

Operation and Maintenance Agreement
Liberty Place, LLC

EXHIBIT 2
O&M Plan

NFA LETTER
***SECTION J – OPERATION AND
MAINTENANCE PLAN***

of

*LIBERTY PLACE
100 LIBERTY STREET
COLUMBUS, OHIO 43215*

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JANUARY 2003

**SECTION J
OPERATIONS AND MAINTENANCE PLAN**

| | <u>PAGE</u> |
|---|-------------|
| 1.0 INTRODUCTION..... | 1 |
| 1.1 Overview..... | 1 |
| 1.2 Purpose of the O & M Plan..... | 1 |
| 1.3 Summary of Phase I and II ESAs..... | 2 |
| 2.0 LNAPL MONITORING | 4 |
| 2.1 Purpose and Description | 4 |
| 2.1.1 LNAPL Monitoring Program..... | 4 |
| 2.1.2 LNAPL Indicators..... | 4 |
| 2.1.3 Sampling Event Procedures | 5 |
| 2.2 Monitoring Frequency..... | 6 |
| 2.3 Maintenance of Monitoring Well Network..... | 7 |
| 2.4 Institutional Controls/Declaration of Use Restriction..... | 7 |
| 3.0 SOIL REPLACEMENT AND INSTALLATION OF INTERCEPTION TRENCH | 8 |
| 3.1 Description..... | 8 |
| 3.2 Excavation of Soils with Elevated Arsenic Concentrations | 8 |
| 3.3 Excavation and Removal of Petroleum Contaminated Soils (PCS) | 9 |
| 3.4 Installation of Interception Trench..... | 9 |
| 3.5 Operation & Maintenance of Interception Trench..... | 10 |
| 3.5.1 Initial Monitoring/Maintenance Program of Interception Trench..... | 10 |
| 3.5.2 Long Term Maintenance of Interception Trench | 12 |
| 4.0 POST REMEDIATION ACTIVITIES | 13 |
| 4.1 Installation & Maintenance of Utilities & other Contract Work..... | 13 |
| 4.2 All Other Potential Maintenance and Contract Work..... | 13 |
| 5.0 MODIFICATIONS TO THE PLAN..... | 14 |
| 6.0 CONTINUITY AND REPORTING OF THE PLAN..... | 15 |
| 6.1 Timetable and Protocol for Completion of Remediation and Maintaining Plan ... | 15 |
| 6.2 Contingencies..... | 15 |
| 6.3 Transfer and Oversight of Plan | 16 |
| 6.4 Reporting of the Plan | 16 |
| 7.0 ESTIMATED COSTS | 18 |

Figures

Figure 1 - Site Location

Figure 2 – Site Detail/Trench Cross Section

Figure 3 – USD Overlay

Tables

Table J-1- Applicable Groundwater Standards for COCs Detected on Site

Table J-2 – Monitoring Frequency and Reporting

Appendix

- A Boring Logs/Well Diagrams**
- B Grading and Fill Exhibit**
- C Groundwater Monitoring Procedures**
- D Declaration of Use Restriction**
- E Risk Mitigation Plan**

SECTION J OPERATION AND MAINTENANCE PLAN

1.0 INTRODUCTION

1.1 Overview

The Volunteer authorized R. D. Zande & Associates, Inc. (RDZ) to conduct Phase I and II Environmental Site Assessments (ESA). Assessments for the Liberty Place LLC residential/apartment complex being developed on Property located at 100 Liberty Street in Columbus, Ohio, formerly by the location of the Capitol Manufacturing facility (Property). The proposed Liberty Place complex will consist of 314 residential apartments, with parking garages, limited open space primarily in the form of small landscaped courtyards between the buildings, and community use/recreation complex including a swimming pool, and rental/management offices. The Phase I and Phase II ESAs were conducted in accordance with Ohio EPA's Voluntary Action Program (VAP) as codified in Ohio Administrative Code (OAC) Chapter 3745-300. This Operation and Maintenance (O&M) Plan was prepared consistent with OAC Rule 3745-300-15 to meet the requirements for submitting a No Further Action (NFA) letter for the Property. The NFA letter and supporting documentation demonstrate the Liberty Place Property meets, or will meet, all of the requirements of OAC Chapter 3745-300. The O&M Plan must be followed by the Volunteer, who is the current owner/developer (Liberty Place, LLC).

The Capitol Manufacturing Property is a former manufacturing facility utilized for the manufacture of machined steel fittings, at 153 West Fulton Avenue in Columbus, Ohio. The location of the Property is shown in Figure 1. During the late 1800s a feeder canal of the former Ohio Canal was located immediately west of the current Property. This canal was later backfilled and utilized as a rail spur. The feeder canal is owned by the State of Ohio. The canal is not part of the NFA submission. In addition, the City of Columbus owned utility easements through the Property and utilized them for sanitary and storm sewers. These sewers were constructed during the late 1800s and early 1900s. Available information suggests that the first building was constructed in circa 1900. Additional buildings were constructed during the 1930s and 1960s. Operations at the Property ceased in 1989. Prior to 1991, some of the former manufacturing buildings, primarily on the western portion of the Property, were razed and demolition was completed in March, 2002.

The data gathered in the Phase I and Phase II ESAs summarized below was used to complete a VAP Risk Assessment and the No Further Action Letter (NFA) for the Property.

1.2 Purpose of the O&M Plan

This O&M Plan addresses: 1) monitoring two downgradient wells, at the western boundary of the Property, to determine the effectiveness of the interception trench in interdicting the migration of LNAPL from the Property; 2) soil excavation, removal, and replacement with greenfield soils to residential compliance depths (ten feet below finish grade); (3) the passive interception trench installed along a portion of the western boundary to intercept and collect any LNAPL, including SVOCs and other petroleum products moving from the Property for

extraction and/or disposal; and (4) implementation of a Risk Mitigation Plan (Section J Appendix E). The Risk Mitigation Plan (RMP) applies to the entire Liberty Place, LLC Property before, during and after the excavation and remediation and during any installation or maintenance of utilities, or any other activity which may result in exposure to workers.

The oil product located in previous studies and the R. D. Zande Phase II ESA is all below the 10 foot residential Point of Compliance (POC) for the VAP. Soils above 10 foot depth exhibited arsenic (As) above the Residential Direct Contact Soil Standard (RDCSS), but well below levels requiring any special management as solid or hazardous waste. All soils will be excavated to a depth of at least 10 feet below finish grade and 10 feet of clean fill soil from a verified greenfield property will be emplaced on the Property to fully meet the residential POC. The soil removal and replacement will be confirmed by R. D. Zande. Therefore, no O&M requirements or engineering controls are applicable to or required for the soils of the Property once the excavation, removal, and replacement of soils to residential compliance depth has been completed.

A Property plan, including the location of the monitoring wells and the passive interception trench is provided in Appendix 1, Figure 2. The design drawing for the trench is also provided on Figure 2. Boring logs for the three wells and monitoring well diagrams are also provided in the Appendix A and the grading and fill exhibit in Appendix B.

1.3 Summary of Phase I and Phase II ESAs

The initial Phase I ESA on the Property conducted for the current (Winther) Liberty Place project was completed in December, 2000. It was updated and modified to conform to VAP standards per OAC 3745-300-06 in April, 2001 and in April, 2002. The principal environmental concern noted in the Phase I was petroleum contamination underlying the western portion of the Property. This contamination was due to previous operations at the Capitol facility, including primarily Underground Storage Tanks (USTs), seven of which were removed from the western half of the Property in 1991 and 1992 and one UST from the eastern portion in 1991. BUSTR issued NFAs for all regulated USTs, are documented in the Phase II (NFA Section F).

The Phase II ESA was conducted by R. D. Zande in the fall of 2000 in accordance with OAC 3745-300-07. Additional groundwater monitoring data and results were gathered in monitoring events in April, 2002. To obtain the VAP data, 18 soil borings were drilled to depths of 30 to 50 feet and soil samples were collected from these borings. Existing monitoring wells that could be located were measured for water level and oil level. The three newly constructed monitoring wells (MWZB-4, MWZB-16, and MW-ZB18) and existing monitoring and extraction wells were also sampled. A fourth monitoring well (MWZB-4A) was installed in April 2002 to replace MWZB-4, the upgradient well was demolished with the main Capitol structures in March, 2002.

Analysis of soil samples from the soil boring/monitor wells indicated very limited soil contamination on the top ten (10) feet of the fill/soil on the Property, including isolated low concentrations of semi-volatile compounds (SVOCs) above the VAP RDCSS. Arsenic was also found in concentrations exceeding VAP RDCSS, although well below levels that would result in classification as a solid or as a hazardous waste per OAC 3745-27-01 or OAC 3745-51.

Analytical results from several of the wells installed in previous studies in known contaminated areas indicated petroleum product and low concentrations of trichloroethylene (TCE). R.D. Zande sampling of these same wells did not detect TCE, but did detect degradation daughter products of TCE, cis-1,2-dichloroethene and vinyl chloride, indicating that natural biodegradation of chlorinated compounds is proceeding. Metal detections have predominantly been below VAP standards, including all results for the second April 2002 event. R. D. Zande's two downgradient monitoring wells (MWZB-16 and MWZB-18), along the western boundary of the Liberty Place Property, did not detect confirmed concentrations of any chlorinated solvents in the four sampling events conducted in October 2000 and April 2002. TPH was detected in these two wells in October 2000. TPH was also detected in similar concentrations in the upgradient well, the original MW ZB-4 in October 2000. TPH was not detected in any of the wells in the April 2002 monitoring events.

SECTION 2.0 LNAPL MONITORING

2.1 Purpose and Description

Following completion of remediation, removal of the arsenic containing and other soil, and emplacement of the clean fill from a greenfield source (Described in Section 3.0), the post development LNAPL monitoring program will be initiated. Its purpose is to evaluate the effectiveness of the interception trench by measuring LNAPL (if any) downgradient of the Property.

2.1.1 LNAPL Monitoring Program

The LNAPL monitoring network consists of two downgradient wells MWZB-16 and MWZB-18 both installed to a depth of 35 feet in October 2000. The wells were installed and will be monitored in accordance with Ohio EPA guidance and requirements, including primarily the "Technical Guidance Manual for Hydrogeologic Investigations and Groundwater Monitoring", February 1995 or current revisions thereto, and "Data Quality Objectives Process for Superfund", USEPA, September, 1993, as revised. The upgradient well, MWZB-4A, installed to a depth of 31 feet in April 2002, will be maintained to provide the option for monitoring any potential upgradient impacts in the future. Monitoring well MWZB-4A replaced MWZB-4 which was demolished with the former Capitol Manufacturing buildings in early 2002. The well construction logs are contained in Appendix B to this O&M Plan.

2.1.2 LNAPL Indicators

As stated above, the sole purpose of the monitoring of the two wells, MWZB-16 and MWZB-18 is to detect the presence of LNAPLS downgradient of the trench. Detection of LNAPLS will be first by field observation of indicators, such as sheen, petroleum odors, and FID readings, and second, if necessary based on these field observations, by laboratory analyses. Any contaminated water/petroleum recovered during monitoring events will be analyzed for all three TPH fractions by EPA method 8015, according to BUSTR protocols: Light Distillates (C4-C10); Middle Distillates (C10-C20), and Heavy Products (C20-C34).

Based on prior analysis the constituents detected in the LNAPL and the composition of the LNAPL is listed in Table J-1.

**Table J-1
Constituents and Composition of LNAPL**

| Chemical of Concern | Applicable Std | Maximum Conc. In Soil | Maximum Conc. In Ground Water | Maximum Conc. In LNAPL |
|-----------------------------|----------------|-----------------------|-------------------------------|------------------------|
| TPH | 20,000 mg/kg | 28,700 mg/kg | 960 mg/L | 100 % |
| Trans-1,4-dichloro-2-butene | NR | ND | ND | 83 mg/kg |
| PCB | 1.0 mg/kg | ND | ND | 0.16 mg/kg |
| Chrysene | 550 mg/kg | 1.6 mg/kg | ND | 150.0 mg/kg |

| | | | | |
|--------------|-------------|------------|-----------|-------------|
| Fluorene | 1,300 mg/kg | 5.7 mg/kg | ND | 110.0 mg/kg |
| Phenanthrene | 9,400 mg/kg | 56.0 mg/kg | ND | 130.0 mg/kg |
| Arsenic | 6.9 mg/kg | 19.2 mg/kg | 23.7 ug/l | 74.2 mg/kg |

Note: Applicable standard for TPH is the soil saturation limit for Heavy Distillates in silty clayey sand. Other applicable standards are VAP residential direct contact standards.

NR - No standard promulgated. ND – not detected

Maximum concentrations are those detected in each listed media during the VAP Phase II Investigation.

2.1.3 Sampling Event Procedures

All groundwater sampling and analysis events will be in accordance with the “Technical Guidance Manual for Hydrogeologic Investigations and Groundwater Monitoring” (Ohio EPA, February 1995) and “Data Quality Objectives Process for Superfund” (USEPA, September 1993), including all requirements specified in OAC 3745-300-07 F:

- field and laboratory QA/QC
- equipment decontamination
- trip blanks
- equipment and field blanks, and duplicates
- field and laboratory instrument calibration, adjustment and re-calibration
- document and record maintenance
- sampling, handling, preservation and holding times
- chain-of-custody

These are the same guidance and procedures followed for the Phase II ESA. They are concisely described in the Appendix C to this O&M Plan.

The results of each monitoring event, including condition of the wells will be reported to the Ohio EPA in the annual O&M report, and copies maintained by the Volunteer and/or Volunteers consultant for OEPA review and inspection. Records will be maintained for 10 years. Reports and data will not be destroyed without 45 days prior notice to OEPA.

2.2 Monitoring Frequency

The monitoring wells will be checked by field observation quarterly to cover both wet and dry seasons, and if warranted sampled. The rate of groundwater movement was calculated to be 75 to 100 ft/day in the down gradient wells, meaning that ground water is capable of moving 27,375 feet or 5.18 miles/year. It is assumed, since ground water is calculated to move at that rate, that even with high retardation factors (retardation meaning slowing down rate of movement of contaminants in ground water because of adsorption and desorption onto soil particles) any contaminant that is going to move off Property will be observed in the first six months of monitoring. If field observations and, if necessary, laboratory analyses of TPH, do not detect LNAPLs in the trench or in the wells, active LNAPL monitoring will be discontinued after the fourth quarter of monitoring.

If LNAPL is still being detected in the trench, LNAPL monitoring in the wells will be continued. Monitoring in the wells will then be discontinued if the amount of LNAPL detected in the trench is less than one-hundredth of a foot for four (or more) consecutive quarters, assuming no LNAPL has been detected in the wells during this period.

If detection is confirmed for two consecutive quarters in the monitoring wells, then an assessment will be initiated to determine the extent of any LNAPLs downgradient of the Property. The scope of the assessment will be prepared and implemented by the Volunteer, after consultation with OEPA.

If an assessment determines and defines the movement of LNAPLs, a determination will be made whether concentrations alter or effect the findings of the Risk Assessment regarding impact on downgradient receptors, and whether any additional monitoring locations for LNAPL, or more frequent monitoring, or monitoring downgradient off-Property is necessary. Any off-Property monitoring would be in areas that are not part of the Liberty Place development and would require authorization from other property owners. The Volunteer will as necessary modify the LNAPL monitoring program and this O&M Plan consistent with Section 4.0, with appropriate consultation with OEPA.

2.3 Maintenance of Monitoring Well Network

As part of the ongoing Operation and Maintenance Plan for Liberty Place, the LNAPL monitoring network will be maintained in useable condition for five (5) years. Surface access features (covers; caps) will be maintained in visible, useable condition by the Volunteer using grounds maintenance staff or via contract with the remediation contractor as necessary. During the active monitoring period, the condition of each well will be noted during each sampling event, and any maintenance/repair actions promptly initiated by the Volunteer. After the active monitoring period is completed, as described above, the wells will be visually checked semi-annually for integrity, obstructions or other problems which might affect any future use by the Volunteer, for four additional years, to a total of five years, except as extended by any additional or extended monitoring in modifications to this O&M plan approved by EPA. At the end of that period, the wells will then be abandoned per OEPA procedures, assuming they are no longer needed as part of the interception trench monitoring. A log record will be kept noting the condition of the wells and records kept of all repair/maintenance actions and/or abandonment. Records will be made available on-Property by the Volunteer for OEPA review and inspection and will not be destroyed without 45 days prior notice to OEPA.

2.4 Institutional Controls/Declaration of Use Restriction

Liberty Place is entirely within an Urban Setting Designation (USD) established by OEPA in 1998 (Figure 3). The area is served by City of Columbus water and sewers. Therefore no groundwater is likely to be used.

A Declaration of Use Restriction is included and recorded with the deed for the Property which prohibits the use of the groundwater for potable or non-potable purposes. The only use of the

groundwater will be for groundwater monitoring purposes as described in the previous sections. The monitoring well network described in Section 2.1 will be maintained as described in Section 2.3. The Volunteer will ensure that there is no potable or non-potable use of the groundwater through routine grounds and maintenance inspections. The tenant lease documents will reference the institutional control/deed restriction, and inform the tenants of the groundwater monitoring program.

The following criteria was examined to determine if the USD was still valid:

1. Presence of any new potable well or wells.
2. The community groundwater use plans.
3. If enforceable restrictions on the use of groundwater were used.

The record search (county and ODNR water well records) determined no new potable well or wells had been completed within 0.5 miles of the USD. In addition the community groundwater use plans have not changed within the USD area. Current City of Columbus potable water capacity expansion is focused on wellfields to the south of I-270 to increase capacity of their Parsons Road plant. City of Columbus had also not changed any enforceable restrictions on use of groundwater. The Declaration of Use Restriction language is found in the Appendix D to this O&M Plan. Also included is a letter from the City of Columbus certifying that the conditions which existed when the USD was issued are unchanged.

SECTION 3.0

SOIL REPLACEMENT, INSTALLATION OF INTERCEPTION TRENCH AND UTILITIES

3.1 Description

As described previously in Section I, Remedies, of the NFA document, arsenic elevated soil and petroleum contaminated soil (PCS) will be excavated, removed, and replaced such that the minimum residential compliance depth of 10 feet of clean soil will be satisfied. The replacement fill will be obtained from a verified greenfield site. During installation of the sewer system to serve the residential area of the Property, an interception trench will be excavated at the western portion of the Property. Figure 2 in Appendix A depicts the location for this trench. The location is at the western edge of the Property, placed to intercept any downgradient movement of the petroleum hydrocarbons.

3.2 Excavation of Soils with Elevated Arsenic Concentrations

Sampling and analysis have determined that the concentrations of arsenic in the top 10 feet of the fill (ranging from 10 to 20 ppm arsenic), are above the Voluntary Action Program residential Direct Contact Soil Standard of 6.9 ppm, but are well below levels requiring characterization or any special management as solid or hazardous waste, and are typical of many Ohio soils. To assure unrestricted use of the Property, all soils will be removed to a depth of at least 10 feet below finished grade and then replaced with 10 feet of greenfield soils and compacted for construction. The Volunteer will ensure and the Certified Professional will certify that the soils containing elevated arsenic concentrations at the Liberty Place Property are excavated and the Property filled with clear fill from greenfield sources to the depths required to meet the residential point-of-compliance (POC). This will be done by both field observation and verifying conformance to the excavations and fill plans and spaces. The Volunteer will obtain survey data from the excavation/fill contractor to demonstrate that elevations of the POC and the final grade are in accordance with the cut and fill plan which were designed to meet the residential POC. This survey data will include field logs and periodic reports documenting the progress of the cut and fill work. Because the excavated arsenic containing soils are neither solid waste nor hazardous based on analytical results and Ohio EPA guidance, these soils do not have to be sent to a hazardous waste disposal facility but will be sent to a fill site. All excavated soils and other environmental media will be managed in accordance with all applicable laws and regulations.

As stated above, the soils excavated will be replaced with soils from greenfield fill locations to a final depth of 10 feet to allow unrestricted residential use. The Volunteer will verify that the source of the fill for the Liberty Place Property are greenfields by performing a limited Phase I Environmental Site Assessment of each source site identified by the Volunteer. The limited assessment consists of a site visit and a records check of relevant databases to track the ownership of each fill source site to ensure it is a greenfield site. The assessment also will include interviews with the local health departments, fire marshals, and former owners (if available) to determine the use history, or lack thereof, of hazardous materials or petroleum at the property and surrounding properties. If farming was ever conducted at the sites use of pesticides will be

reviewed. The assessment will be reviewed and be certified as a greenfield site by the Certified Professional. All excavation and fill contractors will be provided a copy of the Risk Management Plan (RMP).

3.3 Excavation and Removal of Petroleum Contaminated Soils (PCS)

During excavation of the upper 10 feet of soil and subsequent installation of the interception trench, it is possible that PCS may be encountered, especially in the west central portion of the Property. Soil will be deemed PCS by visual confirmation, odor, and/or using a flame ionization detector (FID) to measure the petroleum vapors emitted from the soil. When PCS is anticipated to be encountered, the appropriate provisions of the RMP will be implemented. If the soil appears to be uncontaminated, no significant instrument readings are measured, and no obvious visual contamination is apparent, then the soil will be removed as normal with the other soil and transported to a construction fill site. If significant instrument readings are encountered (readings over 100 units), petroleum odors are detected and/or the soil is saturated with petroleum such that a sheen is visible or it seeps from the soil, then off-Property removal to a PCS disposal site will be undertaken. The identified petroleum contaminated soil that may exceed VAP or BUSTR standards will be separated and placed on visqueen in a staging/stockpile area, and if necessary, sampled. This area will be constructed with short walls or bumpers around the perimeter to protect the surrounding property from any contaminated runoff, should it rain during field operations. If the staged material is saturated, Haz Mat type Absorbents will be used to contain/collect the liquid for disposal. An alternative is to store the PCS in water-tight roll-off containers, should quantities warrant, only until any characterization sampling or completed. The PCS will then be promptly removed to a PCS facility. As of the date hereof all the PCS has been substantially removed from the Property.

During the Phase II ESA, a small isolated area of soils contaminated with SVOCs, principally Benzo(a)pyrene, in excess of VAP and BUSTR standards was identified near a proposed parking structure. Because the nature of the contaminants is equivalent to PCS, this soil will be removed with the excavation to at least 10 feet below finish grade and managed as PCS in accordance with BUSTR requirements.

The excavated PCS that requires disposal at a licensed PCS facility will be transported to one of several nearby such disposal facilities that can manage it. Disposal facilities convenient to the central Ohio area that have PCS treatment cells include Ohio Soil Recycling in Columbus, Republic, which is located in Fairfield County, Suburban, located east of Columbus in Gratiot, Ohio, and Petro Cell (Petro Environmental Technologies) located to the southwest of Columbus in Washington Courthouse, and northeast of Columbus in Seville, Ohio. These facilities have several treatment cells which use enhanced bioremediation to remediate the Class I and Class II PCS the facilities are allowed to accept. The plan sheets (Exhibits) in the Appendix B show the proposed excavation, fill and final grade.

3.4 Installation of Interception Trench

Figure 2 contains a detailed cross section of the interception trench. The purpose of the interception trench is to interdict any LNAPL including petroleum products moving from the

Property and collect LNAPL and petroleum products for removal, treatment, and/or disposal. The trench will contain gravel and a French drain type 8" poly pipe at the bottom of the trench, and it will be placed at a level which will maximize oil interception. As the petroleum hydrocarbons appears to become saturated in the soils at 17.5 to 19.5 feet level, the bottom of the trench will be set at 20 feet at the center, which will be the lowest point, with a two foot sump under the center. Each leg of the 400 foot trench will slope gradually upward and have a connecting pipe to the surface at each end. In addition, a sump with connecting pipe to the surface will be placed at the center of the trench so that any oil which infiltrates can be collected there and potentially a bioreactor (with microorganisms and nutrients) can be placed there or nutrients can be directly placed there. The connecting pipes will allow pumping biotreatment at each end of the trench to treat any oil trapped in the gravel and in the surrounding soils, while oil that collects in the lower sump can be periodically pumped out. The connecting pipes at both ends of the trenches will allow flushing the system as well. Removed oil or oil/water will be transported to permitted/licensed facilities for treatment/disposal. Access to the trench will be by restricted/locked manhole accessible only by environmental and maintenance staff.

The trench will be installed by an environmental contractor using OSHA HAZWOPER 40-hour trained staff. The contractor will review, update, and implement a Health and Safety Plan (HSP) consistent with 29CFR 1910.120. The Volunteer and the Certified Professional will also be on-Property to ensure the trench/pipe is properly installed per design plans, and to observe and monitor conditions which workers might encounter during construction, such as PCS, soils containing LNAPLs, VOCs or other SVOCs or petroleum. The provisions of the RMP will be implemented as appropriate during all such activities. Field instruments such as a FID and/or a 4 gas monitor will be used as appropriate, in addition to visual and odor indications. These procedures will be followed during any construction or maintenance activities at depths where similar conditions might be encountered, for example, connections to the deep Franklin sewer under the Property or other utility work. Utility workers will be provided a copy of the RMP when the planned work has the potential to encounter conditions described above.

3.5 Operation & Maintenance of Interception Trench

Based on the previous investigations, and R. D. Zande's Phase II ESA and groundwater monitoring events in October 2001, and April 2002, the petroleum contaminants in the deeper soils underlying the Property are largely adsorbed to the silty-clayey soils and are relatively immobile. Therefore the interception trench is designed and will function as an inactive or passive system to intercept any petroleum that might move in a downgradient direction from the known contaminated areas on the Property. There are no pumps or machinery to maintain. Observation will also be made during installation of the trench interception structure regarding the presence/mobility of petroleum product and the appropriateness of the planned monitoring frequency.

3.5.1 Initial Monitoring/Maintenance Program of Interception Trench

For one year after after installation of the trench, it will be monitored quarterly for accumulation of LNAPL including petroleum products by a combination direct observation such as visual and odor indications, and, as appropriate, the use of field instruments such as an oil product/water

interface meter, a dip stick, or a tape measure. The Volunteer will hire an environmental consultant to conduct the monitoring and arrange for prompt removal or treatment of LNAPL if a sufficient amount has accumulated. The consultant will, as necessary employ such technologies as a stinger/vacuum system to remove the oil from treatment through the access pipes, and/or infusion of a biotreatment compound into the interception system to enhance biodegradation. The provisions of the Risk Management Plan will be implemented as appropriate during all monitoring and maintenance operations.

Consistent with rules promulgated by the State Fire Marshall in OAC 1301:7-9-13(C)(11) and OAC 1301:7-9-13(G)(2), when four (or more) consecutive quarters of monitoring detect LNAPL in an amount less than one-hundredth of a foot, active monitoring and operation of the interception trench will be discontinued.

If bioremediation is used, each event will include follow-up monitoring by the bioremediation firm to determine effectiveness and ensure that biodegradation is proceeding without negative impacts on the residents. The enzymes, co-enzymes, co-metabolites and a series of micro ecosystems in the proprietary consortium degrade contaminants in a well-defined series of steps to CO₂, H₂O and O₂, the microbes using the petroleum product components as a food and energy source. There are no breakdown products or emissions requiring special management or controls.

Product removed from the trench will be analyzed for petroleum compounds, primarily for TPH by EPA Method 8015, and PAHs by EPA Method 8270, or other initial characterization analyses required by the treatment/disposal facility (TSD) accepting the waste. Based on analyses to date, it is anticipated that the waste material can be handled as waste petroleum product/water mix. The Volunteer will document and maintain records of all petroleum product removed from the Property. A summary of the monitoring of the trench, any removal/treatment activity, and the condition of the trench will be included in the annual report to OEPA. It is anticipated that this reporting will be continued for a minimum of one year. Based on removal/treatment frequency, a determination will be made with Ohio EPA whether continued reporting is appropriate or necessary.

During the first year, the Volunteer will have the environmental consultant hired to monitor the trench check the condition of the interception trench system quarterly and perform any needed maintenance. As designed, the primary maintenance items are expected to be cleaning and maintenance of the access points and sump during oil removal. Once monitoring is discontinued the Volunteer will conduct these tasks with its own maintenance staff. The Volunteer will maintain a log/records of the condition of the trench and record all repair/maintenance actions. The provisions of the Risk Management Plan will be implemented as appropriate during all maintenance operations.

All maintenance and waste removal records including any laboratory analyses will be made available on-Property by the Volunteer for OEPA inspection, and will not be destroyed without 45 days prior notification to OEPA. Records will be maintained for 10 years.

3.5.2 Long-Term Maintenance of Interception Trench

As stated in subsection 3.5.1, the monitoring of the interception trench will take place for a minimum of one year and that monitoring will be done quarterly. As described above, when four (or more) consecutive quarters of monitoring detect LNAPL in an amount of less than one-hundredth of a foot, active monitoring and operation of the interception trench will be discontinued.

The Volunteer will check the contents of the trench and the condition of the trench access points at least semi-annually even if no remediation activities are being conducted. This will ensure the trench is maintained in usable condition for further monitoring and any required removal of accumulated petroleum/water product for an additional four years to a total of five (5) years, except as extended by any additional or expanded monitoring/operation in modifications to this O&M Plan approved by OEPA. If indications of LNAPLs are detected in the trench during these inspections, the Volunteer will engage an environmental consultant to take samples, if necessary, and a remediation contractor will be engaged as warranted to remove accumulated LNAPL. The provisions of the RMP will be implemented as appropriate during the above activities.

If the criterion for discontinuing operation of the trench has been met as described above, at the end of the five (5) years the trench will be abandoned by filling it with Flash Fill or equivalent product, including filling/removal of the access points. The Volunteer will notify Ohio EPA 45 days prior to abandonment.

SECTION 4.0
POST REMEDIATION ACTIVITIES

4.1 Installation and Maintenance of Utilities and Other Potential Contract Work

During the development of the Property new utility lines will be installed to existing trunk lines. After development of the Property the utilities may have to be maintained or repaired. Contractors and workers involved with these activities which may be impacted with LNAPL, will be provided copies of the RMP before their work commences.

4.2 All Other Potential Maintenance and Contract Work

All other workers and contractors that could come into contact with LNAPL while working on the Property will be provided a copy of the RMP before there work commences.

SECTION 5.0 MODIFICATIONS TO THE PLAN

Modification to the scope of the soil excavation, removal, and replacement will be subject to approval by OEPA. Proposed modifications to the O&M Plan will be submitted by the Volunteer/designee for approval by the Director of Ohio EPA. Modifications will be implemented after approval by Ohio EPA, pursuant to the Operation and Maintenance Agreement.

Adjustments to the normal operations and maintenance of the groundwater monitoring network and interception trench established under this O&M Plan will be made as appropriate to maintain effectiveness and capabilities of the systems. Any construction activities that meet the conditions set forth in the O&M Plan and the Operation and Maintenance Agreement, and that do not and will not result in a change in the coverage, materials, configuration, or type of systems approved herein, are considered normal repairs of existing systems and are not modifications under this section. Routine maintenance items needed to keep the systems functioning and are capable of functioning per the O&M Plan and that do not substantially alter the purpose or operation of the groundwater monitoring network or interception trench are considered normal repairs and not modifications pursuant to this section.

SECTION 6.0 CONTINUITY AND REPORTING OF THE PLAN

6.1 Timetable and Protocol for Completion of Remediation and Maintaining Plan

The soil excavation, removal, and replacement has commenced and installation of the interception trench will commence in the near future.

The monitoring of the interception trench will take place for a minimum of one year and that monitoring will be done quarterly. As described above, when four (or more) consecutive quarters of monitoring detect LNAPL in an amount of less than one-hundredth of a foot, active monitoring and operation of the interception trench will be discontinued with OEPA approval. The interception trench will be maintained for an additional four years for a total of five years.

Within three months after soil excavation and replacement and interception trench installation, LNAPL monitoring will commence. The wells will be checked by field observation, and as warranted, by laboratory analyses quarterly for one year. If no LNAPLS are detected by field observation or laboratory analysis the monitoring will be discontinued with OEPA approval. Monitoring wells will be maintained for additional four years for a total of five years. The interception trench will be maintained for an additional four years for a total of five years.

6.2 Contingencies

The interception trench will be monitored and maintained as described in subsection 3.5. If accumulation of LNAPL in the trench is more rapid than anticipated, then the frequency of monitoring or LNAPL removal will be adjusted accordingly. For instance, monitoring will increase to monthly if accumulation of LNAPL warrants a more frequent rate than quarterly. The adjustment will be reported to the OEPA in the annual O&M report. The Volunteer will ensure that the LNAPL does not accumulate in sufficient quantity in the trench so that an overload or failure of the trench is a possibility. The provisions of the RMP will be implemented as appropriate during all monitoring and maintenance, and operation/removal activities.

If LNAPLs are detected by field observation and/or laboratory analyses in two or more consecutive quarters in the wells, then an assessment will be initiated to determine the extent of any LNAPLs downgradient of the trench. The scope of the assessment will be prepared and implemented by the Volunteer, after consultation with OEPA. The assessment may recommend use of biomediation through access ports of the trench.

If an assessment determines and defines the movement of LNAPLs off-Property, a determination will be made whether concentrations alter or effect the findings of the Risk Assessment regarding impact on downgradient receptors, and whether any additional monitoring locations for LNAPL, more frequent monitoring or monitoring downgradient off-Property is necessary. Any off-Property monitoring would be in areas that are not part of the Liberty Place development and would require authorization from the property owners. The Volunteer will as necessary modify the groundwater monitoring program and this O&M Plan consistent with Section 5.0, with appropriate consultation with OEPA.

6.3 Transfer and Oversight of Plan

Maintenance and Implementation of this O&M Plan will be required in any transfer or sale agreement by the Volunteer or current owner to any new owners. Ohio EPA will be notified of any Property transaction within 14 days after sale or transfer.

Authorized representatives of the Director of Ohio EPA, will have full and complete access to conduct inspections of the Groundwater Monitoring Network and the Passive Interception Trench system during the operating period and post-period maintenance for a total of up to five years, except as extended by any additional or extended period of monitoring or operation required in modifications to the O&M Plan approved by OEPA.

6.4 Reporting of the Plan

The monitoring frequencies and reporting protocols of the Operation and Maintenance Plan is summarized in Table J-2. The yearly annual report will document the excavation and fill of the site to at least 10 feet above the POC, the amount of soil removed, where it was disposed off-property, where the greenfield certified fill was obtained, the certification of the greenfield site, the installation of the interception trench. In addition the annual report will document the quarterly inspections of the interception trench and LNAPL well monitoring system, and the presence or absence of LNAPL. Any removal or biotreatment of LNAPL will be included in the annual report. All other activities required by the O&M Plan will be reported to the OEPA in the annual report.

**Table J-2
Monitoring Frequency and Reporting**

| Report | Action | Reporting Frequency |
|---|--|---|
| Soil Excavation/ Greenfield Fill | Excavation to Planned Depth Greenfield Fill w/Source Verification | Annual Report |
| RMP | Event(s) requiring implementation, LNAPL exposures; response measures per RMP. | Annual Report |
| Interception Trench | | |
| Product Accumulation/ Condition Inspection | Quarterly – Year 1 | Annual Report, conditions summary |
| Product Removal | As required per Annual Inspections/observation | Annual Report, product volumes summary |
| Condition/Accumulation Inspections | Semi-annually in years 2-5 | Year 2-5, Annual report |
| Abandonment | Per OEPA & ODNR specs | Year 5 (unless terminated earlier with OEPA approval) |
| LNAPL Monitoring | | |
| Field Observations | Year 1 – Quarterly, Annual | Annual Report unless results warrant earlier report. |
| Well Inspection/condition | Year 1 – Quarterly Year 2-5 semi-annual | Annual Report, conditions Year 2-5 Annual |
| Abandonment | Per OEPA & ODNR specs | Year 5 (unless terminated earlier with OEPA approval) |

**SECTION 7.0
ESTIMATED COSTS**

Estimated costs are provided 1) for the planned one(1) year active groundwater and trench monitoring period; 2) applications of biotreatment media in the interception trench, if needed, and two bioscan monitoring events to determine the effectiveness of any biotreatment that is applied. The costs are described below and totaled for a one-year period of quarterly monitoring events. If results indicate no continued active monitoring and LNAPL/petroleum product treatment and/or removal and disposal is required, only minimal maintenance costs are anticipated to check the condition of the monitoring wells, which require little routine maintenance, and trench, which is a passive/French-drain system should also require minimal maintenance that will be part of normal maintenance costs for the Liberty Place development.

| | | |
|----|--|----------------------------|
| 1. | LNAPL monitoring | \$12,000.00 |
| 2. | Petroleum Product Removal 2 events – 500-600 gallons/year and incidental repairs | \$1,250.00 |
| 3. | Application of biotreatment needed (if required) 500 gals 1 x year | \$9,250.00 |
| 4. | Bioscan Monitoring 1 x year (if required) | \$2,800.00 |
| 5. | Semi-Annual Inspection of monitoring wells and Trench | \$10,000.00 |
| 6. | Abandonment of Monitoring Wells | \$4,000.00 |
| 7. | Abandonment of Interception Trench | \$3,500.00 |
| | Cost – 1 year (items 1 & 2) | \$13,250.00 |
| | Total Costs (five years)* | \$30,750.00 to \$42,800.00 |

* assuming results of 4 quarters indicate no further monitoring is required. Maximum cost includes items 3 & 4.

Excavation and trench installation is currently underway and will be substantially or entirely complete when the CNS is issued and therefore is not included in estimated costs.

Financial assurance for these estimated costs is provided in the O&M Agreement with the Ohio EPA per OAC 3745-300-15(F)(4).

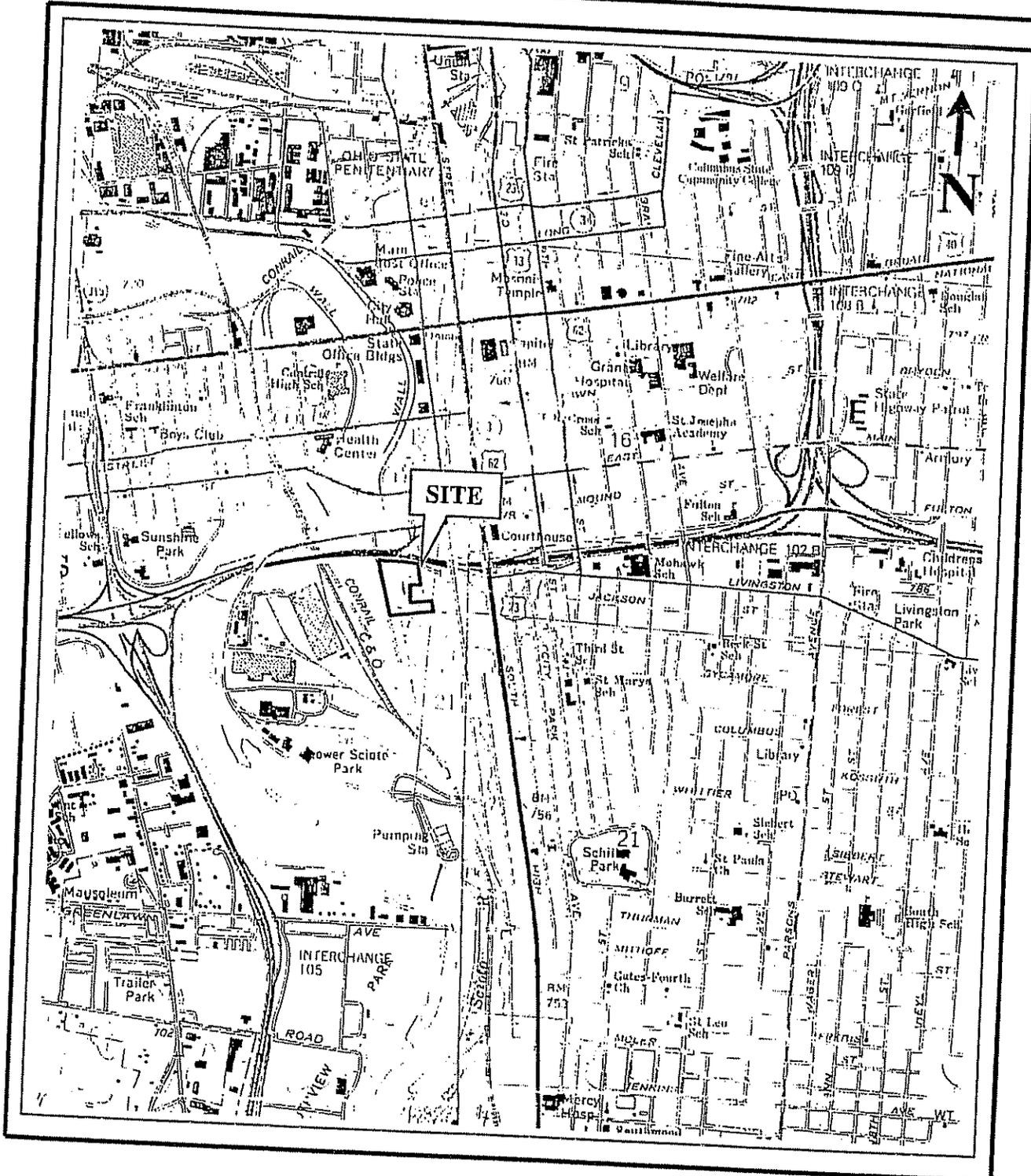
**SECTION J
FIGURES
LIBERTY PLACE, LLC**

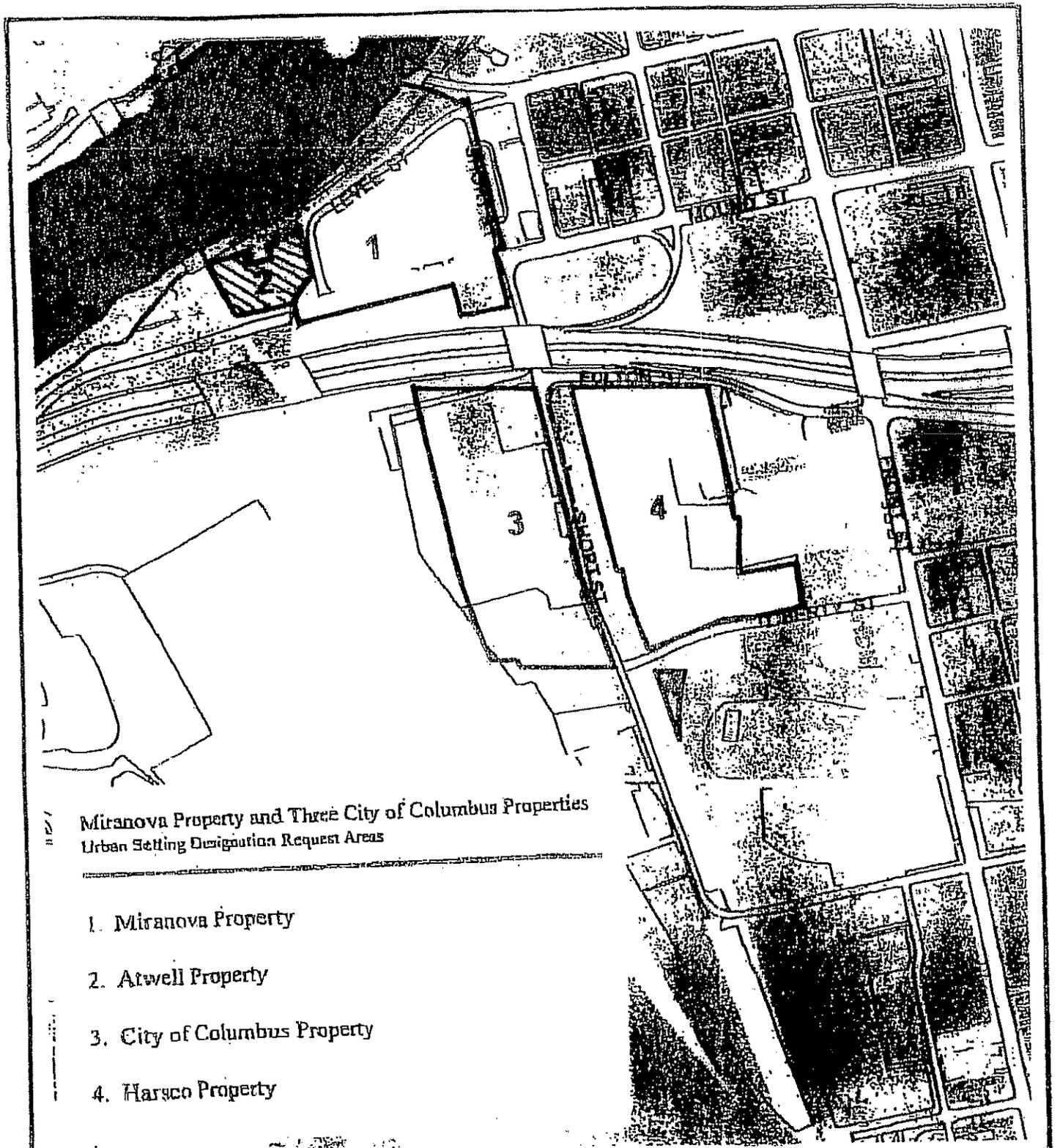
R.D. Zande & Associates

SITE MAP

SITE: Liberty Place, 100 Liberty Street, Columbus OH
JOB #: 5986
DATE: May 23, 2002
MAP: USGS 7.5 Minute Topo Map - 1:24,000 scale
QUAD: Southwest Columbus and Southeast Columbus, OH Quads

SUBJECT: NFA Letter Section J





Miranova Property and Three City of Columbus Properties
Urban Setting Designation Request Areas

1. Miranova Property
2. Atwell Property
3. City of Columbus Property
4. Harsco Property



FIGURE 3

URBAN SETTING DESIGNATION
REQUEST AREAS
LIBERTY PLACE, LCC

**SECTION J
APPENDIX A
BORING LOGS/WELL DIAGRAMS
LIBERTY PLACE, LLC**

FLUSHMOUNT MONITORING WELL CONSTRUCTION LOG

PROJECT NO. 5986
 CLIENT NAME Liberty Place LLC
 WELL NO. MW-4A
 BOREHOLE NO. ZB-4A
 GEOLOGIST N. Hull DATE 4-05-02
 DRILLER B. Wright COMPANY Wright's Drilling

1- BOLT DOWN WATER TIGHT COVER YES NO

2- CONCRETE SEAL YES NO

3- TYPE OF SURFACE SEAL (IF INSTALLED)
Bentonite "Hole Plug"

4- WELL CASING TYPE PVC

WELL CASING LENGTH 21.0 ft

WELL CASING DIAMETER 2.0 inch

JOINT TYPE SLIP GLUED THREADED

5- TYPE OF ANNULAR SEAL Ben-Seal

HOW INSTALLED TREMIE
 FROM SURFACE

6- TYPE OF FILTER PACK SEAL
Bentonite "Hole Plug"

7- SCREEN MATERIAL PVC

SCREEN LENGTH 10.0 ft

SLOT SIZE 0.010 inch

SCREEN DIAMETER 2.0 inch

DEPTH OF SCREEN 21.0 to 31.0 ft

8- TYPE OF FILTER PACK #100 Silica Sand

9- TYPE OF BACKFILL (IF INSTALLED)

10- DRILLING METHOD Rotary - Hollow Stem Auger

11- ADDITIVES USED (IF ANY)

12- WATER LEVEL 25.81 ft DATE 4-10-02

(FROM TOP OF CASING)

(FROM USGS DATUM)

13- SURVEYED YES NO

HORIZONTAL _____ DATE _____

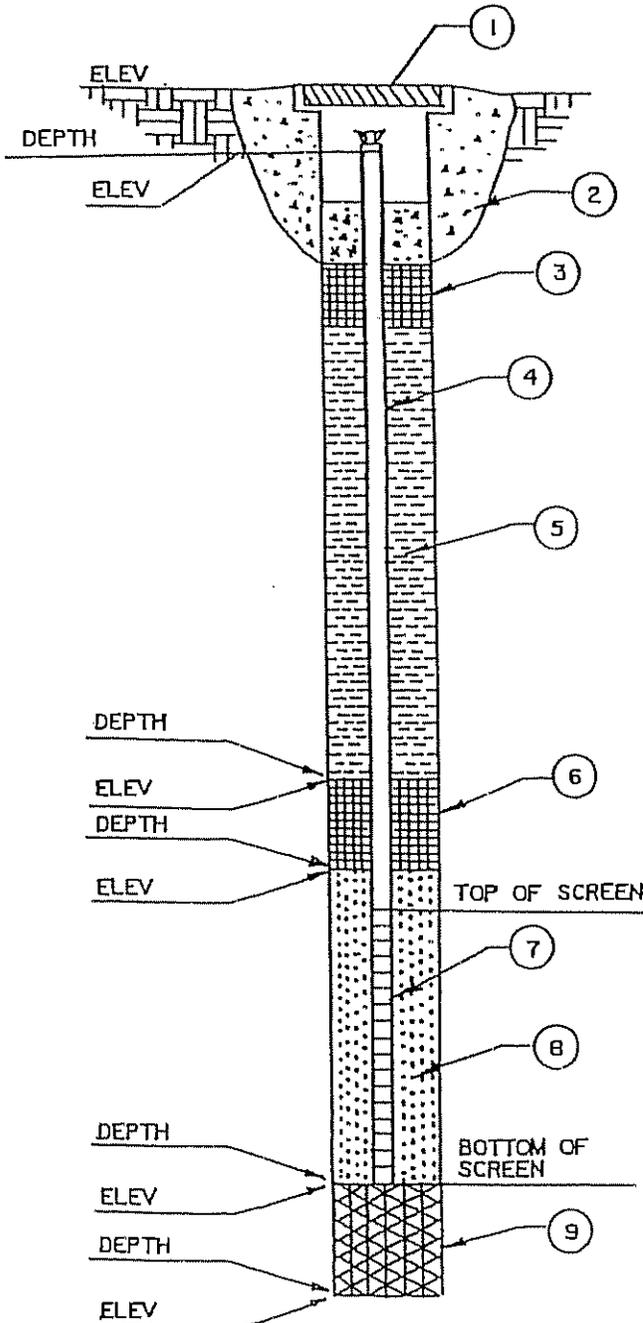
VERTICAL _____ DATE _____

SURVEYOR NAME _____

GEOLOGIST SIGNATURE _____ DATE 4-16-02

REVISION DATE _____

SIGNATURE _____



FLUSHMOUNT MONITORING WELL CONSTRUCTION LOG

PROJECT NO. 5986
 CLIENT NAME Liberty Place LLC
 WELL NO. MW-16
 BOREHOLE NO. ZB-16
 GEOLOGIST N. Hill DATE 10-5-00
D. Wright COMPANY Wright's Drilling
 DRILLER _____

1- BOLT DOWN WATER TIGHT COVER YES NO

2- CONCRETE SEAL YES NO

3- TYPE OF SURFACE SEAL (IF INSTALLED)
Bentonite "Hole Plug"

4- WELL CASING TYPE PVC

WELL CASING LENGTH 25.0 ft

WELL CASING DIAMETER 2.0 inch

JOINT TYPE SLIP GLUED THREADED

5- TYPE OF ANNULAR SEAL Ben-Seal

HOW INSTALLED TREMIE

FROM SURFACE

6- TYPE OF FILTER PACK SEAL

Bentonite "Hole Plug"

7- SCREEN MATERIAL PVC

SCREEN LENGTH 10.0

SLOT SIZE 0.010 inch

SCREEN DIAMETER 2.0 inch

DEPTH OF SCREEN 25.0 to 35.0 ft

8- TYPE OF FILTER PACK #100 Silica Sand

9- TYPE OF BACKFILL (IF INSTALLED) _____

10- DRILLING METHOD Rotary - Hollow Stem Anger

11- ADDITIVES USED (IF ANY) _____

12- WATER LEVEL 14.27 DATE 4-10-02

(FROM TOP OF CASING)

(FROM USGS DATUM)

13- SURVEYED YES NO

HORIZONTAL _____ DATE _____

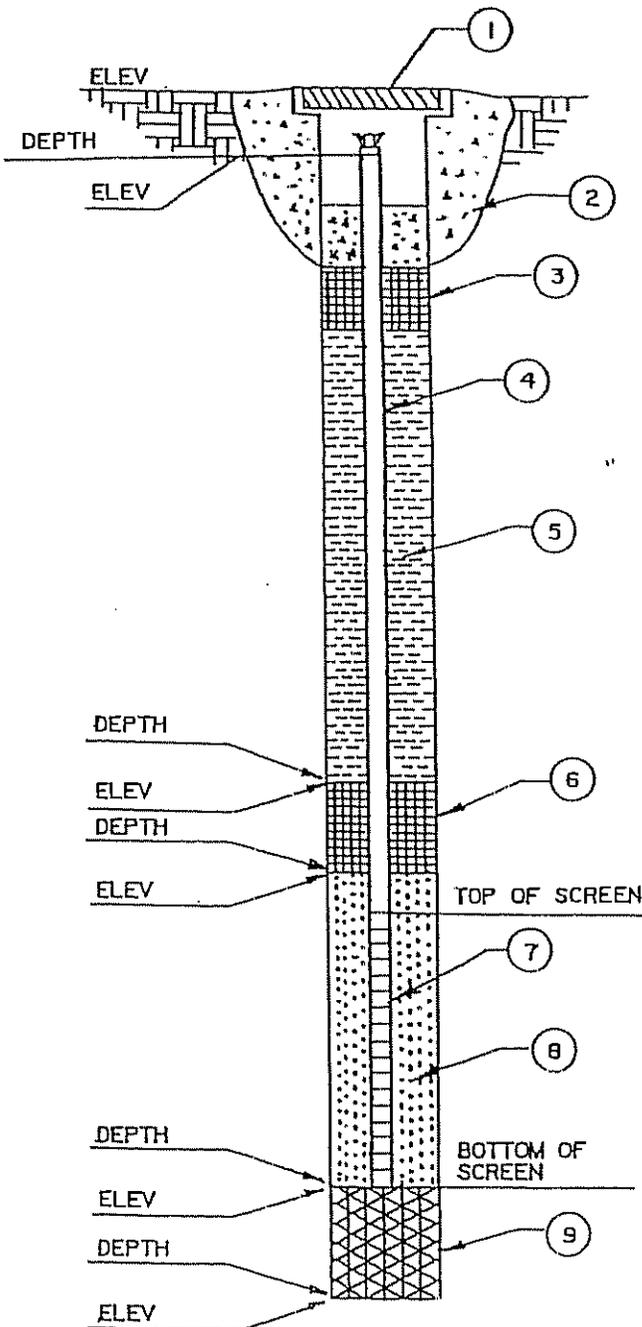
VERTICAL 714.82 DATE _____

SURVEYOR NAME _____

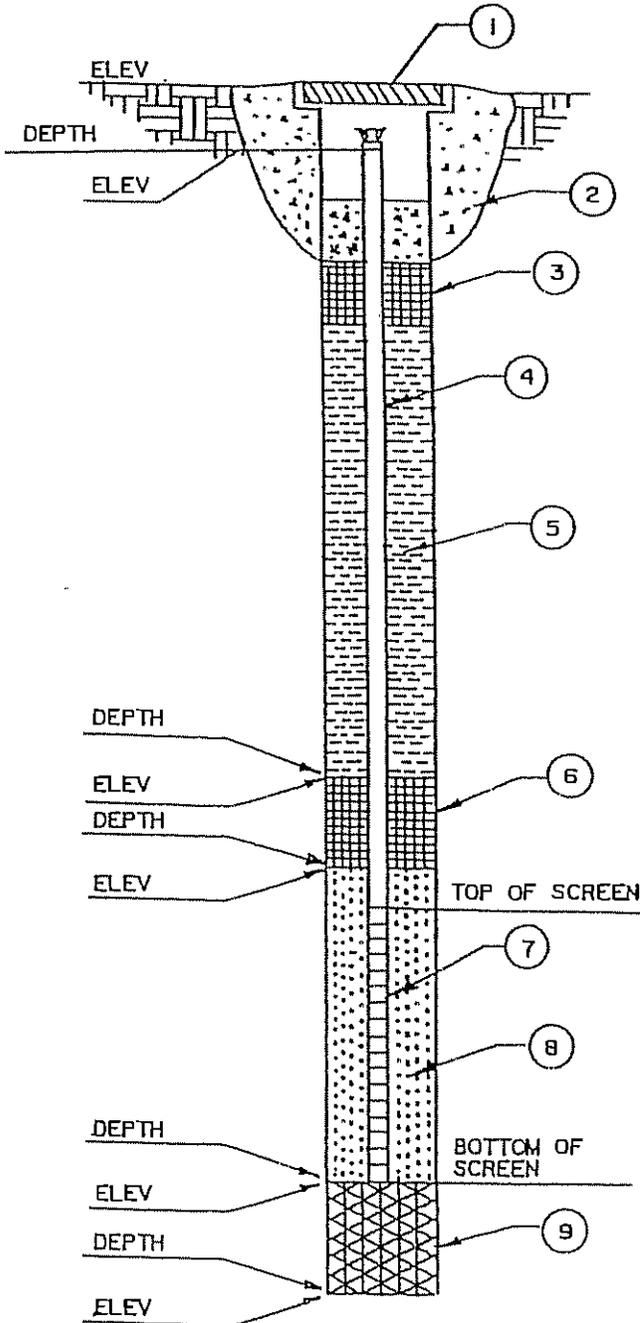
GEOLOGIST SIGNATURE _____ DATE 4-16-02

REVISION DATE _____

SIGNATURE _____



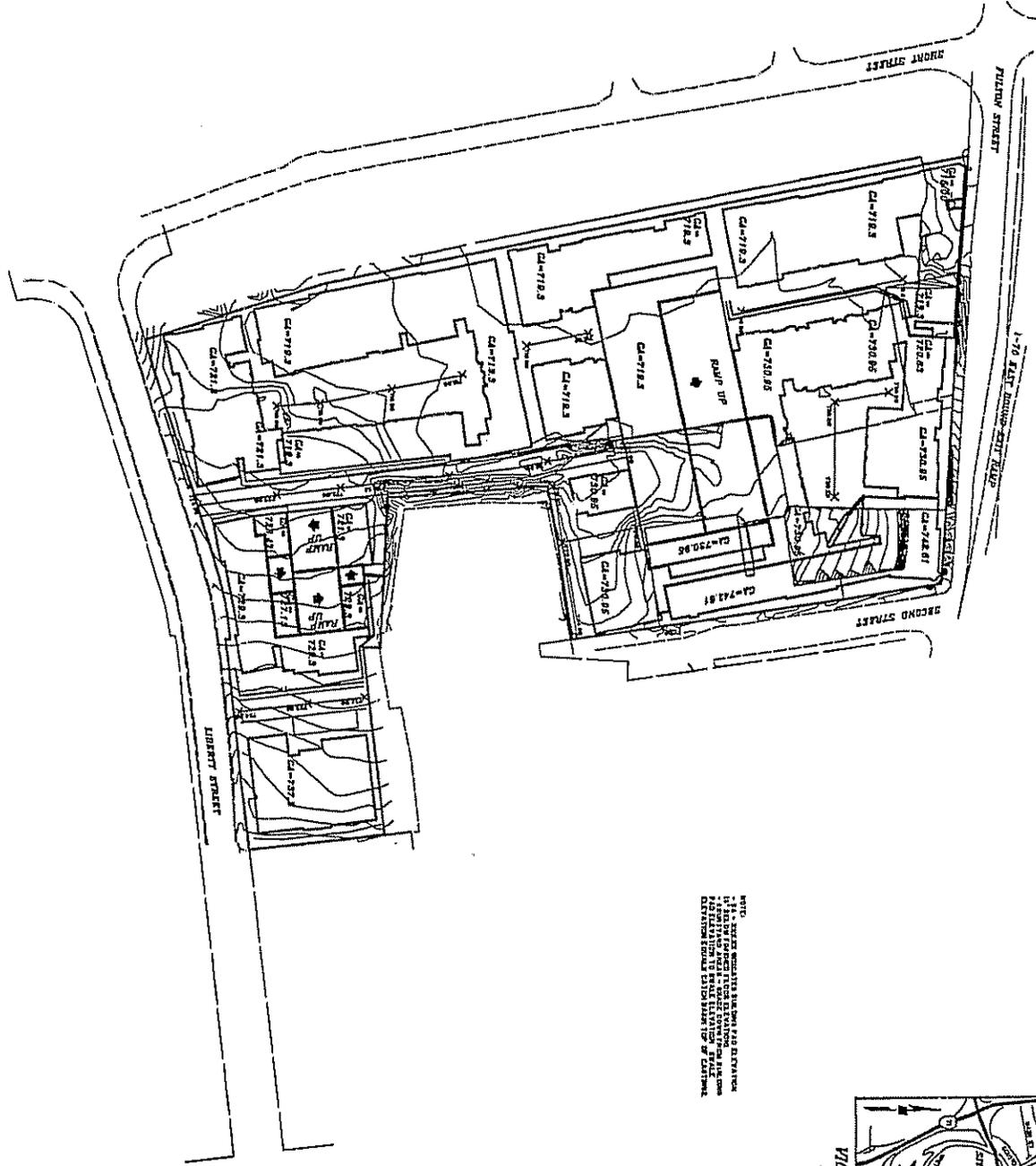
FLUSHMOUNT MONITORING WELL CONSTRUCTION LOG



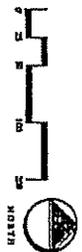
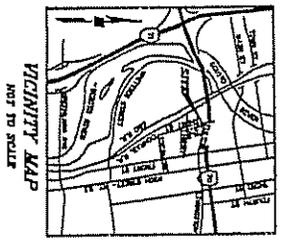
PROJECT NO. 5986
 CLIENT NAME Liberty Place LLC
 WELL NO. MW-18
 BOREHOLE NO. ZB-18
 GEOLOGIST N. Hull DATE 10-4-00
 DRILLER D. Wright COMPANY Wright's Drilling

1- BOLT DOWN WATER TIGHT COVER YES NO
 2- CONCRETE SEAL YES NO
 3- TYPE OF SURFACE SEAL (IF INSTALLED)
Bentonite "Hole Plug"
 4- WELL CASING TYPE PVC
 WELL CASING LENGTH 25.0 ft
 WELL CASING DIAMETER 2.0 inch
 JOINT TYPE SLIP GLUED THREADED
 5- TYPE OF ANNULAR SEAL Ben-Seal
 HOW INSTALLED TREMIE FROM SURFACE
 6- TYPE OF FILTER PACK SEAL
Bentonite "Hole Plug"
 7- SCREEN MATERIAL PVC
 SCREEN LENGTH 10.0
 SLOT SIZE 0.010 inch
 SCREEN DIAMETER 2.0 inch
 DEPTH OF SCREEN 25.0 to 35.0 ft
 8- TYPE OF FILTER PACK #100 Silica Sand
 9- TYPE OF BACKFILL (IF INSTALLED)
 10- DRILLING METHOD Rotary - Hollow Stem Anger
 11- ADDITIVES USED (IF ANY) _____
 12- WATER LEVEL 13.35 DATE 4-10-02
 (FROM TOP OF CASING)
 (FROM USGS DATUM)
 13- SURVEYED YES NO
 HORIZONTAL _____ DATE _____
 VERTICAL 712.92 DATE _____
 SURVEYOR NAME _____
 GEOL. SIGNATURE _____ DATE _____
 REVISION DATE _____
 SIGNATURE _____

**SECTION J
APPENDIX B
GRADING AND FILL EXHIBIT
LIBERTY PLACE, LLC**



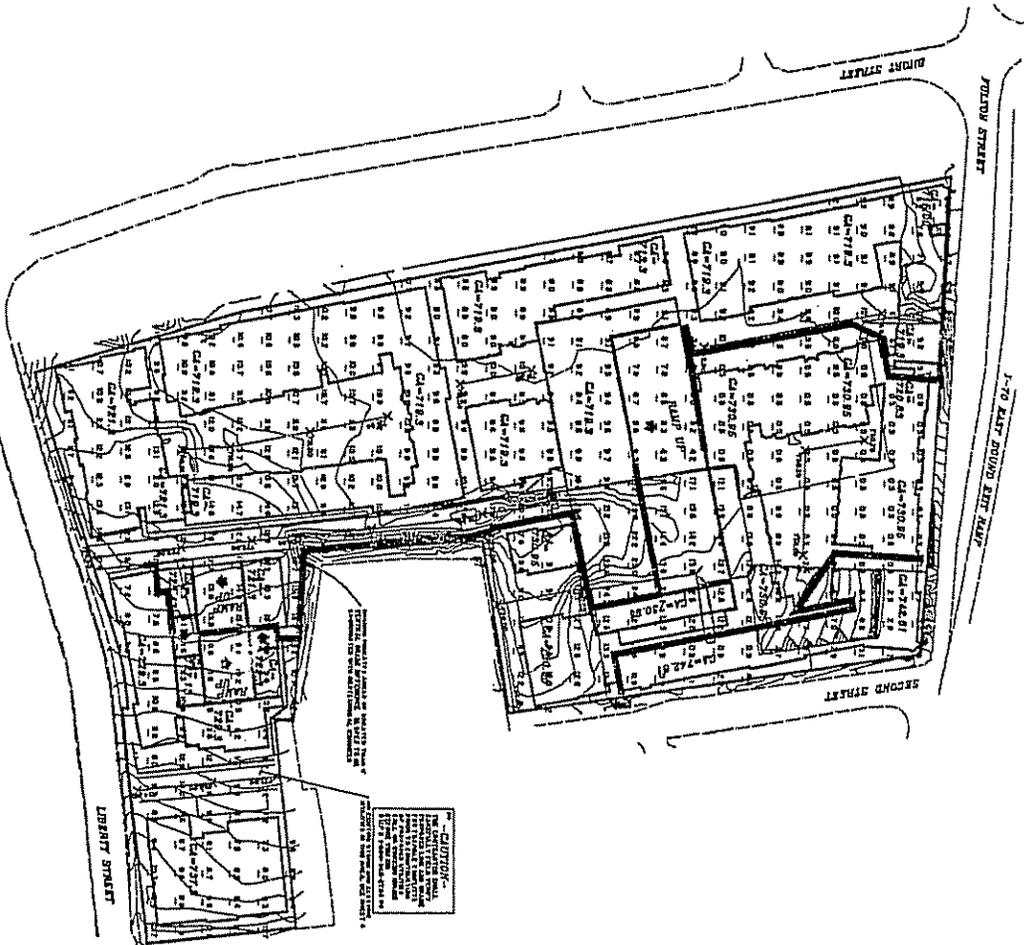
NOTE:
 1. SEE EXHIBIT 1 FOR THE FINAL PAID ELEVATION
 2. SEE EXHIBIT 2 FOR THE FINAL PAID ELEVATION
 3. SEE EXHIBIT 3 FOR THE FINAL PAID ELEVATION
 4. SEE EXHIBIT 4 FOR THE FINAL PAID ELEVATION
 5. SEE EXHIBIT 5 FOR THE FINAL PAID ELEVATION
 6. SEE EXHIBIT 6 FOR THE FINAL PAID ELEVATION
 7. SEE EXHIBIT 7 FOR THE FINAL PAID ELEVATION
 8. SEE EXHIBIT 8 FOR THE FINAL PAID ELEVATION
 9. SEE EXHIBIT 9 FOR THE FINAL PAID ELEVATION
 10. SEE EXHIBIT 10 FOR THE FINAL PAID ELEVATION



LIBERTY PLACE FINAL GRADING EXHIBIT Columbus, Ohio

PREPARED BY:
RD Zande & Associates, Inc.
 1111 East Washington Street
 Columbus, Ohio 43260
 (614) 221-1111
 FAX: (614) 221-1112
 APRIL 23, 2003

PROJECT NO. 03-01
 1111 East Washington Street, Columbus, Ohio 43260
 4/23/03
 1111 EAST WASHINGTON STREET
 COLUMBUS, OHIO 43260

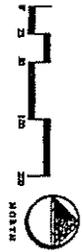


CAUTION:
 THIS PLAN IS A PRELIMINARY DESIGN AND SHOULD NOT BE USED FOR CONSTRUCTION WITHOUT THE APPROVAL OF THE ENGINEER OF RECORD.
 THE ENGINEER OF RECORD IS NOT RESPONSIBLE FOR ANY DAMAGE TO PERSONS OR PROPERTY CAUSED BY THE USE OF THIS PLAN.

NOTE: THE CUT PLAN SHOULD BE FOLLOWED IN CONSTRUCTION OF THE FOUNDATION AND SUPERSTRUCTURE OF THE BUILDING. THE CUT PLAN IS A PRELIMINARY DESIGN AND SHOULD NOT BE USED FOR CONSTRUCTION WITHOUT THE APPROVAL OF THE ENGINEER OF RECORD. THE ENGINEER OF RECORD IS NOT RESPONSIBLE FOR ANY DAMAGE TO PERSONS OR PROPERTY CAUSED BY THE USE OF THIS PLAN.

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LIBERTY PLACE CUT PLAN FOR V.A.P. SOIL REMOVAL Columbus, Ohio

PREPARED BY
RD Zandic & Associates, Inc.
 1000 N. High Street, Suite 200
 Columbus, Ohio 43215
 (614) 221-1111
 FAX (614) 221-1112

DATE: 10/11/07
 DRAWN BY: KENT
 CHECKED BY: [Signature]

Project: Liberty Place, Columbus, Ohio
 Date: 10/11/07
 Scale: 1/8" = 1'-0"

**SECTION J
APPENDIX C
GROUNDWATER MONITORING PROCEDURES
LIBERTY PLACE, LLC**

Groundwater Monitoring Procedures for Liberty Place LLC

Ground Water Monitoring Well Network

Because of the extensive network of existing monitoring wells, only three additional monitoring wells were constructed during the subsurface investigation. These wells are located at ZB-4, ZB-16 and ZB-18 installed in October 2000. ZB-4 was destroyed during site demolition and was replaced by ZB-4R in April 2002. The screened intervals are in a sand and gravel aquifer located above a gray clay layer. ZB-4R is an upgradient well, and ZB-16 and ZB-18 downgradient wells. The groundwater collected from the three wells will be analyzed for the following: Total Petroleum Hydrocarbons (TPH) by EPA Method 8015, Volatile Organic Compounds (VOCs) by EPA Method 8260 and Poly Nuclear Aromatic Hydrocarbons (PAH) by EPA 8270.

Ground Water Monitoring Well Construction

Each well was constructed using a 10-foot long, 0.01-inch slot, two-inch diameter schedule 40 PVC screen. The screen was attached to a two-inch diameter schedule 40 PVC riser. All couplings were threaded. A sealing cap was placed on the top of the well to ensure no surface water would enter the wells. The well was backfilled with silica sand to two feet above the screen. Two feet of bentonite hole plug was placed above the sand pack to seal the monitoring zone. The bentonite was set to restrict the monitoring zone to the monitored aquifer only. Bentonite grout was used to backfill the annular opening around the well riser to the ground surface. A cement pad was then placed around the above ground locking protective casing. The well casings were flush-mounted so that normal traffic would not be impeded. The well elevations at the top of each well PVC casing were surveyed and a survey mark was placed on top of the PVC well casing for future ground water level measurement purposes.

Development and Purging of Monitoring Wells

All wells sampled were developed by pumping at least three times their static water volume of the well to ensure that actual ground water from the monitored formation was sampled. The static water volume was determined by measuring the depth of the well and the static water level of the well before purging, and converting the length of the water column to volume by multiplying by the proper conversion factor for a 2-inch well (0.163 gallons/foot). The purge volume is three times the volume in the well at the time of measurement. During the purging, field measurements of pH, temperature (in Celsius) and Specific Conductivity will be taken with each of the three volumes of water removed from the well. Once the well has been purged, it is ready to be sampled. The wells were developed using an ISCO peristaltic pump with PVC tubing and/or a PVC Bailer, any purge water that was suspected to be contaminated was containerized.

Sampling of Monitoring Wells

Samples will be collected with a Disposable (single-use) Teflon Bailer. The bailer is slowly lowered into the well and as the water displaces the check ball, the bailer fills with water. Upon retrieval the ball is held in place by the weight/pressure of the water column above it, thus keeping the water sample in the bailer and allowing it to be distributed into the appropriate sample containers. Once the bottles are filled and labeled properly, they are placed in an ice-filled cooler to maintain a temperature of 4° Celsius. All sampling equipment and sample bottles will be handled with clean nitrile gloves to reduce the chance of cross contamination.

Chain-of-Custody (COC) forms will accompany each cooler of samples. The information recorded on each COC will include the following:

- Project name.
- Collection time and date.
- Sample identification number.
- Custody seal numbers.
- Sample volumes and preservatives.
- Sample analysis.
- Name of sampler.
- Name of person relinquishing samples.
- Name of person delivering the samples.
- Name of laboratory sample custodian accepting the samples.
- Date and time samples accepted by laboratory.

The samples will be delivered to the certified laboratory. When the laboratory receives the coolers they will be opened and the custody seal numbers on the COC will be checked against those on the cooler. The samples will be subsequently logged into the laboratory.

SECTION J
APPENDIX D
DECLARATION OF USE RESTRICTION
LIBERTY PLACE, LLC

PORTER WRIGHT MORRIS & ARTHUR^{LLP}

Attorneys & Counselors at Law

J. Jeffrey McNealey
614-227-2074
jmnealey@porterwright.com

41 South High Street
Columbus, Ohio 43215-6194

Facsimile: 614-227-2100
Toll Free: 800-533-2794

May 31, 2002

Mr. Christopher Krumm
R. D. Zande & Associates, Inc.
1237 Dublin Road
Columbus, Ohio 43215

Re: Liberty Place, LLC – Declaration of Use Restriction

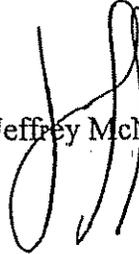
Dear Chris:

Enclosed for your records is a copy of the fully executed and recorded Declaration of Use Restriction in connection with the Liberty Place Apartment Project at 100 Liberty Street. Joe Sugar is retaining the original in our files.

Should you have any questions, please call.

Sincerely,

J. Jeffrey McNealey



Enclosure

cc: Frederic Gautier (copy)
Joseph A. Sugar, Esq. (original)

DECLARATION OF USE RESTRICTION

Liberty Place Apartment Project
100 Liberty Street, Columbus, Ohio



Instr: 200205230128871 05/23/2002
Pages: 6 F: \$30.00 3:22PM
Robert G. Montgomery T20020060445
Franklin County Recorder EXPORTER W

WHEREAS, LIBERTY PLACE LLC., an Ohio limited liability company ("Declarant"), is the owner of certain real property (the "Property") situated in the State of Ohio, County of Franklin and City of Columbus; and

WHEREAS, Declarant has voluntarily entered into the Ohio Environmental Protection Agency ("OEPA") Voluntary Action Program ("VAP") for the remediation of "Brownfield" sites; and

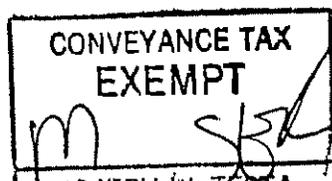
WHEREAS, Declarant, as a precondition of being issued a Covenant Not To Sue ("CNS"), desires to encumber the Property with a Declaration of Restriction ("Declaration") as set forth herein, said Property being particularly described on Exhibit A attached hereto; and

WHEREAS, Christopher W. Krumm (CP 177), a Certified Professional, delivered to Declarant a No Further Action Letter ("NFA"), dated May 22, 2002, with respect to the Property; and

WHEREAS, Mr. Krumm concluded in the NFA that the Property met applicable standards pursuant to Ohio Revised Code ("ORC") Chapter 3746 and the VAP subject to the recordation of a declaration of use restriction.

NOW, THEREFORE, Declarant hereby declares that the Property is and shall be held, transferred, sold, conveyed and occupied subject to a Declaration as set forth herein (the "Easement"). The Easement shall constitute a servitude upon the Property, which servitude will result from the covenants and restrictions set forth herein and hereby imposed upon the use of the Property, and, to that end and for the purpose of accomplishing the intent of the parties hereto, Declarant covenants on behalf of itself, its heirs, successors and assigns to do and refrain from doing, severally and collectively, upon the Property, the various acts hereinafter described, it being hereby agreed and expressed that the doing and the refraining from said acts, and each thereof, is and will be for the benefit of the owners and in compliance with the terms of the Covenant.

1. **Prohibition Against Extraction of Ground Water.** As a portion of the remedy under the OEPA VAP to protect against exposure to hazardous substances and/or petroleum in ground water located at or underlying the Property, no person shall extract the ground water located at or underlying the Property for any purpose, potable or otherwise, except for investigation or remediation of the ground water.
2. **Declaration to be Binding and Run with the Land.** This Declaration shall run with the land and shall be binding upon all current owners of the Property, and all successors and



TRANSFERRED
NOT NECESSARY
MAY 23 2002
JOSEPH W. TESTA
AUDITOR

assigns of the Property, or any portion of the Property, including any leasehold interests on the Property or any portion of the Property.

3. **Enforcement.** Compliance with this Declaration may be enforced by a legal or equitable action brought in a court of competent jurisdiction by one or more of the following parties: (a) any party referenced in Paragraph Two of this Declaration; (b) OEPA or its representative; or (c) any party with legal standing under applicable law. Any delay or failure on the part of any party to take action to enforce compliance with this Declaration shall not bar any subsequent enforcement with respect to the noncompliance in question and shall not be deemed a waiver of the right of any party to take action to enforce any noncompliance.
4. **Noncomplying Use.** Pursuant to ORC 3746.05, if the Property or any portion of the Property is put to a use that does not comply with this Declaration, the CNS issued for the Property by OEPA under ORC 3746.12 is void on and after the date of the commencement of the noncomplying use.
5. **Record in Deed Records.** This Declaration shall be recorded in the same manner as a deed in the Office of the Recorder of Franklin County, pursuant to ORC 3746.10(C) and 317.08(A), and shall be deemed incorporated by reference in any instrument hereafter conveying any interest in the Property or any portion of the Property.
6. **Severability.** If any one or more provisions of this Declaration is found unenforceable in any respect, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired.
7. **Governing Law.** This Declaration shall be governed by and interpreted in accordance with the laws of the State of Ohio, including ORC Chapter 3746 and OAC Chapter 3745-300.
8. **Headings.** All headings used herein are for convenience and shall not be used to interpret or qualify the terms of this Declaration.
9. **Notice of Declaration upon Conveyance.** Each instrument hereafter conveying any interest in the Property, or any portion of the Property, shall contain a recital acknowledging this Declaration and providing the recording location of this Declaration upon such conveyance, substantially in the following form: "The real property described herein is subject to the Declaration of Use Restriction made by Liberty Place LLC and recorded with the Office of the Recorder of Franklin County, Ohio on the 22nd day of May, 2002 in the Franklin County, Ohio Deed Records, Instrument Number _____, as if the same were fully set forth herein."

IN WITNESS WHEREOF, Declarant has caused the execution of this instrument as of the date first above written.

Signed and Acknowledged
in the Presence of:

LIBERTY PLACE LLC
an Ohio limited liability company

Cathy Barazi
Name: CATHY BARAZI

By: Frederic Gautier
Frederic Gautier, President

Bryan Johnson
Name: BRYAN JOHNSON

STATE OF TEXAS)
)SS:
COUNTY OF HARRIS)

The foregoing instrument was executed before me this 17th day of May, 2002 by Frederic Gautier, President of Liberty Place LLC, an Ohio limited liability company, on behalf of said limited liability company.

Stephanie A. Allemore
Notary Public

This Instrument Prepared By:

J. Jeffrey McNealey, Esq.
PORTER, WRIGHT, MORRIS & ARTHUR LLP
41 South High Street
Columbus, Ohio 43215

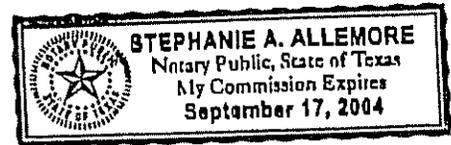


EXHIBIT A

Description of the Property

**DESCRIPTION OF 6.729 ACRES OF LAND
SOUTH OF FULTON STREET
WEST OF FRONT STREET**

Situated in the State of Ohio, County of Franklin, City of Columbus, in Half Section 27, Township 5, Range 22, Refugee Lands, being a 6.729 acre tract of land comprised of all of Parcel 1, all of Parcel 2, all of Parcel 3, all of Parcel 4, and part of Parcel 5 as described in a deed to the Harsco Corporation, of record in Deed Book 2152, Page 97, (Parcel 4 being the same as Lot Number Six (6) of the L. Hoster Brewing Company's Sub., of record in Plat Book 5, Page 362), all of Parcel 1, all of Parcel 2, and all of Parcel 3 as described in a deed to the Harsco Corporation, of record in Deed Book 2171, Page 381, and being a part of that Robert Armstrong's Point Pleasant Addition to the City of Columbus, of record in Deed Book 33, Page 122, all of the First Parcel and part of the Second Parcel as described in a deed to the Harsco Corporation of record in Deed Book 3070, Page 116, all references to records being on file in the Recorder's Office, Franklin County, Ohio, said 6.729 acre tract being more particularly described as follows:

Beginning at an iron pin set in the northerly right-of-way line of Liberty Street, at the southeasterly corner of said Parcel 2 as described in Deed Book 2171, Page 381, at the southwesterly corner of that 1.093 acre tract as described in a deed to 503 South Front Street Limited Partnership, of record in Official Record Volume 27075 G03, and being referenced North 87°53'56" West, a distance of 300.00 feet from a drill hole found at the intersection of the northerly right-of-way line of said Liberty Street and the westerly right-of-way line of Front Street;

Thence North 87°53'56" West, along the northerly right-of-way line of said Liberty Street, along the southerly line of said Parcel 2, Parcel 3 and Parcel 1 as described in said Deed Book 2171, Page 381, a distance of 209.48 feet to an iron pin found (1 foot deep) at the southwesterly corner of said Parcel 1, in the easterly line of said Parcel 5, as described in said Deed Book 2152, Page 97;

Thence North 11°53'46" East, continuing along a right-of-way line of said Liberty Street, along the westerly line of said Parcel 1, along the easterly line of said Parcel 5, a distance of 5.07 feet to an iron pin found with a plastic cap stamped Hockaden and Assoc.;

Thence North 87°53'56" West, continuing along the northerly right-of-way line of said Liberty Street, as delineated on the plat "Liberty Street Dedication and Easements", of record in Plat Book 86, Page 18, crossing through said Parcel 5, a distance of 12.66 feet to an iron pin set at a point of curvature;

Thence continuing along the northerly right-of-way line of said Liberty Street, through said Parcel 5, along the arc of a curve to the left, having a radius of 276.56 feet, a central angle of

10°50'44", an arc distance of 52.35 feet to an iron pin found with a plastic cap stamped Hockaden and Assoc., at a point of tangency, said arc being subtended by a chord bearing South 86°40'42" West, a chord distance of 52.27 feet;

Thence South 81°15'20" West, continuing along the northerly right-of-way line of said Liberty Street, through said Parcel 5, a distance of 245.68 feet to an iron pin set in the westerly line of said Parcel 5, in the easterly line of the Columbus Feeder to the Ohio and Erie Canal (abandoned) as described in a Lease of Canal Lands to the Columbus & Southern Ohio Electric Company, of record in Lease Record 83, Page 346, witness an iron pin found with a plastic cap stamped Hockaden and Assoc., in the northerly right-of-way line of said Liberty Street at a point of curvature, bearing South 81°15'20" West, a distance of 22.76 feet.

Thence North 08°32'59" West, along the easterly line of said Columbus Feeder to the Ohio and Erie Canal (abandoned), along the westerly line of said Parcel 5, the westerly line of said Parcel 4, as described in Deed Book 2152, Page 97, a distance of 190.21 feet to a concrete canal marker with ¾" steel rod;

Thence North 02°41'46" West, along the easterly line of said Columbus Feeder to the Ohio and Erie Canal (abandoned), along the westerly line of said Parcel 4, the westerly line of said Parcel 1 and Parcel 3, as described in Deed Book 2152, Page 97, a distance of 641.63 feet to an iron pin set in the southerly right-of-way line of Fulton Street;

Thence South 78°00'27" East, along the southerly right-of-way line of said Fulton Street, along the northerly line of said Parcel 3, the northerly line of said Parcel 2, as described in Deed Book 2152, Page 97, the northerly line of said First Parcel as described in said Deed Book 3070, Page 116, a distance of 426.03 feet to a drill hole found at the intersection of the southerly right-of-way line of said Fulton Street and the westerly right-of-way line of Second Street;

Thence South 00°01'21" West, along the westerly right-of-way line of said Second Street, the easterly line of said First Parcel, along the easterly line of said Second Parcel as described in said Deed Book 3070, Page 116, a distance of 365.46 feet to an iron pin found (1 foot deep), at a northeasterly corner of that Parcel #1 as described in a deed to Front & Fulton Real Estate Trust, of record in Deed Book 2852, Page 519;

Thence South 89°34'54" West, into said original Second Parcel, along a northerly line of said Parcel #1, a distance of 154.50 feet to an iron pin set;

Thence South 04°24'37" West, continuing through said original Second Parcel, along the westerly line of said Parcel #1, a distance of 158.80 feet to an iron pin set at a southwesterly corner of said Parcel #1, in the southerly line of said original Second Parcel, in the northerly line of said Parcel 4 as described in said Deed Book 2152, Page 97;

Thence South 78°33'20" East, along a southerly line of said Parcel #1, the northerly line of said Parcel 4, a distance of 149.95 feet to a railroad spike found at the northeasterly corner of said Parcel 4;

Thence South $11^{\circ}53'46''$ West, along a westerly line of said Parcel #1, along the easterly line of said Parcel 4, a distance of 17.19 feet to an iron pin set at a southwesterly corner of said Parcel #1, at the northwesterly corner of said Parcel 1, as described in said Deed Book 2171, Page 381;

Thence South $87^{\circ}53'56''$ East, along the southerly line of said Parcel #1, along the northerly line of said Parcel 1, the northerly line of said Parcel 3 and Parcel 2 as described in said Deed Book 2171, Page 381, a distance of 186.18 feet to an iron pin set at the northeasterly corner of said Parcel 2, at the northwesterly corner of that 1.093 acre tract as described in a deed to 503 South Front Street Limited Partnership, of record in Official Record Volume 27075 G03;

Thence South $02^{\circ}06'04''$ West, along the easterly line of said Parcel 2, the westerly line of said 1.093 acre tract, a distance of 135.00 feet to the True Place of Beginning and containing an area of 6.729 acres of land.

For the purpose of this description a bearing of North $87^{\circ}53'56''$ West was used on the northerly right-of-way line of Liberty Street (50') as delineated on the plat "Liberty Street Dedication and Easements", of record in Plat Book 86, Pages 18,19 & 20, and all other bearing relate to this basis of bearing.

This description was prepared from an actual field survey of the premises in September, 2000 by ms consultants, inc., under the direct supervision of John L. Price, Registered Professional Surveyor No. 7159. All iron pins set are $5/8''$ x $30''$ rebar with a yellow plastic cap stamped "ms cons, colum".

SECTION J
APPENDIX E
RISK MITIGATION PLAN
LIBERTY PLACE, LLC

**SITE SPECIFIC RISK MITIGATION PLAN
LIBERTY PLACE**

Site Location: Liberty Place, LLC
100 Liberty Street
Columbus, Ohio 43215

Client Contact: Mr. Frederic Gautier
Winther Investments, Inc.
1919 Post Oak Park Drive, Suite 3101
Houston, Texas 77027
Telephone: 713-621-5200

Contractor Contact: Mr. Christopher Krumm, P.G., C.P.
(Environmental) R.D. Zande & Associates, Inc.
1237 Dublin Road
Columbus, Ohio 43215
Telephone: 614-486-4383

SECTION ONE RISK MITIGATION PLAN

1.1 Introduction

This Risk Mitigation and Health and Safety Plan is prepared for the Liberty Place, LLC location at 100 Liberty Street (Property) as shown in Figure 1. These documents are intended to provide information regarding avoidable potential health risks which may result from and mitigate against exposure to on-Property workers due to direct contact (i.e. incidental ingestion, direct dermal contact, and inhalation) with the subsurface soil (defined as soil or fill below the Point of Compliance), the ground water, and with Light NonAqueous Phase Liquids (LNAPL), including soil and groundwater containing LNAPL and soils containing TPH above soil saturation limits at the Property. The Property boundaries are defined in the attached Figure 2. This document provides information required for the Chemical Hazards portion of any subsequent Health and Safety Plan written for the property.

Prior to planned remediation this Risk Mitigation Plan (RMP) must be implemented whenever soil excavation activities occurs at the Property. This is referred to as the remediation phase in this document. After the planned soil excavation, removal, and replacement (the remediation phase) this Risk Mitigation Plan refers to activities associated with the ground monitoring network and operation of the interception trench (monitoring and recovery phase). For the purposes of this RMP, the term "Volunteer" meets the description of Volunteer provided in Section 1.0 of the O&M Plan. If activities at the Property are conducted which require implementation of this RMP and the HASP, the Volunteer will notify OEPA in writing within thirty (30) days after implementation. The implementation of this RMP and the HASP is the responsibility of the Volunteer. The history of the Property and summary of the hazards is described in the following subsections.

1.2 Site History

This Risk Mitigation and Health and Safety Plan is prepared for the Property. The Property, the former Capitol Manufacturing Company, consisting of approximately 6.729 acres, is located south of West Fulton Street, with Second Street bordering the Property to the East, Short Street bordering to the west, and Liberty Street to the south. The topography of the Property is generally flat, with a downward slope to the west towards the Scioto River. The elevation of the Property ranges from 710 to 740 feet above MSL (Mean Sea Level). A site location map is attached (Figure 1). The proposed use of the subject Property is Liberty Place, LLC, a multi unit residential development. A total of 314 separate residential units, two parking garages and several open areas are planned.

The Property had formerly been used for manufacture of machined steel fittings by Capitol Manufacturing Company. Operations ceased in 1989. Much of the Property buildings were demolished in 1991. Eight USTs were removed in 1991 and 1992. The

Property received a No Further Action Status Regarding Corrective Action Requirements for the USTs in their jurisdiction on June 15, 1999.

Phase I and Phase II investigations were conducted on the Property in 1989 by ATEC Environmental Consultants, Lawhon & Associates in 1991 and 1992, Petro Environmental Technologies in 1993, Dames & Moore in 1994 and 1995. Dames & Moore conducted a Property Risk Assessment 1996. R.D. Zande & Associates, Inc. (R.D. Zande) completed Phase I and Phase II Investigations in 2001 and a Voluntary Action Program NFA, of which this RMP is a part, was issued in May 2002.

The environmental investigations determined the Property had been affected by historical operations. Dames & Moore in their Draft Remedial Action Plan (April 7, 1995) identified the following areas of concern:

- Area A – Area around former USTs 5 and 6. Soils contaminated by petroleum LNAPL including toluene and xylene at the water table. Carcinogen benzo(a)pyrene has been detected in the groundwater.
- Area B – Area centered around Tank 3. Soils contaminated by petroleum LNAPL including toluene at the water table.
- Area D – Small area centered around well MW-4-25 where low concentrations of trichloroethene were detected in the groundwater samples and low concentrations of trichloroethene and cis-1,2-dichloroethene in the soil.
- Area F – Area around former UST 7. Soils contaminated by TPH, toluene, and xylene.
- Area G – Area centered around storm sewer junction. Soils contaminated by TPH, ethyl benzene, and xylene.

These areas are depicted in the Property features map attached (Figure 2). During the R.D. Zande VAP Phase II investigation toluene, xylene, and ethyl benzene were not detected, indicating in the intervening time between investigations these compounds may have dissipated due to natural attenuation or degradation. The presence of TPH, chlorinated compounds, and in one sample PCB were confirmed in the R.D. Zande investigation. TPH was detected in the soils and as LNAPL above the water table in the western portion of the Property. The LNAPL concentrations exceeded VAP soil saturation standards and all direct contact standards in one sample collected at a depth of 17.5 feet. The TPH concentrations at shallower depths (0 to 10 feet) were lower than these standards. The chlorinated compounds detected in soils did not exceed VAP direct contact standards. Several semivolatile compounds, including the carcinogens benzo(a)anthracene, benzo(b)fluoranthene, and benzo(a)pyrene were also detected, in concentrations below VAP commercial and industrial direct contact standards. The eight RCRA metals were also examined during the R.D. Zande investigation. Of these metals only one, arsenic, occurred in concentrations above VAP residential direct contact standards. Commercial or industrial direct contact standards were not exceeded by any RCRA metals. The compounds discussed in this paragraph are the primary hazardous materials found at the Property. More complete descriptions of their concentrations and locations are located in Section F of the NFA.

The Dames & Moore areas of concern, which are depicted in Figure 2, were combined into several identified areas for the Property based on the information collected by the R.D. Zande investigation. These Identified Areas consist of:

1. Areas containing petroleum hydrocarbons or LNAPLs (former Dames & Moore Areas A & B),
2. Areas where chlorinated solvents or BTEX products have been identified by soil sampling or ground water sampling (former Dames & Moore Areas D, F, and G),
3. The areas of the Property not part of prior investigations but within the Capitol Manufacturing Property.

The Identified Areas are delineated in Figure 3. Area 3 is primarily the eastern portion of the Property which sampling has indicated has not been affected by the presence of TPH and chlorinated solvents. Therefore the areas of primary exposure for hazardous materials are Identified Areas 1 and 2.

1.3 Potential Health Risks

The potential health risks depend on both the nature of the chemical hazards and the potential for exposure. Both are discussed in this section.

1.3.1 Health Effects of Contaminants

TPH (total petroleum hydrocarbons) is composed of a mixture of a wide range of hydrocarbons derived chiefly from crude petroleum. Petroleum hydrocarbons are absorbed into the body following inhalation, ingestion, or dermal contact. Depending upon the specific constituents present in TPH, exposure can cause headache, nausea, mental confusion, central nervous system depression, and respiratory tract irritation.

The TPH present at the Property is composed largely of the heavier petroleum hydrocarbon fractions. Because measure of total TPH are not chemical specific, insufficient evidence exists to determine the potential toxicity or carcinogenicity of these constituents in either animals or humans. Specific components of TPH were detected at the Property at elevated levels, including polynuclear aromatic hydrocarbons (PAHs) benzo(a)anthracene, benzo(b)fluoranthene, and benzo(a)pyrene. These compounds have classified as carcinogens or potential carcinogens. Exposure to these chemicals can occur by dermal contact or by inhalation when PAHs are attached to dust and other airborne particles. PAHs enter the body quickly, and the rate of adsorption is increased when they are present in oily mixtures. The majority of the PAHs that enter the body are eliminated in a few days through feces and urine.

The National Institute for Occupational Safety and Health (NIOSH) has recommended a workplace exposure limit to PAHs of 0.1 mg/m³. The Occupational Safety and Health Administration has set a legal limit of 0.2 mg/m³ of air for all PAHs.

Chlorinated compounds trichloroethene and cis-1,2-dichloroethene have been detected in the groundwater and soils of the Property. Exposure of these chemicals can occur by

dermal contact or by inhalation when the compounds vaporize from the ground water or soil. These chlorinated compounds irritate eyes, skin, fatigue, giddiness, headaches, vertigo, visual disturbance, tremors, nausea, vomiting, cardiac arrhythmias, dermatitis, paresthesia, and liver injury. TCE has been identified as a potential carcinogen. The National Institute for Occupational Safety and Health (NIOSH) has recommended a workplace exposure limit of 1000 ppm. The Occupational Safety and Health Administration has set a legal limit of 100 ppm for TCE and 200 ppm for cis-1,2-dichloroethene.

Arsenic is metal that follows similar environmental pathways similar to those of other heavy metals. It is incorporated into the human body through ingestion and inhalation. Ulceration of nasal septum, dermal layers, GI disturbances, respiratory irritation, and hyperpigmentation of skin (cancers) occur after chronic or acute exposure.

1.3.2 Exposure Assumptions

Since TPH generally comprises many compounds, toxicity data are not available for this series of chemicals of concern. Therefore, to establish exposure assumptions, it will be most conservatively assumed that all measured TPH contains benzo(a)pyrene and/or the other detected PAHs.

Exposure to contaminated subsurface soil via incidental ingestion or direct dermal contact could result in adverse health effects. However, standard hazardous waste handling procedures can greatly reduce the risk if followed. Incidental ingestion and direct contact can occur when exposure to subsurface soils occur, such as when construction workers perform excavation. Exposure via inhalation of vapors or particulates (dust) does not contribute significantly to the risk of adverse health effects from TPH contamination in soil, however, inhalation is a factor in the health risk posed by chlorinated solvents or arsenic.

Potential for chemicals of concern in the subsurface and ground water to impact human health is estimated using two methods of measuring health effects. The first is potential cancer risk and the second is potential for other (non cancer) adverse health effects.

- Potential cancer risk is estimated as a probability of developing cancer resulting from exposure to chemicals present in the subsurface.
- Potential for non-cancer health effects is estimated by comparing estimated exposure levels (i.e., estimated daily dose) to an exposure level or dose that has been found to be safe (i.e. without adverse effects from daily exposure). The estimated health risk posed by exposure to contaminated subsurface soil assumes that no precautions (such as those described herein) are taken to prevent or mitigate exposure to subsurface soil.

Exposure to workers resulting from excavation, removal, and replacement of soil, and installation of the trench (the remediation phase), and utility installation and maintenance:

1. Incidental ingestion of subsurface soil – Incidental soil ingestion may occur as a result of soil adherence to the hands followed by hand-to-mouth contact (eating, drinking), or as a result of soil adherence to food or smoking materials exposed to excavation activities. During excavation and removal of PCS and excavation of the interception trench incidental ingestion is a risk.
2. Direct dermal contact with subsurface soil – Dermal contact may occur as a result of workers direct contact or touching the subsurface soil, or as a result of deposition of mobilized (air-born dust) subsurface soil on the skin. Workers who are conducting excavation, or remediation of PCS areas and the construction of the interception trench will be exposed to direct contact of this compound and its associated risk.
3. Inhalation of dust – Inhalation of contaminated soil particles may occur during excavation and or remediation if the Property is dry and dust collects in the breathing zone of the workers. It is assumed this dust will contain the maximum detected concentration of TPH and the associated PAHs.

Exposure to workers resulting from ground water monitoring and activities associated with monitoring and recovery/treatment of LNAPL from the interception trench;

Exposure to workers resulting from utility installation and maintenance; and

Exposure to all contractors that could come into contact with LNAPL while working on the Property:

1. Direct contact with LNAPL - Workers who are conducting excavation, or remediation of PCS areas and the construction of the interception trench will be exposed to direct contact of LNAPL and therefore the components it contains. The LNAPL contained TPH, PAHs, and low levels of PCBs.
2. Direct contact with ground water – During excavation and recovery of LNAPL from the interception trench and ground water sampling remediation and environmental sampling workers will be exposed to ground water and TPH and possibly chlorinated solvents. It is assumed the TPH will also contain associated PAHs which have been detected in limited quantities in the ground water.
3. Inhalation of vapors from ground water – During excavation and recovery of LNAPL from the interception trench and ground water sampling remediation and environmental sampling workers will be exposed to vapors from the ground water resulting from dissolved TPH and possibly chlorinated solvents.

1.4 Precautions to Mitigate Risks

The following precautions, if followed by the excavation, remediation, environmental sampling, and utility workers will reduce indirect ingestion, direct dermal contact, and inhalation of dust and vapors from the chemicals of concern at the Property. These Property specific precautions are as follows:

- Potentially exposed workers shall wear clothing that limit the skin area available for contact with the subsurface soil during the remediation and monitoring and recovery

phases. Recommended clothing includes gloves, hard hats, safety glasses, long sleeve shirts, and long pants or work coveralls.

- Potentially exposed workers shall 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 transference of subsurface soil, ground water, or LNAPL from hands to the items being placed in mouth.
- Potentially exposed workers shall not apply ointment, cream, make-up or other substances before washing both the areas to which the substance is to be applied and the hands, if the substance is to be applied by hand. The worker should not apply such substances on parts of the body that is exposed to subsurface soil or mobilized dust.
- Potentially exposed workers should cover cuts, scrapes and other open skin areas, as open sores more readily adsorb chemicals of concern into the body than intact soil.
- Potentially exposed workers should thoroughly wash exposed areas when leaving the Property for an extended periods of time. This limits the amount of time that exposed areas of the skin may be in direct contact with subsurface soil, LNAPL, or ground water, which may contain chemicals of concern, that the worker may have been exposed to.
- Potentially exposed workers should change work clothes shortly after leaving the Property, especially those work clothes having either visible dirt or made damp through sweat or other liquids. These clothes should be washed prior to being reworn. Gloves and other items that came into direct contact with soil, LNAPL, or ground water should be washed or disposed.
- Potentially exposed workers should wash hair and other portions of the body shortly after leaving the work Property for the day. Dirt and dust that may contain chemicals of concern 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.
- Potentially exposed workers should generally avoid direct contact between the skin and the contaminated subsurface soils, LNAPL, and ground water; which all may contain chemicals of concern.
- Minimize the suspension of dust to the degree possible and specify measures to be taken for minimizing dust and vapor.
- Undertake any other appropriate precautions necessary to comply with applicable standards, including executing the Operations and Maintenance Plan.

1.5 Handling Contaminated Soil and Water

Subsurface soils that contain total petroleum hydrocarbons (TPHs) or polynuclear aromatic hydrocarbons (PAHs) are classified as petroleum contaminated soils (PCS). These soils can be distinguished from uncontaminated subsurface soils using field methods, either visually, by odor, or with field instrumentation (flame ionization detector –FID or photoionization detector – PID). Exposure to the PCS once identified can be then minimized. Ground water or LNAPL can also be readily observed and therefore contact minimized.

Handling and Disposal of PCS - Subsurface soils identified as PCS by field screening methods will be excavated and removed from the Property immediately to a licensed disposal facility, or they will be stored in rolloff boxes or on visqueen and subsequently covered by visqueen to prevent precipitation from contacting the PCS. The stored PCS will be sampled to determine if it is to be sent to a PCS disposal facility or to a construction and demolition debris landfill or sanitary waste landfill if the PCS quantities and/or concentrations are within acceptable limits for these disposal facilities.

Handling and Disposal of LNAPL – A vacuum truck, holding tank and pump, or similar means may be used to withdraw LNAPL or ground water contaminated with LNAPL from excavation cavities where it may collect during excavation or from the interception trench. The liquids must be transported off-Property for disposal or recycling in accordance with applicable laws and regulations.

The OEPA Central Office must be notified in writing within 60 days of removing any contaminated soil, water, or liquids from the Property. Such notification must include the amount of material removed and manifests documenting proper disposal.

1.6 Information to be Provided to Property Workers

Whenever remediation or utility workers at the Property are reasonably expected to be exposed to the subsurface soils, LNAPL, and ground water during the remediation and monitoring and recovery phases of the project:

1. The fact that the soil subsurface, LNAPL, and ground water contain TPH, PAHs, chlorinated solvents, and possibly PCBs that could cause adverse health effects.
2. Precautions to mitigate exposure to contamination must be implemented as described in Risk Mitigation Plan and Health and Safety Plan.
3. Clear guidance for handling the PCS, LNAPL, and ground water as described in the Remedies section and Operation and Maintenance Plan of the NFA and for implementing the precautions as described in the RMP and HASP.

1.7 Actions to be Taken if Significant Exposures Occur

The concentration and extent of chemicals of concern have been evaluated by the NFA. However if isolated areas of unexpected highly contaminated materials are located during the excavation, removal, and replacement of soils, or during the trench installation phase or during utility installation (remediation phase) or utility maintenance, the following steps will be taken to reduce exposure:

- Immediately remove and decontaminate all personnel.
- Provide medical surveillance monitoring as needed for personnel.
- Restrict access to the contaminated area.
- 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 Property.

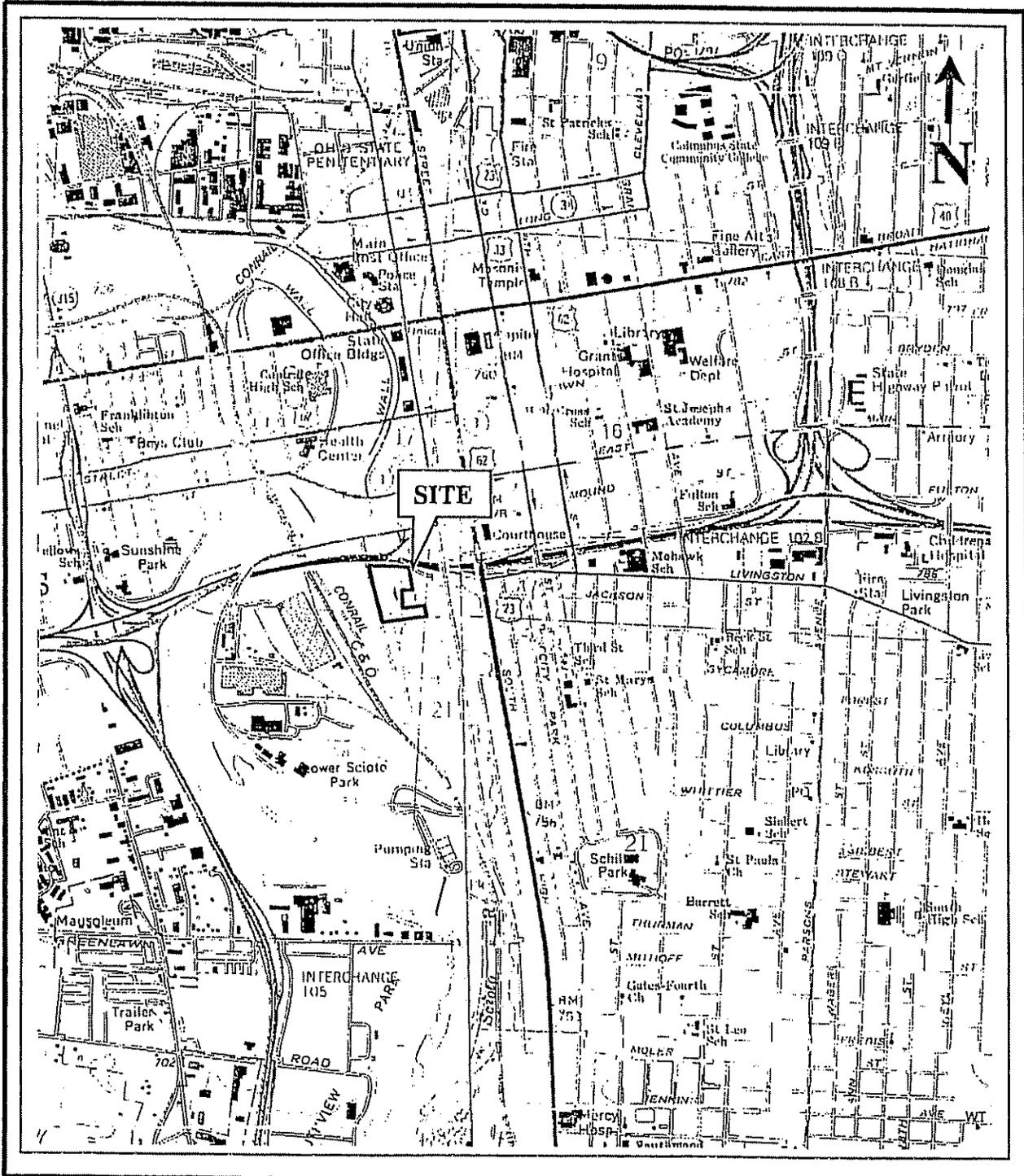
**SITE SPECIFIC RISK MITIGATION PLAN
LIBERTY PLACE
FIGURES**

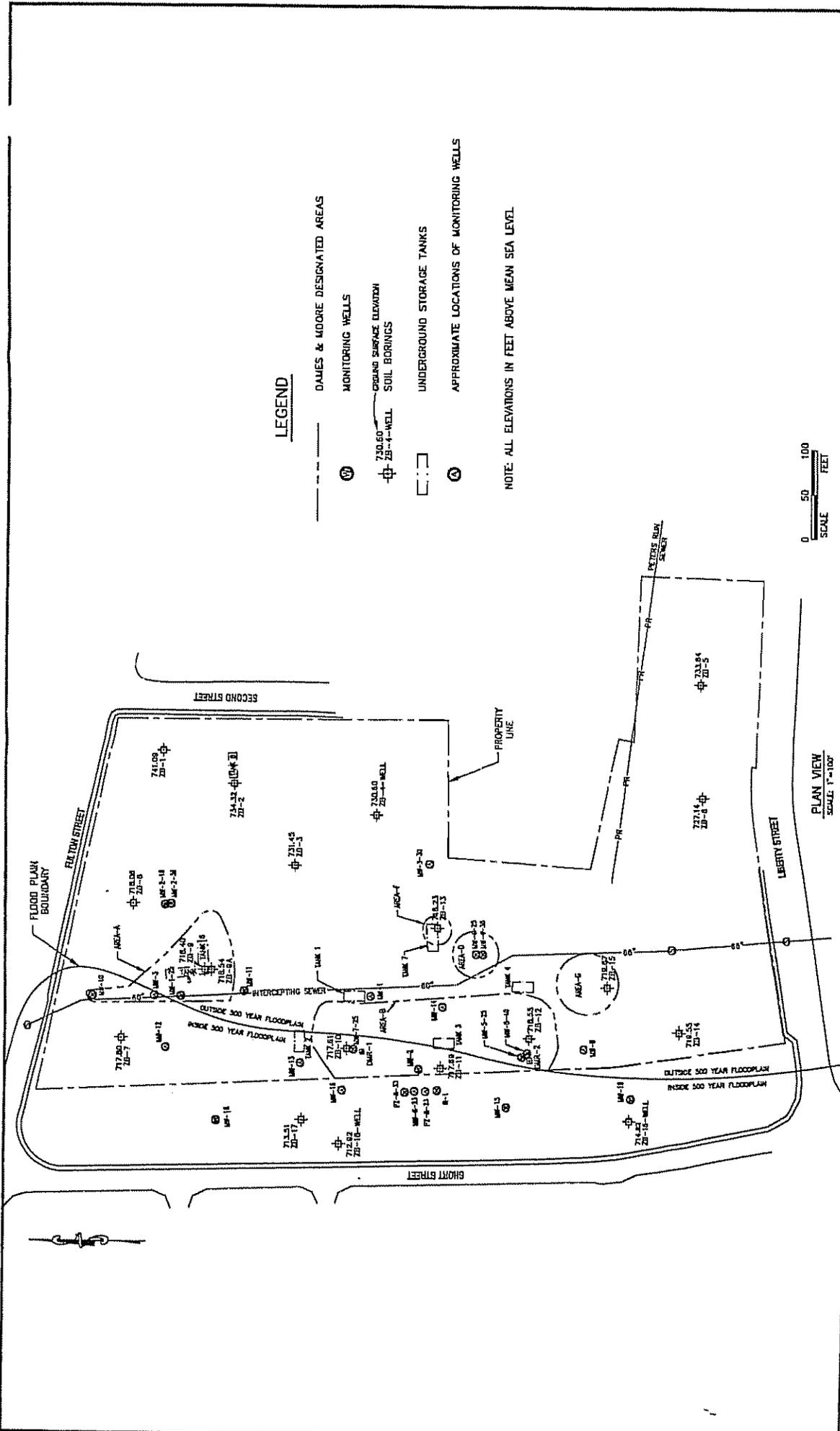
R.D. Zande & Associates

SITE MAP

SITE: Liberty Place, 100 Liberty Street, Columbus OH
JOB #: 5986 **DATE:** May 23, 2002
MAP: USGS 7.5 Minute Topo Map - 1: 24,000 scale
QUAD: Southwest Columbus and Southeast Columbus, OH Quads

SUBJECT: NFA Letter Section J

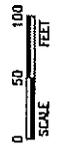




LEGEND

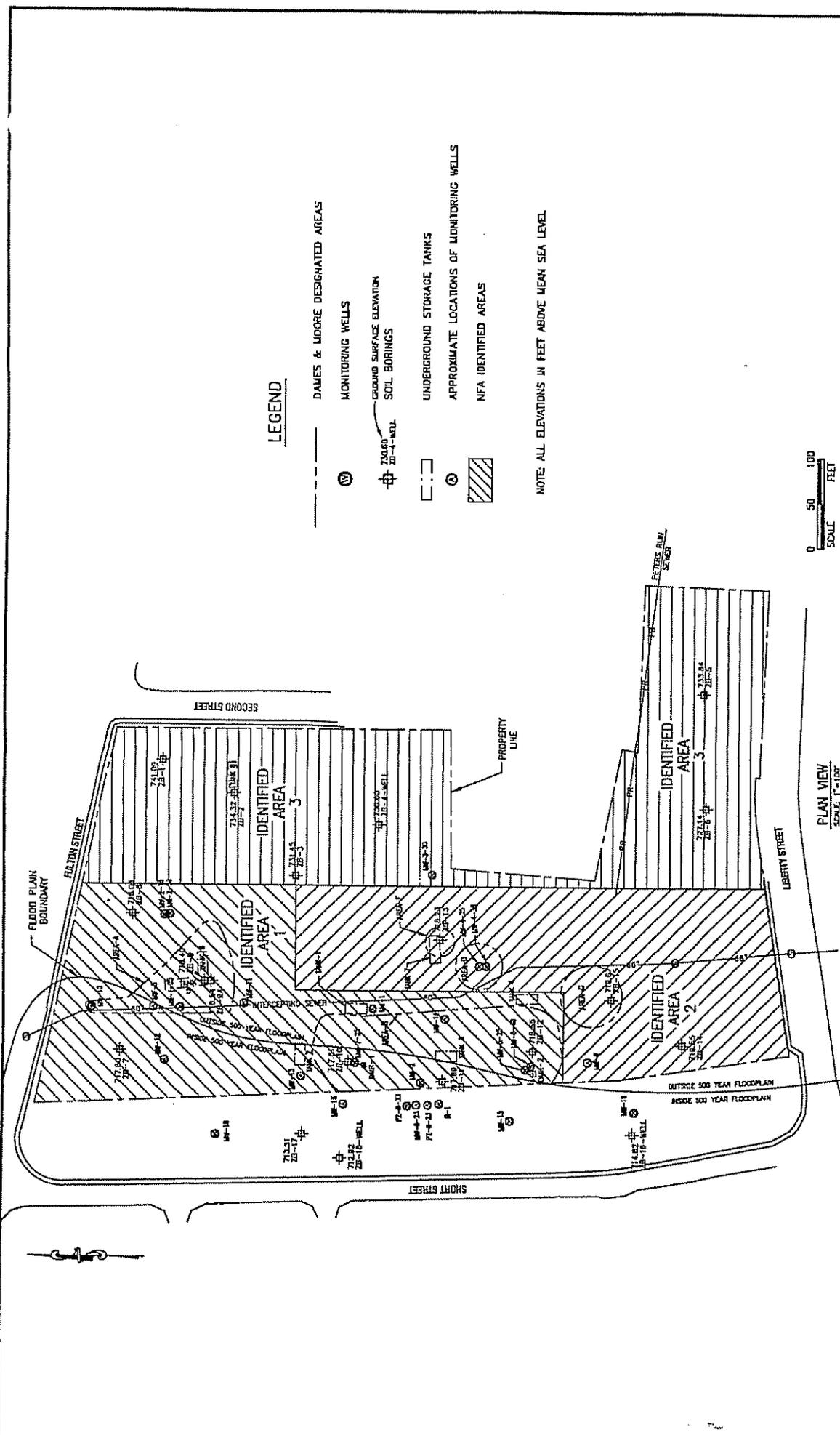
- DAMES & MOORE DESIGNATED AREAS
- ⊙ MONITORING WELLS
- ⊕ 730.60 GROUND SURFACE ELEVATION ZB-4--WELL SOIL BORINGS
- UNDERGROUND STORAGE TANKS
- ⊙ APPROXIMATE LOCATIONS OF MONITORING WELLS

NOTE: ALL ELEVATIONS IN FEET ABOVE MEAN SEA LEVEL.



PLAN VIEW
SCALE: 1"=100'

| | | | | | |
|---|------|------|---|----------|-----------|
| REVISIONS | DATE | DES: | R. D. Zande & Associates | JOB NO.: | 5988.10 |
| | | DR: | MAP | SCALE: | 1" = 100' |
| | | CHK: | CWK | DATE: | 5/23/02 |
| | | APP: | CWK | FIGURE: | 2 |
| SITE FEATURES MAP | | | R. D. Zande & Associates 1237 DUBLIN ROAD COLUMBUS, OHIO 43215 1-800-340-2743 | | |
| LIBERTY PLACE, LLC 100 LIBERTY STREET FOR LIBERTY PLACE LLC AN OHIO LIMITED LIABILITY COMPANY | | | | | |



LEGEND

- DAMES & MOORE DESIGNATED AREAS
- ⊙ MONITORING WELLS
- ⊕ GROUND SURFACE ELEVATION SOIL BORINGS
- ⊕ 730.80 25-1-WELL
- UNDERGROUND STORAGE TANKS
- ⊙ APPROXIMATE LOCATIONS OF MONITORING WELLS
- ▨ NFA IDENTIFIED AREAS

NOTE: ALL ELEVATIONS IN FEET ABOVE MEAN SEA LEVEL.



PLAN VIEW
SCALE: 1"=100'

| | | | |
|-----------|------|---|------------------|
| REVISIONS | DATE | DES: | JOB NO.: |
| | | DR: MAP | 5986.10 |
| | | CHK: CMK | SCALE: 1" = 100' |
| | | APP: CMK | DATE: 5/22/02 |
| | | | FIGURE: 3 |
| | | R. D. Zande & Associates 1237 DUBLIN ROAD COLUMBUS, OHIO 43215 1-800-340-2743 | |
| | | IDENTIFIED AREAS MAP LIBERTY PLACE LLC 100 LIBERTY STREET FOR LIBERTY PLACE LLC AN OHIO LIMITED LIABILITY COMPANY | |

Operation and Maintenance Agreement
Liberty Place, LLC

EXHIBIT 3
Financial Assurance

Advising Bank

***** DIRECT *****

APPLICANT:
LIBERTY PLACE, LLC
PO BOX 27058
HOUSTON, TX 77227-7058

Beneficiary

OHIO EPA-VOLUNTARY ACTION PROGRAM
LAZARUS GOVERNMENT CENTER
122 SOUTH FRONT STREET
(SEE TEXT FOR NAME AND ADDRESS)

AMOUNT: USD 42,000.00
(FORTY TWO THOUSAND AND 00/100
UNITED STATES DOLLARS)

MAIL TO

GENTLEMEN:

BENEFICIARY COMPLETE NAME AND ADDRESS:

OHIO EPA-VOLUNTARY ACTION PROGRAM
LAZARUS GOVERNMENT CENTER
122 SOUTH FRONT STREET
P.O. BOX 1049
COLUMBUS, OHIO 43216-1049
ATTN: AMY YERSAVICH

WE HEREBY ESTABLISH OUR IRREVOCABLE LETTER OF CREDIT NO. D-233743 IN YOUR FAVOR AT THE REQUEST AND FOR THE ACCOUNT OF LIBERTY PLACE, LLC FOR AN AMOUNT NOT EXCEEDING \$42,000.00 (U.S. DOLLARS FORTY TWO THOUSAND AND 00/100).

THIS LETTER OF CREDIT IS AVAILABLE BY YOUR DRAFT DRAWN AT SIGHT ON JPMORGAN CHASE BANK DULY SIGNED AND MARKED: "DRAWN UNDER JPMORGAN CHASE BANK LETTER OF CREDIT NO. D-233743 DATED JANUARY 9, 2003" ACCOMPANIED BY THE FOLLOWING DOCUMENT:

1. BENEFICIARY'S MANUALLY SIGNED STATEMENT ON ITS LETTERHEAD READING EXACTLY AS FOLLOWS:

1.) "BENEFICIARY REPRESENTS THAT LIBERTY PLACE, LLC HAS DEFAULTED UNDER THE OPERATION AND MAINTENANCE AGREEMENT BETWEEN OHIO EPA AND LIBERTY PLACE, LLC."

OR

2.) "LIBERTY PLACE, LLC HAS NOT PROVIDED A REPLACEMENT LETTER OF CREDIT OR A DEPOSIT WITHIN (60) DAYS OF THE MATURITY DATE OF THE LETTER OF CREDIT."

PARTIAL DRAWINGS ARE ALLOWED.

THIS LETTER OF CREDIT EXPIRES AT OUR COUNTERS ON JANUARY 8, 2005.

THE ORIGINAL OF THIS LETTER OF CREDIT AND SUBSEQUENT AMENDMENTS, IF ANY, MUST ACCOMPANY ALL DRAWINGS.

THIS LETTER OF CREDIT IS SUBJECT TO THE UNIFORM CUSTOMS AND

-CONTINUED-


Authorized Signature

ISSUE DATE: JANUARY 09, 2008
L/C NO : D-233743

Advising Bank

***** DIRECT *****

APPLICANT:
LIBERTY PLACE, LLC
PO BOX 27058
HOUSTON, TX 77227-7058

Beneficiary

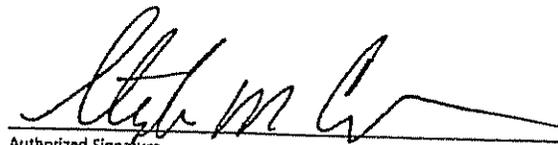
→ OHIO EPA-VOLUNTARY ACTION PROGRAM
LAZARUS GOVERNMENT CENTER
122 SOUTH FRONT STREET
(SEE TEXT FOR NAME AND ADDRESS)

AMOUNT: USD 42,000.00
(FORTY TWO THOUSAND AND 00/100
UNITED STATES DOLLARS)

PRACTICE FOR DOCUMENTARY CREDITS (1993 REVISION) INTERNATIONAL
CHAMBER OF COMMERCE PUBLICATION NO. 500.

WE HEREBY ENGAGE WITH YOU THAT ALL DRAFTS DRAWN UNDER AND IN
COMPLIANCE WITH THE TERMS OF THIS LETTER OF CREDIT WILL BE DULY
HONORED IF PRESENTED AT 10420 HIGHLAND MANOR DRIVE, BUILDING 2,
FLOOR 4, TAMPA, FLORIDA 33610.

PLEASE CONTACT US AT (813) 432-5606 OR (866) 532-5101 IF YOU HAVE
ANY QUESTIONS CONCERNING THIS LETTER OF CREDIT.



Authorized Signature