



State of Ohio Environmental Protection Agency

STREET ADDRESS:

Ohio Government Center  
122 S. Front Street  
Columbus, OH 43215-1099

TELE: (614) 644-3020 FAX: (614) 644-2329

MAILING ADDRESS:

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

July 26, 2001

CERTIFIED MAIL

OHIO EPA/CDO  
JUL 27 2001  
RECEIVED

Mr. Richard C. Daley  
Pizzuti/Miranova Corporate Tower LLC  
250 East Broad Street  
Columbus, OH 43215

**RE: Issuance of Covenant Not To Sue for the Miranova - Commercial Portion Property 00NFA106**

Dear Mr. Daley,

I am pleased to inform you that on July 26, 2001, the Director of the Ohio Environmental Protection Agency ("Director") issued a Covenant Not To Sue ("Covenant") to Pizzuti/Miranova Corporate Tower LLC for the former Miranova-Commercial Portion property located at Two Miranova Place, Columbus, Ohio. The Covenant was issued as Final Findings and Orders pursuant to Ohio Revised Code ("ORC") Chapter 3746 and Ohio Administrative Code ("OAC") Chapter 3745-300. You will find the certified copy of the Covenant enclosed.

Upon the issuance of these Findings and Orders, and subject to the conditions outlined in the Covenant, Ohio EPA covenants not to sue and releases Pizzuti/Miranova Corporate Tower LLC and their agents, employees, shareholders, officers, directors, successors and assigns, and successors and assigns of the property, from all civil liability to the State of Ohio to perform additional investigational and remedial activities at the property for the releases of hazardous substances or petroleum identified in the Phase I and Phase II Property Assessments completed in accordance with ORC Chapter 3746 and OAC Chapter 3745-300.

The issuance of the Covenant is a final action of the Director and will be public noticed in accordance with OAC 3745-47-07. The action may be appealed to the Environmental Review Appeals Commission ("Commission"). The appeal must be in writing and set forth the action complained of and the grounds upon which the appeal is based. The appeal must be filed with the Commission within thirty (30) days after notice or issuance of the action. (See ORC 3745.04 and 3745.07.) A copy of the appeal must be served on the Director within three (3) days after the appeal is filed with the Commission. The appeal may be filed with the Commission at 236 East Town Street, Room 300, Columbus, Ohio 43215.

Bob Taft, Governor  
Maureen O'Connor, Lieutenant Governor  
Christopher Jones, Director

You and many parties within Hull & Associates, Inc. and the agency worked hard to remove the environmental barriers associated with redeveloping this property. Again, congratulations on the issuance of this Covenant. If you have any questions or concerns, please feel free to contact me at (614) 644-2285.

Sincerely,

*Frank Robertson for Amy Yersavich*

Amy Yersavich, Manager  
Division of Emergency and Remedial Response  
Voluntary Action Program

Enclosure

cc: Craig Kasper, Hull & Associates, Inc.  
Dan Tjoelker, DERR, CDO ✓  
Mark Navarre, Legal Office  
CO DERR-VAP Files

TO BE RECORDED IN DEED RECORDS,  
PURSUANT TO R.C. 317.08(A)

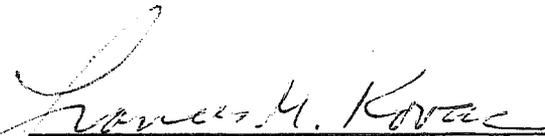
AFFIDAVIT

STATE OF OHIO )  
 )  
COUNTY OF FRANKLIN )           ss:

Before me, the subscriber, a Notary Public in and for the State of Ohio, personally appeared Zona L. Clements or Tonya R. Jackson, who, being duly sworn according to law, deposes and says that: (i) she is employed as a records management officer in the Legal Office of the Ohio Environmental Protection Agency ("Ohio EPA") and, as such, is authorized to sign this Affidavit on behalf of Ohio EPA; and (ii) the attached document is a true and correct copy of the Covenant Not to Sue/Director's Final Findings and Orders issued by the Director and entered in the Ohio EPA Director's Journal on July 26, 2001 regarding the property known as the Miranova- Commercial Portion Property, located at Two Miranova Place, Columbus, Franklin County, Ohio, and further described in Exhibit 1 of the attached Covenant Not to Sue.

  
\_\_\_\_\_  
Zona L. Clements or Tonya R. Jackson  
Records Management Officer  
Ohio EPA Legal Office

Sworn to and subscribed before me, a Notary Public in and for the State of Ohio, this 26<sup>th</sup> day of July, 2001.

  
\_\_\_\_\_  
Notary Public  
State of Ohio

Permanent Commission  
No expiration, R.C. 147.03  
**Frances M. Kovac**  
**Notary Public - State of Ohio**  
**My Commission Has No Expiration Date**

This instrument prepared by:  
Mark Navarre, Attorney  
Ohio EPA Legal Office  
P.O. Box 1049  
Columbus, Ohio 43216-1049



3. Based upon the information contained in the NFA Letter, the following investigational and remedial activities were undertaken and completed regarding the Property:
  - a. A Phase I Property Assessment, in accordance with OAC 3745-300-06, to determine whether there is any reason to believe that a release of hazardous substances or petroleum has or may have occurred at or emanated from the Property;
  - b. A Phase II Property Assessment, in accordance with OAC 3745-300-07, including but not limited to investigations of identified areas of concern and affected media, to assess environmental conditions related to any release of hazardous substances and petroleum;
  - c. Property-specific risk assessment activities, in accordance with OAC 3745-300-09, to develop standards not covered by the generic direct contact soil standards and to develop standards for construction and utility worker exposures;
  - d. Excavated soil generated during construction activities was managed on the Property and used as fill material below structures or will be used to establish the 2.5 ft. point of compliance (POC). All soils exceeding commercial standards were placed below the 2.5 ft. POC. Excess soils were disposed in a solid waste landfill;
  - e. Institutional controls contained in the Declaration of Use Restrictions, recorded on December 15, 2000 in the Franklin County Recorder's Office, as Instrument No. 200012150253472 (the "Declaration"), which restricts the Property to commercial uses only and which prohibits the extraction of ground water located at or underlying the Property, for any purpose, potable or otherwise, except for investigation or remediation of the ground water;
  - f. Engineering controls contained in an Operation and Maintenance ("O&M") Plan and O&M Agreement for the Property, providing for: 1) interim measures for fencing and site security during construction activities; and 2) final engineering controls: a) pavement and structural slabs of the building, parking garage, and entrance road; b) a soil cover 2.5 feet thick with erosion controls; c) procedures for excavation; d) monitoring of institutional controls, and the monitoring, reporting, record keeping, financial assurance and other requirements as set forth in the O&M Plan and O&M Agreement; and



Orders, the Property meets the applicable standards contained in ORC Chapter 3746 and OAC Chapter 3745-300 for commercial land use including but not limited to:

- a. Unrestricted potable use ground water standards in accordance with Table VII of OAC 3745-300-08 or OAC 3745-300-09(D) for those standards derived through property-specific risk assessment procedures, and background concentrations in ground water determined in accordance with OAC 3745-300-07(l)(2), in the uppermost unconsolidated ground water zone and regional bedrock ground water zone at a point of compliance at one-half mile from the Property boundary;
  - b. Ground water standards based on off-property, non-potable exposures derived through property-specific risk assessment procedures in accordance with OAC 3745-300-09(D) for human receptor exposures not related to potable use of ground water in the uppermost, unconsolidated critical resource ground water zone are met at the Property boundary point of compliance;
  - c. Ground water standards based on migration to surface water derived through property-specific risk assessment procedures in accordance with OAC 3745-300-08(D) or OAC 3745-300-09(E) for ecological receptor exposures not related to potable use of ground water, in the uppermost unconsolidated ground water zone are met prior to discharge into the Scioto River; and
  - d. Soil standards based on construction and utility worker exposures derived through property-specific risk assessment procedures in accordance with OAC 3745-300-09 for human receptor exposures not related to direct contact with soils, or background concentrations in soils determined in accordance with OAC 3745-300-07(l)(1), to the top of the uppermost unconsolidated ground water zone, approximately 12 feet deep.
10. Based on the NFA Letter and subject to all conditions set forth in these Findings and Orders, a Covenant Not to Sue ("Covenant") may be issued for the Property in accordance with ORC 3746.12(A), and upon implementation of the O&M Agreement, the voluntary action for the Property is protective of public health and safety and the environment.

## **ORDERS**

### **Covenant**

1. Upon the issuance of these Findings and Orders, and subject to the conditions set forth herein, including but not limited to the terms and conditions of the O&M Agreement, Ohio EPA hereby covenants not to sue and releases Pizzuti/Miranova Corporate Tower LLC, and its agents, employees, shareholders, officers, directors, successors and assigns, and successors and assigns of the Property, from all civil liability to the State of Ohio (the "State") to perform additional investigational and remedial activities at the Property for the releases of hazardous substances or petroleum identified in the Phase I Property Assessment and addressed in the Phase II Property Assessment conducted in accordance with ORC Chapter 3746 and OAC Chapter 3745-300.

### **Conditions and Limitations**

2. The Covenant provided in Order No. 1 shall only apply to the approximately 2.98 acre Property described in these Findings and Orders, the NFA Letter and the Exhibits attached hereto, upon which the investigational and remedial activities specified in the NFA Letter were conducted.
3. Pursuant to ORC 3746.12(B), the Covenant shall remain in effect for as long as the Property continues to comply with the applicable standards upon which the Covenant is based, as referenced in these Findings and Orders, including but not limited to the O&M Agreement.
4. Pursuant to ORC 3746.05, any use of the Property that does not comply with the institutional controls identified herein (i.e., the use restrictions contained in the Declaration), voids the Covenant on and after the date of the commencement of the noncomplying use.
5. Pursuant to ORC 3746.21 and 3746.171, authorized representatives of the Director shall be granted access to the Property for inspection or investigation purposes, including but not limited to determining whether the Property is being used in compliance with the use restrictions contained in the Declaration.
6. The Covenant shall not apply to releases of hazardous substances or petroleum:
  - a. that occur after the issuance of the NFA Letter to the Volunteer;

- b. on or emanating from the Property, that are not identified in the Phase I Property Assessment or not addressed in the Phase II Property Assessment of the NFA Letter; or
  - c. for which investigational or remedial activities were conducted that were not in compliance with ORC Chapter 3746 or OAC Chapter 3745-300.
7. The Covenant shall not apply:
- a. to claims for natural resource damages the State may have pursuant to Sections 107 or 113 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA"), 42 U.S.C. 9607 and 9613, as amended;
  - b. to claims the State may have pursuant to Section 107 of CERCLA, 42 U.S.C. 9607, as amended, for costs other than those for damages to natural resources, provided that the State incurs those other costs as a result of an action by the United States Environmental Protection Agency; or
  - c. as otherwise specifically provided in ORC Chapter 3746.
8. Nothing in ORC Chapter 3746 limits the authority of the Director to act under ORC 3734.13 and 3734.20 to 3734.23, or to request that a civil action be brought pursuant to the ORC or common law of the State to recover the costs incurred by Ohio EPA for investigating or remediating a release or threatened release of hazardous substances or petroleum at or from the Property, when the Director determines that the release or threatened release poses an imminent and substantial threat to public health or safety or the environment.
9. Nothing in the Covenant shall be construed to limit or waive the Director's authority to revoke the Covenant in response to any of the circumstances for revocation of a covenant, as provided in ORC Chapter 3746 and OAC Chapter 3745-300. Pursuant to ORC 3746.12(A)(2)(c), the Covenant shall be revoked if the engineering controls are violated or are no longer in place and the Volunteer or subsequent property owner has not reinstated the controls within a reasonable period of time as determined by the Director in accordance with the Covenant.

#### **Recordation in Deed Records**

10. Pursuant to ORC 3746.14(A), a copy of these Findings and Orders, including Exhibits 1 (Legal Description), 2 (Site Map), 3 (Executive Summary) and 5 (O&M

Agreement), shall be recorded in the Franklin County Recorder's Office, in the same manner as a deed to the Property, within sixty (60) days after the issuance of these Findings and Orders.

#### Transfer

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

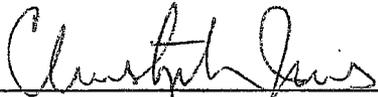
#### Notice of Use Restrictions upon Property Conveyance

12. In each instrument the Volunteer uses to convey the Property or any portion of the Property, the Volunteer shall include a notice of the Declaration on the Property in accordance with paragraph 6 of the Declaration attached hereto as Exhibit 4. The Volunteer shall submit to the Director a copy of each instrument containing the notice of the Declaration whenever such conveyance occurs.

#### Notice of Transfer or Assignment of Covenant or Property

13. Pursuant to ORC 3746.12(A)(2)(b), the transferor of the Covenant Not to Sue/Findings and Orders, or the Property or any portion of the Property, shall give written notice to the Director of any such transfer or assignment whenever such transfer or assignment occurs.

#### IT IS SO ORDERED:



\_\_\_\_\_  
Christopher Jones, Director  
Ohio Environmental Protection Agency

JUL 26 2001

\_\_\_\_\_  
Date

Miranova Property - Commercial Portion  
Director's Final Findings and Orders / Covenant Not to Sue

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

Situated in the State of Ohio, County of Franklin, City of Columbus, Half Section 26, Township 5, Range 22, Refugee Lands being 2.450 acres out of that tract as conveyed to Pizzuti Properties/Miranova Limited of record in Instrument Number 6220153940, and 0.467 acres of those tracts of land as conveyed to Pizzuti Development Inc. of record in Instrument Number 99811250304330, (all references refer to the records of the Recorder's Office, Franklin County, Ohio) and described as follows:

Beginning at an iron pin found at the intersection of the northerly right-of-way line of West Mound Street with the easterly right-of-way line of Levee Street,

thence North 00° 11' 00" West, with said easterly right-of-way line, a distance of 258.85 feet to an iron pin set in the northerly right-of-way line of Levee Street as vacated in City of Columbus Ordinance No. 2894-94;

thence North 67° 38' 48" East, with said northerly right-of-way line of vacated Levee Street, a distance of 260.95 feet to an iron pin set,

thence across said Pizzuti Properties/Miranova Limited tract and said Pizzuti Development Inc. tract, the following courses:

South 22° 21' 12" East, a distance of 42.10 feet to a P.K. Nail set,

South 26° 46' 34" West, a distance of 60.44 feet to a P.K. Nail set,

South 63° 13' 26" East, a distance of 128.91 feet to a P.K. Nail set,

South 24° 33' 21" East, a distance of 38.25 feet to a P.K. Nail set,

South 75° 41' 20" East, a distance of 55.48 feet to a P.K. Nail set at a point of curvature;

PRELIMINARY  
APPROVAL  
FRANKLIN COUNTY  
ENGINEERING DEPT.  
DATE: 3-15-99 BY: DRP

CLOSE FINE  
PLAT SUBMITTED  
DEED FORM FOR FINAL OK

With said curve to the right, having a central angle of 56° 23' 42" and a radius of 205.00 feet, a chord bearing and distance of South 47° 29' 30" East, 193.73 feet to an iron pin set in the westerly line of that tract as conveyed to American Electric Power, being the easterly right-of-way line of Short Street as vacated in City of Columbus Ordinance No. 2894-94;

thence South 00° 38' 16" West, with said westerly line and said easterly right-of-way line of vacated Short Street, a distance of 26.59 feet to an iron pin set in said northerly right-of-way line of West Mound Street,

thence South 89° 53' 00" West, with said northerly right-of-way line of West Mound Street, a distance of 556.56 feet to the point of beginning and containing 2.917 acres of land, more or less.

Subject, however, to all legal rights-of-way and/or easements, if any, of previous record.

Bearings herein are based on South 89° 53' 00" West for a portion of the northerly right-of-way line of West Mound Street, as shown of record in Instrument Number 199806220153940.

EVANS, MECHWART, HAMBLETON & TILTON, INC.

*Jeffrey A. Miller* 3-11-99  
Jeffrey A. Miller  
Registered Surveyor No. 7211



JAN:kd

0.064 ACRES

Situated in the State of Ohio, County of Franklin, City of Columbus, Half Section 26, Township 5, Range 22, Refugee Lands and being out of Lot 3 of that subdivision entitled "Buttle & Comstocks Subdivision" of record in C.R. 22, Pages 582 through 589 as conveyed to Pizzuti Properties/Miranova Limited of record in Instrument Number 199806220153940, (all references refer to the records of the Recorder's Office, Franklin County, Ohio) and described as follows:

Beginning at an iron pin found marking the intersection of the westerly right-of-way line of Levee Street with the northerly right-of-way line of West Mound Street;

thence South  $89^{\circ} 53' 00''$  West, with said northerly right-of-way line, a distance of 76.05 feet to an iron pin found;

thence across said Lot 3 with a curve to the right, having a central angle of  $20^{\circ} 51' 04''$  and a radius of 276.00 feet, a chord bearing and distance of North  $49^{\circ} 24' 00''$  East, 99.89 feet to an iron pin found in said westerly right-of-way line;

thence South  $00^{\circ} 11' 00''$  East, with said westerly right-of-way line, a distance of 64.85 feet to the point of beginning and containing 0.064 acre of land, more or less.

Subject, however, to all legal rights-of-way and/or easements, if any, of previous record.

Bearings herein are based on South  $89^{\circ} 53' 00''$  West for a portion of the northern right-of-way line of West Mound Street, of record in Instrument Number 199806220153940.

EVANS, MECHWART, HAMBLETON & TILTON, INC.



*Jeffrey A. Miller* 3-18-99  
Jeffrey A. Miller  
Registered Surveyor No. 7211

JAM:kd

0.095 ACRE

Situated in the State of Ohio, County of Franklin, City of Columbus and being a portion of the right-of-way of Levee Street, (all references refer to the records of the Recorder's Office, Franklin County, Ohio) and described as follows:

Beginning at an iron pin found at the intersection of the northerly right-of-way line of West Mound Street with the easterly right-of-way line of said Levee Street;

thence South 89° 53' 00" West, with said northerly right-of-way line, a distance of 16.14 feet to a mag nail set;

thence North 00° 11' 00" West, across said Levee Street, a distance of 252.26 feet a mag nail set in the northerly right-of-way line of said Levee Street;

thence North 67° 38' 48" East, with said northerly right-of-way line, a distance of 17.43 feet to an iron pin set;

thence South 00° 11' 00" East, across the right-of-way of said Levee Street and with said easterly right-of-way line, a distance of 258.85 feet to the point of beginning, containing 0.095 acre of land, more or less.

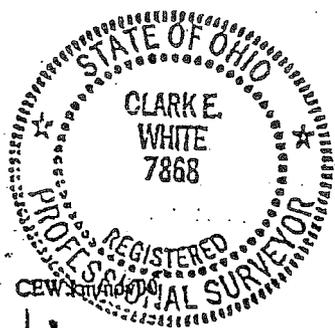
Subject, however, to all legal rights-of-way and/or easements, if any, of previous record.

Bearings herein are based on South 00° 11' 00" East for the easterly right-of-way line of Levee Street as shown of record in Instrument Number 199906160153094, Recorder's Office, Franklin County, Ohio.

EVANS, MECHWART, HAMBLETON, & TILTON, INC.

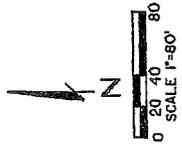
*Clark E. White* 11/8/00

Clark E. White  
Registered Surveyor No. 7868



Miranova Property - Commercial Portion  
Director's Final Findings and Orders / Covenant Not to Sue

**Exhibit 2  
Site Map**



LEGEND

--- VAP PROPERTY LINE

■ COMMERCIAL PORTION

**FIGURE 2**

Hill 8 Associates, Inc.  
DUBLIN, OHIO

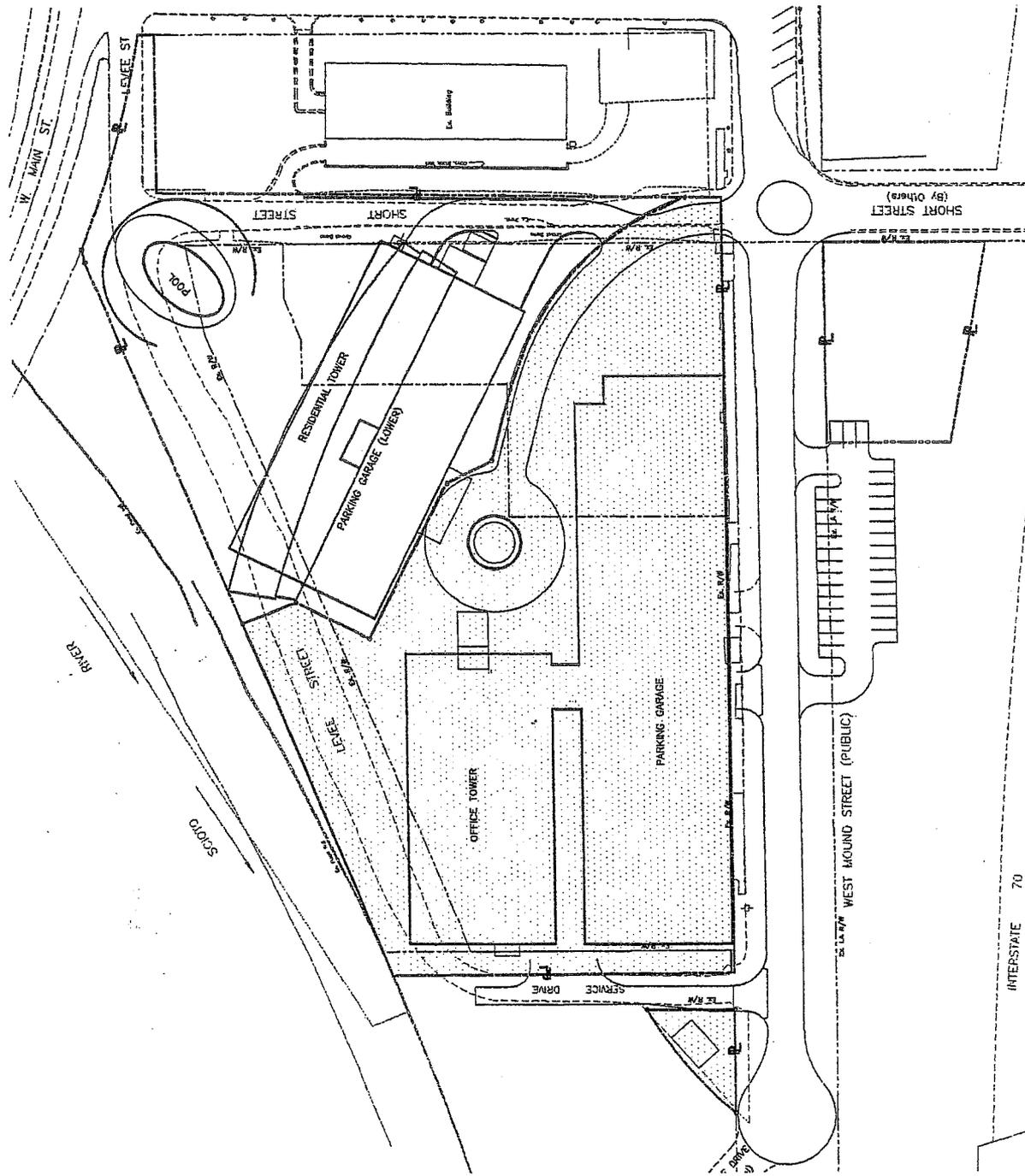
MIRANOVA PHASE II ASSESSMENT-COMMERCIAL  
PIZZUTTA/MIRANOVA CORPORATE TOWER LLC

**PROPERTY LAYOUT AND LAND  
USE DESIGNATION**

CITY OF COLUMBUS, FRANKLIN COUNTY, OHIO

DATE: DECEMBER 2000

BAH009



Miranova Property - Commercial Portion  
Director's Final Findings and Orders / Covenant Not to Sue

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

**SECTION B – ATTACHMENT I  
OHIO ENVIRONMENTAL PROTECTION AGENCY  
VOLUNTARY ACTION PROGRAM**

**EXECUTIVE SUMMARY AND FILING DOCUMENT OF  
NO FURTHER ACTION LETTER**

FOR THE

**MIRANOVA PROPERTY-  
COMMERCIAL PORTION**

LOCATED AT

**TWO MIRANOVA PLACE  
COLUMBUS, OHIO 43215**

**DECEMBER 2000**

**VOLUNTEER:**

Pizzuti/Miranova Corporate Tower LLC  
250 East Broad Street  
Columbus, Ohio 43215

**CERTIFIED PROFESSIONAL ISSUING THE NFA:**

Craig A. Kasper, P.E.

CP No. 103

Phone: (614) 793-8777

Fax: (614) 793-9070

## 1.0 INTRODUCTION

A No Further Action (NFA) Letter was submitted to the Ohio Environmental Protection Agency (Ohio EPA), Division of Emergency and Remedial Response (DERR) Voluntary Action Program (VAP) on behalf of the volunteer, Pizzuti/Miranova Corporate Tower LLC (Pizzuti), on December 15, 2000 by Craig A. Kasper, P.E., Hull & Associates Inc., CP No.103. Phase I and Phase II Property Assessments and remedial activities were conducted at the Miranova Property in Columbus, Ohio (Property). The Property is divided into two land uses, residential and commercial, and is currently undergoing construction activities for redevelopment. This NFA letter involves the commercial portion of the Miranova Property. A separate NFA letter was submitted in July 1999 for the residential portion of the Property, and A Covenant Not to Sue (CNS) was issued for the residential portion of the Property on December 29, 1999. The commercial portion of the Property consists of 2.98-acres, and is located at Two Miranova Place, Columbus, Ohio. The commercial portion of the Property consists of a 12-floor office tower and parking garage. The legal descriptions of the parcels comprising the commercial portion of the Property are included as Attachment BII.

This NFA letter was submitted during construction of the office complex. During this time, VAP applicable standards for direct contact under a commercial land use were not achieved because the 2.5-foot point of compliance had not been met throughout the Property. However, a risk assessment was conducted to assure applicable standards were met for a construction worker. In addition, during this construction period prior to meeting the commercial standards, an Operation and Maintenance Plan (O&M Plan) was put in place to assure that the future commercial portion of the Property is not being used for commercial purposes, nor is the groundwater being used for drinking water purposes.

This executive summary of the NFA letter has been prepared to meet the requirements of Ohio Administrative Code (OAC) 3745-300-13(H), which is the format required by the Ohio EPA for submitting the NFA letter, and OAC 3745-300-13(I) for filing a summary of the NFA letter in the Franklin County Recorder's office. The NFA letter consists of five volumes; Volume I - the NFA Form, Volume II - Phase I Property Assessment Update, Volume III - Phase II Property Assessment,

Volume IV - Operation and Maintenance Plan (O&M Plan), and Volume V - Other Supporting Documents. A complete copy of the NFA letter is on file and will be available at the Ohio EPA, DERR, VAP in accordance with the filing requirements of OAC 3745-300-13(J).

## 2.0 SUMMARY OF NO FURTHER ACTION LETTER

The Certified Professional, Craig A. Kasper, P.E., of Hull & Associates, Inc. (HAI), issued an NFA letter for the commercial portion of the Property based upon the results of the Phase I and Phase II Property Assessments. A summary of the Phase I and Phase II Property Assessments is provided below. Complete copies of the Phase I and Phase II Property Assessments are contained in the NFA Letter as Volumes II and III, respectively.

### 2.1 Phase I Property Assessment

A Phase I Property Assessment was conducted for the entire Property (both the residential and commercial portions) over the period May 1998 through February 1999. The final Phase I Assessment report was completed in March 1999 and was submitted in support of the NFA for the residential portion of the Property. A Phase I Property Assessment Update was performed for only the commercial portion of the Property in December 2000 in support of the NFA for the commercial portion of the Property.

The assessment and update were conducted to meet the requirements of a Phase I Property Assessment in accordance with OAC 3745-300-06. The assessment and update included the following:

1. a determination of eligibility for entry into the VAP;
2. a review of historic and current uses of the Property and surrounding properties;
3. an environmental history review;
4. a review of the history of hazardous substances or petroleum releases;
5. a Property inspection;
6. interviews with key personnel knowledgeable in the past operations and environmental conditions;
7. a reconnaissance of the Property; and
8. identification of "identified areas" as defined in OAC 3745-300-06(F).

A summary of the March 1999 Phase I Property Assessment and the December 2000 Update is as follows:

The Property is located in downtown Columbus, Ohio, and is owned by Pizzuti. The Property was part of properties owned by Stuart Ironsides, Egelhoff Interiors, Columbus Pattern Company and Tuthill Saw Company. A legal description of the Property is found in Appendix C-1 of the March 1999 Phase I Assessment report, and a copy of the legal description of just the commercial portion of the Property is included as Attachment D of the December 2000 Update. Surrounding properties include the levee and Scioto River to the north, the abandoned Gilbert Plating facility to the west, Interstate 70 to the south and American Electric Power substation to the east.

The Property was used primarily for industrial purposes for over 100 years until final operations ceased in 1995. Most of the Property was used to manufacture oils, greases, and soaps. Other industrial uses of the Property included manufacturing of phenolic resins; production of patterns for casting molds; refurbishing of furniture; and machine tooling. All buildings were razed, and the Property is currently being redeveloped by Pizzuti as an office complex on the commercial portion of the Property, and a condominium tower on the residential portion of the Property.

Based on information collected during the Phase I Property Assessment relating to known or suspected releases of hazardous substances or petroleum, the following identified areas were determined and both the residential and commercial portions of Miranova:

1. the Stuart-Ironsides materials/waste storage and processing areas located on the west side of the Property;
2. releases of phenol from the Stuart-Ironsides former aboveground storage tank located on the west side of the Property along Levee Street;
3. potential releases from Stuart-Ironsides lubricant and rolled metals manufacturing/storage areas, including parking area located on the north side of the Property;
4. the SPCC pond located on the north side of the Property along Levee Street;
5. the former coal storage yard and Stuart-Ironsides parking area;

6. the general operations of the Meeks-Tuthill Saw Company and other occupants located on the northeast side of the Property along Short Street;
7. the general operations of the Columbus Ohio Pattern Company and other occupants located on the east side of the Property along Short Street;
8. the general operations of Egelhoff Interiors and other occupants located on the Property at the northwest corner of the intersection of Short and West Mound Streets;
9. the general operations of the City of Columbus and other occupants located on the Property at the southwest corner of the intersection of Short and West Mound Streets;
10. the general operations in the vicinity of the former Stuart-Ironsidess utility building;  
and;
11. the general operations of the former Gilbert Plating Company located west of Levee Street.

No new identified areas were identified in the December 2000 update. The Certified Professional, Craig A. Kasper, P.E., determined that the Property meets the eligibility requirements for the VAP as codified in OAC 3745-300-02. The Certified Professional inspected the Property on July 3 and July 31, 1998 to verify the March 1999 Phase I findings, and on December 11, 2000 to verify the Phase I update findings.

## 2.2 Phase II Property Assessment

A Phase II Property Assessment was conducted over the period June 1998 through December 2000. The Phase II Property Assessment report was issued December 2000 and was included as Volume III of the NFA for the commercial portion of the Property, which is on file with Ohio EPA. A second Phase II Property Assessment report was finalized for the Property in April 1999 in support of the NFA on the residential portion of the Property. The purpose of the Phase II Assessment was to determine if the VAP applicable standards have been exceeded in any of the 11 identified areas defined in the Phase I Property Assessment. Although the investigative activities in the Phase II Property Assessment were conducted for the entire Miranova Property, the applicable standards were assessed only on the commercial portion of the Property. The surveyed boundary of the commercial portion of the Property is found on Figure 3 of the Phase II Property Assessment report.

The Phase II Property Assessment included field investigations, a pathway completeness determination, determination of applicable standards, a determination of groundwater yield, an assessment of current groundwater use, a determination of the potential for commingling plumes, and classification of groundwater. In addition, an Urban Setting Designation (USD) was approved for the Property by Ohio EPA on September 24, 1998. A summary of the Phase II findings is provided below.

### 2.2.1 Soil Investigation and Findings

As part of the hydrogeological investigation at the Property, 85 borings were installed by HAI in 1998 and 1999. Results of the Phase II showed that the chemicals of concern (COCs) in soil at the Property for most identified areas were volatile organic compounds (VOGs), polynuclear aromatic hydrocarbons (PAHs), total petroleum hydrocarbons (TPHs), and metals.

A sampling and analysis plan was developed based on the Phase I Property Assessment and results of previous environmental investigations. Soil sampling was performed in accordance with the sampling procedures specified in OAC 3745-300-07(F). At least three soil borings were installed in each of the 11 identified areas. For those identified areas within the areas to be excavated for the basements of the residential and commercial buildings (residential and commercial portions of Miranova), soil samples were collected from two horizons: shallow (less than 4 feet) and deeper (greater than 4 feet).

Based on the analytical results for the two soil horizons in the identified areas and excavation areas, soil was classified as either being less than direct contact soil standards for residential use, being greater than direct contact soil standards for residential use but less than direct contact soil standards for commercial use, or exceeding direct contact soil standards for commercial use. After characterization, excavated soil was segregated and was used to meet the point of compliance (POC) on the residential portion, and was used to meet the POC on the commercial portion of the Property. Soil not meeting either standard is being used as fill material beneath the POC, or is being properly disposed off the Property. The concentrations of chemicals detected in the soils for each identified area are reported in the Phase II Property Assessment (Tables 5 through 15).

### 2.2.2 Groundwater Investigation and Findings

Four monitoring wells were installed into the uppermost unconsolidated saturated zone, which consists primarily of sand and gravel, to provide water level data for characterizing this unit underlying the Property. To evaluate the hydraulic conductivity and uppermost saturated zone, slug tests were conducted on the monitoring wells in accordance with OAC 3745-300-07 (D)(6). The in-situ hydraulic conductivities calculated using the Bouwer-Rice method (Kruseman and de Ridder, 1990) ranged from  $2.19 \times 10^{-2}$  cm/sec to  $1.44 \times 10^{-4}$  cm/sec. Therefore, the unconsolidated saturated zone met the definition of groundwater as described in OAC 3745-300-10(A)(4). Based on historic yields reported on ODNR well logs and the Groundwater Resources Map of Franklin County, the saturated zone underlying the Property is considered a Critical Resource under OAC 3745-300-10(C).

Groundwater samples were collected on July 27 and August 3, 1998. Groundwater sampling was performed in accordance with the sampling procedures specified in OAC 3745-300-07(F). Samples were analyzed for VOCs, pentachlorophenol, phenol, RCRA metals and nickel. Only metals were detected. Metals detected included arsenic, barium, cadmium, chromium, lead, mercury, and nickel. The concentrations of metals detected in the groundwater are reported summarized on Table 17 of the Phase II Property Assessment report. Based on sampling performed in accordance with OAC 3745-300-07(D)(3), the uppermost saturated zone underlying the Property (i.e., the Critical Resource groundwater) is not subject to the protection of groundwater meeting potable use standards provision contained in OAC 3745-300-010.

A fifth monitoring well was installed into the underlying bedrock aquifer to evaluate the potential presence of COCs in the limestone aquifer. No COCs were detected above the applicable standards. As demonstrated in accordance with OAC 3745-300-07 (D)(3)(c)(ii), it was shown that the bedrock aquifer met the provision for protecting groundwater meeting potable use standards contained in OAC 3745-300-010.

### 2.2.3 Surface Water and Sediment Investigations and Findings

Surface water and sediment are not located on the Property. The only important ecological resource is the Scioto River, which is adjacent to the Property. One potentially complete pathway to the Scioto River is the flow of groundwater beneath the Property. However, the concentrations in groundwater were shown to be less than the Ohio EPA's surface water quality standards established for the Scioto River use designation.

### 2.2.4 Exposure Pathway Assessment

Exposure pathways describe the movement of chemicals from source areas to locations where receptors come in contact with the chemicals. This movement usually involves release of chemicals from the source to an intermediate environmental transport medium between the source and the receptor point. Exposure routes describe the manner in which contact with chemicals in the environmental medium occur at exposure points. The following discussion provides an evaluation of exposure points and routes of exposure to determine which pathways of exposure exist for the potential receptors identified for the Property. Three factors must be present simultaneously for an exposure pathway to be considered complete. First, there must be a source or release of chemicals; second, a receptor must be present; and third, there must be a mechanism by which the receptor can be exposed to the chemical. Identification of the receptors and potentially complete exposure pathways for these receptors are summarized below.

For the current development phase of the commercial portion of the Property, construction and excavation workers were considered as current receptors. Exposure was assumed to occur through ingestion, dermal contact, and inhalation of chemicals in soil. Exposure to chemicals in groundwater will likely not occur during excavation activities because the depth to groundwater is at least 12 feet below surface. Office workers, and maintenance and utility workers comprise the group of receptors for the commercial portion of the Property when construction is complete. There will be groundwater and land use restrictions (commercial) which will be placed on the deed.

Exposure to groundwater underlying the Property is not a concern for any of the receptors on the Property for either a potable or nonpotable use because the groundwater in this area is not currently and will not be used in the future as a drinking water source. The Urban Setting Designation (USD) approved for the Property was partially based on the fact that groundwater is not used for potable

purposes on the Property or in the surrounding area. Use of groundwater on the Property for nonpotable purposes will be prevented by restrictions in the deed and stated in the O&M Plan (Volume IV of the NFA), which prohibit the installation of wells for any use except environmental testing.

Off-property receptors located within one-half mile from the Property boundary that may come into contact with chemicals in groundwater are also considered. However, groundwater exposure pathways were determined to be incomplete for two reasons. One, the presence of a USD indicates that groundwater is not used as a potable source; and two, results of the groundwater fate and transport modeling described in Section 5.2.1.1 of the Phase II Property Assessment indicated that COC concentrations decrease to zero before the Property boundary.

The only ecological receptor identified at this Property is the Scioto River, which is located north and west of the Property. Groundwater discharge and surface water runoff to the Scioto River are the potentially complete exposure pathways identified, and were within acceptable risk.

Results of the exposure pathway assessment indicate that all potentially identified exposure pathways are eliminated based on the presence of engineering and institutional controls, and chemical fate and transport demonstrations. The justifications for eliminating all potential exposure pathways associated with the Property are summarized in Table B-1.

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

Applicable standards for soil on the Property are primarily risk-based concentrations of COCs derived for the identified exposures that, when summed, do not exceed a cumulative carcinogenic and non-carcinogenic risk ratio of one.

In accordance with OAC 3745-300-08(B)(3), the applicable standard for total petroleum hydrocarbons (TPH) associated with underground storage tanks (USTs) was the standard established in paragraphs (E)(3) and (E)(4) of OAC 1301:7-9-13.

In accordance with OAC 3745-300-07(I), eight samples were collected to assess background concentrations for arsenic. A Property-specific background standard was determined for arsenic following the statistical methods provided in OAC 3745-300-07 (I)(1)(d) and used for the applicable standard in the residential land use scenario.

As part of the Phase II Property Assessment, a Property-specific risk assessment was conducted for COCs not covered by the direct contact standards to determine applicable standards for the COCs detected in the soil. The risk assessment was also conducted to support development of the construction and utility worker direct contact standards for soil.

The applicable standards for groundwater are either performance-based whereby exposure is eliminated by the use of institutional controls or are the generic unrestricted potable use standards as provided in OAC 3745-300-08(3)(C)(c). For lead, the standard is the U.S. EPA's guidance concentration of 15 ug/L at the tap.

Applicable standards for the protection of important ecological resources located off the Property are the Ohio EPA's water quality standards for inside the mixing zone provided in Tables 7-1 and 7-12 of OAC 3745-1-07.

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

Based on the concentrations of COCs found at the Property and the potential exposures to human health and the environment, the necessary demonstrations were made to show that the VAP applicable standards were met or will be met for the Property. The redevelopment and construction activities for the Property are serving as the remedial action required to meet VAP applicable standards. This is being accomplished by regrading the Property using the soil that was excavated from the basement areas of the residential and commercial buildings. However, the placement of soil required to meet the POC for commercial use on the Property was not completed prior to submittal of the NFA letter. It is estimated that placement of this soil will be made approximately 4 to 6 months following submittal of the NFA letter. Therefore, an O&M Plan (Volume IV of the NFA letter) was developed to limit access to the Property to those individuals involved in the construction of the

Property, and was also developed for use to maintain the point of compliance when final grading of the Property has occurred. It was also used to restrict the groundwater from being used for potable and non-potable purposes, and limiting land use to commercial.

Compliance with VAP applicable standards for this Property that have already been achieved include the following:

1. demonstrating that groundwater meeting potable use standards does not apply for this Property in accordance with OAC 3745-300-07(D)(3)(a)(ii);
2. demonstrating that the bedrock aquifer meets and will continue to meet potable use standards in accordance with OAC 3745-300-07(D)(3)(c)(ii);
3. demonstrating that groundwater requirements have been met for Critical Resource Groundwater with an Urban Setting Designation in accordance with OAC 3745-300-10(F)(3); and
4. demonstrating that compounds in groundwater will not migrate to the Scioto River above applicable standards in accordance with OAC 3745-300-08(D).

#### 2.4.1 Methods for Demonstrating Compliance

The methods used to demonstrate compliance with applicable standards are provided in OAC 3745-300-08 (direct contact standards) and OAC 3745-300-09 (direct contact standards derived using a Property-specific risk assessment), fate and transport modeling, and engineering and institutional controls.

#### 2.4.2 Compliance with Direct Contact Standards for Soil

Prior to excavation of the building foundations, the soil was characterized by analytical testing and compared to Ohio EPA's VAP generic direct contact soil standards for residential and commercial land use. Chemicals of concern detected in each of the identified areas on the Property are summarized in Tables 5 through 15 of the Phase II Property Assessment. Soil containing COCs meeting the commercial direct contact soil standards provided in OAC 3745-300-08 was set aside as soil to be used to meet the 2.5-foot POC. Table 21 of the Phase II Property Assessment provides a summary of these data. In addition, direct contact soil standards for a construction and utility worker were derived in the Property-Specific Risk Assessment using *Excel* spreadsheets developed by Ohio

EPA. Tables 18 through 20 of the Property-Specific Risk Assessment (Appendix D of the Phase II Property Assessment) provide the analytical results for soil meeting commercial and construction and utility worker direct contact standards.

Chemicals of concern detected in soil were evaluated by comparing the representative concentrations of chemicals detected in the soil to the direct contact soil standards developed for either the current or future receptors. Cumulative risk ratios were determined for the chemicals in soil for both the current and future land uses by dividing the representative concentrations by their respective direct contact soil standards either listed in OAC 3745-300-08 or presented in the risk assessment. Summing the risk ratios for each of the individual COCs resulted in total risk ratio values of less than 1.0 for both the noncarcinogenic and carcinogenic chemicals for the current and future land uses.

Therefore, the concentrations of chemicals in the soil meet the applicable standards for direct contact for the construction worker exposure, and will meet the applicable standards for future commercial land use once construction activities have been completed, and the 2.5-foot of soil meeting the commercial standards for the POC is placed.

#### **2.4.3 Risk Assessment Findings**

Based on provisions in OAC 3745-300-09(B)(2)(b), (c), and (d), the risk assessment was conducted because some of the COCs in soil were not included in paragraph (B)(3) of OAC 3745-300-08, exposure assumptions for the construction and utility workers were not included in OAC 3745-300-08, and engineering and institutional controls will be used to meet applicable standards for soil and groundwater for the future land use. Compliance with applicable standards was demonstrated for the POC by comparing the COC concentrations in soil to the generic direct contact standards listed in OAC 3745-300-08 for commercial exposure as well as supplemental standards derived by Ohio EPA Technical Assistance and Hull & Associates, Inc.

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

As discussed in Section 2.4, construction activities for redevelopment of the Property for commercial use will be used as the remedy implemented at the Property. The remedy will comply with the applicable standards as required in OAC 3745-300-15 E(1)(a). Soil meeting commercial direct contact soil standards will be distributed on Property to meet the 2.5-foot POC.

## 2.5 Remedial Activities

Regrading of the Property and placement of the soil to meet the 2.5-foot POC is the remedial activity used to meet applicable standards. The soil will be surveyed during the regrading activities to document that a 2.5-foot POC has been established. Details of the remedial activities and documentation of compliance with the applicable standards will be submitted in an addendum to the O&M Plan when construction activities have been completed. Furthermore, abandoned underground utilities have been removed or discontinued at the Property boundary and anti-seep collars (material with relatively lower permeability in comparison to typical trench backfill and bedding) were installed around active or newly installed utilities at the Property boundary to minimize the potential for the migration of COCs from the Property.

The prohibition of the extraction of groundwater and land use restriction, along with the maintenance of the soil POC at the Property appears in the deed restriction, provided in Appendix H of the Phase II Property Assessment.

## 2.6 Planned Operation and Maintenance Remedies

An O&M Plan (Volume IV of the NFA letter) was prepared in accordance with OAC 3745-300-15 to meet the requirements for submitting a NFA letter for the Property. The O&M Plan addresses remedies for construction worker exposure during the short-term construction period, and also addresses remedies for the long-term commercial land use. For both the short-term and long-term plan, groundwater use is restricted for potable and non-potable purposes by the use of an institutional control. Groundwater can only be extracted for environmental testing purposes.

Currently, the Property does not meet the VAP applicable standards for commercial use, but it does meet the applicable standards for exposures to construction workers. Therefore, the objective of the short term O&M Plan is to keep the Property from being used for commercial purposes while it is under development. This is accomplished by restricting access to the Property to only construction workers. Access is restricted to the Property during construction activities by a metal fence or monitoring by security personnel. During working hours, the construction contractor restricts public access to the Property in addition to inspecting the fence weekly for any sign of damage or breach of integrity.

The objective of the long term O&M plan will be to maintain and monitor the 2.5-foot soil POC. Any excavation required that has the potential to breach the 2.5-foot POC will need the authorization of the owner or designer, or the person responsible for Property maintenance. If soil is excavated below a depth of 2.5 feet, it must be returned to that depth or taken off the Property and properly disposed or tested to demonstrate that it meets the standards. If soil is excavated within 2.5 feet of grade, it can remain on the Property, if it is not mixed with soil excavated below a depth of 2.5 feet. An excavation authorization and work order form will need to be completed to obtain authorization. The form is provided in the O&M Plan found in Appendix IV of the NFA letter.

Annual routine inspections are also part of the plan to evaluate the soil POC and to check for compliance of the restriction on groundwater use.

### 3.0 CONCLUSION

The foregoing is a summary of the NFA letter submitted for Pizzuti/Miranova Corporate Tower LLC by Craig A. Kasper, P.E. of Hull & Associates Inc., as Certified Professional (CP 103), pursuant to OAC Rule 3745-300-05.

Mr. Kasper is the contact at Hull & Associates Inc. regarding questions of the NFA letter. Mr. Kasper can be contacted at (614) 793-8777.

A complete copy of the NFA letter is on file with the Ohio EPA, Department of Emergency and Remedial Response, Voluntary Action Program. The NFA letter will be made available by the Ohio EPA upon request. The telephone number for the Ohio EPA/DERR/VAP is (614) 644-2924.

NE TER  
MIRANOVA PROPERTY - JMMERICAL PORTION  
TWO MIRANOVA PLACE, COLUMBUS, OHIO

TABLE B-1

SUMMARY OF EXPOSURE PATHWAYS EVALUATED

EXPOSURE/ CONTACT MEDIUM	TRANSPORTING/ SOURCE-MEDIUM	POTENTIAL RECEPTORS ON-PROPERTY	POTENTIAL RECEPTORS OFF-PROPERTY	ROUTE OF EXPOSURE	PATHWAY	PATHWAY A CONCERN?
GROUNDWATER	DIRECT CONTACT	COMMERCIAL WORKERS CONSTRUCTION WORKERS MAINTENANCE WORKERS RESIDENTIAL RECEPTORS	RESIDENTIAL RECEPTORS	INGESTION	GROUNDWATER CONTAINING DISSOLVED OR SUSPENDED CHEMICALS OF CONCERN IS INGESTED BY ON-PROPERTY/OFF-PROPERTY RECEPTOR USING GROUNDWATER/GROUNDWATER	NO. URBAN SETTING DESIGNATION HAS BEEN GRANTED; USE OF GROUNDWATER UNDERLYING THE PROPERTY WILL BE DEED RESTRICTED; APPLICABLE STANDARDS 1/2 MILE AWAY HAVE BEEN MET
GROUNDWATER	DIRECT CONTACT	COMMERCIAL WORKERS CONSTRUCTION WORKERS MAINTENANCE WORKERS RESIDENTIAL RECEPTORS	RESIDENTIAL RECEPTORS COMMERCIAL RECEPTORS CONSTRUCTION RECEPTORS	DERMAL CONTACT	GROUNDWATER CONTAINING DISSOLVED OR SUSPENDED CHEMICALS OF CONCERN IS USED FOR BATHING/SHOWERING OR IS CONTACTED INCIDENTALLY DURING OTHER POTABLE OR PROCESS USE BY ON-PROPERTY/OFF-PROPERTY RECEPTOR	NO. USE OF GROUNDWATER UNDERLYING THE PROPERTY WILL BE DEED RESTRICTED; GROUNDWATER MODELING DEMONSTRATED THAT APPLICABLE STANDARDS NOT EXCEEDED AT PROPERTY BOUNDARY
GROUNDWATER	SOIL TO GROUNDWATER	COMMERCIAL WORKERS CONSTRUCTION WORKERS MAINTENANCE WORKERS RESIDENTIAL RECEPTORS	RESIDENTIAL RECEPTORS COMMERCIAL RECEPTORS	INGESTION	GROUNDWATER CONTAINING CHEMICALS OF CONCERN WHICH HAVE LEACHED FROM SOIL IS INGESTED BY ON-PROPERTY/OFF-PROPERTY RECEPTOR USING GROUNDWATER/GROUNDWATER AS DRINKING WATER	NO. URBAN SETTING DESIGNATION HAS BEEN GRANTED; USE OF GROUNDWATER UNDERLYING THE PROPERTY WILL BE DEED RESTRICTED; APPLICABLE STANDARDS 1/2 MILE AWAY HAVE BEEN MET
GROUNDWATER	SOIL TO GROUNDWATER	COMMERCIAL WORKERS CONSTRUCTION WORKERS MAINTENANCE WORKERS RESIDENTIAL RECEPTORS	RESIDENTIAL RECEPTORS COMMERCIAL RECEPTORS CONSTRUCTION RECEPTORS	DERMAL CONTACT	GROUNDWATER CONTAINING CHEMICALS OF CONCERN WHICH HAVE LEACHED FROM SOIL IS USED FOR BATHING/SHOWERING OR IS CONTACTED INCIDENTALLY DURING OTHER POTABLE OR PROCESS USE BY ON-PROPERTY/OFF-PROPERTY RECEPTOR	NO. USE OF GROUNDWATER UNDERLYING THE PROPERTY WILL BE DEED RESTRICTED; GROUNDWATER MODELING DEMONSTRATED THAT APPLICABLE STANDARDS NOT EXCEEDED AT PROPERTY BOUNDARY
AIR	GROUNDWATER TO AIR	COMMERCIAL WORKERS CONSTRUCTION WORKERS MAINTENANCE WORKERS RESIDENTIAL RECEPTORS	RESIDENTIAL RECEPTORS COMMERCIAL RECEPTORS CONSTRUCTION RECEPTORS	INHALATION	VOLATILES RELEASED FROM GROUNDWATER CONTAINING CHEMICALS OF CONCERN ARE RELEASED TO OUTDOOR AIR AND INHALED BY ON-PROPERTY RECEPTOR	NO. VOLATILES NOT DETECTED IN GROUNDWATER.
AIR	SOIL TO AIR	COMMERCIAL WORKERS CONSTRUCTION WORKERS MAINTENANCE WORKERS RESIDENTIAL RECEPTORS	RESIDENTIAL RECEPTORS COMMERCIAL RECEPTORS	INHALATION	VOLATILES RELEASED FROM SOIL CONTAINING CHEMICALS OF CONCERN ENTER BUILDINGS THROUGH BASEMENT OR FOUNDATION AND ARE INHALED BY ON-PROPERTY/OFF-PROPERTY RECEPTORS OCCUPYING BUILDINGS	NO. VOLATILES DETECTED INFREQUENTLY AND AT LOW CONCENTRATIONS
AIR	SOIL TO AIR	COMMERCIAL WORKERS CONSTRUCTION WORKERS MAINTENANCE WORKERS RESIDENTIAL RECEPTORS	RESIDENTIAL RECEPTORS COMMERCIAL RECEPTORS	INHALATION	VOLATILES RELEASED TO OUTDOOR AIR FROM SOIL CONTAINING CHEMICALS OF CONCERN ARE INHALED BY ON-PROPERTY/OFF-PROPERTY RECEPTORS	NO. CONCENTRATIONS BELOW GENERIC STANDARDS. POC ACHIEVED.
AIR	SOIL TO AIR	COMMERCIAL WORKERS CONSTRUCTION WORKERS MAINTENANCE WORKERS RESIDENTIAL RECEPTORS	RESIDENTIAL RECEPTORS COMMERCIAL RECEPTORS	INHALATION	PARTICULATES RELEASED TO OUTDOOR AIR FROM SOIL CONTAINING CHEMICALS OF CONCERN ARE INHALED BY ON-PROPERTY/OFF-PROPERTY RECEPTORS	NO. CONCENTRATIONS BELOW GENERIC STANDARDS. POC ACHIEVED.

NE. TER  
MIRANOVA PROPERTY - COMMERCIAL PORTION  
TWO MIRANOVA PLACE, COLUMBUS, OHIO

TABLE B-1 (continued)

SUMMARY OF EXPOSURE PATHWAYS EVALUATED

EXPOSURE/ CONTACT MEDIUM	TRANSPORTING/ SOURCE MEDIUM	POTENTIAL RECEPTORS ON PROPERTY	POTENTIAL RECEPTORS OFF-PROPERTY	ROUTE OF EXPOSURE	PATHWAY	PATHWAY A CONCERN?
AIR	SURFACE WATER TO AIR	NONE IDENTIFIED	NONE IDENTIFIED	INHALATION	VOLATILES RELEASED FROM SURFACE WATER CONTAINING DISSOLVED OR SUSPENDED CHEMICALS OF CONCERN ARE INHALED BY ON-PROPERTY RECEPTORS	NO. NOT AN ENVIRONMENTAL MEDIUM OF CONCERN FOR THIS PROPERTY.
SOIL	AIR PARTICULATES TO SOIL	COMMERCIAL WORKERS CONSTRUCTION WORKERS MAINTENANCE WORKERS RESIDENTIAL RECEPTORS	RESIDENTIAL RECEPTORS COMMERCIAL RECEPTORS	INGESTION	AIRBORNE PARTICULATES CONTAINING CHEMICALS OF CONCERN ARE DEPOSIT ON SOIL FOR INGESTION BY ON-PROPERTY/OFF-PROPERTY RECEPTORS	NO. CONCENTRATIONS BELOW GENERIC STANDARDS.
SOIL	DIRECT CONTACT	COMMERCIAL WORKERS CONSTRUCTION WORKERS MAINTENANCE WORKERS RESIDENTIAL RECEPTORS	RESIDENTIAL RECEPTORS COMMERCIAL RECEPTORS	INGESTION DERMAL CONTACT	SOIL CONTAINING CHEMICALS OF CONCERN IS IN DIRECT CONTACT WITH ON-SITE RECEPTOR	NO. CONCENTRATIONS BELOW GENERIC STANDARDS.
SURFACE WATER	DIRECT CONTACT	NONE IDENTIFIED	SCIOTO RIVER	INGESTION	SURFACE WATER CONTAINING DISSOLVED OR SUSPENDED CHEMICALS OF CONCERN INGESTED BY ON-PROPERTY/OFF-PROPERTY RECEPTOR FROM INGESTION AS DRINKING WATER OR FROM OTHER INCIDENTAL INGESTION	NO. NOT AN ENVIRONMENTAL MEDIUM OF CONCERN FOR THIS PROPERTY.
SURFACE WATER	DIRECT CONTACT	NONE IDENTIFIED	SCIOTO RIVER	DERMAL CONTACT	SURFACE WATER CONTAINING DISSOLVED OR SUSPENDED CHEMICALS OF CONCERN IS CONTACTED BY ON-PROPERTY/OFF-PROPERTY RECEPTOR WHILE BATHING/SHOWERING, SWIMMING OR THROUGH OTHER INCIDENTAL CONTACT RELATED TO POTABLE, PROCESS OR RECREATIONAL USE	NO. NOT AN ENVIRONMENTAL MEDIUM OF CONCERN FOR THIS PROPERTY.
SURFACE WATER	SOIL TO SURFACE WATER	NONE IDENTIFIED	SCIOTO RIVER	INGESTION	SURFACE WATER CONTAINING DISSOLVED OR SUSPENDED CHEMICALS OF CONCERN FROM OVERLAND FLOW IS INGESTED BY ON-PROPERTY/OFF-PROPERTY RECEPTOR FROM INGESTION AS DRINKING WATER OR FROM OTHER INCIDENTAL INGESTION	NO. SOIL CONCENTRATIONS MEETING POC; RUNOFF LIMITED BY SEEDING AND LANDSCAPING.
SURFACE WATER	SOIL TO SURFACE WATER	NONE IDENTIFIED	SCIOTO RIVER	DERMAL CONTACT	SURFACE WATER CONTAINING DISSOLVED OR SUSPENDED CHEMICALS FROM OVERLAND FLOW IS CONTACTED BY ON-PROPERTY/OFF-PROPERTY RECEPTOR WHILE BATHING/SHOWERING, SWIMMING OR THROUGH OTHER INCIDENTAL CONTACT RELATED TO POTABLE, PROCESS OR RECREATIONAL USE	NO. SOIL CONCENTRATIONS MEETING POC; RUNOFF LIMITED BY SEEDING AND LANDSCAPING.
SURFACE WATER	GROUNDWATER TO SURFACE WATER	NONE IDENTIFIED	SCIOTO RIVER	INGESTION	SURFACE WATER CONTAINING DISSOLVED OR SUSPENDED CHEMICALS OF CONCERN FROM GROUNDWATER DISCHARGE IS INGESTED BY AN ON-PROPERTY/OFF-PROPERTY RECEPTOR FROM INGESTION AS DRINKING WATER OR THROUGH OTHER INCIDENTAL INGESTION	NO. GROUNDWATER CONCENTRATIONS BELOW SURFACE WATER QUALITY STANDARDS.

NI TER  
MIRANOVA PROPERTY - COMMERCIAL PORTION  
TWO MIRANOVA PLACE, COLUMBUS, OHIO

TABLE B-1 (continued)

SUMMARY OF EXPOSURE PATHWAYS EVALUATED

EXPOSURE/CONTACT MEDIUM	TRANSPORTING/SOURCE MEDIUM	POTENTIAL RECEPTORS ON PROPERTY	POTENTIAL RECEPTORS OFF PROPERTY	ROUTE OF EXPOSURE	PATHWAY	PATHWAY A CONCERN:
SURFACE WATER	GROUNDWATER TO SURFACE WATER	NONE IDENTIFIED	SCIOTO RIVER	DERMAL CONTACT	SURFACE WATER CONTAINING DISSOLVED AND SUSPENDED CHEMICALS OF CONCERN FROM GROUNDWATER DISCHARGE IS CONTACTED BY AN ON PROPERTY/OFF-PROPERTY RECEPTOR WHILE BATHING/SHOWERING, SWIMMING OR THROUGH OTHER INCIDENTAL CONTACT RELATED TO POTABLE, PROCESS OR RECRE	NO. GROUNDWATER CONCENTRATIONS BELOW SURFACE WATER QUALITY STANDARDS.
SURFACE WATER	SOIL TO SURFACE WATER	NONE IDENTIFIED	SCIOTO RIVER	INGESTION	INGESTION OF SURFACE WATER CONTAINING CHEMICALS OF CONCERN BY ON/OFF SITE MAMMALS, BIRDS, FISH OR MACROINVERTEBRATES	NO. SOIL CONCENTRATIONS IN SOIL MEET APPLICABLE STANDARDS; RUNOFF LIMITED BY SEEDING AND LANDSCAPING
SURFACE WATER	SOIL TO SURFACE WATER	NONE IDENTIFIED	SCIOTO RIVER	DERMAL CONTACT	DERMAL CONTACT WITH SURFACE WATER CONTAINING CHEMICALS OF CONCERN BY ON/OFF SITE MAMMALS, BIRDS, FISH OR MACROINVERTEBRATES	NO. SOIL CONCENTRATIONS IN SOIL MEET APPLICABLE STANDARDS; RUNOFF LIMITED BY SEEDING AND LANDSCAPING
SEDIMENTS	DIRECT CONTACT	NONE IDENTIFIED	SCIOTO RIVER	INGESTION	SEDIMENTS CONTAINING CHEMICALS OF CONCERN ARE INCIDENTALLY INGESTED DURING WORK OR RECREATIONAL ACTIVITIES BY A HUMAN RECEPTOR	NO. NOT AN ENVIRONMENTAL MEDIUM OF CONCERN FOR THIS PROPERTY.
SEDIMENTS	DIRECT CONTACT	NONE IDENTIFIED	SCIOTO RIVER	DERMAL CONTACT	SEDIMENTS CONTAINING CHEMICALS OF CONCERN ARE INCIDENTALLY INGESTED DURING WORK OR RECREATIONAL ACTIVITIES BY A HUMAN RECEPTOR	NO. NOT AN ENVIRONMENTAL MEDIUM OF CONCERN FOR THIS PROPERTY.
VEGETABLES AND FRUITS FROM PLANTS	SOIL TO CROP PLANT (BIO CONCENTRATION)	NONE IDENTIFIED	NONE IDENTIFIED	INGESTION	PLANTS WHICH HAVE INCORPORATED CHEMICALS OF CONCERN FROM SOIL ARE INGESTED AS FOOD BY A HUMAN RECEPTOR	NO. NOT AN ENVIRONMENTAL MEDIUM OF CONCERN FOR THIS PROPERTY.
FISH AND SHELLFISH	SURFACE WATER TO FISH/SHELLFISH TISSUE (BIOCONCENTRATION)	NONE IDENTIFIED	NONE IDENTIFIED	INGESTION	FISH AND SHELLFISH WHICH HAVE INCORPORATED CHEMICALS OF CONCERN FROM SURFACE WATER ARE INGESTED AS FOOD BY A HUMAN RECEPTOR	NO. NOT AN ENVIRONMENTAL MEDIUM OF CONCERN FOR THIS PROPERTY.
FISH AND SHELLFISH	FOOD SOURCE ORGANISMS TO FISH/SHELLFISH TISSUE (BIOMAGNIFICATION)	NONE IDENTIFIED	NONE IDENTIFIED	INGESTION	FISH AND SHELLFISH WHICH HAVE INCORPORATED CHEMICALS OF CONCERN FROM SURFACE WATER ARE INGESTED AS FOOD BY A HUMAN RECEPTOR	NO. NOT AN ENVIRONMENTAL MEDIUM OF CONCERN FOR THIS PROPERTY.
FISH AND SHELLFISH	SEDIMENT TO FISH/SHELLFISH TISSUE (BIOCONCENTRATION)	NONE IDENTIFIED	NONE IDENTIFIED	INGESTION	FISH AND SHELLFISH WHICH HAVE INCORPORATED CHEMICALS OF CONCERN FROM SURFACE WATER ARE INGESTED AS FOOD BY A HUMAN RECEPTOR	NO. NOT AN ENVIRONMENTAL MEDIUM OF CONCERN FOR THIS PROPERTY.

Miranova Property - Commercial Portion  
Director's Final Findings and Orders / Covenant Not to Sue

**Exhibit 4**  
**Declaration of Use Restrictions**

Instr: 200012150259472 12/15/200  
Pages 5 Fee: \$26.00 1 01PM  
Robert G. Montgomery 720000161176  
Franklin County Recorder BXCARDINAL

DECLARATION OF USE RESTRICTIONS

WITNESSETH:

WHEREAS, by Pizzuti/Miranova Corporate Tower LLC (herein "Declarant") is the owner of certain property ("Property") situated in the City of Columbus, County of Franklin and State of Ohio, as more fully described on Exhibit "A" attached hereto and made a part hereof.

WHEREAS, Craig Kasper, (CP 103), a Certified Professional, delivered to Declarant a no further action letter dated December 15, 2000, (the "No Further Action Letter"), with respect to the Property.

WHEREAS, Mr. Kasper concluded in the No Further Action Letter that the Property met applicable standards pursuant to Chapter 3746 of the Revised Code and the regulations promulgated thereunder as amended, otherwise known as the Ohio Voluntary Action Program (the "VAIP") subject to the recordation of an Declaration of Use Restriction; and

WHEREAS, Declarant hereby desires to establish and impose certain covenants and restriction upon the Property in accordance with the requirements of the No Further Action Letter.

NOW THEREFORE, Declarant, for itself and its successors and assigns in ownership of the Exhibit "A" Property does hereby declare the Exhibit "A" Property subject to the following perpetual restriction, covenants and stipulations, to-wit:

1. Effective upon issuance of the Covenant Not to Sue from the Ohio EPA in accordance with Ohio Revised Code Chapter 3746, and for as long as such Covenant Not to Sue remains in full force and effect, groundwater located in, on or underlying the Property must not be used or extracted for any potable or non-potable purpose as defined in Ohio Administrative Code (OAC) 3745-300-01(A)(33), effective December 16, 1996, except for groundwater sampling, groundwater investigation, or remedial activities, as warranted. Notwithstanding any of the foregoing provisions, groundwater may be extracted from the Property upon, and subject to any conditions contained in, the written prior consent of the Ohio EPA and the written acknowledgment of the Ohio EPA that such extraction will not result in a revocation of the Covenant Not to Sue.
2. Land use for the Property is restricted to Commercial use, as defined by Ohio Administrative Code (OAC) 3745-300-08(B)(2)(c)(iii), effective December 16, 1996, and consistent with the

CONVEYANCE BY  
E. E. E. E. E.  
A

TRANSFERRED  
NO FURTHER NECESSARY

CARDINAL TITLE  
BOX

esposre assumptions established by the Property-specific risk assessment for the Property, developed in accordance with OAC Rule 3745-400-09.

3. Compliance with the Declaration of Use Restrictions contained herein may be enforced by a legal or equitable action brought in a court of competent jurisdiction by or on behalf of one or more of the following parties: (i) the Ohio Environmental Protection Agency, or (ii) any other party with an interest in the Property or which may incur liability as a result of any failure of compliance with this Declaration of Use Restrictions. Delay on the part of any of the foregoing parties to take any action to enforce compliance with the Declaration of Use Restrictions shall not bar any subsequent enforcement with respect to the failure of compliance in question, nor shall any delay or failure on the part of any of the foregoing parties to take any action to enforce compliance with the Declaration of Use Restrictions be deemed a waiver of the right of any such party to take any such action with respect to any failure of compliance.
4. This Declaration of Use Restrictions shall run with the land and be binding upon all current owners, and all successors and assigns of the Property, or an portion thereof, including any leasehold interests thereon.
5. If any one or more provisions of the Declaration of Use Restrictions herein contained shall be found to be unenforceable in any respect, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby. This Declaration of Use Restrictions shall be governed by and interpreted in accordance with the laws of the State of Ohio, and specifically, Ohio Revised Code Chapter 3746 and the OAC Rules adopted thereunder.
6. Any instrument hereafter conveying any interest in the Exhibit "A" Property or any portion thereof shall contain a recital to the existence hereof substantially in the following form: The real property described herein is subject to that certain 'Declaration of Use Restrictions' by Pizzuti / Miranova Corporate Tower LLC dated December 15, 2000, and filed for record with the office of the Franklin County Recorder on the 15<sup>TH</sup> day of December, 2000 as Franklin County Recorder's Document Number 200012150253472

IN WITNESS WHEREOF, Declarant has executed this Declaration of Use Restrictions as of the day and year first written above.

Signed and acknowledged  
in the presence of:

Pizzuti/Miranova Corporate Tower LLC  
an Ohio Limited Liability Company

*Mary Kay Tomlinson*  
[Signature of Witness]

Mary Kay Tomlinson  
[Printed Name of Witness]

*[Signature]*  
[Signature of Witness]

Nova S. Mendelson  
[Printed Name of Witness]

BY: \_\_\_\_\_  
Richard C. Daley, Executive Vice President

BY: *[Signature]*

STATE OF OHIO

COUNTY OF FRANKLIN, ss:

This instrument was acknowledged before me this 15<sup>th</sup> day of December, 2000, by Richard C. Daley, the Executive Vice President of Pizzuti/Miranova Corporate Tower LLC, an Ohio limited liability company, on behalf of and as the act and deed of Pizzuti/Miranova Corporate Tower LLC.

*[Signature]*  
Notary Public  
  
NOVA S. MENDELSON  
Notary Public, State of Ohio  
My Commission Expires 12-13-04

EXHIBIT "A" - PARCEL I

2.917 ACRES

Situated in the State of Ohio, County of Franklin, City of Columbus, Half Section 26, Township 5, Range 22, Refugee Ls being 2.450 acres out of that tract as conveyed to Pizzuti Properties/Miranova Limited of record in Instrument Number 6220153940, and 0.467 acres of those tracts of land as conveyed to Pizzuti Development Inc. of record in Instrument Number 9811250304330, (all references refer to the records of the Recorder's Office, Franklin County, Ohio) and described as follows:

Beginning at an iron pin found at the intersection of the northerly right-of-way line of West Mound Street with the easterly right-of-way line of Lovee Street;

thence North 00° 11' 00" West, with said easterly right-of-way line, a distance of 258.85 feet to an iron pin set in the north right-of-way line of Lovee Street as vacated in City of Columbus Ordinance No. 2894-94;

thence North 67° 38' 48" East, with said northerly right-of-way line of vacated Lovee Street, a distance of 260.95 feet to iron pin set;

thence across said Pizzuti Properties/Miranova Limited tract and said Pizzuti Development Inc. tract, the following courses:

South 22° 21' 12" East, a distance of 42.10 feet to a P.K. Nail set;

South 26° 46' 34" West, a distance of 60.44 feet to a P.K. Nail set;

South 63° 13' 26" East, a distance of 128.91 feet to a P.K. Nail set;

South 24° 33' 21" East, a distance of 38.25 feet to a P.K. Nail set;

South 75° 41' 20" East, a distance of 55.48 feet to a P.K. Nail set at a point of curvature;

PRELIMINARY  
APPROVAL  
FRANKLIN COUNTY  
ENGINEERING DEPT.  
DATE 3-15-99 BY DEP

CLOSURE FILE  
PLAN SUBMITTED  
DEED FOR FINAL OK

With said curve to the right, having a central angle of 56° 23' 42" and a radius of 205.00 feet, a chord bearing and distance South 47° 29' 50" East, 193.73 feet to an iron pin set in the westerly line of that tract as conveyed to American Electric Power, to the easterly right-of-way line of Short Street as vacated in City of Columbus Ordinance No. 2894-94;

thence South 00° 38' 16" West, with said westerly line and said easterly right-of-way line of vacated Short Street, a distance of 26.59 feet to an iron pin set in said northerly right-of-way line of West Mound Street;

thence South 89° 53' 00" West, with said northerly right-of-way line of West Mound Street, a distance of 556.56 feet to point of beginning and containing 2.917 acres of land, more or less.

Subject, however, to all legal rights-of-way and/or easements, if any, of previous record.

Bearings herein are based on South 89° 53' 00" West for a portion of the northerly right-of-way line of West Mound Street shown of record in Instrument Number 199809220153940.



EVANS, MECHWART, HAMBLETON & TILTON, INC.

Jeffrey Miller 3-11-99  
Jeffrey A. Miller  
Registered Surveyor No. 7211

JAN 24

EXHIBIT "A" - PARCEL 2

0.064 ACRES

Situated in the State of Ohio, County of Franklin, City of Columbus, Half Section 26, Township 5, Range 22, Refugee Lands and being out of Lot 3 of that subdivision entitled "Bulle & Comstocks Subdivision" of record in C.R. 22, Pages 582 through 589 as conveyed to Pizzuti Properties/Miranova Limited of record in Instrument Number 199806220153940. (all references refer to the records of the Recorder's Office, Franklin County, Ohio) and described as follows:

Beginning at an iron pin found marking the intersection of the westerly right-of-way line of Levee Street with the northerly right-of-way line of West Mound Street;

thence South 89° 53' 00" West, with said northerly right-of-way line, a distance of 76.05 feet to an iron pin found;

thence across said Lot 3 with a curve to the right, having a central angle of 20° 51' 04" and a radius of 276.00 feet, a chord bearing and distance of North 49° 24' 00" East, 99.89 feet to an iron pin found in said westerly right-of-way line;

thence South 00° 11' 00" East, with said westerly right-of-way line, a distance of 64.85 feet to the point of beginning and containing 0.064 acre of land, more or less.

Subject, however, to all legal rights-of-way and/or easements, if any, of previous record.

Bearings herein are based on South 89° 53' 00" West for a portion of the northern right-of-way line of West Mound Street, of record in Instrument Number 199806220153940.

EVANS, MECHWART, HAMBLETON & TILTON, INC.



*Jeffrey A. Miller* 3-18-99  
Jeffrey A. Miller  
Registered Surveyor No. 7211

JAM/ed

Miranova Property - Commercial Portion  
Director's Final Findings and Orders / Covenant Not to Sue

**Exhibit 5**  
**Operation and Maintenance Agreement**  
**and**  
**Operation and Maintenance Plan**

RECEIVED

JUN 28 2001

**OPERATION AND MAINTENANCE AGREEMENT**  
**Between Ohio EPA and Pizzuti/Miranova Corporate Tower LLC**  
**Regarding the Miranova Property-Commercial Portion,**  
**Franklin County, Ohio**

---

This Operation and Maintenance Agreement ("Agreement") is entered into by the Director of the Ohio Environmental Protection Agency ("Director") and Pizzuti/Miranova Corporate Tower LLC, pursuant to Ohio Revised Code ("ORC") Chapter 3746 and Ohio Administrative Code ("OAC") Chapter 3745-300. In consideration of the mutual covenants and subject to the terms and conditions of this Agreement, the parties agree as follows:

1. **The NFA Letter.** A no further action letter (NFA Letter No. 00NFA106; the "NFA Letter") under the Voluntary Action Program ("VAP") was submitted to the Director on behalf of Pizzuti/Miranova Corporate Tower LLC on December 18, 2000, by Craig A. Kasper, a certified professional (Certified Professional No. CP103), for approximately 2.98 acres of real property owned by Pizzuti/Miranova Corporate Tower LLC and located at Two Miranova Place, Columbus, Franklin County, Ohio (the "Property"). The legal description of the Property is attached hereto as Exhibit 1, and is incorporated by reference herein. The NFA Letter includes an Operation and Maintenance Plan ("O&M Plan") for the Property.
2. **Requirement for an Operation and Maintenance Agreement.** This Agreement is required for the Property pursuant to ORC 3746.12(A)(2) and OAC 3745-300-15(A)(2) and 3745-300-15(F)(4).
3. **Remedy for the Property.** The remedy for the Property includes:
  - a. **Interim Plan: Construction Phase of Property (Non-commercial phase).** The remedy to be operated and maintained for the Property during the period addressed under the Interim Plan as described in Section 2.0 of the O&M Plan is intended to ensure that only construction activities occur prior to completion of all engineering controls at the Property. The remedy consists of an engineering control and an institutional control as described herein:
    - i. **Engineering Control.** An engineering control will restrict access to the Property by persons other than authorized personnel. Persons other than construction contractor employees are assumed to be present at the Property for limited amounts of time, and are thus assumed to have exposures at the Property, which are encompassed by the exposure of the construction worker. The engineering control will consist of measures of restricting unauthorized access to the Property.

Initially, a fence around the areas that do not meet the final remedy will be monitored and maintained in accordance with the O&M Plan. The fence will need to be removed during final grading and the installation of landscaping, to complete the final grade and soil cover point of compliance as set forth in Section 3.1.2 of the O&M Plan. Beginning on the day of commencement of the fence removal at the Property, a surveillance access restriction engineering control will be established at the Property in accordance with Section 2.1.2 of the O&M Plan. The surveillance access restriction engineering control will consist of monitoring of the portions of the Property that do not meet the final engineering controls as discussed in Section 3.1 of the O&M Plan by a security guard or the construction supervisor on a continuous basis to restrict access to the Property by persons other than authorized personnel and construction workers. The Current Owner/designee will ensure the surveillance access restriction engineering control will prohibit public access to the Property in accordance with Section 2.1.2 of the O&M Plan. The Current Owner/designee will monitor and maintain the surveillance access restriction engineering control in accordance with Sections 2.2.2, 2.3.2, and 2.4 of the O&M Plan. The Current Owner/designee will maintain the surveillance access restriction engineering control for the Property until the establishment of the final engineering controls (the building slabs, the entrance pavement, and the soil cover point of compliance) and institutional controls as set forth in Paragraph 4.2 of this Agreement.

ii. **Institutional Control.** An institutional control will restrict the use of ground water beneath the Property for potable and non-potable purposes. This institutional control will also be maintained under the Final Plan described in Paragraph 4.2 of this Agreement. In accordance with this institutional control, extraction of the ground water underlying the Property is prohibited for all purposes except for environmental sampling and monitoring. The Current Owner will monitor the Property for evidence of unauthorized access to ground water for potable or non-potable use in accordance with the O&M Plan.

b) **Final Plan: Commercial Use.** The remedy to be operated and maintained for the Property during the period addressed under the Final Plan as described in Section 3.0 of the O&M Plan is intended to demonstrate that, upon completion of the construction activities on the Property, the applicable standards for commercial use will be achieved with the use of engineering and institutional controls.



and maintained in accordance with this Agreement and the O&M Plan to achieve and maintain compliance with the applicable standards set forth in ORC Chapter 3746 and OAC Chapter 3745-300 and in the covenant not to sue issued pursuant to ORC 3746.12 for the Property (the "Covenant").

5. **Implementation of O&M Plan.** Pizzuti/Miranova Corporate Tower LLC agrees to establish and maintain all engineering controls in accordance with the O&M Plan, and perform all inspections, maintenance, repairs, reporting, record keeping, and all other requirements in accordance with the O&M Plan.
6. **Recordation of Agreement.** Pizzuti/Miranova Corporate Tower LLC agrees to record this Agreement as set forth in the Covenant and as required by ORC 3746.14.
7. **Effect of Violation of This Agreement.** Failure to comply with this Agreement or the O&M Plan, may constitute the failure to maintain an applicable standard in accordance with ORC 3746.12(B) and OAC Chapter 3745-300, and may be subject to the process outlined in paragraph 14 (Compliance Schedule Agreement) of this Agreement. Noncompliance with an institutional control for the Property voids the Covenant, as provided in ORC 3746.05.
8. **Financial Assurance.**
  - a. Until the completion of the Interim Plan as described in Section 2.0 of the O & M Plan, Pizzuti/Miranova Corporate Tower LLC will ensure that reasonable and adequate funds in the amount of at least Ten Thousand Dollars (\$10,000) ("Minimum Amount") are available to comply with this Agreement and the O&M Plan by executing and funding a financial assurance mechanism guaranteeing performance of this Agreement and the O&M Plan. For its financial assurance mechanism, Pizzuti/Miranova Corporate Tower LLC has established a Surety Bond for \$10,000, a copy of which is attached hereto as Exhibit 2. Pizzuti/Miranova Corporate Tower LLC will annually renew the Surety Bond or, subject to written approval by Ohio EPA, execute and fund another comparable, acceptable financial assurance mechanism, and submit to Ohio EPA a copy of each renewed Surety Bond or other financial assurance mechanism. In the event the amount or form of financial assurance provided herein is inadequate to comply with this Agreement, the Director may require a modification of this paragraph pursuant to paragraph 13 (Modification) of this Agreement.
  - b. Upon adequate completion of the period addressed under the Interim Plan as described in Section 2.0 of the O & M Plan, the Minimum Amount of the Fund shall be reduced to One Hundred Dollars (\$100), to ensure that reasonable and adequate funds are available to comply with terms of this Agreement. The Fund will be replenished annually to a minimum of One Hundred Dollars (\$100). The Director reserves the right to reasonably modify the amount of the Fund if it is

determined that the Fund is inadequate for the purposes of complying with this Agreement. Any such modified amount shall not exceed funds directly necessary for complying with this Agreement.

9. **Notice to Prospective Property Transferees.** At least 30 days prior to the execution of any sales contract or other document transferring ownership of the Property or any portion of the Property, Pizzuti/Miranova Corporate Tower LLC agrees to provide written notice to the prospective Property transferee that the Property, or the portion of the Property, is subject to the Covenant, this Agreement, and the O&M Plan.
10. **Notice to the Director of Transfer of Property.** Within 14 days after a sale or other transfer of the Property, or any portion of the Property, Pizzuti/Miranova Corporate Tower LLC agrees to provide written notice to the Director that the Property, or the portion of the Property, has been sold or otherwise transferred. This notice submitted to the Director must include:
  - a. the name, address, and telephone number of the new Property owner and the name of the contact person for the new Property owner;
  - b. a legal description of the portion of the Property being transferred, if the transfer was limited to a portion of the Property; and
  - c. the closing date of the transfer of ownership of the Property or the portion of the Property.
11. **Option to Transfer this Agreement / Notice to Director.** Pursuant to ORC 3746.14(C), Pizzuti/Miranova Corporate Tower LLC may transfer this Agreement to any other person (the "Transferee") by assignment or in conjunction with the acquisition of title to the Property. Within 14 days after such transfer, Pizzuti/Miranova Corporate Tower LLC agrees to provide written notice to the Director of the terms and conditions of the transfer of obligations of this Agreement and the O&M Plan ("Transfer Terms and Conditions"), by submitting:
  - a. the name, address, and telephone number of the Transferee and the name of the contact person for the Transferee;
  - b. a statement of the extent to which the Transferee has assumed the obligations of this Agreement and the O&M Plan;
  - c. a copy of the legal instrument(s) that provide the Transfer Terms and Conditions; and
  - d. a copy of the Transferee's proposed financial assurance mechanism, that complies with paragraph 8 (Financial Assurance) of this Agreement,

where the Transferee has assumed obligations of this Agreement and the O&M Plan. The Transferor's financial assurance mechanism must remain effective until Ohio EPA approves in writing the Transferee's financial assurance mechanism and the Transferee's financial assurance mechanism is fully executed and funded.

In accordance with the Transfer Terms and Conditions, the Transferee will become a party to this Agreement and will assume obligations of this Agreement and the O&M Plan.

12. **Document Submittals / Notifications to Parties.** All documents, including but not limited to notices and reports, required to be submitted by Pizzuti/Miranova Corporate Tower LLC pursuant to this Agreement shall be addressed to:

Director, Ohio Environmental Protection Agency  
122 South Front Street  
P.O. Box 1049  
Columbus, OH 43216-1049  
Attn: Manager, Voluntary Action Program

and

Ohio Environmental Protection Agency  
Central District Office  
Division of Emergency and Remedial Response  
3232 Alum Creek Drive  
Columbus, OH 43207  
Attn: VAP Project Coordinator

All documents, including any notice required to be submitted by Ohio EPA pursuant to this Agreement, shall be delivered to Pizzuti/Miranova Corporate Tower LLC. Notice to Pizzuti/Miranova Corporate Tower LLC shall be addressed to:

Pizzuti/Miranova Corporate Tower LLC  
250 East Broad Street  
Columbus, Ohio 43215  
Attn: Richard C. Daley

13. **Modification to this Agreement or the O&M Plan.** Pizzuti/Miranova Corporate Tower LLC agrees to submit to the Director for review and approval each proposed modification to this Agreement or the O&M Plan, except for a minor modification, as defined below, or a modification proposed by the Director. For purposes of this Agreement, "modification" means any substantive or material change to a term or condition of this Agreement or the O&M Plan, such as a

proposal to revise, replace, or terminate an engineering control, or revise the financial assurance provisions of paragraph 8 (Financial Assurance). Approval of a modification is subject to the sole discretion of the Director and must be approved by the Director, in writing, prior to implementation. A modification proposed by the Director is subject to approval by Pizzuti/Miranova Corporate Tower LLC. Ohio EPA reserves the right to require the submittal of a new NFA Letter for a proposed modification that will result in the application of an applicable standard, land use, or a remedy different than that contained in the NFA Letter approved by the Covenant.

A "minor modification" means a non-substantive or non-material, administrative change to a term or condition of this Agreement or the O&M Plan, such as the transfer of this Agreement and the O&M Plan in accordance with paragraph 11 (Option to Transfer) of this Agreement, a change of a named contact person, or an address contained in this Agreement or the O&M Plan. Within 14 days after implementation of a minor modification to this Agreement or the O&M Plan, Pizzuti/Miranova Corporate Tower LLC agrees to provide Ohio EPA written notice of the minor modification.

14. **Compliance Schedule Agreement.** Within 30 days after the mailing of notice from the Director of the finding that the Property or a portion of the Property no longer complies with the applicable standards upon which the issuance of the Covenant was based, Pizzuti/Miranova Corporate Tower LLC agrees to notify the Director of its intention to return the Property or the portion of the Property to compliance with the applicable standards upon which the Covenant was based ("cure") and enter into a compliance schedule agreement with the Director for such cure, in accordance with ORC 3746.12(B).
15. **Compliance with Other Laws.** Pizzuti/Miranova Corporate Tower LLC agrees to conduct all activities pursuant to this Agreement and the O&M Plan in compliance with all local, state, and federal laws and regulations, including but not limited to obtaining all required permits or authorizations. Pizzuti/Miranova Corporate Tower LLC acknowledges that Ohio EPA's review and approval of any health and safety measures or precautions contained in the O&M Plan is limited to ensuring compliance with the requirements of ORC Chapter 3746 and OAC Chapter 3745-300 and does not extend to determining compliance with the Occupational Safety and Health Act, 29 U.S.C. 651 *et seq.*, the regulations adopted under that act, or any obligation imposed by the Occupational Safety and Health Administration.
16. **Inspections by Ohio EPA.** Pizzuti/Miranova Corporate Tower LLC agrees to allow the Director or his authorized representative to perform inspections to determine compliance with this Agreement. Such inspections shall be consistent with ORC Chapter 3746 and OAC Chapter 3745-300, including but not limited to the reasonableness of inspection timing and frequency in accordance with ORC

3746.21.

17. **Termination.** This Agreement shall terminate upon revocation or voidance of the Covenant, or otherwise upon the written approval of the Director.
18. **Waiver.** Pizzuti/Miranova Corporate Tower LLC agrees that the terms and conditions of this Agreement are lawful and reasonable and agrees to comply with this Agreement. Pizzuti/Miranova Corporate Tower LLC hereby waives its right to appeal the issuance of this Agreement and the terms and conditions of this Agreement, and hereby waives any and all rights it might have to seek judicial or administrative review of this Agreement either in law or equity. Pizzuti/Miranova Corporate Tower LLC reserves its right to participate in any appeal by a third party to the Environmental Review Appeals Commission or to any court.
19. **Entire Agreement.** The terms and conditions of this Agreement, including the O&M Plan, constitute the entire agreement of the parties. No oral or written representation shall be binding unless approved as a modification of this Agreement pursuant to paragraph 13 (Modification) of this Agreement. The terms and conditions of this Agreement shall be interpreted consistent with ORC Chapter 3746 and OAC Chapter 3745-300.
20. **Authorized Signatories.** Each undersigned representative of a signatory to this Agreement represents that he or she is fully authorized to execute this Agreement and to legally bind such signatory to this document.
21. **Effective Date.** Upon execution of this Agreement by both parties, this Agreement shall be a valid and binding obligation enforceable in accordance with its terms and conditions and effective upon the date of the Director's signature.

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

PIZZUTI/MIRANOVA CORPORATE TOWER LLC:

By:  Date: 6-25-09

Printed Name: Paul C. Dolan

Title: VP

OHIO ENVIRONMENTAL PROTECTION AGENCY:

By: Christopher Jones  
Christopher Jones  
Director of Ohio EPA

Date: JUL 26 2001

rev. 11/00

EXHIBIT 1

2.917 ACRES

Situated in the State of Ohio, County of Franklin, City of Columbus, Half Section 26, Township 5, Range 22, Refugee Lands being 2.450 acres out of that tract as conveyed to Pizzuti Properties/Miranova Limited of record in Instrument Number 6220153940, and 0.467 acres of those tracts of land as conveyed to Pizzuti Development Inc. of record in Instrument Number 19811250304330, (all references refer to the records of the Recorder's Office, Franklin County, Ohio) and described as follows:

Beginning at an iron pin found at the intersection of the northerly right-of-way line of West Mound Street with the easterly right-of-way line of Levee Street;

thence North 00° 11' 00" West, with said easterly right-of-way line, a distance of 258.85 feet to an iron pin set in the northerly right-of-way line of Levee Street as vacated in City of Columbus Ordinance No. 2894-94;

thence North 67° 38' 48" East, with said northerly right-of-way line of vacated Levee Street, a distance of 260.95 feet to an iron pin set;

thence across said Pizzuti Properties/Miranova Limited tract and said Pizzuti Development Inc. tract, the following courses:

South 22° 21' 12" East, a distance of 42.10 feet to a P.K. Nail set;

South 26° 46' 34" West, a distance of 60.44 feet to a P.K. Nail set;

South 63° 13' 26" East, a distance of 128.91 feet to a P.K. Nail set;

South 24° 33' 21" East, a distance of 38.25 feet to a P.K. Nail set;

South 75° 41' 20" East, a distance of 55.48 feet to a P.K. Nail set at a point of curvature;

PRELIMINARY  
APPROVAL  
FRANKLIN COUNTY  
ENGINEERING DEPT.  
DATE: 3-15-99 BY: DRP

CLOSURE PINE  
PLAT SUBMITTED  
DEED FORM FOR FINAL OK

With said curve to the right, having a central angle of 56° 23' 42" and a radius of 205.00 feet, a chord bearing and distance of South 47° 29' 30" East, 193.73 feet to an iron pin set in the westerly line of that tract as conveyed to American Electric Power, being the easterly right-of-way line of Short Street as vacated in City of Columbus Ordinance No. 2894-94;

thence South 00° 38' 16" West, with said westerly line and said easterly right-of-way line of vacated Short Street, a distance of 26.59 feet to an iron pin set in said northerly right-of-way line of West Mound Street;

thence South 89° 53' 00" West, with said northerly right-of-way line of West Mound Street, a distance of 556.56 feet to the point of beginning and containing 2.917 acres of land, more or less.

Subject, however, to all legal rights-of-way and/or easements, if any, of previous record.

Bearings herein are based on South 89° 53' 00" West for a portion of the northerly right-of-way line of West Mound Street, as shown of record in Instrument Number 199806220153940.



EVANS, MECHWART, HAMBLETON & TILTON, INC.

Jeffrey A. Miller 3-11-99  
Registered Surveyor No. 7211

0.064 ACRES

Situated in the State of Ohio, County of Franklin, City of Columbus, Half Section 26, Township 5, Range 22, Refugee Lands and being out of Lot 3 of that subdivision entitled "Buttle & Cornstocks Subdivision" of record in C.R. 22, Pages 582 through 589 as conveyed to Pizzuti Properties/Miranova Limited of record in Instrument Number 199806220153940, (all references refer to the records of the Recorder's Office, Franklin County, Ohio) and described as follows:

Beginning at an iron pin found marking the intersection of the westerly right-of-way line of Levee Street with the northerly right-of-way line of West Mound Street;

thence South 89° 53' 00" West, with said northerly right-of-way line, a distance of 76.05 feet to an iron pin found;

thence across said Lot 3 with a curve to the right, having a central angle of 20° 51' 04" and a radius of 276.00 feet, a chord bearing and distance of North 49° 24' 00" East, 99.89 feet to an iron pin found in said westerly right-of-way line;

thence South 00° 11' 00" East, with said westerly right-of-way line, a distance of 64.85 feet to the point of beginning and containing 0.064 acre of land, more or less.

Subject, however, to all legal rights-of-way and/or easements, if any, of previous record.

Bearings herein are based on South 89° 53' 00" West for a portion of the northern right-of-way line of West Mound Street, of record in Instrument Number 199806220153940.

EVANS, MECHWART, HAMBLETON & TILTON, INC.



JAM:kd

*Jeffrey A. Miller* 3-18-99  
Jeffrey A. Miller  
Registered Surveyor No. 7211

0.095 ACRE

Situated in the State of Ohio, County of Franklin, City of Columbus and being a portion of the right-of-way of Levee Street, (all references refer to the records of the Recorder's Office, Franklin County, Ohio) and described as follows:

Beginning at an iron pin found at the intersection of the northerly right-of-way line of West Mound Street with the easterly right-of-way line of said Levee Street;

thence South 89° 53' 00" West, with said northerly right-of-way line, a distance of 16.14 feet to a mag nail set;

thence North 00° 11' 00" West, across said Levee Street, a distance of 252.26 feet a mag nail set in the northerly right-of-way line of said Levee Street;

thence North 67° 38' 48" East, with said northerly right-of-way line, a distance of 17.43 feet to an iron pin set;

thence South 00° 11' 00" East, across the right-of-way of said Levee Street and with said easterly right-of-way line, a distance of 258.85 feet to the point of beginning, containing 0.095 acre of land, more or less.

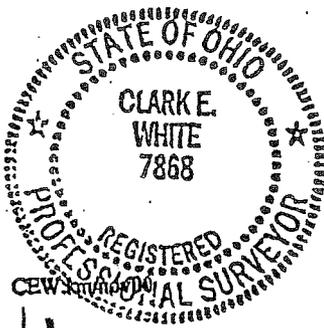
Subject, however, to all legal rights-of-way and/or easements, if any, of previous record.

Bearings herein are based on South 00° 11' 00" East for the easterly right-of-way line of Levee Street as shown of record in Instrument Number 199906160153094, Recorder's Office, Franklin County, Ohio.

EVANS, MECHWART, HAMBLETON, & TILTON, INC.

*Clark E. White* 11/8/00

Clark E. White  
Registered Surveyor No. 7868



## EXHIBIT 2

### Financial Guarantee Bond

Date bond executed: June 15, 2001

Effective date: June 15, 2001

Principal: Pizzuti/Miranova Corporate Tower LLC  
250 East Broad Street  
Columbus, Ohio 43215

Type of organization: Limited Liability Corporation

State of incorporation: Ohio

Surety(ies): National Fire Insurance Company of Hartford  
1111 East Broad Street  
Columbus, Ohio 43205

Total penal sum of bond: \$10,000.00

Surety's bond number: 929202284

Know All Persons By These Presents, That we, the Principal and Surety(ies) hereto are firmly bound to the Ohio Environmental Protection Agency ("Ohio EPA"), in the above penal sum for the payment of which we bind ourselves, our heirs, executors, administrators, successors, and assigns, jointly and severally; provided that, where the Surety(ies) are corporations acting as co-sureties, we, the Sureties, bind ourselves in such sum "jointly and severally" only for the purpose of allowing a joint action or actions against any or all of us, and for all other purposes each Surety binds itself, jointly and severally with the Principal, for the payment of such sum only as is set forth opposite the name of such Surety, but if no limit of liability is indicated, the limit of liability shall be the full amount of the penal sum.

Whereas, said Principal is required to have an Ohio EPA permit or permits, in order to own or operate each hazardous waste management facility(ies) identified above, and

Whereas said Principal is required to provide financial assurance for closure or closure and post-closure care, of the facility(ies) as a condition of the permit(s) or the hazardous waste facility interim status standards chapters, and

Whereas said Principal shall establish a standby trust fund as specified by rule 3745-55-43 or 3745-66-43 of the Ohio Administrative Code,

Now, therefore the conditions of the obligation are such that if the Principal shall faithfully, before the beginning of final closure of each facility identified above, fund the standby trust fund in the amount(s) identified above for the facility,

Or, if the Principal shall fund the standby trust fund in such an amount(s) within fifteen days after an order to begin closure is issued by the Director, or an Ohio court, or a U.S. district court or other court of competent jurisdiction, or within fifteen days after a notice of revocation of the permit(s) by the Director,

Or, if the Principal shall provide alternate financial assurance, as specified in rules 3745-55-40 to 3745-55-51 or 3745-66-40 to 3745-66-48 of the Ohio Administrative Code as applicable, and obtain the Director's written approval of such assurance, within ninety days after the date notice of cancellation is received by both the Principal and the Director from the Surety(ies), then this obligation will be null and void, otherwise it is to remain in full force and effect.

The Surety(ies) shall become liable on this bond obligation only when the Principal has failed to fulfill the conditions described above. Upon notification by the Director that the Principal has failed to perform as guaranteed

Bond No. 929202284

Financial Guarantee Bond  
(continued)

by this bond, the Surety(ies) shall place funds in the amount guaranteed for the facility(ies) into the standby trust fund as directed by the Director.

The liability of the Surety(ies) shall not be discharged by any payment or succession of payments hereunder, unless and until such payment or payments shall amount in the aggregate to the penal sum of the bond, but in no event shall the obligation of the Surety(ies) hereunder exceed the amount of said penal sum.

The Surety(ies) may cancel the bond by sending notice of cancellation by certified mail to the Principal and to the Director, provided, however, that cancellation shall not occur during the one hundred twenty days beginning on the date of receipt of the notice of cancellation by both the Principal and the Director as evidenced by the return receipts.

The Principal may terminate this bond by sending written notice to the Surety(ies), provided, however, that no such notice shall become effective until the Surety(ies) receive(s) written authorization for termination of the bond by the Director.

In witness whereof, the Principal and Surety(ies) have executed this Financial Guarantee Bond and have affixed their seals on the date set forth above.

The persons whose signatures appear below hereby certify that they are authorized to execute this surety bond on behalf of the Principal and Surety(ies) and that the wording of this surety bond is identical to the wording specified in paragraph (B) of rule 3745-55-51 of the Administrative Code as such regulations were constituted on the date this bond was executed.

Pizzuti/Miranova Corporate Tower LLC

Signature(s):

Name(s) and title(s) [typed]:

*Richard C. DeJoy EVP*

Corporate seal:

Corporate Surety(ies)

Name and address: National Fire Insurance Company of Hartford  
1111 East Broad Street  
Columbus, Ohio 43205

State of incorporation: Connecticut

Liability limit: \$71,050,000

Signature(s):

*Laura Hall*  
Laura Hall, Attorney-in-Fact

Corporate seal:

Bond premium: \$180.00

POWER OF ATTORNEY APPOINTING INDIVIDUAL ATTORNEY-IN-FACT

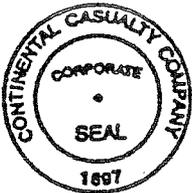
Know All Men By These Presents, That CONTINENTAL CASUALTY COMPANY, an Illinois corporation, NATIONAL FIRE INSURANCE COMPANY OF HARTFORD, a Connecticut corporation, AMERICAN CASUALTY COMPANY OF READING, PENNSYLVANIA, a Pennsylvania corporation (herein collectively called "the CCC Surety Companies"), are duly organized and existing corporations having their principal offices in the City of Chicago, and State of Illinois, and that they do by virtue of the signature and seals herein affixed hereby make, constitute and appoint Mac B. Leavitt, Laura Hall, Gregory R. Overmyer, David N. Doub, William D. Music, Jr., G. Keith Schneider, Bradley W. Stammier, Carole M. Feeney, Individually

of Columbus, Ohio their true and lawful Attorney(s)-in-Fact with full power and authority hereby conferred to sign, seal and execute for and on their behalf bonds, undertakings and other obligatory instruments of similar nature - In Unlimited Amounts -

and to bind them thereby as fully and to the same extent as if such instruments were signed by a duly authorized officer of their corporations and all the acts of said Attorney, pursuant to the authority hereby given are hereby ratified and confirmed.

This Power of Attorney is made and executed pursuant to and by authority of the By-Laws and Resolutions, printed on the reverse hereof, duly adopted, as indicated, by the Boards of Directors of the corporations.

In Witness Whereof, the CCC Surety Companies have caused these presents to be signed by their Group Vice President and their corporate seals to be hereto affixed on this 14th day of September, 1999.



CONTINENTAL CASUALTY COMPANY NATIONAL FIRE INSURANCE COMPANY OF HARTFORD AMERICAN CASUALTY COMPANY OF READING, PENNSYLVANIA

Marvin J. Cashion

Marvin J. Cashion

Group Vice President

State of Illinois, County of Cook, ss:

On this 14th day of September, 1999, before me personally came Marvin J. Cashion, to me known, who, being by me duly sworn, did depose and say: that he resides in the City of Chicago, State of Illinois; that he is a Group Vice President of CONTINENTAL CASUALTY COMPANY, NATIONAL FIRE INSURANCE COMPANY OF HARTFORD, and AMERICAN CASUALTY COMPANY OF READING, PENNSYLVANIA described in and which executed the above instrument; that he knows the seals of said corporations; that the seals affixed to the said instrument are such corporate seals; that they were so affixed pursuant to authority given by the Boards of Directors of said corporations and that he signed his name thereto pursuant to like authority, and acknowledges same to be the act and deed of said corporations.



Diane Faulkner

My Commission Expires September 17, 2001

Diane Faulkner

Notary Public

CERTIFICATE

I, Mary A. Ribikawskis, Assistant Secretary of CONTINENTAL CASUALTY COMPANY, NATIONAL FIRE INSURANCE COMPANY OF HARTFORD, and AMERICAN CASUALTY COMPANY OF READING, PENNSYLVANIA do hereby certify that the Power of Attorney herein above set forth is still in force, and further certify that the By-Law and Resolution of the Board of Directors of each corporation printed on the reverse hereof are still in force. In testimony whereof I have hereunto subscribed my name and affixed the seals of the said corporations this 15th day of June, 2001.



CONTINENTAL CASUALTY COMPANY NATIONAL FIRE INSURANCE COMPANY OF HARTFORD AMERICAN CASUALTY COMPANY OF READING, PENNSYLVANIA

Mary A. Ribikawskis

Mary A. Ribikawskis

Assistant Secretary



I DO CERTIFY, THAT

NATIONAL FIRE INSURANCE COMPANY OF HARTFORD  
 CITY OF FARMINGTON  
 STATE OF CONNECTICUT  
 NAIC No. 20478

EXPIRES 06-30-2001

is authorized to transact the business of insurance, as defined in

- Section 3929.01 (A) - Accident & Health
- Section 3929.01 (A) - Aircraft
- Section 3929.01 (A) - Allied Lines
- Section 3929.01 (A) - Boiler & Machinery
- Section 3929.01 (A) - Burglary & Theft
- Section 3929.01 (A) - Collectively Renewable A & H
- Section 3929.01 (A) - Commercial Auto - Liability
- Section 3929.01 (A) - Commercial Auto - No Fault
- Section 3929.01 (A) - Commercial Auto - Phys. Damage
- Section 3929.01 (A) - Credit
- Section 3929.01 (A) - Credit Accident & Health
- Section 3929.01 (A) - Earthquake
- Section 3929.01 (A) - Fidelity
- Section 3929.01 (A) - Financial Guaranty
- Section 3929.01 (A) - Fire
- Section 3929.01 (A) - Glass
- Section 3929.01 (A) - Group Accident & Health
- Section 3929.01 (A) - Guaranteed Renewable A & H
- Section 3929.01 (A) - Inland Marine
- Section 3929.01 (A) - Medical Malpractice
- Section 3929.01 (A) - Multiple Peril - Commercial
- Section 3929.01 (A) - Multiple Peril - Farmowners
- Section 3929.01 (A) - Multiple Peril - Homeowners
- Section 3929.01 (A) - Noncancellable A & H
- Section 3929.01 (A) - Nonrenew - State Reasons (A&H)
- Section 3929.01 (A) - Ocean Marine
- Section 3929.01 (A) - Other Accident only
- Section 3929.01 (A) - Other Liability
- Section 3929.01 (A) - Private Passenger Auto - Liab.
- Section 3929.01 (A) - Private Passenger Auto-Other
- Section 3929.01 (A) - Private Passenger-Phys Damage
- Section 3929.01 (A) - Reinsurance Only
- Section 3929.01 (A) - Surety
- Section 3929.01 (A) - Workers Compensation

This Certificate of Compliance is granted subject to the laws of the State of Ohio.



Director of Insurance



State of Ohio Environmental Protection Agency

FEET ADDRESS:

Lazarus Government Center  
122 S. Front Street  
Columbus, OH 43215-1099

TELE: (614) 644-3020 FAX: (614) 644-2329

MAILING ADDRESS:

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

### MEMORANDUM

**TO:** Shelley Wilson, Administrator, Tax Equalization Division, Dept. of Taxation  
Daryl Hennessy, Manager, Office of Tax Incentives, Dept. of Development

**FROM:** Christopher Jones, Director, Ohio Environmental Protection Agency

**DATE:** JUL 26 2001

**RE:** Covenant Not to Sue Issued to Pizzuti/Miranova Corporate Tower LLC for the Miranova Commercial Portion Property

As Director of the Ohio Environmental Protection Agency, I certify that Pizzuti/Miranova Corporate Tower LLC has performed investigational and remedial activities at the property listed below and has been issued a Covenant Not to Sue under the authority of Ohio Revised Code (ORC) Chapter 3746. This information is being provided in satisfaction of ORC 5709.87(B).

Property name: Miranova-Commercial Portion Property

Property address: Two Miranova Place, Columbus, Ohio 432

Parcel number(s): Parcel Number: 10-001649

County: Franklin

Taxing District: City of Columbus

Date Covenant Not to Sue Issued: JUL 26 2001

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

If additional information regarding the property or the voluntary action is required, I suggest you first contact Craig Kasper, the Certified Professional for the property, at (614) 793-8777. In the alternative, you can contact Dan Tjoelker with the Ohio Environmental Protection Agency at (614) 728-3836.

cc: Craig Kasper, Hull & Associates, Inc.

rev. 08/00

Bob Taft, Governor  
Maureen O'Connor, Lieutenant Governor  
Christopher Jones, Director

Situated in the State of Ohio, County of Franklin, City of Columbus, Half Section 26, Township 5, Range 22, Refugee Lands being 2.450 acres out of that tract as conveyed to Pizzuti Properties/Miranova Limited of record in Instrument Number 6220153940, and 0.467 acres of those tracts of land as conveyed to Pizzuti Development Inc. of record in Instrument Number 19811250304330, (all references refer to the records of the Recorder's Office, Franklin County, Ohio) and described as follows:

Beginning at an iron pin found at the intersection of the northerly right-of-way line of West Mound Street with the easterly right-of-way line of Levee Street;

thence North 00° 11' 00" West, with said easterly right-of-way line, a distance of 258.85 feet to an iron pin set in the northerly right-of-way line of Levee Street as vacated in City of Columbus Ordinance No. 2894-94;

thence North 67° 38' 48" East, with said northerly right-of-way line of vacated Levee Street, a distance of 260.95 feet to an iron pin set;

thence across said Pizzuti Properties/Miranova Limited tract and said Pizzuti Development Inc. tract, the following courses:

South 22° 21' 12" East, a distance of 42.10 feet to a P.K. Nail set;

South 26° 46' 34" West, a distance of 60.44 feet to a P.K. Nail set;

South 63° 13' 26" East, a distance of 128.91 feet to a P.K. Nail set;

South 24° 33' 21" East, a distance of 38.25 feet to a P.K. Nail set;

South 75° 41' 20" East, a distance of 55.48 feet to a P.K. Nail set at a point of curvature;

With said curve to the right, having a central angle of 56° 23' 42" and a radius of 205.00 feet, a chord bearing and distance of South 47° 29' 30" East, 193.73 feet to an iron pin set in the westerly line of that tract as conveyed to American Electric Power, being the easterly right-of-way line of Short Street as vacated in City of Columbus Ordinance No. 2894-94;

thence South 00° 38' 16" West, with said westerly line and said easterly right-of-way line of vacated Short Street, a distance of 26.59 feet to an iron pin set in said northerly right-of-way line of West Mound Street;

thence South 89° 53' 00" West, with said northerly right-of-way line of West Mound Street, a distance of 556.56 feet to the point of beginning and containing 2.917 acres of land, more or less.

Subject, however, to all legal rights-of-way and/or easements, if any, of previous record.

Bearings herein are based on South 89° 53' 00" West for a portion of the northerly right-of-way line of West Mound Street, as shown of record in Instrument Number 199806220153940.

PRELIMINARY APPROVAL  
FRANKLIN COUNTY ENGINEERING DEPT.  
DATE 3-15-99 BY: DRP

CLOSURE FINE  
PLAT SUBMITTED  
DEED FORM FOR FINAL OK



EVANS, MECHWART, HAMBLETON & TILTON, INC.

Jeffrey A. Miller 3-11-99  
Registered Surveyor No. 7211

JAM:td

0.064 ACRES

Situated in the State of Ohio, County of Franklin, City of Columbus, Half Section 26, Township 5, Range 22, Refugee Lands and being out of Lot 3 of that subdivision entitled "Buttle & Comstocks Subdivision" of record in C.R. 22, Pages 582 through 589 as conveyed to Pizzuti Properties/Miranova Limited of record in Instrument Number 199806220153940, (all references refer to the records of the Recorder's Office, Franklin County, Ohio) and described as follows:

Beginning at an iron pin found marking the intersection of the westerly right-of-way line of Levee Street with the northerly right-of-way line of West Mound Street;

thence South 89° 53' 00" West, with said northerly right-of-way line, a distance of 76.05 feet to an iron pin found;

thence across said Lot 3 with a curve to the right, having a central angle of 20° 51' 04" and a radius of 276.00 feet, a chord bearing and distance of North 49° 24' 00" East, 99.89 feet to an iron pin found in said westerly right-of-way line;

thence South 00° 11' 00" East, with said westerly right-of-way line, a distance of 64.85 feet to the point of beginning and containing 0.064 acre of land, more or less.

Subject, however, to all legal rights-of-way and/or easements, if any, of previous record.

Bearings herein are based on South 89° 53' 00" West for a portion of the northern right-of-way line of West Mound Street, of record in Instrument Number 199806220153940.

EVANS, MECHWART, HAMBLETON & TILTON, INC.



Jeffrey A. Miller  
Registered Surveyor No. 7211

*Jeffrey A. Miller* 3-18-99

JAM:kd

0.095 ACRE

Situated in the State of Ohio, County of Franklin, City of Columbus and being a portion of the right-of-way of Levee Street, (all references refer to the records of the Recorder's Office, Franklin County, Ohio) and described as follows:

Beginning at an iron pin found at the intersection of the northerly right-of-way line of West Mound Street with the easterly right-of-way line of said Levee Street;

thence South 89° 53' 00" West, with said northerly right-of-way line, a distance of 16.14 feet to a mag nail set;

thence North 00° 11' 00" West, across said Levee Street, a distance of 252.26 feet a mag nail set in the northerly right-of-way line of said Levee Street;

thence North 67° 38' 48" East, with said northerly right-of-way line, a distance of 17.43 feet to an iron pin set;

thence South 00° 11' 00" East, across the right-of-way of said Levee Street and with said easterly right-of-way line, a distance of 258.85 feet to the point of beginning, containing 0.095 acre of land, more or less.

Subject, however, to all legal rights-of-way and/or easements, if any, of previous record.

Bearings herein are based on South 00° 11' 00" East for the easterly right-of-way line of Levee Street as shown of record in Instrument Number 199906160153094, Recorder's Office, Franklin County, Ohio.

EVANS, MECHWART, HAMBLETON, & TILTON, INC.

*Clark E. White* 11/8/00

Clark E. White  
Registered Surveyor No. 7868

