

**NEW MEXICO ENVIRONMENT DEPARTMENT  
VOLUNTARY REMEDIATION AGREEMENT**

**I. Introduction**

This Voluntary Remediation Agreement (“Agreement”) is entered into voluntarily by **the City of Albuquerque**, represented by **Bart Faris, Manager, City of Albuquerque Environmental Health Department**, who is duly authorized and appointed (“Participant”) and the secretary of the New Mexico Environment Department (“Department”), or his or her designee, pursuant to the Voluntary Remediation Act, NMSA 1978, Sections 74-4G-1 to -12, and the New Mexico Voluntary Remediation Regulations (20.6.3 NMAC). The purpose of this Agreement is to detail the obligations and functions of each party relevant to the remediation to be conducted at the **City of Albuquerque Rail Yards** (“Site”), located at 1100 2nd Street Southwest in Albuquerque, under the Voluntary Remediation Program (**VRP Site No. 53161007**).

The activities conducted by the Participant under this Agreement are subject to approval by the Department. The activities conducted by the Participant shall be consistent with this Agreement, all applicable laws and regulations, and any pertinent guidance documents. The Participant shall employ sound scientific, engineering, and construction practices in the voluntary remediation activities at this Site.

**II. Statement of Eligibility**

The secretary or his designee has determined that the application and Preliminary VRP Work Plan submitted by the Participant to the Department on January 17, 2019, is complete, and that the Participant is eligible to enter into this Agreement in accordance with NMSA 1978, Section 74-4G-5 and 20.6.3.200.A NMAC.

**III. Parties Bound**

This Agreement shall apply to and be binding upon the Participant, its officers, managing agents, directors, principals, partners, employees, receivers, trustees, agents, parents, subsidiaries and affiliates, and upon the Department, its employees, and agents. The Participant has submitted with the application a signed Declaration of Ability and Intent as set forth in 20.6.3.200.B(2) NMAC. No change in ownership, corporate, or partnership status shall in any way alter the Participant’s status or responsibilities under this Agreement unless the Participant or Department terminates this Agreement in accordance with 20.6.3.300.H NMAC.

The Participant shall provide a copy of this Agreement to any subsequent owners or successors before ownership rights are transferred. The Participant shall provide a copy of this Agreement to all contractors, subcontractors, laboratories, and consultants or other parties, which are retained by the Participant, to conduct any work under this Agreement, within 14 days after the effective date of this Agreement or within 14 days of the date of retaining their services.

**IV. Designated Project Manager**

On or before the effective date of this Agreement, the Department shall designate a project manager. The Primary Applicant specified on the Voluntary Remediation Program Application will function as the project manager for the Participant. Each project manager shall be responsible

for overseeing the implementation of this Agreement. The Department project manager will be the Department-designated representative at the site. To the maximum extent possible, communications between the Participant and Department and all documents (including reports, approvals, and other correspondence) concerning the activities performed pursuant to the terms and conditions of this Agreement shall be directed through the project managers. During implementation of this Agreement, the project managers shall, whenever possible, operate by consensus and shall attempt in good faith to resolve disputes informally through discussion of the issues. Each party has the right to change its respective project manager by notifying the other party in writing at least five days prior to the change.

**V. Definitions**

“Site” means the area described in the Voluntary Remediation Application. This description is attached and incorporated herein as Exhibit 1. All other terms used are defined in NMSA 1978, Section 74-4G-3 and 20.6.3.7 NMAC.

**VI. Addresses for All Correspondence**

Documents, including reports, approvals, notifications, disapprovals, and other correspondence to be submitted under this Agreement, may be sent by certified mail, first class mail, hand delivery, overnight mail, or by courier service to the following addresses or to such addresses as the Participant or Department designates in writing.

Documents to be submitted to the Department should be sent to:

Mailing Address:

Savannah Richards  
Ground Water Quality Bureau  
New Mexico Environment Department  
P.O. Box 5469  
Santa Fe, NM 87502  
E-mail: savannah.richards@state.nm.us  
Phone number: (505) 827-3253  
Fax number: (505) 827-2965

Physical Address:

Savannah Richards  
Ground Water Quality Bureau  
New Mexico Environment Department  
1190 St. Francis Drive  
Santa Fe, NM 87505

Documents to be submitted to the Participant should be sent to:

Mailing Address:

Bart Faris  
City of Albuquerque  
Environmental Health Department  
1 Civic Plaza, 3<sup>rd</sup> Floor, Room 3023  
Albuquerque, NM 87102

Physical Address:

City of Albuquerque  
Environmental Health Department  
1 Civic Plaza, 3<sup>rd</sup> Floor, Room 3023  
Albuquerque, NM 87102

Metro Redevelopment Agency Manager  
Planning Department  
Plaza del Sol, 600 2nd NW  
Albuquerque, NM 87103

Metro Redevelopment Agency Manager  
Planning Department  
Plaza del Sol, 600 2nd NW  
Albuquerque, NM 87103

Assistant City Attorney  
Office of the City Attorney  
One Civic Plaza, Room 4072  
Albuquerque, New Mexico 87103

Assistant City Attorney  
Office of the City Attorney  
One Civic Plaza, Room 4072  
Albuquerque, New Mexico 87103

**VII. Compliance with Applicable Laws**

All work undertaken by the Participant pursuant to this Agreement shall be performed in compliance with all applicable federal, state and local laws, ordinances and regulations, including, but not limited to all Occupational Safety and Health Administration, Department of Transportation, Resource Conservation and Recovery Act, New Mexico Water Quality Control Commission, and New Mexico Environmental Improvement Board Petroleum Storage Tank regulations. In the event of a conflict between federal, state, or local laws, ordinances, or regulations, the Participant shall comply with the most stringent of such laws, ordinances, or regulations, unless provided otherwise in writing by the Department or other appropriate regulatory personnel with jurisdiction over such laws, ordinances, and regulations. Where it is determined that a permit is required under federal, state or local laws, ordinances, or regulations, the Participant shall submit timely and complete applications and take all other actions necessary to obtain all such permits or approvals. The Participant shall be responsible for obtaining all permits that are necessary for the performance of the work hereunder, and for all ongoing or proposed Site activities, and for all ongoing or proposed facility operations.

**VIII. Performance Standards and Associated Requirements**

The Participant has submitted with its application to the Department a preliminary work plan describing the proposed voluntary remediation activities as they are currently envisioned as being submitted in a final voluntary remediation work plan, which includes a description of the known and suspected contaminants to be addressed by the proposed voluntary remediation activities. This preliminary work plan was prepared pursuant to 20.6.3.200.B NMAC. A copy of the preliminary work plan is attached and incorporated herein as Exhibit 2.

**The contaminants covered by this Agreement are described as follows:**

- **Soil:** *Volatile Organic Compounds (VOCs), Semi-Volatile Organic Compounds*

(SVOCs), Total Petroleum Hydrocarbons (TPH) including diesel range organics (DRO), and motor oil range organics (MRO), Ethylene Dibromide (EDB), Polycyclic aromatic hydrocarbons (PAHs), and Metals

- **Groundwater:** VOCs, SVOCs, TPH including MRO and DRO EDB, PAHs, and Metals
- **Soil Vapor:** VOCs
- **Structures:** Asbestos containing building materials (ACBMs) and lead-based paint remediated waste

**Voluntary remediation activities undertaken pursuant to this Agreement shall achieve the following standards or risk-based levels:**

- *Standards for Ground Water as set forth in Section 20.6.2.3103 NMAC of the Ground and Surface Water Regulations (20.6.2 NMAC);*
- *New Mexico Environment Department Risk Assessment Guidance for Site Investigations and Remediation, February 2019<sup>1</sup>;*
- *National Emissions Standards for Hazardous Air Pollutants as set forth in Title 40 CFR, Part 61 Subpart M;*
- *Toxic Substances Control Act (TSCA), Title IV, P.L. 102-550; and*
- *Solid Waste Management General Requirements (20.9.2 NMAC).*

It is understood that the parties may wish to modify the list of contaminants and the media in which the contaminants are located, as covered by this Agreement, as additional information about the Site is developed. The Department may approve such changes through approval of work plans and other submittals provided by the Participant during the course of undertaking voluntary remediation activities.

It is understood that for voluntary remediation activities completed on a portion of a site, the certificate of completion shall pertain only to that specific portion of the site, and shall include a legal description of that area.

#### **IX. Access**

To the extent that the Site or other areas where work is to be performed hereunder are presently owned or controlled by parties other than those bound by this Agreement, the Participant shall obtain or shall use its best efforts to obtain access agreements from the present owners. Best efforts shall include, at a minimum, certified letters from Participant to the present owners of such properties requesting access agreements to permit the Participant, Department, and their authorized representatives' access to such property. Such agreements shall provide access for the Department and authorized representatives of the Department, as specified below. In the event that such access agreements are not obtained, the Participant shall so notify the Department, which may then, at its discretion, assist the Participant in gaining access.

The Participant shall provide authorized representatives of the Department access to the Site and

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<sup>1</sup> If this document is updated prior to the completion of remediation activities, the Department shall determine whether the updated guidance is applicable to the remediation activities described in this Agreement.

other areas where work is to be performed at all reasonable times. Such access shall be related solely to the work being performed on the Site pursuant to this Agreement and may include, but is not limited to: inspecting and copying of Site and facility records; reviewing the progress of the Participant in carrying out the terms of this Agreement; conducting such tests, inspections, and sampling as the Department may deem necessary; using a camera, sound recording, or other documentary type equipment for field activities; and verifying the data submitted to the Department by the Participant hereunder. Prior to conducting remediation activities, the Participant shall provide a minimum of 72 hours' notice to the Department to allow observation of Site activities and to allow the Department's authorized representatives to collect split samples, at the Department's discretion. The Participant shall permit the Department's authorized representatives to inspect and copy all records, files, photographs, documents, and other writings, including all sampling and monitoring data, which pertain to this Agreement and over which the Participant exercises authority.

**X. Deliverables and Submittal Schedule**

**A. Final Voluntary Remediation Work Plan**

In accordance with 20.6.3.400 NMAC, the Participant shall submit to the Department a proposed final voluntary remediation work plan, detailing investigation and remediation activities to be undertaken to achieve the performance standards described in Section VIII of this Agreement. At a minimum, the final work plan must include the elements listed in 20.6.3.400.B NMAC.

**Submittal Schedule:**

The proposed final work plan shall be submitted by the Participant no later than 45 days after this Agreement has been signed.

If the work plan is to be prepared in phases, the work plan for the first phase shall be submitted no later than 45 days after this Agreement has been signed. Following completion, to the Department's satisfaction, of the work which is the subject of the final work plan for the first phase, the Department may require submission of one or more proposed final work plans for subsequent phases.

**Department Review:**

The secretary or his designee shall review and approve, approve with conditions, or disapprove a proposed final work plan within 45 days of receipt. Written notice shall be made of any conditions or deficiencies. If the secretary or his designee disapproves a final work plan, the Participant may be granted an opportunity to submit a revised version, as determined by the secretary or his designee.

**Modification of Voluntary Remediation Work Plan:**

The approved final voluntary remediation work plan may be modified at the request of the Participant and/or the Department, with both parties' approval, in accordance with 20.6.3.400.D NMAC.

**B. Periodic Status Reports**

The Participant shall submit periodic status reports, which detail activities completed for the reporting period and those planned for the upcoming reporting period, to the Department for the duration of this Agreement. The status report shall identify any proposed variances to the approved work plan and describe interim progress on implementation of the work plan, including analytical results of any sampling, water level measurements, Site maps or photos, as appropriate.

Submittal Schedule:

The first status report shall be submitted by the Participant no later than 90 days after this Agreement has been signed. Subsequent status reports shall be submitted on a quarterly basis until the completion report is submitted to the Department.

**C. Voluntary Remediation Completion Report**

In accordance with 20.6.3.500.B NMAC, following the completion of Site voluntary remediation activities, the Participant shall demonstrate to the Department that Site conditions meet the applicable standards specified in Section VIII of this Agreement by submitting to the Department a voluntary remediation completion report. The content of the completion report is detailed in 20.6.3.500.B NMAC. The report shall be submitted to the Department with the legal description of the affected property, and with an Affidavit of Completion of Voluntary Remediation signed by the Participant that indicates that remediation is complete, in accordance with this Agreement and applicable regulations and guidance.

Submittal Schedule:

The voluntary remediation completion report shall be submitted to the Department within 90 days following completion of voluntary remediation activities.

Department Review:

The Department shall review and determine the sufficiency of a completion report within 45 days of receipt. If the secretary or his designee does not approve the completion report, the secretary or his designee shall either issue a finding that the Participant is not in compliance with the Agreement and terminate the Agreement, or advise the Participant in writing of data gaps in the report. The Participant shall correct any identified data gaps and resubmit the completion report within 30 days of receipt of notice of data gaps.

**XI. Certificate of Completion**

If the secretary or his designee approves the voluntary remediation completion report, the secretary or his designee will issue either a Certificate of Completion or a Conditional Certificate of Completion, as appropriate, pursuant to NMSA 1978, Section 74-4G-7 and 20.6.3.500.B NMAC. If a Conditional Certificate of Completion is issued, the Department shall conduct audits to ensure that all engineering controls, remediation systems, post-closure care, and affirmations of future non-residential land use are being maintained appropriately. These audits shall be performed at least every other year for the first 10 years following the issuance of the Conditional Certificate of Completion, and every five years thereafter. If, during the course of such an audit, the Department



finds that any of the monitoring requirements, engineering controls, remediation systems, post-closure care, or affirmations of future non-residential land use are not being properly maintained such that the performance standards described in Section VIII of this Agreement are no longer being met, the Department may revoke the Conditional Certificate of Completion and initiate an enforcement action.

No Certificate of Completion or Conditional Certificate of Completion shall be issued to a Participant who has not paid invoiced oversight costs in full to the Department.

**XII. Covenant Not to Sue**

Pursuant to Section NMSA 1978, 74-4G-8 and 20.6.3.600 NMAC, after the secretary or his designee issues the Certificate of Completion or Conditional Certificate of Completion, the secretary or his designee shall provide a covenant not to sue to a purchaser or prospective purchaser of the Site that did not contribute to the Site contamination, for any direct liability, including future liability, for claims based upon the contamination covered by the Agreement and over which the Department has authority. Except as may be provided under federal law or as may be agreed to by a federal government entity, the covenant not to sue shall not release or otherwise apply to claims by the federal government for claims based on federal law. Except as may be agreed to by another department or agency of the state, the covenant not to sue shall not release or otherwise apply to claims of any other office, department, or agency of the state. Except as may be agreed to by a third party, the covenant not to sue shall not release or otherwise affect a person's liability to third parties.

**XIII. Dispute Resolution**

This section shall apply to any dispute arising under any section of this Agreement, unless specifically excepted. Dispute resolution shall be conducted in accordance with 20.6.3.300.I NMAC).

**XIV. Reservation of Rights**

The Department and Participant reserve all rights and defenses they may have pursuant to any available legal authority unless expressly waived herein. The Department expressly reserves the right to take any action, including any enforcement action, to address any release not covered by this Agreement, including any release that occurs after issuance of the Certificate of Completion or any release of a contaminant not covered by the voluntary remediation agreement. The secretary's covenant not to sue shall not apply to any such release.

Nothing herein is intended to release, discharge, or in any way affect any claims, causes of action or demands in law or equity which the parties may have against any person, firm, partnership or corporation not a party to this Agreement for any liability it may have arising out of, or relating in any way to the generation, storage, treatment, handling, transportation, release or disposal of any materials, hazardous substances, hazardous waste, contaminants or pollutants at, to, or from the Site. The parties to this Agreement expressly reserve all rights, claims, demands, and causes of action they have against any and all other persons and entities who are not parties to this Agreement, and as to each other for matters not covered hereby.

The Participant reserves the right to seek contribution, indemnity, or any other available remedy against any person other than the Department found to be responsible or liable for contribution, indemnity or otherwise for any amounts which have been or will be expended by the Participant in connection with the Site.

**XV. Enforcement Shield**

Pursuant to the provisions of 20.6.3.300.A NMAC, the secretary will not initiate any enforcement action, including an administrative or judicial action, against a Participant for the contamination or release thereof, or for the activity that results in the contamination or release thereof, if the contamination is the subject of an Agreement pursuant to 20.6.3 NMAC. However, this Section shall not be a bar to any enforcement action if the Agreement is not finalized, if the Agreement is terminated or rescinded, or if the Participant does not successfully initiate or implement the Agreement within a reasonable time under the schedules set forth in this Agreement and approved work plans.

**XVI. Oversight Costs**

The Participant agrees to reimburse the Department for all of its costs associated with oversight and implementation of this Agreement in accordance with 20.6.3.300.J NMAC. These costs shall include those described in 20.6.3.300.J NMAC, as well as long-term oversight performed by the Department, as described in 20.6.3.500.B(5) NMAC, if a Conditional Certificate of Completion is issued.

Oversight will be invoiced based on actual hours of staff oversight, at a variable rate beginning at \$90.00 per hour. The hourly rate is calculated and updated on November 1 of each year, following a 30 calendar day public comment period. Travel and per diem costs will be invoiced at state-designated rates. Sampling and analysis costs will be invoiced at actual cost plus indirect overhead rate.

The Department will track all costs to the Department for review and oversight activities related to the Site and provide quarterly (or more often at the discretion of the Department) invoices per this Agreement for said costs. The Participant shall pay these invoiced costs to the Department within 30 calendar days after the date that the Participant receives notice that these costs are due and owed. If payment is not made within 30 days, the Department may terminate this Agreement and bring an action to collect the amount owed and the costs of bringing the collection action. If the Department prevails in such collection action, the Participant shall pay the Department's reasonable attorneys' fees and costs incurred in the collection action.

In the event that this Agreement is terminated for any reason, the Participant agrees to reimburse the Department for all costs incurred or obligated by the Department before the date of notice of termination of the Agreement.

**XVII. Notice of Bankruptcy**

As soon as Participant has knowledge of its intention to file bankruptcy, or no later than seven days prior to the actual filing of a voluntary bankruptcy petition, Participant shall notify the Department of its intention to file a bankruptcy petition. In the case of an involuntary bankruptcy



petition, Participant shall give notice to the Department as soon as it acquires knowledge of such petition.

**XVIII. Indemnification**

The Participant shall defend, indemnify, and hold harmless the Department and the State of New Mexico from all actions, proceedings, claims, demands, costs, damages, attorneys' fees, and all other liabilities and expenses of any kind from any source which may arise out of the performance of this Agreement, caused by the negligent act or failure to act of the Participant, its officers, employees, servants, subcontractors or agents, or if caused by the actions of any client of the Participant resulting in injury or damage to persons or property during the time when the Participant or any officer, agent, employee, servant or subcontractor thereof has or is performing services pursuant to this Agreement.

**XIX. Effective Date and Subsequent Modification**

The Agreement shall become final and effective upon being signed by both the secretary or his designee and the Participant. The effective date of the Agreement shall be the later date of signature by either the secretary or his designee or the Participant. This Agreement may be amended only by mutual agreement of the Department and the Participant. Amendments shall be in writing and shall be effective upon being signed by both the secretary or his designee and the Participant.

**XX. Termination**

As provided for in 20.6.3.300.H NMAC, if an Agreement is not reached between an applicant and the secretary or his designee on or before the 30<sup>th</sup> calendar day after the secretary or his designee determines an applicant to be eligible pursuant 20.6.3.200 and 20.6.3.300 NMAC, the applicant or the secretary or his designee may withdraw from the negotiations. The Participant may terminate the voluntary remediation Agreement upon 60 calendar days' written notice via certified mail, return receipt requested to the Department. The secretary or his designee may terminate this Agreement upon finding that the Participant is not in compliance with this Agreement. Notice of termination will be made to the Participant via certified mail, return receipt requested, and facts supporting the rationale for termination shall be set forth in the notification. The Department's costs incurred or obligated before the date the notice of termination is received are recoverable by the Department under the Agreement if the Agreement is terminated.

**XXI. Complete Agreement**

This Agreement contains the entire Agreement of the parties.

**XXII. Applicable Law**

This Agreement shall be governed by and construed in accordance with the laws of the State of New Mexico.

The provisions of this Agreement shall be satisfied when the Department gives the Participant written notice in the form of a Certificate of Completion that the Participant has demonstrated to the secretary's satisfaction that the terms of this Agreement have been completed, including the selection and implementation of a remedial action, when appropriate.

Nothing in this Agreement shall restrict the State of New Mexico from seeking other appropriate relief to protect human health or the environment from contamination at or from this Site if not remediated in accordance with this Agreement.

**Signatures**


Participant(s):

By:    
Sarita Nair, Chief Administrative Officer

Name: Sarita Nair, Chief Administrative Officer  
(Print or type)

Date: 5/30/19

New Mexico Environment Department:

By:   
(Secretary or designee)

Name: Michèle Hunter  
(Print or type)

Date: 6/5/19

Enclosures:    Exhibit 1:    Legal Description of Property  
                  Exhibit 2:    Preliminary Work Plan

NEW MEXICO ENVIRONMENT DEPARTMENT  
VOLUNTARY REMEDIATION AGREEMENT

**EXHIBIT 1**

Legal Description of Property

City of Albuquerque Rail Yard  
VRP Site No. 5353161007

**I. Tract of Land Comprising Site.**

The "Albuquerque Old Locomotive Shop" (former A.T. & S.F Railway Company Machine Shop) is a 27.32 acre tract, more or less, out of the Tract A of the Plat of Tract "A", A.T.&S.F. Railway Company Machine Shop, 27.321 acre tract located at 2nd and Bridge in Albuquerque in Bernalillo County, New Mexico. Said 27.32 acre voluntary remediation site is more particularly described as follows:

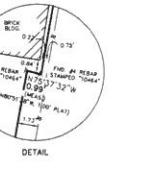
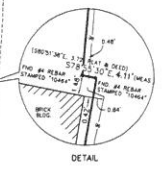
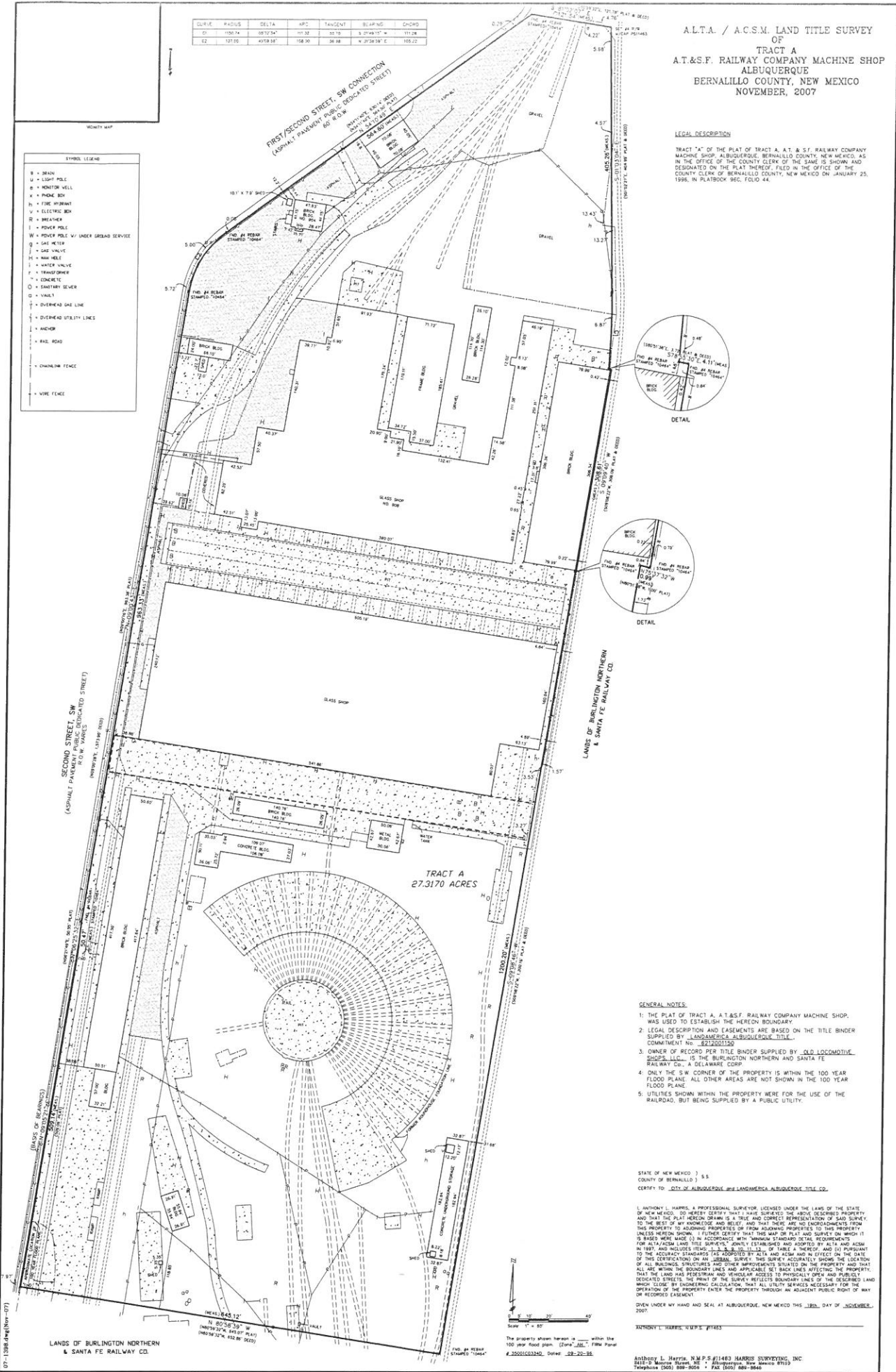
Tract "A" of the Plat of Tract A, A.T. & S.F. RAILWAY COMPANY MACHINE SHOP, Albuquerque, Bernalillo County, New Mexico, as the same is shown and designated on the Plat filed in the office of the County Clerk of Bernalillo County, New Mexico on January 25, 1996 as Document Number 1996008744, recorded in Vol. 96C, folio 44, records of Bernalillo County, New Mexico.

CURVE	RADIUS	DELTA	ARC	TANGENT	CHANG	CHORD
01	1057.74	3872.34'	101.32'	33.10'	5,274.97'	101.28'
02	121.75	4318.85'	108.26'	36.88'	6,273.93'	108.22'

ALTA. / A.C.S.M. LAND TITLE SURVEY  
OF  
TRACT A  
A.T.&S.F. RAILWAY COMPANY MACHINE SHOP  
ALBUQUERQUE  
BERNALILLO COUNTY, NEW MEXICO  
NOVEMBER, 2007

**LEGAL DESCRIPTION**  
TRACT "A" OF THE PLAT OF TRACT A, A.T. & S.F. RAILWAY COMPANY MACHINE SHOP, ALBUQUERQUE, BERNALILLO COUNTY, NEW MEXICO, AS IN THE OFFICE OF THE COUNTY CLERK OF THE SAME IS SHOWN AND DESIGNATED ON THE PLAT THEREOF, FILED IN THE OFFICE OF THE COUNTY CLERK OF BERNALILLO COUNTY, NEW MEXICO ON JANUARY 25, 1996, IN PLATBOOK 96C, FOLIO 44.

- SYMBOL LEGEND**
- B = BRAIN
  - L = LIGHT POLE
  - R = ROSTER WELL
  - M = MISC. BOX
  - H = FIRE HYDRANT
  - V = ELECTRIC BOX
  - W = WELDER
  - P = POWER POLE
  - W = POWER POLE W/ UNDER GROUND SERVICE
  - G = GAS METER
  - S = GAS VALVE
  - H = MAIN HOLE
  - T = WATER VALVE
  - F = TRANSFORMER
  - C = CONCRETE
  - Q = SANITARY SEWER
  - O = VAULT
  - D = OVERHEAD GAS LINE
  - U = OVERHEAD UTILITY LINES
  - A = ANCHOR
  - R = RAIL ROAD
  - F = CHAINLINK FENCE
  - V = WIRE FENCE



- GENERAL NOTES**
1. THE PLAT OF TRACT A, A.T. & S.F. RAILWAY COMPANY MACHINE SHOP, WAS USED TO ESTABLISH THE HEREON BOUNDARY.
  2. LEGAL DESCRIPTION AND EASEMENTS ARE BASED ON THE TITLE BINDER SUPPLIED BY LANDAMERICA ALBUQUERQUE TITLE COMMITMENT NO. #212001150.
  3. OWNER OF RECORD PER TITLE BINDER SUPPLIED BY OLD LOCOMOTIVE SHOPS, LLC, IS THE BURLINGTON NORTHERN AND SANTA FE RAILWAY CO., A DELAWARE CORP.
  4. ONLY THE S.W. CORNER OF THE PROPERTY IS WITHIN THE 100 YEAR FLOOD PLANE. ALL OTHER AREAS ARE NOT SHOWN IN THE 100 YEAR FLOOD PLANE.
  5. UTILITIES SHOWN WITHIN THE PROPERTY WERE FOR THE USE OF THE RAILROAD, BUT BEING SUPPLIED BY A PUBLIC UTILITY.

STATE OF NEW MEXICO ) ss  
COUNTY OF BERNALILLO )  
CERTIFY TO: CITY OF ALBUQUERQUE AND LANDAMERICA ALBUQUERQUE TITLE CO.

I, ANTHONY L. HARRIS, A PROFESSIONAL SURVEYOR LICENSED UNDER THE LAWS OF THE STATE OF NEW MEXICO, DO HEREBY CERTIFY THAT I HAVE SURVEYED THE ABOVE DESCRIBED PROPERTY, AND THAT THE PLAT HEREON DRAWN IS A TRUE AND CORRECT REPRESENTATION OF SAID SURVEY TO THE BEST OF MY KNOWLEDGE AND BELIEF, AND THAT THERE ARE NO ENCUMBRANCES FROM THIS PROPERTY TO ADJOINING PROPERTIES OF FROM ADJOINING PROPERTIES TO THIS PROPERTY UNLESS HEREON SHOWN. I FURTHER CERTIFY THAT THE MAP OR PLAT AND SURVEY ON WHICH IT IS BASED WERE MADE IN ACCORDANCE WITH MINIMUM STANDARD SURVEYING REQUIREMENTS FOR ALTA/ACSM LAND TITLE SURVEYS, JOINTLY ESTABLISHED AND ADOPTED BY ALTA AND ACSM IN 1993 AND MODIFIED THEREAFTER. I HAVE BEEN AWARE OF THE ACCURACY STANDARDS AS ADOPTED BY ALTA AND ACSM AND IN EFFECT ON THE DATE OF THIS CERTIFICATION ON MY SURVEY. I HAVE ACCURATELY SHOWN THE LOCATION OF ALL BUILDINGS, STRUCTURES AND OTHER IMPROVEMENTS SITUATED ON THE PROPERTY AND THAT ALL ARE WITHIN THE BOUNDARY LINES AND APPLICABLE SET BACK LINES AFFECTING THE PROPERTY. THAT THE LAND HAS PEDESTRIAN AND VEHICULAR ACCESS TO PHYSICALLY OPEN AND PUBLICLY DESIGNATED STREETS. THE MEAN OF THE SURVEY REFLECTS BOUNDARY LINES OF THE DESCRIBED LAND WHICH CLOSE BY ENGINEERING CALCULATION, THAT ALL UTILITY SERVICES NECESSARY FOR THE OPERATION OF THE PROPERTY ENTER THE PROPERTY THROUGH AN ADJACENT PUBLIC RIGHT OF WAY OR RECORDS EASEMENT.

DRAWN UNDER MY HAND AND SEAL AT ALBUQUERQUE, NEW MEXICO THIS 15th DAY OF NOVEMBER, 2007.

ANTHONY L. HARRIS, N.M.P.S.#1483

The property shown herein is within the 100 year flood plain. (Data All, FEMA Paper # 35001033245, Date: 08-20-06)

Anthony L. Harris, N.M.P.S.#1483 HARRIS SURVEYING, INC  
5415 S. Aurora Street, NE Albuquerque, New Mexico 87110  
Telephone (505) 888-8066 FAX (505) 888-8666

NEW MEXICO ENVIRONMENT DEPARTMENT  
VOLUNTARY REMEDIATION AGREEMENT

**EXHIBIT 2**  
Voluntary Remediation Program Preliminary Work Plan

City of Albuquerque Rail Yards  
VRP Site No. 53161007

*(VRP Work Plan provided electronically if document exceeds 10 pages)*