

# FINAL

## Environmental Restrictive Covenant

THIS ENVIRONMENTAL RESTRICTIVE COVENANT (“Covenant”) is made this 10th day of February, 2026, by the City of South Bend, Indiana acting through its Board of Public Works, and on behalf of the City’s Board of Park Commissioners (together with all successors and assignees, collectively “Owner”).

WHEREAS: Owner is the fee owner of certain parcels of real estate in the County of St. Joseph, Indiana, collectively referred to as LaSalle Park, which is located at 3419 West Washington Street, South Bend, Indiana 46619 and more particularly described in the attached Exhibit “A” (“Real Estate”), which is hereby incorporated and made a part hereof. The City, despite a thorough review, was unable to find all of the deeds associated with all of the parcels. The City maintains and affirms that it is the rightful owner of the parcels listed below and has been the owner of these parcels since the late 1960s. The legal descriptions found in the attachments have been verified through the use of an independent title company, the St. Joseph County Auditor’s Office and historic City records. The affiliated parcels were acquired by Owner as follows:

Parcel / Tax ID 71-08-09-227-001.000-026 [1.01 acres] 018-4065-242201 conveyed to the City of South Bend for the Use and Benefit of its Department of Redevelopment. This Real Estate was acquired by deed on February 15, 1967, and recorded on February 15, 1967, as Deed Record 15131 in the Office of the Recorder of St. Joseph County, Indiana.

Parcel / Tax ID 71-08-09-227-003.000-026 [18.43 acres] 018-4065-242202 conveyed to the City of South Bend for the Use and Benefit of its Park Department. This Real Estate was acquired by deed on April 30, 1959, and recorded on May 12, 1959, as Deed Record 74296 in the Office of the Recorder of St. Joseph County, Indiana.

Parcel / Tax ID 71-08-09-227-005.000-026 [7.11 acres] 018-4065-240901 conveyed to the City of South Bend Department of Public Parks. This Real Estate was acquired by deed on [unknown], and recorded on [unknown], as Deed Record [unknown] in the Office of the Recorder of St. Joseph County, Indiana.

Parcel / Tax ID 71-08-10-102-001.000-026 [12.45 acres] 018-4096-357504 conveyed to the City of South Bend for the Use and Benefit of its Park Department. This Real Estate was acquired by deed on April 30, 1959, and recorded on May 12, 1959, as Deed Record 74298 and 74297 in the Office of the Recorder of St. Joseph County, Indiana.

Parcel / Tax ID 71-08-09-227-004.000-026 [0.38 acres] 018-4065-2410 conveyed to the City of South Bend, Indiana, for the Use and Benefit of its Park Department. This Real Estate was acquired by deed on [unknown], and recorded on [unknown], as Deed Record [unknown] in the Office of the Recorder of St. Joseph County, Indiana.

Parcel / Tax ID 71-08-10-102-003.000-026 [2.01 acres] 018-4096-357507 conveyed to the City of South Bend, Indiana, for the Use and Benefit of its Park Department. This Real

Estate was acquired by deed on [unknown], and recorded on [unknown], as Deed Record [unknown] in the Office of the Recorder of St. Joseph County, Indiana.

The Real Estate consists of 41.39 acres and has also been identified by the county and state as parcel identification numbers identified above. The Real Estate, to which the restrictions in this Covenant apply, is depicted on the figure attached hereto as Exhibit "A".

WHEREAS: Real Estate contains an unpermitted solid waste disposal site, which operated from approximately the 1930s until the 1950s on a portion of the Real Estate. The Real Estate is subject to the findings and contents of the following reports and associated documents: Focused LaSalle Park Area Remedial Investigation and Feasibility Study Work Plan (WSP/PB 1/6/16) (VFC # 80216388, 80269843, 80288502, 80305964, 82854719), Field Sampling Plan (AMEC 5/25/16)(VFC # 80216388, 80269843, 80288502, 80305964, 80469697); FSP TCRA Revision (Wood 3/7/22) (VFC#83583399); Quality Assurance Project Plan (WSP/PB 1/7/16) (VFC # 80216388, 80269843, 80288502, 80305964); QAPP TCRA Revision (JPR 3/7/22) (VFC # 83583340), and Health and Safety Plan (WSP/PB 2/23/16) (VFC # 80216388, 80269843, 80288502, 80305964); HASP TCRA Revision (JPR 10/27/21) (VFC # 83583395); LaSalle Park Focused Remedial Investigation Report (AMEC 10/13/17) (VFC # 80522684, 80403502, 80448549, 82838438, 83583329, 83583332); Soil Management Plan (WSP 8/2017) (VFC # 80498242, 82550747, 82633086, 83457942); SMP Addendum #1 (Wood 8/6/18) (VFC # 83583404), SMP Addendum #2 (Veritas 3/2023) (VFC # 83583417), SMP Addendum #3 (Veritas 3/2024) (VFC #83790575); TCRA Work Plan ( Wood 6/11/21) (VFC # 80269843); and TCRA Construction Completion Report (WSP 1/13/23) (VFC # 83509511) approved by the U.S. Environmental Protection Agency (EPA) and approved by the Indiana Department of Environmental Management ("IDEM" or "Department") and subject to 329 IAC 10-4. A portion of the Real Estate has been used as an unpermitted solid waste disposal site, and its use is restricted by the post-closure care requirements and the terms of the Approval. The Approval and regulations at 329 IAC 10-4 provide that solid waste material will remain on the Real Estate and require land use restrictions that must be maintained to ensure the protection of public health, safety, or welfare, and the environment.

WHEREAS: Corrective action was implemented in accordance with IC-13-22 and/or other applicable Indiana law as a result of a release of hazardous waste(s) and/or hazardous constituents relating to LaSalle Park. The facility was assigned IDEM site number #7500103.

WHEREAS: A portion of the Real Estate was utilized as a solid waste disposal site, depicted in Exhibit "B" and Exhibit "C". The solid waste disposal site has been subject to USEPA Administrative Settlement and Order on Consent for Focused Remedial Investigation and Feasibility Study (2015 and amendments) (VFC # 83583327) and to USEPA Administrative Settlement and Order on Consent for Removal Action (2022) (VFC # 83583351). The solid waste boundary encompasses approximately 15 acres of the 41.39-acre park and is believed to contain industrial, residential, and construction/demolition waste from the 1930s, 1940s, and 1950s. For purposes of this covenant, the entire park is considered to be the Affected Area. Figures depicting the solid

waste materials location, solid waste depth, and surface contours are contained in Exhibit "C", which are hereby incorporated and made a part hereof. The approximate depth of solid waste material ranges from 5 to 25 feet bgs. Any future deed of the Real Estate shall reflect that a portion of the Real Estate has been used as a solid waste disposal site, as defined in 329 IAC 10-4.

WHEREAS: Environmental investigation reports, the findings and contents of the following reports and associated documents: Focused LaSalle Park Area Remedial Investigation and Feasibility Study Work Plan (WSP/PB 1/6/16) (VFC # 80216388, 80269843, 80288502, 80305964, 82854719), Field Sampling Plan (AMEC 5/25/16)(VFC # 80216388, 80269843, 80288502, 80305964, 80469697); FSP TCRA Revision (Wood 3/7/22) (VFC#83583399); Quality Assurance Project Plan (WSP/PB 1/7/16) (VFC # 80216388, 80269843, 80288502, 80305964); QAPP TCRA Revision (JPR 3/7/22) (VFC # 83583340), and Health and Safety Plan (WSP/PB 2/23/16) (VFC # 80216388, 80269843, 80288502, 80305964); HASP TCRA Revision (JPR 10/27/21) (VFC # 83583395); LaSalle Park Focused Remedial Investigation Report (AMEC 10/13/17) (VFC # 80522684, 80403502, 80448549, 82838438, 83583329, 83583332); Soil Management Plan (WSP 8/2017) (VFC # 80498242, 82550747, 82633086, 83457942); SMP Addendum #1 (Wood 8/6/18) (VFC # 83583404), SMP Addendum #2 (Veritas 3/2023) (VFC # 83583417), SMP Addendum #3 (Veritas 3/2024) (VFC #83790575); TCRA Work Plan ( Wood 6/11/21) (VFC # 80269843); and TCRA Construction Completion Report (WSP 1/13/23) (VFC # 83509511) approved by the U.S. Environmental Protection Agency (EPA), IDEM's Approval and other related documents and other related documents are hereby incorporated by reference and may be examined at the offices of the Department, which is located in the Indiana Government Center North building at 100 N. Senate Avenue, Indianapolis, Indiana. The documents may also be viewed electronically in the Department's Virtual File Cabinet by accessing the Department's Website (currently [www.in.gov/idem/](http://www.in.gov/idem/)). The Real Estate is also depicted as a polygon on IDEM's GIS webviewer (currently <https://on.in.gov/ideminteractivemap>).

NOW THEREFORE, the City of South Bend subjects the Real Estate to the following restrictions and provisions, which shall be binding on the current Owner and all future Owners:

## I. RESTRICTIONS

### 1. Restrictions. The Owner:

- (a) Shall not use or allow the use of the Real Estate for residential purposes, including, but not limited to, daily child care facilities or educational facilities for children (e.g., daycare centers or K-12 schools).
- (b) Shall not use or allow the use or extraction of groundwater at the Real Estate for any purpose, including, but not limited to: human or animal consumption, gardening, industrial processes, or agriculture, except that groundwater may be extracted in conjunction with environmental investigation and/or

remediation activities.

- (c) Shall not use the Real Estate for any agricultural use, including community gardens.
- (d) Shall neither engage in nor allow excavation of soil at the Real Estate, depicted in Exhibit B, unless the Soil Management Plan, described in VFC # 80498242, 82550747, 82633086, 83457942, 83583404, 83583417, 83790575 and any IDEM approved updates are followed and the Department is notified prior to initiation of work.
- (e) The final cover, depicted in the TCRA Construction Completion Report, dated January 20, 2023, VFC # 83509511 (refer to Exhibit D for figure), should be operated and maintained so as to protect its functional integrity and it should also adhere to any EPA and IDEM approved institutional control implementation and assurance plans (ICAPs), if applicable.
- (f) Shall prohibit any activity at the Real Estate that may interfere with the groundwater monitoring or well network. Refer to Exhibit E and GPS coordinates.

## II. GENERAL PROVISIONS

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 and their authorized agents, employees, contractors, representatives, agents, lessees, licensees, invitees, guests, or persons acting under their direction or control (hereinafter "Related Parties") 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 or right to occupancy in all or any part of the Real Estate by any person shall affect 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.
3. Binding upon Future Owners. By taking title to an interest in or occupancy of the Real Estate, any subsequent Owner or Related Party agrees to comply with all of the restrictions set forth in paragraph 1 above and with all other terms of this Covenant.
4. 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 monitoring compliance with this Covenant and ensuring its protectiveness; this right includes the right to take samples and inspect records.
5. Written Notice of the Presence of Contamination. 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 (with blanks to be filled in):

**NOTICE: THE INTEREST CONVEYED HEREBY IS SUBJECT TO AN ENVIRONMENTAL RESTRICTIVE COVENANT, DATED FEBRUARY 10, 2026, RECORDED IN THE OFFICE OF THE RECORDER OF ST. JOSEPH \_\_\_\_\_ COUNTY ON \_\_\_\_\_, 2026, INSTRUMENT NUMBER (or other identifying reference) \_\_\_\_\_ IN FAVOR OF AND ENFORCEABLE BY THE INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT.**

6. Notice to Department of the Conveyance of Property. Owner agrees to provide notice to the Department of any conveyance (voluntary or involuntary) of any ownership interest in the Real Estate (excluding mortgages, liens, similar financing interests, and other non-possessory encumbrances). Owner must provide the Department with the notice within thirty (30) days of the conveyance and: (a) include a certified copy of the instrument conveying any interest in any portion of the Real Estate, and (b) if it has been recorded, its recording reference, and (c) the name and business address of the transferee.
7. Indiana Law. This Covenant shall be governed by, and shall be construed and enforced according to, the laws of the State of Indiana.

### III. ENFORCEMENT

8. Enforcement. Pursuant to IC 13-14-2-6 and other applicable law, the Department may proceed in court by appropriate action to enforce this Covenant. Damages alone are insufficient to compensate IDEM if any owner of the Real Estate or its Related Parties breach this Covenant or otherwise default hereunder. As a result, if any owner of the Real Estate, or any owner's Related Parties, breach this Covenant or otherwise default hereunder, IDEM shall have the right to request specific performance and/or immediate injunctive relief to enforce this Covenant in addition to any other remedies it may have at law or at equity. Owner agrees that the provisions of this Covenant are enforceable and agrees not to challenge the provisions or the appropriate court's jurisdiction.

### IV. TERM, MODIFICATION, AND TERMINATION

9. 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.
10. Modification and Termination. This Covenant shall not be amended, modified, or terminated without the Department's prior written approval. Within thirty (30) days

of executing an amendment, modification, or termination of the Covenant, Owner shall record such amendment, modification, or termination with the Office of the Recorder of St. Joseph County and within thirty (30) days after recording, provide a true copy of the recorded amendment, modification, or termination to the Department. In accordance with 329 IAC 1-2-7 and IC 13-14-2-9(d), the applicant shall reimburse the Department for the administrative and personnel expense incurred by the Department in evaluating a proposed modification or termination of a restrictive covenant under this rule.

## V. MISCELLANEOUS

11. 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.
12. 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 of its obligation to comply with any other applicable laws.
13. Change in Law, Policy or Regulation. The parties intend that this Covenant shall not be rendered unenforceable if Indiana's laws, regulations, guidance, or remediation policies (including those concerning environmental restrictive covenants, or institutional or engineering controls) change as to form or content. If necessary to enforce this Covenant, the parties agree to amend this Covenant to conform to any such change. All statutory references include any successor provisions.
14. 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

To Owner:  
City of South Bend, acting through its  
Board of Public Works and on behalf of its Board of Park Commissioners  
215 S. Dr. Martin Luther King Jr. Blvd.  
South Bend, IN 46601

To Department:  
IDEM, Office of Land Quality

100 N. Senate Avenue  
IGCN 1101  
Indianapolis, IN 46204-2251  
Attn: Institutional Controls Group

- An Owner may change its address or the individual to whose attention a notice is to be sent by giving written notice via certified mail.
15. 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 or terms of this Covenant shall remain in full force and effect, as if such portion found invalid had not been included herein.
  16. Authority to Execute and Record. The undersigned person executing this Covenant represents that he or she is the current fee Owner of the Real Estate or is the authorized representative of the Owner, and further represents and certifies that he or she is duly authorized and fully empowered to execute and record, or have recorded, this Covenant.

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



## EXHIBIT A

### LEGAL DESCRIPTION OF REAL ESTATE

**Parcel ID: 71-08-09-227-001.000-026 / Tax ID: 018-4065-242201**

Part of the Northeast Quarter (1/4) of the Northeast Quarter (1/4) of Section 9, Township 37 North, Range 2 East, described as beginning at a point 60 feet East and 7.17 feet South of the Northeast corner of Lot Q in the recorded Replat of Lot 1081 in the Second Plat of LaSalle Park, an Addition to the City of South Bend; running thence South, parallel with and 60 feet East of the West line of Falcon Street, a distance of 347.09 feet; thence East 129 feet; thence North, parallel with and 189 feet East of the West line of Falcon Street, 328.25 feet to the South line of Linden Avenue; thence Northwesterly along curve to the place of beginning, 130.36 feet on a long chord.

**Parcel ID: 71-08-09-227-003.000-026 / Tax ID: 018-4065-242202:**

Part of the Northeast Quarter (1/4) of the Northeast Quarter (1/4) of Section 9, Township 37 North, Range 2 East, described as beginning at the Northeast corner of said Section 9 a distance of 981.80 feet, more or less, to a point 129 feet East of the East line of Falcon Street; thence South parallel with and 129 feet East of the East line of Falcon Street a distance of 394.25 feet to the Southeast corner of a tract deeded to Stanley C. Witt and wife in Deed Record 575, page 121; thence West 129 feet to the East line of Falcon Street; thence South 433.65 feet; thence East 143 feet; thence South 162 feet; thence East 189 feet; thence South parallel with and 332 feet East of the East line of Falcon Street a distance of 60 feet; thence East parallel with and 240 feet North of the North line of Washington Street a distance of 794.09 feet, more or less, to the East line of said Section 9; thence North along the East line of said Section 9 a distance of 1047.20 feet to the place of beginning, excepting there form exceptions #1, #2, #3, #4, #5, described as follows:

Exception No. 1: Beginning at the Northeast corner of said Section 9; thence West along the North line of said Section 9 a distance of 279.84 feet, more or less; thence Southeasterly to a point on the East line of said Section 9 that is 192.22 feet, more or less, South of the Northeast corner of said Section 9; thence North 192.72 feet, more or less, to the Northeast corner of said Section 9, the place of beginning, containing 0.62 acres, more or less.

Exception No. 2: All that portion of lots 1090, 1091, and 1094 as indicated on the map of the Second Plat of LaSalle Park Addition to the City of South Bend that lies North of a line drawn East and West at a point 240 feet North of and parallel with the North line of Washington Street in said City of South Bend.

Exception No. 3: That part of Linden Avenue (a public street) that crosses the above mentioned property described aforesaid containing 1.96 acres, more or less.

Exception No. 4: Any and all other dedicated public streets and alleys.

Exception No. 5: Beginning on the East line of said Section 9, at a point 192.72 feet South of the Northeast corner of said Section 9; thence South along said East line to the Northerly line of Linden Avenue, thence in a Northwesterly direction along said Northerly line of Linden Avenue to the North line of said Section 9; thence East along said North line of Section 9 to a point 279.84 feet West of the Northeast corner of said Section 9; thence Southeasterly to the place of beginning, and containing 3.36 acres more or less.

**Parcel ID: 71-08-09-227-005.000-026 / Tax ID: 018-4065-240901:**

Lots 1 Thru 5 & All of Lots 1086, 1087, 1089 & So 46' Lot 1088 Incl All Adj Vac Streets & Alleys LaSalle Park 3<sup>rd</sup> Proposed.

**Parcel ID: 71-08-10-102-001.000-026 / Tax ID: 018-4096-357504:**

Part of the North Half (1/2) of the West Half (1/2) of the Northwest Quarter (1/4) of Section 10, Township 37 North, Range 2 East described as beginning on the North line of West Washington Street in the City of South Bend at a point 502.6 feet, more or less, East of the West line of said Section 10; running thence East 400 feet along the North line of Washington Street; thence North 484 feet to the Southerly line of a proposed street 80 feet wide; thence Northwesterly on a curve along the Southerly line of said proposed street until it strikes a point 564 feet, more or less, North of the place of beginning; thence South 564 feet, more or less, to the North line of Washington Street and the place of beginning, containing 4.7 acres.

Part of the North Half (1/2) of the West Half (1/2) of the Northwest Quarter (1/4) of Section 10, Township 37 North, Range 2 East described as beginning at the intersection of the West line of said Section 10 and the North line of West Washington Street in the City of South Bend, running thence East 502.6 feet, more or less, along the said North line of Washington Street; thence North 564 feet, more or less, to the Southerly line of a proposed street 80 feet wide; thence Northwesterly in a straight line along the said Southerly line of Linden Avenue; thence continuing Northwesterly along the Southerly line of said Linden Avenue until it strikes the West line of said Section 10 at a point 810.17 feet, more or less, North of the place of beginning; thence South along the said West line of Section 10, 810.17 feet, more or less, to the place of beginning, containing 7.9 acres.

**Parcel ID: 71-08-09-227-004.000-026 / Tax ID: 018-4065-2410**

Lot Numbered 1088 as shown on the recorded Second Plat of LaSalle Park in the City of South Bend, Indiana, as per plat thereof, recorded in the Office of the Recorder of St. Joseph County, Indiana. Except the South 46 feet thereof.

**BOARD OF PUBLIC WORKS  
AGENDA ITEM REVIEW REQUEST FORM**

Date: 2/3/26  
 Name: Michael J Schmidt Department of Public Works – Engineering Division  
 BPW Date: 2/10/26 Phone Extension: \_\_\_\_\_

**Required Prior to Submittal to Board**

BPW Attorney	<input checked="" type="checkbox"/>	Attorney Name	<u>Michael Schmidt</u>
Dept. Attorney	<input type="checkbox"/>	Attorney Name	<u><b>Michael Schmidt</b></u>
Purchasing	<input type="checkbox"/>		

**Check the Appropriate Item Type – Required for All Submissions**

<input type="checkbox"/> Professional Services Agreement	<input type="checkbox"/> Contract	<input type="checkbox"/> Proposal
<input type="checkbox"/> Open Market Contract	<input type="checkbox"/> Amendment/Addendum	<input type="checkbox"/> Special Purchase, QPA
<input type="checkbox"/> Bid Opening	<input type="checkbox"/> Bid Award	<input type="checkbox"/> Req. to Advertise <input type="checkbox"/> Title Sheet
<input type="checkbox"/> Quote Opening	<input type="checkbox"/> Quote Award	<input type="checkbox"/> Reject Bids/Quotes
<input type="checkbox"/> Proposal Opening	<input type="checkbox"/> C/O & PCA No. _____	<input type="checkbox"/> PCA
<input type="checkbox"/> Chg. Order, No. _____	<input type="checkbox"/> Traffic Control	<input type="checkbox"/> Resolution
<input checked="" type="checkbox"/> Other: _____		<input type="checkbox"/> Ease./Encroach

**Required Information**

Company or Vendor Name \_\_\_\_\_

New Vendor  Yes  If Yes, Approved by Purchasing  
 No

MBE/WBE Contractor  MBE  WBE **Completed E-Verify Form Attached**  Yes  No

Project Name Environmental Restrictive Covenant for Beck’s Lake Property

Project Number \_\_\_\_\_

Funding Source \_\_\_\_\_

Account No. \_\_\_\_\_

Amount \_\_\_\_\_

Terms of Contract \_\_\_\_\_

**Special Contract Provisions**

Purpose/Description \_\_\_\_\_

**For Change Orders Only**

Amount of  Increase \_\_\_\_\_  
 Decrease (\$ )

Previous Amount \$ \_\_\_\_\_

Increase \_\_\_\_\_ %

Current Percent of Change: Decrease ( %)

New Amount \$ \_\_\_\_\_

Increase \_\_\_\_\_ %

Total Percent of Change: Decrease ( %)

Time Extension Amount: \_\_\_\_\_

New Completion Date: \_\_\_\_\_