

**FIRST ADDENDUM TO GROUND LEASE
FOR
940 BREVARD, LLC**

This First Addendum to Ground Lease for 940 Brevard, LLC (this "Addendum") made as of April 14, 2015 is incorporated by and into and shall be deemed to supplement that certain Ground Lease For 940 Brevard, LLC (the "Ground Lease") dated August 7, 2007 and between the Housing Authority of the City of Charlotte, N.C. (the "Authority") and 940 Brevard, LLC (the "Tenant").

RECITALS:

1. All capitalized terms not defined in this Addendum shall have the meaning ascribed to them in the Ground Lease.
2. The Authority acquired the Land from Alpha Mill, LLC ("Alpha Mill") pursuant to that certain North Carolina Special Warranty Deed from Alpha Mill to the Authority dated July 27, 2006 and recorded in Book 20805, Page 110 of the Mecklenburg County Registry.
3. Tenant has constructed a 100-unit multifamily apartment on the Land known as 940 Brevard (the "Project").
4. Alpha Mill was an affiliate of Crosland 940 Brevard, LLC, the Managing Member of Tenant (where the managing member of Alpha Mill, LLC was Crosland Alpha Mill, LLC, which was an affiliate of Crosland 940 Brevard, LLC, which is a member/manager of Bilbro Development, LLC which is the managing member of 940 Brevard, LLC).
5. The Land is subject to certain restrictions and requirements set forth in that certain Notice of Brownfields Property dated July 8, 2005 and recorded in Book 19004, Page 549 of the Mecklenburg County Registry (the "Notice"), a copy of which is attached hereto as Exhibit 1. Such requirements include the submission of a notarized "Land Use Restriction Update" (the "LURU") to the North Carolina Department of Environment and Natural Resources ("DENR") by the Authority as owner of the Land during January of each year.
6. An unexecuted sample of the LURU to be submitted by Alpha Mill or its affiliate/successor for properties adjacent or nearby the Land which are also subject to the Notice is attached as Exhibit 2 (the "LURU Form").
7. The Authority and Tenant desire to ensure that the Project complies with the requirements of the Notice, and the Authority desires for Tenant to assist, and Tenant agrees to assist, the Authority in its submission of the LURU and other requisite information to DENR pursuant to the Notice (the LURU and other requisite information shall collectively be referred to as the "Brownfields Information").

NOW, THEREFORE, in consideration of the mutual covenants and conditions set forth herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

Section 1. **Submission Requirements.** No later than March 18, 2015, and no later than January 15th of each year beginning in 2016, Tenant shall provide the Authority with (i) a completed up-to-date LURU ("Updated LURU") for the Land and the Project using the LURU Form, (ii) a certification by Tenant to the Authority that all information in the Updated LURU is true and accurate; and (iii) all other necessary information and certifications in forms satisfactory to the Authority to allow the Authority to submit the Brownfields Information to DENR.

Section 2. **Notification by Tenant.** Notwithstanding the provisions in Section 1 above, in the event Tenant has knowledge of any activities in connection with the Notice that will have an effect on the Land and/or the submission of the Brownfields Information by the Authority, Tenant shall provide the Authority with such information immediately.

Section 3. **Additional Testing; Communication with Governmental Agencies.** In the event DENR requires additional assessment of the Land and Project in connection with the Notice, Tenant shall commission and bear all costs of any such assessment (including the reliance letter described in the succeeding sentence). Tenant shall ensure that the environmental consultants provide the Authority a "reliance letter" with respect to such assessment. Furthermore, Tenant shall provide the Authority with all reports and information related to such assessment, and shall release such reports and information to DENR or other governmental agencies having jurisdiction over the Land and/or the Project ("Other Governmental Agencies") upon the approval of the Authority. If requested by the Authority, Tenant shall assist and cooperate with the Authority in the Authority's communication with DENR and Other Governmental Agencies regarding such assessment and other matters related to the Notice.

Section 4. **Amendment to Exhibit A, Legal Description.** The following shall be inserted at the end of Exhibit A:

"In accordance with the requirements of NCGS Section 130A-310.35(d), the Land has been classified as a Brownfields Property and is subject to that certain Notice of Brownfields Property recorded in Book 19004, Page 549, Mecklenburg County Registry."

Section 5. **Conveyance of Interest.** A copy of any such instrument conveying an interest in the Premises shall be sent to the persons listed in Section XV (Notices and Submissions) of the Brownfields Agreement attached as Exhibit A to the Notice (except that the information for Alpha Mill shall be replaced with the information of Tenant as follows: Mr. Adam Ford, 940 Brevard, LLC, 5960 Fairview Road, Charlotte, NC 28210), though financial figures related to the conveyance maybe redacted. To the extent a standard lease is used, one (1) copy of it may be sent, as well as a copy each time it is modified, along with certification that it is a standard lease.

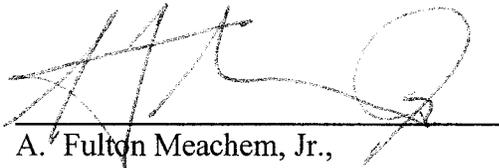
Section 6. **Conflicts with Ground Lease.** In the event of any conflict between the provisions in this Addendum and any provision in the Ground Lease, the provisions in this Addendum shall control.

[Signature Page Follows]

IN WITNESS WHEREOF, the parties by and through their duly authorized representatives, have executed this Addendum effective as of April, 2015.

**HOUSING AUTHORITY OF THE CITY OF
CHARLOTTE, N.C.,**

By:



A. Fulton Meachem, Jr.,
Chief Executive Officer

940 BREVARD, LLC

By: Bilbro Development, LLC,
Member/Manager

By: Crosland 940 Brevard, LLC,
its Manager

By: Crosland, LLC, Manager

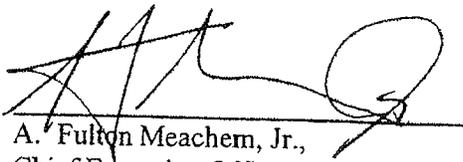
By:

Adam Ford, General Manager

IN WITNESS WHEREOF, the parties by and through their duly authorized representatives, have executed this Addendum effective as of April, 2015.

**HOUSING AUTHORITY OF THE CITY OF
CHARLOTTE, N.C.,**

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A. Fulton Meachem, Jr.,
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By: Bilbro Development, LLC,
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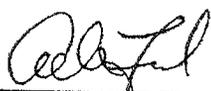

Adam Ford, General Manager

Exhibit 1

The Notice

(See Attached)

FOR REGISTRATION JUDITH A. GIBSON
REGISTER OF DEEDS
MECKLENBURG COUNTY, NC
2005 JUL 08 08:39 AM
BK: 19004 PG: 549-599 FEE: \$159.00

INSTRUMENT # 2005128034



2005128034

Property Owner: Alpha Mill, LLC

Recorded in Book ____, Page ____

Associated plat recorded in Plat Book 43, Page 943
43 945

DRAWN BY / RETURN TO:
WOMBLE CARLYLE (BOX 93)
3500 ONE WACHOVIA CENTER
301 SOUTH COLLEGE ST
CHARLOTTE, NC 28202

NOTICE OF BROWNFIELDS PROPERTY

This documentary component of a Notice of Brownfields Property ("Notice"), as well as the plat component, have been filed this 8th day of July, 2005 by Alpha Mill, LLC (hereinafter "Prospective Developer").

The Notice concerns contaminated property.

A copy of this Notice certified by the North Carolina Department of Environment and Natural Resources (hereinafter "DENR") is required to be filed in the Register of Deeds' Office in the county or counties in which the land is located, pursuant to North Carolina General Statutes (hereinafter "NCGS"), Section (hereinafter "§") 130A-310.35(b).

This Notice is required by NCGS § 130A-310.35(a), in order to reduce or eliminate the danger to public health or the environment posed by environmental contamination at a property (hereinafter the "Brownfields Property") being addressed under the Brownfields Property Reuse Act of 1997, NCGS § 130A, Article 9, Part 5 (hereinafter the "Act").

Pursuant to NCGS § 130A-310.35(b), the Prospective Developer must file a certified copy of this Notice within 15 days of Prospective Developer's receipt of DENR's approval of the Notice or Prospective Developer's entry into the Brownfields Agreement required by the Act, whichever is later. Pursuant to NCGS § 130A-310.35(c), the copy of the Notice certified by DENR must be recorded in the grantor index under the names of the owners of the land and, if Prospective Developer is not the owner, also under Prospective Developer's name.

The Brownfields Property consists of an approximately 5.77-acre parcel at the northwest corner of East 12th Street and North Brevard Street in Charlotte, Mecklenburg County, North

Carolina, and a 0.69-acre parcel at the northeast corner of East 12th Street and North Brevard Street in the same city. The 5.77-acre parcel was originally developed as a textile mill in 1889; mill homes that are no longer present were constructed on the smaller parcel in the early 1900s. The textile mill was operated by Alpha Mill Company and later by Chadwick-Hoskins Company. Southern Industrial Properties, Inc. later operated on that parcel until 1955. American-Marietta Company then operated there until the Brownfields Property was purchased by Consolidated Engraver's, Inc., which is now known as Consolidated Group, Inc. Consolidated Group, Inc.'s operations included film processing, galvano and lacquer screen engraving, plasma and flame spray coating, thermal spray coating, metal plating, milling, sand blasting, grinding, polishing, embossing, and engraving by mechanical, chemical, electronic and laser techniques. Consolidated Group, Inc. ceased operations at this location and removed materials and manufacturing equipment in 2001, since which time the Property has been vacant.

Prospective Developer has committed itself to redevelopment for no uses other than residential apartments, and possibly commercial or retail businesses.

The Brownfields Agreement between Prospective Developer and DENR is attached hereto as Exhibit A. It sets forth the use that may be made of the Brownfields Property and the measures to be taken to protect public health and the environment, and is required by NCGS § 130A-310.32.

Attached hereto as Exhibit B is a reduction, to 8 1/2" x 11", of the survey plat required by NCGS § 130A-310.35(a). It is a plat of areas designated by DENR that has been prepared and certified by a professional land surveyor and that meets the requirements of NCGS § 47-30. That plat contains the following information required by NCGS § 130A-310.35(a):

(1) The location and dimensions of the areas of potential environmental concern with respect to permanently surveyed benchmarks.

(2) The type, location and quantity of regulated substances and contaminants known to exist on the Brownfields Property. The following table also sets forth the type and quantity of such substances:

Soil Contaminant	Sample Location	Depth (in feet)	Date of Max. Concentration Sampling	Maximum Concentration above Std. (mg/kg)	Standard (mg/kg)
METALS					
Arsenic	NS	2.0- 3.0	September 2004	30	4.4
Arsenic	NS	1.0- 2.0	September 2004	35	4.4
Arsenic	NS	0.0- 1.0	September 2004	72	4.4

Soil Contaminant	Sample Location	Depth (in feet)	Date of Max. Concentration Sampling	Maximum Concentration above Std. (mg/kg)	Standard (mg/kg)
Arsenic	CSX	0.0 – 1.0 (D – F)	September 2004	4.7	4.4
Arsenic	CSX	0.0 – 1.0 (A – C)	September 2004	12	4.4
Arsenic	A2	2.0 – 3.0	September 2004	12	4.4
Arsenic	B-17	0.5 – 1.5	October 2000	8.8	4.4
Arsenic	B-18	0.5 – 1.5	October 2000	15.2	4.4
Arsenic	B-19	0.5 – 1.5	October 2000	41	4.4
Arsenic	B-34	0.5 – 4.0	November 2000	23	4.4
Arsenic	B-48	9.0 – 10.0	November 2000	4.7	4.4
Arsenic	B-50	0.5 – 1.5	November 2000	31.4	4.4
Arsenic	B-57	0.5 – 1.5	January 2001	42.4	4.4
Arsenic	B-59	0.5 – 1.5	January 2001	6.8	4.4
Arsenic	B-60	0.5 – 1.5	January 2001	14.6	4.4
Arsenic	B-63	0.5 – 1.5	January 2001	6.4	4.4
Arsenic	B-65	0.5 – 1.5	January 2001	5.8	4.4
Arsenic	B-66	0.5 – 1.5	January 2001	12.2	4.4
Arsenic	B-74	0.0 – 1.0	January 2001	18.1	4.4
Arsenic	B-75	9.0 – 1.0	January 2001	15.2	4.4
Cadmium	B-18	0.5 – 1.5	October 2000	20.7	7.4
Cadmium	B-57	0.5 – 1.5	January 2001	12.5	7.4
Chromium VI	B-44	5.5 – 6.5	November 2000	49	30
Chromium VI	B-77	0.5 – 1.5	January 2002	280	30
Chromium VI	B-78	5.5 – 6.5	January 2002	250	30
Chromium VI	B-82	5.5 – 6.5	January 2002	400	30
Chromium VI	B-83	10.5 – 11.5	January 2002	240	30
Copper	B-27	0.5 – 1.5	November 2000	632	620
Copper	B-29	4.5 – 5.5	November 2000	725	620
Copper	B-32	0.5 – 1.5	November 2000	1380	620
Copper	B-33	4.0 – 8.0	November 2000	1470	620
Copper	B-37	0.5 – 1.5	November 2000	1490	620

Soil Contaminant	Sample Location	Depth (in feet)	Date of Max. Concentration Sampling	Maximum Concentration above Std. (mg/kg)	Standard (mg/kg)
Copper	B-60	6.5 – 7.5	January 2001	762	620
Copper	B-73	10.0 – 11.0	January 2001	659	620
Copper	B-74	0.0 – 1.0	January 2001	3650	620
Lead	B-19	0.5 – 1.5	October 2000	2930	400
Lead	B-57	0.5 – 1.5	January 2001	427	400
Lead	B-59	0.5 – 1.5	January 2001	938	400
Lead	B-60	0.5 – 1.5	January 2001	1110	400
Nickel	B-25	4.0 – 5.0	November 2000	1640	320
Nickel	B-29	4.5 – 5.5	November 2000	824	320
Nickel	B-33	4.0 – 8.0	November 2000	516	320
Thallium	B-19	0.5 – 1.5	October 2000	5	1.04
VOLATILES					
Tetrachloroethene	B-21	0.5 – 1.5	October 2000	78D	0.48
Tetrachloroethene	B-26	6.5 – 7.5	November 2000	2	0.48
Tetrachloroethene	B-27	0.5 – 1.5	November 2000	1.4	0.48
Tetrachloroethene	B-41	5.5 – 6.5	November 2000	1.9	0.48
Tetrachloroethene	B-46	5.5 – 6.5	November 2000	1.5	0.48
Tetrachloroethene	B-77	13.0 – 13.5	January 2002	1.5J	0.48
Trichloroethene	B-21	0.5 – 1.5	October 2000	11D	0.053
Trichloroethene	B-26	6.5 – 7.5	November 2000	4.1	0.053
Trichloroethene	B-37	5.5 – 6.5	November 2000	0.35	0.053
Trichloroethene	B-46	5.5 – 6.5	November 2000	0.82	0.053
SEMIVOLATILES					
Benzo(a)anthracene	A2	1.0 – 2.0	September 2004	1.20	0.62
Benzo(a)anthracene	CSX	0.0 – 1.0 (A – C)	September 2004	1.70J	0.62
Benzo(a)anthracene	B-18	0.5 – 1.5	October 2000	24D	0.62
Benzo(a)anthracene	B-20	9.0 – 10.0	October 2000	17D	0.62
Benzo(a)anthracene	B-31	0.5 – 1.5	November 2000	2.6	0.62
Benzo(a)anthracene	B-33	0.5 – 1.5	November 2000	2.2	0.62
Benzo(a)anthracene	B-34	0.5 – 4.0	November 2000	33J	0.62

Soil Contaminant	Sample Location	Depth (in feet)	Date of Max. Concentration Sampling	Maximum Concentration above Std. (mg/kg)	Standard (mg/kg)
Benzo(a)anthracene	B-39	0.5 – 1.5	November 2000	1.8	0.62
Benzo(a)anthracene	B-40	0.5 – 1.5	November 2000	1.8	0.62
Benzo(a)anthracene	B-46	0.5 – 1.5	November 2000	1.7	0.62
Benzo(a)anthracene	B-47	0.5 – 2.0	November 2000	2.5D	0.62
Benzo(a)anthracene	B-48	9.0 – 10.0	November 2000	3.2D	0.62
Benzo(a)anthracene	B-49	0.5 – 1.5	November 2000	9J	0.62
Benzo(a)anthracene	B-50	0.5 – 1.5	November 2000	36D	0.62
Benzo(a)anthracene	B-51	0.5 – 1.5	January 2001	7.4D	0.62
Benzo(a)anthracene	B-57	0.5 – 1.5	January 2001	4.7J	0.62
Benzo(a)anthracene	B-58	0.5 – 1.5	January 2001	6.8	0.62
Benzo(a)anthracene	B-60	0.5 – 1.5	January 2001	9.1J	0.62
Benzo(a)anthracene	B-61	0.5 – 1.5	January 2001	1.2	0.62
Benzo(a)anthracene	B-62	0.5 – 1.5	January 2001	2.5	0.62
Benzo(a)anthracene	B-63	0.5 – 1.5	January 2001	27D	0.62
Benzo(a)anthracene	B-65	0.5 – 1.5	January 2001	130D	0.62
Benzo(a)anthracene	B-70	0.0 – 1.0	January 2001	1.5D	0.62
Benzo(a)anthracene	B-74	10.5 – 11.5	January 2001	9.6J	0.62
Benzo(a)anthracene	B-75	0.5 – 1.5	January 2001	17J	0.62
Benzo(a)anthracene	B-76	0.5 – 1.5	January 2001	17D	0.62
Benzo(b)fluoranthene	NS	0.0 – 1.0	September 2004	0.73J	0.62
Benzo(b)fluoranthene	A2	1.0 – 2.0	September 2004	1.5	0.62
Benzo(b)fluoranthene	B-18	0.5 – 1.5	October 2000	21D	0.62
Benzo(b)fluoranthene	B-20	9.0 – 10.0	October 2000	19D	0.62
Benzo(b)fluoranthene	B-31	0.5 – 1.5	November 2000	1.6	0.62
Benzo(b)fluoranthene	B-33	0.5 – 1.5	November 2000	1.5	0.62
Benzo(b)fluoranthene	B-34	0.5 – 4.0	November 2000	41J	0.62
Benzo(b)fluoranthene	B-39	0.5 – 1.5	November 2000	1.8	0.62
Benzo(b)fluoranthene	B-46	0.5 – 1.5	November 2000	1.8	0.62
Benzo(b)fluoranthene	B-47	0.5 – 2.0	November 2000	2.4D	0.62
Benzo(b)fluoranthene	B-48	9.0 – 10.0	November 2000	2.5D	0.62
Benzo(b)fluoranthene	B-49	0.5 – 1.5	November 2000	9.7J	0.62

Soil Contaminant	Sample Location	Depth (in feet)	Date of Max. Concentration Sampling	Maximum Concentration above Std. (mg/kg)	Standard (mg/kg)
Benzo(b)fluoranthene	B-50	0.5 – 1.5	November 2000	32D	0.62
Benzo(b)fluoranthene	B-51	0.5 – 1.5	January 2001	6D	0.62
Benzo(b)fluoranthene	B-57	0.5 – 1.5	January 2001	4.3J	0.62
Benzo(b)fluoranthene	B-58	0.5 – 1.5	January 2001	9.8J	0.62
Benzo(b)fluoranthene	B-60	0.5 – 1.5	January 2001	11J	0.62
Benzo(b)fluoranthene	B-61	0.5 – 1.5	January 2001	1.2	0.62
Benzo(b)fluoranthene	B-62	0.5 – 1.5	January 2001	2.4	0.62
Benzo(b)fluoranthene	B-63	0.5 – 1.5	January 2001	20D	0.62
Benzo(b)fluoranthene	B-65	0.5 – 1.5	January 2001	130D	0.62
Benzo(b)fluoranthene	B-70	0.0 – 1.0	January 2001	2.8D	0.62
Benzo(b)fluoranthene	B-74	10.5 – 11.5	January 2001	9.4J	0.62
Benzo(b)fluoranthene	B-75	0.5 – 1.5	January 2001	13J	0.62
Benzo(b)fluoranthene	B-76	2.0 – 3.0	January 2001	16D	0.62
Benzo(k)fluoranthene	B-18	0.5 – 1.5	October 2000	21D	6.2
Benzo(k)fluoranthene	B-20	6.0 – 7.0	October 2000	12D	6.2
Benzo(k)fluoranthene	B-50	0.5 – 1.5	November 2000	22D	6.2
Benzo(k)fluoranthene	B-63	0.5 – 1.5	January 2001	20D	6.2
Benzo(k)fluoranthene	B-65	0.5 – 1.5	January 2001	88D	6.2
Benzo(k)fluoranthene	B-75	0.5 – 1.5	January 2001	8.8J	6.2
Benzo(k)fluoranthene	B-76	0.5 – 1.5	January 2001	14D	6.2
Benzo(a)pyrene	NS	0.0 – 1.0	September 2004	0.61J	0.062
Benzo(a)pyrene	CSX	0.0 – 1.0 (A – C)	September 2004	1.40J	0.062
Benzo(a)pyrene	A5	1.0 – 2.0	September 2004	0.22J	0.062
Benzo(a)pyrene	A3	0.0 – 1.0	September 2004	0.42	0.062
Benzo(a)pyrene	A2	1.0 – 2.0	September 2004	1.50	0.062
Benzo(a)pyrene	A2	0.0 – 1.0	September 2004	0.086J	0.062
Benzo(a)pyrene	A1	0.0 – 1.0	September 2004	0.10J	0.062
Benzo(a)pyrene	B-18	0.5 – 1.5	October 2000	23D	0.062
Benzo(a)pyrene	B-19	0.5 – 1.5	October 2000	0.21	0.062
Benzo(a)pyrene	B-20	9.0 – 10.0	October 2000	16D	0.062

Soil Contaminant	Sample Location	Depth (in feet)	Date of Max. Concentration Sampling	Maximum Concentration above Std. (mg/kg)	Standard (mg/kg)
Benzo(a)pyrene	B-26	4.0 – 5.0	November 2000	0.079J	0.062
Benzo(a)pyrene	B-28	15.5 – 16.5	November 2000	0.27	0.062
Benzo(a)pyrene	B-31	0.5 – 1.5	November 2000	1.8	0.062
Benzo(a)pyrene	B-32	0.5 – 1.5	November 2000	0.31	0.062
Benzo(a)pyrene	B-33	0.5 – 1.5	November 2000	1.6	0.062
Benzo(a)pyrene	B-34	0.5 – 4.0	November 2000	18J	0.062
Benzo(a)pyrene	B-35	8.0 – 9.0	November 2000	0.26	0.062
Benzo(a)pyrene	B-39	0.5 – 1.5	November 2000	1.7	0.062
Benzo(a)pyrene	B-46	0.5 – 1.5	November 2000	1.6	0.062
Benzo(a)pyrene	B-47	0.5 – 2.0	November 2000	2.4D	0.062
Benzo(a)pyrene	B-48	9.0 – 10.0	November 2000	2.6D	0.062
Benzo(a)pyrene	B-49	0.5 – 1.5	November 2000	7.4J	0.062
Benzo(a)pyrene	B-50	0.5 – 1.5	November 2000	10D	0.062
Benzo(a)pyrene	B-51	0.5 – 1.5	January 2001	6D	0.062
Benzo(a)pyrene	B-52	0.5 – 1.5	January 2001	0.29	0.062
Benzo(a)pyrene	B-53	0.5 – 1.5	January 2001	0.12J	0.062
Benzo(a)pyrene	B-57	0.5 – 1.5	January 2001	4.3J	0.062
Benzo(a)pyrene	B-58	0.5 – 1.5	January 2001	6.4J	0.062
Benzo(a)pyrene	B-60	0.5 – 1.5	January 2001	7.6J	0.062
Benzo(a)pyrene	B-61	0.5 – 1.5	January 2001	1.2	0.062
Benzo(a)pyrene	B-62	0.5 – 1.5	January 2001	2.2	0.062
Benzo(a)pyrene	B-63	0.5 – 1.5	January 2001	23D	0.062
Benzo(a)pyrene	B-65	0.5 – 1.5	January 2001	110D	0.062
Benzo(a)pyrene	B-70	0.0 – 1.0	January 2001	1.7D	0.062
Benzo(a)pyrene	B-74	10.5 – 11.5	January 2001	2.8	0.062
Benzo(a)pyrene	B-75	0.5 – 1.5	January 2001	12J	0.062
Benzo(a)pyrene	B-76	2.0 – 3.0	January 2001	15D	0.062
Benzo(a)pyrene	BG-3	0.5 – 1.5	January 2001	0.31	0.062
Chrysene	B-65	0.5 – 1.5	January 2001	140D	62
Dibenzo(a,h)anthracene	A3	0.0 – 1.0	September 2004	0.10J	0.062
Dibenzo(a,h)anthracene	A2	1.0 – 2.0	September 2004	0.41	0.062

Soil Contaminant	Sample Location	Depth (in feet)	Date of Max. Concentration Sampling	Maximum Concentration above Std. (mg/kg)	Standard (mg/kg)
Dibenzo(a,h)anthracene	B-18	0.5 – 1.5	October 2000	4.5JD	0.062
Dibenzo(a,h)anthracene	B-20	9.0 – 10.0	October 2000	4D	0.062
Dibenzo(a,h)anthracene	B-31	0.5 – 1.5	November 2000	0.31	0.062
Dibenzo(a,h)anthracene	B-33	0.5 – 1.5	November 2000	0.28	0.062
Dibenzo(a,h)anthracene	B-34	0.5 – 4.0	November 2000	3.6	0.062
Dibenzo(a,h)anthracene	B-39	0.5 – 1.5	November 2000	0.28	0.062
Dibenzo(a,h)anthracene	B-46	0.5 – 1.5	November 2000	0.38	0.062
Dibenzo(a,h)anthracene	B-49	0.5 – 1.5	November 2000	1.5	0.062
Dibenzo(a,h)anthracene	B-50	0.5 – 1.5	November 2000	5D	0.062
Dibenzo(a,h)anthracene	B-51	0.5 – 1.5	January 2001	1.3D	0.062
Dibenzo(a,h)anthracene	B-57	0.5 – 1.5	January 2001	1.1	0.062
Dibenzo(a,h)anthracene	B-58	0.5 – 1.5	January 2001	1.4	0.062
Dibenzo(a,h)anthracene	B-60	0.5 – 1.5	January 2001	1.7	0.062
Dibenzo(a,h)anthracene	B-61	0.5 – 1.5	January 2001	0.23	0.062
Dibenzo(a,h)anthracene	B-62	0.5 – 1.5	January 2001	0.61	0.062
Dibenzo(a,h)anthracene	B-63	0.5 – 1.5	January 2001	6.2D	0.062
Dibenzo(a,h)anthracene	B-65	0.5 – 1.5	January 2001	27D	0.062
Dibenzo(a,h)anthracene	B-70	0.0 – 1.0	January 2001	0.38JD	0.062
Dibenzo(a,h)anthracene	B-74	10.5 – 11.5	January 2001	1.3	0.062
Dibenzo(a,h)anthracene	B-75	0.5 – 1.5	January 2001	3	0.062
Dibenzo(a,h)anthracene	B-76	0.5 – 1.5	January 2001	2.9D	0.062
1,4-Dichlorobenzene	B-17	0.5 – 1.5	October 2000	4D	3.4
Hexachlorobenzene	B-74	0.0 – 1.0	January 2001	11J	0.3
Indeno(1,2,3-cd)pyrene	A2	1.0 – 2.0	September 2004	1.20	0.62
Indeno(1,2,3-cd)pyrene	NS	0.0 – 1.0	September 2004	0.66J	0.62
Indeno(1,2,3-cd)pyrene	B-18	0.5 – 1.5	October 2000	17D	0.62
Indeno(1,2,3-cd)pyrene	B-20	9.0 – 10.0	October 2000	10D	0.62
Indeno(1,2,3-cd)pyrene	B-31	0.5 – 1.5	November 2000	0.96	0.62
Indeno(1,2,3-cd)pyrene	B-33	0.5 – 1.5	November 2000	0.85	0.62
Indeno(1,2,3-cd)pyrene	B-34	0.5 – 4.0	November 2000	8.4J	0.62
Indeno(1,2,3-cd)pyrene	B-39	0.5 – 1.5	November 2000	1.3	0.62

Soil Contaminant	Sample Location	Depth (in feet)	Date of Max. Concentration Sampling	Maximum Concentration above Std. (mg/kg)	Standard (mg/kg)
Indeno(1,2,3-cd)pyrene	B-46	0.5 – 1.5	November 2000	1	0.62
Indeno(1,2,3-cd)pyrene	B-47	0.5 – 2.0	November 2000	1.6D	0.62
Indeno(1,2,3-cd)pyrene	B-48	9.0 – 10.0	November 2000	17JD	0.62
Indeno(1,2,3-cd)pyrene	B-49	0.5 – 1.5	November 2000	3.8	0.62
Indeno(1,2,3-cd)pyrene	B-50	0.5 – 1.5	November 2000	16D	0.62
Indeno(1,2,3-cd)pyrene	B-51	0.5 – 1.5	January 2001	4D	0.62
Indeno(1,2,3-cd)pyrene	B-57	0.5 – 1.5	January 2001	3.8	0.62
Indeno(1,2,3-cd)pyrene	B-58	0.5 – 1.5	January 2001	3.9J	0.62
Indeno(1,2,3-cd)pyrene	B-60	0.5 – 1.5	January 2001	6J	0.62
Indeno(1,2,3-cd)pyrene	B-61	0.5 – 1.5	January 2001	0.9	0.62
Indeno(1,2,3-cd)pyrene	B-62	0.5 – 1.5	January 2001	1.5	0.62
Indeno(1,2,3-cd)pyrene	B-63	0.5 – 1.5	January 2001	21D	0.62
Indeno(1,2,3-cd)pyrene	B-65	0.5 – 1.5	January 2001	74D	0.62
Indeno(1,2,3-cd)pyrene	B-70	0.0 – 1.0	January 2001	1.6D	0.62
Indeno(1,2,3-cd)pyrene	B-74	10.5 – 11.5	January 2001	6.8J	0.62
Indeno(1,2,3-cd)pyrene	B-75	0.5 – 1.5	January 2001	7.9J	0.62
Indeno(1,2,3-cd)pyrene	B-76	0.5 – 1.5	January 2001	10D	0.62

J – reported concentration is estimated

D – sample was diluted for analysis

Groundwater Contaminant	Sample Location	Date of Max. Concentration Sampling	Maximum Concentration above Std. (µg/L)	Groundwater Standard (µg/L)*
METALS				
Cadmium	MW-11i	October 2001	17	5
Chromium (total)	MW-1s	October 2001	160	50
Chromium (total)	MW-2s	October 2001	74	50
Chromium (total)	MW-3s	October 2001	180	50
Chromium (total)	MW-4s	October 2001	64	50

Chromium (total)	MW-7i	October 2001	96	50
Chromium (total)	MW-8s	October 2001	8200	50
Chromium (total)	MW-11i	October 2001	67	50
Chromium (total)	MW-16i	October 2001	140	50
Lead	MW-11i	October 2001	22	15
Nickel	MW-3s	October 2001	470	100
VOLATILES				
Benzene	MW-10d	October 2001	1.5	1
Bromodichloromethane	MW-6s	October 2001	0.85	0.56
Chloroform	MW-6s	October 2001	43	0.19
Chloroform	MW-14i	October 2001	3.5	0.19
Tetrachloroethene	MW-1s	October 2001	380D	0.7
Tetrachloroethene	MW-2s	October 2001	250D	0.7
Tetrachloroethene	MW-3s	October 2001	160	0.7
Tetrachloroethene	MW-4s	October 2001	9.6	0.7
Tetrachloroethene	MW-5s	October 2001	21	0.7
Tetrachloroethene	MW-7i	October 2001	380D	0.7
Tetrachloroethene	MW-8s	October 2001	32	0.7
Tetrachloroethene	MW-9i	October 2001	19	0.7
Tetrachloroethene	MW-10d	October 2001	4.2	0.7
Tetrachloroethene	MW-11i	October 2001	10	0.7
Tetrachloroethene	MW-12s	October 2001	1.8	0.7
Tetrachloroethene	MW-14i	October 2001	1.3J	0.7
Trichloroethene	MW-1s	October 2001	200D	2.8
Trichloroethene	MW-2s	October 2001	100D	2.8
Trichloroethene	MW-3s	October 2001	76	2.8
Trichloroethene	MW-4s	October 2001	5.7	2.8
Trichloroethene	MW-5s	October 2001	8.9	2.8
Trichloroethene	MW-7i	October 2001	180D	2.8
Trichloroethene	MW-8s	October 2001	9.2	2.8
Trichloroethene	MW-9i	October 2001	5.2	2.8
Trichloroethene	MW-10d	October 2001	3.7	2.8
SEMIVOLATILES				
Bis(2-ethylhexyl)phthalate	MW-1s	October 2001	3.8J	3

Bis(2-ethylhexyl)phthalate	MW-2s	October 2001	4.6J	3
Bis(2-ethylhexyl)phthalate	MW-3s	October 2001	120D	3
Bis(2-ethylhexyl)phthalate	MW-7i	October 2001	6.8	3
Bis(2-ethylhexyl)phthalate	MW-10d	October 2001	4.5J	3
Bis(2-ethylhexyl)phthalate	MW-13s	October 2001	5.4	3
Nitrosodiphenylamine	MW-9i	October 2001	6.4	0.0007
Nitrosodiphenylamine	MW-10d	October 2001	4.0J	0.0007

D – sample was diluted for analysis

J - reported concentration was estimated

Attached hereto as **Exhibit C** is a legal description of the Brownfields Property that would be sufficient as a description of the property in an instrument of conveyance.

LAND USE RESTRICTIONS

NCGS 130A-310.35(a) also requires that the Notice identify any restrictions on the current and future use of the Brownfields Property that are necessary or useful to maintain the level of protection appropriate for the designated current or future use of the Brownfields Property and that are designated in the Brownfields Agreement. The restrictions shall apply to the land affected by, and the owners of, the Brownfields Property's railroad rights of way to the extent the restrictions do not conflict with the rights granted in those rights of way. **The restrictions shall remain in force in perpetuity unless canceled by the Secretary of DENR (or its successor in function), or his/her designee, after the hazards have been eliminated, pursuant to NCGS § 130A-310.35(e).** Those restrictions are hereby imposed on the Brownfields Property, and are as follows:

1. **No surface water or groundwater at the Brownfields Property may be used for any purpose without the approval of DENR or its successor in function.**
2. **No activities that encounter, expose, remove or use groundwater (for example, installation of water supply wells, fountains, ponds, lakes or swimming pools that extend to groundwater, or construction or excavation activities that encounter or expose groundwater) may occur on the Brownfields Property without prior sampling and analysis of groundwater to the satisfaction of DENR or its successor in function in any areas proposed for such activities, and submittal of the analytical results to DENR or its successor in function. If such results disclose to DENR or its successor in function contamination in excess of North Carolina's groundwater quality standards, the proposed activities may not occur without the approval of DENR or its successor in function on such conditions as DENR or its successor in function imposes, including at a minimum compliance with plans and procedures, approved pursuant to applicable law, to protect public health and the environment during the proposed activities.**
3. **Soil underlying paved surfaces and buildings at the Brownfields Property**

may not be exposed without the performance of any prior sampling that DENR or its successor in function requires, and submittal of the analytical results of any such sampling to DENR or its successor in function. If the results of any such sampling disclose contamination in excess of the applicable standards as determined by DENR or its successor in function, the soil may not be exposed without the approval of DENR or its successor in function on such conditions as DENR or its successor in function imposes, including at a minimum compliance with plans and procedures, approved pursuant to applicable law, to protect public health and the environment during the activities that would expose such soil.

4. Soil underlying landscaping materials at the Brownfields Property, including but not limited to plants, flowers, trees, shrubs or any other above-ground vegetation, may not be disturbed, nor may landscaping materials be planted, without the prior addition of two (2) feet of clean fill or other material acceptable to DENR or its successor in function. If the desired grade would not allow said addition, as much soil as is necessary to allow said addition may be removed and disposed of in accordance with law. Incidental disturbance of soil in the subject areas, in connection with maintenance of landscaping materials, shall not constitute a violation of this land use restriction.

5. No mining may be conducted on or under the Brownfields Property, including, without limitation, extraction of coal, oil, gas or any other minerals or non-mineral substances.

6. No basements may be constructed on the Brownfields Property unless they are, as determined by DENR or its successor in function, vented in conformance with applicable building codes.

7. None of the contaminants known to be present in the environmental media at the Brownfields Property, including those listed in paragraph 7 of Exhibit A hereto, may be used or stored at the Brownfields Property without the prior approval of DENR or its successor in function, except in *de minimis* amounts for cleaning and other routine housekeeping activities.

8. During January of each year following the year in which this Notice is recorded, the then owner of the affected portion of the Brownfields Property shall sample monitoring wells MW-1s, MW-2s, MW-7i and a point near sample location SUR-4, all as shown on Exhibit 4 of Exhibit A hereto. Said owner shall effect analysis of the samples for volatile organic compounds, total chromium, hexavalent chromium and copper, and shall report the results to DENR each year as part of the update required by Land Use Restriction 9 below. After the third year of sampling, the then owner of the Brownfields Property may seek DENR's written authorization to discontinue sampling or change its frequency.

9. During January of each year following the year in which this Notice is

recorded, the then current owner of any part of the Brownfields Property shall submit a notarized Land Use Restrictions Update to DENR or its successor in function certifying that the Notice of Brownfields Property containing these Land Use Restrictions remains recorded at the Mecklenburg County register of deeds office, and that the Land Use Restrictions are being complied with.

For purposes of the Land Use Restrictions set forth above, "DENR" shall mean the DENR official and address referenced in paragraph 43.a. of Exhibit A hereto.

ENFORCEMENT

The above Land Use Restrictions shall be enforceable without regard to lack of privity of estate or contract, lack of benefit to particular land, or lack of any property interest in particular land. The Land Use Restrictions shall be enforced by any owner of the Brownfields Property. The Land Use Restrictions may also be enforced by DENR through the remedies provided in NCGS 130A, Article 1, Part 2 or by means of a civil action; by any unit of local government having jurisdiction over any part of the Brownfields Property; and by any person eligible for liability protection under the Brownfields Property Reuse Act who will lose liability protection if the restrictions are violated. Any attempt to cancel any or all of this Declaration without the approval of the Secretary of DENR (or its successor in function), or his/her delegate, shall be subject to enforcement by DENR to the full extent of the law. Failure by any party required or authorized to enforce any of the above restrictions shall in no event be deemed a waiver of the right to do so thereafter as to the same violation or as to one occurring prior or subsequent thereto.

FUTURE SALES, LEASES, CONVEYANCES AND TRANSFERS

When any portion of the Brownfields Property is sold, leased, conveyed or transferred, pursuant to NCGS § 130A-310.35(d) the deed or other instrument of transfer shall contain in the description section, in no smaller type than that used in the body of the deed or instrument, a statement that the Brownfields Property has been classified and, if appropriate, cleaned up as a brownfields property under the Brownfields Property Reuse Act.

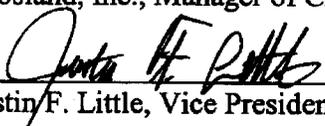
IN WITNESS WHEREOF, Prospective Developer has caused this instrument to be duly executed this 23 day of June, 2005.

Alpha Mill, LLC

By: Crosland Alpha Mill, LLC, Manager

By: Crosland, Inc., Manager of Crosland Alpha Mill, LLC

By:


Justin F. Little, Vice President, Crosland, Inc.

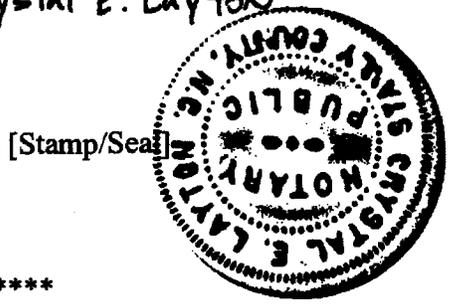
NORTH CAROLINA
MECKLENBURG COUNTY

I, Crystal E. Layton, a Notary Public of the county and state aforesaid, certify that Justin F. Little personally came before me this day and acknowledged that he is Vice President of Crosland, Inc., the Manager of Crosland Alpha Mill, LLC, which is the manager of Alpha Mill, LLC, a North Carolina limited liability company, and that by authority duly given and as the act of Alpha Mill, LLC, the foregoing Notice of Brownfields Property was signed in its name by him/her.

WITNESS my hand and official stamp or seal, this 23rd day of JUNE, 2005

Crystal E. Layton
Name typed or printed: Crystal E. Layton
Notary Public

My Commission expires: 01-29-09



APPROVAL AND CERTIFICATION OF NORTH CAROLINA DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

The foregoing Notice of Brownfields Property is hereby approved and certified.

North Carolina Department of Environment and Natural Resources

By: Linda M. Culpepper
Linda M. Culpepper
Deputy Director, Division of Waste Management

June 15, 2005
Date

CERTIFICATION OF REGISTER OF DEEDS

The foregoing documentary component of the Notice of Brownfields Property, and the associated plat, are certified to be duly recorded at the date and time, and in the Books and Pages, shown on the first page hereof.

Register of Deeds for Mecklenburg County

By: _____
Name typed or printed: _____
Deputy/Assistant Register of Deeds

Date

"Exhibit A"

NORTH CAROLINA DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES
IN THE MATTER OF: Alpha Mill, LLC

UNDER THE AUTHORITY OF THE)	BROWNFIELDS AGREEMENT re:
BROWNFIELDS PROPERTY REUSE ACT)	Former Alpha Mill Facility
OF 1997, N.C.G.S. § 130A-310.30, <u>et seq.</u>)	312 East 12 th Street
)	Charlotte, Mecklenburg County

I. INTRODUCTION

This Brownfields Agreement ("Agreement") is entered into by the North Carolina Department of Environment and Natural Resources ("DENR") and Alpha Mill, LLC (collectively the "Parties") pursuant to the Brownfields Property Reuse Act of 1997, N.C.G.S. § 130A-310.30, et seq. (the "Act").

Alpha Mill, LLC, a manager-managed North Carolina limited liability company, is headquartered at 227 West Trade Street, Suite 800, Charlotte, NC 28202. Contingent upon entering into this Agreement, Alpha Mill, LLC will purchase the former Alpha Mill property, which is located at 311 East 12th Street in Charlotte, North Carolina. Alpha Mill, LLC proposes to redevelop the former Alpha Mill property as residential apartments, with the possible inclusion of commercial or retail businesses. A map showing the location of the property that is the subject of this Agreement is attached hereto as Exhibit 1.

The Parties agree to undertake all actions required by the terms and conditions of this Agreement. The purpose of this Agreement is to settle and resolve, subject to reservations and limitations contained in Section VIII (Certification), Section IX (DENR's Covenant Not to Sue and Reservation of Rights) and Section X (Prospective Developer's Covenant Not to Sue), the potential liability of Alpha Mills, LLC for contaminants at the property that is the subject of this Agreement.

The Parties agree that Alpha Mill, LLC's entry into this Agreement, and the actions undertaken by Alpha Mill, LLC in accordance with the Agreement, do not constitute an admission of any liability by Alpha Mill, LLC.

The resolution of this potential liability, in exchange for the benefit Alpha Mill, LLC shall provide to DENR, is in the public interest.

II. DEFINITIONS

Unless otherwise expressly provided herein, terms used in this Agreement which are defined in the Act or elsewhere in N.C.G.S. 130A, Article 9 shall have the meaning assigned to them in those statutory provisions, including any amendments thereto.

1. "Property" shall mean the Brownfields Property which is the subject of this Agreement, and which is described and depicted in Exhibit 1 of this Agreement.
2. "Prospective Developer" shall mean Alpha Mill, LLC.
3. Rights of Way definitions:
 - a. "Railroad rights of way" or "ROWS" shall mean:
 - i. the right of way owned by CSX Transportation Railroad over land at the northeastern edge of the Property that is depicted in Exhibit 2 hereto; and
 - ii. the right of way owned by the North Carolina Railroad Company over land at the northwestern edge the Property that is depicted in Exhibit 3 hereto.
 - b. "Former NCCR Right of Way Property" shall mean that portion of the property subject to the ROW described in paragraph 3.a.ii. above that, following several transactions that are to commence with Prospective Developer becoming owner in fee simple of the entire Property:

- i. is to be owned by the City of Charlotte,
- ii. will no longer be subject to a right of way held by the North Carolina Railroad Company, and
- iii. is slated to be used for mass transit purposes.

III. STATEMENT OF FACTS

4. The Property consists of a main parcel that comprises approximately 5.77 acres immediately north of the I-277 westbound access road, at 311 East 12th Street, Charlotte, Mecklenburg County, North Carolina, which lies at the northwest corner of East 12th Street and North Brevard Street. A second 0.69-acre parcel is located at the northeast corner of East 12th Street and North Brevard Street. The main parcel is bordered to the west by railroad tracks and right of way owned by Norfolk-Southern Railroad, to the north by railroad right of way and rail line owned by CSX Transportation Railroad, to the east by North Brevard Street, and to the south by 12th Street. The 0.69 parcel is bounded by North Brevard Street to the west, tracks of the North Carolina Railroad Company to the north, and the Brevard Caldwell Connector to the east and south. Improvements at the Property include a vacant 114,000 square foot, two-story manufacturing/office building, a small warehouse, a decommissioned wastewater pre-treatment plant with tanks, and parking areas. Prospective Developer has committed itself to redevelopment for no uses other than residential apartments, and possibly commercial or retail businesses.

5. The Property's main parcel was originally developed as a textile mill in 1889; mill homes that are no longer present were constructed on the smaller parcel in the early 1900s. The textile facility was operated by the Alpha Mill Company and later by the Chadwick-Hoskins

Company. Southern Industrial Properties, Inc. later operated on the main parcel until 1955. American-Marietta Company then operated there until the Property was purchased by Consolidated Engraver's, Inc., which is now known as Consolidated Group, Inc. ("CGI"), in 1960. There are no known underground storage tanks on the Property. CGI's operations included film processing, galvano and lacquer screen engraving, plasma and flame spray coating, thermal spray coating, metal plating, milling, sand blasting, grinding, polishing, embossing, and engraving by mechanical, chemical, electronic, and laser techniques. CGI ceased operations at this location and removed materials and manufacturing equipment, in 2001, since which time the Property has been vacant.

6. Prospective Developer obtained or commissioned the following reports, referred to hereinafter as the "Environmental Reports," regarding the Property:

Title	Prepared by	Date of Report
<i>Remedial Investigation Report</i>	Brown and Caldwell	March 2002
<i>Summary of Assessment Activities and Findings Former Alpha Mill</i>	Hart and Hickman, PC	September 15, 2003
<i>Letter of Intent to apply for Brownfields Agreement, with attachments.</i>	Prospective Developers	May 8, 2003
<i>Pre-Grading Soil Sampling Activities</i>	Hart and Hickman, PC	October 14, 2004

7. The two most recent environmental sampling events at the Property that are reported in the Environmental Reports occurred in May 2003 and October 2004. The following tables set forth, for contaminants present at the Property above unrestricted use standards, the maximum concentration found at each sample location and the applicable standard:

a. Soil contaminants (in milligrams per kilogram, the equivalent of parts per million), the standards for which are derived using the Guidelines of the Inactive Hazardous

Sites Branch of DENR's Superfund Section:

Soil Contaminant	Sample Location	Depth (in feet)	Date of Max. Concentration Sampling	Maximum Concentration above Std. (mg/kg)	Standard (mg/kg)
Arsenic	B-57	0.5 – 1.5	January 2001	42.4	4.4
Chromium VI	B-23	5.5 – 6.5	October 2000	474	30
Copper	B-71	2.5 – 3.5	January 2001	99,300	580
Lead	B-19	0.5 – 1.5	October 2000	2930	400
Nickel	B-25	7.5 – 8.5	November 2000	1640	320
Thalium	B-19	5.5 – 6.5	October 2000	5	1.04
Chlorobenzene	B-71	2.5 – 3.5	January 2001	130,000J	30
Tetrachloroethene	B-41	5.5 – 6.5	November 2000	78D	1.5
Trichloroethene	B-46	5.5 – 6.5	November 2000	11D	0.053
1,3-Dichlorobenzene	B-71	2.5 – 3.5	January 2001	4.2JD	2.6
1,4-Dichlorobenzene	B-71	2.5 – 3.5	January 2001	42D	3.4
Naphthalene	B-48	9.0 – 10.0	November 2000	38	11.2
2-methyl Naphthalene	B-21	0.5 – 1.5	October 2000	37	11.2
Indeno(1,2,3-cd)pyrene	B-18	0.5 – 1.5	October 2000	17D	0.62
Dibenz(a,h)anthracene	B-50	0.5 – 1.5	November 2000	5D	0.062
Benzo(k)fluoranthene	B-50	0.5 – 1.5	November 2000	22D	6.2
Benzo(b)fluoranthene	B-50	0.5 – 1.5	November 2000	32D	0.62
Benzo(a)pyrene	B-18	0.5 – 1.5	October 2000	23D	0.062
Benzo(a)anthracene	B-18	0.5 – 1.5	October 2000	24D	0.62

J – reported concentration is estimated

D – sample was diluted for analysis

b. Groundwater contaminants (in micrograms per liter, the equivalent of parts per billion), the standards for which are in Title 15A of the North Carolina Administrative Code, Subchapter 2L, Rule .0202:

Groundwater Contaminant	Sample Location	Date of Max. Concentration Sampling	Maximum Concentration above Std. (µg/L)	Groundwater Standard (µg/L)*
Cadmium	MW-11i	October 2001	17	5
Chromium (total)	MW-8s	October 2001	8200	50
Lead	MW-11i	October 2001	22	15
Nickel	MW-3s	October 2001	470	100
Benzene	MW-10d	October 2001	1.5	1
Bromodichloromethane	MW-6s	October 2001	0.85	0.56
Chloroform	MW-6s	October 2001	43	0.19
Tetrachloroethene	MW-7i	October 2001	390D	0.7
Trichloroethene	MW-1s	October 2001	200D	2.8
Nitrosodiphenylamine	MW-9i	October 2001	6.4	0.0007
Bis(2-ethylhexyl)phthalate	MW-3s	October 2001	120D	3

D – sample was diluted for analysis

8. For purposes of this Agreement, DENR relies on Prospective Developer's representations that Prospective Developer's involvement with the Property has been limited to assessing the Property prior to purchasing it, entering into a contract on April 11, 2003 to purchase it, and preparing an environmental summary report.

9. Prospective Developer has provided DENR with information, or sworn certifications regarding that information on which DENR relies for purposes of this Agreement, sufficient to demonstrate that

a. Prospective Developer and any parent, subsidiary, or other affiliate has substantially complied with federal and state laws, regulations and rules for protection of the environment, and with the other agreements and requirements cited at N.C.G.S. § 130A-310.32(a)(1);

b. As a result of the implementation of this Agreement, the Property will be suitable for the uses specified in the Agreement while fully protecting public health and the environment;

c. Prospective Developer's reuse of the Property will produce a public benefit commensurate with the liability protection provided Prospective Developer hereunder;

d. Prospective Developer has or can obtain the financial, managerial and technical means to fully implement this Agreement and assure the safe use of the Property; and

e. Prospective Developer has complied with all applicable procedural requirements.

10. Prospective Developer has paid the \$2,000 fee to seek a brownfields agreement required by N.C.G.S. § 130A-310.39(a)(1). Pursuant to N.C.G.S. § 130A-310.39(a)(2), the procedure upon which Prospective Developer and DENR have agreed for payment of the full cost to DENR and the North Carolina Department of Justice ("DOJ") of all activities related to this Agreement is that Prospective Developer shall pay any amount by which DOJ's hours, multiplied by \$36.24, exceed the \$2,000 fee referenced above in this paragraph. (DENR has incurred no costs.)

IV. BENEFIT TO COMMUNITY

11. The redevelopment of the Property proposed herein would provide the following public benefits:

a. restoration of the Property to productive use;

b. jobs during and after redevelopment;

c. an anticipated significant improvement in the Property's tax value;

d. catalysis of other development in the area with a consequent increase in property values.

V. WORK TO BE PERFORMED

11. Prospective Developer shall complete the remedial actions prescribed by this Section V, to DENR's satisfaction, within thirty (30) months after the effective date of this Agreement and prior to any residential use of the Property. Prospective Developer shall ensure that an environmental engineer, in addition to performing any and all other duties assigned by Prospective Developer, oversees all removal of contaminated soil required pursuant to this Agreement and, post-removal, inspects the Property to verify that contaminated soil has been managed by the methods specified in this Agreement. Analysis of all sampling required by this Agreement shall be by a laboratory certified by DENR's Division of Water Quality. To the extent any activities required of Prospective Developer by this Agreement would violate the land use restrictions set forth in this Section, the same shall not be considered violations.

12. Prospective Developer shall ensure that contaminated soil below buildings on the Property that Prospective Developer restores, and below existing paved areas, remains below those buildings and paved areas, except as may be permitted pursuant to paragraph 24.c. below. Before lowering the grade and installing an impervious surface (e.g., asphalt, concrete or a building) anywhere on the Property, Prospective Developer shall remove contaminated soils to the depth required to achieve final grade, and dispose of the soil at an off-site facility in accordance with law. In areas of the Property where Prospective Developer raises the grade and installs an impervious surface, Prospective Developer shall leave contaminated soils in place and shall place clean fill or other material acceptable to DENR above the contaminated soil as

required to achieve final grade, except as specified below in paragraphs 16 and 17. Prior to placement of any landscaping materials on the Property, Prospective Developer shall place two (2) feet of clean fill or other material acceptable to DENR between the contaminated soil and the landscaping materials. However, where the desired grade would not allow contaminated soil to remain along with two (2) feet of clean fill or other material acceptable to DENR, Prospective Developer shall remove as much contaminated soil as is necessary to allow for same and shall dispose of said soil at an off-site facility in accordance with law.

13. Before restoring particular buildings, Prospective Developer shall backfill, with concrete or other material acceptable to DENR, any pits, sumps and other subsurface openings within them, and shall seal or otherwise secure access points to sub-floor areas. Prospective Developer shall backfill, with clean soils or other material acceptable to DENR, any pits, sumps and other subsurface openings in demolition areas.

14. Building I: Building I is slated to be restored as part of Prospective Developer's redevelopment of the Property. To reduce potential volatile organic vapor concentrations in that building resulting from contaminant releases at the Property, Prospective Developer shall place a synthetic vapor barrier such as polyethylene on the ground surface within accessible portions of the crawlspace. The barrier shall be laid in an overlapping pattern on the ground surface and positioned as required to avoid crawlspace obstructions such as pilings and piping.

15. Building I Demolition: Prospective Developer plans to demolish part of Building I in the course of redeveloping the Property; in place of the part to be demolished, parking, landscaping and sidewalks are planned. Prospective Developer shall remove the part it demolishes (shown on the reduced plat attached hereto as Exhibit 4) and associated concrete

flooring to existing grade level, and shall backfill the concrete-lined chromic acid tank pits, along with other subsurface openings that may be present in the demolition area, with clean fill or other material acceptable to DENR. Soil contamination at concentrations exceeding applicable standards is present at locations beneath and in the vicinity of Building I, and primarily involves (parentheticals refer to Remedial Investigation borings shown on reduced plat attached hereto as Exhibit 4) PCE (B-21), arsenic (B-66), copper (B-27, B-37 and B-73) and PAH compounds (B-39). Chromium-contaminated soil is present beneath the concrete flooring of Building I in the vicinity of two former concrete chromium tank pits and Remedial Investigation borings B-23, and B-77 through B-84.

16. Due to the size, age, and type of shallow brick footing used for Building I, excavation adjacent to it will create notable foundation stability concerns. Accordingly, soil within eighteen (18) feet of the west side of the building may not be excavated beyond a depth of four (4) feet. Following excavation of the area surrounding Building I, Prospective Developer shall fill what remains of the tank pit openings with gravel. Prospective Developer shall then cover, with a sub-grade concrete cap at a depth of four (4) feet, contaminated soil that remains in the approximately sixty (60)-foot long area. Prospective Developer shall slope this sub-grade cap to divert infiltrating rainwater from the contaminated soils that will remain in place. Following construction of the sub-grade concrete cap, Prospective Developer shall backfill the excavation to the desired grade with clean fill or other material acceptable to DENR, and shall install asphalt parking and landscaping at grade.

17. Prospective Developer shall address other chromium-contaminated soil under this Agreement. Said soil is located in an area bounded by the remaining west wall of Building I and

Remedial Investigation borings B-23, B-79, B-80, B-81, and B-84 (see reduced plat attached hereto as Exhibit 4). Prospective Developer shall excavate this approximately 70-foot long area of borings laterally an additional seven (7) feet beyond the edge of the adjoining 4-foot deep excavation and to the depth of the local water table (approximately 8 to 10 feet). Prospective Developer shall backfill this excavation to the desired grade with clean fill or other material acceptable to DENR, and shall construct an asphalt parking area on top.

18. Prior to backfilling the subject excavation near Building I, Prospective Developer shall perform confirmatory sampling. Such sampling shall include a five-point sidewall composite sample of each of the two short sidewalls of the 4-foot deep excavation. The two composite samples will be analyzed for total hexavalent chromium and the analytical results will be compared to DENR's Inactive Hazardous Sites Program Soil Remediation Goal for that contaminant (30 mg/kg).

19. Building II: Prospective Developer's plans for the Property call for the architecturally significant majority of Building II to be restored and for the concrete floor to remain in place. As evidenced by findings at Remedial Investigation boring B-19, the primary soil contaminant present beneath Building II in excess of applicable standards is lead. Prospective Developer shall fill with concrete or suitable fill, or shall otherwise secure, any and all sumps and access points to the sub-floor in Building II.

20. Building II Demolition: Prospective Developer plans to demolish the newer portions of Building II and to expose the original, architecturally significant structure. Based on evidence from Remedial Investigation borings B-17 and B-58, the primary soil contaminants present in

excess of applicable standards, in the vicinity of Building II to be demolished, are PAH compounds.

a. Prospective Developer shall remove the part of Building II that it demolishes (shown on the reduced plat attached hereto as Exhibit 4), and associated concrete flooring, to existing grade level. Any pits, sumps, and other subsurface openings in the demolition area will be backfilled with clean fill or other material acceptable to DENR.

b. Prospective Developer shall address contaminated soils associated with Building II in conformance with paragraph 12 above

21. Building III: Plans call for the architecturally significant majority of Building III and the concrete floor to remain in place and be restored as part of Prospective Developer's redevelopment of the Property. As evidenced by the referenced borings, the primary soil contaminants present in excess of applicable standards beneath the portion of Building III to be preserved are nickel (borings B-92, B-33 and B-89), copper (borings B-88, B-29 and B-32) and PAH compounds (borings B-28 and B-31). The nickel and copper contamination lies at depths up to approximately eight (8) feet and is associated with a former concrete-lined drainage trench inside the portion of Building III that will remain in place.

a. Prospective Developer shall backfill, with concrete or other suitable fill material, the concrete-lined drainage trench in Building III. Any sumps and other access points to the sub-floor in Building III will be filled with concrete or otherwise secured.

b. Prospective Developer shall address contaminated soils associated with Building III (as evidenced by Remedial Investigation borings B-17, B-18, B-20, B-48, B-57, B-

60 through B-63, B-65 and B-76), other than those beneath the portion to be preserved, in conformance with paragraph 12 above.

22. Building III Demolition: Prospective Developer plans to demolish the newer portions of Building III and to expose the original, architecturally significant structure. Borings B-34, and B-49 and B-50, respectively, indicate that the primary soil contaminants present in excess of applicable standards beneath and in the vicinity of these newer portions of Building III are arsenic and PAH compounds.

a. Prospective Developer shall remove the part of Building III it demolishes (shown on the reduced plat attached hereto as Exhibit 4), and associated concrete flooring, to existing grade level. Any pits, sumps, and other subsurface openings in the demolition area will be backfilled with clean fill or other material acceptable to DENR.

b. Prospective Developer shall address contaminated soils under Building III that are associated with Remedial Investigation borings B-34, B-49 and B-50 in conformance with paragraph 12 above.

23. Building IV: Plans call for Building IV to remain in place and be restored as part of Prospective Developer's redevelopment of the Property. The primary soil contaminants present, in excess of applicable standards, beneath and in the vicinity of Building IV are arsenic, chromium VI, copper, chlorobenzene, chloroform, thallium and bis(2-ethylhexyl)phthalate.

a. Prospective Developer shall leave in place the soil that is contaminated, as evidenced by Remedial Investigation borings B-44 (chromium), B-43 (bis 2(ethylhexyl)phthalate) and B-45 (chloroform), under Building IV.

b. A portion of Building IV has a wooden floor. Prospective Developer shall anchor a polyethylene barrier over the soils beneath the portion of the building equipped with a wooden floor. Any sumps and access points to the sub-floor in Building IV will be filled with concrete or suitable fill, or otherwise sealed and secured.

c. Copper- and chlorobenzene-contaminated soil extends to a depth of 3.5 feet outside Building IV, at Remedial Investigation boring B-71. Prospective Developer shall excavate an area approximately five (5) feet wide, by five (5) feet long, by four (4) feet deep around that boring. Prior to backfilling with clean fill or other material acceptable to DENR, Prospective Developer shall collect one five-point composite confirmation sample from each of the excavation sidewalls other than that next to the building. The composite samples will be analyzed for total copper and chlorobenzene, and the analytical results will be compared to the then applicable Soil Remediation Goal for these contaminants of DENR's Inactive Hazardous Sites Program.

d. Outside Building IV, beyond the contamination referenced in the preceding subparagraph, there is contamination associated with Remedial Investigation borings B-59 (arsenic) and B-54 (thallium). Prospective Developer shall address said contamination in conformance with paragraph 12 above.

e. Prior to construction of a suitable replacement structure if restoration of Building IV proves impracticable, Prospective Developer shall address soils at borings B-71, B-59 and B-54 in the same way the soils at issue in the preceding two subparagraphs are required to be addressed, and shall address contamination within the footprint of Building IV in conformance with paragraph 12 above.

24. By way of the Notice of Brownfields Property referenced below in paragraph 29, Prospective Developer shall impose the following land use restrictions under the Act, running with the land, to make the Property safe for the uses specified in this Agreement while fully protecting public health and the environment. These restrictions shall apply to the land affected by, and the owners of, the Property's railroad rights of way to the extent the restrictions do not conflict with the rights granted in those rights of way.

a. No surface water or groundwater at the Property may be used for any purpose without the approval of DENR or its successor in function.

b. No activities that encounter, expose, remove or use groundwater (for example, installation of water supply wells, fountains, ponds, lakes or swimming pools that extend to groundwater, or construction or excavation activities that encounter or expose groundwater) may occur on the Property without prior sampling and analysis of groundwater to the satisfaction of DENR or its successor in function in any areas proposed for such activities, and submittal of the analytical results to DENR or its successor in function. If such results disclose to DENR or its successor in function contamination in excess of North Carolina's groundwater quality standards, the proposed activities may not occur without the approval of DENR or its successor in function on such conditions as DENR or its successor in function imposes, including at a minimum compliance with plans and procedures, approved pursuant to applicable law, to protect public health and the environment during the proposed activities.

c. Soil underlying paved surfaces and buildings at the Property may not be exposed without the performance of any prior sampling that DENR or its successor in function requires, and submittal of the analytical results of any such sampling to DENR or its successor in

function. If the results of any such sampling disclose contamination in excess of the applicable standards as determined by DENR or its successor in function, the soil may not be exposed without the approval of DENR or its successor in function on such conditions as DENR or its successor in function imposes, including at a minimum compliance with plans and procedures, approved pursuant to applicable law, to protect public health and the environment during the activities that would expose such soil.

d. Soil underlying landscaping materials at the Property, including but not limited to plants, flowers, trees, shrubs or any other above-ground vegetation, may not be disturbed, nor may landscaping materials be planted, without the prior addition of two (2) feet of clean fill or other material acceptable to DENR or its successor in function. If the desired grade would not allow said addition, as much soil as is necessary to allow said addition may be removed and disposed of in accordance with law. Incidental disturbance of soil in the subject areas, in connection with maintenance of landscaping materials, shall not constitute a violation of this land use restriction.

e. No mining may be conducted on or under the Property, including, without limitation, extraction of coal, oil, gas or any other minerals or non-mineral substances.

f. No basements may be constructed on the Property unless they are, as determined by DENR or its successor in function, vented in conformance with applicable building codes.

g. None of the contaminants known to be present in the environmental media at the Property, including those listed in paragraph 7 of this Agreement, may be used or stored at the Property without the prior approval of DENR or its successor in function, except in *de*

minimis amounts for cleaning and other routine housekeeping activities.

h. During January of each year after this Agreement becomes effective, the then owner of the affected portion of the Property shall sample monitoring wells MW-1s, MW-2s, MW-7i and a point near sample location SUR-4, all as shown on Exhibit 4 hereto. Said owner shall effect analysis of the samples for volatile organic compounds, total chromium, hexavalent chromium and copper, and shall report the results to DENR each year as part of the update required by subparagraph 24.i. below. After the third year of sampling, the then owner of the Property may seek DENR's written authorization to discontinue sampling or change its frequency.

i. During January of each year after this Agreement becomes effective, but not prior to securing of the sampling results referenced in the preceding subparagraph, the then current owner of any part of the Property shall submit a notarized Land Use Restrictions Update to DENR or its successor in function certifying that the Notice of Brownfields Property containing these land use restrictions remains recorded at the Mecklenburg County register of deeds office, and that the land use restrictions are being complied with.

25. The desired result of the above-referenced remediation and land use restrictions is to make the Property suitable for the uses specified in the Agreement while fully protecting public health and the environment.

26. The guidelines, including parameters, principles and policies within which the desired results are to be accomplished are the Guidelines of the Inactive Hazardous Sites Branch of DENR's Superfund Section as well as the North Carolina Brownfields Program Guidelines and Issue Resolutions, as embodied in their most current version, except for Issue Resolution 13;

as to that Issue Resolution, the applicable version is the one current when this Agreement becomes effective.

27. The consequences of achieving or not achieving the desired results will be that the property is or is not suitable for the uses specified in the agreement while fully protecting public health and the environment.

VI. ACCESS/NOTICE TO SUCCESSORS IN INTEREST

28. Commencing upon the effective date of this Agreement, Prospective Developer agrees to provide to DENR, its authorized officers, employees, representatives, and all other persons performing response actions under DENR oversight, an irrevocable right of access at all reasonable times to the Property and to any other property to which access is required for the implementation of response actions at the Property, to the extent access to such other property is controlled by Prospective Developer, for the purposes of performing or overseeing response actions at the Property under applicable law. DENR agrees to provide reasonable notice to Prospective Developer of the timing of response actions to be undertaken at the Property. Notwithstanding any provision of this Agreement, DENR retains all of its authorities and rights, including enforcement authorities related thereto, under the Act and any other applicable statute or regulation, including any amendments thereto.

29. DENR has approved, pursuant to N.C.G.S. § 130A-310.35, a Notice of Brownfields Property for the Property containing, inter alia, the land use restrictions set forth in Section V (Work to Be Performed) of this Agreement and a survey plat of the Property. Pursuant to N.C.G.S. § 130A-310.35(b), within 15 days of the effective date of this Agreement Prospective Developer shall file the Notice of Brownfields Property in the Mecklenburg County, North

Carolina register of deeds' office. Within three days thereafter, Prospective Developer shall furnish DENR a copy of the documentary component of the Notice containing a certification by the register of deeds as to the Book and Page numbers where both the documentary and plat components of the Notice are recorded, and a copy of the plat with notations indicating its recordation.

30. This Agreement shall be attached as Exhibit A to the Notice of Brownfields Property. Subsequent to recordation of said Notice, any lease, deed or other instrument conveying an interest in the Property shall contain the following notice: "The property which is the subject of this instrument is subject to the Brownfields Agreement attached as Exhibit A to the Notice of Brownfields Property recorded in the Mecklenburg County land records, Book ____, Page ____." A copy of any such instrument shall be sent to the persons listed in Section XV (Notices and Submissions), though financial figures related to the conveyance may be redacted. To the extent a standard lease is used, one (1) copy of it may be sent, as well as a copy each time it is modified, along with certification that it is a standard lease.

31. Prospective Developer shall ensure that assignees, successors in interest, lessees and sublessees of the Property shall provide the same access and cooperation. Prospective Developer shall ensure that a copy of this Agreement is provided to any current lessee or sublessee on the Property as of the effective date of this Agreement and shall use its best efforts to ensure that any subsequent leases, subleases, assignments or transfers of the Property or an interest in the Property are consistent with this Section, Section V (Work to be Performed) and Section XI (Parties Bound/Transfer of Covenant) of this Agreement.

VII. DUE CARE/COOPERATION

32. Prospective Developer shall exercise due care at the Property with respect to regulated substances and shall comply with all applicable local, State, and federal laws and regulations. Prospective Developer agrees to cooperate fully with any remediation of the Property by DENR and further agrees not to interfere with any such remediation. DENR agrees, consistent with its responsibilities under applicable law, to use reasonable efforts to minimize any interference with Prospective Developer's operations by any such remediation. In the event Prospective Developer becomes aware of any action or occurrence which causes or threatens a release of contaminants at or from the Property, Prospective Developer shall immediately take all appropriate action to prevent, abate, or minimize such release or threat of release, except to the extent doing so would conflict with the rights of the owners of the Property's railroad rights of way, and shall, in addition to complying with any applicable notification requirements under N.C.G.S. 130A-310.1 and 143-215.84, and Section 103 of CERCLA, 42 U.S.C. § 9603, or any other law, immediately notify DENR of such release or threatened release.

VIII. CERTIFICATION

33. By entering into this agreement, Prospective Developer certifies that, without DENR approval, it will make no use of the Property other than that committed to in the Brownfields Letter of Intent dated May 8, 2003 by which it applied for this Agreement. That use is residential, with the possible inclusion of compatible commercial or retail businesses. Prospective Developer also certifies that to the best of its knowledge and belief it has fully and accurately disclosed to DENR all information known to Prospective Developer and all information in the possession or control of its officers, directors, employees, contractors and

agents which relates in any way to any regulated substances at the Property and to its qualification for this Agreement, including the requirement that it not have caused or contributed to the contamination at the Property.

IX. DENR'S COVENANT NOT TO SUE AND RESERVATION OF RIGHTS

34. Unless one of the following applies, Prospective Developer shall not be liable to DENR, and DENR covenants not to sue Prospective Developer, for remediation of the Property except as specified in this Agreement. In the event that DENR determines that any of the circumstances described in subparagraphs 34.a.-h. below exist solely in relation to the areas referenced in paragraph 3 above, Prospective Developer shall not be required to conduct remediation for which it is liable other than in those areas unless DENR determines that conditions arising on or implicating another portion of the Property are present.

a. Prospective Developer fails to comply with this Agreement.

b. The activities conducted on the Property by or under the control or direction of Prospective Developer increase the risk of harm to public health or the environment, in which case Prospective Developer shall be liable for remediation of the areas of the Property, remediation of which is required by this Agreement, to the extent necessary to eliminate such risk of harm to public health or the environment.

c. A land use restriction set out in the Notice of Brownfields Property required under § N.C.G.S. 130A-310.35 is violated while Prospective Developer owns the Property, in which case Prospective Developer shall be responsible for remediation of the Property to unrestricted use standards. This provision does not apply to any violation caused by a party legally exercising rights under the railroad rights of way.

d. Prospective Developer knowingly or recklessly provided false information that formed a basis for this Agreement or knowingly or recklessly offers false information to demonstrate compliance with this Agreement or fails to disclose relevant information about contamination at the Property.

e. New information indicates the existence of previously unreported contaminants or an area of previously unreported contamination on or associated with the Property that has not been remediated to unrestricted use standards, unless this Agreement is amended to include any previously unreported contaminants and any additional areas of contamination. If this Agreement sets maximum concentrations for contaminants, and new information indicates the existence of previously unreported areas of these contaminants, further remediation shall be required only if the areas of previously unreported contaminants raise the risk of the contamination to public health or the environment to a level less protective of public health and the environment than that required by this Agreement.

f. The level of risk to public health or the environment from contaminants is unacceptable at or in the vicinity of the Property due to changes in exposure conditions, including (i) a change in land use that increases the probability of exposure to contaminants at or in the vicinity of the Property, except to the extent such change results from the valid exercise of rights under the railroad rights of way, or (ii) the failure of remediation to mitigate risks to the extent required to make the Property fully protective of public health and the environment as planned in this Agreement.

g. The Department obtains new information about a contaminant associated with the Property or exposures at or around the Property that raises the risk to public health or the

environment associated with the Property beyond an acceptable range and in a manner or to a degree not anticipated in this Agreement.

h. Prospective Developer fails to file a timely and proper Notice of Brownfields Property under N.C.G.S. 130A-310.35.

35. Except as may be provided herein, DENR reserves its rights against Prospective Developer as to liabilities beyond the scope of the Act, including those regarding petroleum underground storage tanks pursuant to Part 2A, Article 21A of Chapter 143 of the General Statutes.

36. This Agreement does not waive any applicable requirement to obtain a permit, license or certification, or to comply with any and all other applicable law, including the North Carolina Environmental Policy Act, N.C.G.S. § 113A-1, *et seq.*

X. PROSPECTIVE DEVELOPER'S COVENANT NOT TO SUE

37. In consideration of DENR's Covenant Not To Sue in Section IX of this Agreement (DENR's Covenant Not to Sue and Reservation of Rights) and in recognition of the absolute State immunity provided in N.C.G.S. § 130A-310.37(b), Prospective Developer hereby covenants not to sue and not to assert any claims or causes of action against DENR, its authorized officers, employees, or representatives with respect to any action implementing the Act, including negotiating, entering, monitoring or enforcing this Agreement or the above-referenced Notice of Brownfields Property.

XI. PARTIES BOUND & TRANSFER/ASSIGNMENT NOTICE

38. This Agreement shall apply to and be binding upon DENR, and on Prospective Developer, its officers, directors, employees, and agents. Each Party's signatory to this

Agreement represents that she or he is fully authorized to enter into the terms and conditions of this Agreement and to legally bind the Party for whom she or he signs.

39. No later than fourteen (14) days prior to any transfer or assignment by Prospective Developer of any interest in the Property, Prospective Developer shall provide in writing to DENR the transferee or assignee's name, mailing address, telephone and facsimile numbers, and e-mail address.

XII. DISCLAIMER

40. This Agreement in no way constitutes a finding by DENR as to the risks to public health and the environment which may be posed by regulated substances at the Property, a representation by DENR that the Property is fit for any particular purpose, nor a waiver of Prospective Developer's duty to seek applicable permits or of the provisions of N.C.G.S. § 130A-310.37.

XIII. DOCUMENT RETENTION

41. Prospective Developer agrees to retain and make available to DENR all business and operating records, contracts, site studies and investigations, and documents relating to operations at the Property, for ten years following the effective date of this Agreement, unless otherwise agreed to in writing by the Parties. At the end of ten years, Prospective Developer shall notify DENR of the location of such documents and shall provide DENR with an opportunity to copy any documents at the expense of DENR.

XIV. PAYMENT OF ENFORCEMENT COSTS

42. If Prospective Developer fails to comply with the terms of this Agreement, including, but not limited to, the provisions of Section V (Work to be Performed), it shall be liable for all

litigation and other enforcement costs incurred by DENR to enforce this Agreement or otherwise obtain compliance.

XV. NOTICES AND SUBMISSIONS

43. Unless otherwise required by DENR or a Party notifies the other Party in writing of a change in contact information, all notices and submissions pursuant to this Agreement shall be sent by prepaid first class U.S. mail, as follows:

a. for DENR:

Ms. Lisa Taber
N.C. Division of Waste Management
Brownfields Program
401 Oberlin Road, Suite 150
Raleigh, NC 27605

b. for Prospective Developer:

Mr. Justin F. Little
Alpha Mill, LLC
227 W. Trade Street, Suite 800
Charlotte, NC 28202

Notices and submissions sent by prepaid first class U.S. mail shall be effective on the third day following postmarking. Notices and submissions sent by hand or by other means affording written evidence of date of receipt shall be effective on such date.

XVI. EFFECTIVE DATE

44. This Agreement shall become effective on the date Prospective Developer signs it, after receiving it, signed, from DENR. Prospective Developer shall sign the Agreement within seven (7) days following such receipt.

XVII. TERMINATION OF CERTAIN PROVISIONS

45. If any Party believes that any or all of the obligations under Section VI (Access/Notice to Successors in Interest) are no longer necessary to ensure compliance with the requirements of the Agreement, that Party may request in writing that the other Party agree to terminate the provision(s) establishing such obligations; provided, however, that the provision(s) in question shall continue in force unless and until the Party requesting such termination receives written agreement from the other Party to terminate such provision(s).

XVIII. CONTRIBUTION PROTECTION

46. With regard to claims for contribution against Prospective Developer in relation to the subject matter of this Agreement, Prospective Developer is entitled to protection from such claims to the extent provided by N.C.G.S. § 130A-310.37(a)(5)-(6). The subject matter of this Agreement is all remediation taken or to be taken and response costs incurred or to be incurred by DENR or any other person in relation to the Property.

47. Prospective Developer agrees that, with respect to any suit or claim for contribution brought by it in relation to the subject matter of this Agreement, it will notify DENR in writing no later than 60 days prior to the initiation of such suit or claim.

48. Prospective Developer also agrees that, with respect to any suit or claim for contribution brought against it in relation to the subject matter of this Agreement, it will notify DENR in writing within 10 days of service of the complaint on it.

XIX. PUBLIC COMMENT

49. This Agreement shall be subject to a public comment period of at least sixty days starting the day after publication of the approved summary of the Notice of Intent to Redevelop a

Brownfields Property required by N.C.G.S. § 130A-310.34 in the North Carolina Register, or the day after publication of the same in a newspaper of general circulation serving the area in which the Property is located, whichever occurs later. After expiration of that period, or following a public meeting if DENR holds one pursuant to N.C.G.S. § 130A-310.34(c), DENR may modify or withdraw its consent to this Agreement if comments received disclose facts or considerations which indicate that this Agreement is inappropriate, improper or inadequate.

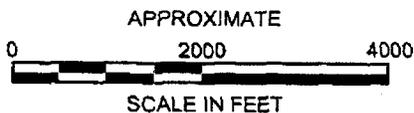
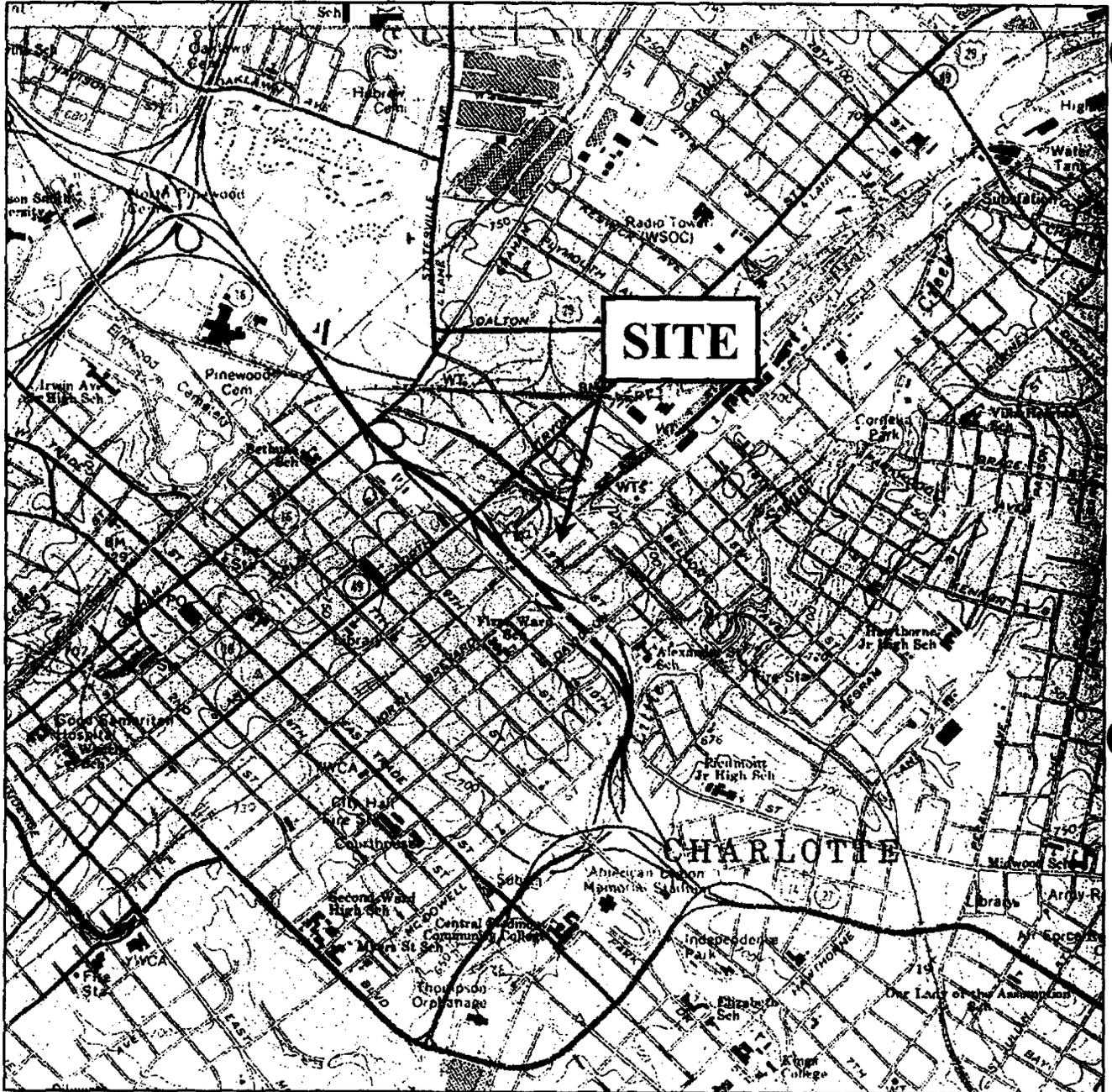
IT IS SO AGREED:
NORTH CAROLINA DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

By: Linda M. Culpepper June 15, 2005
Linda M. Culpepper Date
Deputy Director, Division of Waste Management

IT IS SO AGREED:
Alpha Mill, LLC
By: Crosland Alpha Mill, LLC, Manager
By: Crosland, Inc., Manager of Crosland Alpha Mill, LLC

By: Justin F. Little
Justin F. Little, Vice President, Crosland, Inc.

Exhibit 1



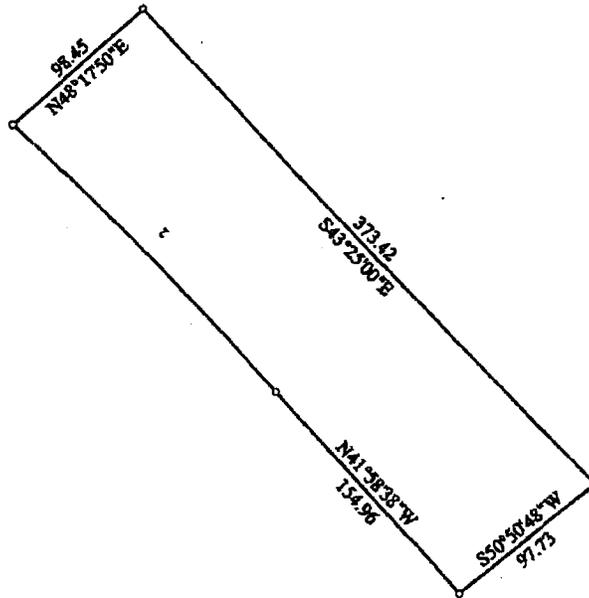
U.S.G.S. QUADRANGLE MAP

CHARLOTTE EAST, NC 1967, PHOTO REVISED 1988

QUADRANGLE
7.5 MINUTE SERIES (TOPOGRAPHIC)

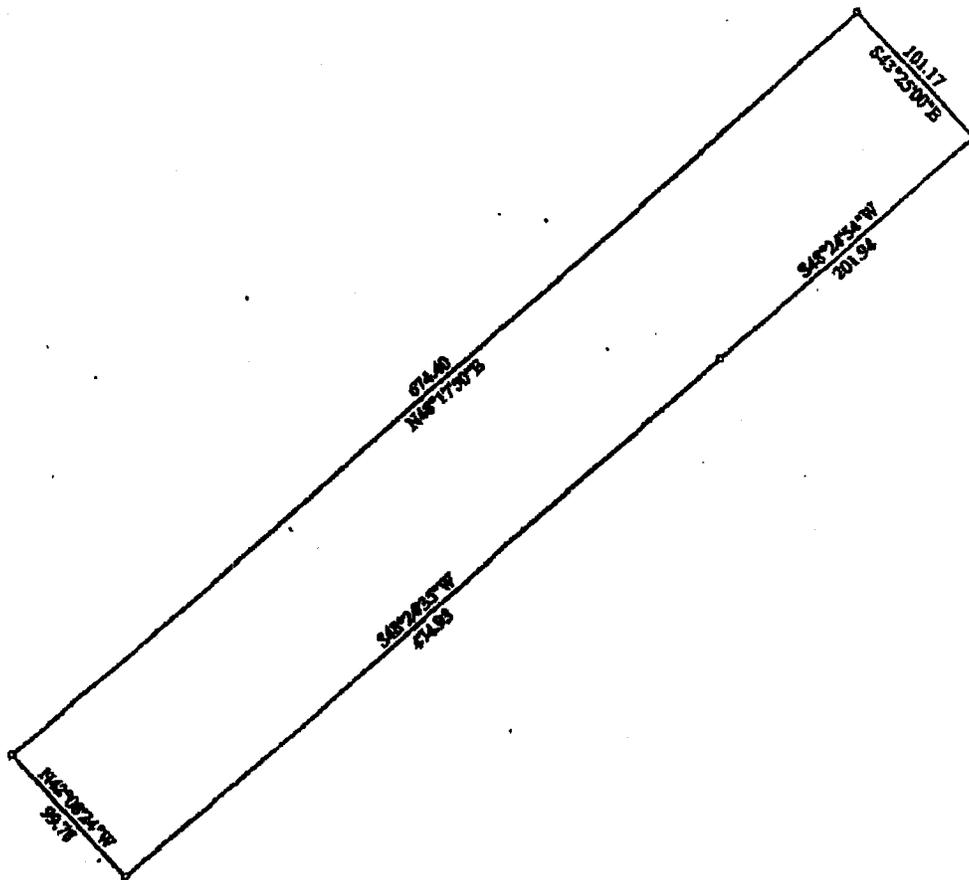
TITLE	SITE LOCATION MAP	
PROJECT	ALPHA MILL SITE CHARLOTTE, NORTH CAROLINA	
	 Hart & Hickman 501 Nimmet Lane, Suite 101 Charlotte, North Carolina 28217 A Professional Corporation (704) 586-0007 (704) 586-0373 fax	
DATE:	8-27-03	REVISION NO: 0
JOB NO:	CRO-003	FIGURE NO: 1

CSX "Exhibit 2"



Title: 100' CSX Transportation Railroad Right-of-Way		Date: 02-28-2005
Scale: 1 inch = 100 feet	File:	
Tract 1: 0.808 Acres: 35199 Sq Feet: Closure = s52.1724e 0.01 Feet: Precision = 1/157485: Perimeter = 939 Feet		
001=N41.5838W 154.96 002=Ls, R=2245.64, Arc=214.33 Bog=N44.6240W, Cht=214.25	003=N48.1750E 98.45 004=S43.2500E 373.42	005=S50.5048W 97.73

NCRR "Exhibit 3"



Title: 100' Norfolk Southern Railroad		Date: 02-28-2005
Scale: 1 inch = 100 feet	File:	
Tract 1: 1.558 Acres: 67862 Sq Feet: Closure = n48.1736e 0.20 Feet: Precision = 1/7601: Perimeter = 1552 Feet		
001-N48.1750E 674.40	003-S48.2454W 201.94	005-N42.0824W 99.78
002-S43.2500E 101.17	004-S48.2435W 474.93	

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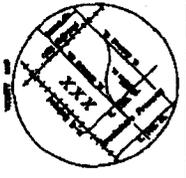
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LAND USE RESTRICTIONS:

The restrictions herein are intended to be read in conjunction with the restrictions set forth in the plat of the subdivision of the land shown on the attached map. The restrictions herein are intended to be read in conjunction with the restrictions set forth in the plat of the subdivision of the land shown on the attached map. The restrictions herein are intended to be read in conjunction with the restrictions set forth in the plat of the subdivision of the land shown on the attached map.



A.C. ZOUTEWELLE SURVEYORS
 1000 ...
 ...

OWNER IS THE HOLDER OF Recordable Property
OLD ALBANY CEMENT MILL
 CEMENT MILLS COMPANY, INC. (former)
 1000 ...
 ...

Exhibit C

LEGAL DESCRIPTION

BEING all of those certain tracts or parcels of land located in the City of Charlotte, Mecklenburg County, North Carolina and being more particularly described as follows:

TRACT I

BEGINNING at an iron pipe set at the intersection of the northwesterly margin of the right-of-way of North Brevard Street (right-of-way varies) and the easterly margin of the right-of-way of East 12th Street (a 40 foot public right-of-way) and continuing along the easterly margin of the right-of-way of East 12th Street North 42-08-24 West 430.67 feet to an iron pipe set located in the southerly corner of the property of North College Street properties (now or formerly) as described in Deed recorded in Book 6245 Page 368 of the Mecklenburg County Public Registry and also being located along the tracks of Norfolk Southern Railroad; thence, along the southeasterly line of the North College Street properties and the southeasterly line of the property of the City of Charlotte (now or formerly) as described in Deed Recorded in Book 9411 Page 217 of the Mecklenburg County Public Registry (shown on map recorded in Map Book 28 Page 880 of said Registry) and continuing along the tracks of Norfolk Southern Railroad North 48-17-50 East 674.60 feet to an iron pipe set which iron pipe is located at or near the intersection of the tracks of Norfolk Southern Railroad and the tracks of the CSX Transportation Railroad; thence, through the right-of-way of CSX Transportation Railroad (as shown on map recorded in Map Book 1166 Page 317 of the Mecklenburg County Public Registry) the following three courses and distances: (1) South 43-25-00 East 373.42 feet to an iron pipe set, (2) South 50-50-48 West 97.73 feet to an iron pipe set; and (3) South 42-01-31 East 95.24 feet to an iron pipe set in the northwesterly margin of the right-of-way of North Brevard Street; thence, along the northwesterly margin of the right-of-way of North Brevard Street the following three courses and distances: (1) South 50-46-00 West 320.90 feet to an iron pipe set, (2) South 58-22-16 West 65.58 feet to an iron pipe set, and (3) South 50-38-18 West 200.38 feet to an iron pipe set being the point and place of BEGINNING and containing approximately 6.8173 acres as shown on the survey entitled ALTA/ACSM Land Title Survey Old Alpha Cotton Mill prepared by A.G. Zoutewelle Surveyors dated June 25, 2003.

TRACT II

BEGINNING at an iron pipe set in the southeasterly margin of the right-of-way of North Brevard Street (variable public right-of-way) and located in the northerly corner of the property of the City of Charlotte (now or formerly) as described in Deed recorded in Book 3700 Page 405 of the Mecklenburg County Public Registry and continuing along the southeasterly margin of the right-of-way of North Brevard Street North 50-48-35 East 305.51 feet to an iron pipe found located in the southwesterly margin of the right-of-way of CSX Transportation Railroad; thence,

along the southwesterly margin of the right-of-way of CSX Transportation Railroad South 42-01-31 East 96.70 feet to an iron pipe found located in the northerly corner of Lot 12 as shown on map recorded in Map Book 1166 Page 317 of the Mecklenburg County Public Registry; thence, continuing along the westerly margins of Lots 12, 11, 10, 9, 8, 7 and part of Lot 6 as shown on plat recorded in Map Book 1166 Page 317 of the Mecklenburg County Public Registry South 50-29-07 West 295.15 feet to an iron pipe set located in the northerly margin of the Brevard Street-Caldwell Street connector (variable public right-of-way) thence, along the northerly margin of the right-of-way of the Brevard Street-Caldwell Street connector North 79-08-16 West 24.03 feet to a right-of-way monument found and located on the easterly line of the property of the City of Charlotte (now or formerly) as described in Deed recorded in Book 3700 Page 405 of the Mecklenburg County Public Registry; thence, along the easterly line of the property of the City of Charlotte North 38-59-23 West 79.83 feet to an iron pipe set being the point and place of BEGINNING and containing approximately 0.6860 acres as shown on survey entitled ALTA/ACSM Land Title Survey Old Alpha Cotton Mill prepared by A.G. Zoutewelle Surveyors dated June 25, 2003.



JUDITH A. GIBSON
REGISTER OF DEEDS, MECKLENBURG
COUNTY & COURTS OFFICE BUILDING
720 EAST FOURTH STREET
CHARLOTTE, NC 28202

PLEASE RETAIN YELLOW TRAILER PAGE

It is part of the recorded document, and must be submitted with original for re-recording
and/or cancellation.

Filed For Registration: 07/08/2005 08:39 AM
Book: RE 19004 Page: 549-599
Document No.: 2005128034
NOTCE 51 PGS \$159.00
Recorder: TERESITA BYRUM

State of North Carolina, County of Mecklenburg

The foregoing certificate of CRYSTAL E. LAYTON Notary is certified to be correct. This 8TH of July 2005

JUDITH A. GIBSON, REGISTER OF DEEDS By: Teresta Byrum
Deputy/Assistant Register of Deeds



2005128034

Exhibit 2

LURU Form

(See Attached)

Brownfields Project #: 07009-03-60
Brownfields Property:
Property Owner (In whole or part):

LAND USE RESTRICTIONS (“LUR”) UPDATE

LUR 1: No surface water or groundwater at the Brownfields Property may be used for any purpose without the approval of the Department of Environment and Natural Resources (“DENR”) or its successor in function.

In compliance _____ Out of compliance _____

Remarks: _____

LUR 2: No activities that encounter, expose, remove or use groundwater (for example, installation of water supply wells, fountains, ponds, lakes or swimming pools that extend to groundwater, or construction or excavation activities that encounter or expose groundwater) may occur on the Brownfields Property without prior sampling and analysis of groundwater to the satisfaction of DENR or its successor in function in any areas proposed for such activities, and submittal of the analytical results to DENR or its successor in function. If such results disclose to DENR or its successor in function contamination in excess of North Carolina’s groundwater quality standards, the proposed activities may not occur without the approval of DENR or its successor in function on such conditions as DENR or its successor in function imposes, including at a minimum compliance with plans and procedures, approved pursuant to applicable law, to protect public health and the environment during the proposed activities.

In compliance _____ Out of compliance _____

Remarks: _____

LUR 3: Soil underlying paved surfaces and buildings at the Brownfields Property may not be exposed without the performance of any prior sampling that DENR or its successor in function requires, and submittal of the analytical results of any such sampling to DENR or its successor in function. If the results of any such sampling disclose contamination in excess of the applicable standards as determined by DENR or its successor in function, the soil may not be exposed without the approval of DENR or

its successor in function on such conditions as DENR or its successor in function imposes, including at a minimum compliance with plans and procedures, approved pursuant to applicable law, to protect public health and the environment during the activities that would expose such soil.

In compliance ____ Out of compliance ____

Remarks: _____

LUR 4: Soil underlying landscaping materials at the Brownfields Property, including but not limited to plants, flowers, trees, shrubs or any other above-ground vegetation, may not be disturbed, nor may landscaping materials be planted, without the prior addition of two (2) feet of clean fill or other material acceptable to DENR or its successor in function. If the desired grade would not allow said addition, as much soil as is necessary to allow said addition may be removed and disposed of in accordance with law. Incidental disturbance of soil in the subject areas, in connection with maintenance of landscaping materials, shall not constitute a violation of this land use restriction.

In compliance ____ Out of compliance ____

Remarks: _____

LUR 5: No mining may be conducted on or under the Brownfields Property, including, without limitation, extraction of coal, oil, gas or any other minerals or non-mineral substances.

In compliance ____ Out of compliance ____

Remarks: _____

LUR 6: No basements may be constructed on the Brownfields Property unless they are, as determined by DENR or its successor in function, vented in conformance with applicable building codes.

In compliance ____ Out of compliance ____

Remarks: _____

LUR 7: None of the contaminants known to be present in the environmental media at the Brownfields Property, including those listed in paragraph 7 of the Brownfields Agreement ("Agreement"), may be used or stored at the Brownfields Property without the prior approval of DENR or its successor in function, except in *de minimis* amounts for cleaning and other routine housekeeping activities.

In compliance ____ Out of compliance ____

Remarks: _____

LUR 8: During January of each year following the year in which the Notice of Brownfields Property ("Notice") is recorded, the then owner of the affected portion of the Brownfields Property shall sample monitoring wells MW-1s, MW-2s, MW-7i and a point near sample location SUR-4, all as shown on Exhibit 4 of the Agreement. Said owner shall effect analysis of the samples for volatile organic compounds, total chromium, hexavalent chromium and copper, and shall report the results to DENR each year as part of the update required by Land Use Restriction 9 below. After the third year of sampling, the then owner of the Brownfields Property may seek DENR's written authorization to discontinue sampling or change its frequency.

In compliance ____ Out of compliance ____

Remarks: _____

LUR 9: During January of each year following the year in which the Notice is recorded, the then current owner of any part of the Brownfields Property shall submit a

notarized Land Use Restrictions Update to DENR or its successor in function certifying that the Notice containing these Land Use Restrictions remains recorded at the Mecklenburg County register of deeds office, and that the Land Use Restrictions are being complied with.

In compliance ____ Out of compliance ____

Remarks: _____

Notarized signing and submittal of this Land Use Restrictions Update constitutes certification that the Notice remains recorded at the Mecklenburg County Register of Deeds office and that the Land Use Restrictions are being complied with.

This Land Use Restrictions Update is certified by _____,
owner of at least part of the Brownfields Property.

Name typed or printed of party making certification: _____

In the case of owners that are entities:

Signature of individual signing: _____
Name typed or printed: _____
Title: _____

In the case of all owners:

Date: _____

[Insert notary block from among the following that is pertinent to type of party submitting LURU: corporation, LLC, partnership or individual.]
[use for corporations]

[Insert Name of Corporation]

By: _____
Name typed or printed:
Title typed or printed:

ATTEST:

Name typed or printed:
Secretary, _____ (corporation name)

NORTH CAROLINA
_____ COUNTY

I, _____, a Notary Public of the county and state aforesaid, certify that _____ personally came before me this day and acknowledged that he/she is the Secretary of _____ (corporation name), a _____ (state) corporation, and that by authority duly given and as the act of the corporation, the foregoing Land Use Restriction Update was signed in its name by its _____ and attested by him/her as its Secretary.

WITNESS my hand and official stamp or seal, this _____ day of _____, 20__.

Name:
Notary Public

My Commission expires: _____

[Stamp/Seal]

[use for LLCs]

[Insert Name of LLC]

By: _____

Name typed or printed:

Member/Manager

NORTH CAROLINA
_____ COUNTY

I, _____, a Notary Public of the county and state aforesaid, certify that _____ personally came before me this day and acknowledged that he/she is a Member of _____, LLC, a _____ (state) limited liability company, and its Manager, and that by authority duly given and as the act of the company, the foregoing Land Use Restriction Update was signed in its name by him/her.

WITNESS my hand and official stamp or seal, this _____ day of _____, 20__.

Name typed or printed:

Notary Public

My Commission expires: _____

[Stamp/Seal]



[use for Partnerships]

[Insert Name of Owner]

By: _____

Name typed or printed:

General Partner

NORTH CAROLINA
_____ COUNTY

I, _____, a Notary Public of the county and state aforesaid, certify that _____ personally came before me this day and acknowledged that he/she is a General Partner of _____, a _____ (state) partnership, and that by authority duly given and as the act of the partnership, the foregoing Land Use Restriction Update was signed in its name by him/her.

WITNESS my hand and official stamp or seal, this _____ day of _____, 20__.

Name typed or printed:

Notary Public

My Commission expires: _____

[Stamp/Seal]



[use for individuals]

[Insert Name of Owner]

By: _____
Name typed or printed:

NORTH CAROLINA
_____ COUNTY

I, _____, a Notary Public of the county and state aforesaid, certify that _____ personally came before me this day, demonstrated her/his identity, and signed the foregoing Land Use Restriction Update.

WITNESS my hand and official stamp or seal, this _____ day of _____, 20__.

Name typed or printed:
Notary Public

My Commission expires: _____

[Stamp/Seal]

