



Instrument Number: 201602260022845
Recorded Date: 02/26/2016 9:19:08 AM



Terry J. Brown
Franklin County Recorder
373 South High Street, 18th Floor
Columbus, OH 43215
(614) 525-3930
<http://Recorder.FranklinCountyOhio.gov>
Recorder@FranklinCountyOhio.gov

FranklinCountyRecorderTerryBrown @RecorderBrown

Transaction Number: T20160011773

Document Type: AFFIDAVIT

Document Page Count: 78

Submitted By (Mail):

COLUMBUS AND FRANKLIN COUNTY METROPOLITAN
PARK DISTRICT
1069 W MAIN STREET

WESTERVILLE, OH 43081-1181

Mail

Return To (Mail Envelope):

COLUMBUS AND FRANKLIN COUNTY METROPOLITAN PARK
DISTRICT
1069 W MAIN STREET
WESTERVILLE, OH 43081-1181

Mail Envelope

First Grantor:

COLUMBUS AND FRANKLIN COUNTY METROPOLITAN
PARK DISTRICT

First Grantee:

OHIO ENVIRONMENTAL PROTECTION AGENCY

Fees:

Document Recording Fee: \$28.00
Additional Pages Fee: \$608.00

Total: \$636.00

Instrument Number: 201602260022845

Recorded Date: 02/26/2016 9:19:08 AM

OFFICIAL RECORDING COVER PAGE

DO NOT DETACH

THIS PAGE IS NOW PART OF THIS RECORDED DOCUMENT

NOTE: If the document data differs from this cover sheet, the document data always supersedes the cover page.
COVER PAGE DOES NOT INCLUDE ALL DATA, PLEASE SEE INDEX AND DOCUMENT FOR ANY ADDITIONAL INFORMATION.

78
11/31

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

AFFIDAVIT

STATE OF OHIO)
)
COUNTY OF FRANKLIN) SS:

Before me, the subscriber, a Notary Public in and for the State of Ohio, personally appeared Tonya R. Lassiter, who, being duly sworn according to law, deposes and says that: (i) she is employed as a records management officer in the Legal Office of the Ohio Environmental Protection Agency (EPA) and, as such, is authorized to sign this Affidavit on behalf of Ohio EPA; and (ii) the attached document is a true and correct copy of the Covenant Not to Sue / Director's Final Findings and Orders issued by the Director, and entered in the Ohio EPA Director's Journal on December 30, 2015, regarding property known the Southern Tier of Whittier Peninsula, located at 400 West Whittier Street in Columbus, Franklin County, Ohio and further described in the attached Covenant Not to Sue.

Tonya R. Lassiter
Tonya R. Lassiter
Records Management Officer
Ohio EPA Legal Office

Sworn to and subscribed before me, a Notary Public in and for the State of Ohio, this 30th day of December, 2015.

S. Kroeger
Notary Public
State of Ohio

Permanent Commission
No expiration, R.C. 147.03

This instrument prepared by:

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



SUSAN C. KROEGER
Attorney at Law
Notary Public
State of Ohio
Lifetime Commission

OHIO E.P.A.

DEC 30 2015

I certify this to be a true and accurate copy of the
official documents as filed in the records of the Ohio
Environmental Protection Agency.

By Donna Lassiter Date: 12-30-15

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the matter of:

Columbus and Franklin County
Metropolitan Park District
1069 West Main Street
Westerville, Ohio 43081

Covenant Not to Sue

Director's Final Findings
and Orders

Regarding property known as:

Southern Tier of Whittier Peninsula
400 West Whittier Street
Columbus, Ohio

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. 14NFA592 (the "NFA Letter"), was submitted on July 31, 2014 to the Director under the Voluntary Action Program on behalf of the Columbus and Franklin County Metropolitan Park District (the "Volunteer"), by Thomas J. Mignery, a certified professional, No. CP 125, as defined in ORC 3746.01(F) and OAC 3745-300-01(A) (the "Certified Professional").
2. The Certified Professional issued the NFA Letter by his certified professional affidavit on July 29, 2014. The Certified Professional also submitted to the Director addenda to the NFA Letter, which were issued under certified professional affidavit on March 30, 2015, July 2, 2015 and August 14, 2015. For the purposes of these Findings and Orders, the term "NFA Letter" includes the addenda.

3. The NFA Letter describes the investigational and remedial activities undertaken at the approximately 59.031-acre property, known as the Southern Tier of Whittier Peninsula, located at 400 West Whittier Street, 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 the Columbus and Franklin County Metropolitan Park District. 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

4. Based upon the information in the NFA Letter, the Volunteer undertook the following investigational and remedial activities regarding the Property:
 - a. A Phase I Property Assessment, in accordance with OAC 3745-300-06, to determine whether there is any reason to believe that a release of hazardous substances or petroleum has or may have occurred on, underlying or is emanating from the Property.
 - b. A Phase II Property Assessment, in accordance with OAC 3745-300-07, including but not limited to investigations of identified areas and affected media at the Property, 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 in accordance with ORC 5301.80 to 5301.92, subject to execution by the Director and recording as described in these Findings and Orders.
 - d. An Operation and Maintenance ("O&M") Plan prepared in accordance with OAC 3745-300-11, including an engineering control consisting of fencing and signage to prevent direct contact with soil containing concentrations of arsenic, lead and polycyclic aromatic hydrocarbons exceeding applicable standards.
 - e. A Risk Mitigation Plan ("RMP"), prepared in accordance with OAC 3745-300-11, that provides various risk mitigation measures for construction or excavation activities at the Property.
 - f. Other remedial activities, conducted in accordance with OAC 3745-300-11, including the placement of a minimum of 2 feet of clean soil over areas of soil containing concentrations of chemicals of concern ("COCs") exceeding applicable standards.
 - g. A demonstration that the Property complies with applicable standards

based on the remedial activities for the identified COCs in the identified areas and affected media at the Property through a comparison to background levels in accordance with OAC 3745-300-07, the use of generic numerical standards in accordance with OAC 3745-300-08, or the use of a property-specific risk assessment in accordance with OAC 3745-300-09.

5. The Certified Professional has verified by affidavit that the voluntary action was conducted and the NFA Letter was issued for the Property in accordance with ORC Chapter 3746 and OAC Chapter 3745-300, that the Property is eligible for the Voluntary Action Program, and that the voluntary action was conducted in compliance with all applicable federal, state and local laws and regulations.
6. At the time that analyses were performed, TestAmerica Laboratories in Dayton, Ohio, North Canton, Ohio and Nashville, Tennessee, No(s). CL0018, CL0024 and CL0033, respectively, were certified laboratories as defined in ORC 3746.01(E) and OAC 3745-300-01(A), whose services were used in support of the NFA Letter (the "Certified Laboratories").
7. 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. Limit the Property to recreational as defined in the Environmental Covenant and commercial / industrial land uses as defined by OAC 3745-300-08(B)(2)(c)(ii) and (B)(2)(c)(iii) (version effective March 1, 2009).
 - b. Prohibit the extraction or use of ground water underlying the property for any purpose, potable or otherwise, except for purposes of ground water investigation, monitoring or remediation or in conjunction with construction or excavation activities or maintenance of subsurface utilities.
 - c. Limit human occupancy of any building constructed after the recording date of the Environmental Covenant unless a remedy to prevent vapor intrusion to indoor air is constructed and operated and maintained as an engineering control under an operation and maintenance agreement and plan, or a demonstration by a certified professional is made demonstrating that the property complies with applicable standards without further remedy.
8. For activities specified in the O&M Plan herein, Ohio EPA and the Columbus and Franklin County Metropolitan Park District have entered into an O&M Agreement, which includes and incorporates by reference the O&M Plan, in part to mitigate or eliminate human exposure to arsenic, lead and polycyclic aromatic hydrocarbons in soil at concentrations exceeding applicable standards at the Property. The

O&M Agreement is attached hereto as Exhibit 5 and incorporated by reference herein.

9. The RMP, dated July 2014, was developed in accordance with OAC 3745-300-11. The RMP is attached hereto as Exhibit 6 and incorporated by reference herein. The implementation of the RMP is necessary to mitigate or eliminate human exposure to lead and total petroleum hydrocarbons in soil and dibenzo(a,h)anthracene in ground water at the Property, during construction or excavation activities.

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 recreational and 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 July 29, 2014. The applicable standards, the methods of achieving compliance with the standards, and associated points of compliance for the standards for each complete exposure pathway are identified in the NFA Letter, which contains a summary table titled "*Applicable Standards Determination and Complete Pathway Determination*." 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 limestone bedrock saturated zone underlying the Property, applied in accordance with ORC 3746.06(B).
11. Based on the remedies identified in this paragraph, the Property complies with applicable standards. Failure of one or more of the remedial activities may constitute noncompliance with applicable standards. The remedies include:
 - a. The activity and use limitations set forth in the Environmental Covenant attached hereto, which once recorded will limit the Property to recreational, commercial or industrial land uses, prohibit the extraction or use of ground water, and limit human occupancy of any building constructed after the recording date of the environmental covenant as

described by the Environmental Covenant.

- b. The engineering controls and associated activities set forth in the O&M Plan and the O&M Agreement attached hereto, which prevent direct contact or mitigate exposure to COCs in soil.
 - c. The risk mitigation measures implemented under the RMP attached hereto, which mitigate exposure to COCs in soil and ground water for construction and excavation activities.
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 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 the Columbus and Franklin County Metropolitan Park District, and its respective agents, employees, officers, directors, successors and assigns, and successors and assigns of the Property, from all civil liability to the State of Ohio (the "State") to perform additional investigational and remedial activities. This covenant not to sue and release of liability ("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, the Columbus and Franklin County Metropolitan Park District shall:

- a. File with the Franklin County Recorder's Office for recording, in the same manner as a deed to the Property pursuant to ORC 3746.14 and 5301.88, the Environmental Covenant as executed and attached hereto as Exhibit 4. The document for recording may be an executed original or a copy of the same authenticated by Ohio EPA.
- b. Submit to Ohio EPA a copy of the recorded Environmental Covenant that shows the filing date stamp of the Franklin County Recorder's Office or other reliable information that verifies the recording of the document in accordance with this Order. The submission shall include a cover letter that identifies "*Recorded - Environmental Covenant for the Southern Tier of Whittier Peninsula, NFA Letter No. 14NFA592.*" The submission shall be delivered either (1) electronically to the DERR Records Management Officer at Ohio EPA's Central Office, at records@epa.ohio.gov or (2) by U.S. mail or by other reliable means to both Ohio EPA's Central Office, 50 West Town Street, Suite 700, P.O. Box 1049, Columbus, OH 43216-1049, Attention: DERR Records Management Officer and Ohio EPA's Central District Office, 50 West Town Street, Suite 700, P.O. Box 1049, Columbus, Ohio 43216-1049, Attention: DERR Site Coordinator for the Southern Tier of Whittier Peninsula.

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

3. Within thirty (30) days after the issuance of these Findings and Orders, the Columbus and Franklin County Metropolitan Park District 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), 5 (Operation and Maintenance Agreement), and 6 (Risk Mitigation Plan).
 - b. Submit to Ohio EPA a copy of the Findings and Orders that shows the filing date stamp of the Franklin County Recorder's Office or other reliable information that verifies the recording of the Findings and Orders in accordance with this Order. The submission shall include a cover letter that identifies "*Recorded - Covenant Not to Sue for NFA Letter No. 14NFA592.*" The submission shall be delivered either (1) electronically to the DERR Records Management Officer at Ohio EPA's Central Office, at records@epa.ohio.gov or (2) by U.S. mail or by other reliable means to both Ohio EPA's Central Office, 50 West Town Street, Suite 700, P.O. Box 1049, Columbus, OH 43216-1049, Attention: DERR Records Management Officer, and Ohio EPA's Central District Office, 50 West Town Street, Suite 700, P.O. Box 1049, Columbus, Ohio 43216-1049, Attention: DERR Site Coordinator for the Southern Tier of Whittier Peninsula.

Requirement to Submit Annually a Risk Mitigation Plan Notification

4. Pursuant to ORC 3746.12(A) and OAC 3745-300-11, the Covenant provided in Order No. 1 of these Findings and Orders is conditioned on Ohio EPA's receipt of a notification regarding the RMP, as attached hereto and referenced in the Findings herein. This condition in no way supersedes any separate notification requirement included in the RMP (i.e., notice to contractors).
 - a. The notification shall be submitted annually, by March 1 for the reporting period of January 1 to December 31 of each year after the effective date of these Findings and Orders, beginning with March 1, 2017.
 - b. Each notification shall be submitted under affidavit by the person(s) who have knowledge of RMP implementation for the applicable notification period. The notification shall address:
 - i. Whether implementation of the RMP occurred during the notification period.
 - ii. The events that required the implementation of the RMP, the exposures to contaminated environmental media that may have occurred, and the risk mitigation measures that were undertaken in accordance with the RMP.
 - c. The submission shall include a cover letter that identifies "*Risk Mitigation Plan Annual Report for NFA Letter No. 14NFA592.*" The submission shall be delivered either (1) electronically to the DERR Records Management Officer, at Ohio EPA's Central Office, at records@epa.ohio.gov 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 West Town Street, Suite 700, P.O. Box 1049, Columbus, Ohio 43216-1049, Attention: DERR Site Coordinator for Southern Tier of Whittier Peninsula.

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

5. Pursuant to ORC 3746.12(A)(2) and the O&M Agreement, the Columbus and Franklin County Metropolitan Park District shall notify the Director of each transfer or assignment of the Property or any portion of the Property or of the Covenant within fourteen days. The notice to Ohio EPA shall include a cover letter that identifies "*Notice of Conveyance pursuant to ORC 3746.12(A)(2) - NFA Letter No. 14NFA592.*" 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.ohio.gov 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 West Town Street, Suite 700, P.O. Box 1049, Columbus, Ohio 43216-1049, Attention: DERR Site Coordinator for Southern Tier of Whittier Peninsula.

Limits of Covenant

6. 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.
7. 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.
8. 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.
9. 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.

10. 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.
11. 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

12. 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

13. Pursuant to ORC 3746.14 and OAC 3745-300-13, 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:



Craig W. Butler, Director
Ohio Environmental Protection Agency

DEC 30 2015

Date

Director's Final Findings & Order — Covenant Not to Sue
Southern Tier of Whittier Peninsula

Exhibit 1
Legal Description

DESCRIPTION OF 59.031 ACRES
SOUTH TIER
WHITTIER PENINSULA
CITY OF COLUMBUS, OHIO

Situated in the State of Ohio, County of Franklin, City of Columbus, being the "South Tier" located on the Whittier Peninsula and on the lands of the City of Columbus. All references herein are to the records of the Recorder's Office and Auditor's Office, Franklin County, Ohio, and being more particularly described as follows:

Beginning at the most northerly corner of that 8.671-acre tract as described in a deed to the City of Columbus, Ohio, of record in Instrument No. 199909030226778 and at an angle point in the perimeter of the property of CSX Transportation (PID [property identification] No. 010-057548);

Thence along the common line between said properties the following courses:

1. South 52°07'07" East, a distance of 519.27 feet to an angle point;
2. South 45°30'32" East, a distance of 339.55 feet to an angle point;
3. South 19°58'02" East, a distance of 644.34 feet to an angle point in the northerly right-of-way line of Whittier Street;

Thence South 04°03'07" West, crossing Whittier Street, a distance of 151.31 feet to a point in the southerly right-of-way of same at the intersection of the perimeter of PID 010-067084;

Thence along said perimeter the following courses:

1. South 66°59'50" West, a distance of 182.51 feet to an angle point;
2. North 88°33'42" West, a distance of 231.07 feet to a point near the water line of the Scioto River;

Thence North 56°34'31" West, along said water line, a distance of 58.08 feet to a point;

Thence North 81°27'02" West, continuing along said water line, a distance of 962.86 feet to a southeasterly corner of that 26.611-acre tract designated as the Audubon Nature Center;

Thence along the perimeter of said 26.611-acre tract the following courses:

J:\09\09-032\DOCUMENTS\SouthTierColumbus.doc

Description of 59.031 acres, Page 2

1. North 02°03'19" East, a distance of 422.64 feet to an angle point;
2. North 55°44'25" West, a distance of 202.82 feet to an angle point;
3. North 02°15'41" East, a distance of 309.42 feet to an angle point;
4. North 48°12'49" West, a distance of 25.46 feet to an angle point;
5. South 81°18'40" West, a distance of 291.64 feet to an angle point;
6. South 87°19'30" West, a distance of 222.01 feet to an angle point;
7. North 73°52'51" West, a distance of 250.05 feet to an angle point;
8. North 69°11'39" West, a distance of 295.44 feet to an angle point;
9. North 84°44'19" West, a distance of 485.90 feet to a point again near the water line of the Scioto River;

Thence North 11°41'59" West, along said water line, a distance of 482.20 feet to a point;

Thence South 86°09'50" East, becoming coincident with the southerly line of that City of Columbus 9.4686-acre tract (PID No. 010-036350) at a distance of 310 feet, a total distance of 717.23 feet to an angle point;

Thence North 04°15'44" East, continuing along the perimeter of said 9.4686-acre tract, a distance of 74.68 feet to an angle point;

Thence North 69°56'39" East, continuing along said perimeter, a distance of 49.38 feet to a point in the southerly line of a vacated alley (Ord. No. 16885);

Thence South 86°09'50" East, along said southerly line, a distance of 408.75 feet to a point within the right-of-way of Maier Place;

Thence North 04°15'44" East, through said right-of-way, a distance of 219.27 feet to an angle point in the perimeter of the CSX Transportation property (PID No. 010-066150);

Thence along said perimeter the following courses:

1. South 67°16'50" East, a distance of 209.20 feet to an angle point;
2. South 03°50'10" West, a distance of 200.00 feet to an angle point;
3. South 86°09'50" East, a distance of 301.16 feet to an angle point;
4. South 66°26'50" East, a distance of 114.15 feet to an angle point;
5. South 55°00'50" East, a distance of 541.84 feet to an angle point;

J:\09\09-032\DOCUMENTS\SouthTierColumbus.doc

Description of 59.031 acres, Page 3

6. North $33^{\circ}59'15''$ East, a distance of 152.45 feet to the place of beginning and containing 59.031 acres of land.

Bearings herein are based on the NAD 83 Ohio State Plane Coordinate System, South Zone, utilizing monuments COC 13-83 and COC 18-83.

This description was prepared by M•E Companies, Inc., Civil Engineering Group, based on information obtained from field surveys and records of the Franklin County Recorder's Office.



M•E Companies, Inc.
Civil Engineering Group

By Robert S. Wynd 10/7/10
Robert S. Wynd date
Registered Surveyor No. 6872

SITUATED IN THE STATE OF OHIO, COUNTY OF FRANKLIN, CITY OF COLUMBUS,
BEING LOCATED IN HALF SECTION 27, TOWNSHIP 5 NORTH, RANGE 22 WEST, REFUGEE LANDS.

BEARING REFERENCE
BEARING SHOWN HEREIN ARE BASED ON THE NAD 83 AND
STATE PLANE COORDINATE SYSTEM, SOUTH ZONE, UTM ZONE
18QMDN079 COG 13-83 AND COG 14-83



WORTHY MAP

DESCRIPTION OF 59.031 ACRES

Plotted in the State of Ohio, County of Franklin, City of Columbus, being the "South Tier" lot 14.141 in the "Refugee Lands" and as the same of the City of Columbus, 10 references herein are to the records of the Recorder's Office and Auditor's Office, Franklin County, Ohio, and being more particularly described as follows:

Beginning at the west corner of the 4.071-acre tract as described in a deed to the City of Columbus, Ohio, of record in instrument No. 1990000000000000000 and as an angle point in the corner of the property of the City of Columbus, Ohio, (hereinafter referred to as "City of Columbus") to the south corner of the 4.071-acre tract.

Thence along the common boundary between the following corners:
1. South 89°07'07" East, a distance of 317.27 feet to an angle point;
2. South 89°07'07" East, a distance of 328.33 feet to an angle point;
3. South 89°07'07" East, a distance of 342.33 feet to an angle point in the north-south right-of-way line of Whittier Street;

Thence along the common boundary between the following corners:
1. South 89°07'07" East, a distance of 342.33 feet to an angle point;
2. South 89°07'07" East, a distance of 323.27 feet to a point near the center line of the Whittier Street;

Thence along the common boundary between the following corners:
1. South 89°07'07" East, a distance of 323.27 feet to a point near the center line of the Whittier Street;

Thence along the common boundary between the following corners:
1. South 89°07'07" East, a distance of 323.27 feet to a point near the center line of the Whittier Street;

Thence along the common boundary between the following corners:
1. South 89°07'07" East, a distance of 323.27 feet to a point near the center line of the Whittier Street;

Thence along the common boundary between the following corners:
1. South 89°07'07" East, a distance of 323.27 feet to a point near the center line of the Whittier Street;

Thence along the common boundary between the following corners:
1. South 89°07'07" East, a distance of 323.27 feet to a point near the center line of the Whittier Street;

Thence along the common boundary between the following corners:
1. South 89°07'07" East, a distance of 323.27 feet to a point near the center line of the Whittier Street;

Thence along the common boundary between the following corners:
1. South 89°07'07" East, a distance of 323.27 feet to a point near the center line of the Whittier Street;

Thence along the common boundary between the following corners:
1. South 89°07'07" East, a distance of 323.27 feet to a point near the center line of the Whittier Street;

Thence along the common boundary between the following corners:
1. South 89°07'07" East, a distance of 323.27 feet to a point near the center line of the Whittier Street;

Thence along the common boundary between the following corners:
1. South 89°07'07" East, a distance of 323.27 feet to a point near the center line of the Whittier Street;

Thence along the common boundary between the following corners:
1. South 89°07'07" East, a distance of 323.27 feet to a point near the center line of the Whittier Street;

Thence along the common boundary between the following corners:
1. South 89°07'07" East, a distance of 323.27 feet to a point near the center line of the Whittier Street;

Thence along the common boundary between the following corners:
1. South 89°07'07" East, a distance of 323.27 feet to a point near the center line of the Whittier Street;

Thence along the common boundary between the following corners:
1. South 89°07'07" East, a distance of 323.27 feet to a point near the center line of the Whittier Street;

Thence along the common boundary between the following corners:
1. South 89°07'07" East, a distance of 323.27 feet to a point near the center line of the Whittier Street;

Thence along the common boundary between the following corners:
1. South 89°07'07" East, a distance of 323.27 feet to a point near the center line of the Whittier Street;

Thence along the common boundary between the following corners:
1. South 89°07'07" East, a distance of 323.27 feet to a point near the center line of the Whittier Street;

Thence along the common boundary between the following corners:
1. South 89°07'07" East, a distance of 323.27 feet to a point near the center line of the Whittier Street;

Thence along the common boundary between the following corners:
1. South 89°07'07" East, a distance of 323.27 feet to a point near the center line of the Whittier Street;

Thence along the common boundary between the following corners:
1. South 89°07'07" East, a distance of 323.27 feet to a point near the center line of the Whittier Street;



ME
COMPANIES

Surveying
Engineering
Mapping
Photogrammetry
and
Geomatics

4000 North High Street
Columbus, Ohio 43202
Phone: (614) 291-1234
Fax: (614) 291-1235

www.me.companies.com

ME COMPANIES

ME COMPANIES

ME COMPANIES

ME COMPANIES

ME COMPANIES

ME COMPANIES

ME COMPANIES

ME COMPANIES

ME COMPANIES

ME COMPANIES

ME COMPANIES

ME COMPANIES

ME COMPANIES

ME COMPANIES

ME COMPANIES

ME COMPANIES

ME COMPANIES

ME COMPANIES

ME COMPANIES

ME COMPANIES

ME COMPANIES

SOUTH
TIER
WHITTIER TERRACE
COLUMBUS, OHIO

FIELD BOOK

DATE

BY

REVISION

REVISION

REVISION

REVISION

REVISION

REVISION

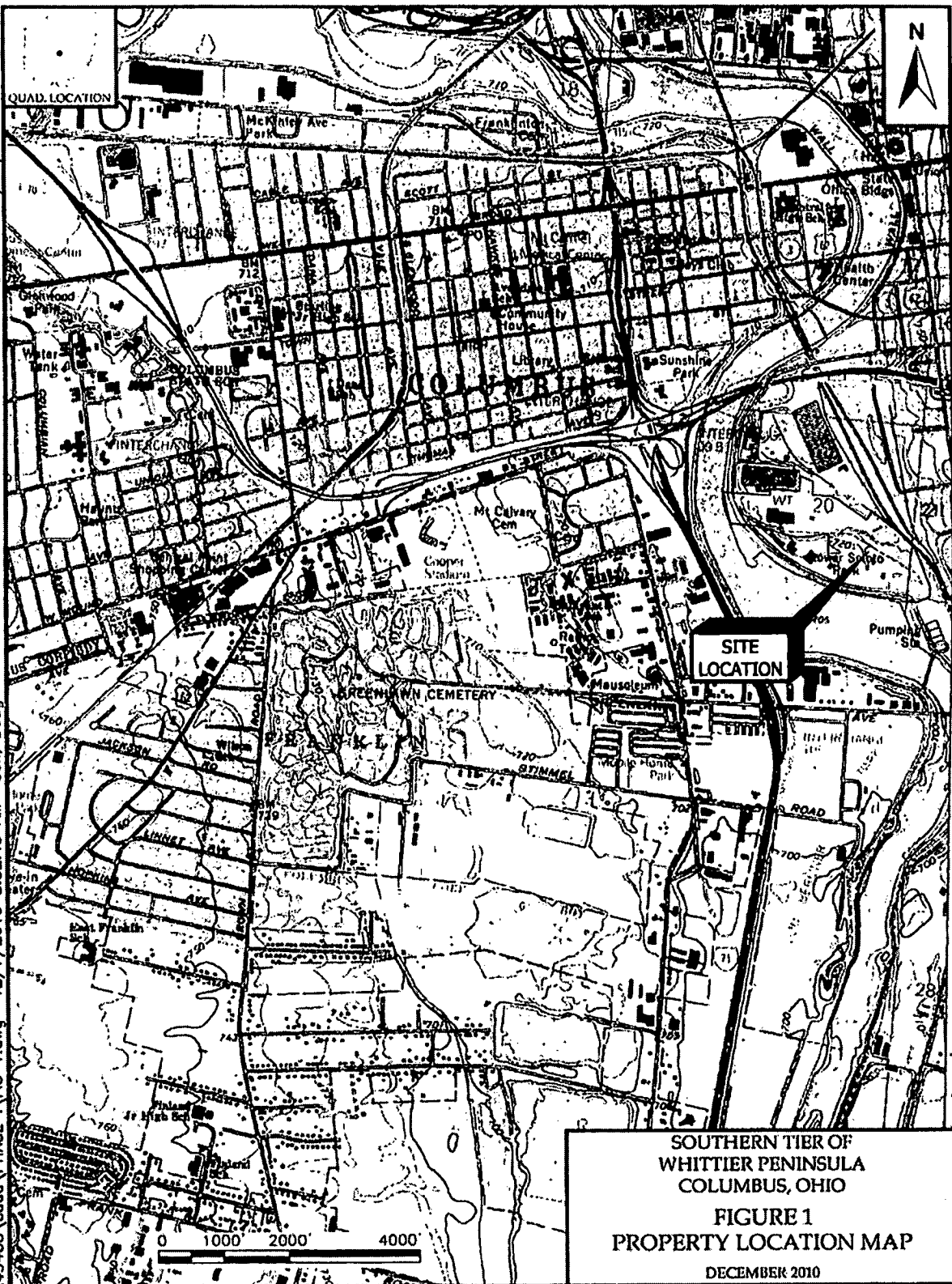
REVISION

PROPERTY
EXHIBIT

Exhibit 2
Property Location Map

PLOTTED: 12/13/2010 2:13:20 PM

P:\PR49408\cadd\PHASE 1\FIG 1.dwg 12/7/2010 8:52:43 AM Cox, Doug



SOUTHERN TIER OF
WHITTIER PENINSULA
COLUMBUS, OHIO
FIGURE 1
PROPERTY LOCATION MAP

DECEMBER 2010

BURGESS & NIPLE
Engineers • Environmental Scientists • Geologists

SOURCE:
7.5 MINUTE SOUTHWEST COLUMBUS, OHIO U.S.G.S. QUADRANGLE MAP

Exhibit 3
Executive Summary

SECTION B: EXECUTIVE SUMMARY OF NO FURTHER ACTION LETTER

Southern Tier of Whittier Peninsula

400 West Whittier St., Columbus, Franklin County, Ohio

VOLUNTEER:

Columbus and Franklin County Metropolitan Park District

1069 West Main St., Westerville, OH

Issued by: Thomas J. Mignery, CP Number 125, (614) 459-2050

This executive summary has been completed to meet the requirements of Ohio Administrative Code (OAC) 3745-300-13(I) and OAC 3745-300-13(K) which serves as the recording summary of the no further action (NFA) 14NFA592 letter. Copies of the NFA letter may be obtained by contacting the Ohio EPA – Division of Environmental Response and Revitalization, Central Office Records Management Officer. A legal description of the subject property has been included as an attachment to both the NFA letter and covenant not to sue.

SECTION 1.0 – PROPERTY HISTORY

The Property has historically been used primarily for industrial purposes. Activities conducted on the site appear to have included sand and gravel mining, the manufacturing of concrete products by the former Universal Concrete Company, possible unpermitted/unlicensed landfill activity, and used for the storage of cars and other vehicles on the City of Columbus Impound Lots.

The placement of fill material on the subject property has occurred over the years as open water areas, most likely associated with sand/gravel mining, have been filled in and properties have been graded for development. A portion of the Property is also reported to have been used as an unpermitted/unlicensed municipal waste landfill/open dumping area.

SECTION 2.0 – TIMELINE

- Phase I Environmental Property Assessment – Southern Tier of Whittier Peninsula – completed December 2010
- Phase II Environmental Property Assessment – Southern Tier of Whittier Peninsula - completed July 2014
- Property-Specific Risk Assessment – Southern Tier of Whittier Peninsula – completed October 2011
- VAP Update to the Phase I Property Assessment – included in the VAP Phase II PA – completed July 2014
- Remedial Completion Report - completed July 2014
- 14NFA592 NFA letter issued: July 2014
- NFA Letter Addendum 1 issued March 30, 2015
- NFA Letter Addendum 2 issued July, 2015

SECTION 3.0 – NFA LETTER

Section 3.1 – Phase I Property Assessment

The Property is 59.031 acres located at 400 West Whittier St., Columbus, Franklin County, Ohio. Four identified areas (IAs) were noted on the Property. The following describes the IAs and their associated COCs:

IA-1 – Upper Impound Lot – VOCs, SVOCs, TPH, 16 VAP metals, PCBs

IA-2 – Lower Impound Lot (Portion of the Former Universal Concrete Facility) – VOCs, SVOCs, TPH, 16 VAP metals, PCBs

IA-3 – Former Universal Concrete Structures – VOCs, SVOCs, TPH, 16 VAP metals, PCBs

IA-4 – Historical General Fill Area – VOCs, SVOCs, TPH, 16 VAP metals, PCBs

The Phase I established a reason to believe that a release of hazardous substances or petroleum products had occurred on the Property or that hazardous substances or petroleum have or may have occurred on, underlying, or are emanating from the Property in accordance with OAC 3745-300-06. Additional investigation in the form of a Phase II ESA/PA was recommended for the Property to determine to what extent historical uses of the Property and operations conducted on immediately adjoining properties have resulted in impacts to soil and/or groundwater.

Section 3.2 – Proposed Land Use

The Property has been redeveloped as part of Scioto Audubon Metro Park. The Property currently includes

railways, shelters, restrooms, an obstacle course, and the former City of Columbus Impound Lot building(s) as it is utilized as office space for Metro Parks and the City of Columbus Recreation and Parks Department.

Section 3.3 – Phase II Property Assessment

Soil: Urban fill materials directly underlie the entire Property. The fill material is a heterogeneous mixture consisting of varying amounts of clay, silt, sand, gravel, and debris. The debris encountered included brick, concrete, slag, cinders, railroad ballast, glass, and wood. It appears that the current buildings have been built over top of the fill materials. The fill layer ranges in approximate thickness from 4 to 20 feet.

In general, underlying the fill is a layer of natural alluvial materials deposited by the Scioto River. The alluvial materials generally consist of silt with clay and sand. These materials were noted to contain organic materials as well as shells and shell fragments. In general, this layer exhibits a fining-upward sequence, which likely indicates that the Property was once part of the river channel.

Saturated sand and gravel materials were encountered below the alluvial deposits. The sand and gravel is believed to be glacially derived outwash. The outwash is laterally continuous across the Property. The thickness of these materials varies across the Property and has an average thickness of 15 to 25 feet. The saturated sand and gravel material was deposited on top of Shale bedrock.

The following summarizes the soil sampling results in which recreational, commercial, or construction worker exposure standards were exceeded.

- Arsenic and/or lead concentrations exceeded the calculated recreational standard in 19 soil samples collected from the 0- to 2-foot interval across the entire Property and includes all IAs. Seven of the nineteen samples also exceeded VAP generic single chemical direct contact standards for arsenic and lead for commercial industrial land use.
- Lead concentrations exceeded the VAP generic single chemical direct contact standard for the construction worker scenario in 23 soil samples collected from the entire soil column across the entire Property and included all IAs.
- Benzo(a)pyrene and/or dibenzo(a,h)anthracene concentrations exceeded the calculated recreational standard in 12 soil samples collected from the 0- to 2-foot interval across the entire site and included all IAs. Four of the twelve soil samples had concentrations that exceeded the VAP generic single chemical direct contact commercial/industrial standards for benzo(a)pyrene.
- TPH DRO (C20-C34) exceeded VAP soil saturation standards for sandy soils in four samples on the Property. One exceedance was reported in each IA.

Pathways: Recreational: Direct contact and soil to indoor air; Construction: Direct contact.

Point of Compliance: Recreational – 2 feet bgs, Construction – 10 feet bgs.

Ground water: Groundwater was first encountered in the sand and gravel aquifer during drilling activities. Groundwater typically rose up into the augers during monitoring well installation once the sand and gravel was penetrated. It is suspected that due to the low permeability of the alluvial materials, the sand and gravel aquifer is partially confined. Groundwater was encountered at approximately 10 feet bgs in the lower impound lot and approximately 25 feet in the upper impound lot. Based on this information, as well as B&N experience, groundwater in the sand and gravel aquifer is classified as Critical Resource, or capable of yielding greater than 100 gpm over a 24-hour period. As this is the most conservative VAP groundwater classification, no yield testing was performed. All of the monitoring wells completed at the Property are completed in the sand and gravel aquifer. Groundwater recharge to the sand and gravel aquifer is suspected to be primarily from infiltration of precipitation east of the Property. During periods when the river level is elevated, the river would recharge the sand and gravel aquifer. The buried valley is a regional discharge area for the Silurian-Devonian aquifer, and provides additional recharge to the sand and gravel aquifer. The interaction between the bedrock aquifer and the buried valley aquifer system is well documented in the Columbus area. According to a calibrated USGS model designed to show the interaction of groundwater flow between the carbonate aquifer and the overlying glacial outwash aquifers the calibrated model, groundwater flow in the bedrock is from the bedrock to the buried valley underlying the Scioto River.

Exceedances within the upper unconsolidated include arsenic and barium. A POGWMUPUS demonstration was made for the lower saturated zones (unconsolidated lower and bedrock) to show that any remaining soil

contamination would not migrate to the groundwater zones below the already impacted upper unconsolidated saturated zone. A groundwater use restriction has been placed on the Property whereby groundwater underlying the property may not be extracted for any purpose, potable or otherwise, except for ground water investigation, monitoring, or remediation, or in conjunction with construction or excavation activities or maintenance of subsurface utilities.

Pathways: Recreational – Groundwater to indoor air; Construction/Excavation – direct contact

Point of Compliance: Property Boundary

Surface Water: No surface water bodies exist on the Property that are native and have not been constructed following remedial compliance. Therefore, on-Property surface water risk has been eliminated. However, the Scioto River is located adjacent to the Property. For off-Property risk, the potentially complete exposure pathways for surface water are as follows:

- COCs within the groundwater day-lighting to surface water.

Pathways: No complete pathways

Point of Compliance: Not applicable

Indoor Air: Vapor intrusion to indoor air was assessed for both soil to indoor air and groundwater to indoor air using the Johnson & Ettinger (J&E) indoor air model for the on-Property recreational receptor and commercial worker. Based on the soil to indoor air pathway, it was determined that VAP risk-based standards would be exceeded for the on-Property commercial worker receptor in all four IAs and for the recreational receptor in IA-2, 3, 4. Indoor air sampling was conducted within three representative rooms of the newly remodeled Metro Parks building (former Impound Lot building, IA-1). As part of the assessment, Metro Parks requested that B&N sample indoor air within the building in response to concerns from former and current employees that have occupied, or are occupying the building.

Samples were submitted to a VAP-certified lab for analysis of VOCs and methane. Results were compared with U.S. EPA generic screening levels for VOCs and percent lower explosive limit (LEL) for methane. All results were below applicable standards. Therefore, it was recommended that if occupied buildings were constructed in IA-2, 3, and/or 4, a vapor mitigation system be installed during construction

Pathways: Recreational – volatilization from soils and groundwater (currently incomplete as there are no buildings on the Property and will be incomplete in future structures upon installation of a vapor mitigation system during any future construction).

Point of Compliance: Indoor Air

Section 3.4 – Ecological receptors

There are no ecological receptors on the Property.

Section 3.5 – Chemicals of Concern (COCs)

The following COCs were evaluated at the Property:

- VOCs (soil, groundwater, soil gas) by Method 8260A and TO-15.
- SVOCs (soil, groundwater) by Method 8270C.
- PAHs, (soil, groundwater) by 8270B, and 8270C.
- PCBs (soil, groundwater) by Method 8081.
- 16 VAP metals (soil, groundwater) 6010B, 7060A, 7471A.
- TPH (soil, groundwater) by Method 8015-modified.

Section 3.6 – Property Specific Risk Assessment (PSRA)

A PSRA was conducted for this Property for a variety of reasons: (1) to develop applicable direct contact standards for recreational land use (2) to develop direct contact groundwater standards for the construction/excavation worker; (3) to evaluate risk from the vapor intrusion pathway. The evaluation of cumulative risk to the recreational visitor, commercial and construction worker was based on concentrations remaining in the affected media (soils and/or groundwater). Direct contact of soils by the recreational visitor and commercial worker meets risk-based standards within the POC after remedial activities were completed. Soil to indoor air exposure for the recreational receptor population does not meet VAP risk-based standards in IA-2, 3, 4. Soil to indoor air exposure for the commercial worker does not meet VAP risk-based standards in all

four IAs. Groundwater to indoor air for the recreational visitor and commercial worker meets VAP risk-based standards. Because soil to indoor air does not meet risk-based standards, an engineering control will be required to mitigate risk to the commercial worker in any future structures in IA-2, 3, 4.

A property specific risk mitigation plan is recommended if work is to be performed below 2 feet from existing grade.

SECTION 4.0 – CERTIFIED LABORATORIES

Test America Laboratories – CL0018, CL0024, and CL0059;

SECTION 5.0 – REMEDIAL ACTIVITIES

To comply with applicable standards for recreational land use, impacted soil on the Property was excavated and/or covered with at least 2 feet of clean backfill. To keep mature trees at the park, fencing and signage was installed around trees or groups of trees that contained exposed impacted soil.

SECTION 6.0 – OPERATIONS AND MAINTENANCE / ENGINEERING CONTROLS / RISK MITIGATION PLANS

An O&M Plan is required for the Property to maintain the following:

- Maintain the fencing and signage around mature trees to limit receptor population contact.

An RMP will be implemented to manage potential exposures to construction/excavation workers conducting future activities following initial redevelopment. Potential exposures include direct contact by future construction/excavation workers.

SECTION 7.0 – INSTITUTIONAL CONTROLS

An environmental covenant limits the Property to recreational, commercial or industrial land use, and prohibits the extraction or use of groundwater on or underlying the Property, except for groundwater investigation, monitoring or remediation, or in conjunction with construction or excavation activities or maintenance of subsurface utilities. The environmental covenant also includes a limitation on building occupancy – remedy or demonstration obligation. The limitation provides criteria for the necessary demonstration and remedy, if needed, to comply with applicable standards for vapor intrusion to indoor air in any future building.

The limitation on building occupancy may require the implementation of engineering controls. Engineering controls for the Property, if needed, may include either: (1) constructing buildings restricted to commercial/industrial use only on the second or higher floors with the first floor being used for open-air parking to provide a venting barrier between the underlying soils/groundwater and the enclosed commercial/industrial space; or (2) constructing buildings for commercial/industrial use with a vapor barrier/passive venting system beneath the floor of the building so that the first floor can be utilized for commercial use, and/or (3) demonstration that the building meets applicable standards for vapor intrusion to indoor air without further remedy.

SECTION 8.0 – DETERMINATION AND COMPLIANCE WITH APPLICABLE STANDARDS

The Property is in compliance with recreational land use through engineering controls administered under an O&M Plan and agreement, through risk mitigation measures for the construction/excavation worker, and through implementation of an institutional control limiting land use to commercial/industrial and prohibiting groundwater use for any purpose, potable or otherwise, except for ground water investigation, monitoring, or remediation, or in conjunction with construction or excavation activities or maintenance of subsurface utilities. The indoor air pathway is complete and the Property complies with the existing buildings. However in the event future buildings are constructed, the volunteer may demonstrate compliance with VAP applicable standards. Engineering controls may be necessary to comply with applicable standards as noted in Section 7.0 of this document.

END OF SECTION B

Director's Final Findings & Order — Covenant Not to Sue
Southern Tier of Whittier Peninsula

Exhibit 4
Environmental Covenant

**To be recorded with Deed
Records - ORC § 317.08**

ENVIRONMENTAL COVENANT

This Environmental Covenant is entered into by the Columbus and Franklin County Metropolitan Park District ("Metro Parks") and the Ohio Environmental Protection Agency ("Ohio EPA") pursuant to Ohio Revised Code ("ORC") §§ 5301.80 to 5301.92 for the purpose of subjecting the Property described in Section 2 herein ("Property") to the activity and use limitations set forth herein.

WHEREAS, the Metro Parks has undertaken a voluntary action with respect to the Property pursuant to Ohio's Voluntary Action Program ("VAP") ORC Chapter 3746 and regulation promulgated pursuant thereto at Ohio Administrative Code ("OAC") Chapter 3745-300.

WHEREAS, the Property is owned by the Metro Parks and Metro Parks is the volunteer for the Property.

WHEREAS, the voluntary action remedy for the Property includes the activity and use limitations set forth in this Environmental Covenant. Certified Professional Thomas J. Mignery, CP125, issued a no further action letter ("NFA Letter") for the Property on July 29, 2014 and submitted the NFA Letter to Ohio EPA (No. 14NFA592) with a request for a covenant not to sue.

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

WHEREAS, the NFA Letter's Executive Summary (version dated August 2015) contains an overview of the voluntary action. The Executive Summary may be reviewed as an exhibit to the covenant not to sue issued for the Property, recorded in the deed records for the Property in the Franklin County Recorder's Office. The covenant not to sue, and the NFA Letter (No. 14NFA592) may also be reviewed by contacting the Records Management Officer for the Division of Environmental Response and Revitalization, at Ohio EPA's

Central Office, 50 West Town Street, Columbus, OH 43216, 614-644-2924, or at Ohio EPA's Central District Office at 50 West Town St, Columbus, OH 43215, or by contacting the Columbus and Franklin County Metropolitan Park District, 1069 West Main Street, Westerville, OH 43081, 614-508-8000.

Now therefore, Metro Parks and Ohio EPA agree as follows:

1. Environmental Covenant. This instrument is an Environmental Covenant developed and executed pursuant to ORC §§ 5301.80 to 5301.92.
2. Property. The property subject to this Environmental Covenant consists of 59.031-acres (currently Parcel Nos. 10-025989-80, 10-289944-00, 10-094093-00), located at 400 W Whittier St, Columbus, OH 43215 in Franklin County, Ohio, and more particularly described in Attachment 1 attached hereto and incorporated by reference herein ("Property").
3. Owner. This Property is owned by Metro Parks with place of business located at 1069 West Main Street, Westerville, OH 43081 ("Owner").
4. Holder. Pursuant to ORC § 5301.81, the holder of this Environmental Covenant ("Holder") is the Owner listed above.
5. Activity and Use Limitations. As part of the voluntary action remedy described in the NFA Letter, Owner hereby imposes and agrees to comply with the following activity and use limitations:

Limitation for Recreational and Commercial/Industrial Land Use. The Property is hereby limited to "recreational" land use as defined herein, or "commercial" or "industrial" land use as defined in OAC §§3745-300-08(C)(2)(c)(ii) and (C)(2)(c)(iii) (effective March 1, 2009), or any combination of those uses.

- i. Recreational land use means surficial use of the Property, which include but are not limited to: picnic areas and shelters, playfields, open lawns, other green spaces, wildlife and city viewing opportunities, boardwalks, overlook decks, bike and multiple purpose trails including a pedestrian promenade, nature trails, paths and walkways, natural area amphitheater and other educational programming facilities, public art

displays, pet play areas, restrooms, and any activities and uses incidental to such land use.

Recreational land use excludes any land use as residences (including single or multiple family housing, condominiums and apartments); day care facilities; schools, colleges, and other educational institutions; nursing homes, elder care and other long-term health care facilities; and correctional facilities.

- ii. OAC §3745-300-08(B)(2)(c)(ii) defines commercial land use as "land use with potential exposure of adult workers during a business day and potential exposure of adults and children who are customers, patrons, or visitors to commercial facilities during the business day. Commercial land use has potential exposure of adults to dermal contact with soil, inhalation of vapors and particles from soil and ingestion of soil. Examples of commercial land uses include but are not limited to warehouses; building supply facilities; retail gasoline stations; automobile service stations; automobile dealerships; retail warehouses; repair and service establishments for appliances and other goods; professional offices; banks and credit unions; office buildings; retail businesses selling foods or merchandise; golf courses; hospitals and clinics; religious institutions; hotels; motels; and parking facilities."
- iii. OAC §3745-300-08(B)(2)(c)(iii) defines industrial land use as "land use with potential exposure of adult workers during a business day and potential exposures of adults and children who are visitors to industrial facilities during the business day. Industrial land use has potential exposure of adults to dermal contact with soil, inhalation of vapors and particles from soil and ingestion of soil. Examples of industrial land uses include, but are not limited to: lumberyards; power plants; manufacturing facilities such as metalworking shops, plating shops, blast furnaces, coke plants; oil refineries, brick factories, chemical plants and plastics plants; assembly plants; non-public airport areas; limited access highways; railroad switching yards; and marine port facilities."

Prohibition on Groundwater Use: No person shall extract the groundwater underlying the Property or any portion thereof for any purpose, potable or otherwise, except for groundwater investigation, monitoring, or remediation, or in conjunction with construction or excavation activities or maintenance of subsurface utilities.

Limitation on Building Occupancy – Remedy or Demonstration Obligation. Prior to human occupancy of any building constructed on the Property after the recording date of this Environmental Covenant, either: (i) a remedy that eliminates indoor air vapor intrusion exposure to hazardous substances in soil or groundwater in excess of applicable standards shall be installed, operated and maintained as an engineering control under an operation and maintenance agreement in accordance with a covenant not to sue issued by the Director of Environmental Protection pursuant to ORC § 3746.12; or (ii) a demonstration attested by a certified professional shall be made to Ohio EPA, that the Property complies with applicable standards for the vapor intrusion to indoor air exposure pathway without further implementation of remedial activity and documented in accordance with ORC Chapter 3746 and the rules adopted thereunder.

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, 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 against any non-compliance. Nothing in this Environmental Covenant shall restrict the Director of Environmental Protection 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 Environmental Protection under ORC § 3746.12 is void on and after the date of the commencement of the noncompliant use.

8. Rights of Access. Owner hereby grants to Ohio EPA's authorized representatives 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 Transferee, if applicable, shall, upon request by Ohio EPA, submit to Ohio EPA written documentation verifying that the activity and use limitations set forth herein 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, and provide the recorded location of this Environmental Covenant. The notice shall be substantially in the following form:

THE INTEREST CONVEYED HEREBY IS SUBJECT TO AN ENVIRONMENTAL COVENANT, RECORDED IN THE DEED OR OFFICIAL RECORDS OF THE FRANKLIN COUNTY RECORDER ON _____, 201__, IN [DOCUMENT _____, or BOOK____, PAGE ____]. THE ENVIRONMENTAL COVENANT CONTAINS THE FOLLOWING ACTIVITY AND USE LIMITATIONS:

Limitation for Recreational and Commercial/Industrial Land Use. The Property is hereby limited to "recreational" land use as defined herein, or "commercial" or "industrial" land use as defined in in OAC §3745-300-08(C)(2)(c)(ii) and (C)(2)(c)(iii) (effective March 1, 2009), or any combination of those uses.

- i. Recreational land use means surficial use of the Property, which include but are not limited to: picnic areas and shelters, playfields, open lawns, other green spaces, wildlife and city viewing opportunities, boardwalks, overlook decks, bike and multiple purpose trails including a pedestrian promenade, nature trails, paths and walkways, natural area amphitheater and other educational programming facilities, public art displays, pet play areas, restrooms, and any activities and uses incidental to such land use.

Recreational land use excludes any land use as residences (including single or multiple family housing, condominiums and apartments); day care facilities; schools, colleges, and other educational institutions; nursing homes, elder care and other

long-term health care facilities; and correctional facilities.

- ii. OAC §3745-300-08(B)(2)(c)(ii) defines commercial land use as "land use with potential exposure of adult workers during a business day and potential exposure of adults and children who are customers, patrons, or visitors to commercial facilities during the business day. Commercial land use has potential exposure of adults to dermal contact with soil, inhalation of vapors and particles from soil and ingestion of soil. Examples of commercial land uses include but are not limited to warehouses; building supply facilities; retail gasoline stations; automobile service stations; automobile dealerships; retail warehouses; repair and service establishments for appliances and other goods; professional offices; banks and credit unions; office buildings; retail businesses selling foods or merchandise; golf courses; hospitals and clinics; religious institutions; hotels; motels; and parking facilities."
- iii. OAC §3745-300-08(B)(2)(c)(iii) defines industrial land use as "land use with potential exposure of adult workers during a business day and potential exposures of adults and children who are visitors to industrial facilities during the business day. Industrial land use has potential exposure of adults to dermal contact with soil, inhalation of vapors and particles from soil and ingestion of soil. Examples of industrial land uses include, but are not limited to: lumberyards; power plants; manufacturing facilities such as metalworking shops, plating shops, blast furnaces, coke plants, oil refineries, brick factories, chemical plants and plastics plants; assembly plants; non-public airport areas; limited access highways; railroad switching yards; and marine port facilities."

Prohibition on Groundwater Use: As a portion of the remedy under the Ohio EPA VAP to protect against exposure to hazardous substances in groundwater located at or underlying the Property described herein, no person shall extract the groundwater underlying the Property or any portion thereof for any purpose, potable or otherwise, except for groundwater investigation, monitoring, or remediation, or in conjunction with construction or excavation activities or maintenance of subsurface utilities.

Limitation on Building Occupancy – Remedy or Demonstration Obligation.

Prior to human occupancy of any building constructed on the Property after the recording date of this Environmental Covenant, either: (i) a remedy that eliminates indoor air vapor intrusion exposure to hazardous substances in soil or groundwater in excess of applicable standards shall be installed, operated and maintained as an engineering control under an operation and maintenance agreement in accordance with a covenant not to sue issued by the Director of Environmental Protection pursuant to ORC § 3746.12; or (ii) a demonstration attested by a certified professional shall be made to Ohio EPA, that the Property complies with applicable standards for the vapor intrusion to indoor air exposure pathway without further implementation of remedial activity and documented in accordance with ORC Chapter 3746 and the rules adopted thereunder.

Owner or Transferee, if applicable, shall notify Ohio EPA within thirty (30) days after each conveyance of an interest in the Property or any portion thereof. The notice shall include the name, address, and telephone number of the Transferee, a copy of the deed or other documentation evidencing the conveyance, and a survey map that shows the boundaries of the property being transferred.

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

- A. that the Owner is the sole owner of the Property;
- B. that the Owner holds fee simple title to the Property and that the Owner conducted a current title search that shows that the Property is not subject to any interests or encumbrances that conflict with the activity and use limitations set forth in this Environmental Covenant;
- 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 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;

- E. that the Owner has identified all other persons that own an interest in or hold an encumbrance on the Property and, if applicable, notified such persons of the Owner's intention to enter into this Environmental Covenant.

12. Amendment or Termination. This Environmental Covenant may be amended or terminated by consent of all of the following: the Owner, or a Transferee, if applicable; and the Director of Environmental Protection, pursuant to ORC §§ 5301.82 and 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 so long as 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 Environmental Protection and by the Owner or Transferee, if applicable, 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, if applicable, shall file such instrument for recording with the Franklin County Recorder's Office, and shall provide a file- and date-stamped copy of the recorded instrument to Ohio EPA.

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

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

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

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

17. Distribution of Environmental Covenant. The Owner shall distribute a file- and date-stamped copy of the recorded Environmental Covenant to: Ohio EPA in accordance with the Notice provision below.

18. Notice. Unless otherwise notified in writing by any party hereto or Ohio EPA, any document or communication required by this Environmental Covenant shall be submitted to:

As to Ohio EPA:

Ohio EPA – Central Office
Division of Environmental Response and Revitalization
50 West Town Street
P.O. Box 1049
Columbus, Ohio 43216-1049
Attn.: DERR Records Management Officer, regarding No. 14NFA592

Or, send electronically to: records@epa.ohio.gov

And

Ohio EPA – Central District Office
50 West Town Street Suite 700
P.O. Box 1049
Columbus, Ohio 43216-1049
Attn.: DERR Site Coordinator for No. 14NFA592

As to Owner:

Columbus and Franklin County Metropolitan Park District
1069 West Main St.
Westerville, OH 43081
Attn.: Deputy Director

[Remainder of page left intentionally blank]

The undersigned represents and certifies that the undersigned is authorized to execute this Environmental Covenant.

IT IS SO AGREED:

Columbus and Franklin County Metropolitan Park District

[Signature] for MetroParks
Signature of Owner

Lawrence J. Peck Deputy Director
Printed Name and Title

State of Ohio)
County of Franklin) ss:

Before me, a notary public, in and for said county and state, personally appeared Lawrence J. Peck, a duly authorized representative of the Owner, who acknowledged to me the execution of the foregoing instrument on behalf of the Owner.

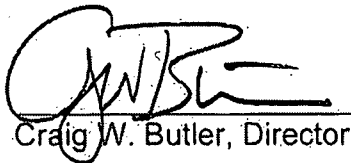
IN TESTIMONY WHEREOF, I have subscribed my name and affixed my official seal this 18th day of November, 2015.

K. Renee Telfer
Notary Public



K RENEE TELFER
NOTARY PUBLIC - OHIO
MY COMMISSION EXPIRES 4-16-16

OHIO ENVIRONMENTAL PROTECTION AGENCY


Craig W. Butler, Director

State of Ohio)
)
County of Franklin) ss:

Before me, a notary public, in and for Franklin County, Ohio, personally appeared Craig W. Butler, 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 24th day of DECEMBER, 2015.




Notary Public

CHARMA DIANE CASTEEL
NOTARY PUBLIC
STATE OF OHIO
MY COMMISSION EXPIRES

May 10, 2019

This instrument was prepared by:

Sue Kroeger, Esq.
Ohio EPA-Legal Office
50 West Town Street, Suite 700
Columbus, OH 43215

ATTACHMENT 1
Property Legal Description

DESCRIPTION OF 59.031 ACRES
SOUTH TIER
WHITTIER PENINSULA
CITY OF COLUMBUS, OHIO

Situated in the State of Ohio, County of Franklin, City of Columbus, being the "South Tier" located on the Whittier Peninsula and on the lands of the City of Columbus. All references herein are to the records of the Recorder's Office and Auditor's Office, Franklin County, Ohio, and being more particularly described as follows:

Beginning at the most northerly corner of that 8.671-acre tract as described in a deed to the City of Columbus, Ohio, of record in Instrument No. 199909030226778 and at an angle point in the perimeter of the property of CSX Transportation (PID [property identification] No. 010-057548);

Thence along the common line between said properties the following courses:

1. South 52°07'07" East, a distance of 519.27 feet to an angle point;
2. South 45°30'32" East, a distance of 339.55 feet to an angle point;
3. South 19°58'02" East, a distance of 644.34 feet to an angle point in the northerly right-of-way line of Whittier Street;

Thence South 04°03'07" West, crossing Whittier Street, a distance of 151.31 feet to a point in the southerly right-of-way of same at the intersection of the perimeter of PID 010-067084;

Thence along said perimeter the following courses:

1. South 66°59'50" West, a distance of 182.51 feet to an angle point;
2. North 88°33'42" West, a distance of 231.07 feet to a point near the water line of the Scioto River;

Thence North 56°34'31" West, along said water line, a distance of 58.08 feet to a point;

Thence North 81°27'02" West, continuing along said water line, a distance of 962.86 feet to a southeasterly corner of that 26.611-acre tract designated as the Audubon Nature Center;

Thence along the perimeter of said 26.611-acre tract the following courses:

J:\09\09-032\DOCUMENTS\SouthTierColumbus.doc

1. North 02°03'19" East, a distance of 422.64 feet to an angle point;
2. North 55°44'25" West, a distance of 202.82 feet to an angle point;
3. North 02°15'41" East, a distance of 309.42 feet to an angle point;
4. North 48°12'49" West, a distance of 25.46 feet to an angle point;
5. South 81°18'40" West, a distance of 291.64 feet to an angle point;
6. South 87°19'30" West, a distance of 222.01 feet to an angle point;
7. North 73°52'51" West, a distance of 250.05 feet to an angle point;
8. North 69°11'39" West, a distance of 295.44 feet to an angle point;
9. North 84°44'19" West, a distance of 485.90 feet to a point again near the water line of the Scioto River;

Thence North 11°41'59" West, along said water line, a distance of 482.20 feet to a point;

Thence South 86°09'50" East, becoming coincident with the southerly line of that City of Columbus 9.4686-acre tract (PID No. 010-036350) at a distance of 310 feet, a total distance of 717.23 feet to an angle point;

Thence North 04°15'44" East, continuing along the perimeter of said 9.4686-acre tract, a distance of 74.68 feet to an angle point;

Thence North 69°56'39" East, continuing along said perimeter, a distance of 49.38 feet to a point in the southerly line of a vacated alley (Ord. No. 16885);

Thence South 86°09'50" East, along said southerly line, a distance of 408.75 feet to a point within the right-of-way of Maier Place;

Thence North 04°15'44" East, through said right-of-way, a distance of 219.27 feet to an angle point in the perimeter of the CSX Transportation property (PID No. 010-066150);

Thence along said perimeter the following courses:

1. South 67°16'50" East, a distance of 209.20 feet to an angle point;
2. South 03°50'10" West, a distance of 200.00 feet to an angle point;
3. South 86°09'50" East, a distance of 301.16 feet to an angle point;
4. South 66°26'50" East, a distance of 114.15 feet to an angle point;
5. South 55°00'50" East, a distance of 541.84 feet to an angle point;

J:\09\09-032\DOCUMENTS\SouthTierColumbus.doc

Description of 59.031 acres, Page 3

6. North 33°59'15" East, a distance of 152.45 feet to the place of beginning and containing 59.031 acres of land.

Bearings herein are based on the NAD 83 Ohio State Plane Coordinate System, South Zone, utilizing monuments COC 13-83 and COC 18-83.

This description was prepared by M•E Companies, Inc., Civil Engineering Group, based on information obtained from field surveys and records of the Franklin County Recorder's Office.



M•E Companies, Inc.
Civil Engineering Group

By Robert S. Wynd 10/7/10
Robert S. Wynd date
Registered Surveyor No. 6872

Exhibit 5
Operation and Maintenance Agreement

OPERATION AND MAINTENANCE AGREEMENT

**Between Ohio EPA and the Columbus and Franklin County
Metropolitan Park District
Regarding the Southern Tier of Whittier Peninsula Property,
Franklin County, Ohio**

This Operation and Maintenance Agreement ("Agreement") is entered into by the Director of Environmental Protection ("Director") and Columbus and Franklin County Metropolitan Park District ("Metro Parks"), pursuant to Ohio Revised Code ("ORC") Chapter 3746 and Ohio Administrative Code ("OAC") Chapter 3745-300. In consideration of the mutual covenants and subject to the terms and conditions of this Agreement, the parties agree as follows:

1. **The NFA Letter Property.** A no further action letter (NFA Letter No. 14NFA592; the "NFA Letter") under the Voluntary Action Program ("VAP") was submitted to the Director on behalf of Metro Parks on July 31, 2014, by Thomas J. Mignery, a certified professional (Certified Professional No. 125). The NFA Letter addresses approximately 59.031 acres of real property owned by Metro Parks (currently, Parcel Nos. 10-025989-80, 10-289944-00, and 10-094093-00) and located at 400 W Whittier St, Columbus, Franklin County, Ohio ("Property"). The legal description of the Property is attached hereto as Attachment 1, and is incorporated into this Agreement by reference.
2. **O&M Plan.** The NFA Letter includes an Operation and Maintenance Plan ("O&M Plan"). The term "O&M Plan" refers to the O&M Plan as revised June 2015. The O&M Plan is attached hereto as Attachment 2 and is incorporated into this Agreement by reference. The O&M Plan is available for review as a public record with the NFA Letter for the Property, and a copy may be obtained by contacting the Records Management Officer at Ohio EPA's Central District Office at the Lazarus Government Center, 50 West Town St, Columbus, Ohio 43215 (phone: 614-728-3778.)
3. **Requirement for an O&M Agreement.** This Agreement is required for the Property pursuant to ORC §§3746.10(C)(2) or 3746.12(A)(2) and OAC 3745-300-11.
4. **Remedy for the Property.** The remedy for the Property includes, overall, the following:
 - a. **Remedies Performed.** Remedies performed at the Property included soil excavation and clean backfill soil cover, which are documented by the NFA Letter.

- b. **Risk Mitigation Measures.** A Risk Mitigation Plan was prepared to detail the risk mitigation measures to be implemented during construction/excavation activities, which are detailed in that plan.
 - c. **Activity and Use Limitations.** Several activity and use limitations are included in a proposed Environmental Covenant developed pursuant to ORC §§5301.80 to 5301.92 and OAC 3745-300-11. Following the issuance of a covenant not to sue for the Property, the Environmental Covenant will be recorded pursuant to ORC §3746.14 as a deed record for the Property.
 - d. **Engineering Control.** The engineering control installed at the Property:
 - Fencing and signage
 - e. **Interim Measures.** There are no interim measures for the Property.
5. **Subject to the O&M Plan.** The engineering control as set forth in the Remedy for the Property Section of this Agreement, are part of the voluntary action remedy and must be established and maintained by Metro Parks in accordance with this Agreement and the O&M Plan to demonstrate that the Property will maintain and comply with the applicable standards set forth in ORC Chapter 3746 and OAC Chapter 3745-300 and in the covenant not to sue issued pursuant to ORC §3746.12 for the Property (the "Covenant Not to Sue").
6. **Implementation of O&M Plan.** Metro Parks will perform all inspections, repairs, reporting, record keeping, demonstrations and all other requirements in accordance with the O&M Plan.
7. **Property Access.** Metro Parks owns and certifies that it has access to the Property sufficient to fully implement the O&M Plan and this Agreement.
8. **Recording of Agreement.** Metro Parks shall record this Agreement as required by the Covenant Not to Sue and as required by ORC §3746.14.
9. **Effect of Violation of this Agreement.** Failure to comply with this Agreement or the O&M Plan may constitute the failure to maintain an applicable standard in accordance with ORC §3746.12(B) and OAC Chapter 3745-300, and may be subject to the process outlined in the Compliance Schedule Agreement Section of this Agreement. However, noncompliance with an activity and use limitation for the Property voids the Covenant Not to Sue, as provided in ORC § 3746.05.

10. **Financial Assurance.** Metro Parks shall ensure that reasonable and adequate funds in the amount of at least two thousand dollars, \$2,000.00, are available to comply with this Agreement and the O&M Plan by providing financial assurance as described herein. Metro Parks has a ten year levy which generates approximately \$20,000,000 annually, to support the operation of Metro Parks. As a part of Metro Parks' annual operating budget \$180,000 is allocated to renovation projects. Metro Parks will evaluate the maintenance of the engineering control (fencing and signage around the trees) annually when allocating funds to renovation projects. Metro Parks agrees to maintain this financial assurance or execute and fund another comparable, acceptable financial assurance, and submit to Ohio EPA a copy of the financial assurance. Examples of acceptable financial assurance include a trust fund, a surety bond guaranteeing payment into a trust fund, a surety bond guaranteeing performance of this Agreement and the O&M Plan, a letter of credit, an insurance policy, the obligated party's financial assurance demonstration under VAP affidavit, an escrow account, or such other financial assurance as approved by Ohio EPA. In the event the amount or form of financial assurance provided herein is inadequate to comply with the terms of this Agreement, the Director may propose a modification of this paragraph pursuant to the Modification Section of this Agreement.
11. **Notice to Prospective Property Transferees of Remedy Obligations.** At least thirty (30) days prior to the execution of any sales contract or other document transferring ownership of the Property, or any portion of the Property that is subject to this Agreement, Metro Parks shall provide written notice to the prospective Property transferee that the Property, or such portion of the Property, is subject to the Covenant Not to Sue and this Agreement and the O&M Plan.
12. **Notice to the Director of Transfer of Property.** Within thirty (30) days after a sale or other transfer of the Property, or any portion of the Property that is subject to this Agreement, Metro Parks shall provide written notice to the Director that the Property, or such portion of the Property, has been sold or otherwise transferred. This notice submitted to the Director shall include:
 - a. The name, address, and telephone number of the new Property owner and the name, title, address, email address and telephone number of the contact person for the new Property owner;

- b. A legal description of the Property or such portion of the Property being transferred; and
- c. The closing date of the transfer of ownership of the Property or such portion of the Property.

13. Option to Transfer this Agreement / Notice to Director. Pursuant to ORC §3746.14(C), Metro Parks may transfer this Agreement to any other person (the "Transferee") by assignment or in conjunction with the acquisition of title to the Property. Within fourteen (14) days after such transfer, Metro Parks shall provide written notice to the Director of the terms and conditions of the transfer of obligations of this Agreement and the O&M Plan ("Transfer Terms and Conditions"), by submitting:

- a. The name, address, and telephone number of the Transferee and the name, title, address, email address and telephone number of the contact person for the Transferee;
- b. A statement of the extent to which the Transferee has assumed the obligations of this Agreement and the O&M Plan;
- c. A copy of the legal instrument(s) that provide the Transfer Terms and Conditions; and
- d. A copy of the Transferee's proposed financial assurance that complies with the Financial Assurance Section of this Agreement, if the Transferee has assumed the financial assurance obligations of this Agreement and the O&M Plan. The Transferor's financial assurance shall remain effective until Ohio EPA approves in writing the Transferee's financial assurance and the Transferee's financial assurance is fully executed and funded.

Upon the Director's receipt of such notice of the Transfer Terms and Conditions in accordance with this section of the Agreement, and Ohio EPA's approval of the Transferee's financial assurance, the Transferee shall be considered a party to this Agreement, in accordance with the Transfer Terms and Conditions. Once such approval occurs, Metro Parks shall have no further responsibilities under this Agreement provided that Metro Parks has transferred all of its obligations.

14. Subparceling. Upon written notice submitted by Metro Parks to the Director, that one or more parcels of the Property have been divided or subparceled, this Agreement shall apply separately to each subdivided parcel subject to this

Agreement upon the date of subdivision or the date of the submission of written notice, whichever occurs later. Metro Parks shall provide such written notice by submitting:

- a. The legal description of the subdivided parcels;
- b. A survey map or maps of the subdivided parcels;
- c. The date of the subdivision;
- d. A copy of the legal instrument(s) providing for the subdivision; and
- e. The name(s) of the new owner, if any, of the subdivided parcels.

Upon the written notice submitted pursuant to this Section, this Agreement shall be deemed to be amended, without modification of this Agreement, to identify the subdivided parcels of the Property. The Covenant Not to Sue shall remain in effect for any subdivided portion of the Property that continues to comply with the requirements of this Agreement and the applicable standards that form the basis of the Covenant Not to Sue. Any revocation of the Covenant Not to Sue for any parcel shall not be based solely on a finding that any other subdivided parcel of the Property no longer complies with the applicable standards or the requirements of this Agreement.

- 15. Document Submittals / Notifications to Parties.** All documents, including but not limited to notices and reports, required to be submitted by the parties pursuant to this Agreement shall be identified by NFA Letter number 14NFA592 and addressed to the following persons:

For Ohio EPA:

Ohio EPA – Central Office
Division of Environmental Response and Revitalization
50 West Town Street
P.O. Box 1049
Columbus, OH 43216-1049
Attn: DERR Compliance Officer, 14NFA592
Electronic filings: records@epa.ohio.gov

and

Ohio EPA-Central District Office
Division of Environmental Response and Revitalization
50 West Town Street
Columbus, OH 43207
Attn: DERR Site Coordinator for 14NFA592

For Metro Parks:

Columbus and Franklin County Metropolitan Park District
1069 West Main St
Westerville, OH 43081
Attn: Lawrence Peck
Deputy Director

16. **Modification of this Agreement or the O&M Plan.** This Agreement or the O&M Plan may be modified by agreement of the appropriate parties. Modifications to this Agreement shall be in writing, signed by the authorized representative of Metro Parks and by the Director, and shall be effective on the date signed by the Director. Modifications to the O&M Plan shall be submitted in writing to Ohio EPA, subject to approval by Ohio EPA, and effective upon approval by Ohio EPA. Ohio EPA reserves the right to require the submittal of a new NFA letter for a proposed modification that will result in the application of an applicable standard or land use different than that contained in the NFA letter approved by the Covenant Not to Sue.
17. **Compliance Schedule Agreement.** Within thirty (30) days after the mailing of notice from the Director of finding that the Property or a portion of the Property no longer complies with an applicable standard upon which the issuance of the Covenant was based, Metro Parks shall notify the Director of its intention to return the Property or such portion of the Property to compliance with the applicable standards upon which the Covenant Not to Sue was based ("cure") and enter into a compliance schedule agreement with the Director for such cure, in accordance with ORC §3746.12(B).
18. **Compliance with Other Laws.** Metro Parks shall conduct all activities pursuant to this Agreement and the O&M Plan in compliance with all applicable local, state, and federal laws and regulations, including but not limited to requirements to obtain permits or authorizations. Metro Parks acknowledges that Ohio EPA's review and approval of any health and safety measures contained in the O&M Plan is limited to ensuring compliance with the requirements of ORC Chapter

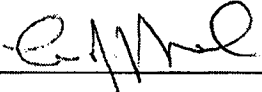
3746 and OAC Chapter 3745-300 and does not extend to determining compliance with the Occupational Safety and Health Act, 29 U.S.C. §§651 *et seq.*, the regulations adopted under that act, or any obligation imposed by the Occupational Safety and Health Administration.

19. **Inspections by Ohio EPA.** Metro Parks shall allow the Director or his authorized representatives to perform inspections to determine compliance with this Agreement. Such inspections shall be consistent with ORC Chapter 3746 and OAC Chapter 3745-300, including but not limited to the reasonableness of inspection timing and frequency in accordance with ORC §3746.21.
20. **Program Costs for Monitoring Compliance with this Agreement.** Metro Parks shall reimburse Ohio EPA for the actual costs incurred by Ohio EPA in monitoring compliance with this Agreement pursuant to ORC §3746.04(B)(8) and OAC §3745-300-03.
 - a. Ohio EPA will periodically submit to Metro Parks an itemized statement of its monitoring costs for the previous year(s). Monitoring costs include, but are not limited to, costs for reviewing submissions or reports required by this Agreement, conducting Property inspections, and corresponding with Metro Parks or its representative.
 - b. Within thirty (30) days of receipt of such itemized statement, Metro Parks shall remit payment for all of Ohio EPA's monitoring costs for the previous year(s). If Metro Parks disputes the accuracy of items on the itemized statement, a request for review of the statement may be made within thirty (30) days of receipt of the statement. After review, Ohio EPA will resubmit to Metro Parks an itemized statement with appropriate revisions. Metro Parks shall remit payment within thirty (30) days of receipt of the resubmitted statement.
 - c. Metro Parks shall remit payments to Ohio EPA pursuant to this Section of the Agreement as follows:
 - i. Payment shall be made by an official (or certified) check made payable to "Treasurer, State of Ohio." The check shall be submitted to Ohio EPA, Office of Fiscal Administration, P.O. Box 1049, 50 West Town Street, Columbus, Ohio 43216-1049.

- ii. A copy of the transmittal letter and check shall be sent to the Fiscal Officer, DERR, Ohio EPA, P.O. Box 1049, 50 West Town Street, Columbus, Ohio 43216-1049.
 - iii. A copy of the transmittal letter and check shall be sent to the Records Management Officer, DERR, Ohio EPA, P.O. Box 1049, 50 West Town Street, Columbus, Ohio 43216-1049.
- 21. **Termination.** This Agreement shall terminate upon (a) revocation or voidance of the Covenant Not to Sue, (b) The fencing and signage engineering control can be terminated upon demonstrating that the soils within the fenced areas around trees and/or cluster of trees meet VAP applicable standards for the Property. Termination of the minimum two foot clean backfill cover can occur when evidence is provided to prove that soil below the cover meet applicable VAP standards for the Property, or (c) otherwise upon the written approval of the Director.
- 22. **Waiver.** Metro Parks will not dispute that the terms and conditions of this Agreement are lawful and reasonable, and agrees to comply with this Agreement. Metro Parks hereby waives its right to appeal the issuance of this Agreement and the terms and conditions of this Agreement, and hereby waives any and all rights it might have to seek judicial or administrative review of this Agreement either in law or equity. Metro Parks reserves its right to participate in any appeal by a third party to the Environmental Review Appeals Commission or to any court.
- 23. **Entire Agreement.** The terms and conditions of this Agreement, including the O&M Plan, constitute the entire agreement of the parties. No oral or written representation shall be binding unless approved as a modification of this Agreement pursuant to the Modification Section of this Agreement. The terms and conditions of this Agreement shall be interpreted consistent with ORC Chapter 3746 and OAC Chapter 3745-300.
- 24. **Authorized Signatories.** Each undersigned representative of a signatory to this Agreement represents that he or she is fully authorized to execute this Agreement and to legally bind such signatory to this Agreement.
- 25. **Effective Date.** Upon execution of this Agreement by both parties, this Agreement shall be a valid and binding obligation enforceable in accordance with its terms and conditions and effective upon the date of the Director's signature.

In witness whereof, the parties hereto have executed this Agreement.

Columbus and Franklin County Metropolitan Park District

By:  Date: 11/18/15

Printed Name: Lawrence J. Peck

Title: Deputy Director

OHIO ENVIRONMENTAL PROTECTION AGENCY:

By:  Date: 12/24/15
Craig W. Butler
Director of Ohio EPA

ATTACHMENT 1
Property Legal Description

DESCRIPTION OF 59.031 ACRES
SOUTH TIER
WHITTIER PENINSULA
CITY OF COLUMBUS, OHIO

Situated in the State of Ohio, County of Franklin, City of Columbus, being the "South Tier" located on the Whittier Peninsula and on the lands of the City of Columbus. All references herein are to the records of the Recorder's Office and Auditor's Office, Franklin County, Ohio, and being more particularly described as follows:

Beginning at the most northerly corner of that 8.671-acre tract as described in a deed to the City of Columbus, Ohio, of record in Instrument No. 199909030226778 and at an angle point in the perimeter of the property of CSX Transportation (PID [property identification] No. 010-057548);

Thence along the common line between said properties the following courses:

1. South 52°07'07" East, a distance of 519.27 feet to an angle point;
2. South 45°30'32" East, a distance of 339.55 feet to an angle point;
3. South 19°58'02" East, a distance of 644.34 feet to an angle point in the northerly right-of-way line of Whittier Street;

Thence South 04°03'07" West, crossing Whittier Street, a distance of 151.31 feet to a point in the southerly right-of-way of same at the intersection of the perimeter of PID 010-067084;

Thence along said perimeter the following courses:

1. South 66°59'50" West, a distance of 182.51 feet to an angle point;
2. North 88°33'42" West, a distance of 231.07 feet to a point near the water line of the Scioto River;

Thence North 56°34'31" West, along said water line, a distance of 58.08 feet to a point;

Thence North 81°27'02" West, continuing along said water line, a distance of 962.86 feet to a southeasterly corner of that 26.611-acre tract designated as the Audubon Nature Center;

Thence along the perimeter of said 26.611-acre tract the following courses:

J:\09\09-032\DOCUMENTS\SouthTierColumbus.doc

Description of 59.031 acres, Page 2

1. North 02°03'19" East, a distance of 422.64 feet to an angle point;
2. North 55°44'25" West, a distance of 202.82 feet to an angle point;
3. North 02°15'41" East, a distance of 309.42 feet to an angle point;
4. North 48°12'49" West, a distance of 25.46 feet to an angle point;
5. South 81°18'40" West, a distance of 291.64 feet to an angle point;
6. South 87°19'30" West, a distance of 222.01 feet to an angle point;
7. North 73°52'51" West, a distance of 250.05 feet to an angle point;
8. North 69°11'39" West, a distance of 295.44 feet to an angle point;
9. North 84°44'19" West, a distance of 485.90 feet to a point again near the water line of the Scioto River;

Thence North 11°41'59" West, along said water line, a distance of 482.20 feet to a point;

Thence South 86°09'50" East, becoming coincident with the southerly line of that City of Columbus 9.4686-acre tract (PID No. 010-036350) at a distance of 310 feet, a total distance of 717.23 feet to an angle point;

Thence North 04°15'44" East, continuing along the perimeter of said 9.4686-acre tract, a distance of 74.68 feet to an angle point;

Thence North 69°56'39" East, continuing along said perimeter, a distance of 49.38 feet to a point in the southerly line of a vacated alley (Ord. No. 16885);

Thence South 86°09'50" East, along said southerly line, a distance of 408.75 feet to a point within the right-of-way of Maier Place;

Thence North 04°15'44" East, through said right-of-way, a distance of 219.27 feet to an angle point in the perimeter of the CSX Transportation property (PID No. 010-066150);

Thence along said perimeter the following courses:

1. South 67°16'50" East, a distance of 209.20 feet to an angle point;
2. South 03°50'10" West, a distance of 200.00 feet to an angle point;
3. South 86°09'50" East, a distance of 301.16 feet to an angle point;
4. South 66°26'50" East, a distance of 114.15 feet to an angle point;
5. South 55°00'50" East, a distance of 541.84 feet to an angle point;

J:\09\09-032\DOCUMENTS\SouthTierColumbus.doc

Description of 59.031 acres, Page 3

6. North 33°59'15" East, a distance of 152.45 feet to the place of beginning and containing 59.031 acres of land.

Bearings herein are based on the NAD 83 Ohio State Plane Coordinate System, South Zone, utilizing monuments COC 13-83 and COC 18-83.

This description was prepared by M•E Companies, Inc., Civil Engineering Group, based on information obtained from field surveys and records of the Franklin County Recorder's Office.



M•E Companies, Inc.
Civil Engineering Group

By Robert S. Wynd 10/7/10
Robert S. Wynd date
Registered Surveyor No. 6872

Exhibit 6
Risk Mitigation Plan

Risk Mitigation Plan

Southern Tier of Whittier Peninsula, Property

400 W Whittier St

Columbus, Franklin County, Ohio 43215

Volunteer:

Columbus and Franklin County Metropolitan Parks District

1069 West Main St, Westerville, Ohio

Property Owner:

Columbus and Franklin County Metropolitan Parks District

NFA Letter Issued by:

VAP Certified Professional Thomas J. Mignery, CP No. 125 with

Burgess & Niple, Inc., 5085 Reed Rd, Columbus, Ohio 43220

(614) 459-2050

July 2014

Table of Contents

Section	Page Number
Section 1.0 Purpose of the Risk Mitigation Plan.....	3
Section 2.0 Implementing the Risk Mitigation Plan.....	4
Section 3.0 Potential Health Risks	4
Section 4.0 Precautions Against Exposures.....	5
Section 5.0 Actions to Take if Significant Exposures Occur.....	7
Section 6.0 Handling Impacted Environmental Media	7
Section 7.0 Notice to Contractors and Workers.....	8
Section 8.0 Annual Notification to Ohio EPA.....	8
Section 9.0 Termination Criteria	8

List of Figures

- 1.0 Property Map

List of Attachments

- 1.0 Property Legal Description

Section 1.0 - Purpose of the Risk Mitigation Plan (OAC 3745-300-11(F)(1)(a))

The purpose of this risk mitigation plan (RMP) is to provide the risk mitigation measures that apply to construction or excavation activities at the property as defined herein. Risk mitigation measures are those health and safety precautions and other such remedial activities that provide protection to persons working in construction or excavation from exposures to chemicals of concern (COCs) in environmental media at a property, as described by Ohio Administrative Code 3745-300-11(C)(7). Implementation of this RMP allows the property to maintain compliance with VAP applicable standards that apply to construction or excavation activities, in support of a covenant not to sue issued by the director of Ohio EPA under Ohio Revised Code section 3746.12.

Adherence to the measures outlined in this RMP will enhance the protection of construction and/or excavation workers from potential COCs located in soils below two feet of surface grade at the property. Figure 1 shows the location of the property subject to the risk mitigation plan. This RMP applies to the COCs, environmental media, and exposure pathway(s) summarized in the table below.

Chemical of Concern	Media	Pathway(s)
Lead	Soil	Direct contact
TPH GRO	Soil	Direct contact
TPH DRO (C10-C20)	Soil	Direct contact
TPH DRO (C20-C34)	Soil	Direct contact
Dibenzo(a,h)anthracene	Groundwater	Dermal contact, inhalation, incidental ingestion

This RMP was prepared in accordance with Ohio Administrative Code rule 3745-300-11. It is not intended to fulfill requirements of other laws that may apply to construction or excavation activities at the property, such as those administered by the Occupational Safety and Health Administration.

Section 2.0 – Implementing the Risk Mitigation Plan (OAC 3745-300-11(F)(1)(e) and (f))

The RMP is to be implemented across the entire property anytime excavation is to occur at a depth below two feet of surface grade. Figure 1 shows the property that is the subject of this RMP. Attachment 1 displays the Legal Description for the Property. The responsibility for implementing this RMP belongs to Metro Parks and successors.

Section 3.0 – Potential Health Risks (OAC 3745-300-11(F)(1)(b))

COCs for which this RMP applies fall into two categories: heavy metals or inorganics and semi-volatile organic compounds (SVOCs). Lead is the heavy metal COC, and dibenzo(a,h)anthracene is the SVOC COC. In addition to these COCs, there are several areas throughout the Property which exceeds the soil saturation concentration of TPH gasoline-range organics (GRO), diesel-range organics (DRO), both carbon (C) chains C10 through C20 and C20 through C34. Each of these COCs will be discussed below.

As discussed, lead is a naturally occurring heavy metal. In its elemental form, it appears as a bluish-gray metal. Its ubiquitous presence in the environment is the result of mining, the burning of fossil fuels, and its use in manufacturing. Lead is used in the manufacturing of metal products, ammunition, batteries, and for use in the medical field as shielding for x-rays. At one time, lead was also used in glazes in ceramic products, it was added to paint, caulking, and pipe solder. Because of health concerns, lead-based paint was banned in 1978, and its use in other products has been greatly reduced. Tetra ethyl lead was used as a gasoline additive to increase octane and prevent “knocking” and “pinging” in the engine. Leaded gasoline was prevalent until banned in 1996 in the United States.

In particular, lead affects the nervous system in both adults and children. Lead poisoning occurs when lead builds up in the body over a period of months or years. It is especially damaging to young children (under the age of 6), where exposure to high levels of lead can effect mental and physical development. Long-term exposure of lead for adults has the following symptoms: decrease in mental function, high blood pressure, pain, numbness, or tingling in the extremities, abdominal pain, memory loss, mood disorders, headache, and even miscarriage in women.

Dibenzo(a,h)anthracene is a COC detected in groundwater that exceeds construction worker 120 day exposure for direct contact. Instead, it is recommended that a 30 day

limitation be made for the construction/excavation worker if they are in contact with the groundwater at the Property. In particular, dibenzo(a,h)anthracene is a polycyclic or polynuclear aromatic hydrocarbon (PAH). PAHs are associated with petroleum products, such as gasoline or diesel fuel, cigarette smoke, exhaust from a vehicle, asphalt, and coal tar, just to name a few. Most people are exposed to PAHs at the gasoline pump, in areas where coal, wood, gasoline, or other products have been burned, and even in the home if exposed to tobacco smoke. Cooking meat or other foods at high temperatures, which can occur during grilling, can increase the amount of PAHs in food. Most toxicological studies are not for individual constituent PAHs, but for PAHs as a group. In general chronic exposure to PAHs can have a noncarcinogenic effect on the pulmonary system, gastrointestinal system, and renal and dermatological systems. Several PAHs are considered carcinogenic, of which dibenzo(a,h)anthracene is one. Inhalation of dibenzo(a,h)anthracene can cause lung irritation. Eye irritation and skin irritation are also potential effects if exposed to high concentrations.

Total petroleum hydrocarbons (TPH) is a term used for any mixture of hydrocarbons that are found in crude oil. There are several hundred possible compounds that could occur in any one of the TPH designations (GRO/DRO), but not all will occur in one designation. TPH represents the total of the petroleum constituents and can contain individual constituents such as benzene, ethylbenzene, naphthalene, benzo(a)pyrene, and other petroleum VOCs and SVOCs. Everyone is exposed to TPHs from many sources, including, but not limited to, gasoline pumps, spilled oil on pavement, and even in some chemicals used at home or at work (such as mineral spirits).

Because TPH represents a mixture of petroleum-related constituents, it is difficult to quantify risk from TPH. Individual TPH constituents were detected at the Property, but individually, none of the COCs (with the exception of dibenzo(a,h)anthracene in groundwater) present a risk to the on-site construction/excavation worker. Health effects of TPH in general, and at high levels, TPH exposure can affect the central nervous system, causing headaches and dizziness. Some constituents can cause a nerve disorder which causes numbness in the feet and legs. Other TPH constituents can affect the blood, immune system, lungs, skin, and eyes.

Section 4.0 - Precautions Against Exposures (OAC 3745-300-11(F)(1)(c))

Exposure to the COCs listed in Section 1.0 on the Property could occur when construction and excavation workers come in contact with potentially impacted soil or

groundwater below two feet of surface grade. Contact can include dermal contact with exposed skin, such as bare hands and forearms, accidental ingestion of soil and/or groundwater or breathing in particles containing potentially impacted soil or groundwater. Construction and excavation workers should always attempt to limit their exposure to soil and groundwater below two feet of surface grade, or lessen the time after contact that the impacted media remains on the skin. Specific precautions to be taken at all times when the upper two feet of soil is breached are as follows:

1. Wear clothing that limits the skin area available for contact with the soil. Examples of such clothing include gloves, long sleeve shirts, and long pants.
2. Wash hands frequently and always before eating, smoking, chewing gum or tobacco, or other activities that involve contact between the hands and items to be placed in the mouth. This will prevent the spread of any soil on the hands to the items being placed in the mouth.
3. Do not apply ointments, cream, make-up or other substances before washing both the area to which the substance is to be applied and, if the substance is to be applied by hand, the hands. The application of such substances can provide a mechanism by which soil can be trapped next to the skin.
4. Cover cuts, scrapes and other open skin areas. Injured skin allows compounds in the soil to be more readily absorbed into the body than intact skin.
5. Wash hands and other exposed areas, especially those areas with visible dirt, before leaving the work site for extended time periods. This limits the amount of time that the soil is potentially in contact with the skin, thereby reducing the amount of the chemicals that can be absorbed through the skin.
6. Change work clothes shortly after leaving the property, especially those work clothes having either visible dirt or made damp through sweat or other liquids. Wash such clothes prior to wearing them again. Gloves and other such items that come into direct contact with the soil should also be washed, if possible.
7. Wash hair and other less accessible portions of the body shortly after leaving the work site for the day. Dirt and dust that contain substances such as metals can settle in the hair and spread by contact between the hands and the hair. Dirt and dust can also infiltrate under and through clothing, especially clothing becoming wet or sweaty.
8. Generally avoid direct contact between the skin and the impacted soils at the property.

9. Minimize the suspension of dust to the degree possible and specify measures to be taken for minimizing dust. Dust masks should be worn when warranted.

Section 5.0 - Actions to Take if Significant Exposures Occur

Whenever significant exposures to impacted materials are suspected to have occurred at the property, the following steps must be taken:

1. Immediately remove and decontaminate all personnel.
2. Provide medical surveillance monitoring as needed for personnel.
3. Restrict access to the impacted area.
4. Perform sampling and analysis as required to determine levels of personal protective equipment, decontamination of personnel and equipment, training needs, medical surveillance and waste management requirements, prior to resuming work at the site.

Section 6.0 - Handling Impacted Environmental Media (OAC 3745-300-11(F)(1)(d))

During future excavation activities the upper two feet of soil may be temporarily breached, exposing construction or excavation workers to the potentially impacted underlying soil and/or groundwater. Wherever excavation occurs on the Property, soil may be reused as fill, provided the potentially impacted soil below two feet of grade are not co-mingled with soil above that depth, or used as fill within the upper two feet of grade.

Soil within the upper two feet of surface grade must be replaced with the materials excavated from that depth interval, or with other clean fill as needed, to restore the clean soil that was within the upper two feet of grade prior to the excavation. This requires that soil excavated from the upper two feet of surface grade be isolated and temporarily stockpiled separately from other soil, and returned to the upper two feet of the excavation during backfilling operations. Alternatively, if something occurs such that the upper two feet of soil cannot be replaced on the property, other clean soils, such as those from an off-property source, may be used to re-grade the top two feet on the property as long as the soil has been characterized and demonstrated to meet applicable VAP standards. A clean zone of soil from zero to two feet below surface grade must be replaced at the conclusion of the excavation work.

Impacted soil below two feet of surface grade may be excavated and removed from the Property provided that they are properly characterized and disposed of in accordance with applicable laws and regulations.

Section 7.0 - Notice to Contractors and Workers (OAC 3745-300-11(F)(1)(h) and (i))

Whenever construction or excavation workers are reasonably expected to be exposed to soil and/or groundwater below two feet of grade, the volunteer, or subsequent owner of the Property, is responsible for communicating all the information provided in this RMP to the workers. The volunteer/owner is to communicate the identity of the chemical(s) of concern present on the property, their location on the property and in which media, the potential health effects associated with exposure to said chemicals, the precautions to be taken to avoid exposure, how to handle impacted media on the property, and actions to be taken should significant exposure occur.

A copy of this RMP will be maintained at the property. The property owner will ensure that the plan is made available to contractors and construction/excavation workers, and will ensure that the plan is implemented during excavation below two feet of surface grade.

Section 8.0 - Annual Notification to Ohio EPA (OAC 3745-300-11(F)(1)(j))

Annual reports will be prepared by the property owner and submitted to both the Ohio EPA Central Office and the Ohio EPA Central District Office. The annual report will either describe the activities that were conducted and describe how the RMP was implemented, or report that the RMP was not implemented during the year. Each report will be submitted with an affidavit by an individual with knowledge of the RMP implementation for the year.

Section 9.0 - Termination Criteria (OAC 3745-300-11(F)(1)(k))

The owner may submit to Ohio EPA a request to terminate the RMP. The request must demonstrate that further implementation of the RMP is no longer necessary for the Property to maintain compliance with VAP standards applicable for construction and excavation activities. The demonstration must be verified by a VAP certified professional and include the certified professional's affidavit that attests that the demonstration shows the property complies with the VAP standards for construction and excavation activities without use of risk mitigation measures as a remedial activity

under OAC 3745-300-11. The request may present the current property-specific conditions that demonstrate protectiveness to future construction and excavation workers and include any other information in support of the demonstration.

10.0 References

Agency for Toxic Substances and Disease Registry (ATSDR), Toxic Substances Portal, ToxFAQS for Total Petroleum Hydrocarbons. <http://www.atsdr.cdc.gov/toxfaq/tf.asp?id=423&tid=75>

ATSDR Health Effects Associated with PAH Exposure. <http://www.atsdr.cdc.gov/csem/csem.asp?csem=13&po=11>.

ATSDR. Toxicological Profile for Polycyclic Aromatic Hydrocarbons. <http://www.atsdr.cdc.gov/toxprofiles/tp69.pdf>

USEPA Integrated Risk Information System. Dibenzo(a,h)anthracene. <http://www.epa.gov/iris/subst/0456.htm>

Mayo Clinic. Webpage for Lead Poisoning. <http://www.mayoclinic.org/diseases-conditions/lead-poisoning/basics/definition/con-20035487>

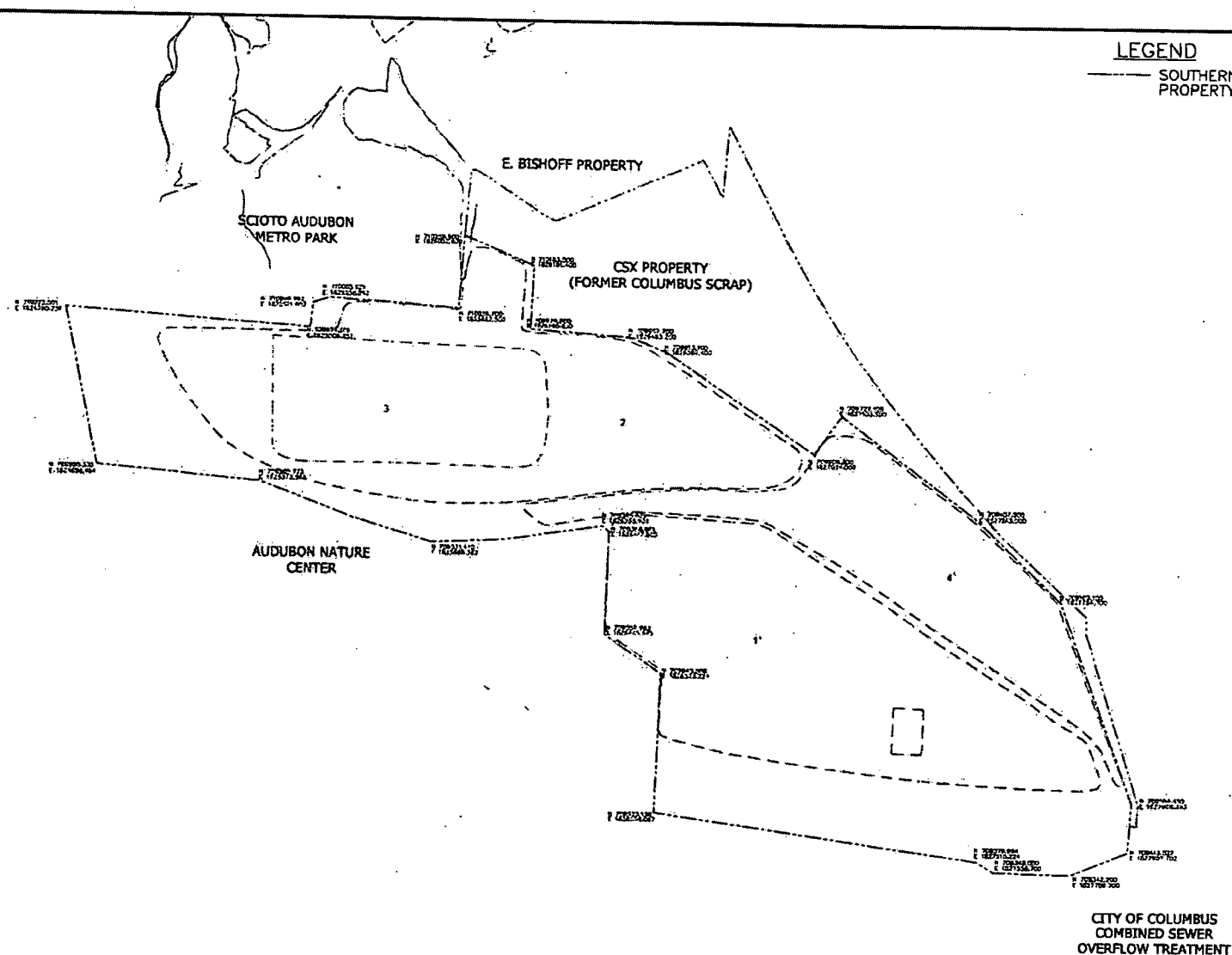
TOXNET. Toxicology Data Network. Dibenzo(a,h)anthracene. <http://toxnet.nlm.nih.gov/cgi-bin/sis/search/a?dbs+hsdb:@term+@DOCNO+5097>

Wikipedia. [http://en.wikipedia.org/wiki/Dibenz\(a,h\)anthracene](http://en.wikipedia.org/wiki/Dibenz(a,h)anthracene)

FIGURES

LEGEND

SOUTHERN TIER
PROPERTY BOUNDARY



NO.	REV	DATE	BY	CHK.
1				
2				
3				
4				
5				
6				
7				
8				
9				
10				



WHITTIER PENINSULA
SOUTHERN TIER

JOB NO.	49405
REVISIONS BY:	DDP
DESIGN BY:	OSC
CHECKED BY:	DDP
APPROVED BY:	END
DATE:	JAN. 2011

FIGURE 1
PROPERTY AND SURROUNDING PROPERTIES

SHEET	
1"=150'	
SHEET NO.	OF
1	1

ATTACHMENTS

**DESCRIPTION OF 59.031 ACRES
SOUTH TIER
WHITTIER PENINSULA
CITY OF COLUMBUS, OHIO**

Situated in the State of Ohio, County of Franklin, City of Columbus, being the "South Tier" located on the Whittier Peninsula and on the lands of the City of Columbus. All references herein are to the records of the Recorder's Office and Auditor's Office, Franklin County, Ohio, and being more particularly described as follows:

Beginning at the most northerly corner of that 8.671-acre tract as described in a deed to the City of Columbus, Ohio, of record in Instrument No. 199909030226778 and at an angle point in the perimeter of the property of CSX Transportation (PID [property identification] No. 010-057548);

Thence along the common line between said properties the following courses:

1. South 52°07'07" East, a distance of 519.27 feet to an angle point;
2. South 45°30'32" East, a distance of 339.55 feet to an angle point;
3. South 19°58'02" East, a distance of 644.34 feet to an angle point in the northerly right-of-way line of Whittier Street;

Thence South 04°03'07" West, crossing Whittier Street, a distance of 151.31 feet to a point in the southerly right-of-way of same at the intersection of the perimeter of PID 010-067084;

Thence along said perimeter the following courses:

1. South 66°59'50" West, a distance of 182.51 feet to an angle point;
2. North 88°33'42" West, a distance of 231.07 feet to a point near the water line of the Scioto River;

Thence North 56°34'31" West, along said water line, a distance of 58.08 feet to a point;

Thence North 81°27'02" West, continuing along said water line, a distance of 962.86 feet to a southeasterly corner of that 26.611-acre tract designated as the Audubon Nature Center;

Thence along the perimeter of said 26.611-acre tract the following courses:

J:\09\09-032\DOCUMENTS\SouthTierColumbus.doc

Description of 59.031 acres, Page 2

1. North 02°03'19" East, a distance of 422.64 feet to an angle point;
2. North 55°44'25" West, a distance of 202.82 feet to an angle point;
3. North 02°15'41" East, a distance of 309.42 feet to an angle point;
4. North 48°12'49" West, a distance of 25.46 feet to an angle point;
5. South 81°18'40" West, a distance of 291.64 feet to an angle point;
6. South 87°19'30" West, a distance of 222.01 feet to an angle point;
7. North 73°52'51" West, a distance of 250.05 feet to an angle point;
8. North 69°11'39" West, a distance of 295.44 feet to an angle point;
9. North 84°44'19" West, a distance of 485.90 feet to a point again near the water line of the Scioto River;

Thence North 11°41'59" West, along said water line, a distance of 482.20 feet to a point;

Thence South 86°09'50" East, becoming coincident with the southerly line of that City of Columbus 9.4686-acre tract (PID No. 010-036350) at a distance of 310 feet, a total distance of 717.23 feet to an angle point;

Thence North 04°15'44" East, continuing along the perimeter of said 9.4686-acre tract, a distance of 74.68 feet to an angle point;

Thence North 69°56'39" East, continuing along said perimeter, a distance of 49.38 feet to a point in the southerly line of a vacated alley (Ord. No. 16885);

Thence South 86°09'50" East, along said southerly line, a distance of 408.75 feet to a point within the right-of-way of Maier Place;

Thence North 04°15'44" East, through said right-of-way, a distance of 219.27 feet to an angle point in the perimeter of the CSX Transportation property (PID No. 010-066150);

Thence along said perimeter the following courses:

1. South 67°16'50" East, a distance of 209.20 feet to an angle point;
2. South 03°50'10" West, a distance of 200.00 feet to an angle point;
3. South 86°09'50" East, a distance of 301.16 feet to an angle point;
4. South 66°26'50" East, a distance of 114.15 feet to an angle point;
5. South 55°00'50" East, a distance of 541.84 feet to an angle point;

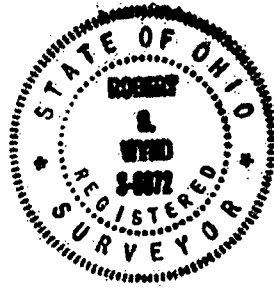
J:\09\09-032\DOCUMENTS\SouthTierColumbus.doc

Description of 59.031 acres, Page 3

6. North $33^{\circ}59'15''$ East, a distance of 152.45 feet to the place of beginning and containing 59.031 acres of land.

Bearings herein are based on the NAD 83 Ohio State Plane Coordinate System, South Zone, utilizing monuments COC 13-83 and COC 18-83.

This description was prepared by M•E Companies, Inc., Civil Engineering Group, based on information obtained from field surveys and records of the Franklin County Recorder's Office.



M•E Companies, Inc.
Civil Engineering Group

By Robert S. Wynd 10/7/10
Robert S. Wynd date
Registered Surveyor No. 6872



John R. Kasich, Governor
Mary Taylor, Lt. Governor
Craig W. Butler, Director

**Re: Whittier Peninsula Project, Columbus
Covenant
Correspondence
Voluntary Action Program
Franklin County
125001668022**

CERTIFIED MAIL

MEMORANDUM

TO: Shelley Wilson, Executive Administrator for Real Property, Tax
Equalization Division, Ohio Department of Taxation

FROM:  Craig W. Butler, Director, Ohio Environmental Protection Agency

SUBJECT: **Covenant Not to Sue Issued to the Columbus and Franklin County
Metropolitan Park District for the Southern Tier of Whittier Peninsula
Property**

As Director of the Ohio Environmental Protection Agency, I certify that Columbus and Franklin County Metropolitan Park District 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: Southern Tier of Whittier Peninsula

Property address: 400 West Whittier Street, Columbus, Ohio 43215

Property owner: Columbus and Franklin County Metropolitan Park District

Property owner address: 1069 West Main Street, Westerville, Ohio 43081

Parcel number(s): 010-025989, 010-094093, 010-289944; the Franklin County Auditor's website indicates the property also includes 010-057449, 010-022008 and 010-070438

County: Franklin

Taxing district: City of Columbus (010)

Date covenant not to sue Issued: **DEC 30 2015**

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 Thomas J. Mignery, the certified professional for the property, at (614) 459-2050. As an alternative, you may contact Ray Moreno with the Ohio Environmental Protection Agency at (614) 728-3833.

cc: Lawrence J. Peck, Deputy Director
Columbus and Franklin County Metropolitan Park District
1069 West Main Street, Westerville, Ohio 43081

Thomas J. Mignery, Certified Professional
Burgess & Niple, Inc.
5085 Reed Road, Columbus, Ohio 43220

Clarence E. Mingo, II, Franklin County Auditor
373 South High Street, 21st Floor, Columbus, Ohio 43215

Karen Winters, Esq., Squire Patton Boggs (US) LLP
2000 Huntington Center, 41 South High Street, Columbus, Ohio 43215

ec: Amy Yersavich, Manager, SABR
Sue Kroeger, Legal Office, Ohio EPA
Deborah Strayton, Manager, DERR-CDO
Ray Moreno, DERR-CDO
Jeri Main, DERR-CDO File Copy
records@epa.ohio.gov (14NFA592)

Revised May, 2015

DESCRIPTION OF 59.031 ACRES
SOUTH TIER
WHITTIER PENINSULA
CITY OF COLUMBUS, OHIO

Situated in the State of Ohio, County of Franklin, City of Columbus, being the "South Tier" located on the Whittier Peninsula and on the lands of the City of Columbus. All references herein are to the records of the Recorder's Office and Auditor's Office, Franklin County, Ohio, and being more particularly described as follows:

Beginning at the most northerly corner of that 8.671-acre tract as described in a deed to the City of Columbus, Ohio, of record in Instrument No. 199909030226778 and at an angle point in the perimeter of the property of CSX Transportation (PID [property identification] No. 010-057548);

Thence along the common line between said properties the following courses:

1. South 52°07'07" East, a distance of 519.27 feet to an angle point;
2. South 45°30'32" East, a distance of 339.55 feet to an angle point;
3. South 19°58'02" East, a distance of 644.34 feet to an angle point in the northerly right-of-way line of Whittier Street;

Thence South 04°03'07" West, crossing Whittier Street, a distance of 151.31 feet to a point in the southerly right-of-way of same at the intersection of the perimeter of PID 010-067084;

Thence along said perimeter the following courses:

1. South 66°59'50" West, a distance of 182.51 feet to an angle point;
2. North 88°33'42" West, a distance of 231.07 feet to a point near the water line of the Scioto River;

Thence North 56°34'31" West, along said water line, a distance of 58.08 feet to a point;

Thence North 81°27'02" West, continuing along said water line, a distance of 962.86 feet to a southeasterly corner of that 26.611-acre tract designated as the Audubon Nature Center;

Thence along the perimeter of said 26.611-acre tract the following courses:

J:\09\09-032\DOCUMENTS\SouthTierColumbus.doc

Description of 59.031 acres, Page 2

1. North 02°03'19" East, a distance of 422.64 feet to an angle point;
2. North 55°44'25" West, a distance of 202.82 feet to an angle point;
3. North 02°15'41" East, a distance of 309.42 feet to an angle point;
4. North 48°12'49" West, a distance of 25.46 feet to an angle point;
5. South 81°18'40" West, a distance of 291.64 feet to an angle point;
6. South 87°19'30" West, a distance of 222.01 feet to an angle point;
7. North 73°52'51" West, a distance of 250.05 feet to an angle point;
8. North 69°11'39" West, a distance of 295.44 feet to an angle point;
9. North 84°44'19" West, a distance of 485.90 feet to a point again near the water line of the Scioto River;

Thence North 11°41'59" West, along said water line, a distance of 482.20 feet to a point;

Thence South 86°09'50" East, becoming coincident with the southerly line of that City of Columbus 9.4686-acre tract (PID No. 010-036350) at a distance of 310 feet, a total distance of 717.23 feet to an angle point;

Thence North 04°15'44" East, continuing along the perimeter of said 9.4686-acre tract, a distance of 74.68 feet to an angle point;

Thence North 69°56'39" East, continuing along said perimeter, a distance of 49.38 feet to a point in the southerly line of a vacated alley (Ord. No. 16885);

Thence South 86°09'50" East, along said southerly line, a distance of 408.75 feet to a point within the right-of-way of Maier Place;

Thence North 04°15'44" East, through said right-of-way, a distance of 219.27 feet to an angle point in the perimeter of the CSX Transportation property (PID No. 010-066150);

Thence along said perimeter the following courses:

1. South 67°16'50" East, a distance of 209.20 feet to an angle point;
2. South 03°50'10" West, a distance of 200.00 feet to an angle point;
3. South 86°09'50" East, a distance of 301.16 feet to an angle point;
4. South 66°26'50" East, a distance of 114.15 feet to an angle point;
5. South 55°00'50" East, a distance of 541.84 feet to an angle point;

J:\09\09-032\DOCUMENTS\SouthTierColumbus.doc

Description of 59.031 acres, Page 3

6. North $33^{\circ}59'15''$ East, a distance of 152.45 feet to the place of beginning and containing 59.031 acres of land.

Bearings herein are based on the NAD 83 Ohio State Plane Coordinate System, South Zone, utilizing monuments COC 13-83 and COC 18-83.

This description was prepared by M•E Companies, Inc., Civil Engineering Group, based on information obtained from field surveys and records of the Franklin County Recorder's Office.



M•E Companies, Inc.
Civil Engineering Group

By Robert S. Wynd 10/7/10
Robert S. Wynd date
Registered Surveyor No. 6872



Instrument Number: 201602260022844
Recorded Date: 02/26/2016 9:19:07 AM



Terry J. Brown
Franklin County Recorder
373 South High Street, 18th Floor
Columbus, OH 43215
(614) 525-3930
<http://Recorder.FranklinCountyOhio.gov>
Recorder@FranklinCountyOhio.gov

FranklinCountyRecorderTerryBrown @RecorderBrown

Transaction Number: T20160011773
Document Type: DECLARATION
Document Page Count: 16

Submitted By (Mail):
COLUMBUS AND FRANKLIN COUNTY METROPOLITAN
PARK DISTRICT
1069 W MAIN STREET

WESTERVILLE, OH 43081-1181

Mail

Return To (Mail Envelope):
COLUMBUS AND FRANKLIN COUNTY METROPOLITAN PARK
DISTRICT
1069 W MAIN STREET
WESTERVILLE, OH 43081-1181

Mail Envelope

First Grantor:
COLUMBUS AND FRANKLIN COUNTY METROPOLITAN
PARK DISTRICT

First Grantee:
OHIO ENVIRONMENTAL PROTECTION AGENCY

Fees:
Document Recording Fee: \$28.00
Additional Pages Fee: \$112.00

Total: \$140.00

Instrument Number: 201602260022844
Recorded Date: 02/26/2016 9:19:07 AM

OFFICIAL RECORDING COVER PAGE

DO NOT DETACH

THIS PAGE IS NOW PART OF THIS RECORDED DOCUMENT

NOTE: If the document data differs from this cover sheet, the document data always supersedes the cover page.
COVER PAGE DOES NOT INCLUDE ALL DATA, PLEASE SEE INDEX AND DOCUMENT FOR ANY ADDITIONAL INFORMATION.

TRANSFER
NOT NECESSARY

FEB 24 2016

CLARENCE E. MINGO II
AUDITOR
FRANKLIN COUNTY, OHIO

To be recorded with Deed
Records - ORC § 317.08

CONVEYANCE TAX EXEMPT	
M	MWD
CLARENCE E. MINGO II FRANKLIN COUNTY AUDITOR	

ENVIRONMENTAL COVENANT

This Environmental Covenant is entered into by the Columbus and Franklin County Metropolitan Park District ("Metro Parks") and the Ohio Environmental Protection Agency ("Ohio EPA") pursuant to Ohio Revised Code ("ORC") §§ 5301.80 to 5301.92 for the purpose of subjecting the Property described in Section 2 herein ("Property") to the activity and use limitations set forth herein.

WHEREAS, the Metro Parks has undertaken a voluntary action with respect to the Property pursuant to Ohio's Voluntary Action Program ("VAP") ORC Chapter 3746 and regulation promulgated pursuant thereto at Ohio Administrative Code ("OAC") Chapter 3745-300.

WHEREAS, the Property is owned by the Metro Parks and Metro Parks is the volunteer for the Property.

WHEREAS, the voluntary action remedy for the Property includes the activity and use limitations set forth in this Environmental Covenant. Certified Professional Thomas J. Mignery, CP125, issued a no further action letter ("NFA Letter") for the Property on July 29, 2014 and submitted the NFA Letter to Ohio EPA (No. 14NFA592) with a request for a covenant not to sue.

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

WHEREAS, the NFA Letter's Executive Summary (version dated August 2015) contains an overview of the voluntary action. The Executive Summary may be reviewed as an exhibit to the covenant not to sue issued for the Property, recorded in the deed records for the Property in the Franklin County Recorder's Office. The covenant not to sue, and the NFA Letter (No. 14NFA592) may also be reviewed by contacting the Records Management Officer for the Division of Environmental Response and Revitalization, at Ohio EPA's

Central Office, 50 West Town Street, Columbus, OH 43216, 614-644-2924, or at Ohio EPA's Central District Office at 50 West Town St, Columbus, OH 43215, or by contacting the Columbus and Franklin County Metropolitan Park District, 1069 West Main Street, Westerville, OH 43081, 614-508-8000.

Now therefore, Metro Parks and Ohio EPA agree as follows:

1. Environmental Covenant. This instrument is an Environmental Covenant developed and executed pursuant to ORC §§ 5301.80 to 5301.92.

2. Property. The property subject to this Environmental Covenant consists of 59.031-acres (currently Parcel Nos. 10-025989-80, 10-289944-00, 10-094093-00), located at 400 W Whittier St, Columbus, OH 43215 in Franklin County, Ohio, and more particularly described in Attachment 1 attached hereto and incorporated by reference herein ("Property").

3. Owner. This Property is owned by Metro Parks with place of business located at 1069 West Main Street, Westerville, OH 43081 ("Owner").

4. Holder. Pursuant to ORC § 5301.81, the holder of this Environmental Covenant ("Holder") is the Owner listed above.

5. Activity and Use Limitations. As part of the voluntary action remedy described in the NFA Letter, Owner hereby imposes and agrees to comply with the following activity and use limitations:

Limitation for Recreational and Commercial/Industrial Land Use. The Property is hereby limited to "recreational" land use as defined herein, or "commercial" or "industrial" land use as defined in OAC §§3745-300-08(C)(2)(c)(ii) and (C)(2)(c)(iii) (effective March 1, 2009), or any combination of those uses.

- i. Recreational land use means surficial use of the Property, which include but are not limited to: picnic areas and shelters, playfields, open lawns, other green spaces, wildlife and city viewing opportunities, boardwalks, overlook decks, bike and multiple purpose trails including a pedestrian promenade, nature trails, paths and walkways, natural area amphitheater and other educational programming facilities, public art

displays, pet play areas, restrooms, and any activities and uses incidental to such land use.

Recreational land use excludes any land use as residences (including single or multiple family housing, condominiums and apartments); day care facilities; schools, colleges, and other educational institutions; nursing homes, elder care and other long-term health care facilities; and correctional facilities.

- ii. OAC §3745-300-08(B)(2)(c)(ii) defines commercial land use as "land use with potential exposure of adult workers during a business day and potential exposure of adults and children who are customers, patrons, or visitors to commercial facilities during the business day. Commercial land use has potential exposure of adults to dermal contact with soil, inhalation of vapors and particles from soil and ingestion of soil. Examples of commercial land uses include but are not limited to warehouses; building supply facilities; retail gasoline stations; automobile service stations; automobile dealerships; retail warehouses; repair and service establishments for appliances and other goods; professional offices; banks and credit unions; office buildings; retail businesses selling foods or merchandise; golf courses; hospitals and clinics; religious institutions; hotels; motels; and parking facilities."
- iii. OAC §3745-300-08(B)(2)(c)(iii) defines industrial land use as "land use with potential exposure of adult workers during a business day and potential exposures of adults and children who are visitors to industrial facilities during the business day. Industrial land use has potential exposure of adults to dermal contact with soil, inhalation of vapors and particles from soil and ingestion of soil. Examples of industrial land uses include, but are not limited to: lumberyards; power plants; manufacturing facilities such as metalworking shops, plating shops, blast furnaces, coke plants, oil refineries, brick factories, chemical plants and plastics plants; assembly plants; non-public airport areas; limited access highways; railroad switching yards; and marine port facilities."

Prohibition on Groundwater Use: No person shall extract the groundwater underlying the Property or any portion thereof for any purpose, potable or otherwise, except for groundwater investigation, monitoring, or remediation, or in conjunction with construction or excavation activities or maintenance of subsurface utilities.

Limitation on Building Occupancy – Remedy or Demonstration Obligation.

Prior to human occupancy of any building constructed on the Property after the recording date of this Environmental Covenant, either: (i) a remedy that eliminates indoor air vapor intrusion exposure to hazardous substances in soil or groundwater in excess of applicable standards shall be installed, operated and maintained as an engineering control under an operation and maintenance agreement in accordance with a covenant not to sue issued by the Director of Environmental Protection pursuant to ORC § 3746.12; or (ii) a demonstration attested by a certified professional shall be made to Ohio EPA, that the Property complies with applicable standards for the vapor intrusion to indoor air exposure pathway without further implementation of remedial activity and documented in accordance with ORC Chapter 3746 and the rules adopted thereunder.

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, 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 against any non-compliance. Nothing in this Environmental Covenant shall restrict the Director of Environmental Protection 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 Environmental Protection under ORC § 3746.12 is void on and after the date of the commencement of the noncompliant use.

8. Rights of Access. Owner hereby grants to Ohio EPA's authorized representatives 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 Transferee, if applicable, shall, upon request by Ohio EPA, submit to Ohio EPA written documentation verifying that the activity and use limitations set forth herein 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, and provide the recorded location of this Environmental Covenant. The notice shall be substantially in the following form:

THE INTEREST CONVEYED HEREBY IS SUBJECT TO AN ENVIRONMENTAL COVENANT, RECORDED IN THE DEED OR OFFICIAL RECORDS OF THE FRANKLIN COUNTY RECORDER ON _____, 201__, IN [DOCUMENT _____, or BOOK____, PAGE ____]. THE ENVIRONMENTAL COVENANT CONTAINS THE FOLLOWING ACTIVITY AND USE LIMITATIONS:

Limitation for Recreational and Commercial/Industrial Land Use. The Property is hereby limited to "recreational" land use as defined herein, or "commercial" or "industrial" land use as defined in in OAC §3745-300-08(C)(2)(c)(ii) and (C)(2)(c)(iii) (effective March 1, 2009), or any combination of those uses.

- i. Recreational land use means surficial use of the Property, which include but are not limited to: picnic areas and shelters, playfields, open lawns, other green spaces, wildlife and city viewing opportunities, boardwalks, overlook decks, bike and multiple purpose trails including a pedestrian promenade, nature trails, paths and walkways, natural area amphitheater and other educational programming facilities, public art displays, pet play areas, restrooms, and any activities and uses incidental to such land use.

Recreational land use excludes any land use as residences (including single or multiple family housing, condominiums and apartments); day care facilities; schools, colleges, and other educational institutions; nursing homes, elder care and other

long-term health care facilities; and correctional facilities.

- ii. OAC §3745-300-08(B)(2)(c)(ii) defines commercial land use as "land use with potential exposure of adult workers during a business day and potential exposure of adults and children who are customers, patrons, or visitors to commercial facilities during the business day. Commercial land use has potential exposure of adults to dermal contact with soil, inhalation of vapors and particles from soil and ingestion of soil. Examples of commercial land uses include but are not limited to warehouses; building supply facilities; retail gasoline stations; automobile service stations; automobile dealerships; retail warehouses; repair and service establishments for appliances and other goods; professional offices; banks and credit unions; office buildings; retail businesses selling foods or merchandise; golf courses; hospitals and clinics; religious institutions; hotels; motels; and parking facilities."
- iii. OAC §3745-300-08(B)(2)(c)(iii) defines industrial land use as "land use with potential exposure of adult workers during a business day and potential exposures of adults and children who are visitors to industrial facilities during the business day. Industrial land use has potential exposure of adults to dermal contact with soil, inhalation of vapors and particles from soil and ingestion of soil. Examples of industrial land uses include, but are not limited to: lumberyards; power plants; manufacturing facilities such as metalworking shops, plating shops; blast furnaces, coke plants, oil refineries, brick factories, chemical plants and plastics plants; assembly plants; non-public airport areas; limited access highways; railroad switching yards; and marine port facilities."

Prohibition on Groundwater Use: As a portion of the remedy under the Ohio EPA VAP to protect against exposure to hazardous substances in groundwater located at or underlying the Property described herein, no person shall extract the groundwater underlying the Property or any portion thereof for any purpose, potable or otherwise, except for groundwater investigation, monitoring, or remediation, or in conjunction with construction or excavation activities or maintenance of subsurface utilities.

Limitation on Building Occupancy – Remedy or Demonstration Obligation:

Prior to human occupancy of any building constructed on the Property after the recording date of this Environmental Covenant, either: (i) a remedy that eliminates indoor air vapor intrusion exposure to hazardous substances in soil or groundwater in excess of applicable standards shall be installed, operated and maintained as an engineering control under an operation and maintenance agreement in accordance with a covenant not to sue issued by the Director of Environmental Protection pursuant to ORC § 3746.12; or (ii) a demonstration attested by a certified professional shall be made to Ohio EPA, that the Property complies with applicable standards for the vapor intrusion to indoor air exposure pathway without further implementation of remedial activity and documented in accordance with ORC Chapter 3746 and the rules adopted thereunder.

Owner or Transferee, if applicable, shall notify Ohio EPA within thirty (30) days after each conveyance of an interest in the Property or any portion thereof. The notice shall include the name, address, and telephone number of the Transferee, a copy of the deed or other documentation evidencing the conveyance, and a survey map that shows the boundaries of the property being transferred.

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

- A. that the Owner is the sole owner of the Property;
- B. that the Owner holds fee simple title to the Property and that the Owner conducted a current title search that shows that the Property is not subject to any interests or encumbrances that conflict with the activity and use limitations set forth in this Environmental Covenant;
- 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 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;

- E. that the Owner has identified all other persons that own an interest in or hold an encumbrance on the Property and, if applicable, notified such persons of the Owner's intention to enter into this Environmental Covenant.

12. Amendment or Termination. This Environmental Covenant may be amended or terminated by consent of all of the following: the Owner, or a Transferee, if applicable; and the Director of Environmental Protection, pursuant to ORC §§ 5301.82 and 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 so long as 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 Environmental Protection and by the Owner or Transferee, if applicable, 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, if applicable, shall file such instrument for recording with the Franklin County Recorder's Office, and shall provide a file- and date-stamped copy of the recorded instrument to Ohio EPA.

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

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

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

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

17. Distribution of Environmental Covenant. The Owner shall distribute a file- and date-stamped copy of the recorded Environmental Covenant to: Ohio EPA in accordance with the Notice provision below.

18. Notice. Unless otherwise notified in writing by any party hereto or Ohio EPA, any document or communication required by this Environmental Covenant shall be submitted to:

As to Ohio EPA:

Ohio EPA – Central Office
Division of Environmental Response and Revitalization
50 West Town Street
P.O. Box 1049
Columbus, Ohio 43216-1049
Attn.: DERR Records Management Officer, regarding No. 14NFA592

Or, send electronically to: records@epa.ohio.gov

And

Ohio EPA – Central District Office
50 West Town Street Suite 700
P.O. Box 1049
Columbus, Ohio 43216-1049
Attn.: DERR Site Coordinator for No. 14NFA592

As to Owner:

Columbus and Franklin County Metropolitan Park District
1069 West Main St.
Westerville, OH 43081
Attn.: Deputy Director

[Remainder of page left intentionally blank]

The undersigned represents and certifies that the undersigned is authorized to execute this Environmental Covenant.

IT IS SO AGREED:

Columbus and Franklin County Metropolitan Park District

[Signature] for Metro Parks
Signature of Owner

Lawrence J. Peck Deputy Director
Printed Name and Title

State of Ohio)
County of Franklin) ss:

Before me, a notary public, in and for said county and state, personally appeared Lawrence J. Peck, a duly authorized representative of the Owner, who acknowledged to me the execution of the foregoing instrument on behalf of the Owner.

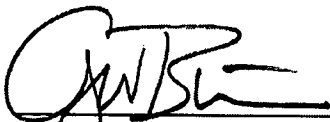
IN TESTIMONY WHEREOF, I have subscribed my name and affixed my official seal this 18th day of November, 2015.

K. Renee Telfer
Notary Public



K RENEE TELFER
NOTARY PUBLIC - OHIO
MY COMMISSION EXPIRES 4-16-16

OHIO ENVIRONMENTAL PROTECTION AGENCY



Craig W. Butler, Director

State of Ohio)
)
County of Franklin) ss:

Before me, a notary public, in and for Franklin County, Ohio, personally appeared Craig W. Butler, 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 24th day of DECEMBER, 2015.





Notary Public

CHARMA DIANE CASTEEL
NOTARY PUBLIC
STATE OF OHIO
MY COMMISSION EXPIRES
May 10, 2019

This instrument was prepared by:

Sue Kroeger, Esq.
Ohio EPA-Legal Office
50 West Town Street, Suite 700
Columbus, OH 43215

ATTACHMENT 1
Property Legal Description

DESCRIPTION OF 59.031 ACRES
SOUTH TIER
WHITTIER PENINSULA
CITY OF COLUMBUS, OHIO

Situated in the State of Ohio, County of Franklin, City of Columbus, being the "South Tier" located on the Whittier Peninsula and on the lands of the City of Columbus. All references herein are to the records of the Recorder's Office and Auditor's Office, Franklin County, Ohio, and being more particularly described as follows:

Beginning at the most northerly corner of that 8.671-acre tract as described in a deed to the City of Columbus, Ohio, of record in Instrument No. 199909030226778 and at an angle point in the perimeter of the property of CSX Transportation (PID [property identification] No. 010-057548);

Thence along the common line between said properties the following courses:

1. South 52°07'07" East, a distance of 519.27 feet to an angle point;
2. South 45°30'32" East, a distance of 339.55 feet to an angle point;
3. South 19°58'02" East, a distance of 644.34 feet to an angle point in the northerly right-of-way line of Whittier Street;

Thence South 04°03'07" West, crossing Whittier Street, a distance of 151.31 feet to a point in the southerly right-of-way of same at the intersection of the perimeter of PID 010-067084;

Thence along said perimeter the following courses:

1. South 66°59'50" West, a distance of 182.51 feet to an angle point;
2. North 88°33'42" West, a distance of 231.07 feet to a point near the water line of the Scioto River;

Thence North 56°34'31" West, along said water line, a distance of 58.08 feet to a point;

Thence North 81°27'02" West, continuing along said water line, a distance of 962.86 feet to a southeasterly corner of that 26.611-acre tract designated as the Audubon Nature Center;

Thence along the perimeter of said 26.611-acre tract the following courses:

J:\09\09-032\DOCUMENTS\SouthTierColumbus.doc

Description of 59.031 acres, Page 2

1. North 02°03'19" East, a distance of 422.64 feet to an angle point;
2. North 55°44'25" West, a distance of 202.82 feet to an angle point;
3. North 02°15'41" East, a distance of 309.42 feet to an angle point;
4. North 48°12'49" West, a distance of 25.46 feet to an angle point;
5. South 81°18'40" West, a distance of 291.64 feet to an angle point;
6. South 87°19'30" West, a distance of 222.01 feet to an angle point;
7. North 73°52'51" West, a distance of 250.05 feet to an angle point;
8. North 69°11'39" West, a distance of 295.44 feet to an angle point;
9. North 84°44'19" West, a distance of 485.90 feet to a point again near the water line of the Scioto River;

Thence North 11°41'59" West, along said water line, a distance of 482.20 feet to a point;

Thence South 86°09'50" East, becoming coincident with the southerly line of that City of Columbus 9.4686-acre tract (PID No. 010-036350) at a distance of 310 feet, a total distance of 717.23 feet to an angle point;

Thence North 04°15'44" East, continuing along the perimeter of said 9.4686-acre tract, a distance of 74.68 feet to an angle point;

Thence North 69°56'39" East, continuing along said perimeter, a distance of 49.38 feet to a point in the southerly line of a vacated alley (Ord. No. 16885);

Thence South 86°09'50" East, along said southerly line, a distance of 408.75 feet to a point within the right-of-way of Maier Place;

Thence North 04°15'44" East, through said right-of-way, a distance of 219.27 feet to an angle point in the perimeter of the CSX Transportation property (PID No. 010-066150);

Thence along said perimeter the following courses:

1. South 67°16'50" East, a distance of 209.20 feet to an angle point;
2. South 03°50'10" West, a distance of 200.00 feet to an angle point;
3. South 86°09'50" East, a distance of 301.16 feet to an angle point;
4. South 66°26'50" East, a distance of 114.15 feet to an angle point;
5. South 55°00'50" East, a distance of 541.84 feet to an angle point;

J:\09\09-032\DOCUMENTS\SouthTierColumbus.doc

Description of 59.031 acres, Page 3

6. North $33^{\circ}59'15''$ East, a distance of 152.45 feet to the place of beginning and containing 59.031 acres of land.

Bearings herein are based on the NAD 83 Ohio State Plane Coordinate System, South Zone, utilizing monuments COC 13-83 and COC 18-83.

This description was prepared by M•E Companies, Inc., Civil Engineering Group, based on information obtained from field surveys and records of the Franklin County Recorder's Office.



M•E Companies, Inc.
Civil Engineering Group

By Robert S. Wynd 10/7/10
Robert S. Wynd date
Registered Surveyor No. 6872

