



Tetra Tech EM Inc.

1815 Brownsboro Road, Suite 200 □ Louisville, KY 40206 □ (502) 568-6688 □ FAX (502) 568-6222

Rec'd 10/24/03  
3 p.m.  
JSG

October 17, 2003

Mr. Tim Hubbard, PG  
Supervisor State Superfund Section  
Department for Environmental Protection  
Division of Waste Management  
14 Reilly Road  
Frankfort, Kentucky 40601-1190

COUNTY: Jefferson  
FACILITY: Vermont American / 500 Assoc.  
I. D. #: 34565  
SECTION: Main  
SENT BY: JSG BRANCH SF

Subject: **Jackson Street Building  
Management Plan Implementation Report  
Former Vermont American Facility  
500 East Main Street  
Louisville, Kentucky  
NC# 34565  
EPA ID# KYD 074 075 0441  
Tetra Tech Project Number P2616**

Dear Mr. Hubbard:

On behalf of 500 Associates, Tetra Tech EM Inc. (Tetra Tech) is pleased to provide this report documenting implementation of the Jackson Street Building portion of the approved management plan of the former Vermont American facility located at 500 East Main Street in Louisville, Kentucky. Several documents that define or provide additional information concerning the site management plan and its implementation include:

- "Management Plan", Tetra Tech, February 7, 2003,
- Kentucky Department of Environmental Protection (KDEP) Approval Letter, February 21, 2003,
- KDEP Waste Disposal Issue Letter, March 17, 2003,
- "KDEP Approval Response Letter", Tetra Tech, March 28, 2003,
- KDEP Approval Letter of March 28, 2003, April 1, 2003,
- KDEP Request for Documentation Letter, May 30, 2003,
- "KDEP May 30, 2003 Letter-Response" Tetra Tech, June 20, 2003,
- "Update Letter", Tetra Tech, August 11, 2003.

The February 7, 2003 Management Plan was amended per the Tetra Tech "KDEP Approval Response Letter", dated March 28, 2003. KDEP approved the

Management Plan and subsequent modification in the February 21, 2003 and April 1, 2003 letters.

The Jackson Street Building, is a separate parcel, which will not be affected by the proposed Kentucky Department of Transportation (KDOT) I-65 widening. This proposed separation of the two parcels was discussed in the November 5, 2002 Tetra Tech letter titled "*Jackson Street Property*". KDEP, in their November 14, 2002 response to the November 5<sup>th</sup> letter, titled "*Jackson Street Property, Property ID Number 04-17C-0136-0000*", indicated "*A separate management plan for each parcel, or a plan encompassing both, may be submitted for division review, assuming section (18)(b) will be the remedial option selected for each.*"

The Management Plan is being implemented in stages to accommodate the proposed I-65 widening, as discussed in the Tetra Tech letters of June 20, 2003 titled "*KDEP May 30, 2003 Letter Response*" and the August 11, 2003 letter titled "*Update Letter*". As requested in the KDEP November 14, 2002 correspondence, "*A separate management plan for each parcel, or a plan encompassing both, may be submitted for division review, assuming Section (18)(b) will be the remedial option selected for each.*" Section (18)(b) will be the selected option for the Jackson Street Building property (Parcel 04-17C-0136-0000) and the rest of the site (Parcel 04-17C-0138-0000).

During implementation of this portion of the Management Plan, the following items have been completed:

- Task 220 – Supplemental Groundwater Sampling
- Task 410 – Institutional Controls – Jackson Street Building
- Task 510 – Land Use Deep Restriction – Jackson Street Building

Results of the supplemental groundwater sampling will be submitted under separate cover titled "*Supplemental Groundwater Sampling (Task 220) Management Plan Implementation Report*". Discussion of the remaining implemented tasks is presented in the following paragraphs.

#### **Task 410 – Institutional Controls – Jackson Street Building**

A vapor barrier and concrete cap was selected and approved as a viable remedial alternative to address the KDEP comment raised in the February 28, 2003 approval letter. This remedial alternative was defined in "Item 5" of the March 28, 2003 Tetra Tech correspondence. Subsequent e-mails between Mr. Mark Mangun of Tetra Tech and Mr. Jeff Grow of KDEP, provided approval to reduce the proposed concrete thickness to 6 inches and include the installation of a vapor barrier directly below the concrete. The use of a vapor barrier and cap as an engineering control was implemented in addition to the institutional control in the form of a deed restriction, in order to restrict access to the area for the purpose of further reducing the risk of human exposure.

The vapor barrier and cap was installed on September 9, 2003 in the south end of the basement of the Jackson Street Building (see Figure 1). The area of installation was approximately 1150 square feet of polyethylene plastic sheeting overlain by approximately 6 inches of concrete. Ormond Construction, of Louisville, Kentucky, installed the vapor barrier and cap system. Tetra Tech oversaw and documented the installation.

### **Task 510 – Land Use Deed Restriction – Jackson Street Building**

A land use deed restriction for the Jackson Street Property is attached. This deed restriction addresses the KDEP comment raised in the February 28, 2003 approval letter. Incorporation of the deed restriction was defined as "Item 8" of the March 28, 2003 Tetra Tech correspondence.

The deed restrictions exclude residential use of the basement level of the property except for storage purposes and prohibit the use of groundwater for drinking or other domestic purposes.

On behalf of 500 Associates, Tetra Tech requests KDEP perform a site inspection and issue an approval letter for the completed Management Plan tasks associated with the Jackson Street Building property (*Property ID Number 04-17C-0136-0000*).

Tetra Tech looks forward to the KDEP approval of this phase of the Management Plan implementation. Please contact Mark Mangun at 502-357-9350 or 502-836-7964 (cell phone) should you have any questions or comments.

Sincerely,

**Tetra Tech EM, Inc**



Mark B. Mangun, P.G.  
Senior Hydrogeologist

cc: Charles G. Middleton III, Middleton & Reutlinger  
Dennis P. Connair, URS

Attachments: Figure 1 – Area of Concrete Cap and Vapor Barrier Installation  
Attachment 1 - Jackson Street Building Land Use Deed Restriction

**Figure 1**

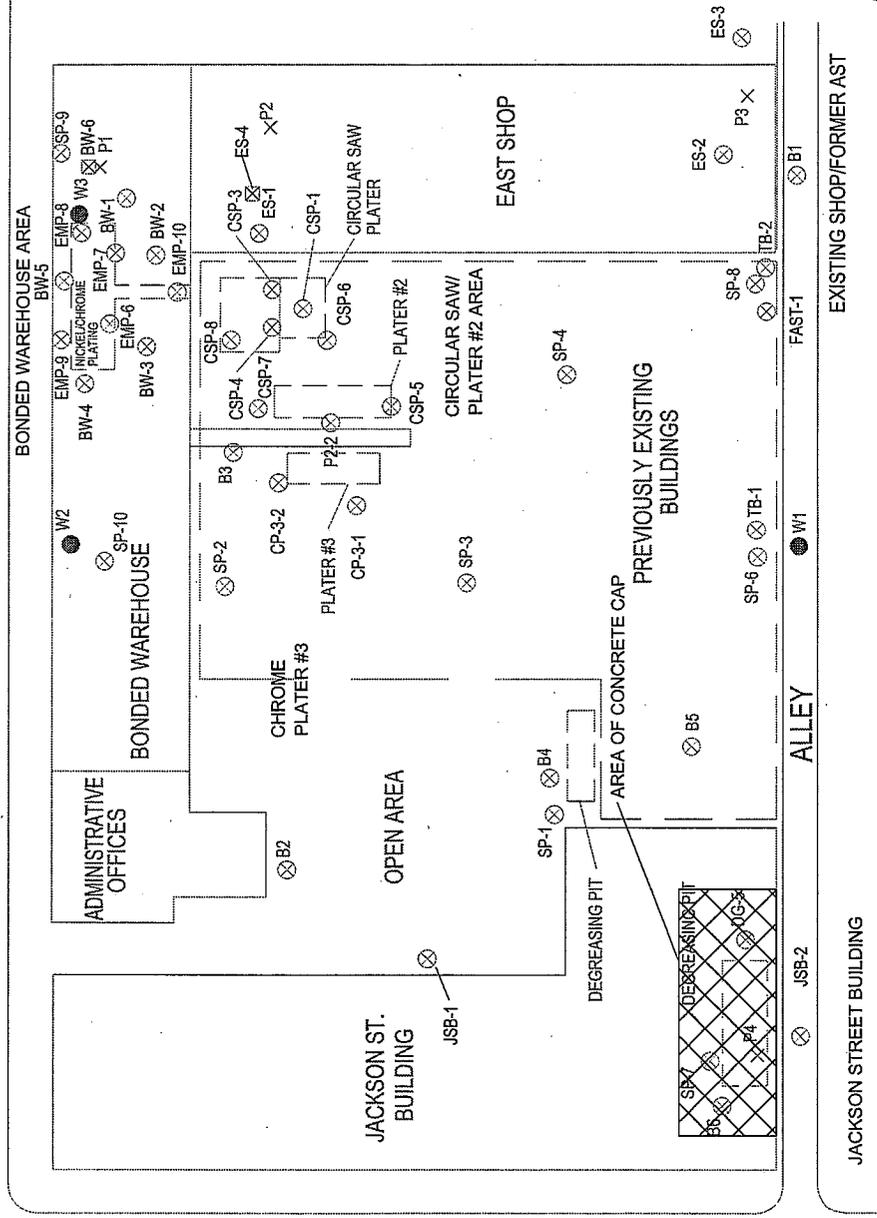
**Area of Concrete Cap and Vapor Barrier  
Installation**



1-65

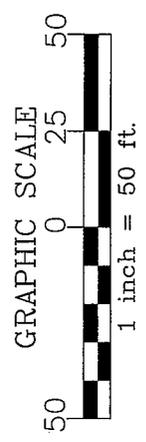
EAST MAIN ST.

W4



**LEGEND**

- ALL LOCATIONS SHOWN ARE APPROXIMATE
- PIT AND TRENCH SAMPLES
- SOIL BORINGS
- GROUNDWATER MONITORING WELL
- PROPOSED SUPPLEMENTAL SOIL SAMPLING



**500 ASSOCIATES**  
**500 EAST MAIN STREET**  
**LOUISVILLE, KENTUCKY**



**Tetra Tech EM Inc.**  
 1815 Brownsboro Road, Suite 200  
 Louisville, Kentucky 40206

**AREA OF CONCRETE CAP  
 AND VAPOR BARRIER INSTALLATION**

FIG. 1

**Attachment 1**

**Jackson Street Building Land Use Deed  
Restriction**

## DECLARATION OF RESTRICTIONS

**THIS DECLARATION** is made as of October 17, 2003, by 500 Associates, Inc. (Declarant).

**WHEREAS**, Declarant is the present owner of real property located at 500 East Main Street, Jefferson County, Kentucky (the Property), more particularly described in Deed Book 5706, Page 859, of the Jefferson County Clerk's Office as follows:

See Exhibit A Attached Hereto

**WHEREAS**, the Property was formerly owned by Vermont American Corporation and was the location of a saw blade and cutting tool manufacturing facility. During this period of usage, incidental releases of pollutants (including total chromium, hexavalent chromium, lead, nickel soluble salts, trichloroethene (TCE) and tetrachloroethene) occurred at the Property and have impacted surficial soil.

**WHEREAS**, Declarant is responsible for characterizing the extent of the release and for taking all actions necessary to correct the effects of the release on the environment pursuant to KRS 224.01-400.

**WHEREAS**, Declarant has proposed a plan (the Plan) to correct the effects of the release, which includes controlling exposure to the pollutants by restricting access and use of the property.

**WHEREAS**, the Kentucky Natural Resources and Environmental Protection Cabinet (the Cabinet) has approved the Plan, dated February 7, 2003, and subsequent modifications to the plan identified in correspondence to the Cabinet dated March 28, 2003 and August 11, 2003 and the Declarant has taken actions required by the approved Plan. At the time of the assessment activities, concentrations of 880 milligrams per

kilogram (parts per million) of lead and 0.855 milligrams per kilogram of TCE were identified at the Property. This amount is above de minimus risk levels for all exposure scenarios. Institutional Controls, consisting of a concrete cap, that restrict access to the Jackson Street basement area where prior sampling identified lead and TCE at concentrations that exceed soil screening levels have been installed.

**WHEREAS**, further information concerning the release and the activities performed to correct the effects of the release may be obtained by contacting the Custodian of Records of the Division of Waste Management at 14 Reilly Road, Frankfort, Kentucky 40601. Records concerning this property may be found under Notification and Complaints System (NOTCOM) Number 34565.

**NOW THEREFORE**, pursuant to KRS 224.01-400 and the Plan, Declarant imposes the following restrictions:

1.) Definitions

- A. "Residential use" means any use of the property related to a (i) residence or dwelling, including but not limited to a house, apartment, or condominium, or (ii) school, hospital, day care center, playground or outdoor recreational area.
- B. "Owner" means the Declarant or any successor owner or owners.

2.) Restrictions Applicable to the Property. Declarant shall assure that the use, occupancy, and activity of and at the Property are restricted as follows:

- A. Use. No residential use of the Property shall be permitted on the basement level where an engineering control consisting of a concrete cap and vapor barrier was installed.
- B. Groundwater. Groundwater at the Property shall not be used for drinking or other domestic purposes.

- C. Prohibited Actions. Except as necessary to protect human health, safety or the environment, no action shall be taken, allowed, suffered, or omitted on the Property if such action or omission is reasonable likely to:
- i. Create a risk of migration of hazardous substances, pollutants or contaminants or a potential hazard to human health or the environment: or,
  - ii. Result in a disturbance of the structural integrity of any engineering or institutional controls designed or utilized at the Property to contain hazardous substances, pollutants or contaminants or limit human exposure to hazardous substances, pollutants or contaminants.
  - iii. Prior to any construction activity or disturbance of any approved engineering or institutional controls on the Property, the Owner shall submit to the Cabinet a written rationale for the disturbance and detailed plans of the proposed construction for their review and written approval. No such construction activity or disturbance is permitted without this prior written approval from the Cabinet.
  - iv. Pursuant to this Declaration all owners of any interest in the Property acknowledge the continuing right of the Declarant, its successors and assigns, to access the Property, with reasonable prior notice to the then Property owner, for the purpose of monitoring, maintaining, or remediating the Property condition in accordance with the terms of the Plan dated February 7, 2003, approved by the Cabinet on February 21, 2003, as modified from time to time.

3.) Restrictions Run with Land

- A. Unless canceled, altered or amended under the provisions of paragraph 5 of this Declaration, these restrictions are to run with the land and shall be binding on Declarant, his successors, heirs and assigns, unless an instrument signed by the Owner and the Cabinet has been recorded, agreeing to change these restrictions in whole or in part.
- B. The Owner shall provide written notice to the Cabinet at least thirty (30) days prior to the transfer of this property or any portion thereof. The written notice shall be sent to: Manager, Superfund Branch, Division of Waste Management, 14 Reilly Road, Frankfort, Kentucky 40601.
- C. Except as provided in paragraph 5 of this Declaration, the Declarant hereby declares that the Property shall hereafter be held, transferred, sold, leased, conveyed and occupied subject to the restrictions set forth herein, each and all of which is and are for, and shall inure to the benefit of and pass with each and every part of the Property and shall apply to and bind the heirs, assigns and successors in the in the interest of the Declarant.

4.) Release of Restriction. These restrictions may not be canceled, altered or amended without the affirmative action of the Owner and the Cabinet, in an instrument executed by both parties agreeing to change these restrictions in whole or in part. The Cabinet shall not approve any change in use or restrictions on the Property unless additional remedial work has been completed according to a plan approved by the Cabinet for the contaminated portions of the Property.

5.) No Waiver. Failure of any owner or the Cabinet to demand or insist upon observance of any of these restrictions, or to proceed for restraint of

violations, shall not be deemed a waiver of the violation, or the right to seek enforcement of these restrictions.

- 6.) Enforcement. Enforcement of these restrictions shall be by proceeding of law or in equity, brought by any owner of the Property or by the Cabinet, against any party violating or attempting to violate any covenant or restriction, either to restrain violation, to direct restoration or to recover damages.
- 7.) Effect of Invalidation. Invalidation of any one of these restrictions, conditions or covenants by judgment or court order shall in no way affect any of the other provisions, which shall remain in full force and effect.

**IN WITNESS WHEREOF**, Declarant has executed this Declaration of Restrictions as of the date set forth above.

COMMONWEALTH OF KENTUCKY  
COUNTY OF JEFFERSON

Subscribed to before me by \_\_\_\_\_, this the \_\_\_\_ day  
of \_\_\_\_\_, 2003.

\_\_\_\_\_  
Notary Public

My Commission Expires:  
\_\_\_\_\_

This document prepared by:  
\_\_\_\_\_

STATE OF KENTUCKY

COUNTY OF \_\_\_\_\_

I, \_\_\_\_\_, Clerk of the Jefferson County Court,  
do certify that the foregoing notice was lodged in my office for record, and that I have  
recorded it, and the certificate thereon, this \_\_\_\_\_ day of \_\_\_\_\_, 2003.

\_\_\_\_\_  
Jefferson County Clerk

## **Exhibit A- Deed Information**

R. J. TAPPENBORN - CHIEF DRAFTSMAN  
DRAWN 12-18-90 - 3'



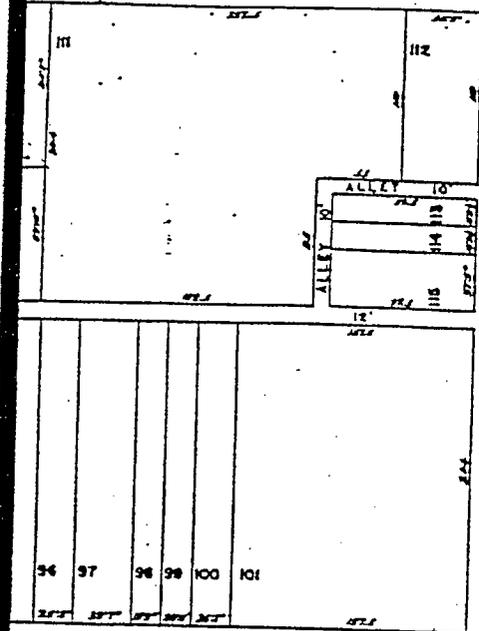
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ST. 60'

ST. 60'

EXPRESS WAY.

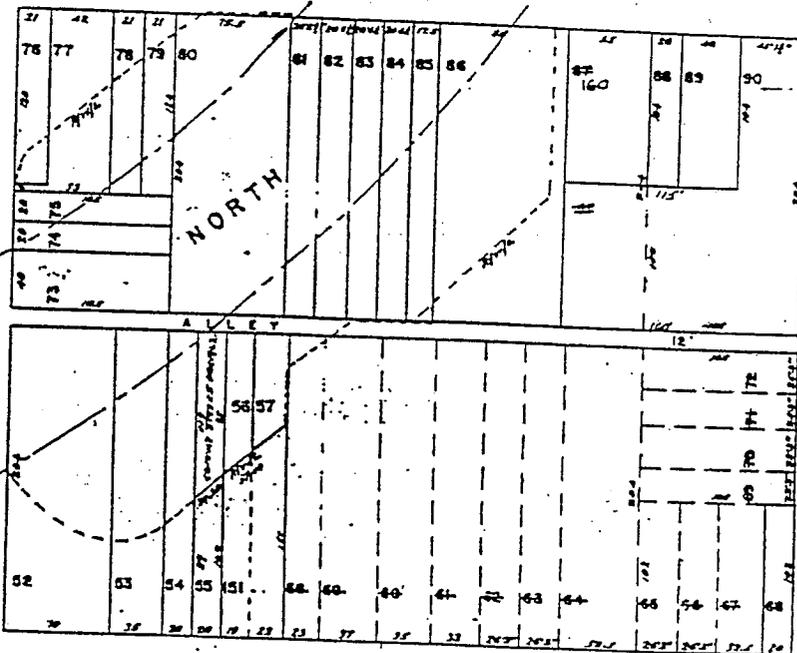
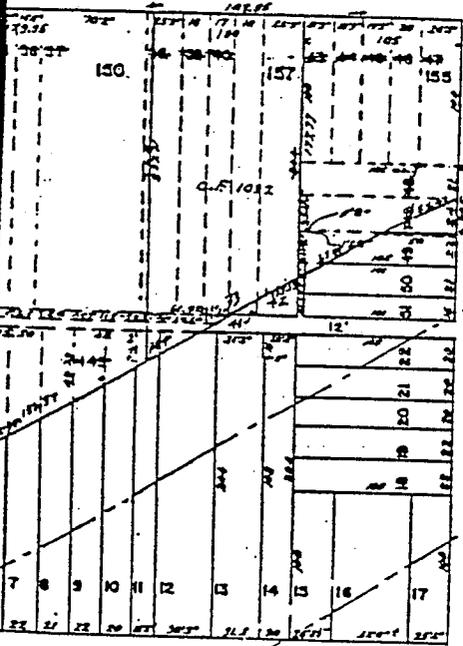


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TRACT 1: BEGINNING on the Southeast corner of Main and Jackson Street; running thence Northwardly along the South side of Main Street 315 feet, and extending back Southwardly of the same width, the West line of said lot being coincident with the East line of Jackson Street, 204 feet to an alley.

TRACT 2: BEGINNING on the East side of Jackson Street 110 feet North of Market Street and at the North line of an alley; thence Eastwardly with the North line of said alley and said North line extending 100 feet; thence Northwardly parallel with Jackson Street 69 feet; thence Eastwardly parallel with Market Street 5 feet; thence Northwardly parallel with Jackson Street 25 feet to another alley; thence Westwardly along the South line of said last mentioned alley 105 feet to Jackson Street; thence Southwardly along the East line of Jackson Street 94 feet to the beginning.

TRACT 3: BEGINNING on the North side of Market Street 84 feet East of Jackson Street; running thence Eastwardly along the North side of Market Street 38 feet 6 inches; thence Northwardly and parallel with Jackson Street 204 feet to an alley; thence Westwardly along the South side of said alley 17 feet 6 inches to another alley; thence Southwardly along the East side of said last mentioned alley and parallel with Jackson Street 25 feet; thence Westwardly in a line parallel with Market Street 5 feet; thence South in a line parallel with Jackson Street 69 feet; thence West in a line parallel with Market Street 16 feet along the North line of another alley; thence South 100 feet, more or less, to the North line of Market Street; the point of beginning.

TRACT 4: BEGINNING at the Northeastwardly corner of Market and Jackson Streets; thence Eastwardly along the Northwardly line of Market Street 21 feet, and extending back Northwardly between parallel lines 100 feet to an alley, the Westwardly line being identical with the Eastwardly line of Jackson Street.

TRACT 5: BEGINNING on the North side of Market Street 21 feet East of Jackson Street; running thence Eastwardly along the North side of Market Street 21 feet, and extending back Northwardly of the same width, between lines parallel with Jackson Street, 100 feet to an alley.

TRACT 6: BEGINNING on the North side of Market Street at a point 122.5 feet East of Jackson Street; running thence Eastwardly along said line of Market Street 17.5 feet, and thence extending back Northwardly between lines parallel with Jackson Street, 204 feet to a 12 foot alley.

BEING the same property acquired by American Saw and Tool Company, by deed dated December 16, 1955, of record in Deed Book 3369, Page 294, in the office of the Clerk of Jefferson County, Kentucky. (Tract 1 & 2).

BEING the same property acquired by Vermont American Corporation, by deed dated May 4, 1967, of record in Deed Book 4112, Page 448, in the office aforesaid. (Tract 3).

BEING the same property acquired by Vermont American Corporation, by deed dated July 22, 1966, of record in Deed Book 4054, Page 328, in the office aforesaid. (Tract 4 & 5).

BEING the same property acquired by Vermont American Corporation, by deed dated September 20, 1968, of record in Deed Book 4223, Page 551, in the office aforesaid. (Tract 6).

COURT

555-20

*William*  
11/15/68  
*[Signature]*  
11/15/68

The party of the first part further covenants that it is lawfully seized of the estate hereby conveyed, has full right and power to convey the same, and that said estate is free from all encumbrances except State, County and School Taxes assessed and payable in the year 1987, City of Louisville Taxes assessed and payable in the year 1987, and all subsequent taxes which party of the second part hereby assumes and agrees to pay.

PROVIDED, HOWEVER, there is excepted any restrictions, stipulations and easements of record affecting said property.

IN TESTIMONY WHEREOF, witness the signature of the party of the first part, hereunto duly authorized by proper resolution of its Board of Directors, this the first hereinafter written.

VERMONT AMERICAN CORPORATION, a Corporation, successor by merger to AMERICAN SAW AND TOOL COMPANY, a Kentucky Corporation

BY: Julia P. Hay  
Asst. Secretary

STATE OF KENTUCKY )  
COUNTY OF JEFFERSON ) SS

The foregoing Deed was acknowledged before me this 11th day of August 1987 by JULIA P. HAY, Asst. Secretary of VERMONT AMERICAN CORPORATION, a Corporation, successor by merger to AMERICAN SAW AND TOOL COMPANY, a Kentucky Corporation, on behalf of said corporation.

PREPARED BY  
W. Douglas Mann  
W. DOUGLAS MANN, ATTORNEY  
215 W. Fifth Street  
Louisville, KY 40202

W. Douglas Mann  
Notary Public, Jefferson County, Kentucky  
My commission expires August 2, 1991

reference Only: Being Lot \_\_\_\_\_ Block \_\_\_\_\_ as shown on the plats of the Jefferson County Property Evaluation Administrator.)

BOOK 5706 PAGE 859

(1)

THIS DEED made this 11th day of August 1987 between

VERMONT AMERICAN CORPORATION, a Corporation, successor by merger to AMERICAN SAW AND TOOL COMPANY, a Kentucky Corporation, party of the first part; and,

500 ASSOCIATES, INC., a Kentucky Corporation, party of the second part;

500 ASSOCIATES, INC.  
515 WEST MARKET ST.  
LOUISVILLE, KY 40202

The total sale price of this property is \$555,000.00.

WITNESSETH:—That for a VALUABLE CONSIDERATION paid, the receipt of which is hereby acknowledged,

the party of the first part hereby conveys with covenant of GENERAL WARRANTY, unto the party of the second part, in fee simple,

the following described real estate situated in the City of Louisville, Jefferson County, Kentucky, to-wit:

"SEE EXHIBIT 'A' ATTACHED HERETO AND MADE A PART HEREOF"

BOOK 5706 PAGE 859

*Handwritten:*  
1987  
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940