

After Recording Return to:

Georgia Environmental Protection Division
Response and Remediation Program
2 Martin Luther King, Jr. Drive, SE
Suite 1462 East
Atlanta, Georgia 30334

Environmental Covenant

This instrument is an Environmental Covenant executed pursuant to the Georgia Uniform Environmental Covenants Act, OCGA § 44-16-1, *et seq.* This Environmental Covenant subjects the Property identified below to the activity and/or use limitations specified in this document. The effective date of this Environmental Covenant shall be the date upon which the fully executed Environmental Covenant has been recorded in accordance with OCGA § 44-16-8(a).

Fee Owner of Property/Grantor: City of Albany
P.O. Box 447
Albany, GA 31702

Grantee/Holder: City of Albany
P.O. Box 447
Albany, GA 31702

**Grantee/Entity with
express power to enforce:** State of Georgia
Department of Natural Resources
Environmental Protection Division
2 Martin Luther King Jr. Drive, SE
Suite 1456 East Tower
Atlanta, GA 30334

Parties with interest in the Property: City of Albany
Engineering Department
240 Pine Avenue, Suite 200
Albany, GA 31701
Mon-Fri 8:00 a.m. to 4:30 p.m. excluding holidays

Property:

The property subject to this Environmental Covenant is the “Former Radiator Shop” (hereinafter “Property”), located at 137 and 147 East Broad Avenue in Albany, Dougherty County, Georgia.

The tract of land located at 137 East Broad Avenue was conveyed on September 6, 2002 from TBC IV, Inc. to the City of Albany, Georgia recorded in Deed Book 2453, Page 298, Dougherty County Records. The area is located in Land Lot 268 of the First Land District of Dougherty County, Georgia. The Property encompasses ±2.81 acres located north of East Broad Avenue and east of the Flint River. A complete legal description of the area is provided as Exhibit A, and a map of the tract is provided as Exhibit B.

The tract of land located at 147 East Broad Avenue was conveyed on April 21, 1999 from Norman L. Wingate to the City of Albany - DCED recorded in Deed Book 1949, Page 179, Dougherty County Records. The area is located in Land Lot 268 of the First Land District of Dougherty County, Georgia. The Property encompasses ±0.32 acres located north of East Broad Avenue and east of the Flint River. A complete legal description of the area is attached as Exhibit A, and a map of the area is attached as Exhibit B.

Tax Parcel Number(s):

0000C/00029/001 of Dougherty County, Georgia
0000C/00029/002 of Dougherty County, Georgia

Name and Location of Administrative Records:

The corrective action at the Property that is the subject of this Environmental Covenant is described in the following document[s]:

- Updated Prospective Purchaser Compliance Status Report
Parcel 0000C/00029/001
City of Albany – Former Radiator Shop Property
HSI Site No.: 10768
- Compliance Status Report
Parcel 0000C/00029/002
City of Albany – Former Radiator Shop Property
HSI Site No.: 10768

These documents are available at the following locations:

Georgia Environmental Protection Division
Response and Remediation Program
2 MLK Jr. Drive, SE, Suite 1054 East Tower
Atlanta, GA 30334
M-F 8:00 AM to 4:30 PM excluding state holidays

City of Albany
Engineering Department
240 Pine Avenue, Suite 200
Albany, GA 31701

Description of Contamination and Corrective Action:

This Property has been listed on the state's hazardous site inventory and has been designated as needing corrective action due to the presence of hazardous wastes, hazardous constituents, or hazardous substances regulated under state law. Contact the property owner or the Georgia Environmental Protection Division for further information concerning this Property. This notice is provided in compliance with the Georgia Hazardous Site Response Act.

This Declaration of Covenant is made pursuant to the Georgia Uniform Environmental Covenants Act, O.C.G.A. § 44-16-1 *et seq.* by the City of Albany, its successors and assigns, Grantee, and the State of Georgia, Department of Natural Resources, Environmental Protection Division (hereinafter “EPD”), its successors and assigns. This Environmental Covenant is required because a release of lead occurred on the Property. Lead is a “regulated substance” as defined under the Georgia Hazardous Site Response Act, O.C.G.A. § 12-8-90 *et seq.*, and the rules promulgated thereunder (hereinafter “HSRA” and “Rules”, respectively). The Corrective Action consists of the installation and maintenance the institutional controls of limited use to non-residential activities to protect human health and the environment.

Grantor, the City of Albany, Georgia (hereinafter “City of Albany”), hereby binds Grantor, its successors and assigns to the activity and use restriction(s) for the Property identified herein and grants such other rights under this Environmental Covenant in favor of the City of Albany and EPD. EPD shall have full right of enforcement of the rights conveyed under this Environmental Covenant pursuant to HSRA, O.C.G.A. § 12-8-90 *et seq.*, and the rules promulgated thereunder. Failure to timely enforce compliance with this Environmental Covenant or the use or activity limitations contained herein by any person shall not bar subsequent enforcement by such person and shall not be deemed a waiver of the person’s right to take action to enforce any non-compliance. Nothing in this Environmental Covenant shall restrict EPD from exercising any authority under applicable law.

The City of Albany makes the following declaration as to limitations, restrictions, and uses to which the Property may be put and specifies that such declarations shall constitute covenants to run with the land, pursuant to O.C.G.A. § 44-16-5(a); is perpetual, unless modified or terminated pursuant to the terms of this Covenant pursuant to O.C.G.A. § 44-16-9; and shall be binding on all parties and all persons claiming under them, including all current and future owners of any portion of or interest in the Property (hereinafter "Owner"). Should a transfer or sale of the Property occur before such time as this Environmental Covenant has been amended or revoked then said Environmental Covenant shall be binding on the transferee(s) or purchaser(s).

The Environmental Covenant shall inure to the benefit of the EPD, the City of Albany and their respective successors and assigns and shall be enforceable by the Director or his agents or assigns, the City of Albany or its successors and assigns, the City of Albany or its successors and assigns, and other party(ies) as provided for in O.C.G.A. § 44-16-11 in a court of competent jurisdiction.

Activity and/or Use Limitation(s)

1. **Registry.** Pursuant to O.C.G.A. § 44-16-12, this Environmental Covenant and any amendment or termination thereof, may be contained in EPD’s registry for environmental covenants.
2. **Notice.** The Owner of the Property must give thirty (30) day advance written notice to EPD of the Owner's intent to convey any interest in the Property. No conveyance of title, easement, lease, or other interest in the Property shall be consummated by the Owner without adequate and complete provision for continued monitoring, operation, and maintenance of the Corrective Action. The Owner of the Property must also give thirty (30) day advance written notice to EPD of the Owner's intent to change the use of the Property, apply for building permit(s), or propose any site work that would affect the Property.
3. **Notice of Limitation in Future Conveyances.** Each instrument hereafter conveying an interest in the Property subject to this Environmental Covenant shall contain a notice of the activity and use limitations set forth in this Environmental Covenant and shall provide the recorded location of the Environmental Covenant.

4. Monitoring. The Owner shall inspect the Property and applicable Property instruments at least annually, by no later than July 30 following the effective date of this Environmental Covenant, to ensure compliance with this document.
5. Periodic Reporting. The Owner shall complete and submit to the EPD the Annual Property Evaluation Form attached to this document as Exhibit C. The Owner's report should include photographs of the Property and will document maintenance and inspection activities and whether or not the activities and use limitations in this Environmental Covenant are being abided by.
6. Activity and Use Limitation(s). The Property shall be used only for non-residential uses, as defined in Section 391-3-19-.02 of the Rules and defined in and allowed under the Dougherty County's zoning regulations as of the date of this Environmental Covenant. Any residential use of the Property shall be prohibited unless the soil at the Property is remediated to the Hazardous Site Response Act Type 1 or 2 (as applicable at the time) Risk Reduction Standards or otherwise approved by EPD. Any activity on the Property that may create a new exposure pathway is prohibited. In addition, if the Property is to be used for residential purposes or a permanent structure is built at the Property, it must first be demonstrated at that time that there is no risk due to soil vapor intrusion by one or more of the following: soil vapor intrusion modeling based on conditions at that time, soil vapor sampling, and/or soil vapor mitigation.
7. Groundwater Limitation. The use or extraction of groundwater beneath the Property for drinking water or for any other non-remedial purposes shall be prohibited, unless the groundwater at the Property is remediated to the Hazardous Site Response Act Type 1 or 2 (as applicable at the time) Risk Reduction Standards or otherwise approved by EPD.
8. Permanent Markers. Not Applicable
9. Right of Access. In addition to any rights already possessed by EPD and/or the City of Albany, the Owner shall allow authorized representatives of EPD and/or City of Albany the right to enter the Property at reasonable times for the purpose of evaluating the Corrective Action; to take samples, to inspect the Corrective Action conducted at the Property, to determine compliance with this Environmental Covenant, and to inspect records that are related to the Corrective Action.
10. Recording of Environmental Covenant and Proof of Notification. Within thirty (30) days after the date of the Director's signature, the Owner shall file this Environmental Covenant with the Recorders of Deeds for each County in which the Property is located, and send a file stamped copy of this Environmental Covenant to EPD within thirty (30) days of recording. Within that time period, the Owner shall also send a file-stamped copy to each of the following: (1) City of Albany, (2) each person holding a recorded interest in the Property subject to the covenant, (3) each person in possession of the real property subject to the covenant, (4) each municipality, county, consolidated government, or other unit of local government in which real property subject to the covenant is located, and (5) each owner in fee simple whose property abuts the property subject to the Environmental Covenant.
11. Termination or Modification. The Environmental Covenant shall remain in full force and effect in accordance with O.C.G.A. § 44-5-60, unless and until the Director determines that the Property is in compliance with the Type 1, 2, 3, or 4 Risk Reduction Standards, as defined in Georgia Rules of Hazardous Site Response (Rules) Section 391-3-19-.07 and removes the Property from the Hazardous Site Inventory, whereupon the Environmental Covenant may be amended or revoked in accordance with Section 391-3-19-08(7) of the Rules and O.C.G.A. § 44-16-1 *et seq.*
12. Severability. If any provision of this Environmental Covenant is found to be unenforceable in any respect, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired.
13. No Property Interest Created in EPD. This Environmental Covenant does not in any way create any interest by EPD in the Property that is subject to the Environmental Covenant. Furthermore, the act

of approving this Environmental Covenant does not in any way create any interest by EPD in the Property in accordance with O.C.G.A. § 44-16-3(b).

14. If the Property is to be used for residential purposes or a permanent structure is built at the Property, it must first be demonstrated at that time that there is no risk due to soil vapor intrusion by one or more of the following: soil vapor intrusion modeling based on conditions at that time, soil vapor sampling, and/or soil vapor mitigation.

Representations and Warranties.

Grantor hereby represents and warrants to the other signatories hereto:

- a) That the Grantor has the power and authority to enter into this Environmental Covenant, to grant the rights and interests herein provided and to carry out all obligations hereunder;
- b) That the Grantor is the sole owner of the Property and holds fee simple title which is free, clear and unencumbered;
- c) That the Grantor has identified all other parties that hold any interest (e.g., encumbrance) in the Property and notified such parties of the Grantor's intention to enter into this Environmental Covenant;
- d) That this Environmental Covenant will not materially violate, contravene, or constitute a material default under any other agreement, document or instrument to which Grantor is a party, by which Grantor may be bound or affected;
- e) That the Grantor has served each of the people or entities referenced in Activity 10 above with an identical copy of this Environmental Covenant in accordance with O.C.G.A. § 44-16-4(d).
- f) That this Environmental Covenant will not materially violate or contravene any zoning law or other law regulating use of the Property; and
- g) That this Environmental Covenant does not authorize a use of the Property that is otherwise prohibited by a recorded instrument that has priority over the Environmental Covenant.

Notices.

Any document or communication required to be sent pursuant to the terms of this Environmental Covenant shall be sent to the following persons:

Georgia Environmental Protection Division
Branch Chief
Land Protection Branch
2 Martin Luther King Jr. Drive SE
Suite 1154 East Tower
Atlanta, GA 30334

City of Albany
Engineering Department
240 Pine Avenue, Suite 200
Albany, GA 31701
Mon-Fri 8:00 a.m. to 4:30 p.m. excluding holidays

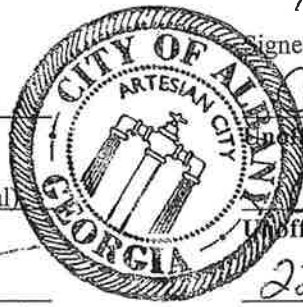
Annual Property Evaluation.

Annually, but not later than January 30 beginning the first January following the effective date of this Environmental Covenant, the owner of the Property must submit a certification stating that the activity and use limitations in this Environmental Covenant are being abided by, accompanied by the site inspection checklist(s) and Annual Property Evaluation Form in the form of those attached to this Environmental Covenant at Exhibit C.

Grantor has caused this Environmental Covenant to be executed pursuant to The Georgia Uniform Environmental Covenants Act, on the 27 day of February, 2020.

For the Grantor:

The City of Albany, Georgia
Name of Grantor
Bo Dorough (Seal)
Grantor's Authorized Representative (Print)
[Signature]
Grantor's Authorized Representative (Signature)
Mayor
Authorized Representative's Title



Signed, sealed, and delivered in the presence of:
C. Nathan Davis
Unofficial Witness (Print)
C. Nathan Davis
Unofficial Witness (Signature)
222 Pine Avenue, Ste 560
Albany, GA 31701
Unofficial Witness Address (Print)

Authorized Representative's Title

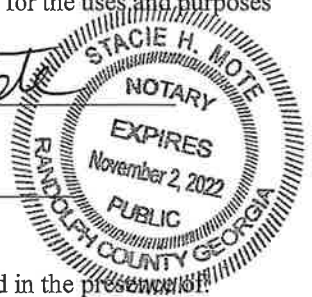
STATE OF GEORGIA
COUNTY OF DOUGHERTY

On this 27 day of February, 2020 I certify that Bo Dorough personally appeared before me, acknowledged that he signed this instrument, on oath stated that he was authorized to execute this instrument, and acknowledged it as the Mayor of the CITY OF ALBANY, GEORGIA to be the free and voluntary act and deed of such party for the uses and purposes mentioned in the instrument.

Dated: 2/27/2020

Stacie H. Mote
Notary Public (Signature)

My appointment expires _____



For the Georgia Environmental Protection Division:

Richard E. Dunn
(Print)
[Signature] (Seal)
(Signature)

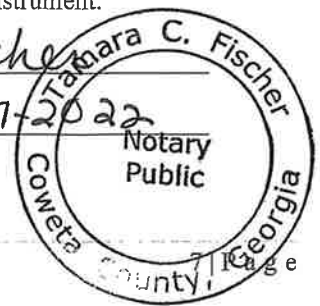
Signed, sealed, and delivered in the presence of:
La'Duetta Ferrell
Unofficial Witness (Print)
[Signature]
Unofficial Witness (Signature)
2 MLK Jr Dr SE Ste 105a
Atlanta GA 30334
Unofficial Witness Address (Print)

STATE OF GA
COUNTY OF Fulton

On this 9 day of July, 2020 I certify that Richard E. Dunn personally appeared before me, acknowledged that he/she signed this instrument, on oath stated that he/she was authorized to execute this instrument, and acknowledged it as the Director of the GEORGIA ENVIRONMENTAL PROTECTION DIVISION to be the free and voluntary act and deed of such party for the uses and purposes mentioned in the instrument.

Dated: 7-9-2020

Tamara C. Fischer
Notary Public (Signature)
My appointment expires 7-27-2022



The contact information for the property owner is:

City Manager:
Sharon D. Subadan
401 Pine Avenue, 2nd Floor
Albany, GA 31701
(229) 302-1384

Director of Engineering:
240 Pine Avenue
Suite 200
Albany, GA 31701
(229) 302-1871

FORMER RADIATOR SHOP PROPERTY

137 E. BROAD AVENUE (Parcel Number: 0000C/00029/002)

147 E. BROAD AVENUE (Parcel Number: 0000C/00029/001)

Albany, Dougherty County, Georgia 31705

CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the Environmental Covenant by mailing same in a properly addressed envelope with sufficient postage affixed to assure delivery to:

Beauchamp Properties & Renovations LLC (Property to South)
Parcel Number 0000C/00031/023
111 College Drive.
Mailing Address: 116 Lovers Lane Road
Albany, GA 31702

Albany Scale Co. (Property to Southeast)
Parcel Number 0000C/00032/008
200 E. Broad Avenue
Mailing Address: 3945 Prince Charles Drive
Duluth, GA 30097

William Richard Hambric, Sr. (Property to East)
Parcel Number 0000C/00029/003
201 E. Broad Avenue
Mailing Address: 142 Fairthorne Drive
Leesburg, GA 31763

Georgia Florida Railway (Property to North)
Parcel Number: None
Address: None
Mailing Address: Georgia Florida Railway
1019 Coast Line Avenue
Albany, GA 31705
Attn: Gene Renner

SO CERTIFIED this 26 day of FEB, 2020.



C. Nathan Davis, City Attorney
Ga. Bar No. 207750

Attorney City of Albany, Georgia

P.O. Box 447
Albany, GA 31701
229.431.2805 [phone]
229.431.3206 [fax]
CNDavis@albanyga.gov

EXHIBITS A

EXHIBIT A

137 E. Broad Ave.

All that tract or parcel of land lying and being in the City of Albany and in Land Lot 268 of the First Land District of Dougherty County, Georgia, and being more particularly described as follows:

Beginning at the southeastern corner of what was formerly known as R. B. Brown's store on East Broad Avenue (formerly known as Isabella Road), which point is also the southwestern corner of property owned now or formerly owned by Norman L. Wingate, run thence northerly along the western line of the Norman L. Wingate property 320 feet, more or less, to the southern right of way line of the Seaboard Coastline Railroad (formerly the Atlantic Coast Line Railroad); run thence westerly along the southern line of the Seaboard Coastline Railroad to the eastern low water mark of the Flint River; run thence southerly along the eastern low water mark of the Flint River to the northern right of way line of East Broad Avenue; and run thence easterly along the northern right of way line of East Broad Avenue to the point of beginning. The described tract is bounded on the north by the Seaboard Coast Line Railroad, on the east by property owned now or formerly by Norman L. Wingate, on the south by the northern right of way of East Broad Avenue and on the west by the low water mark of the Flint River. The property is also known by the address of 100-145 East Broad Avenue according to the present system of numbering of streets in the City of Albany, Georgia.

This conveyance is made subject to any easements, visible or of record; to the valid and enforceable zoning ordinance of the City of Albany; to the party wall agreement set out in the warranty deed from F. F. Putney and E. E. Weiberbee to W. M. Ramsey, dated January 12, 1916, and recorded in Deed Book 25, Page 17, Dougherty County land records; and to the riparian rights of property owners upstream and downstream of the conveyed property.

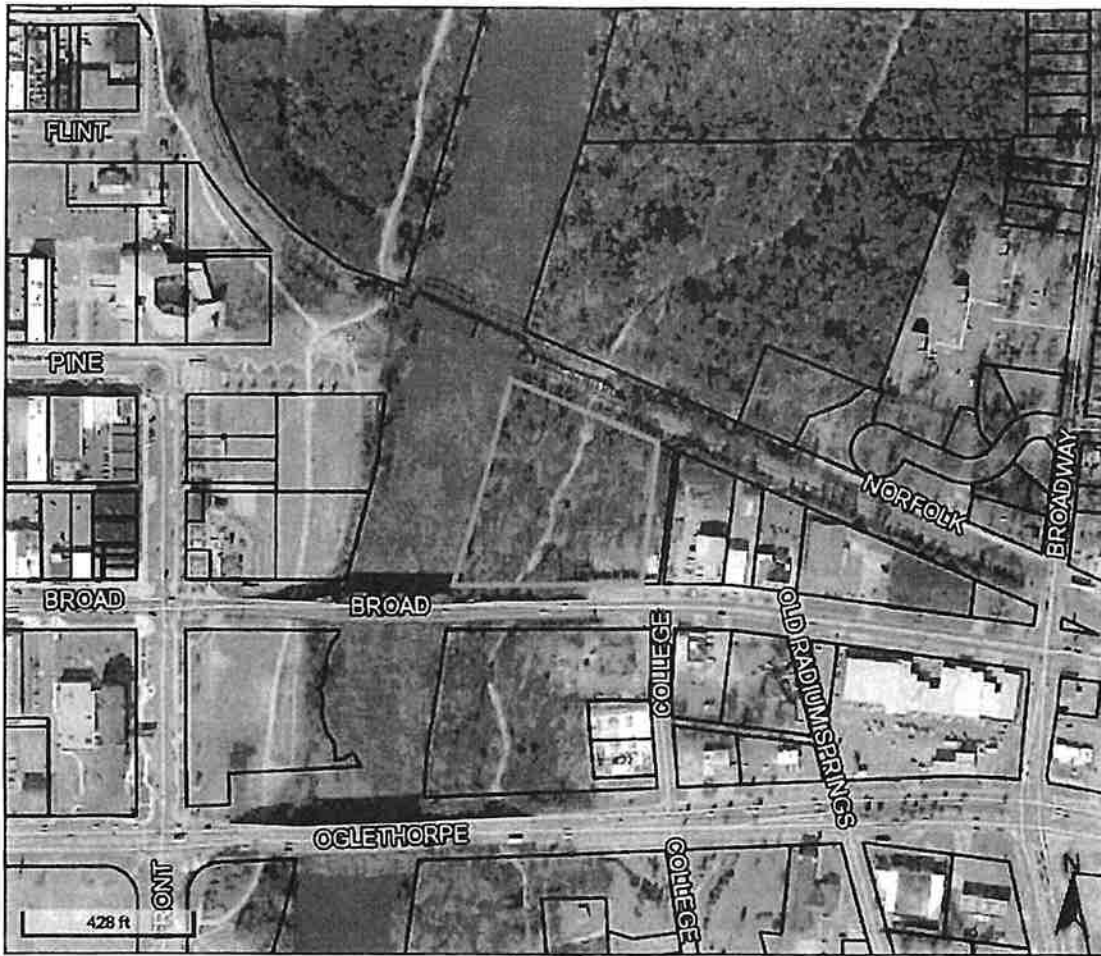
EXHIBIT A

147 E. Broad Ave.

All that tract or parcel of land lying and being in East Albany, being a part of Lot number Two Hundred Sixty-eight (268) in the First Land District of Dougherty County, Georgia, more particularly described as follows: to-wit: Beginning at the corner of R. B. Brown's store on the north side of the east end of the present Flint River wagon bridge embankment thence go north 323 feet to the right of way of S.F. & W. Railroad (now the Atlantic Coast Line Railway); thence go east on the line of said right of way 216 feet to C. M. Shackelford's corner; thence south 116½ feet to the northeast corner of the Bennett lot; thence west 151½ feet to the northwest corner of the Bennett lot; thence south 150 feet to the Isabella Public Road; thence west 44 feet to the beginning point, on which said land is located a one-story brick premises, containing two stores at No. 147-9 East Broad Street, Albany, Georgia, and being further known as the Ramsey Stores in East Albany, EXCEPTING herefrom that portion heretofore released by Mrs. C. B. Tyler from a security deed held by her, said release being recorded in the Office of the Clerk of the Superior Court, Dougherty County, Georgia, in Deed Book 69, page 417.

[This property is otherwise known as 147 East Broad Avenue, Albany, Georgia, according to the present system of numbering that is in place within the City of Albany].

EXHIBITS B



Overview

Legend

-  Parcels
-  Roads

Parcel ID 0000C/00029/001
 Class Code Exempt
 Taxing District 06 TAX ALLOCATION DISTRICT #1
 06 TAX ALLOCATION DISTRICT #1
 Acres 2.81

Owner CITY OF ALBANY
 222 PINE AVE
 ALBANY GA 31701
 Physical Address 137 E BROAD AVE
 Assessed Value Value \$53300

Last 2 Sales			
Date	Price	Reason	Qual
9/6/2002	\$0	UQ	U
9/6/2002	\$0	03	U

(Note: Not to be used on legal documents)

Date created: 6/20/2017
 Last Data Uploaded: 6/19/2017 8:21:26 AM



Overview

Legend

- Parcels
- Roads

Parcel ID	0000C/00029/002	Owner	CITY OF ALBANY	Last 2 Sales			
Class Code	Exempt		222 PINE AVE	Date	Price	Reason	Qual
Taxing District	06 TAX ALLOCATION DISTRICT #1		ALBANY GA 31701	4/21/1999	\$24500	03	U
	06 TAX ALLOCATION DISTRICT #1	Physical Address	147 E BROAD AVE	10/9/1967	\$0	UQ	U
Acres	0.32	Assessed Value	Value \$6200				

(Note: Not to be used on legal documents)

Date created: 6/20/2017
 Last Data Uploaded: 6/19/2017 8:21:26 AM

 Developed by
 The Schneider Corporation

EXHIBITS C

EXHIBIT C

Annual Property Evaluation Form

137 East Broad Avenue (Parcel C/29/1)
 147 East Broad Avenue (Parcel C/29/2)
 137-145 East Broad Avenue
 Former Radiator Shop Property
 Albany, Dougherty County, GA 3170

TYPE	No.	CRITERIA RESPONSE	YES	NO
Land Use	1	Does this Property meet the definition of non-residential property as defined in HSRA Rule 391-3-19.02(2)? “Non-residential property means any property or portion of a property not currently being used for human habitation or for other purposes with a similar potential for human exposure, at which activities have been or are being conducted that can be categorized in one of the 1987 Standard Industrial Classification major group...”		
	1a	If no to 1, provide a written explanation (attached) to the EPD within 30 days.		
Exposure	2	Are site workers expected to be directly exposed to soils that do not meet residential standards at this HSRA site in excess of 250 days per year?		
	2a	If yeas to 2, are these same site workers expected to be exposed to soils at this HSRA site in excess of 25 years throughout their career?		
Erosion	3	Is there evidence of soil erosion in the remedial areas of the property?		
	3a	If yes to 3, is there evidence of erosion of these soils to off-property areas?		
	3b	If yes to 3a, are corrective measures being taken?		
	3c	If yes to 2, 3, 3a, and/or 3b, provide a written explanation (attached) to the EPD within 30 days.		
Property Instruments	4	Do all leases or other property instruments for the site have applicable deed notice language inserted into them?		
	4a	If no to 4, provide a written explanation (attached) to the EPD within 30 days.		
Inspection	5	Date of Inspection:		
	5a	Name of Inspector:		
	5b	Photographs showing current land use (attached) -		

Certification: I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

NAME (PLEASE TYPE OR PRINT)

TITLE

SIGNATURE

DATE

FORMER RADIATOR SHOP PROPERTY

137 E. BROAD AVENUE (Parcel Number: 0000C/00029/002)

147 E. BROAD AVENUE (Parcel Number: 0000C/00029/001)

Albany, Dougherty County, Georgia 31705

CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the file-stamped Environmental Covenant by mailing same in a properly addressed envelope with sufficient postage affixed to assure delivery to:

Beauchamp Properties & Renovations LLC (Property to South)
Parcel Number 0000C/00031/023
111 College Drive.
Mailing Address: 116 Lovers Lane Road
Albany, GA 31702

Albany Scale Co. (Property to Southeast)
Parcel Number 0000C/00032/008
200 E. Broad Avenue
Mailing Address: 3945 Prince Charles Drive
Duluth, GA 30097

William Richard Hambric, Sr. (Property to East)
Parcel Number 0000C/00029/003
201 E. Broad Avenue
Mailing Address: 142 Fairthorne Drive
Leesburg, GA 31763

Georgia Florida Railway (Property to North)
Parcel Number: None
Address: None
Mailing Address: Georgia Florida Railway
1019 Coast Line Avenue
Albany, GA 31705
Attn: Gene Renner

SO CERTIFIED this 30th day of July, 2020.



C. Nathan Davis, City Attorney
Ga. Bar No. 207750

Attorney City of Albany, Georgia

P.O. Box 447
Albany, GA 31701
229.431.2805 [phone]
229.431.3206 [fax]
CNDavis@albanyga.gov