitoring, and restricts two legally described portions of the Property (Identified Area 1 and a portion of Identified Area 8) from future construction of buildings.

Another institutional control relied upon to eliminate a potential exposure pathway for construction/excavation workers is an RMP for three areas on the Property (Identified Area 1, Identified Area 7, and a portion of Identified Area 8). The RMP is included as an attachment to the O&M Plan, and is therefore covered by the O&M Agreement, in accordance with OAC 3745-300-11(F)(2)(a).

In addition to the institutional controls discussed above, the Certified Professional relied upon an interim remedy (a fence) and permanent engineering controls to eliminate a direct contact soil exposure pathway for commercial/industrial workers at the Property. These four pavement engineering controls are subject to a VAP O&M Plan, which is included as a separate, stand alone document submitted as part of the VAP NFA Letter for the Property. The pavement engineering controls are summarized below:

◆ *Pavement Engineering Control, Identified Area 1*

A concentration of benzo(a)pyrene (41.0 milligrams per kilogram [mg/kg]) and lead (1710 mg/kg) that exceeded the VAP GDCS for commercial/industrial land use (7.7 mg/kg and 1600 mg/kg, respectively) were detected in soil samples collected from the 0-2 foot depth interval by PANDEY in 2006. Furthermore, all of Identified Area 1 was historically used in the handling of raw materials for glass manufacture. Since the area was subject to paving as part of improvements to the former main manufacturing building, the Volunteer opted to consider all of Identified Area 1 subject to a pavement engineering control remedy. The purpose of this engineering control is to prevent direct contact with these soils by commercial/industrial personnel who work at the Property. This area is also subject to an RMP.

◆ *Pavement Engineering Control, Identified Area 2*

Following remedial activities in Identified Area 2, concentrations of arsenic in two of the confirmatory wall samples exceeded the VAP single-chemical GDCS for commercial/industrial land use (82 mg/kg). With one exception, the detected concentrations of arsenic in other confirmatory wall samples from Identified Area 2 were in excess of 50.0 mg/kg, and would therefore result in the Property-wide MCA for soil direct contact in the commercial/industrial point of compliance interval (0-2 feet) to exceed VAP applicable standards. Based upon these findings, the Volunteer opted to rely upon a pavement engineering control to eliminate the commercial/industrial soil direct contact exposure pathway in Identified Area 2. As stated in the VAP Phase II Property Assessment report, an RMP is **not** necessary for this area.

◆ *Pavement Engineering Control, Identified Areas 6 and 7*

Following remedial activities in Identified Areas 6 and 7, a concentration of benzo(a)pyrene (6.2 mg/kg) remained in soil within the 0-2 foot commercial/industrial direct contact interval in Identified Area 6 that,

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when factored into a Property-wide MCA, would result in an exceedance of VAP applicable standards. Further, following remedial activities in Identified Area 7, a concentration of lead (3700 mg/kg) was detected in one of the confirmatory soil samples collected from a depth of 1.5 feet below ground surface. This concentration exceeds the VAP GDCS for lead for both commercial/industrial land use and construction/excavation activities. As a result, the Volunteer opted to rely upon a pavement engineering control to address commercial/industrial soil direct contact in Identified Areas 6 and 7. In addition, Identified Area 7 would be subject to an RMP, while Identified Area 6 does not require an RMP. However, in that only one legal description was prepared for these two contiguous areas, it is understood that the entire area indicated in the legal description for Identified Areas 6 and 7 is subject to an RMP.

◆ *Pavement Engineering Control, Identified Area 8*

Eight (8) of thirty-four (34) soil samples collected by PANDEY and/or MPI in Identified Area 8 exceeded the VAP GDCS for lead for construction/excavation activities, while three (3) of the samples collected from the 0-2 foot depth interval exceeded the commercial/industrial land use GDCS. Therefore, the Certified Professional concluded that lead concentration within both the commercial/industrial and construction/excavation activities points of compliance exceeded VAP applicable standards in Identified Area 8. Given these data, the Certified Professional concluded that Identified Area 8 would be subject to a pavement engineering control to prevent soil direct contact with lead within the commercial/industrial point of compliance interval. This area is also subject to an RMP.

No other engineering controls were relied on to render any exposure pathway incomplete. Remedial activities (soil removal) were also used to demonstrate achievement of applicable commercial/industrial land use or construction/excavation activities applicable standards.

2.3 Determination of Applicable Standards and Points of Compliance

The Certified Professional has determined that the appropriate applicable standards and points of compliance for the Property are:

- ◆ **Soil Direct Contact:** The appropriate applicable standards for soil direct contact are the GDCS or SRDV for the commercial/industrial land use category, and construction and excavation activities. With regard to the points of compliance for soil direct contact, the Certified Professional invoked a 2-foot point of compliance for meeting commercial/industrial land use standards. The point of compliance depth for construction/excavation activities is 10 feet below ground surface. As stated in OAC 3745-300-07(F)(4)(a), if the Volunteer proposes to use the GDCS/SRDV for the commercial/industrial land use category as the applicable standard, a draft environmental covenant must be attached to the VAP NFA Letter which stipulates that the Property shall not be used for residential purposes. A draft environmental covenant is attached to the VAP NFA Letter Form for the Property, which includes a provision restricting the Property from residential use.
- ◆ **Soil/Groundwater to Indoor Air:** The appropriate applicable standards for the soil/groundwater indoor air pathway for VOCs are the calculated risk factors obtained through application of the Johnson & Ettinger (J&E) model. The existing buildings are the points of compliance.
- ◆ **Groundwater:** The appropriate applicable standards for groundwater are GUPUS, RDGUPUS and Supplemental Unrestricted Potable Use Values (SUPUV). Since the uppermost saturated zone beneath the Property is Class B Groundwater, the horizontal points of compliance for groundwater in this zone are off-Property non-potable downgradient receptors. The vertical point of compliance for

groundwater in this zone would be the sand and gravel unit present at a depth of 118 feet beneath the Property. A weight of evidence demonstration concluded it was reasonable to assume that the provisions of POGWMUPUS apply to any deeper saturated zone, and will continue to apply to this zone in the future.

Since groundwater in the uppermost saturated zone contains concentrations of COCs in excess of VAP GUPUS, RDGUPUS or SUPUV, the draft environmental covenant for the Property includes a provision prohibiting the extraction of groundwater from beneath the Property for any purpose other than monitoring.

- ◆ **Sediment:** The Volunteer and Certified Professional are not aware of any impacted sediments associated with COCs originating from the Property, and have not included an applicable standard or a point of compliance for sediments, since no sediments are obvious on or adjacent to the Property.
- ◆ **Surface Water:** The Volunteer and Certified Professional are not aware of any surface waters on or adjacent to the Property, and, therefore, no surface water applicable standards or points of compliance were developed in conjunction with the Property.

2.4 Determination of Compliance with Applicable Standards

Remedial activities, modeling of potential vapor intrusion, groundwater sampling, institutional controls, and engineering controls were implemented to achieve compliance with applicable standards. An environmental covenant, restricting the Property from residential use, prohibiting the extraction of groundwater for any purpose other than monitoring, and restricting certain portions of the Property from future building construction is attached to the NFA Form documentation. In addition, a VAP O&M Plan is included as part of the NFA Letter for the Property to address the monitoring and maintenance of engineering controls relied upon as part of the remedy. These evaluations, activities and instruments will result in achievement of applicable standards. Although all contemplated pavement engineering controls are not yet in place (due to on-going demolition activities), areas subject to pavement engineering controls are controlled from “commercial/industrial exposure” through fencing and other measures, and the pavement engineering controls will be in place at the time the O&M Agreement is executed.

2.4.1 Data Analysis and Compliance with Generic Numerical Standards

OAC 3745-300-07(F)(4) states that “[a]pplicable standards must be determined for all chemicals of concern with respect to all exposure pathways determined to be complete under (F)(1) of this rule for which the volunteer intends to demonstrate compliance with applicable standards in accordance with paragraph (I) of this rule.” Further, OAC 3745-300-07(I)(3) states that “[t]he volunteer must verify compliance with applicable standards for all current exposure pathways and reasonably anticipated exposure pathways determined to be complete...”. Based upon these two citations, applicable standards must be achieved for the following exposure pathways at the Property:

- ◆ Direct contact with soils for on-site workers, employees, visitors to the site, etc., based on a point of compliance of 2 feet below ground surface.
- ◆ Direct contact with soils associated with construction/excavation activities to a depth of 10 feet below ground surface.
- ◆ Volatilization of COCs from on-site soil/groundwater into existing or future indoor air spaces (on-Property only).

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- ◆ Demonstration that COCs present in the uppermost saturated unit at the Property boundary will not migrate to an off-Property non-potable receptor in excess of VAP applicable standards, such that off-Property human and ecological receptors are protected and VAP applicable standards are achieved.

The demonstration of the achievement of applicable standards for each of these exposure pathways is presented the VAP Phase II Property Assessment report or the Addendum to the NFA Letter, and is summarized in separate subsections, below.

2.4.1.1 Soil Direct Contact for Populations that Work on or Visit the Property

Bearing in mind the engineering controls discussed above, the highest residual concentration each COC in soil within the 0-2 foot depth horizon not eliminated through an engineering control was used to calculate direct contact risk exposure factors for commercial/industrial activities. Table 26 in the VAP Phase II Property Assessment report presents the MCAs for commercial/industrial land use direct contact soils.

The MCAs in Table 26 indicate that – bearing in mind the pavement engineering controls discussed above – the Property meets applicable standards for soil direct contact under a commercial/industrial land use scenario (carcinogenic/non-carcinogenic hazard quotients of 1.251 and 0.115, respectively). The 1.251 factor for carcinogenic risk translates to 1.251E-05, which, based upon significant figures, rounds down to 1.0E-5. Again, these MCAs were calculated assuming a 2-foot point of compliance for commercial/industrial land use.

2.4.1.2 Soil Direct Contact for Future Construction/Excavation Activities

As stated above, the Volunteer has established a depth of 10 feet for direct contact soils for construction/excavation activities at the Property. The highest residual concentration each COC in soil not eliminated through the RMP was used to calculate a direct contact risk exposure factors for construction/excavation activities. Table 27 of the Phase II Property Assessment report presents the MCAs for construction/excavation activities direct contact soils.

The MCAs in Table 27 indicate that – bearing in mind that three areas on the Property are subject to an RMP – the Property meets applicable standards for soil direct contact for construction/excavation activities (carcinogenic/non-carcinogenic hazard quotients of 0.539 and 0.850, respectively). Again, these MCAs were calculated assuming a 10-foot deep point of compliance for construction/excavation activities.

The highest residual concentration of lead anywhere on the Property within the commercial/industrial and construction/excavation activities point of compliance intervals not subject to a pavement engineering control or RMP was 724 mg/kg (in Identified Area 4). This concentration is below the commercial/industrial land use and construction/excavation activities GDCS for lead indicated in Table IV of OAC 3745-300-08 (1,800 mg/kg and 750 mg/kg, respectively). VAP regulations indicate that lead should not be factored into a direct contact MCA. Therefore, the Property is determined to meet applicable standards for commercial/industrial land use and construction/excavation activities for soil direct contact with lead. In addition, it should be noted that the highest residual concentrations of TPH remaining in soil following VAP Phase II Property Assessment and soil corrective activities were:

- ◆ Light fraction: 218 mg/kg (applicable standard based on soil type = 5,000 mg/kg)
- ◆ Middle fraction: 9,740 mg/kg (applicable standard based on soil type = 10,000 mg/kg)
- ◆ Heavy fraction: 5,300 mg/kg (applicable standard based on soil type = 20,000 mg/kg)

As a result, the site is determined to meet applicable standards for residual TPH concentrations in soils.

2.4.1.3 Vapor Intrusion from Soil/Groundwater

Taking into consideration the two areas on the Property subject to a Future Building Use Restriction institutional control (Identified Area 1 and a portion of Identified Area 8), the highest detected concentrations of volatile COCs in soils were used in the J&E model to calculate carcinogenic and non-carcinogenic risk factors associated with the indoor air pathway. It should be noted that the only detection of VOCs in groundwater was in Identified Area 1, which is subject to a Future Building Use Restriction institutional control.

The J&E model was set up so that each compound was modeled entering an "default" air space measuring 10-feet (304.8 centimeters) high by 33-feet wide (1000 centimeters) by 33 feet long (1000 centimeters). The data outputs from the J&E modeling for each COC are included in the VAP Phase II Property Assessment report.

Table 29 of the VAP Phase II Property Assessment report is a modification of Table 26 (the commercial/industrial soil direct contact risk factor MCAs) which takes into consideration the risk factors calculated by J&E for the vapor intrusion pathway to arrive at what the Certified Professional considers to be cumulative "site wide" risk factors based upon both the soil direct contact and vapor intrusion pathways. These risk factors are provided for the commercial/industrial land use exposure pathway only, since the GDCS and SRDV for construction/excavation activities already take into consideration vapor inhalation associated with these activities.

The cumulative risk factors for commercial/industrial land use at the Property, taking into consideration vapor intrusion and soil direct contact, are 1.297 for carcinogenic effects, and 1.124 for non-carcinogenic effects. Based upon significant figures, both these values round down to 1.0. Combined with the soil direct contact risk factors for construction/excavation activities (carcinogenic risk factor = 0.539 and non-carcinogenic risk factor = 0.850), the Certified Professional concluded that the Property met VAP applicable standards for the combined soil direct contact and vapor intrusion pathways.

2.4.1.4 Weight of Evidence Demonstration for Satisfaction of Applicable Standards at Groundwater Points of Compliance

A Class B designation eliminates the potable use pathway from consideration. The Certified Professional is required to evaluate non-potable off-Property receptors when making a Class B demonstration. Since the COCs of concern in groundwater at the Property boundary are inorganics (and, thus, not volatile), the non-potable vapor intrusion pathway is not complete for off-Property receptors. The most likely receptors for groundwater containing COCs in excess of GUPUS are utility corridors (storm and sanitary sewers, etc.). Construction/excavation workers would not be anticipated to ingest contaminated groundwater, and Certified Professionals have been advised as part of previous training sessions that ingestion of contaminated groundwater by construction/excavation workers is an incomplete pathway. Rather, the primary off-Property concern would be infiltration of contaminated groundwater into a storm sewer such that Ohio surface water quality criteria were exceeded at the surface water receptor (in this case, the Scioto River). Given that:

- ◆ Only lead, chromium, and a single detection of indeno(1,2,3-cd)pyrene were detected in groundwater in excess of GUPUS, RDGUPUS or SUPUV at Property boundaries that bordered public rights-of-way where off-Property storm sewers may be present;
- ◆ The Property is 1.3 miles from the Scioto River;

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- ◆ PAHs are ubiquitous in asphalt pavements;
- ◆ PAHs are considered in several Ohio EPA guidance documents as “immobile” in environmental media such as soil and groundwater;
- ◆ The yield of the interior Property well (HzW-09) that contained the most PAH compounds in a groundwater sample was very low (i.e., the well did not produce enough groundwater in an eight hour period to permit filling three liters of sample containers following purging);
- ◆ The urban nature of the site and the general quality of storm water runoff to storm sewers in the area would be anticipated to contain PAHs from asphalt pavements, even in the event that groundwater containing PAHs migrated to a non-potable off-Property receptor;
- ◆ The detected concentration of chromium in groundwater at HzW-06 (0.147 mg/l) is *less than* the statewide water quality criteria for the protection of aquatic life (except in the unlikely event that the total hardness of groundwater is less than 100 mg/l CaCO₃); and
- ◆ The highest detected concentration of lead (0.082 mg/l) is only 2.21 times that probable water quality criterion for lead (0.037 mg/l) based upon the protection of aquatic life;

The Certified Professional concluded that, in the event groundwater containing COCs in excess of VAP applicable standards entered storm sewers, such infiltration would not result in an exceedance of statewide water quality standards at the probable receptor (the Scioto River).

2.4.2 Compliance with Generic Numeric Standards (GNS)

GNS (either published GDCS or SRDV) were used as applicable standards for the direct contact exposure pathways (both commercial/industrial and construction/excavation activities). GUPUS, RDGUPUS and SUPUV were considered GNS for groundwater. All GNS for soil direct contact were subjected to an MCA, which indicated that the site met applicable standards for soil direct contact, bearing in mind the institutional controls employed. The data indicate that groundwater in the unconsolidated zone exceeds the GNS for arsenic, chromium, lead, TCE, and PAHs. Based upon sampling conducted during December 2009 and portions of a modeling demonstration included in the Phase II Property Assessment report, the Certified Professional concluded that the weight of evidence is that no COC in groundwater at the Property boundary will migrate beyond the Property boundary to a downgradient non-potable receptor in excess of VAP applicable standards.

2.4.3 Property-Specific Risk Assessment Findings

The only property-specific risk assessment activity conducted was the use of the J&E model to evaluate the vapor intrusion pathway from soil gas samples. J&E modeling results, when combined with the soil direct contact risk criteria, demonstrate achievement of applicable standards relative to on-site workers and visitors to the Property.

2.4.4 Determination of Whether Remedial Activities were Required

Remedial activities were required to achieve compliance with VAP applicable standards.

2.5 Remedial Activities

Three types of remedies were used at the Property. These may be divided into the three subsections presented below:

2.5.1 Institutional Remedies

Institutional remedies included the draft environmental covenant (a draft copy of which is attached to the NFA Letter Form) restrict the Property from residential use, prohibit the extraction of groundwater for any purpose other than monitoring, and place restrictions on the construction of new buildings in Identified Area 1 and a portion of Identified Area 8. Another institutional remedy is the RMP, which is applicable to future construction/excavation activities on legally described portions of the Property. The purpose of the RMP is to prevent exposure to lead in soils in certain portions of the Property. The RMP is included as an attachment to the VAP O&M Plan for the Property (as provided for in OAC 3745-300-11[F][2][a]), and applies to all of Identified Areas 1 and 7, and a portion of Identified Area 8. In that the legal description for the pavement engineering control in Identified Area 7 includes all of Identified Area 6, the RMP, by default, applies to construction/excavation activities in Identified Area 6, although soils in Identified Area 6 meet VAP applicable standards for construction/excavation activities, and concentrations of COCs in soil in Identified Area 6 were factored into the MCAs for soil direct contact for construction/excavation activities.

2.5.2 Engineering Remedies

Engineering remedies consist of devices which reliably prevent exposure of a commercial/industrial worker, visitor, or trespasser from exposure to concentrations of COCs in excess of VAP applicable standards. An interim fence engineering control and four permanent pavement engineering controls are proposed at the Property. These pavement engineering controls are legally described in the VAP O&M Plan, and include:

- ◆ All of Identified Area 1
- ◆ All of Identified Area 2
- ◆ All of Identified Areas 6 and 7
- ◆ A portion of Identified Area 8

The purpose of these pavement engineering controls is to prevent exposure of a commercial/industrial worker, visitor, or trespasser to concentrations of benzo(a)pyrene, arsenic and lead that exceed VAP GDCS for a commercial/industrial land use. All interim and permanent pavement engineering controls are subject to a VAP O&M Plan, which requires scheduled inspection, maintenance and reporting as part of the O&M Plan.

2.5.3 Active Remedies

Active remedies include physical removal, treatment, or stabilization of COCs of concern to mitigate a complete exposure pathway. The only active remedy employed by the Volunteer was soil excavation and off-site disposal in Identified Area 2, Identified Area 3, Identified Area 4, and portions of Identified Areas 6 and 7. These soil corrective action activities are discussed in detail in Section 5.6 of the VAP Phase II Property Assessment report, and are summarized below.

Soil corrective action activities were initiated in all four areas in January 2009. Excavation activities continued into August 2009. Prior to initiating soil corrective action, the Volunteer directed HzW to define the limits of the areas to be excavated by staking or marking the areas in question. Performance Site Environmental, Inc. (PSE) and/or S.G. Loewendick & Sons, Inc. (Loewendick) performed soil excavation activities through a contract with the Volunteer.

With regard to backfill materials, the Volunteer imported materials to the site for placement in soil corrective action areas. Representative samples were collected of this material prior to its importation to the Property to verify that the backfill materials were acceptable to use in the context of the final risk assessment report. Based upon the sampling data for proposed backfill materials, the Certified Professional determined that the imported backfill was acceptable for use on the Property in the context of overall site-wide direct contact risk.

Remedial Excavation Area 1 (Identified Area 2)

Soil excavation and off-site disposal was initiated in December 2008 and completed in January 2009. The targeted materials for corrective action in this area were primarily metals in soils from the 0-2 foot depth interval at PANDEY borings IABMW-1 and PSB-35, although the corrective action limits also incorporated soils from the 0-2 foot depth interval at PANDEY borings IAB4, IAB5, PSB-37 and MPI borings CP-1 and CP-2. The total depth of soil removal in Excavation Area 1 was 2 feet below the finished floor of the main manufacturing building.

Following soil removal, eight confirmatory soil samples were collected from a depth of approximately 1.5 feet along the walls of the excavation area, and submitted to a Certified Laboratory for analysis of total arsenic, total barium, total cadmium, total chromium, hexavalent chromium, total lead, total mercury, total selenium, and total silver by EPA Methods 6010A/7471A/7196A.

Concentrations of arsenic in two of the confirmatory wall samples exceeded the VAP single-chemical GDCS for commercial/industrial land use. With one exception, the detected concentrations of arsenic in other confirmatory wall samples were determined to exceed the Property-wide MCA for soil direct contact in the commercial/industrial point of compliance interval (0-2 feet). Based upon these findings, the Volunteer opted to rely upon an engineering control (a concrete floor slab) to eliminate the soil direct contact exposure pathway in Identified Area 2, as indicated above. The residual concentrations of all COCs in Identified Area 2 were factored into the MCA for construction/excavation activities for the Property, and an RMP is not necessary for this area.

Remedial Excavation Area 2 (Identified Area 3)

Initial soil excavation activities and off-site disposal were initiated Remedial Excavation Area 2 in December 2008 and continued through six stages. The final excavation activities in Remedial Excavation Area 2 were completed in August 2009. The targeted materials for corrective action in this area were PAHs from the 0-2 foot depth interval at PANDEY boring IASWC11. The total depth of soil removal in Excavation Area 2 was 2 feet below ground surface.

The six stages of soil excavation are detailed in Section 5.6.2 of the VAP Phase II Property Assessment report. In total, twenty-eight (28) confirmatory soil samples were collected from the walls and floors of the various remedial excavation stages in Identified Area 3. The floor samples all met VAP applicable standards for construction/excavation activities. However, one or more of the confirmatory wall samples from Stages 1 through 5 of soil corrective action consistently exceeded commercial/industrial soil direct contact standards for PAHs. Each stage of soil excavation activities removed confirmatory soil sampling locations that exceeded VAP single-chemical GDCS for PAHs (primarily benzo[a]pyrene).

Following soil removal conducted as part of Stage 6, the detected concentrations of all PAHs in confirmatory soil samples collected following Stage 6 excavation activities met VAP single-chemical GDCS for commercial/industrial land use and construction/excavation activities. These concentrations

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were also considered acceptable in terms of Property-wide soil direct contact risk. Therefore, the Certified Professional considered corrective action in Remedial Excavation Area 2 complete in August 2009. This area is not subject to an RMP.

Remedial Excavation Area 3 (Identified Area 4)

Initial soil excavation activities and off-site disposal were initiated Remedial Excavation Area 3 in December 2008 and continued through three stages. The final excavation activities in Remedial Excavation Area 3 were completed in July 2009. The targeted materials for corrective action in this area were concentrations of lead from the 0-2 foot depth interval at PANDEY boring IASWC10. The total depth of soil removal in Excavation Area 3 was 2 feet below ground surface.

The three stages of soil excavation are detailed in Section 5.6.3 of the VAP Phase II Property Assessment report. In total, eighteen (18) confirmatory soil samples were collected from the walls and floors of the various remedial excavation stages in Identified Area 4. The floor samples all met VAP applicable standards for construction/excavation activities. However, one or more of the confirmatory wall samples from Stages 1 and 2 of soil corrective action exceeded commercial/industrial and construction/excavation soil direct contact standards for lead. Each stage of soil excavation activities removed confirmatory soil sampling locations that exceeded VAP single-chemical GDCS for lead.

Following soil removal conducted as part of Stage 3, the detected concentrations of lead in confirmatory soil samples collected following Stage 3 excavation activities met VAP single-chemical GDCS for commercial/industrial land use and construction/excavation activities. Therefore, the Certified Professional considered corrective action in Remedial Excavation Area 3 complete in July 2009. This area is not subject to an RMP.

Remedial Excavation Area 4 (Identified Area 6)

Initial soil excavation activities and off-site disposal were initiated Remedial Excavation Area 4 in December 2008 and continued through four stages. The final excavation activities in Remedial Excavation Area 4 were completed in July 2009. The targeted materials for corrective action in this area were middle weight (C₁₀ – C₂₀ fraction) TPH detected in PANDEY boring PSB-22 and MPI boring FO1. The total depth of Stage 1 soil removal in Excavation Area 4 was 2 feet below ground surface.

Following Stage 1 removal activities in Identified Area 6, concentrations of total TPH DRO exceeded VAP clean-up levels for petroleum hydrocarbons based upon BUSTR soil saturation values in confirmatory soil samples 04-11509 and 06-11509, collected from the north wall of the excavated area. In addition, total lead concentration in confirmatory soil sample 05-11509, also collected from the north wall of the excavated area, exceeded both the single chemical GDCS for commercial/industrial land use and construction/excavation activities. In that the foundation for a concrete retaining wall that extended below the 2 foot depth of the remedial excavation was located approximately 10 feet north of the Stage 1 excavation limits, the Volunteer opted to extend the excavation north to this retaining wall, such that – at that point – the northern limits of the excavation would be the concrete foundation for the retaining wall. Thus, all soils would have been removed, eliminating the need for further confirmation sampling on the north side of Remedial Excavation Area 4.

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In addition, confirmatory wall sample 08-11509 contained a concentration of TPH DRO that exceeded VAP clean-up levels based upon BUSTR soil saturation values. In addition, floor sample 18-11509 collected from the northeastern corner of the Stage 1 excavation area contained a concentration of TPH DRO that exceeded VAP clean-up levels (i.e., BUSTR soil saturation values). Based upon these findings, the Volunteer opted to conduct additional soil removal activities in Remedial Excavation Area 4. Since all other detected concentrations of total lead (excepting sample 05-11509) and all detected concentrations of PAHs were below VAP single-chemical GDCS for commercial/industrial land use and construction/excavation activities, total lead concentration and PAHs were removed from the confirmatory analytical suite in Remedial Excavation Area 4.

“Stage 2” of soil corrective action activities in Remedial Excavation Area 4 were conducted on June 24, 2009, and consisted of extending the excavation north to the foundation of the retaining wall (as discussed above) and deepening the northeastern third of the Stage 1 remedial excavation such that the excavation extended 3 feet below ground surface. In addition, an additional 5 feet of soils were removed from the east side of the Stage 1 excavation area to a depth of 2 feet for a distance of 50 feet, centered on Stage 1 confirmatory wall sampling location 08-11509. Following additional soil removal as part of Stage 2, three confirmatory floor samples (designated “62409-01” through “62409-03”) were collected from the deepened portion (3 feet deep) of the remedial excavation, and three confirmatory wall samples (designated “62409-04” through “62409-06”) were collected from the eastern extension of the excavation from a depth of approximately 1.5 feet.

The detected concentration of TPH DRO in confirmatory wall sample 62409-04 exceeded VAP clean-up levels based upon BUSTR soil saturation values. The other five (5) confirmatory samples contained concentrations of TPH DRO that were below VAP clean-up levels based upon BUSTR soil saturation values. Given the findings at confirmatory soil sampling location 62409-04, the Volunteer determined that TPH-DRO in soil had been reduced to below BUSTR soil saturation clean-up levels vertically, although the excavated area would need to be extended to the east to address concentrations of TPH DRO detected in one wall sample. Based on these findings, the Volunteer opted to conduct additional soil removal activities in Remedial Excavation Area 4.

Stages 3 and 4 of soil corrective action activities in Remedial Excavation Area 4 were conducted during July, and consisted of additional soil removal from the eastern wall of the Stage 2 excavation limits. Following receipt of confirmatory soil sampling analytical results from the Stage 4 excavation limits, the detected concentration of TPH DRO in confirmatory wall samples were below VAP clean-up levels based upon BUSTR soil saturation values. Based upon these findings, the Certified Professional considered soil corrective action activities relative to TPH to be complete in Excavation Area 4. However, a residual concentration of benzo(a)pyrene in one confirmatory sample collected from a depth of 1.5 feet in Remedial Excavation Area 4 was deemed to be unacceptable for a Property-wide risk assessment perspective for soil direct contact for commercial/industrial land use. As a result, the Volunteer opted to rely upon a pavement engineering control to eliminate the soil direct contact exposure pathway in a portion of Identified Area 6. The residual concentrations of all COCs in Identified Area 6 were factored into the MCA for construction/excavation activities for the Property, and an RMP is not necessary for this area, although as stated above, the pavement engineering control survey limits and legal description for Identified Areas 6 and 7 encompass both areas, and, by default, the provisions of the RMP would apply to Identified Area 6.

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Remedial Excavation Area 5 (Identified Area 7)

Initial soil excavation activities and off-site disposal were initiated Remedial Excavation Area 5 in December 2008 and continued through three stages. The final excavation activities in Remedial Excavation Area 5 were completed in July 2009. The targeted materials for corrective action in this area were middle weight ($C_{10} - C_{20}$ fraction) TPH detected in the 0-2 foot depth intervals in PANDEY borings IAI2 and IAI3. The total depth of Stage 1 soil removal in Excavation Area 5 was 2 feet below ground surface.

The three stages of soil excavation are detailed in Section 5.6.5 of the VAP Phase II Property Assessment report. In total, eighteen (24) confirmatory soil samples were collected from the walls and floors of the various remedial excavation stages in Identified Area 7. The floor samples all met VAP applicable standards for construction/excavation activities. However, one or more of the confirmatory wall samples from Stages 1 and 2 of soil corrective action exceeded BUSTR soil saturation values for TPH-DRO. Each stage of soil excavation activities removed previous confirmatory soil sampling locations that exceeded BUSTR soil saturation values for TPH DRO.

Following the completion of Stage 3 excavation activities, the detected concentrations of TPH DRO in confirmatory soil samples did not exceed VAP clean-up levels for TPH DRO based upon BUSTR soil saturation values. Based upon these findings, the Certified Professional considered soil corrective action activities relative to TPH to be complete in Excavation Area 5. However, the detected concentration of lead in confirmatory sample 11309-11 collected from a depth of 1.5 feet in Remedial Excavation Area 5 exceeded both the VAP GDCS for commercial/industrial land use and construction/excavation activities. As a result, the Volunteer opted to rely upon a pavement engineering control and an RMP to eliminate the soil direct contact exposure pathway and protect future construction/excavation workers in a portion of Identified Area 7.

Disposition of Soils Excavated as Part of Soil Corrective Action

In September and October 2008, at the request of the remediation contractors, HzW collected representative samples of the materials to be excavated and submitted these to Test America North Canton for analysis of parameters specified by the disposal facility (Ohio Soil Recycling, or OSR). In order for OSR to accept the soils in accordance with applicable law, HzW was requested to characterize the soils prior to excavation through analysis for of samples from each remedial excavation area for BTEX by EPA Method 8260B, TPH by EPA Method 8015 (modified), PCBs by EPA Method 8081A, concentrations of metals by the Toxicity Characteristic Leaching Procedure (TCLP), and pH. These characterization data indicated that the materials excavated from the Property during 2009 could be managed by OSR as non-hazardous petroleum-contaminated soils (PCS). A waste profile form was prepared by PSE, and executed by a representative of the Volunteer, indicating that excavated soils would be managed as PCS in accordance with OSR's permit, and thus all soils removed from the Property were managed in accordance with applicable Ohio laws and regulations.

In total, 2651.6 tons of soils were removed from the Property as part of soil corrective activities in the five remedial areas. All these materials were transported to and disposed at OSR's facility on Integrity Drive in Columbus, Ohio. Manifests and weigh tickets from OSR for materials excavated and removed from the Property as part of VAP activities are included in an appendix to the VAP Phase II Property Assessment report.

2.6 Planned Remedies

Planned remedies include an environmental covenant restricting the Property from residential land use, prohibiting the extraction of groundwater from beneath the Property for any purpose other than monitoring, and restricting future building construction in Identified Area 1 and a portion of Identified Area 2. Additional planned remedies include deployment of the interim and permanent pavement engineering controls outlined in the VAP O&M Plan (and discussed elsewhere in this Executive Summary) prior to the execution of an O&M Agreement between the Volunteer and the Ohio EPA. Finally, planned remedies include implementation of the provisions of the O&M Plan following execution of the O&M Agreement. No other remedies are planned as part of the voluntary action at the Property.

3.0 Conclusions

Based upon the voluntary action implemented at the Property, the Certified Professional reached the following conclusions:

1. Beginning in 2005, TG707, Inc. initiated those investigations appropriate to forward certain real property through Ohio's VAP. Initial VAP data collection activities were performed by MPI in 2005, and PANDEY in 2005-2006. In June 2008, HzW was retained by TG707, Inc. to administer the environmental remediation portion of the voluntary action.
2. During June 2009, TG707, Inc. sold the Property to TechSouth. As part of the real estate transfer, TG707, Inc. conveyed to TechSouth all right, title, and interest in the environmental reports and other work performed by MPI, PANDEY, and HzW.
3. The "Property" is located at 727 East Jenkins Avenue in the City of Columbus, Franklin County, Ohio, and is comprised of eight entire parcels, and a portion of a ninth parcel. In aggregate, the Property consists of 46.371 acres of land.
4. The setting of the Property is urban. The Property is generally bordered by public rights-of-way. The current land use of the Property is commercial/industrial, which is also the intended future use. Until August 2004, the Property was occupied by Techneglas, Inc., a manufacturer of television picture tube assemblies. Properties immediately east and southeast of the Property are zoned for residential use, as are adjacent properties to the northwest. Properties to the southwest are zoned as "Exempt" (primarily), or commercial/industrial. Properties to the northeast and north are zoned for industrial use, as are adjacent parcels to the south.
5. One of the parcels that comprises the Property was developed for glass manufacturing operations between 1900 and 1922. Initial glass manufacture was associated with bottles, although the plant may have been converted to the manufacture of glass block in the late 1920s or early 1930s. With the advent of the television in the early 1950s, operations on the Property were converted to the manufacture of television picture tube assemblies. Much of the consolidation of additional parcels that comprise the Property occurred during 1953. The date of the first appearance of the name "Techneglas, Inc." on tax maps and city directories is May 1995. Techneglas, Inc. consolidated the remaining parcels that comprise the Property between 1996 and 2000, and continued the manufacture of television picture tube assemblies on the Property until August 2004.

6. Two large buildings remain on the Property. These include that portion of the original main manufacturing building not demolished in 2009, and the UFO Building. There are several smaller buildings on the Property. These include two warehouse buildings (the Sheldon Warehouses), a substation building associated with a former transformer yard, and the Mold Storage Building. In addition to these six main buildings, there are smaller guard shacks and pump houses not related to industrial manufacturing operations.
7. The majority of raw materials storage, conveyance, blending, power supply, and reclamation of oil, etc. was conducted in an area immediately north of two glass furnaces located in the northern portion of the main manufacturing building (the Batch Yard). The Batch Yard included a Raw Materials Building, overhead conveyors, silos to hold blended raw material for melting in the furnaces, a Power House, and an Oil Reclamation Building. All structures in the Batch Yard, as well as the two furnaces and a portion of the main manufacturing building on the Property.
8. Historically, two (2) petroleum USTs have been located on the Property. Both USTs were regulated by BUSTR, and have been removed and received BUSTR NFA Letters as discussed in this report.
9. The Property is underlain by Pleistocene (Wisconsinan) tills, and consist of clay, silt, and fragments of the underlying parent material over which ice sheets advanced. The uppermost saturated zone beneath the Property is situated at depths between 6 and 21 feet below ground surface within a veneer of glacial deposits overlying a sand and gravel saturated zone situated approximately 118 feet beneath the Property. This lower sand and gravel unit is highly productive, and there is an inactive fire suppression well on the Property installed into this sand and gravel saturated zone.
10. Previous assessment activities conducted by MPI and PANDEY in 2005-2006 complied with OAC 3745-300-07. Certified Professionals from both MPI and PANDEY provided HzW's Certified Professional with affidavits attesting to this fact. In summary, MPI's and PANDEY's previous investigations indicated releases of COCs to environmental media in a variety of locations around the Property. Similarly, these previous investigations indicated that no release of hazardous substances to environmental media had occurred in some of the areas that either MPI or PANDEY considered "areas of concern" or identified areas at the time of their Phase I evaluations in 2005 and early 2007.
11. In developing the identified areas at the Property, the Certified Professional relied upon the definition of "identified area" contained in OAC 3745-300-01(A)(63). Some of the areas assessed by MPI and/or PANDEY exhibited evidence of a release of hazardous substances or petroleum to an environmental medium. However, the MPI and PANDEY Phase II data and/or designation of areas also clearly indicate certain areas on the Property where a potential release of hazardous *may have occurred* but *did not occur*, and HzW's Certified Professional exercised his discretion under the VAP to review previous data, and designate identified areas in the VAP Phase I Property Assessment accordingly.
12. A VAP Phase I Property Assessment indicated a total of seventeen (17) identified areas associated with the Property. All seventeen identified areas were determined to be related to potential on-site source areas.

Executive Summary

Page 25

13. A complete assessment was performed in each of the on-Property identified areas, using protocols specified in OAC 3745-300-07.
14. The site is eligible to participate in the VAP.
15. The findings of soil analyses performed by MPI and PANDEY resulted in the Volunteer undertaking soil corrective action in Identified Areas 2, 3, 4, 6 and 7. All soil corrective action activities were conducted between January and August 2009. In total, over 2650 tons of contaminated soils were removed from the Property in five separate remedial areas.
16. Following soil corrective action, the Certified Professional determined that five areas on the Property would be subject to interim or permanent pavement engineering controls to prevent soil direct contact. These five areas included all of Identified Areas 1, 2, 6 and 7, and a portion of Identified Area 8. In addition, three areas would be subject to an institutional control (an RMP) to address future construction/excavation worker direct contact risk. The three areas subject to an RMP are all of Identified Areas 1 and 7, and a portion of Identified Area 8.
17. Groundwater flow direction in the uppermost saturated unit beneath the Property (a zone extending from between 6 and 21 feet below ground surface) is from east/northeast to west/southwest.
18. Groundwater from the uppermost saturated zone exceeded VAP GUPUS or RDGUPUS for lead, arsenic, chromium, TCE, PAHs and – as part of one sampling event in 2006 – vinyl chloride. As such, the provisions of POGWMUPUS do not apply to the uppermost saturated zone.
19. The classification of groundwater in the uppermost saturated zone is “Class B Groundwater”. Only groundwater zones that exceed VAP GUPUS, RDGUPUS or SUPUV are required to be classified under the VAP. All groundwater source areas were determined to be related to on-Property source areas.
20. The Certified Professional concluded based upon a weight of evidence demonstration presented in Section 6.7 that the deeper sand and gravel unit will continue to satisfy the provisions of POGWMUPUS.
21. The appropriate soil direct contact points of compliance were 2 feet for commercial/industrial land use, and 10 feet for construction/excavation activities. MCAs performed for commercial/industrial land use and construction/excavation activities indicate that soils on-site meet applicable standards for soil direct contact exposure, bearing in mind the reliance on pavement engineering controls to prevent commercial/industrial soil direct contact in Identified Areas 1, 2, 6, 7 and 8, and the presence of an RMP to address construction/excavation worker risk in Identified Areas 1, 7 and 8 (see Conclusion #16, above).
22. Modeling of the vapor intrusion to indoor air pathway was conducted for a series of VOCs using the J&E model. Vapor intrusion risk in Identified Areas 1 and 8 indicated an unacceptable risk for this pathway in these two areas. As a result, all of Identified Area 1 and a portion of Identified Area 8 are subject to a future building use restriction, which is outlined in the draft environmental covenant for the Property.

23. Excluding vapor intrusion data from Identified Areas 1 and 8, a separate MCA was performed which combined the risk factors associated with the soil/groundwater to indoor air pathway with the risk factors associated with soil direct contact for commercial/industrial land use. The results of this second MCA were a determination that the Property meets applicable standards for commercial/industrial land use when evaluating the cumulative effect of these two pathways.
24. Based upon sampling conducted during December 2009 and portions of a modeling demonstration included in the Phase II Property Assessment report, the Certified Professional concluded that the weight of evidence is that no COC in groundwater at the Property boundary will migrate beyond the Property boundary to a downgradient non-potable receptor in excess of VAP applicable standards.
25. An O&M Plan (and a draft O&M Agreement) has been prepared to address the maintenance of interim and permanent pavement engineering controls to prevent commercial/industrial soil direct contact. In addition, a draft environmental covenant has been prepared to restrict the Property from residential land use, restrict the extraction of groundwater for any purpose other than monitoring, designate areas on-Property subject to a future building use restriction, and to indicate those areas subject to an RMP.
26. Bearing in mind the engineering and institutional controls outlined in the O&M Plan, draft O&M Agreement, and draft environmental covenant, any potentially complete exposure pathways are determined to comply with applicable standards. The voluntary action conducted at the Property is deemed to be protective of public health, public safety, and the environment.

Exhibit 4
Environmental Covenant

To be recorded with Deed
Records - ORC § 317.08

ENVIRONMENTAL COVENANT

This Environmental Covenant is entered into by TechSouth Development Co., LLC, a Delaware limited liability company, ("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 approximately 46.371 acres of land (the "Property"), which is located at 727 East Jenkins Avenue, Columbus, Franklin County, Ohio, to the activity and use limitations set forth herein.

WHEREAS, Owner and the City of Columbus, (collectively the "Volunteers") have 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 Matthew D Knecht, CPG, CP #105 issued a no further action letter for the Property on September 4, 2009 ("NFA Letter") and on that date submitted the NFA Letter to Ohio EPA, with a request for a covenant not to sue (NFA No. 09NFA373);

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; and

WHEREAS, the NFA Letter's executive summary contains an overview of the voluntary action and may be reviewed as an exhibit to the covenant not to sue issued for the Property and recorded in the deed records for the Property in the Franklin County Recorder's Office. The covenant not to sue, executive summary, and NFA Letter (NFA No. 09NFA373) may also be reviewed by contacting Records Management Officer, Ohio EPA, Division of Emergency and Remedial Response, P.O. Box 1049, 50 West Town Street, Columbus, OH 43216-1049, 614-644-2924, Columbus, OH 43216, or HzW Environmental Consultants, LLC, 6105 Heisley Road, Mentor, Ohio 44060, (800)-804-8484.

Now therefore, Owner 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 46.371 acres of real property, which are located at 727 East Jenkins Avenue, Columbus, Franklin County, Ohio, and more particularly described in Exhibit A attached hereto and hereby incorporated by reference herein.

3. Owner. TechSouth Development Co., LLC, a Delaware limited liability company, is the Owner of the Property and resides at 152 West 57th Street, 60th Floor, New York, NY 10019.

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(C)(2)(c)(ii) and (C)(2)(c)(iii) (effective March 1, 2009)

OAC 3745-300-08(C)(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; retail gasoline stations; retail establishments; professional offices; hospitals and clinics; religious institutions; hotels; motels; and parking facilities.

OAC 3745-300-08(C)(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 on the Use of Groundwater. No person shall extract ground water located at or underlying the Property 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.

Limitation on Occupied Structures within the Building Restriction Areas. No person shall construct occupied structures within the areas of the Property identified in Exhibit B attached hereto and hereby incorporated by reference herein (“Building Restriction Areas”).

6. Running with the Land. This Environmental Covenant shall be binding upon the Owner during the time that the Owner owns the Property or any portion thereof in fee simple and upon 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 § 3746.05, 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. Owner or any Transferee shall submit to Ohio EPA and the City of Columbus, 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 thereof shall contain a notice of the activity and use limitations set forth in this Environmental Covenant. The notice shall be substantially in the following form:

THE INTEREST CONVEYED HEREBY IS SUBJECT TO AN ENVIRONMENTAL COVENANT, DATED _____, 200_, RECORDED IN THE DEED OR OFFICIAL RECORDS OF THE FRANKLIN COUNTY RECORDER ON _____, 200_, IN [DOCUMENT _____, or BOOK____, PAGE ____]. THE ENVIRONMENTAL COVENANT CONTAINS THE FOLLOWING ACTIVITY AND USE LIMITATIONS:

Limitation from Commercial or Industrial Land Uses. The Property is hereby limited to commercial or industrial land use only, as defined in OAC 3745-300-08(C)(2)(c)(ii) and OAC 3745-300-08(C)(2)(c)(iii) (effective March 1, 2009).

Limitation on the Use of Groundwater. No person shall extract ground water located at or underlying the Property 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.

Limitation on Occupied Structures within the Building Restriction Areas. No person shall construct occupied structures within the areas of the Property identified in Exhibit B attached hereto and hereby incorporated by reference herein ("Building Restriction Areas").

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 signatory 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 C 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 any 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 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 the City of Columbus.

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:

Division of Emergency and Remedial Response
Voluntary Action Program
Ohio EPA
50 West Town Street
Columbus, Ohio 43216
Attn.: Records Management Officer

and

Ohio EPA, CDO
50 West Town Street
Columbus, Ohio 43216
Attn.: Site Coordinator for 09NFA373

As to Owner:

TechSouth Development Co., LLC
c/o Jonathan D. Coven
152 West 57th Street, 60th Floor
New York, NY 10019

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

IT IS SO AGREED:

TechSouth Development Co., LLC,
a Delaware limited liability company

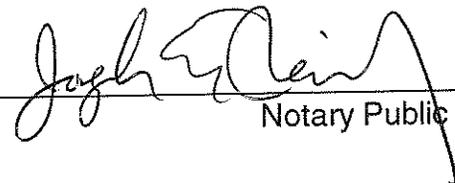
By: 
Jonathan D. Coven, Vice President

12-23-09
Date

State of Ohio)
)
County of Franklin) ss:

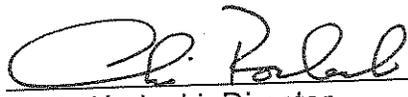
Before me, a notary public, in and for said county and state, personally appeared, Jonathan D. Coven, who acknowledged to me that he did execute the foregoing instrument on behalf of TechSouth Development Co., LLC.

IN TESTIMONY WHEREOF, I have subscribed my name and affixed my official seal this 23d day of December, 2009.


Notary Public

JOSEPH M. REIDY,
ATTORNEY AT LAW
NOTARY PUBLIC - STATE OF OHIO
MY COMMISSION HAS NO EXPIRATION DATE
SECTION 147.03 R. C.

OHIO ENVIRONMENTAL PROTECTION AGENCY


Chris Korleski, Director

Date 12/30/09

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 30th day of December, 2009.




Notary Public

CHARMA DIANE CASTEEL
NOTARY PUBLIC
STATE OF OHIO
MY COMMISSION EXPIRES

May 10, 2014

This instrument prepared by:
Joseph M. Reidy, Esq.
Schottenstein Zox & Dunn Co., LPA

EXHIBIT A

Legal Description of the Property

Exhibit "A"

46.371 acre tract

East of Nineteenth Avenue, West of Champion Avenue
North of Woodrow Avenue, South of Frebis Avenue
City of Columbus, Ohio

Situated in the State of Ohio, City of Columbus, being a 46.371 acre tract out of the lands conveyed to TG707 Inc. in Instrument Number 200511160242350, located in the "Estate of William Merion, Deceased" Subdivision of record in Plat Book 17, Pages 256 through 260 of the Recorder's Office, Franklin County, Ohio (further shown and delineated upon Exhibit "B" attached hereto and made a part hereof), and being more particularly described as follows:

Beginning at a point 10 feet westerly of the southwesterly corner of Lot 358 of the said subdivision, and at the intersection of the northerly right-of-way line of Jenkins Avenue (50 feet in width) and the easterly right-of-way line of 19th Street (width varies);

Thence North 00 degrees 17 minutes 31 seconds West, along the easterly right-of-way line of said 19th Street, a distance of 269.23 feet to a point at the intersection of the aforesaid easterly right-of-way line and the southerly right-of-way line of Sheldon Avenue (50 feet in width);

Thence South 90 degrees 00 minutes 00 seconds East, along the said southerly right-of-way line, a distance of 338.70 feet to a point in the westerly line of Lot A of the said subdivision;

Thence North 00 degrees 36 minutes 02 seconds East, along the said westerly line of Lot A and the easterly line of Lot 274, Lot 246, Lot 218, and Lot 190 of the said subdivision, a distance of 606.80 feet to a point at the northeasterly corner of said Lot 190 and the northwesterly corner of said Lot A and in the southerly right-of-way line of Frebis Avenue (50 feet in width);

Thence South 89 degrees 58 minutes 26 seconds East, along the said southerly right-of-way line of Frebis Avenue, a distance of 300.75 feet to a point at the northeasterly corner of said Lot A and the northwesterly corner of Lot B of the said subdivision;

Thence South 00 degrees 36 minutes 02 seconds West, along the easterly line of said Lot A, the westerly line of said Lot B and the westerly line of a tract of land conveyed to Developers Seven, LLC., in Instrument Number 200202190044680, a distance of 674.85 feet to a point at the southwesterly corner of said Developers Seven, LLC. tract;

Thence South 90 degrees 00 minutes 00 seconds East, along the southerly line of said Developers Seven, LLC. tract, and through said Lot B, a distance of 316.92 feet to a point in the easterly line of said Lot B and the westerly line of the railroad property (Pennsylvania Lines, LLC);

Thence South 00 degrees 31 minutes 55 seconds West, along the easterly line of said Lot B, the westerly line of said railroad property, and through Jenkins Avenue, a distance of 251.00 feet to a point in the southerly right-of-way line of said Jenkins Avenue;

Thence South 90 degrees 00 minutes 00 seconds East, along the said southerly right-of-way line of Jenkins Avenue and the northerly line of Lot I of said subdivision, a distance of 455.56 feet to a point at the northwesterly corner of a tract of land conveyed to Nuana Delong in Official Record Volume 29592, Page D19;

Thence South 00 degrees 26 minutes 34 seconds West, along the westerly line of said Delong tract, the westerly line of a tract of land conveyed to Iacovetta Holdings, LLC. in Instrument Number 200007310150976 and the easterly line of said Lot I, a distance of 398.83 feet to a point at the northwesterly corner of Lot 16 of the Champion Avenue Terrace Addition of record in Plat Book 20, Page 66;

Thence South 89 degrees 59 minutes 36 seconds East, along the northerly line of Lot 13 through Lot 16 (inclusive) of the aforesaid Addition, a distance of 196.97 feet to a point at the northeasterly corner of said Lot 13 and the northwesterly corner of Lot 9 of said Addition;

Thence South 00 degrees 26 minutes 24 seconds East, along the westerly line of Lot 9 through Lot 24 (inclusive) of the said Addition and through Markison Avenue, a distance of 432.55 feet to a point in the northerly line of Lot 25 of said Addition;

Thence North 89 degrees 59 minutes 36 seconds West, along the said northerly line of Lot 25, the northerly line of Lot 17 of said Addition and the northerly line of a tract of land conveyed to Ronald Reading in Instrument Number 200409010205349, a distance of 49.04 feet to a point;

Thence South 00 degrees 26 minutes 34 seconds West, through Lot 17 of the said Addition and along the westerly line of said Reading tract, a distance of 110.29 feet to a point in the southerly line of said Lot 17;

Thence North 89 degrees 59 minutes 36 seconds West, along the said southerly line of said Lot 17, a distance of 50.88 feet to a point;

Thence South 00 degrees 30 minutes 06 seconds West, along an easterly line of said TG707, Inc. tract, a distance of 449.94 feet to a point;

Thence South 90 degrees 00 minutes 00 seconds East, along a northerly line of said TG707, Inc. tract, a distance of 72.45 feet to a point in the westerly line of a 16 foot wide alley;

Thence South 00 degrees 30 minutes 06 seconds West, along the westerly line of the said 16 foot wide alley, a distance of 189.30 feet to a point at the northeasterly corner of a tract of land conveyed to Cra-Co Investments, LLC. in Instrument Number 200502230032922;

Thence North 90 degrees 00 minutes 00 seconds West, along the northerly line of said Cra-Co Investments, LLC. tract, a distance of 72.45 feet to a point at the northwesterly corner of said Cra-Co Investments, LLC. tract;

Thence South 00 degrees 30 minutes 06 seconds West, along the westerly line of said Cra-Co Investments, LLC. tract, a distance of 362.14 feet to a point at the southwesterly corner of said Cra-Co Investments, LLC. tract and in the northerly right-of-way line of Woodrow Avenue (50 feet in width);

Thence North 89 degrees 47 minutes 03 seconds West, along the aforesaid northerly right-of-way line, a distance of 524.59 feet to a point at a southwesterly corner of said TG707, Inc. tract and in the easterly line of said railroad property;

Thence North 00 degrees 31 minutes 55 seconds East, along the easterly line of said railroad property and through said Markison Avenue, a distance of 1,355.19 feet to a point at the southwesterly corner of said Lot I in the northerly right-of-way line of said Markison Avenue;

Thence North 89 degrees 59 minutes 36 seconds West, along the northerly right-of-way line of said Markison Avenue, through said railroad property and along the southerly line of Lot G of said "Estate of William Merion, Deceased" Subdivision, a distance of 963.27 feet to a point at the intersection of the said northerly right-of-way line of Markison Avenue and the easterly right-of-way line of said 19th Street;

Thence North 00 degrees 17 minutes 31 seconds East, along the aforesaid easterly right-of-way line and the westerly line of Lot 495 and Lot 471 of the said "Estate of William Merion, Deceased" Subdivision, a distance of 345.24 feet to a point at the southwesterly corner of Lot 447 of said subdivision in the northerly line of Southwood Avenue (vacate by ordinance #1508-93);

Thence North 90 degrees 00 minutes 00 seconds West, along the northerly line of said vacated Southwood Avenue, a distance of 10.00 feet to a point at the intersection of the northerly line of said vacated Southwood Avenue and the easterly right-of-way line of said 19th Avenue;

Thence North 00 degrees 17 minutes 31 seconds West, along the easterly line of said Nineteenth Avenue, a distance of 111.97 feet to a point at the intersection of the southerly line of a 16 foot wide alley (vacated by ordinance #'s 1932-95, 2176-78, and 103-66) and the easterly right-of-way line of said 19th Avenue;

Thence South 90 degrees 00 minutes 00 seconds East, along the southerly line of said vacate 16 foot wide alley and the northerly line of Lot 447 through Lot 452 (inclusive) of said subdivision, a distance of 220.00 feet to a point at the northeasterly corner of the said Lot 452;

Thence South 00 degrees 17 minutes 31 seconds East, along the easterly line of said Lot 452, a distance of 56.01 feet to a point;

Thence South 90 degrees 00 minutes 00 seconds East, through Lot 453 and Lot 454 of the said subdivision, a distance of 70.34 feet to a point in the easterly line of said Lot 454;

Thence North 00 degrees 17 minutes 31 seconds West, along the easterly line of said Lot 454, through aforesaid vacated 16 foot wide alley, along the easterly line of Lot 411, and through said Jenkins Avenue, a distance of 234.53 feet to a point at the southeasterly corner of Lot 365 in the said northerly right-of-way line of Jenkins Avenue;

Thence North 90 degrees 00 minutes 00 seconds West, along the said northerly right-of-way line of Jenkins Avenue and the southerly line of Lot 358 through 365 (inclusive) of the said subdivision, a distance of 290.34 feet to the **Point of Beginning**.

Containing 46.371 acres, more or less, within Franklin County Auditor's Parcel Numbers 010-113409, 010-235706, 010-236033, 010-112267, 010-238865, 010-240950, 010-050688, 010-112837, and 010-112838.

Excepting there from all existing and valid roadway and/or railway rights-of-way of record.

All references herein are to records in the Recorder's Office, Franklin County, Ohio.

The basis of bearings for this description is based on the northerly right-of-way line of Jenkins Avenue, being North 90 degrees 00 minutes 00 seconds West, as described in the deed conveyed to TG707 Inc. in Instrument Number 200511160242350.

This description is based on record information only and is not to be construed as a boundary survey as defined by the Minimum Standards for Boundary Surveys set forth and described in Ohio Revised Code 4733-37. This description is to be used for financial purposes only. This instrument was prepared by Columbus Engineering Consultants, Inc. in March 2007.

Daniel J. Hornyak 3/13/07

Daniel J. Hornyak
Registered Professional Surveyor No. 7963

Date



EXHIBIT B

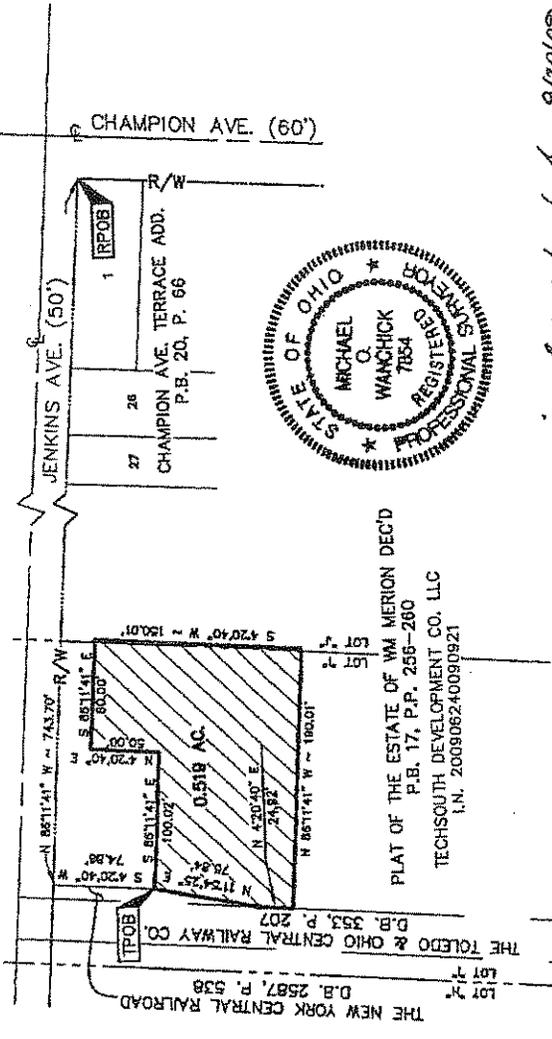
Legal Descriptions of the Building Restriction Areas

Date: August 20, 2009
 Job No. 2009-0865
 Scale: 1" = 100'

PAVEMENT EASEMENT

LOTS I & J
 PLAT OF THE ESTATE OF WM MERION DEC'D. (P.B. 17, P.P. 256-260)
 CITY OF COLUMBUS, COUNTY OF FRANKLIN, STATE OF OHIO

EMPH
 Evans, Metcher, Hambleton & Titon, Inc.
 Engineers - Surveyors - Planners - City Utility
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By *Michael O. Wanchick* 8/20/09
 Professional Surveyor No. 7854 Date
 Michael O. Wanchick

PAVEMENT EASEMENT
0.519 ACRES

Situated in the State of Ohio, County of Franklin, City of Columbus, lying in Lots I and J of "Plat of the Estate of WM Merion Dec'd.", of record in Plat Book 17, Pages 256 - 260, being a strip of land on, over, and across the tract conveyed to Techsouth Development Co. LLC by deed of record in Instrument Number 200906240090921, (all references are to the records of the Recorder's Office, Franklin County, Ohio) and being more particularly described as follows:

Beginning for reference, at a 1 inch iron pipe found the intersection of the southerly right-of-way line of Jenkins Avenue and the westerly right-of-way line of Champion Avenue being the northeasterly corner of lot number 1 of "Champion Ave. Terrace Add." of record in Plat Book 20, Page 66;

Thence North 86° 11' 41" West, with the southerly right-of-way line of Jenkins Ave, a distance of 743.70 feet, to a point at the northeasterly corner of the tract conveyed to The New York Central Railroad of record in Deed Book 2587, P. 538 and on a westerly line of said Techsouth Development Co, LLC tract;

Thence South 04° 20' 40" West, with the easterly line of The New York Central Railroad tract, with a westerly line of said Techsouth Development Co, LLC tract, across said Lot I, a distance of 74.86 feet, to the TRUE POINT OF BEGINNING;

Thence across said Techsouth Development Co. LLC tract and said Lots I and J, the following courses and distances:

South 86° 11' 41" East, a distance of 100.02 feet to a point;

North 04° 20' 40" East, a distance of 50.00 feet to a point;

South 86° 11' 41" East, a distance of 80.00 feet to a point;

South 04° 20' 40" West, a distance of 150.01 feet to a point;

North 86° 11' 41" West, a distance of 190.01 feet to a point on a westerly line of said Techsouth Development Co. LLC tract and on the easterly line of the tract conveyed to The Toledo & Ohio Central Railway Co. by deed of record in Deed Book 353, page 207;

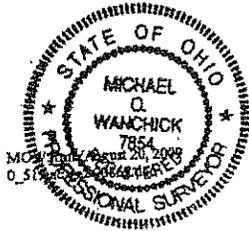
Thence North 04° 20' 40" East, with a westerly line of said Techsouth Development Co. LLC tract and the easterly line of The Toledo & Ohio Central Railway Co. tract a distance of 24.92 feet to a the southerly corner of The New York Central Railroad tract;

Thence North 11° 54' 25" East, with a westerly line of said Techsouth Development Co. LLC tract and the easterly line of The New York Central Railroad tract, a distance of 75.84 feet to the TRUE POINT OF BEGINNING and containing 0.519 acre, more or less.

EVANS, MECHWART, HAMBLETON, & TILTON, INC.

Michael O. Wanchick
Michael O. Wanchick
Professional Surveyor No. 7854

8/20/09
Date



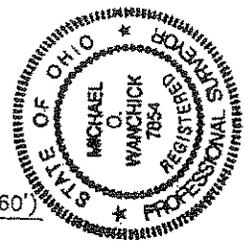
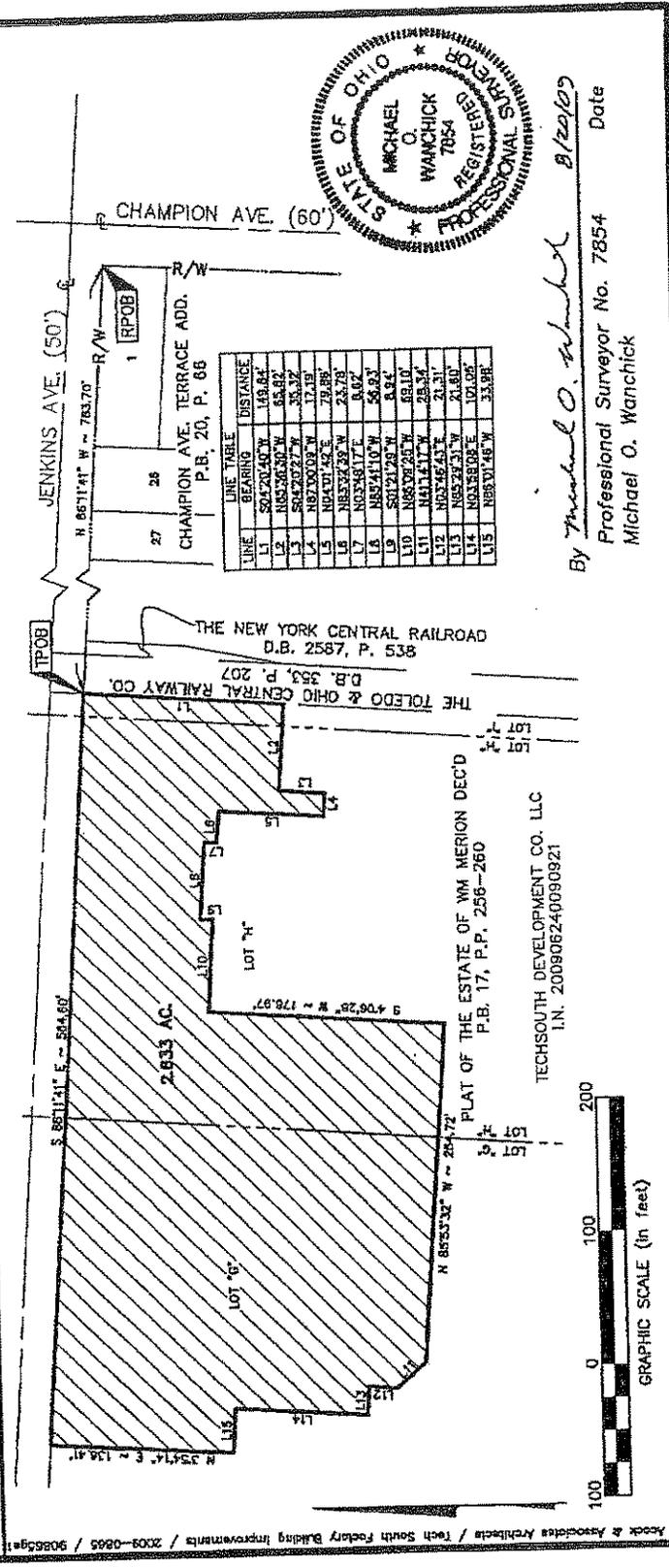
Date: August 19, 2009
 Job No. 2009-0865
 Scale: 1" = 100'

PAVEMENT EASEMENT

LOTS G, H & I
 PLAT OF THE ESTATE OF WM MERION DEC'D. (P.B. 17, P.P. 256-260)
 CITY OF COLUMBUS, COUNTY OF FRANKLIN, STATE OF OHIO



EMH
 Evans, Mechwart, Hombler & Hillon, Inc.
 Engineers • Surveyors • Planners • Scientists
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By *Michael O. Wanchick* 8/20/09
 Professional Surveyor No. 7854 Date
 Michael O. Wanchick



PAVEMENT EASEMENT
2.633 ACRES

Situated in the State of Ohio, County of Franklin, City of Columbus, lying in Lots G, H and I of "Plat of the Estate of WM Merion Dec'd.", of record in Plat Book 17, Pages 256 - 260, being a strip of land on, over, and across the tract conveyed to Techsouth Development Co. LLC by deed of record in Instrument Number 200906240090921, (all references are to the records of the Recorder's Office, Franklin County, Ohio) and being more particularly described as follows:

Beginning for reference, at a 1 inch iron pipe found the intersection of the southerly right-of-way line of Jenkins Avenue and the westerly right-of-way line of Champion Avenue being the northeasterly corner of lot number 1 of "Champion Ave. Terrace Add." of record in Plat Book 20, Page 66;

Thence North 86° 11' 41" West, with the southerly right-of-way line of Jenkins Ave, a distance of 783.70 feet, to a point on an easterly line of said Techsouth Development Co. LLC tract and on the westerly line of the tract conveyed to The Toledo & Ohio Central Railway Co. by deed of record in Deed Book 353, P. 207, the TRUE POINT OF BEGINNING;

Thence South 04° 20' 40" West, with an easterly line of said Techsouth Development Co. LLC tract and with the westerly line of The Toledo & Ohio Central Railway Co. tract and across said Lot I, a distance of 149.84 feet to a point;

Thence across said Techsouth Development Co. LLC tract and said Lots G, H, and I, the following courses and distances:

North 85° 36' 30" West, a distance of 65.82 feet to a point;
South 04° 20' 27" West, a distance of 35.32 feet to a point;
North 87° 00' 09" West, a distance of 17.19 feet to a point;
North 04° 01' 42" East, a distance of 79.86 feet to a point;
North 83° 32' 39" West, a distance of 23.78 feet to a point;
North 03° 48' 17" East, a distance of 8.62 feet to a point;
North 85° 41' 10" West, a distance of 56.93 feet to a point;
South 01° 21' 29" West, a distance of 8.94 feet to a point;
North 86° 09' 25" West, a distance of 69.10 feet to a point;
South 04° 06' 28" West, a distance of 176.97 feet to a point;
North 85° 53' 32" West, a distance of 254.72 feet to a point;
North 41° 14' 17" West, a distance of 28.34 feet to a point;
North 03° 46' 43" East, a distance of 21.31 feet to a point;
North 85° 29' 31" West, a distance of 21.60 feet to a point;
North 03° 58' 08" East, a distance of 101.05 feet to a point;
North 86° 01' 46" West, a distance of 33.98 feet to a point;
North 03° 54' 14" East, a distance of 136.41 feet to a point on the southerly right-of-way line of said Jenkins Ave;

South 86° 11' 41" East, with the southerly right-of-way line of Jenkins Ave., a distance of 564.60 feet to the TRUE POINT OF BEGINNING and containing 2.633 acres, more or less.



EVANS, MBCHWART, HAMBLETON, & TILTON, INC.

Michael O. Wanchick 8/20/09

Michael O. Wanchick
Professional Surveyor No. 7854

Date

EXHIBIT C

Interests in or Encumbrances to the Property

1. Matters of Survey as shown on ALTA/ACSM Land Title Survey prepared by Earnest C. Boutwell, Registered Surveyor No. 7489, Boutwell & Associates, Inc., dated June 11, 2009 (the "Survey"), to wit:
 - (a) Subject property's chain link fence encroaches across the south right of way line of Sheldon Avenue by 5.0 feet on the easterly end of the fence and 4.8 feet on the westerly end of the fence;
 - (b) Adjoiner's asphalt drive encroaches 2.5 feet at its northwest corner onto the subject property;
 - (c) Subject property's 1 foot wide concrete retaining wall with a 6' tall chain link fence encroaches across the north right of way line of Markison Avenue and the east right of way line of Nineteenth Street at the northeast corner of the intersection of these two streets. The retaining wall and chain link fence encroaches 5.9 feet onto Markison Avenue and 3.9 feet onto Nineteenth Street;
 - (d) Subject property's 10 foot by 6 foot tin shed is entirely located within the right of way line of Nineteenth Street (encroaches approximately 11 feet);
 - (e) Subject property's concrete pad encroaches across the East right of way line of Nineteenth Street by 0.5 feet;
 - (f) Subject property's vent shafts encroach across the East right of way line of Nineteenth Street by 4 feet;
 - (g) Subject property's building encroaches across the north right of way line of Markison Avenue by 7.1 feet at the easterly end and 5.9 feet at the westerly end;
 - (h) Encroachment of eleven (11) building lights across the north line of Markison Avenue (by approximately 2.5 feet to 8.5 feet maximum); and
 - (i) 50' wide sewer easement found on prior survey and unable to find easement of record.

2. Easement to The City of Columbus, filed for record October 27, 1927, in Volume 874, Page 1, of the Franklin County Records.
3. Reservations, restrictions, covenants, limitations, easements, and/or conditions, as established in instrument, filed for record August 19, 1941, in Volume 1142, Page 594, of the Franklin County Records.
4. Reservations, restrictions, covenants, limitations, easements, and/or conditions, as established in instrument, filed for record September 17, 1941, in Volume 1160, Page 619, of the Franklin County Records.
5. Easement to Columbus and Southern Ohio Electric Company, filed for record November 15, 1941, in Volume 1127, Page 496, of the Franklin County Records.
6. Reservations, restrictions, covenants, limitations, easements, and/or conditions, as established in instrument, filed for record June 13, 1952, in Volume 1684, Page 535, of the Franklin County Records.
7. Right-of-Way to The Ohio Fuel Gas Company, filed for record August 25, 1952, in Volume 1700, Page 510 of the Franklin County Records.
8. Right-of-Way to The Ohio Fuel Gas Company, filed for record August 28, 1952, in Volume 1699, Page 135 of the Franklin County Records.
9. Easement to the County of Franklin, filed for record November 7, 1974, in Volume 3439, Page 456, of the Franklin County Records.
10. Easement to the State of Ohio, filed for record June 30, 1975, in Volume 3471, Page 495, of the Franklin County Records.
11. Utility Easement to the City of Columbus appearing in Ordinance No. 1508-93, passed July 12, 1993 and Approved July 13, 1993, of the Franklin County Records.
12. Aerial Encroachment Easement to Techneglas, Inc., filed for record July 24, 1995, in Official Record 29588A15, of the Franklin County Records.
13. Utility Easement to the City of Columbus appearing in Ordinance No. 1932-95, passed July 31, 1995 and Approved July 31, 1995, of the Franklin County Records.
14. Easement to Columbus and Southern Power Company, filed for record June 4, 1996, in Official Record 32162E13, of the Franklin County Records.

15. Easement to Columbus Southern Power Company, filed for record June 4, 1996, in Official Record 32162H18, of the Franklin County Records.
16. Easement for Railroad Side Track/Spur to Techneglas, Inc., filed for record August 7, 1996, in Official Record 32753B18, of the Franklin County Records.
17. Utility Easement to the City of Columbus appearing in Ordinance No. 2345-96, passed October 28, 1996 and Approved October 29, 1996, of the Franklin County Records.
18. Easement to Columbus Southern Power Company, filed for record February 26, 1997, in Official Record 34386H03, of the Franklin County Records.
19. Utility Easement to the City of Columbus appearing in Ordinance No. 515-97, passed March 3, 1997 and Approved March 4, 1997, of the Franklin County Records.
20. Encroachment Easement to Techneglas, Inc., filed for record January 26, 1998, in Instrument No. 199801260017176, of the Franklin County Records.
21. Easement Agreement by and between Techneglas, Inc., a Delaware corporation and Cra-Co Investments LLC, an Ohio limited liability company, filed for record April 1, 2004 in Instrument No. 200404010071299, of the Franklin County Records.
22. Easement & Right-of-Way to Columbus Southern Power Company, filed for record March 11, 2008, in Instrument No. 200803110037156, of the Franklin County Records.
23. Easement to Columbus and Southern Ohio Electric Company, filed for record September 24, 1955, in Deed Book 1911, Page 558, of the Franklin County Records.
24. Open-End Mortgage and Security Agreement from TG707, Inc., an Ohio corporation, to Greystone Funding Corporation, in the maximum amount of \$2,800,000.00, filed for record December 20, 2005, in Instrument No. 200512200266827, of the Franklin County Records.
25. Open-End Mortgage Modification Agreement, filed for record October 9, 2008 in Instrument No. 200810090151397, of the Franklin County Records.

26. Mechanic's Lien filed by Industrial Waste Control, Inc. in the amount of \$398,156.95, filed May 29, 2009, in Instrument No. 200905290077189, of the Franklin County Records.
27. Second Open-End Mortgage Modification Agreement from TG707, Inc., an Ohio corporation, to Greystone Funding Corporation, a Virginia corporation, in the maximum amount of \$9,500,000.00, filed for record June 18, 2009, in Instrument No. 200906180088510 of the Franklin County Records.
28. Memorandum of Assumption Agreement among Greystone Funding Corporation, a Virginia corporation, TG707, Inc., an Ohio corporation, and TechSouth Development Co. LLC, a Delaware limited liability company, filed for record June 24, 2009, in Instrument No. 200906240090928, of the Franklin County Records.
29. Notice of Commencement recorded on February 1, 2007 in Instrument No. 200702010019728, of the Franklin County Records.
30. Notice of Commencement recorded on November 7, 2008 in Instrument No. 200811070163919, of the Franklin County Records.