

2. Restrictions to Run with the Land. The restrictions and other requirements described in this Covenant shall run with the land and be binding upon, and inure to the benefit of the Owner of the Real Estate and the Owner's successors, assignees, heirs and lessees or their authorized agents, employees, contractors, representatives, agents, lessees, licensees, invitees, guests, or persons acting under their direction or control and shall continue as a servitude running in perpetuity with the Real Estate. No transfer, mortgage, lease, license, easement, or other conveyance of any interest in all or any part of the Real Estate by any person shall limit the restrictions set forth herein. This Covenant is imposed upon the entire Real Estate unless expressly stated as applicable only to a specific portion thereof. Those areas where the contaminants of concern remain on the Real Estate are depicted on Exhibit C1 and Exhibit C2.
3. Binding upon Future Owners. By taking title to the Real Estate, any subsequent owner agrees to comply with these restrictions and the terms of this Covenant.
4. Recordation. Unless this Covenant is terminated under paragraph 11, the Owner shall re-record this Covenant including any subsequent modifications and amendments forty-nine (49) years from the date of first recording, or any subsequent recordings, to ensure its continued applicability under the Marketable Title for Real Property Act found in IC 32-20.
5. Access for Department. The Owner shall grant to the Department and its designated representatives the right to enter upon the Real Estate at reasonable times for the purpose of determining whether the land use restrictions described in paragraph 8 are being maintained (and operated as applicable) in a manner that ensures the protection of public health, safety, or welfare and the environment; this includes the right to take samples, monitor compliance with the corrective action plan, and inspect records.
6. Written Notice of the Presence of Hazardous Substances. Owner agrees to include in any instrument conveying any interest in any portion of the Real Estate, including but not limited to deeds, leases and subleases (excluding mortgages, liens, similar financing interests, and other non-possessory encumbrances) the following notice provision:

NOTICE: THE INTEREST CONVEYED HEREBY IS SUBJECT TO AN ENVIRONMENTAL RESTRICTIVE COVENANT, DATED _____ 2009, RECORDED IN THE OFFICE OF THE RECORDER OF LAKE COUNTY ON _____, 2009, INSTRUMENT NUMBER (or other identifying reference) _____ IN FAVOR OF AND ENFORCEABLE BY THE INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT.
7. Notice to Department of the Conveyance of Property. Owner agrees to provide notice to the Department no later than thirty (30) days after any conveyance of any ownership interest in the Real Estate (excluding mortgages, liens, similar financing interests, and other non-possessory encumbrances). Owner must provide Department with a certified copy of the instrument conveying any interest in any portion of the Real Estate and, if it has been recorded, its recording reference. Such notice shall also include the name and business address of the transferee.

II. RESTRICTIONS AND OBLIGATIONS

8. The Owner shall:
- a) Not use the Real Estate for residential purposes, including, but not limited to, daily care facilities (e.g., daycare centers, schools, and senior citizen facilities).
 - b) Neither engage in nor allow the installation or use of drinking water wells on the Real Estate per the City of Hammond's Groundwater Use Prohibition Ordinance. There shall be no consumptive, extractive, or other use of the groundwater underlying the Real Estate that could cause exposure of humans or animals to the groundwater underlying the Real Estate, other than for site investigation and/or remediation purposes, without prior Department approval.
 - c) May engage in excavation and construction activities on the Real Estate, even in soil where contaminants remain at a level exceeding the applicable Residential Closure Levels, provided Owner disposes of any soils that are excavated pursuant to state and federal law. Nothing herein shall limit or conflict with any other legal requirements regarding construction methods and techniques that must be used to minimize risk of exposure while conducting work in contaminated areas.

III. ENFORCEMENT

9. Enforcement. Pursuant to IC 13-14-2-6(5), the Department may proceed in court, by appropriate action to enforce this Covenant. Owner agrees that the restrictions are enforceable, and agrees not to challenge the appropriate court's jurisdiction.

IV. TERM, MODIFICATION AND TERMINATION

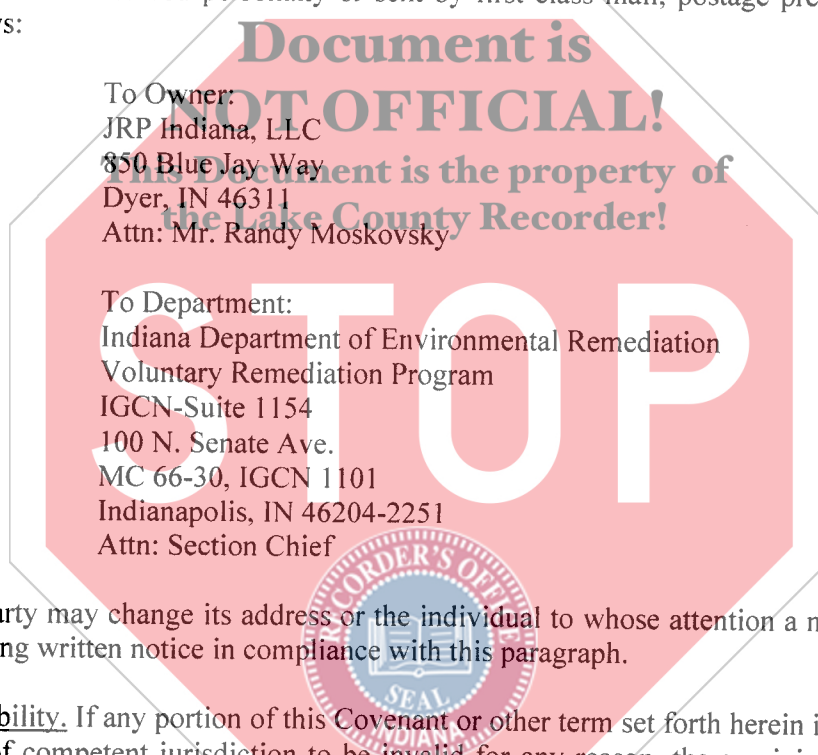
10. Term. The restrictions shall apply until the Department determines that the contaminants of concern no longer present an unacceptable risk to the public health, safety, or welfare, or to the environment.
11. Modification and Termination. This Covenant shall not be amended, modified, or terminated except by written instrument executed between the Department and the owner of the Real Estate at the time of the proposed amendment, modification, or termination. Within five (5) days of executing an amendment, modification, or termination of the Covenant, such amendment, modification, or termination shall be recorded with the Office of the Recorder of Lake County and within five (5) days after recording, a true copy of the recorded amendment, modification, or termination shall be presented to the Department.

V. MISCELLANEOUS

12. Waiver. No failure on the part of the Department at any time to require performance by any person of any term of this Covenant shall be taken or held to be a waiver of such term or in

any way affect the Department's right to enforce such term, and no waiver on the part of the Department of any term hereof shall be taken or held to be a waiver of any other term hereof or the breach thereof.

13. Conflict of and Compliance with Laws. If any provision of this Covenant is also the subject of any law or regulation established by any federal, state, or local government, the strictest standard or requirement shall apply. Compliance with this Covenant does not relieve the Owner from complying with any other applicable laws.
14. Change in Law or Regulation. In the event that the Risk Integrated System of Closure ("RISC") is adopted by rule in Indiana, or in the event of any other change in applicable law or regulations, this Covenant shall be interpreted so as to ensure the continuing validity and enforceability of the restrictions listed in paragraph 8, above. In no event shall this Covenant be rendered unenforceable if Indiana's laws, regulations, RISC guidelines, or policies for environmental restrictive covenants or institutional or engineering controls change as to form or content. All statutory references include any successor provisions.
15. Notices. Any notice, demand, request, consent, approval or communication that either party desires or is required to give to the other pursuant to this Covenant shall be in writing and shall either be served personally or sent by first class mail, postage prepaid, addressed as follows:



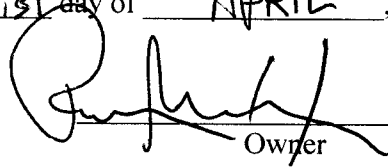
Any party may change its address or the individual to whose attention a notice is to be sent by giving written notice in compliance with this paragraph.

16. Severability. If any portion of this Covenant or other term set forth herein is determined by a court of competent jurisdiction to be invalid for any reason, the surviving portions of this Covenant shall remain in full force and effect as if such portion found invalid had not been included herein.

- 17. Liability. An Owner's rights and obligations under this instrument terminate upon transfer of the Owner's interest in the Real Estate, except that liability for acts or omissions occurring prior to transfer shall survive transfer.
- 18. Authority to Execute and Record. The undersigned persons executing this Covenant on behalf of the Owner represent and certify that they are duly authorized and have been fully empowered to execute, record, and deliver this Covenant.

Owner hereby attests to the accuracy of the statements in this document and all attachments.

IN WITNESS WHEREOF, the said Owner of the Real Estate described above has caused this Environmental Restrictive Covenant to be executed on this 1st day of APRIL, 2009.



Owner VICE PRES,

STATE OF IN)
) SS:
COUNTY OF Lake)

Before me, the undersigned, a Notary Public in and for said County and State, personally appeared Randy Moskowsky, the JRP Indiana, LLC of the Owner, who acknowledged the execution of the foregoing instrument for and on behalf of said entity.

Witness my hand and Notarial Seal this 1st day of April, 2009.





Kevin Sean Smosna, Notary Public
Residing in Lake County, IN

My Commission Expires: July 23, 2015

This instrument prepared by:

Dean Miller
Davis Graham & Stubbs LLP
1550 17th Street, Suite 500
Denver, CO 80202



EXHIBIT A

LEGAL DESCRIPTION OF REAL ESTATE



**LEGAL DESCRIPTION ATTACHED TO AND MADE A PART OF
STATE OF INDIANA SALES DISCLOSURE FORM**

That part of the Southeast quarter of Section 17, Township 36 North, Range 9 West of the Second Principal Meridian in the City of Hammond, Lake County, Indiana, described as follows: Starting at the East Line of said Section 17, and the Southerly Right of Way Line of the Tri-State Highway (formerly 177th Street); thence North 89 degrees 40 minutes West along said Right of Way Line 1168.29 feet; thence continuing on said Right of Way Line South 80 degrees 19 minutes West 303.65 feet; thence continuing on said Right of Way Line South 41 degrees 25 minutes West 394.73 feet; thence continuing on said Right of Way Line (also Easterly Right of Way Line of Indianapolis Boulevard) South 19 degrees 27 minutes West 178.04 feet; thence continuing on said Right of Way Line South 21 degrees 28 minutes 30 seconds East 145.88 feet; thence continuing on said Right of Way Line South 32 degrees 19 minutes 30 seconds East 290 feet; thence North 53 degrees East 300 feet; thence South 37 degrees East 200.39 feet; thence South 53 degrees West to a point on the Northeasterly Right of Way Line of Indianapolis Boulevard, for the place of beginning of the tract herein described; thence South 21 degrees 57 minutes 30 seconds East 93.42 feet along said Right of Way; thence continuing on said Right of Way South 37 degrees 21 minutes East 60 feet; thence North 52 degrees 39 minutes East 240.00 feet; thence North 37 degrees West to a point of intersection with a line that runs through the above designated place of beginning on a course of South 53 degrees West; thence South 53 degrees West to the herein designated place of beginning. Together with a non-exclusive easement for ingress and egress over and across that part of the Southeast 1/4 of Section 17, Township 36 North, Range 9 West of the 2nd Principal Meridian in Hammond, described as follows: Commencing on the East line of Indianapolis Boulevard 913.10 feet Northwesterly of the thread of the stream of the Little Calumet River located and described in Document # 481268 recorded May 13, 1963 as measured along said East lines said East lines having a bearing of North 35 degrees 12' 30" West and North 37 degrees 21' West, thence North 37 degrees 21' West along said East line 60 feet; thence north 52 degrees 39' East 800 feet; thence South 36 degrees 28' 59" East 60 feet; thence South 52 degrees 39' West 800 feet to the place of beginning.

Also meaning and intending to convey all of Grantor's right, title and interest in that certain five (5) foot sewer easement created by Easement dated September 30, 1968 and recorded July 31, 1970 as Document No. 66890 made by Hammond-Toledo Investments, Inc. and granted to Texaco Inc. over the following-described property:

That part of the Southeast one quarter (1/4) of Section 17, Township 36 North, Range 9 West of the Second Principal Meridian in the city of Hammond, Lake County, Indiana, described as follows: Starting at the East line of said Section 17, and the Southerly Right of Way line of the Tri-State Highway (formerly 177th Street), thence North 89 degrees 40' West along said Right of Way line 1168.29 feet; thence continuing on said Right of Way line South 80 degrees 19' West 303.65 feet, thence continuing on said Right of Way line South 41 degrees 25' West 394.73 feet, thence continuing on said Right of Way line (also Easterly Right of Way line of Indianapolis Boulevard) South 19 degrees 27' West 178.04 feet, thence continuing on said Right of Way line South 21 degrees 28' 30" East 145.88 feet, thence continuing on said Right of Way line South 32 degrees 19' 30" East 460.76 feet to the place of beginning, thence South 21 degrees 57" 30" East along last said Easterly Right of Way line 31.04 feet, thence North 53 degrees East 321.16 feet, thence North 37 degrees West 250.00 feet, thence South 53 degrees West 183 feet to the Westerly face of proposed Howard Johnson Restaurant, thence North 37 degrees West along last said face 6.83 feet, thence South 53 degrees West 72 feet, thence North 37 degrees West 51 feet, thence South 53 degrees West 36 feet more or less to the Easterly Right of Way line of the Indianapolis Boulevard, thence South 32 degrees 19' 30" East 278 feet more or less to the place beginning, containing 1.86 acres more or less.

Commonly known as: 7843 Indianapolis Blvd., Hammond, IN 46323

Key No.: 040324300110

NORTH TWP SALE ASSessor
JOHN S. [unclear]

EXHIBIT B

DESCRIPTION OF CONTAMINATION



EXHIBIT B1

SUMMARY OF GROUNDWATER ANALYTICAL DATA EXCEEDING THE IDEM RISC RDCL
FORMER BURGER KING SITE
HAMMOND, INDIANA

Sample Location: MW-4
Sample ID: MW-4
Sample Date: 11/8/2007
Sample Type: (orig)

Parameters

<i>Volatile Organic Compounds</i>	<i>CAS Registry Number</i>	<i>Units</i>	<i>IDEM RISC</i>		
			<i>Industrial Default a</i>	<i>Residential Default b</i>	
Methyl Tert Butyl Ether	1634-04-4	mg/L	0.72	0.04	0.0860 ^b

* Industrial and residential default closure levels refer to Appendix 1 of the IDEM RISC Technical Guide update dated January 31, 2006

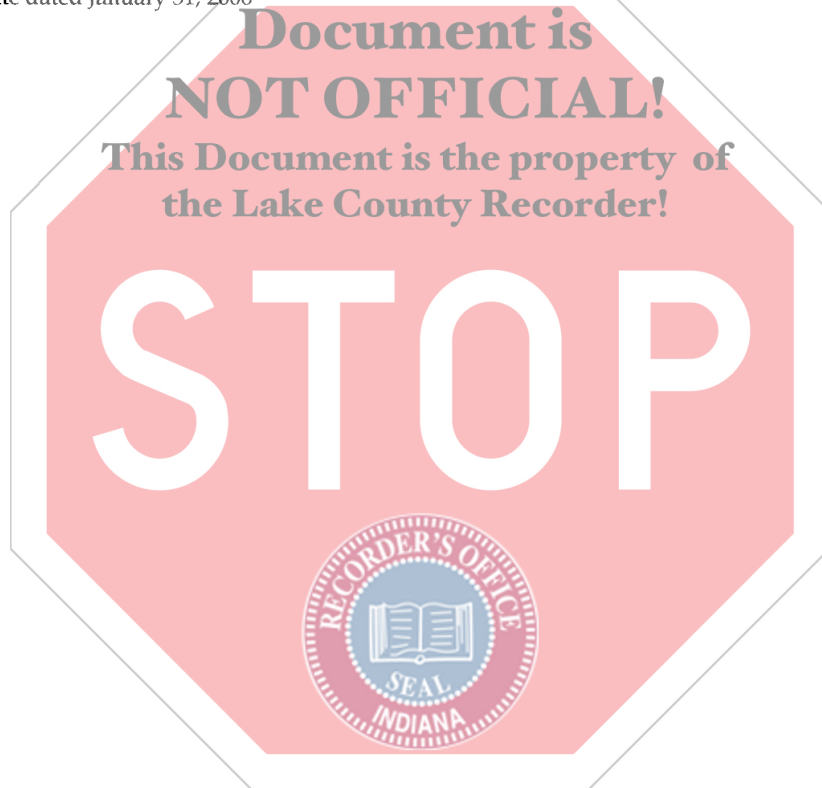


EXHIBIT B2
SUMMARY OF SOIL ANALYTICAL DATA EXCEEDING THE IDEM RISC RDCL
FORMER BURGER KING SITE
HAMMOND, INDIANA

Sample Location:
Sample ID:
Depth (ft bg):
Sample Date:

T-12 W-2 W-3 W-22
T-12 W-2 W-3 W-22
8 4 4 8
9/7/2005 9/7/2005 9/7/2005 9/7/2005

Parameters

Volatile Organic Compounds

Benzene

Industrial Migration to GW
d

IDE M RISC

Construction
c

Residential Default
b

Industrial Default
a

CAS Registry Number

71-43-2

Units

mg/kg

0.35

560

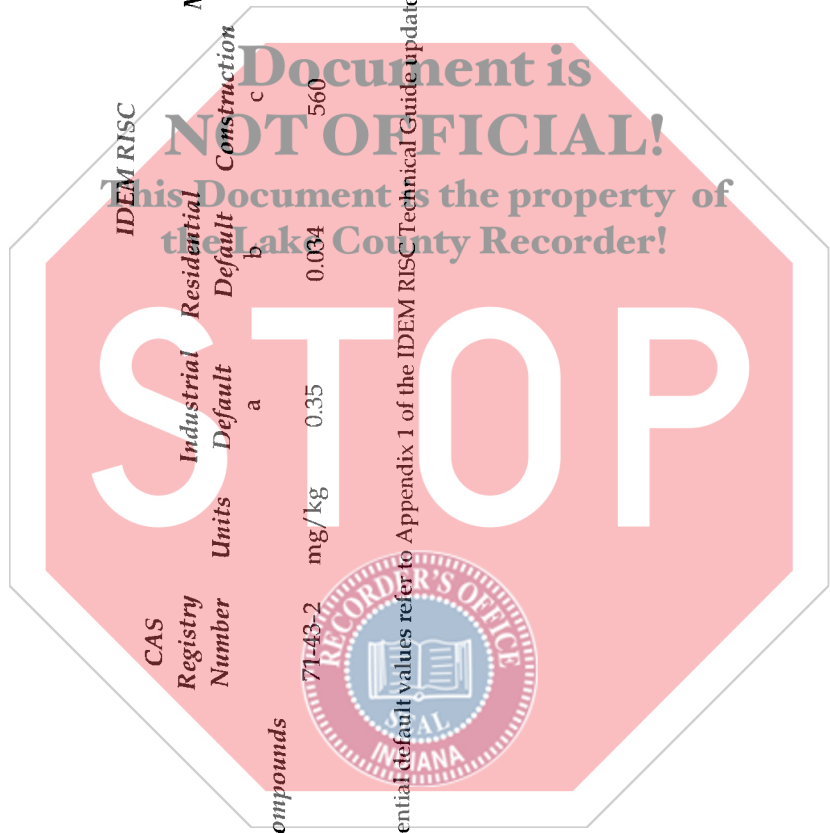
0.35

0.27^b

0.045^b

0.040^b

0.11^b



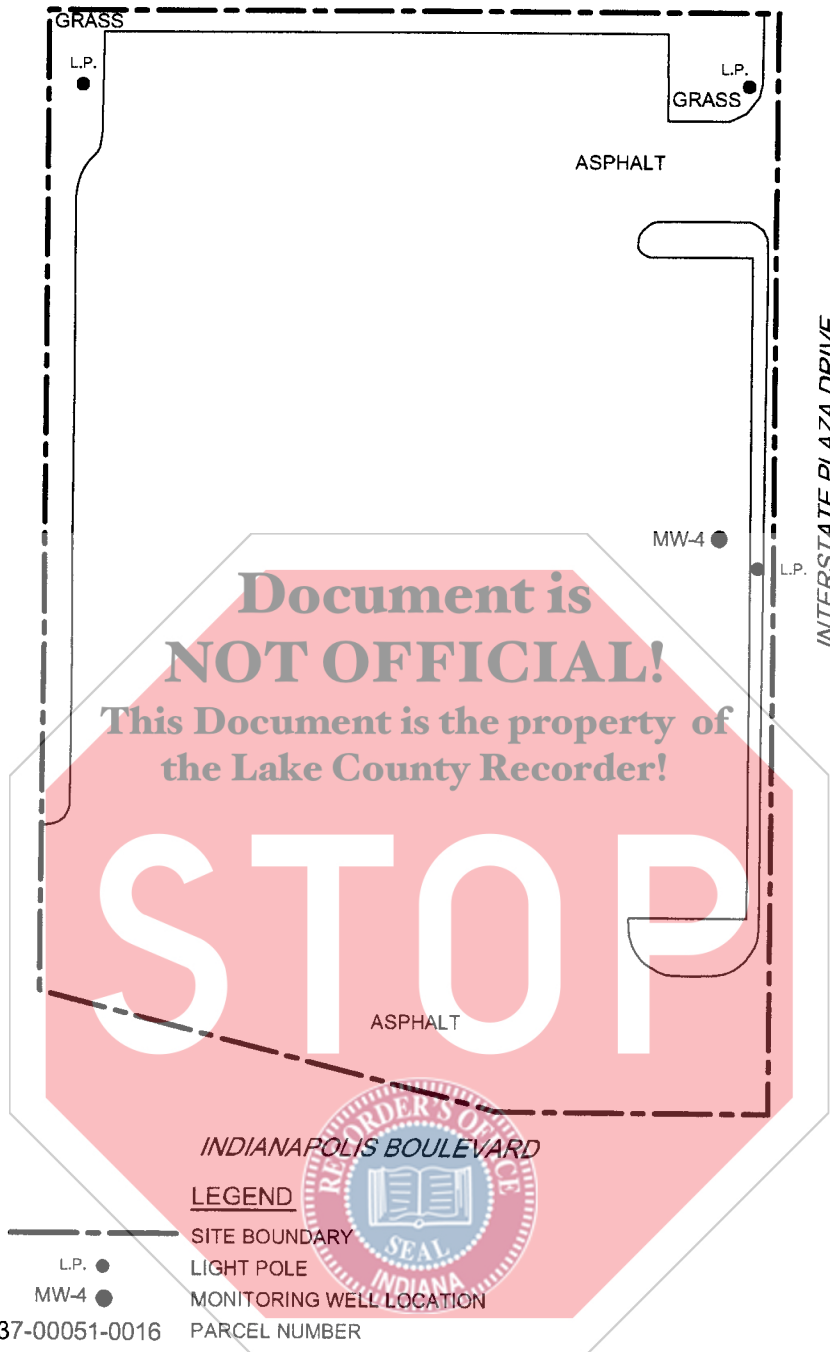
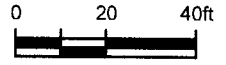
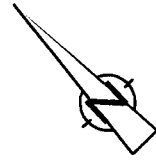
* Industrial and residential default values refer to Appendix 1 of the IDEM RISC Technical Guide update dated January 31, 2006

EXHIBIT C

SITE MAPS



DISCLAIMER:
 INFORMATION ON THIS MAP IS BEING PROVIDED TO DEPICT ENVIRONMENTAL
 CONDITIONS ON THE REAL ESTATE THAT ARE THE SUBJECT OF THE LAND USE
 RESTRICTIONS CONTAINED IN THE COVENANT TO WHICH THIS MAP IS ATTACHED
 AND INCORPORATE. THE LAND USE RESTRICTIONS CONTAINED IN THE COVENANT WERE
 DEEMED APPROPRIATE BY THE DEPARTMENT BASED ON INFORMATION PROVIDED TO
 THE DEPARTMENT BY THE OWNER OR ANOTHER PARTY INVESTIGATING AND/OR
 REMEDIATING THE ENVIRONMENTAL CONDITIONS ON THE REAL ESTATE.



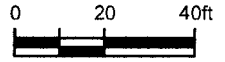
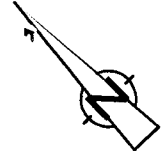
INTERSTATE PLAZA DRIVE

Exhibit C1

GROUNDWATER SAMPLING LOCATIONS ABOVE IDEM RDCL
FORMER BURGER KING #6185
7843 INDIANAPOLIS BOULEVARD
Hammond, Indiana



DISCLAIMER:
 INFORMATION ON THIS MAP IS BEING PROVIDED TO DEPICT ENVIRONMENTAL
 CONDITIONS ON THE REAL ESTATE THAT ARE THE SUBJECT OF THE LAND USE
 RESTRICTIONS CONTAINED IN THE COVENANT TO WHICH THIS MAP IS ATTACHED
 AND INCORPORATE. THE LAND USE RESTRICTIONS CONTAINED IN THE COVENANT WERE
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 REMEDIATING THE ENVIRONMENTAL CONDITIONS ON THE REAL ESTATE.



**Document is
 NOT OFFICIAL!**
 This Document is the property of
 the Lake County Recorder!

STOP

INDIANAPOLIS BOULEVARD



LEGEND

- SITE BOUNDARY
- L.P. ● LIGHT POLE
- W-18 ☒ EXCAVATION WALL SAMPLE LOCATION
- T-50 ☒ EXCAVATION BOTTOM SAMPLE LOCATION

PARCEL # 23-37-00051-0016

PARCEL NUMBER

Exhibit C2

SOIL SAMPLING LOCATIONS ABOVE IDEM RDCL

FORMER BURGER KING #6185

7843 INDIANAPOLIS BOULEVARD

Hammond, Indiana

